

Expert Mechanism on the Rights of Indigenous Peoples Laila Susanne Vars, Chair

Intervention Permanent Forum dialogue - Item 5d 22 April New York – 9-11am

- I would like to thank the Permanent Forum for organising this coordination meeting.
- Last year was an unusual one for all and 2021 is also proving to be challenging as we continue to learn to live with **COVID-19**. COVID-19 crisis has highlighted and continues to highlight the stark inequalities between indigenous peoples and others, in all areas of their lives. This is particularly true with respect to the lack of access to adequate healthcare and fears of inequality in accessing the COVID-19 vaccine.
- This differentiated and disproportionate impact of the virus on indigenous peoples was highlighted during **EMRIPs four virtual regional meetings** held in November/December last year on the subject of **the impact of COVID-19 on indigenous peoples**. These virtual meetings replaced EMRIP's normal annual session. An analysis of the input of all interlocutors is set out in the EMRIP's annual report, which was submitted, to the Human Rights Council at its last session in March.
- Other EMRIP activities that have taken place since our last meeting in November include **two seminars** one on the rights of the indigenous child held at the end of November 2020 and a second one on the right to self-determination held in February of this year.
- The virtual seminar on the **Rights of the Indigenous Child** was held with the collaboration of the Centre for Children, Youth, and Family Research of the University of Greenland. This seminar, as well as submissions received, informed the Expert Mechanism's study this year on this topic, which will be considered at the EMRIP session. The Expert Mechanism sees this Study as an opportunity to integrate a human and children's rights based approach to the interpretation of indigenous children's rights under the Declaration. It examines both the individual and collective rights of indigenous children, as well as the interplay between them and incorporates the principle of the best interests of the child in the context of indigenous children. It highlights that indigenous peoples' capacity to meet their children's needs depends on their ability to exercise their right to self-determination and is essential in considering existing gaps in areas like education and child welfare.
- In preparation for our **report this year on the right to self-determination**, the University of Manitoba, with the support of EMRIP launched a virtual seminar on the topic. On the basis of this seminar and submissions received, the EMRIP prepared a report on the right to self-determination as it has developed since 2007, which will be considered during its next session. The draft report speaks to the history of the right to self-determination including in the decolonialization context. It sets out the legal framework and ways and means in which indigenous peoples express their right of self-determination. It also explores many challenges including, the regional differences in

the implementation of the right; the dangers of conflating self-determination with the requirement for free, prior, and informed consent; the imposition of self-determination by the State rather than indigenous peoples themselves; and the false dichotomy of internal and external self-determination. The report exemplifies the interconnectedness of the foundational right to self-determination and other human rights including the rights to participation, consultation and land rights. The relationship between the right to self-determination and citizenship, cultural heritage, sports, and languages is also covered in the report.

- Drafts of both reports will be posted on the webpage in the languages several weeks prior to the session for discussion at the session.
- As to our country engagement mandate, this has provide quite challenging in the last year given the impossibility of travel. However, we have managed to finalise a **country engagement request from indigenous peoples represented by COIAB in Brazil**. We undertook this engagement virtually. The Advisory Note provides indigenous peoples and the State with impartial, objective advice on how to protect indigenous peoples during the current crisis given the particular situation in Brazil, including with respect to indigenous peoples in voluntary isolation. It is based on an analysis of the factual situation, as provided by the parties, under international human rights law.
- Throughout the yearlong process, we were provided with information orally and in writing from indigenous peoples as well as relevant government agencies in Brazil including the Special Secretariat of Indigenous Health (SESAI), FUNAI, and the Office of the Public Defender, as well as the National Human Rights Institution, and the Articulation of indigenous peoples of Brazil (AIPB).
- The Advice to the indigenous peoples of Brazil culminates in **23 recommendations** relating to: health measures; participation, consultation and free, prior and informed consent; access to reliable information including on vaccines; land rights, the removal of non-indigenous peoples from indigenous land, the protection of indigenous lands from invasion, and refraining from authorising development projects during the crisis, the resumption of land demarcation; and the investigation of killings on indigenous land.
- The **Advisory Note** is a public document and can be found on the EMRIP webpage. (<https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/RequestsUnderNewMandate.aspx>)
- As to other **country engagement requests**, we already updated you on the last occasion on the finalisation of **a country engagement with Sweden** following a repatriation request from the IITC for the Yaqui Maaso Kova from the National Museum of World Culture in Sweden. This culminated in the parties welcoming the initiation of a process of repatriation of the Maaso Kova and parts of the Museum's Yaqui Collection to the Yaqui Peoples in Mexico. We have recently been informed that the process has been initiated with Mexico making a formal request for the return of this spiritual object to the Yaqui Poples under the UNESCO Convention.

- We also indicated on the last occasion that we had received a **positive response from Canada for a country engagement mission** there in the summer/autumn of this year. We will begin the process of drafting terms of reference for this mission shortly. Several other requests remain open including to the DRC which had to be cancelled due to security reasons last year, Japan, Kenya, and follow-up to Finland, to name but a few.
 - Several members of the Expert Mechanism attended the **first meeting of the Global Task Force for Making a Decade of Action for Indigenous Languages** on 22 March coordinated by UNESCO. During this meeting, they discussed draft terms of reference for the task force, an online survey to be sent to States for the preparation for the Global Action Plan and the launch of the Plan.
 - As to the **EMRIP's session this year**, it is likely that this session will be virtual, the modalities of which are yet to be worked out. For the moment, the dates remain the same from **12 to 16 July**. As to future reports, the EMRIP decided that it would prepare a follow-up Study to its Land Study in 2022 and a report on the issue of **militarization** of indigenous land.
 - Finally, I am happy to report that the Indigenous Peoples and Minorities Section of OHCHR has developed **an e-learning tool on indigenous peoples' rights**, in collaboration with the Fund and EMRIP. This course was recently launched and is now available in English on the OHCHR website.
(<https://www.ohchr.org/EN/Issues/IPeoples/Pages/E-learningIP.aspx>)
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