

## 16<sup>th</sup> session of the Expert Mechanism on the Rights of Indigenous Peoples

### Item 8: Panel discussion on the rights of Indigenous Peoples to engage freely in all their traditional and other economic activities, with a focus on fishing practices.

#### *Concept note*

**Date and venue:** **Thursday 20 July 2023, 10h00-11h30, Palais des Nations, Room XVII, Geneva**  
(will be broadcast live and archived on <http://webtv.un.org>)

**Objectives:** The panel discussion will aim:

- To identify the main challenges faced by Indigenous Peoples in relation to access and control of their traditional lands, territories and resources, and the impact this has on their ability to engage freely in traditional fishing practices, in the context of international, national, and sub-national legislation.
- To identify the gaps and barriers to fishing practices not only from the perspective of economic activities, subsistence, and food security of Indigenous Peoples, but also as part of their culture and traditional knowledge.
- To share experiences and initiatives that have been taken by States, Indigenous Peoples, and other stakeholders in the promotion and protection of the economic rights of Indigenous Peoples in relation to traditional occupation in fishing, and to identify best practices and potential solutions for addressing ongoing challenges.
- To discuss the measures that States, Indigenous Peoples and other stakeholders can take, and recommendations for action at the local, national and international level to ensure the enjoyment by Indigenous Peoples of the right to their own means of subsistence and development, and to engage freely in all their traditional and other economic activities, as well as of all other rights stipulated in articles 20, 25 and 26 of the UN Declaration on the Rights of Indigenous Peoples.
- To discuss whether and how the development priorities and modern fishing practices of Indigenous Peoples are reflected in the national and sub-national laws and regulations concerning fishing in various countries.

**Chair** **EMRIP member (5 min)**

**Panellists:**

- **IPs Representative (7 min)**
- **IPs Representative (7 min)**
- **Member State (7 min)**
- **FAO (7 min)**
- **Danish Institute for Human Rights (7 min)**

**Outcome:** A summary of the discussion will be included in the annual report of the Expert Mechanism to the Human Rights Council.

**Format:** The duration of the panel discussion will be limited to one hour and a half. Time will be set aside for the panellists, including the EMRIP expert's opening statement, panellist presentations, and their concluding remarks.

Expert Mechanism members and observers (States, Indigenous Peoples, NHRIs, NGOs, academic institutions, and others) will also intervene from the floor. Observers will have a maximum of two minutes of speaking time, for those who sign up for the speakers' list.

Interpretation will be provided in the six United Nations official languages (Arabic, Chinese, English, French, Russian and Spanish).

**Background:** The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) was established by the Human Rights Council, the UN's main human rights body, in 2007 under resolution 6/36 as a subsidiary body of the Council. Its mandate was then amended in September 2016 by Human Rights Council resolution 33/25. The Expert Mechanism provides the Human Rights 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 assists Member States, upon request, in achieving the ends of the Declaration through the promotion, protection and fulfilment of the rights of Indigenous Peoples.

The Expert Mechanism will dedicate a panel discussion during its 16<sup>th</sup> session on the topic of Indigenous Peoples' right to engage freely in all their traditional and other economic activities, with a focus on fishing practices. This theme is firmly grounded in the UN Declaration on the Rights of Indigenous Peoples and international human rights norms and standards. Indigenous Peoples have the right to enjoy, as a collective and as individuals, all the human rights and fundamental freedoms guaranteed in international human rights instruments, equally with all other peoples and individuals.<sup>1</sup>

Indigenous Peoples' rights in the context of fisheries are enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169. These instruments recognize the rights of Indigenous Peoples to lands, territories, and resources; the right to practice and revitalize their cultural traditions and customs as well their right to engage freely in their traditional and other economic activities. Moreover, they specify the rights to consultation and participation, including free, prior, and informed consent, whenever projects or other measures are likely to affect them.<sup>2</sup>

Fishing is one of the traditional occupations for many Indigenous Peoples across the world. Indigenous Peoples depend on fisheries for their livelihoods, food, and nutrition, and contribute to sustainable management of coastal and marine ecosystem. The UN Declaration on the Rights of Indigenous Peoples in article 20 affirms that Indigenous Peoples have the right to maintain and

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<sup>1</sup> A/HRC/45/38, para 7

<sup>2</sup> Key issues and cases regarding Indigenous Peoples' customary Fishing Rights by Danish Institute of Human Rights and International Work Group for Indigenous Peoples, March 2023

develop their political, economic, and social systems, including the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. This article recognises Indigenous Peoples' distinct economic systems based on traditional knowledge, practices, and resources. It recognises the right of Indigenous Peoples to practice and strengthen these economic systems, as well as to develop new ones that are consistent with their cultures, traditions, values, and aspirations.

Furthermore, Article 25 affirms that Indigenous Peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard. Traditional knowledge can be understood as a living body of knowledge that is developed, sustained, and passed on from generation to generation within a community, often forming part of its cultural and spiritual identity.<sup>3</sup> It encompasses knowledge, know-how, skills, innovations, and practices.<sup>4</sup> Traditional fishing practices of Indigenous Peoples are an example as they are handed down from one generation to the next and constitute an essential component of Indigenous cultures. In the implementation of these provisions, States must take measures, in conjunction with Indigenous Peoples to protect the economic rights of Indigenous Peoples. This include protecting their lands, territories, and resources from exploitation, and ensuring that their traditional economic activities such as fishing practices are not hindered by discrimination. This also include recognizing the customs, traditions, and land tenure systems of Indigenous Peoples.

Indigenous Peoples' rights to their customary and traditional occupation are also recognized in the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (the SSF Guidelines). This is the first internationally agreed instrument dedicated entirely small-scale fisheries, developed by Food and Agriculture Organization (FAO).<sup>5</sup> It recognizes the traditional and local knowledge of small-scale fishers and fish workers of Indigenous Peoples. The SFF Guidelines calls on States and other actors to acknowledge and build on this knowledge to restore, conserve, protect and co-manage local aquatic and coastal ecosystems.<sup>6</sup>

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<sup>3</sup> A/HRC/30/53, para 57

<sup>4</sup> Ibid

<sup>5</sup> <https://www.fao.org/3/i4356en/i4356en.pdf>,

<sup>6</sup> see also [Indigenous peoples | Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries | Food and Agriculture Organization of the United Nations \(fao.org\)](https://www.fao.org/3/i4356en/i4356en.pdf)