

Item 3: Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) Review

Agenda Item 3: Review of EMRIP's Mandate

Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

Ninth session – Afternoon Session

U.S. Statement as delivered by Anna Naimark

Geneva,

Monday, July 11, 2016

Thank you. The World Conference outcome document invites the Human Rights Council to review the mandates of its indigenous mechanisms to better achieve the ends of the UN Declaration on the Rights of Indigenous Peoples. We welcome the opportunity to do so. The United States thanks Mexico and Guatemala for their leadership on the EMRIP reform process, and congratulates the Office of the High Commissioner on hosting the highly productive expert workshop in April.

The OHCHR report outlines reforms proposed by states, experts, indigenous peoples, and other civil society actors, and helpfully identifies several areas of emerging convergence.

The United States supports the vast majority of the proposals summarized in the report's Annex, and would like to highlight three that we regard as particularly important.

First, to encourage a coherent, system-wide approach to the protection and advancement of the rights of indigenous peoples, the relationship between EMRIP and the Special Rapporteur should be institutionalized so that they mutually reinforce each other's work and avoid duplication. We should continue to explore how the respective mandates can be modified to formalize and enhance close coordination and cooperation between the two mechanisms, including whether the Special Rapporteur should serve as a full or ex officio member of EMRIP while maintaining his or her own mandate. Reform of the relationship could include establishing a referral system between the Special Rapporteur and EMRIP.

For example EMRIP could conduct follow-up on communications sent to the overburdened Special Rapporteur and on recommendations made by the Special Rapporteur to states.

Second, EMRIP should be able to engage on country-specific situations in furtherance of the outcome document's commitment to help states better achieve the Declaration's end, a role for which indigenous representatives have repeatedly expressed support. To this end, EMRIP should be equipped to provide much-needed technical support to states, on a voluntary basis. This could include advising a particular state, at its request, on how it can implement recommendations from the Special Rapporteur, the Permanent Forum on Indigenous Issues, or another UN body or mechanism.

EMRIP could also play a role in facilitating dialogue between states and indigenous peoples.

Third, EMRIP should have the ability to decide on its own working methods and to select the topics

of its thematic studies. While the Human Rights Council could still suggest topics, EMRIP should have the discretion to determine what studies it conducts.

EMRIP's mandate should be designed so that EMRIP's work product consists mainly of concise and focused advice. The United States does not recommend that a revitalized EMRIP prepare lengthy, general reports on achieving the Declaration's goals. Similar to what has occurred in other global and regional human rights bodies, issuing long reports would impose burdens that EMRIP could not manage with its limited resources.

EMRIP's membership qualifications should be guided by what its functions are, but should feature members who are experts in international human rights law and the rights of indigenous peoples, and also members with expertise in providing technical advice at the country level. EMRIP's membership should reflect gender and geographical balance by drawing members from the seven socio-cultural groupings used by the Permanent Forum. We also support an increase in EMRIP's support staff.

We do not recommend turning EMRIP into an entity resembling a treaty body. The treaty bodies continue to face significant backlogs and delays. In redefining EMRIP's functions, we want to avoid creating additional reporting requirements on member states, with the accompanying resource burden that would impose on EMRIP.

EMRIP's mandate should neither state nor imply that EMRIP has the power to issue binding recommendations. While EMRIP will inevitably make reference to provisions in the Declaration in the course of providing specific guidance on real-life situations, EMRIP should not issue general comments interpreting provisions of the Declaration. Nor should it adjudicate individual complaints by persons or groups against a state.

The United States has carefully considered what others have said during today's discussion, and looks forward to hearing additional views. We stand ready to work with stakeholders on identifying areas of agreement and elements for a reform resolution that the Human Rights Council can adopt during the September 2016 session.

Thank you for your attention.