

**Fifteenth Session of the Permanent Forum on Indigenous Issues
New York, 9-20 May 2016**

Agenda Item 9 (b): Dialogue with the Special Rapporteur on the rights of indigenous peoples and the Chair of the Expert Mechanism on the Rights of Indigenous Peoples

16 May 2016

**Statement by Alexey Tsykarev,
Chair-Rapporteur
Expert Mechanism on the Rights of Indigenous Peoples**

Thank you, Mister Chair. Greetings to all of your Excellencies: Permanent Forum members, Special Rapporteur, indigenous peoples, states, international organisations and all meeting participants. Allow me to begin by extending my congratulations to you, Mr. Pop, on your appointment as Chair.

On behalf of my colleagues of the UN Expert Mechanism on the Rights of Indigenous Peoples, I thank you for this opportunity to share with you the work of the Expert Mechanism over the past year. Allow me to begin by congratulating and thanking all the members and secretariat staff of the Permanent Forum for the excellent organization of this session.

Before continuing with a brief report of the Expert Mechanism's work over the past 12 months, I would like to provide information about our upcoming session. The 9th session of the Expert Mechanism will take place in Geneva from 11 to 15 July 2016. A significant number of States, Indigenous peoples, international organisations and national human rights institutions participate in the sessions of the Expert Mechanism, together with the Special Rapporteur on the Rights of Indigenous peoples and a representative of the Permanent Forum. This year's agenda will include follow-up to the World Conference on Indigenous Peoples, a panel discussion on indigenous persons with disability, and a discussion on the human rights of indigenous peoples in relation to business enterprises.

As Chairperson of the Expert Mechanism, it is my pleasure to share with you some updates on the work of the Expert Mechanism in the past year. The Expert Mechanism held its 8th session in July 2015. Participants included over 50 Member States and approximately 150 indigenous peoples' organizations and civil society organizations, as well as national human rights institutions and academics. During the 8th session, we finalized and adopted two reports:

- A study on the promotion and protection of the rights of indigenous peoples with respect to their cultural heritage; and
- An updated version of its report on responses received to a questionnaire for States and indigenous peoples on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

Mister Chair, allow me to briefly outline some of the advice included in our study on cultural heritage. Our study proposes some general principles, including the recognition of indigenous peoples' cultural heritage as a holistic and inter-generational concept based on

common material and spiritual values; the fact that the safeguard and development of the cultures of indigenous peoples require the protection of their lands, territories and resources; and the recognition that indigenous peoples have the right to redress when their cultural heritage is misappropriated without their free, prior and informed consent. We advise States to consult indigenous peoples and enable the active participation in the identification and safeguarding of their cultural and natural heritage, and remind States of the obligation to seek the free, prior and informed consent of indigenous peoples before adopting measures affecting their cultural or natural heritage. We also suggest that States ensure that the benefits arising from the use of the lands, territories and resources of indigenous peoples' as World Heritage sites are defined by and genuinely accrue to the indigenous peoples concerned, in a fair and equitable manner.

Our study also presents advice for international organizations, calling for better coordination within the United Nations system on matters relating to cultural heritage and its human rights dimensions. We offer a series of recommendations to the World Heritage Committee and UNESCO, so as to ensure that the implementation of the World Heritage Convention is consistent with the Declaration. In our advice to indigenous peoples, we first and foremost recognize that they are the primary keepers of their cultural heritage. As such they have an active role to play in its preservation, transmission and revitalization, including through inter-generational transmission of their cultural heritage and by educating the non-indigenous population about the importance of the collective protection of indigenous peoples' cultural heritage. We also call on indigenous peoples to ensure the equal participation of women in discussions and decisions on cultural heritage at the level of the community

In addition to our study on rights with respect to cultural heritage, the agenda also included the implementation of the UN Declaration on the Rights of Indigenous Peoples, the Sustainable Development Goals, and a panel discussion on indigenous peoples' human rights in relation to business enterprises. Our 8th session was also an opportunity to discuss the World Conference on Indigenous Peoples, including the review of the Expert Mechanism's mandate.

Our study on cultural heritage, along with a number of proposals made by the Expert Mechanism, were presented to the Human Rights Council at its Thirtieth Session in September 2015. This session also included a half-day panel discussion on follow up to the World Conference on Indigenous Peoples.

In its resolution 30/4, of September 2015, the Human Rights Council encouraged all parties to consider the good practices and recommendations included in the two studies "as practical advice on how to attain the end goals of the United Nations Declaration on the Rights of Indigenous Peoples." In the same resolution, the Council requested the Expert Mechanism to prepare a study on the right to health and indigenous peoples with a focus on children and youth, to be presented to the Council at its 33rd session in September 2016.

In January 2016, the Expert Mechanism participated in the Permanent Forum's Expert Group Meeting on the theme "Indigenous Languages: Preservation and Revitalization".

In February, OHCHR and the Institute for the Study of International Development at McGill University co-organized an expert seminar on indigenous peoples and the right to health. The main objective of the seminar was to obtain substantive input to the Expert Mechanism's study on this theme, to be discussed at the upcoming 9th session. The seminar brought together approximately 30 participants, including members of the Expert Mechanism, health practitioners working in indigenous communities from several regions, indigenous human rights advocates, representatives of the Department of Indigenous and Northern Affairs of Canada, academics and OHCHR staff. The topics addressed included discrimination in access to healthcare, traditional medicine, culturally appropriate approaches to healthcare, the right to health of indigenous children and youth, and environmental health. These are all themes that will be addressed in the study.

The Expert Mechanism has been working on two specific projects, as requested by the Human Rights Council in resolution 30/4, of September 2015.

- As outlined above, the Expert Mechanism is carrying out a study on the right to health and indigenous peoples, with a focus on children and youth.
- The Expert Mechanism also continues to report on the responses received to questionnaires addressed to states and Indigenous peoples on best practices regarding appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

The draft study on the right to health, as well as the report on the questionnaires will be made available at the Expert Mechanism's 9th session, where further contributions by participants will be considered. The study and report will then be finalised for the Human Rights Council's thirty-third session in September 2016.

I would like to preliminarily share with you some of the content of our study on the right to health and indigenous peoples. The study will address the international legal and policy framework, drawing from the Declaration, the International Covenant on Economic, Social and Cultural Rights, and other human rights instruments to interpret the right to health from an indigenous perspective. This will include the "availability, accessibility, acceptability and quality" framework, as well as an analysis of State obligations to respect, protect and fulfil the right to health. We will also be addressing specific themes and challenges, including the mental health of indigenous children and youth, the right of indigenous women to sexual and reproductive health, the rise of non-communicable diseases among indigenous peoples worldwide, and environmental health concerns caused by extractive and other industries.

We have also continued to devote a great deal of time and attention to the review of the Expert Mechanism's Mandate, as requested by the General Assembly in paragraph 28 of the outcome document of the World Conference on Indigenous Peoples. Following a request from the Human Rights Council, the Office of the High Commissioner for Human Rights organized an expert workshop on the review of EMRIP's mandate, which took place in Geneva in early April. Participants included three currently serving members of the Expert

Mechanism, the Special Rapporteur and the chair of the UNPFII, as well as academics, and representatives of States, indigenous peoples and other stakeholders. We encourage Member States and indigenous peoples to contribute to the mandate review process, with the ultimate goal of allowing the Expert Mechanism to “more effectively promote respect for the Declaration, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration” (General Assembly Resolution 69/2, paragraph 28).

The Expert Mechanism is also closely following the consultation process concerning ways to enable the participation of indigenous peoples’ representatives and institutions at the United Nations. The Expert Mechanism has constantly emphasized the importance of the full and effective participation of indigenous peoples in matters that affect them, and we stand ready to support this process.

In conclusion, Mister Chair, I would like to thank the Permanent Forum for its on-going contribution to the work of the Expert Mechanism and, on behalf of my fellow Experts, express my appreciation for our continued collaboration. It is critical that the Expert Mechanism, the Permanent Forum, and the Special Rapporteur continue to work together in a collaborative way as we carry out our respective mandates, in order to strengthen the recognition of the human rights of Indigenous peoples within the UN system and beyond.

Thank you.