



General Assembly

Distr.: General

Original: English

Human Rights Council

Thirty-ninth session

Agenda item 5

Human rights bodies and mechanisms

Annual Report of the Expert Mechanism on the Rights of Indigenous Peoples adopted at its eleventh session (Geneva, 9-13 July 2018)

(ADVANCE UNEDITED VERSION)

Chair-Rapporteur: Erika Yamada

III. Adoption of studies, reports and proposals

A. Adoption of studies and reports

During its session, the Expert Mechanism adopted its study and advice on Free, Prior and Informed Consent: A human rights based approach, under paragraph 2a of resolution 33/25;

The Expert Mechanism agreed that the Chair-Rapporteur, in consultation with the other members of the Expert Mechanism, may make revisions to this study in light of discussions carried out at its eleventh session, and agreed to submit it to the Human Rights Council at its thirty-ninth session.

B. Proposals

Proposal 1: Participation of indigenous peoples in the Human Rights Council

The Expert Mechanism proposes that the Human Rights Council makes further efforts to facilitate the participation of indigenous peoples' representatives, and their representative institutions, in contrast to non-governmental organisations, in its work, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. This would include all meetings relevant to the rights of indigenous peoples, in particular the dialogue with the Expert Mechanism and the Special Rapporteur on the rights of indigenous peoples, the annual half-day discussion on the rights of indigenous peoples, and sessions of the Working Group on the Universal Periodic Review. For this purpose, the Expert Mechanism proposes that the Council hold a technical workshop on modalities for enhanced participation of indigenous peoples in the Council.

The Expert Mechanism makes this proposal without prejudice to the ongoing General Assembly Consultative Process (resolution 71/321) aimed at enhancing the participation of Indigenous Peoples' representatives and institutions in UN meetings.

Proposal 2: Theme of the Human Rights Council's annual half-day discussion on indigenous peoples

In light of the information set out in section VIII of report A/HRC/36/56, the Expert Mechanism on the Rights of Indigenous Peoples reiterates to the Council its proposal that it hold a half-day discussion on the protection of indigenous human rights defenders at its forty-second session.

The Human Rights Council may also consider to hold an interactive panel on a human rights based approach to the promotion and preservation of indigenous languages, in light of the International Year of Indigenous Languages 2019. The Expert Mechanism proposes that this panel be held in indigenous languages and that adequate resources are allocated for interpretation of indigenous languages.

Proposal 3: Increased engagement of Member States with the Expert Mechanism

The Expert Mechanism on the Rights of Indigenous Peoples proposes that the Human Rights Council urge States to engage more actively with the Mechanism's activities, and in particular to attend and participate its annual sessions, with a view to taking part in dialogue as a core element of the Expert Mechanism's amended mandate.

The Expert Mechanism also proposes to the Council that it encourage States to make use of the Expert Mechanism's technical assistance for the implementation of UPR, treaty body and special procedures recommendations pertaining to indigenous peoples.

Proposal 4: Promotion of the Expert Mechanism's technical assistance and country engagement mandate

The Expert Mechanism proposes to the Council that it encourage States and indigenous peoples to engage more proactively with the Expert Mechanism under its amended mandate pursuant to resolution 33/25, including submitting requests for technical assistance and dialogue facilitation. States should also be encouraged to respond to requests made by indigenous peoples under paragraphs 2c and 2e of resolution 33/25 and seize the opportunity for dialogue provided by such requests.

Proposal 5: Protection of human rights defenders

The Expert Mechanism on the Rights of Indigenous Peoples renews its earlier proposal to the Council that it call upon States to ensure indigenous human rights defenders, in particular indigenous women and communities, are guaranteed a safe working environment and security and to review laws that criminalize the work of indigenous human right defenders in compliance with the United Nations Declaration on the Rights of Indigenous Peoples and other international standards. In light of the information set out in section VIII of report A/HRC/36/56, it proposes that the Council requests States to ensure that all human rights violations against indigenous communities, and human rights defenders, including indigenous women, are investigated and brought to justice.

The Expert Mechanism also calls on the Council to address all allegations and condemn reprisals against indigenous human rights defenders, including UN mandate holders working on the rights of indigenous peoples, pursuant to resolution 36/21.

Proposal 6: Free, prior and informed consent in the United Nations system and international financial institutions

The Expert Mechanism proposes to the Council that it call upon the agencies of the United Nations system, including the World Intellectual Property Organization and World Health Organization, as well as international financial institutions such as the World Bank, that are engaged with issues affecting indigenous peoples, to ensure good practices consistent with free, prior and informed consent, as advised in the Expert Mechanism's study on this theme (A/HRC/39/...), and generally to comply with the United Nations Declaration on the Rights of Indigenous Peoples and other international standards.

The Expert Mechanism also proposes to the Council that it encourage United Nations agencies to make more use of its thematic studies and advise.

Proposal 7: Global Compact for Safe, Orderly and Regular Migration

The Expert Mechanism on the Rights of Indigenous Peoples proposes to the Council that it call upon states, in the process of developing and implementing the Global Compact for Safe, Orderly, and Regular Migration, and in all situations involving migration both internally and across international borders, to recognize and respect the rights of indigenous peoples under the Declaration on the Rights of Indigenous Peoples and other international standards.

Proposal 8: National action plans to achieve ends of the Declaration

The Expert Mechanism on the Rights of Indigenous Peoples proposes to the Council that it remind States of the commitment undertaken in the outcome document of the World Conference on Indigenous Peoples to cooperate with indigenous peoples to develop and implement national action plans, strategies or other measures to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples. In this regard, it proposes that these action plans be used as a tool to implement the recommendations of international human rights mechanisms, including the universal periodic review, treaty bodies and special procedures, and that States consider seeking the collaboration and support of their National

Human Rights Institutions and the Expert Mechanism on the Rights of Indigenous Peoples in the elaboration of these action plans.

Proposal 9: Contributions to the United Nations Voluntary Fund for Indigenous Peoples

The Expert Mechanism on the Rights of Indigenous Peoples proposes that the Council urge States to contribute to the United Nations Voluntary Fund for Indigenous Peoples.

Proposal 10: Collaboration with the Universal Periodic Review Process

The Expert Mechanism on the Rights of Indigenous Peoples reiterates its proposal that the Council and Member States continue to draw increasingly on the United Nations Declaration on the Rights of Indigenous Peoples in the universal periodic review process. It also reiterates its proposal that, in future universal periodic review cycles, the Declaration be explicitly included in the list of standards on which the universal periodic review process is based.

Proposal 11: Organization of the Expert Mechanism's annual session

The Expert Mechanism proposes to the Council that it consider re-scheduling the annual session of the Expert Mechanism to allow for increased participation from Member States and indigenous peoples.

Proposal 12: Reporting to the General Assembly

In light of its amended mandate, expanding its scope to technical advice to States, the Expert Mechanism on the Rights of Indigenous Peoples reiterates its previous proposal to the Human Rights Council that it request the Expert Mechanism to report to the General Assembly on a biennial basis, in addition to its annual reporting to the Council.

Proposal 13: Financial requirements for the implementation of the Expert Mechanism's mandate under resolution 33/25

The Expert Mechanism proposes that the Council consider allocating resources for the following purposes:

- Pre-session translation of the Expert Mechanism's draft reports
- Translation of requests from Member States and indigenous peoples under resolution 33/25, paragraph 2
- Interpretation, local transportation, security (when required) and other logistical needs during country missions.

XI. Future work of the Expert Mechanism, including focus of next annual study

The Expert Mechanism decided that its next annual study on the status of the rights of indigenous peoples worldwide in the achievement of the ends of the Declaration, mandated by resolution 33/25 paragraph 2a, will focus on the theme indigenous peoples, migration and borders.

The Expert Mechanism also decided to prepare a report to the Human Rights Council on good practices and lessons learned regarding efforts to achieve the ends of the Declaration, as authorized by resolution 33/25, paragraph 2b. This report will focus on the theme of recognition, reparation and reconciliation.

FULL REPORT TO BE COMPLETED