



DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS
Division for Social Policy and Development
Secretariat of the Permanent Forum on Indigenous Issues

**International Expert Group Meeting on the theme
Implementation of the United Nations Declaration on the Rights of Indigenous Peoples:
The role of the Permanent Forum on Indigenous Issues and other indigenous specific
mechanisms (article 42)**

25 - 27 January 2017, New York

Concept Note

Prepared by the Secretariat of the United Nations Permanent Forum on Indigenous Issues
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A. Introduction

At its fifteenth session in May 2016, the Permanent Forum on Indigenous Issues recommended that the Council authorize an international expert group meeting to discuss the role of the Permanent Forum, as well as the other indigenous specific mechanisms in supporting the operationalisation of article 42 of the UN Declaration (which implies the operationalisation of the Declaration itself). At its regular session in 2016, ECOSOC approved the Forum's recommendation (2016/43).

Following up on this, UN DESA/DSPD is organizing an expert group meeting on "Implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP or UN Declaration): The role of the Permanent Forum on Indigenous Issues and other indigenous specific mechanisms (article 42)" hereinafter referred as the "Expert Group Meeting", at United Nations Headquarters in New York from 25 to 27 January 2017.

As we approach the 10th anniversary of the United Nations Declaration on the Rights of Indigenous Peoples on 13 September 2017, this Expert Group Meeting provides an opportunity to assess the impact of the three indigenous mechanisms' work (Expert Mechanism on the rights of indigenous peoples, Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples) on implementing the UN Declaration to date and the challenges that lie ahead, as well as to focus on the specific roles of the indigenous specific mechanisms and how they can work together more effectively to operationalize the Declaration.

B. Context/Background on the Meeting

United Nations Permanent Forum on Indigenous Issues (UNPFII)

The Permanent Forum on Indigenous Issues is a subsidiary body of the Economic and Social Council, that was established by resolution 2000/22 of 28 July 2000 with "... a mandate to discuss indigenous issues within the mandate of the Council relating to economic and social development, culture, the environment, education, health and human rights." In Resolution 2000/22 the Council gave the Permanent Forum three mandates, namely to:

- Provide expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Economic and Social Council;
- Raise awareness and promote the integration and coordination of activities related to indigenous issues within the UN system; and
- Prepare and disseminate information on indigenous issues

Given that the Permanent Forum was established seven years prior to the adoption of the Declaration on the Rights of Indigenous People, there is no reference to the Declaration in resolution 2000/22. However, the Permanent Forum is referred to explicitly in Article 42 of the Declaration on the Rights of Indigenous Peoples, the only UN body to be specifically mentioned in the Declaration.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

The Expert Mechanism was established by the Human Rights Council in 2007 by resolution 6/36 as a subsidiary body of the Council. In the Outcome Document of the high-level plenary meeting of the World Conference on Indigenous Peoples (General Assembly Resolution 69/2, September 2014), the General Assembly invited the Human Rights Council, taking into account the views of indigenous peoples, to review the mandates of its existing mechanisms, in particular the Expert Mechanism on the Rights of Indigenous Peoples, with a view to modifying and improving the Expert Mechanism so that it can more effectively promote respect for the United Nations Declaration on the Rights of Indigenous Peoples.

On 30 September 2016, the Human Rights Council adopted its resolution A/HRC/RES/33/25 in which it decided to amend the mandate of the Expert Mechanism which shall provide the Human Rights Council with expertise and advice on the rights of indigenous peoples as set out in the Declaration.

The Human Rights Council also decided that the Expert Mechanism shall:

Prepare an annual study on the status of the rights of indigenous peoples worldwide in the achievement of the ends of the Declaration, focusing on one or more interrelated articles of the Declaration, decided by the Expert Mechanism, taking into consideration the suggestions received from Member States and indigenous peoples, including challenges, good practices and recommendations;

Identify, disseminate and promote good practices and lessons learned regarding the efforts to achieve the ends of the Declaration, including through reports to the Human Rights Council on this matter;

Upon request, assist Member States and/or indigenous peoples in identifying the need for and providing technical advice regarding the development of domestic legislation and policies relating to the rights of indigenous peoples, as relevant, which may include establishing contacts with other United Nations agencies, funds and programmes;

Provide Member States, upon their request, with assistance and advice for the implementation of recommendations made at the universal periodic review and by treaty bodies, special procedures or other relevant mechanisms;

Upon the request of Member States, indigenous peoples and/or the private sector, engage and assist them by facilitating dialogue, when agreeable to all parties, in order to achieve the ends of the Declaration;

Coordinate its work and further strengthen its participation, engagement and cooperation, as appropriate, with the Permanent Forum on Indigenous Issues, the Special Rapporteur on the rights of indigenous peoples, the United Nations Voluntary Fund for Indigenous Peoples and other United Nations bodies and processes;

Special Rapporteur on the rights of indigenous peoples

The Special Rapporteur is appointed by the Human Rights Council. In its most recent resolution (A/HRC/RES/15/14) that extended the mandate for three years, the Council requested the Special Rapporteur to (inter alia):

Examine ways and means of overcoming existing obstacles to the full and effective protection of the rights of indigenous peoples, in conformity with his/her mandate, and to identify, exchange and promote best practices;

Gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous peoples and their communities and organizations, on alleged violations of the rights of indigenous peoples;

Formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the rights of indigenous peoples

Work in close cooperation and coordination with other special procedures and subsidiary organs of the Council, in particular with the Expert Mechanism on the Rights of Indigenous Peoples, relevant United Nations bodies, the treaty bodies, and regional human rights organizations;

To work in close cooperation with the Permanent Forum on Indigenous Issues and to participate in its annual session;

To promote the United Nations Declaration on the Rights of Indigenous Peoples and international instruments relevant to the advancement of the rights of indigenous peoples, where appropriate;

The mandates of both the Special Rapporteur and the Expert Mechanism clearly call for close cooperation and coordination between the three mechanisms, while the Permanent Forum, due to its earlier establishment does not have an explicit reference to the other mechanisms or the UN Declaration. The Permanent Forum is however tasked with promoting the integration and coordination of activities related to indigenous issues within the UN system.

Background

This Expert Group Meeting follows a number of previous meetings that have focused on the role of the UN Permanent Forum and the need for coordination among the three UN indigenous specific mechanisms (in terms of implementing the UN Declaration on the Rights of Indigenous Peoples.)

In September 2007, the General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples, marking a major victory for the world's indigenous peoples and an extraordinary achievement in international standard setting. The adoption of the UN Declaration also set a new mandate for the UN Permanent Forum as mentioned above.

In respect of Article 42, the Permanent Forum held an Expert Group Meeting in 2009 - 'The role of the UN Permanent Forum on Indigenous Issues in the implementation of Article 42 of the UN Declaration on the Rights of Indigenous Peoples'. The report of the Expert Group Meeting was presented to the eighth session of the Permanent Forum (E/C.19/2009/2).

Informed by the findings of the 2009 expert group meeting, the Permanent Forum, at its eight session in 2009 (E/2009/43), issued General Comments to determine the obligations of the Forum as laid down in article 42 and how the Forum can fulfil these obligations. In these General Comments, the Forum found that the provisions of article 42 are of a twofold nature:

In the first place, the Forum shall promote not only respect for but also "full application" of the Declaration. This implies that the Forum shall work to promote the incorporation of the Declaration into national legislation as well as its application in the national courts and administrative decisions of the various countries.

Second, the Forum shall follow up "the effectiveness" of the UN Declaration, that is, to see whether the realities ("law in action") are in conformity with the written law and decisions ("law in books"), and if not, take necessary actions to close the implementation gap.

C. Looking forward

Ten years later indigenous peoples have made some progress: no Member State opposes the UN Declaration on the Rights of Indigenous Peoples; worldwide awareness about the UN Declaration has steadily increased; indigenous peoples' rights have been recognised in the constitutions and laws of a number of countries; the UN Declaration has been used before national and regional courts; United Nations agencies have developed a number of specific policies that include free, prior and informed consent; there is an increasingly better understanding of Indigenous issues, among other things through the work of the three UN mechanisms; indigenous peoples are clearly more present in the 2030 Agenda for Sustainable Development (Agenda 2030) than they were in the Millennium Declaration that lead to the Millennium Development Goals.

Nevertheless, the challenges ahead are still enormous: the recognition of Indigenous peoples' rights remains unequal across countries and regions; indigenous peoples still suffer from discrimination, indicators on education, health or income still show significant gaps; free, prior and informed consent is not systematically sought; indigenous cultures and languages are not still adequately represented in school curricula and languages are under threat of extinction; traditional knowledge is not sufficiently recognised; although the 2030 Agenda focuses *on leaving no one behind*, the lack of disaggregated data to build a baseline in order to measure its impact on Indigenous peoples is cause of concern. The bottom line is that although there have been major

achievements, there is still an urgent need to mainstream and build upon good practices that tend to be isolated good practices.

In recognition of the need to galvanize greater action for progress in implementing the UN Declaration, the General Assembly organized the 2014 World Conference on Indigenous Peoples, “in order to share perspectives and best practices on the realization of the rights of indigenous peoples, including to pursue the objectives of the UN Declaration on the Rights of Indigenous Peoples.” (A/RES/65/198) The outcome document of the World Conference on Indigenous Peoples contains 18 references to the UN Declaration, identifying specific steps and commitments by Member States to implement the provisions of the UN Declaration.

The outcome document also contained a request to the UN system to develop a System-Wide Action Plan to achieve the ends of the UN Declaration, which has already been finalized and is being implemented by the UN system. The Action Plan includes a commitment by the Inter-Agency Support Group on Indigenous Issues to collect and compile information on indigenous peoples’ issues within the UN system to be shared with indigenous peoples and Member States at the annual sessions of the Permanent Forum on Indigenous Issues. The Action Plan contains many other potential avenues for the involvement of the three UN mechanisms related to indigenous peoples.

In addition to the funds, programmes and specialised agencies of the United Nations, the three UN mechanisms related to indigenous peoples have also reached out to other parts of the UN system, including the human rights treaty bodies and special mechanisms, many of which are already referring to the UN Declaration in their work.

Attempts have also been made to engage with intergovernmental bodies, such as the World Intellectual Property Organization, the UNESCO World Heritage Committee or the Commission on the Status of Women, with varying degrees of success and limited strategic planning on part of the three mechanisms. For example, the Permanent Forum has made numerous recommendations directed to the Commission on the Status of Women (CSW), and following up on this work, Member States, in the outcome document of the 2014 World Conference on Indigenous Peoples invited CSW to consider ‘the empowerment of indigenous women’ as a theme for future sessions. At its 60th session in March 2016, CSW decided to consider the empowerment of indigenous women as a focus area during its 61st session in March 2017.

D. Objectives and Outcomes of the Meeting:

The main aim of the Expert Group Meeting is take stock and build upon on the advances already made towards the implementation of the UN Declaration on the Rights of Indigenous Peoples by the three indigenous specific UN mechanisms at the global, regional and national levels. The participants at the Expert Group Meeting will be asked to assess the coordination of three indigenous specific UN mechanisms (Expert Mechanism on the rights of indigenous peoples, Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples); take stock of where the implementation of the UN Declaration stands today as well as discuss potential ways forward within the mandates of the three indigenous specific UN mechanisms, taking into account the current tools and resources available. The

EGM is also expected to identify next steps that can be taken by others, in addition to, and in support of the three indigenous-specific mechanisms to strengthen implementation of the UN Declaration.

1. Review the achievements and explore the challenges in implementing the UN Declaration on the Rights of Indigenous Peoples at the global, regional and national level in order to identify good practices.
2. Assess the coordination of the indigenous specific mechanisms and explore areas where partnerships can be strengthened / Propose strategies and further plans to strengthen implementation of the UN Declaration on the Rights of Indigenous Peoples under the mandates of the indigenous specific mechanisms.
3. Propose recommendations to the three indigenous specific mechanisms on how to best coordinate and ensure optimal outcomes for indigenous peoples' rights moving forward.

The final report and recommendations of the Expert Group Meeting will be submitted to the Permanent Forum on Indigenous Issues at its sixteenth session in 2017.

E. Proposed Themes for discussion

Theme 1: Implementation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP or UN Declaration)

Theme 2: Achievements and Challenges towards the implementation of UNDRIP at national level

Theme 3: Achievements and Challenges towards the implementation of UNDRIP at regional level

Theme 4: Strategies in advancing the UN Declaration. The role of the UN three mechanisms related to Indigenous Peoples (Expert Mechanism on the rights of Indigenous Peoples, Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples)

F. Participant Contributions

The Expert Group Meeting will bring in indigenous peoples, the United Nations system, Member States, non-governmental organizations and academics that are knowledgeable on the role of UN Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the Rights of Indigenous Peoples on implementing the UN Declaration on the Rights of Indigenous Peoples. International indigenous experts will prepare papers to present at the meeting on one or more of the themes listed above.

Experts are requested to submit their papers (8 pages maximum) to the organizers, so the papers can be distributed before the meeting. Experts will also be informed in due course of the Program of Work for the expert group meeting and the appropriate time to present their papers during the meeting.

G. Working Language

The working language will be English (interpretation in other UN languages may be provided, depending on availability).

H. Background documents

- [ECOSOC resolution 2000/22 establishing the Permanent Forum](#)
- [United Nations Declaration on the Rights of Indigenous Peoples](#)
- [Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples](#)
- [Human Rights Council Resolution 33/25 amending the mandate of the Expert Mechanism on the Rights of Indigenous Peoples](#)
- [Human Rights Council Resolution 15/14 extending the mandate of the Special Rapporteur on the Rights of Indigenous Peoples](#)
- [General Assembly Resolution 70/232 on the Rights of Indigenous Peoples](#)
- [General Assembly Resolution 70/1 on the 2030 Agenda for Sustainable Development](#)
- [Report on the eighth session of the Permanent Forum on Indigenous Issues \(containing the Annex analysis of Article 42 of the Declaration on the Rights of Indigenous Issues\)](#)
- [Documents from the 2009 Expert Group Meeting on the implementation of Article 42 of the Declaration on the Rights of Indigenous Peoples](#)

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