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## **Annual report of the Expert Mechanism on the Rights of Indigenous Peoples\***

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## I. Introduction

1. In its resolution 6/36, the Human Rights Council established the Expert Mechanism on the Rights of Indigenous Peoples as a subsidiary body to assist the Council in the implementation of its mandate by providing it with thematic expertise on the rights of Indigenous Peoples, as requested by the Council. In the resolution, the Council established that the thematic expertise would focus mainly on studies and research-based advice, and that the Expert Mechanism might put forward proposals to the Council for its consideration and approval.

2. In September 2016, the Human Rights Council adopted resolution 33/25 amending the mandate of the Expert Mechanism to provide the Council with expertise and advice on the rights of Indigenous Peoples as set out in the United Nations Declaration on the Rights of Indigenous Peoples and to assist Member States, upon request, in achieving the ends of the Declaration through the promotion, protection and fulfilment of the rights of Indigenous Peoples. The specific elements of the new mandate are set out in the resolution.

3. The Expert Mechanism held its sixteenth session in Geneva from 17 to 21 July 2023. The summary of the discussions set out in sections V to XIV below is not intended to be a verbatim record, but rather an overview of the main points raised by expert members and other participants. The individual contributions of all participants can be viewed on the webcast of the session.<sup>1</sup>

## II. Intersessional activities

4. Since its fifteenth session, held in July 2022, the Expert Mechanism has undertaken several official intersessional activities. On 28 September 2022, it held an interactive dialogue with the Human Rights Council at its fifty-first session on the annual report of the Expert Mechanism<sup>2</sup> and on its study on treaties, agreements and other constructive arrangements, including peace accords and reconciliation initiatives, and their constitutional recognition.<sup>3</sup> On 28 September 2022, the Chair of the Expert Mechanism served as a panellist for the annual half-day discussion on the rights of Indigenous Peoples, held by the Council, which was focused on the impact on Indigenous Peoples of social and economic recovery plans in the context of the coronavirus disease (COVID-19) pandemic, with a special focus on food security.<sup>4</sup> From 21 to 24 November 2022, the Chair of the Expert Mechanism participated in the expert workshop organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), which was open to the participation of States and of Indigenous Peoples from the seven Indigenous sociocultural regions, on possible ways to enhance the participation of Indigenous Peoples in the work of the Council.<sup>5</sup> The Expert Mechanism also submitted a written contribution.

5. The Expert Mechanism held its intersessional meeting from 5 to 9 December 2022 in Geneva. The meeting comprised a two-day expert seminar on the impact of militarization on the rights of Indigenous Peoples<sup>6</sup> and a three-day private working meeting of the Expert Mechanism. The main objective of the expert seminar was to obtain substantive inputs for the annual study of the Expert Mechanism. The seminar brought together approximately 25 participants, including members of the Expert Mechanism, practitioners from several regions, Indigenous human rights advocates, academics and staff of OHCHR.

6. In February 2023, the University of British Columbia held a seminar on establishing effective mechanisms at the national and regional levels for the implementation of the United

<sup>1</sup> See <https://media.un.org/en/webtv>.

<sup>2</sup> [A/HRC/51/49](#).

<sup>3</sup> [A/HRC/51/50](#).

<sup>4</sup> See [A/HRC/53/43](#).

<sup>5</sup> See <https://www.ohchr.org/en/events/events/2022/expert-workshop-possible-ways-enhance-participation-Indigenous-peoples-work>.

<sup>6</sup> See <https://www.ohchr.org/en/events/events/2022/impact-militarisation-rights-indigenous-peoples-study>.

Nations Declaration on the Rights of Indigenous Peoples in support of the Expert Mechanism's ongoing work and its report on the topic.

7. The Expert Mechanism took part in the twenty-second session of the Permanent Forum on Indigenous Issues. In addition, several members of the Expert Mechanism engaged with United Nations agencies, regional human rights mechanisms, Member States and civil society organizations at the country level.

8. In September and December 2022 and in March and June 2023, several members of the Expert Mechanism attended meetings of the Global Task Force for Making a Decade of Action for Indigenous Languages, which were coordinated by the United Nations Educational, Scientific and Cultural Organization (UNESCO).

9. The Expert Mechanism did not undertake country engagement missions during the period reported. However, it has been engaging in dialogues with several stakeholders to prepare for country visits in October 2023.

### III. Adoption of studies, reports and proposals

#### A. Studies and reports

10. At its sixteenth session, the Expert Mechanism adopted its study on the impact of militarization on the rights of Indigenous Peoples,<sup>7</sup> prepared pursuant to paragraph 2 (a) of Human Rights Council resolution 33/25.

11. The Expert Mechanism also adopted its report entitled "Efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: establishing effective monitoring mechanisms at the national and regional levels for the implementation of the Declaration",<sup>8</sup> pursuant to paragraph 2 (b) of Council resolution 33/25.

12. The Expert Mechanism agreed that, in consultation with its other members, the Chair-Rapporteur could make revisions to the study mentioned above in the light of the discussions held at its sixteenth session and agreed to submit both the study and the report to the Council at its fifty-fourth session.

#### B. Proposals

##### **Proposal 1: Participation of Indigenous Peoples in the Human Rights Council**

13. The Expert Mechanism invites the Human Rights Council to continue to facilitate, in consultation with Indigenous Peoples, the participation of representative institutions of Indigenous Peoples in the work of the Council, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, and to commit to reducing the barriers, such as language barriers, to the participation of Indigenous Peoples in such work, and to promote the remote and in-person attendance of Indigenous representatives.

14. The Expert Mechanism welcomes Human Rights Council resolution 51/18, in which the Council decided to continue to discuss further steps to facilitate the participation of Indigenous Peoples' representatives and institutions in the work of the Council. The Expert Mechanism also acknowledges the report of the expert workshop,<sup>9</sup> held in November 2022 and organized by OHCHR, on possible ways to enhance the participation of Indigenous Peoples in the work of the Council, which provided recommendations for further steps.

15. The Expert Mechanism invites the Council to convene four two-day expert workshops on the themes of venues of participation, participation modalities, accreditation criteria and an accreditation mechanism, to be concluded before February 2025. The workshops will be focused on possible ways to enhance the participation of Indigenous Peoples' representative

<sup>7</sup> [A/HRC/EMRIP/2023/2](#).

<sup>8</sup> [A/HRC/EMRIP/2023/3](#).

<sup>9</sup> [A/HRC/53/44](#).

institutions in the work of the Council. Participants will include Member States, Indigenous Peoples, the Expert Mechanism, the Special Rapporteur on the rights of Indigenous Peoples and the Permanent Forum on Indigenous Issues. Written submissions will be solicited.

16. Consistent with the recommendations from the November 2022 expert workshop, the Expert Mechanism encourages the Council to appoint two co-chairs for each workshop, one nominated by Member States and one by Indigenous Peoples.

17. As part of the preparatory process for the workshops, the Expert Mechanism invites the Council to request the co-chairs to collaborate with the Indigenous Coordinating Body for the Enhanced Participation of Indigenous Peoples in the United Nations to organize the four two-day workshops, ensuring participation from all seven Indigenous sociocultural regions. The co-chairs are also invited to prepare an informal record of each workshop and to prepare a report, together with OHCHR, on the four two-day workshops, with a view to preparing a draft resolution on enhanced participation and submitting it to the Council prior to its fifty-ninth session.

18. The Expert Mechanism proposes that the Council consider the issue of participation in the sessions of the Council and recommend a specific arrangement for the participation of Indigenous Peoples' representative institutions in the Council's interactive dialogue with the Special Rapporteur on the rights of Indigenous Peoples, the interactive dialogue with the Expert Mechanism on the Rights of Indigenous Peoples and the half-day panel discussions of the Council.

19. The Expert Mechanism proposes that the Council suggest that the United Nations Voluntary Fund for Indigenous Peoples facilitate the participation in the expert workshop of several representatives of Indigenous Peoples' organizations and institutions from each of the sociocultural regions, as recommended by the Council in paragraph 14 of its resolution 51/18, ensuring to the extent possible balanced regional and gender representation.

20. The Expert Mechanism takes note with appreciation of the work of the Indigenous Coordinating Body and proposes that the Council encourage States and other public and private donors to financially support such work.

21. The Expert Mechanism presents the above-mentioned proposal without prejudice to reinforce and complement the ongoing consultative process referred to in General Assembly resolution 71/321 on enhancing the participation of Indigenous Peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them.

## **Proposal 2: Human Rights Council panel discussion**

22. In accordance with its decision taken at its sixteenth session, the Expert Mechanism proposes that the Human Rights Council hold a panel discussion on laws, legislation, policies, constitutions, judicial decisions and other mechanisms, looking at the ways in which States have taken measures to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, consistent with article 38 of the Declaration, with an emphasis on self-determination. The Expert Mechanism proposes that the panel discussion be organized for the fifty-seventh session of the Council, to be held in September 2024. During its sixteenth session, the Expert Mechanism decided that its next annual study would analyse laws, legislation, policies, constitutions, judicial decisions and other mechanisms, looking at the ways in which States had taken measures to achieve the ends of the Declaration, consistent with article 38. The study will be complemented by an expert seminar, organized by the Expert Mechanism with the participation of an academic institution and OHCHR, to be held in November 2023, and will be informed and enriched by inputs from rights holders and stakeholders solicited through an open call.

23. The Expert Mechanism invites the Council to take into account the recommendations put forward during the half-day panel discussion held during its fifty-first session, in September 2022, on the impact on Indigenous Peoples of social and economic recovery plans in the context of the COVID-19 context, with a special focus on food security.

### **Proposal 3: Protection of human rights defenders and Indigenous leaders**

24. Considering the critical situation that Indigenous human rights defenders continue to face daily worldwide, especially in relation to their rights to lands, territories and natural resources, the Expert Mechanism urges the Human Rights Council to call upon States to ensure that Indigenous human rights defenders and Indigenous leaders, without discrimination, are guaranteed a safe living and working environment, security and due protection. This includes public recognition of the key role played by Indigenous human rights defenders, the revision of laws that restrict or criminalize their work, abstention from any act aimed at inhibiting their activities or putting at risk their integrity, and the adoption of appropriate measures to protect them from any form of threat, intimidation, harassment or attack.

25. The Expert Mechanism welcomes the adoption of general recommendation No. 39 (2022) of the Committee on the Elimination of Discrimination against Women, which highlights the additional risks faced by Indigenous women and girls, including human rights defenders, and proposes that the Council call upon States to adopt gender-sensitive responses and culturally appropriate measures aimed at preventing and addressing any kind of attack to the physical or psychological integrity of Indigenous human rights defenders, avoiding revictimization and ensuring no repetition.

26. The Expert Mechanism also proposes that the Council request Member States to ensure prompt and effective investigation and accountability for any violations of the rights of Indigenous Peoples, Indigenous human rights defenders and Indigenous leaders, particularly against Indigenous women, to ensure effective remedies and guarantee the principle of non-repetition in the violation of their rights.

### **Proposal 4: Reprisals against human rights defenders, mandate holders and Indigenous leaders**

27. The Expert Mechanism emphasizes and recalls that the United Nations system has committed to ensuring events in which everyone can participate in an inclusive, respectful and safe environment, without fear of intimidation, harassment or reprisal of any sort, as clearly established in the Code of Conduct to Prevent Harassment, Including Sexual Harassment, at United Nations System Events. The Expert Mechanism urges the Human Rights Council to call upon States to behave with integrity and respect towards all participants attending or involved in any meeting of the Expert Mechanism and to ensure the highest ethical and professional standards. The Expert Mechanism urges the Council to strongly reaffirm that any act of harassment or reprisal is inadmissible and that it will be dealt with promptly.

28. The Expert Mechanism calls upon the Council to reiterate the concerns and proposed actions set out in paragraphs 27 and 28 of its resolution 42/19, paragraphs 31 and 32 of its resolution 48/11 and paragraphs 27 and 28 of its resolution 51/18, including the concern about the increase in cases of reprisal against Indigenous human rights defenders. It also calls upon the Council to urge States to adopt emergency responses to ensure due protection for Indigenous leaders and their communities and to address all allegations of and condemn all reprisals against Indigenous human rights defenders, including United Nations mandate holders working on the rights of Indigenous Peoples and representatives of Indigenous Peoples attending the sessions of the Expert Mechanism. The Expert Mechanism also requests the Council to urge the host countries of the United Nations and host countries of United Nations events to ensure that all Indigenous individuals who seek to participate in United Nations meetings are granted visas without any discrimination or delay.

### **Proposal 5: Increased engagement of Member States with the Expert Mechanism**

29. The Expert Mechanism proposes that the Human Rights Council continue to encourage Member States to engage actively with the Expert Mechanism's activities, including by submitting contributions to its studies and reports, attending and participating in its annual sessions and providing input and oral comments on its reports and studies.

30. The Expert Mechanism proposes that the Council strongly encourage States and Indigenous Peoples to increase their engagement with it under its amended mandate, pursuant

to Council resolution 33/25, by submitting requests for technical assistance and the facilitation of dialogue, including for the implementation of the recommendations pertaining to Indigenous Peoples arising from the universal periodic review and made by treaty bodies and special procedures. States should also be encouraged to respond positively to requests made by Indigenous Peoples under paragraph 2 (c) and (e) of resolution 33/25, seize the opportunity for dialogue provided by such requests and facilitate country engagement mission arrangements to enable the Expert Mechanism to comprehensively implement its mandate.

#### **Proposal 6: Indigenous Peoples' right to sustainable development**

31. Echoing the considerations and concerns expressed by Indigenous Peoples during its fifteenth annual session with regard to the specific impact faced by Indigenous women in the context of development projects on their territories, the Expert Mechanism proposes that the Human Rights Council urge States to respect and guarantee the fulfilment of the right of Indigenous Peoples to be consulted, with a view to obtaining their free, prior and informed consent and ensuring respect for and the full implementation of agreements resulting from fair and equitable negotiations, if any. States should take all appropriate measures, including through legislation, to ensure that business enterprises operating or originating in their jurisdiction act with due diligence and comply with international human rights instruments and with the Guiding Principles on Business and Human Rights.

32. Having conducted a panel discussion on the right of Indigenous Peoples to engage freely in all their traditional and other economic activities, with a focus on fishing practices, the Expert Mechanism proposes that the Council urge States to contribute to enhancing and strengthening Indigenous Peoples' fishing rights and building the capacity of Indigenous Peoples' institutions and decision-making bodies involved in dialogue regarding fishing-related rights. It also proposes that States contribute to enhancing and strengthening Indigenous Peoples-led approaches to marine management and related issues in connection with all waters, lakes, coastal seas and the overall marine environment as they relate to Sustainable Development Goals 2, 3, 6, 13 and especially 14.

#### **Proposal 7: International Decade of Indigenous Languages**

33. The Expert Mechanism proposes that the Human Rights Council encourage States to engage in fruitful and sustained dialogue with Indigenous Peoples, scholars, civil society and other public and private actors to adopt and implement the Global Action Plan of the International Decade of Indigenous Languages, taking into account the broad spectrum of human rights implicated in the promotion and fulfilment of Indigenous language rights. This includes ensuring the legal recognition of Indigenous Peoples' languages, the formulation of laws, legislation and programmes for social cohesion, the participation and inclusion of Indigenous language speakers and the promotion of the functional usage of Indigenous languages in all public domains and services.

34. The Expert Mechanism invites the Council to encourage States and UNESCO to take specific measures to implement the Global Action Plan at the local and national levels in a culturally appropriate manner and in close consultation and cooperation with Indigenous Peoples. To that effect, States and UNESCO should allocate the appropriate funding. The Expert Mechanism proposes that UNESCO establish a mechanism within UNESCO tailored for and composed of Indigenous Peoples and organize an annual session on the achievement of the International Decade of Indigenous Languages, ensuring the full and meaningful participation of Indigenous Peoples in the process of the design and subsequent implementation of strategies, initiatives, policies and legislation.

#### **Proposal 8: Rights of Indigenous Peoples in the non-self-governing territories**

35. The Expert Mechanism welcomes the work of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, established in 1961 by the General Assembly, to review the list of Non-Self-Governing Territories.

36. With this in mind, the Expert Mechanism urges the Human Rights Council to call upon Member States to ensure that the rights of Indigenous Peoples within Non-Self-Governing territories or within those waiting to be inscribed on the list are fully recognized and respected, in particular in relation to the right to self-determination and self-government, as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples.

**Proposal 9: Development of national action plans, effective national and regional monitoring mechanisms and legislation for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples**

37. The Expert Mechanism welcomes the positive developments in a number of States that have developed or are in the process of developing national action plans and domestic legislation for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples with the full and meaningful participation of Indigenous Peoples, including in the implementation of the measures set out in national action plans and of legislative measures and the establishment of effective mechanisms for monitoring and adequately funding those measures.

38. The Expert Mechanism calls upon the Human Rights Council to encourage more States to actively take specific measures to develop national action plans and domestic legislation for the implementation of the Declaration. The Expert Mechanism calls upon the Council to urge States to ensure that Indigenous Peoples play a central role in the drafting and implementation of national action plans, in accordance with the Declaration.

39. The Expert Mechanism proposes that the Council encourage States to engage in fruitful and sustained dialogue with civil society, academia, United Nations bodies, all levels and departments of Government and with Indigenous Peoples to advance the implementation of the Declaration.

**Proposal 10: Treaties, agreements and other constructive arrangements**

40. The Expert Mechanism appreciates the recognition expressed by participants during its sixteenth session for the importance of its 2022 study on treaties, agreements and other constructive arrangements, including peace accords and reconciliation initiatives, and their constitutional recognition.

41. The Expert Mechanism calls upon the Human Rights Council to encourage States to duly recognize, observe and enforce the treaties, agreements and other constructive arrangements to advance and achieve the realization of the rights of Indigenous Peoples and to promote substantive and procedural approaches to engage in the conclusion of modern-day treaties, agreements and other constructive arrangements as a method for implementing the rights affirmed in the Declaration.

**Proposal 11: LGBTQIA+ members of Indigenous Peoples**

42. The Expert Mechanism welcomes the opportunity to discuss the issue of Indigenous Peoples' right to be free and equal to all other peoples and individuals and the right to be free from any kind of discrimination in the exercise of their rights, including to express themselves on the basis of their Indigenous origin, gender and identity without discrimination. This includes the important elements informed by the forthcoming report of Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

43. The Expert Mechanism calls upon the Human Rights Council to encourage States to continue to engage in a dialogue on this topic with the Expert Mechanism and the Independent Expert.

**Proposal 12: Indigenous Peoples' health and well-being**

44. The Expert Mechanism proposes to the Human Rights Council that it acknowledge, recognize and take specific actions pursuant to World Health Assembly resolution 76.16 of 30 May 2023 on the health of Indigenous Peoples, in particular the specific paragraphs urging States members of the World Health Organization to develop knowledge and to develop,

fund and implement national health plans and strategies, in addition to all other paragraphs, in order to be responsive to the health and well-being of Indigenous Peoples, who face dramatic disparities in health and well-being compared with their counterparts across many indicators, including in relation to epidemics and pandemics, such as the COVID-19 pandemic.

## **IV. Organization of the session**

### **A. Attendance**

45. The Expert Mechanism held its sixteenth session in Geneva from 17 to 21 July 2023. All seven members of the Expert Mechanism, Anexa Brendalee Alfred Cunningham (Nicaragua), Binota Moy Dhamai (Bangladesh), Dalee Sambo Dorrough (United States of America), Antonina Gorbunova (Russian Federation, Vice-Chair), Sheryl Lightfoot (Canada, Chair-Rapporteur), Margaret Lokawua (Uganda) and Valmaine Toki (New Zealand, Vice-Chair), attended the session.

46. Representatives of States, parliaments, national bodies, Indigenous Peoples and Indigenous Peoples' organizations, United Nations programmes, bodies and specialized agencies, national and regional human rights institutions, non-governmental organizations and academic institutions took part in the session as observers.

47. Also taking part in the session were a member of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples, Marjolaine Étienne; the Special Rapporteur on the rights of Indigenous Peoples, Francisco Calí Tzay; and the Chair of the Permanent Forum on Indigenous Issues, Darío José Mejía Montalvo.

48. A total of 25 side events were held virtually during the session on a broad array of themes relating to the rights of Indigenous Peoples. A full listing is available on the webpage of the Expert Mechanism.<sup>10</sup>

### **B. Opening of the session and adoption of the agenda**

49. Chief Deskaheh Steve Jacobs conducted a ceremonial opening prayer, after which Mr. Dhamai, the outgoing Chair of the Expert Mechanism, opened the sixteenth session and welcomed the President of the Human Rights Council. The agenda of the session was adopted.<sup>11</sup>

50. The President of the Human Rights Council encouraged the Expert Mechanism to continue discussions on enhancing the participation of Indigenous Peoples' representatives and institutions in Council meetings on issues affecting them. In that regard, he highlighted the summary report on the discussion of the four-day expert workshop, which had been submitted to the Council's recently concluded fifty-third session. The President further addressed the issue of acts of reprisal and intimidation against Indigenous human rights defenders and called upon all States to respect and protect persons cooperating with and representing the United Nations system.

51. In his opening speech, the United Nations High Commissioner for Human Rights shared that, in his missions earlier in 2023, he had heard about the unprincipled and devastating impact of extractive industries on the environment and on the rights of Indigenous Peoples, the dispossession of Indigenous Peoples from ancestral lands, the militarization of their territories and the impact of the climate crisis on those territories and about the scope and impact of systemic discrimination and exclusion. The High Commissioner also recalled that climate change was a global crisis, but that its effects were unequally distributed. Indigenous Peoples were among the first and the worst affected by extreme weather, the loss of biodiversity and dwindling natural resources. He reminded the

<sup>10</sup> See <https://www.ohchr.org/en/events/sessions/2023/16th-session-expert-mechanism-rights-indigenous-peoples>.

<sup>11</sup> [A/HRC/EMRIP/2023/1](#).



participants that, 30 years before, the Vienna Declaration and Programme of Action had urged States to ensure the full and free participation of Indigenous Peoples in all aspects of society, in particular in matters of concern to them. All human rights were of concern to Indigenous Peoples.

### **C. Election of officers**

52. The outgoing Chair of the Expert Mechanism, Mr. Dhamai, invited the members of the Expert Mechanism to nominate a Chair-Rapporteur and Vice-Chairs for the period 2023–2024. Ms. Dorough nominated Ms. Lightfoot as Chair-Rapporteur and Ms. Toki and Ms. Gorbunova as Vice-Chairs. All three were appointed by acclamation.

## **V. Study and advice on the impact of militarization on the rights of Indigenous Peoples**

53. In opening agenda item 3, the Chair-Rapporteur introduced the draft study on the impact of militarization on the rights of Indigenous Peoples and reported that the Expert Mechanism had received over 100 submissions from Indigenous Peoples' organizations, Member States, academics and other stakeholders for the completion of the study.

54. The Chair-Rapporteur noted that, for the purposes of the study, militarization should be understood as any type of military strategy or activity that had an impact on the rights of Indigenous Peoples, as articulated in the United Nations Declaration on the Rights of Indigenous Peoples. She also noted that the purpose of demilitarization and the principle of restriction of military activities in Indigenous territories must be interpreted in conjunction with the first paragraph of the preamble, which referred to the purposes and principles of the Charter of the United Nations, that is, the maintenance of international peace and the prevention of threats to peace.

55. The study analysed militarization and its impact on the rights of Indigenous Peoples in the context of international human rights standards, focusing on several articles of the Declaration, including article 30, which prohibited military activities in the lands or territories of Indigenous Peoples. The study addressed the public interest component of article 30, which provided for an exception to the general prohibition on such military activities. Other articles of the Declaration, which were strongly interlinked with that prohibition, were also analysed. The study further addressed prevention mechanisms and the right to effective remedies.

56. The study concluded with advice No. 16 of the Expert Mechanism, which included the promotion of the demilitarization of the lands, territories and resources of Indigenous Peoples as a contribution to the realization of the collective right to live in freedom, peace and security as distinct peoples and the right to economic and social progress and development and understanding and friendly relations among nations and peoples of the world.

57. Participants proposed recommendations and expressed concerns, including that the presence of military bases in some countries had directly affected Indigenous Peoples through movement restrictions, forced displacement and threats and harassment against Indigenous women and girls. Other recommendations and concerns were focused on the impact of militarization when used in the context of conservation projects.

58. The Expert Mechanism was asked to recommend that consultations be conducted in good faith in Indigenous territories, that free, prior and informed consent be sought regarding new military operations, particularly in the Amazon, and that the participation of Indigenous Peoples in territorial defence and sustainable environmental management be guaranteed. Other participants focused on the requirement that military activities respect free, prior and informed consent when States invoked a relevant public interest, and fully concurred with the conclusion of the study that States must also comply with the principles of necessity and proportionality.

## **VI. Coordination meeting of United Nations Indigenous rights mechanisms**

59. Under agenda item 4, the members of the Expert Mechanism held a private meeting with the Chair of the Permanent Forum on Indigenous Issues, Mr. Mejía Montalvo; the Special Rapporteur on the rights of Indigenous Peoples, Mr. Calí Tzay; and the representative of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples, Ms. Étienne. The participants considered the following issues: updates on planned joint activities for the period 2023–2024; the selection and coordination of thematic studies; the coordination of country engagements; and collaboration among the mechanisms.

## **VII. Intersessional activities and follow-up to thematic studies and advice**

60. Expert Mechanism member Ms. Alfred opened the discussion on item 10, explaining that the studies and advice of the Expert Mechanism were intended to provide a better understanding of the provisions of the Declaration and to propose specific actions that States, Indigenous Peoples, civil society, international organizations, national human rights institutions and others could take to promote its implementation.

61. Several States, representatives of Indigenous Peoples and other participants commented on the previous studies and reports of the Expert Mechanism, such as the 2022 study on treaties, agreements and other constructive arrangements, including peace accords and reconciliation initiatives, and their constitutional recognition; the 2021 report on efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: Indigenous Peoples and the right to self-determination; and the 2018 study on free, prior and informed consent: a human rights-based approach. Some participants pointed out that reprisals against Indigenous rights defenders had increased in an alarming manner recently and urged the Expert Mechanism to help to improve the situation.

## **VIII. Country engagement**

62. Expert Mechanism member Ms. Lokawua opened item 6 by recalling the country engagement component of the Expert Mechanism's mandate, which was to provide technical advice, upon request, on the implementation of the Declaration or on facilitating dialogue between the parties.

63. The President of the Sami Parliament of Finland acknowledged the positive impact of the Expert Mechanism's country engagement mission, which had influenced the ongoing process of amendments to the Sami Parliament Act of 1995 to align it with the Declaration. However, he expressed concerns regarding repeated unsuccessful attempts to revise the Act and the lack of political will to address the issues and to protect the Sami people's rights, particularly their right to self-determination. He called for continued monitoring by the Expert Mechanism. The representative of the Government of Finland highlighted its proactive engagement with the Expert Mechanism to address concerns regarding the Sami Parliament Act and the political participation rights of the Sami people. The representative acknowledged the challenges faced in amending the Act and admitted that the goal had not yet been achieved. However, the representative confirmed that the Government would present a new proposal in the next parliamentary term, in collaboration with the Sami Parliament.

64. The representative of the Human Rights Commission of New Zealand pointed out there had been a recurring pattern of hindrance of progress and even regression, especially regarding challenging matters of self-determination, since the country's engagement mission in 2019. The representative of the National Iwi Chairs Forum emphasized the urgency of expediting the finalization of the national action plan for the Declaration. She requested further support from the Expert Mechanism and the Special Rapporteur on the rights of Indigenous Peoples to monitor the progress on the Maori-related issues raised since 2019.

The representative of the Government of New Zealand reaffirmed its commitment to developing a plan for the implementation of the Declaration that met with the approval of the people of Aotearoa New Zealand.

65. The representative of the Government of Brazil provided an update on its commitment to protecting gender, ethnic and racial equality, including through the establishment of the Ministry of Indigenous Peoples and the reestablishment of the Ministry of Women and the Ministry of Racial Equality. He underscored the importance of recognizing Indigenous Peoples as crucial partners in environmental conservation and, towards that end, the Government had taken specific steps to safeguard Indigenous rights and intended to involve Indigenous Peoples in decision-making processes concerning their communities.

66. The International Indian Treaty Council expressed gratitude for the repatriation of the Yaqui Peoples' sacred *Maaso Kova*, which had occurred 20 years after it had been found in a Swedish museum. Along with other cultural items taken from Yaqui prisoners of war in Tlaxcala, Mexico, the *Maaso Kova* had been safely transported and returned to the Yaqui traditional authorities in Vicam Pueblo, in the Rio Yaqui Valley, on 12 July 2023.

## IX. International Decade of Indigenous Languages

67. In her introduction to item 7, Ms. Gorbunova, Vice-Chair, noted that, since the proclamation of the International Decade of Indigenous Languages, the Expert Mechanism had joined the efforts led by UNESCO by actively participating in the Global Task Force for Making a Decade of Action for Indigenous Languages.

68. The representative of UNESCO explained that several national Governments and professional organizations had already taken specific measures to adapt the Global Action Plan of the International Decade of Indigenous Languages to local and national contexts. To date, 11 countries had finalized national action plans and 13 were in the process of finalizing them. She concluded by recalling that the objectives of the International Decade could be achieved only through the joint efforts of all stakeholders and she invited all States to adapt the Global Action Plan to their specific contexts and to launch new projects to revitalize Indigenous languages and mobilize the necessary human, institutional and financial resources.

69. The representative of the Amazigh World Congress underscored that the International Decade could provide a real opportunity to halt the dramatic decline of Indigenous languages. New multidimensional and high-level efforts were needed from all, starting with States and intergovernmental organizations.

70. The representative of the Asia Indigenous Peoples Pact emphasized the need for comprehensive national action plans that prioritized investing in research and teacher training programmes, developing and disseminating educational resources in Indigenous languages, promoting bilingual education, enhancing infrastructure and implementing targeted initiatives to address socioeconomic and cultural barriers to education.

71. The representative of Mexico, while acknowledging the efforts of the United Nations in proclaiming the International Decade, emphasized the urgency of preserving and promoting Indigenous languages at both the national and international levels. Mexico had developed its national action plans, which set out the presidential commitment to establish the University for Indigenous Languages of Mexico.

72. Some participants expressed concern about the increasing number of languages in danger of extinction and the importance of contributing to and supporting the International Decade. They urged the Expert Mechanism to advise the Human Rights Council to call upon all States to address the loss of Indigenous languages and to work together with affected Indigenous Peoples to establish and strengthen language restoration and fluency programmes. Participants also underscored the importance of gearing the plans for such programmes to the national and local contexts.

## **X. Panel discussions on the right of Indigenous Peoples to engage freely in all their traditional and other economic activities, with a focus on fishing practices, and on the impact of the legacies of colonialism on the rights of LGBTQIA+ members of Indigenous Peoples**

73. The Expert Mechanism held two panel discussions under item 8. The first panel was focused on the right of Indigenous Peoples to engage freely in all their traditional and other economic activities, with a focus on fishing practices.

74. Ms. Gorbunova, Vice-Chair, opened the first panel discussion by highlighting the recognition and protection of Indigenous Peoples' rights in fisheries, as enshrined in the Declaration and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, emphasizing the importance of preserving their traditional knowledge, practices and economic systems. She then introduced the panellists: the representative of the Russian Federation and Adviser to the Head of the Federal Agency for Ethnic Affairs, Sergei Timoshkov; the Head of Indigenous Peoples and Local Communities Resource Rights at Jamma International, Lesle Jansen; the Head of the Indigenous Peoples Unit, Food and Agriculture Organization of the United Nations, Yon Fernández-de-Larrinoa; the Acting Director for Human Rights and Development at the Danish Institute for Human Rights, Sille Stidsen; and the Chair of the First Nations Wild Salmon Alliance, Robert Chamberlin.

75. The panellists shared experiences from the field, including the challenges faced by Indigenous Peoples concerning access to and control of their traditional lands, territories and resources in the context of fishing. Mr. Timoshkov emphasized the importance of recognizing and protecting Indigenous Peoples' economic rights, particularly in relation to traditional fishing practices, and highlighted the need for effective implementation mechanisms and support to enhance their economic opportunities and sustainable development. Ms. Jansen highlighted the importance of acknowledging and safeguarding the collective human rights of Indigenous fisherfolk. The lack of official recognition was a significant barrier for many Indigenous groups, impeding their access to development initiatives and their right to traditional fishing practices. Mr. Fernández-de-Larrinoa spoke about recognizing and securing traditional fisheries management practices and the right of Indigenous Peoples to access and preserve their traditions. He advocated for the recognition and implementation of Indigenous rights as affirmed in the Declaration, the Indigenous and Tribal Peoples Convention and the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, enabling informed consent and incorporating Indigenous expertise in decision-making. Ms. Stidsen spoke about the profound cultural, spiritual and traditional connection that Indigenous Peoples had with fisheries and aquatic resources. Lastly, Mr. Chamberlin discussed the difficulties encountered by First Nations in Canada in obtaining recognition of their inherent rights in fisheries management. He highlighted the positive impact of implementing the Declaration as a model for collaborative decision-making, protecting Indigenous territories from industrialization and promoting food sovereignty.

76. The second panel discussion was focused on the ongoing challenges faced by LGBTQIA+ members of Indigenous Peoples in relation to the impact of the legacies of colonialism with regard to their rights. Ms. Toki, Vice-Chair, opened the panel discussion and introduced a video statement by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz.

77. The Vice-Chair introduced the moderator, the Ambassador for Gender Equality (Pacific)/Tuia Tāngata, Louisa Wall, a former politician who had been influential in the Marriage Amendment Bill in Aotearoa New Zealand, which had passed into law in 2013. Ms. Wall provided an introduction, reflecting on her own experiences and then introduced the panellists: the Special Representative on Sexual Orientation and Gender Identity for Argentina at the Ministry of Foreign Affairs, Alba Rueda; an OHCHR Indigenous fellow from Greenland, Seqinnguaq Poulsen; and a Red River Métis citizen and activist from Crane River, Province of Manitoba, Canada, Albert G.D. Beck.

78. The panellists shared their personal experiences and those of their communities. Ms. Rueda referred to the 2020 report of the Inter-American Commission on Human Rights, which stated that all of the diverse gender identities were an intrinsic part of the right to self-determination of every person within the framework of their ancestral identity. Seqininnguaq Poulsen explained that, due to colonization and assimilation, many people within their own communities were challenged by discrimination towards LGBTQIA+ persons in several different ways. When it came to LGBTQIA+ rights, it was important to look at and listen to Indigenous Peoples, not only because they had ancestral knowledge and practices relating to those issues, but also because normalizing gender and sexualities was a part of the decolonization process. Mr. Beck spoke about two-spirit, a contemporary pan-Indigenous term used by some LGBTQIA+ persons that honoured male, female and other-gendered and non-gendered spirits. The term could also be used interchangeably to express either one's sexuality or gender as an interrelated identity that captured the wholeness of gender and sexuality within that spirituality.

## **XI. Interactive dialogue with the Expert Mechanism on the Right to Development**

79. Expert Mechanism member Mr. Dhamai opened the discussion on item 5 and referred to the contribution of the Expert Mechanism on the Rights of Indigenous Peoples to the session of the Expert Mechanism on the Right to Development, in November 2022. The interactive dialogue had been aimed at continuing the positive relationship between the two expert mechanisms.

80. The Chair of the Expert Mechanism on the Right to Development, Liliana Valina, explained that both the United Nations Declaration on the Rights of Indigenous Peoples and the Declaration on the Right to Development recognized the right of peoples to self-determination and to development and to fully participate in the benefits of development. However, the Declaration on the Right to Development did not include an explicit reference to Indigenous Peoples, while the Declaration on the Rights of Indigenous Peoples did not fully address the right to development. Consequently, taking the two instruments into consideration together allowed for a better understanding of the concept of the right to development of Indigenous Peoples.

81. A member of the Expert Mechanism on the Right to Development, Bonny Ibhawoh, explained that the normative connections between the two declarations underscored the importance of this dialogue and of continued collaboration between the two expert mechanisms. He referred to past studies and to a forthcoming study that would address Indigenous rights in the context of climate justice and the right to development, examining the impact of the climate crisis on ecosystems, economies and societies worldwide. The study would proceed from the premise that vulnerable communities, particularly in developing countries, and historically marginalized communities in developed countries, which had contributed the least to the crisis, bore the brunt of its consequences.

82. Several members of the Expert Mechanism on the Rights of Indigenous Peoples underscored the importance of the collection of high-quality disaggregated data, which would play a key role in establishing policies and strategies to promote sustainable development for Indigenous Peoples. This was a fundamental issue that the United Nations system could resolve only with the cooperation of all Member States.

83. Some participants pointed out the limited implementation of State policies, poor mechanisms for ensuring the effective and meaningful participation of Indigenous Peoples and the failure to use free, prior and informed consent as the main obstacles to the right to development. Others highlighted the important connection between the rights of Indigenous Peoples to land, territories and natural resources and the rights to self-determination and development. Other participants explained that the right to development must include access to traditional foods and medicines that were essential to the health and culture of Indigenous Peoples.

## **XII. United Nations Declaration on the Rights of Indigenous Peoples**

84. Under item 9, Expert Mechanism member Mr. Dhamai opened the interactive dialogue between the Expert Mechanism and the Special Rapporteur on the rights of Indigenous Peoples, Mr. Calí Tzay; the Chair of the Permanent Forum on Indigenous Issues, Mr. Mejía Montalvo; and the member of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples, Ms. Étienne. The dialogue was focused on the implementation of the Declaration on the Rights of Indigenous Peoples.

85. Mr. Mejía Montalvo emphasized the importance of collaborative efforts among all United Nations entities, including the Indigenous rights mechanisms, and of recognizing the perspectives and rights of Indigenous Peoples in tackling such global challenges as climate change. He provided an overview of the recent session of the Permanent Forum, which was focused on human health, the environment and land, with an emphasis on intercultural dialogue and peacebuilding to promote the rights of Indigenous Peoples, while distinguishing them from other groups, such as minority groups or local communities.

86. Ms. Étienne described the ways in which the Fund had supported Indigenous representatives in various United Nations events. In 2022, it had supported the participation of 145 Indigenous representatives from over 50 countries in 13 different United Nations events. In 2023, it planned to support 162 Indigenous representatives in various United Nations meetings. The Fund collaborated with several stakeholders on capacity-building through year-long online and in-person training opportunities. Its efforts had raised global awareness of the rights of Indigenous Peoples and had led to specific actions and recommendations aligned with the Declaration.

87. The Special Rapporteur, Mr. Calí Tzay, discussed his report on green financing and a just transition to protect the rights of Indigenous Peoples from a human rights perspective, which was to be presented to the Human Rights Council at its fifty-fourth session, in September 2023, and his report to be presented to the General Assembly at its seventy-eighth session, in October 2023. The report would be focused on tourism and the rights of Indigenous Peoples, with special attention to community-based approaches to tourism. He called for enhanced coordination, collaboration and complementarity among the Indigenous rights mechanisms to ensure the protection of the rights of Indigenous Peoples as enshrined in the Declaration.

88. Pursuant to paragraph 2 (b) of Human Rights Council resolution 33/25, the Expert Mechanism would submit to the Council at its fifty-fourth session its report on efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: establishing effective monitoring mechanisms at the national and regional levels for the implementation of the Declaration, which included a discussion of good practices and lessons learned.<sup>12</sup>

89. Ms. Toki, Vice-Chair, explained that the report addressed efforts to implement the provisions of the Declaration, while seeking to provide contextualized information on existing monitoring mechanisms for its implementation, including examples of the purpose and mandate of those mechanisms and how they could contribute to achieving the ends of the Declaration. She also noted that the report analysed the existing legal framework and mechanisms, including the roles of regional bodies, Governments, domestic courts, national human rights institutions, academic institutions, civil society organization and Indigenous Peoples' organizations, in monitoring implementation.

90. The report concluded with recommendations for measures that States, Indigenous Peoples and other stakeholders could take to achieve the ends of the Declaration as the main legal framework for creating effective monitoring mechanisms at the national and regional levels, including by adopting laws, constitutional reforms and policies, including national action plans, administrative measures and strategies; ensuring respect for rights-based consultation, participation and cooperation; and strengthening existing mechanisms and platforms for dialogue between States and Indigenous Peoples.

<sup>12</sup> [A/HRC/EMRIP/2023/3](#).

91. The recommendations also called upon States to establish independent national oversight bodies, whose membership would comprise representatives of both the State and Indigenous Peoples, to monitor, evaluate and report annually on the progress of implementation, with adherence to the principles of trust, transparency, comprehensiveness and balance.

92. Participants shared concerns about the primary obstacle in monitoring the implementation of the Declaration, which was the lack of political will among States to comply with it. In addition, some participants expressed concerns about potential conflicts between individual rights, collective rights and State sovereignty.

### **XIII. Enhancing the participation of Indigenous Peoples in the United Nations**

93. Under item 11, Expert Mechanism member Mr. Dhamai provided an update on the efforts and actions taken by the United Nations to advance the participation of Indigenous Peoples in the United Nations, including the four-day expert workshop on possible ways to enhance the participation of Indigenous Peoples in the work of the Human Rights Council, organized by OHCHR in Geneva in November 2022, and its summary report requested by the Council in its resolution 48/11.

94. The representative of the Government of Denmark recalled its position that a new status, separate from civil society organizations, must be developed to ensure that Indigenous Peoples' representatives and institutions could participate in the work of the United Nations. Further discussions on how to operationalize the details were needed but, at the very least, the Council must, as a matter of urgency, give priority to the participation of Indigenous Peoples on matters that not only affected them but were in fact about them. They included the interactive dialogues with the Expert Mechanism and the Special Rapporteur on the rights of Indigenous Peoples during the September session.

95. A member of the Haudenosaunee External Relations Committee, Kenneth Deer, highlighted that the efforts of Indigenous Peoples to participate in the United Nations had started 100 years earlier, with the denial of entrance of Chief Deskaheh to the League of Nations. He posited that the world might have been different today if recognition of Indigenous Peoples had been granted at the League of Nations, which represented the very beginning of international relationships.

96. The representative of Guatemala noted the recommendations developed in the expert workshop and highlighted that the Council resolution on human rights and Indigenous Peoples would be presented at the Council's next session. She also highlighted the upcoming interactive dialogues between the Special Rapporteur and the Expert Mechanism as propitious forums for the broader participation of Indigenous Peoples.

97. The inaugural Ambassador of Australia for First Nations Peoples concurred that a new status, separate from civil society organizations, must be developed to facilitate the participation of Indigenous Peoples in the United Nations, irrespective of how indigeneity was defined. One recommendation that had emerged from the discussions at the expert workshop was to refer to accreditation criteria and mechanisms, instead of selection criteria and deselection mechanisms. This could provide a path forward for determining who could participate in the United Nations.

98. The representative of the Indigenous Coordinating Body for the Enhanced Participation of Indigenous Peoples in the United Nations, Ghazali Ohorella, noted several recommendations made that would enhance the participation of Indigenous Peoples in the work of the Council, including the four two-day workshops that the Council had requested OHCHR to convene, ensuring the participation of representatives of the seven Indigenous sociocultural regions, and also the request to the co-chairs and OHCHR to prepare a report on the workshops, with a view to preparing a draft resolution on enhanced participation and submitting it to the Council prior to its fifty-ninth session.

99. Other members of the Expert Mechanism and several Member States encouraged the removal of barriers to the participation of Indigenous Peoples in the United Nations and expressed support for a new status for Indigenous Peoples' institutions.

#### **XIV. Future work of the Expert Mechanism, including thematic studies**

100. Expert Mechanism member Ms. Dorough led the discussion on item 12, during which participants suggested various thematic studies that the Expert Mechanism could carry out, including on peace agreements and accords, Indigenous media and the impact of toxic waste on Indigenous fisheries. The Expert Mechanism took note of the proposals.

101. 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 the Council in paragraph 2 (a) of its resolution 33/25, would analyse laws, legislation, policies, constitutions, judicial decisions and other mechanisms, looking at the ways in which States had taken measures to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, in accordance with article 38 of the Declaration. The Expert Mechanism would hold an expert seminar in November 2023 to inform the study.

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