

**Human Rights Council
Expert Mechanism on the Rights of Indigenous Peoples
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Agenda item 4
United Nations Declaration on the Rights of Indigenous Peoples.**

**Presentation by Mr. Nadir Bekirov,
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Dear Brothers and Sisters, Ladies and Gentlemen!

First of all I would like to express my gratitude to the Voluntary Fund for Indigenous Populations for giving me the opportunity to attend and participate in today's discussion.

I'm really impressed by the Progress report on the study on indigenous peoples and the right to participate in decision-making. Particularly by the part devoted to the International Human Rights Framework. What is very important for us is the justification of the rights of the Indigenous Peoples to participation in the decision making process on the basis of the International Law common standards that are not referred particularly to the Legal Acts concerning Indigenous Peoples.

This point has a tremendous meaning for the peoples living at the States which yet have not ratified the ILO Convention 169 or have not supported the Declaration of the Rights of Indigenous Peoples. This is obvious that Governments of those States are trying to escape any obligations on the International Law to recognize and to be obliged to protect the Rights of Indigenous Peoples in their territories as Ukraine, the country I come from, does, for example.

However we see that by this wrong way they:

1. Are not able to deny their international obligations anyway, and
2. The main stream of development of the International Human Rights Law is going along the recognition of the Rights of Indigenous Peoples including the Rights to take part in decision-making process/the Right to Self-Governance/the Right to Prior, Free and Informed Consent as different aspects of the Rights to Self-Determination

Nevertheless it does not prevent us from insisting that norms and standards consisted at International Acts specially worked out for and directly aimed at the protection of the Rights of Indigenous Peoples should be officially recognized and adopted by all Governments including those ones which till present time have not done it. We have very positive and inspiring examples of Australia and New Zealand officially declaring the change of their attitude towards the Declaration of the Rights of Indigenous Peoples.

Some States, despite having not changed their external official position, internally undertook considerable steps to improve the situation of Indigenous peoples in the countries including involvement into decision making procedures. The Russian Federation can be an example, among other.

Unfortunately there is a third category of the States which neither in their position at international forums nor in their domestic policy accept the Rights of Indigenous Peoples and even the very existence of Indigenous Peoples in their countries.

The brilliant example is Ukraine in which the recent version of the Draft of the Concept Ethnic and National Policy proposes to exclude from the Ukrainian Constitution any mentioning of Indigenous Peoples. The Indigenous Peoples in that Concept are declared as those ones which are extremely primitive, undeveloped and unable to exist themselves without patronage of the State or another nation. This racist and colonialist approach to the Indigenous Peoples is a great

challenge to the International Order based on the priority of International Law and particularly on International Law of Human Rights.

In this context I propose:

1. To undertake a special Study on the legal situation of Indigenous Peoples in different countries including all legal instruments which are in official use of the States in relation to the Indigenous Peoples living at their territories. The Study is supposed to collect these legal acts, treaties, agreements, precedents, used definitions, administrative practice concerning Indigenous peoples in those countries. The special questionnaire to be elaborated and proposed to the Governments and Indigenous Peoples in order to be completed and sent back to the Expert Mechanism for analyses.
2. To appeal to the Human Rights Council to undertake the measures appropriate to invite the Governments concerned (as those ones who voted against Declaration of the Rights of Indigenous peoples as those who abstained) to revise their position as Australia and New Zealand did.
3. To appeal to the ILO to invite the Governments, which yet have not ratified the Convention 169 to do it in a reasonable term.

**Thank you for your understanding,
Nadir Bekir**