



United Nations Seminar of the Expert Mechanism on the Rights of Indigenous Peoples

“Analysis of laws, legislation, policies, constitutions, judicial decisions, and other mechanisms concerning how States have taken measures to achieve the ends of the UN Declaration consistent with Article 38.”

*University for Peace (UPEACE),
San Jose, Costa Rica
6-8 November 2023*

Concept Note

Background and Objectives

Established by the United Nations Human Rights Council in 2007, the Expert Mechanism on the Rights of Indigenous Peoples-EMRIP- provides the Council with expertise and advice on the rights of Indigenous Peoples, as set out in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It is composed of seven members, serving in their individual capacities.

In September 2016, the Human Rights Council amended the mandate of the Expert Mechanism, to include inter alia the preparation of an annual study on the status of the rights of Indigenous Peoples worldwide in the achievement of the ends of the Declaration, focusing on one or more interrelated articles of the Declaration, at its own choice.

In this framework, the EMRIP will hold a two- and half--day expert seminar on the theme of its next annual study: **“Analysis of laws, legislation, policies, constitutions, judicial decisions, and other mechanisms concerning how States have taken measures to achieve the ends of the UN Declaration consistent with Article 38.”** **The study will be informed by an expert seminar** to take place in **San Jose, Costa Rica, from 8 to 10 November 2023**. The seminar will be hosted by UPEACE Human Rights Centre, University for Peace. This theme was selected by the Expert Mechanism during its sixteenth session for its next annual study to be presented to the Council at its 57th session in September 2024. A draft of the study will be discussed and finalized by the EMRIP during the 17th annual session of the Expert Mechanism from 8-12 July 2024.

The objective of the Expert Seminar is to broaden the analysis to inform the Expert Mechanism on the theme as reflected in UN Declaration on the Rights of Indigenous Peoples. The seminar will provide an opportunity for exchange among both Indigenous and non-Indigenous

academics, practitioners, advocates, and other experts on the issues concerning Indigenous Peoples human rights.

The studies and advice of the Expert Mechanism provide a better understanding of the provisions of the Declaration and propose concrete actions that States, Indigenous Peoples, civil society, national human rights institutions, intergovernmental, international and regional organizations, businesses, and others can take in order to further its implementation.¹ The Office of the United Nations High Commissioner for Human Rights (OHCHR) provides substantive and technical support to the Expert Mechanism.

Specific objectives

- Hold an in-depth discussion to provide an opportunity for broad input to EMRIP's 2024 study.
- Assess the impact of progressive national laws, policies, and legislation developed in response to the 2007 adoption of the Declaration that may have been accomplished at the domestic level, to understand both the positive and negative aspects.
- Discuss the recent initiatives, examples, measures and developments where States have taken legislative and any other steps, in conjunction with Indigenous Peoples, to achieve the ends of the Declaration, including any challenges and/or barriers.
- Review of policy decisions, including those initiated by executive or legislative branches of government concerning Indigenous Peoples, to determine the progress made on Indigenous rights at the national level.
- Identify examples of good practices, models or approaches on how member States have consulted and cooperated with Indigenous Peoples to achieve the ends of the Declaration, including any challenges.
- Provide concrete recommendations and advice for States and Indigenous Peoples on effective models, approaches and legislative measures that will achieve the goals of the Declaration.

Participants

6. The two- and half--day expert seminar (**6 to 8 November**) will include the following participants.

- Members of the UN Expert Mechanism on the Rights of Indigenous Peoples
- Experts on Indigenous Peoples rights and practitioners from different regions
- Indigenous Peoples from the region

¹ To date, the Expert Mechanism has carried out studies on themes including Indigenous Peoples' rights with respect to their cultural heritage; access to justice for Indigenous Peoples; the right to health and Indigenous Peoples; right to participate in decision-making; the right of Indigenous Peoples to education; the free, prior and informed consent; migration; right to land; indigenous children; and treaties, agreements and other constructive arrangements, the impact of militarisation on the rights of Indigenous Peoples.

- Staff of the Office of the UN High Commissioner for Human Rights
- Staff from relevant UN agencies
- National Human Rights Institutions
- Academic friends of the Expert Mechanism

Focus of study

The primary focus is on **Article 38: “States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of the Declaration.** Article 38 would also be analysed in conjunction with **Paragraph (2) in Articles 8, 11, 12, 13, 15, 16, 17, 21, 22, 30, 31, and 36, and paragraph (3) in Articles 14 and 26, as well as paragraphs (2) and (3) in Articles 29 and 32.**

To assist all parties in contributing to this seminar, the EMRIP sets out below some of the elements it intends to focus on in its study.

- Analysis of international human rights law and jurisprudence within both regional and international bodies that will serve to gain greater awareness and understanding of compliance as well as the potential for offering solutions to either individual, discrete matters or interrelated conditions that have stifled effective implementation.
- Measures taken by States to implement the Declaration within the context of constitutional reforms, laws, legislation, policies, as well as judicial decisions.
- Concrete actions taken by States, consistent with Article 38, to achieve the realization of the exercise and enjoyment of the collective and individual norms affirmed in the Declaration.
- Judicial decisions in relation to contentious issues of concern to Indigenous Peoples will serve to illuminate legally directed outcomes and responses by government and its various departments and agencies to concretely achieve the objectives of the Declaration.
- In cases where States have initiated or concluded national inquiries, analysis of actions to respond to the final reports, conclusions, and recommendations that may yield constructive examples of implementation.
- Analyse measures taken by States, including legislative measures, in relation to health of Indigenous Peoples, education in their own language, protection from economic exploitation, improvement of their economic and social conditions, protection against all form of violence against women, as well as just and fair redress to mitigate adverse environmental, economic, social and cultural impact among others, as set out in

paragraphs (2) in Articles 8, 11, 12, 13, 15, 16, 17, 21, 22, 30, 31, and 36, and paragraph (3) in articles 14 and 26, as well as paragraphs (2) and (3) in articles 29 and 32.
