

Concept Note

Expert Mechanism on the rights of Indigenous Peoples

Issues for consideration in the preparation of a study on the impact of militarization on the rights of Indigenous Peoples

During its annual session in July 2022, 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 UNDRIP (Council Resolution 33/25, paragraph 2 (a)) will focus on **the impact of militarization on Indigenous Peoples**. In preparing for this study, the EMRIP intends to draw from information received from a broad variety of stakeholders and sources including states, indigenous peoples, civil society, academics, earlier EMRIP studies; the Special Rapporteurs on the Rights of Indigenous Peoples; the Permanent Forum on the Rights of Indigenous Peoples; the treaty bodies; jurisprudence from the Inter-American and African Systems; Universal Periodic Review procedure; UN agencies and other multilateral actors. The EMRIP plans to hold a 2-day expert seminar on the theme from 6 to 7 December 2022, at the United Nations Training and Conference Center in Entebbe, Uganda, as part of its annual inter-sessional meeting to be held there from 7 to 9 December. In preparation for this meeting and to assist States and indigenous peoples in contributing to the study, the EMRIP has set out below some of the issues that may be included in the context of this theme. To a large extent the issues are organised by the contents of the relevant articles of UNDRIP. This note is meant to guide stakeholders only and is not necessarily the form the final study will take or an exhaustive list of issues that will be considered in the report.

Background

Pursuant to Human Rights Council resolution 33/25, during its fifteenth session in 2022, the Expert Mechanism confirmed its decision to prepare a study on the impact of militarization on the rights of Indigenous Peoples. Previously, at its fourteenth session, in 2021, the Expert Mechanism decided to prepare a report on the militarization of Indigenous land. At its fifteenth session, the Expert Mechanism postponed the report and decided to pursue the present study. The present study will focus on the impact of militarization on Indigenous Peoples' rights more broadly, not just the right to land. **Please note that inputs submitted in the context of the previous call for submissions will be considered. You are also invited to complement it due to the current broader scope.**

Presentation

A draft study will be introduced by the Expert Mechanism at its 16th annual session, due to take place in July 2023, after which it will be finalized and presented to the Human Rights Council at its fifty-fourth session in September 2023.

Objectives and Types of Input/Comments Sought

The purpose of this study is to assess the impact militarization has on the rights of Indigenous Peoples. The study will address the impact of militarization on the rights of Indigenous Peoples, including, but not limited to, rights contained within the Declaration, particularly, Article 30. Article 30.1 of UNDRIP states that “Military activities shall not take place in the lands or territories of Indigenous Peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the Indigenous Peoples concerned.” Article 30.2 further explains that “States shall undertake effective consultations with the Indigenous Peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.” The purpose of this study is to assess the extent to which militarization has impacted the national implementation and consideration of the above and other Articles.

To assist all parties in contributing to this seminar, the Expert Mechanism sets out below some of the elements it intends to focus on, but is not limited to, in its study.

Impact of militarization on the rights of indigenous peoples (Article 2-7, 10, 11, 14, 19, 22-24, 26, 28–30, 32, and 36 of the UNDRIP)

- Consider the types of militarization that occur around the world and its impact on the rights of indigenous peoples.
- Analyze violence and its impact on Indigenous Peoples’ right to life, liberty and security in the context of militarization. (Article 7)
- The extent to which militarization impacts on the right to land and natural resources of Indigenous Peoples, the right to self-determination and free, prior, and informed consent.
- Examine the impact of militarization on the social, economic and cultural rights of Indigenous Peoples, including the right to health; the right to education;
- The extent to which militarization impacts the right of Indigenous women and Indigenous children to be free from all forms of violence and the right to be free from all forms of discrimination.

Effective mechanisms/programmes/remedies

- The role of national courts on violations of indigenous peoples rights caused by militarization
- Positive examples of conflict prevention processes to avoid increased militarization on indigenous lands.

- Extent to which conflict resolution strategies could reduce militarization on indigenous lands.
- Consider how Indigenous Peoples' own laws and customs, as well as national and international law, can be used to facilitate mediation as well as peaceful resolution of conflicts.
- Types of problem-solving approaches that facilitate constructive dialogue between States and Indigenous Peoples.

The Expert Mechanism hereby requests contributions from Indigenous Peoples, States, National Human Rights Institutions, academics, and other stakeholders for this study. *Please note whether the submission is confidential and should not be shared publicly.*

How and Where to Submit Inputs

Submissions should be sent by e-mail to ohchr-expertmechanism@un.org no later than 31 January 2023, in English, French, Spanish or Russian, in WORD format and no longer than 5 pages.

Treatment of Inputs Received

All submissions will be posted on the OHCHR website at the time of the study's publication, *except those containing a clear request not to be made public.*
