

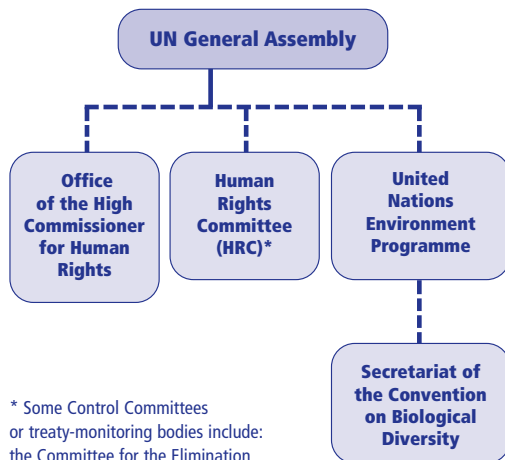
UN International Instruments for the Protection of Indigenous Women's Rights

In the international arena, indigenous women have several normative instruments which they can invoke to ensure that their rights are respected. Some are general in scope and pertain to all human beings, irrespective of race, gender or social status. Others offer more specific protection on the basis of gender or group affiliation.

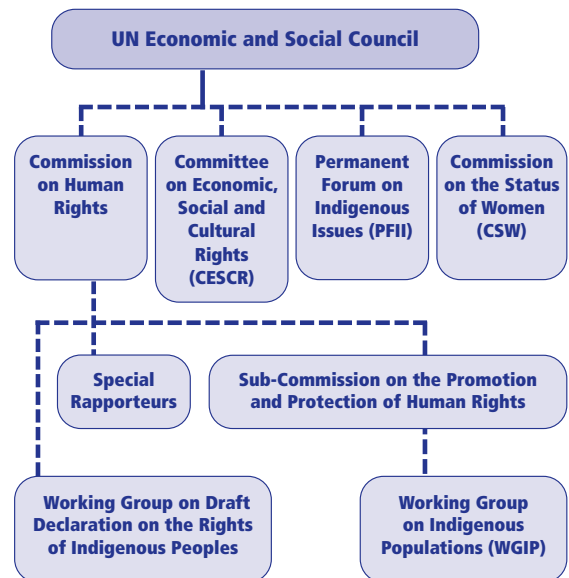
It is important to distinguish between legally binding instruments, such as conventions and treaties, which States are obliged to respect once they have ratified them, and instruments such as declarations which are not binding, but are morally persuasive. With regard to declarations, there is no body to ensure that their content is respected. Their impact is essentially political insofar as they expose State violations of the letter and spirit of a declaration in the international arena.

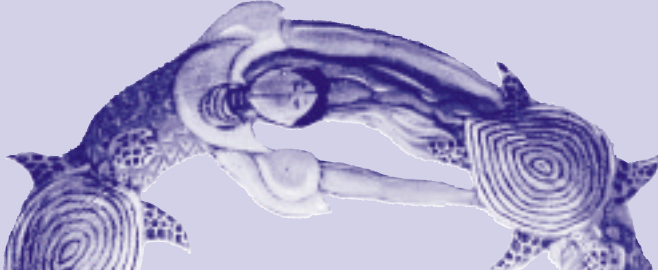
Major Applicable Treaties and their Monitoring Bodies

Among all of the human rights treaties, six are of major importance and are upheld by monitoring bodies or treaty bodies, also referred to as "control committees." These bodies must ensure that the States that have signed the treaties in question conform to the stated obligations. The control committees are made up of experts who, although appointed by the States parties, serve in a personal capacity and not on behalf of their governments.



* Some Control Committees or treaty-monitoring bodies include: the Committee for the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of the Child.





Here is a list of the major treaties and their related committees:

TREATIES

International Covenant on Civil and Political Rights (ICCPR)

The first Optional Protocol to the ICCPR, which entered into force at the same time as the Covenant in 1976, institutes a procedure for individual recourse. Another Optional Protocol, which came into force in 1991, provides for the abolition of the death penalty.

www.unhchr.ch/html/menu3/b/a_ccpr_.htm

International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR and the International Covenant on Civil and Political Rights, which entered into force at the same time, and the *Universal Declaration of Human Rights*, adopted in 1948, constitute the main elements of the *International Bill of Human Rights*.

www.unhchr.ch/html/menu3/b/a_ceschr.htm

International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Entered into force in 1969.

www.unhchr.ch/html/menu3/b/d_icerd.htm

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Adopted in 1984, the CAT prohibits torture under any circumstances.

www.unhchr.ch/html/menu3/b/h_cat39.htm

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Adopted in 1979, the CEDAW was completed by an Optional Protocol which came into effect in 2000 and provides for an individual complaints procedure and a confidential inquiry procedure.

www.unhchr.ch/html/menu3/b/e1cedaw.htm

Convention on the Rights of the Child (CRC)

The CRC, adopted in 1989, came into effect the following year, and was ratified by all States, with the exception of Somalia and the United States.

www.unhchr.ch/html/menu3/b/k2crc.htm

CONTROL COMMITTEES

Human Rights Committee (HRC)

The Committee, composed of 18 independent experts, convenes three times a year (March-April, July and October) in Geneva.

www.unhchr.ch/html/menu2/6/hrc.htm

Committee on Economic, Social and Cultural Rights (CESCR)

Unlike other control bodies, this committee was not formed as a result of the treaty to which it corresponds. Created in 1985 by the Economic and Social Council (ECOSOC), the Committee is composed of 18 experts and convenes twice a year for three-week sessions (May and November-December).

www.unhchr.ch/html/menu2/6/cescr.htm

Committee on the Elimination of Racial Discrimination (CERD)

This Committee is composed of 18 experts and convenes twice a year (March and August).

www.unhchr.ch/html/menu2/6/cerd.htm

Committee Against Torture

This Committee is made up of 10 independent experts and convenes twice a year (May and November).

www.unhchr.ch/html/menu2/6/cat.htm

Committee on the Elimination of Discrimination Against Women

The Committee is composed of 23 experts and convenes twice a year (January and June) in New York. Unlike other monitoring bodies which rely on the support of the Office of the United Nations High Commissioner for Human Rights, this Committee is backed by the Division for the Advancement of Women.

www.unhchr.ch/html/menu2/6/cedwr.htm

Committee on the Rights of the Child

This Committee is made up of 10 experts and convenes three times a year for three-week sessions (January, May and September).

www.unhchr.ch/html/menu2/6/crc.htm



All of these committees regularly examine the reports submitted by the States parties, which describe the legislative measures and practices they have initiated to implement the treaties in question. During this examination, the control committee can ask government representatives questions, assess the report and issue conclusions and recommendations that the State must respect. Indigenous women's organizations can submit alternative reports to those presented by States to present their perspective on their country's compliance with the treaty.

In addition, these monitoring bodies (except for the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights) can examine individual communications or complaints, according to the specific procedure of each body. The procedure remains confidential until the control committee renders its decision. Generally, individual recourse is not permitted until all domestic avenues have been exhausted or are inaccessible to the complainant.

Two treaties – the Convention Against Torture (CAT) and the CEDAW – also enable their monitoring bodies to proceed with investigations, once credible information shows that acts prohibited by these treaties have been carried out systematically and extensively. It is important to note that once a State ratifies the CAT, it can declare that it does not recognize the authority of the Committee Against Torture to carry out its own inquiries on its territory.

Specific Structures for the Advancement of the Rights of Women and Indigenous Peoples

Permanent Forum on Indigenous Issues (PFII) (www.un.org/esa/socdev/umpfii/index.html)

The Economic and Social Council, one of the UN's main bodies, created the Permanent Forum on Indigenous Issues (PFII) in 2000. The idea was to create an entity to

respond to the concerns of indigenous peoples who felt there was no UN forum that could analyze their issues in depth. The Forum's mandate is therefore to coordinate actions to promote the rights of indigenous peoples within the UN system. This forum was created on the basis of a recommendation at the 1993 World Conference on Human Rights in Vienna, just before the inauguration of the International Decade of the World's Indigenous People (1995-2004). The Permanent Forum is a consultative body made up of 16 members (including eight indigenous experts) who all serve as independents. It focuses primarily on issues relating to economic and social development, culture, the environment, education, health and human rights. Indigenous peoples' organizations can participate, in sessions of the Permanent Forum.


Commission on the Status of Women (CSW) (www.un.org/womenwatch/daw/csw)

Established in 1946 and made up of independent experts, the CSW formulates recommendations to promote the rights of women in the political, economic and social arenas. In addition, it draws States' attention to serious problems that could potentially prevent women from exercising their rights.

Working Group on Indigenous Populations (WGIP) (www.unhcr.ch/indigenous/groups-01.htm)

Composed of five independent experts, this Working Group was created in 1982 by the Economic and Social Council. The WGIP developed the first United Nations draft declaration on the rights of indigenous peoples. This draft was adopted by the Sub-Commission then transmitted to the Committee on Human Rights (CHR), which created its own working group in 1995 to examine the text. This work is still in progress.

Over the years, the Working Group's mandate has expanded. While its initial task was to monitor the



promotion and protection of indigenous rights and to develop new norms to ensure more effective protection of these rights, the WGIP now focuses on a number of aspects of indigenous rights (e.g., value and scope of treaties signed by State authorities, heritage protection, intellectual property, relationship between indigenous peoples and their land). Indigenous peoples' organizations can participate.

Working Group on the Draft Declaration on the Rights of Indigenous Peoples

An initial draft declaration was written by the Working Group in 1993, and the text was approved without changes by the Sub-Commission on the Promotion and Protection of Human Rights in 1994. In the same year, the Commission on Human Rights (CHR) set up an Ad Hoc Working Group to elaborate a draft declaration. Unlike the WGIP, this Working Group was assigned a single mandate to produce a final text. When it was created, the CHR had expressed the wish that this work be completed and submitted to the UN General Assembly before the end of the International Decade of the World's Indigenous People in 2004.

Like all other non-binding instruments, the *Draft Declaration on the Rights of Indigenous Peoples* will not include any effective mechanism for redress when it is finally adopted.

Special Rapporteurs

Other mechanisms were created to further examine the specific problems related to exercising human rights. Individual experts were therefore appointed by the Commission on Human Rights as "special rapporteurs" (SRs) and were assigned a mandate involving a particular country or a specific theme. Issues related to their mandates may be referred to SRs by individuals, communities or NGOs. If necessary, they conduct country visits and bring specific problems to the government's attention.

To find out more, visit the following sites:

- Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions
www.unhcr.ch/html/menu2/7/b/execut/exe_mand.htm
- Special Rapporteur on Contemporary Forms of Racism
www.frontlinedefenders.org/manual/en/rac_m.htm
- Special Rapporteur on Religious Intolerance
www.frontlinedefenders.org/manual/en/rri_m.htm
- Special Rapporteur of the Commission on Human Rights on the Adverse Effects of the Illicit Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights
www.unhcr.ch/html/menu2/7/b/mtow.htm
- Special Rapporteur on Violence Against Women
www.unhcr.ch/html/menu2/7/b/mwom.htm
- Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous People
www.unhcr.ch/indigenous/rapporteur.htm

The Special Rapporteur on Indigenous People (SRIP), to name only one, was first appointed in 2001. His mandate is considered complementary to that of the other two entities devoted specifically to the promotion and protection of indigenous rights within the UN system: the Working Group on Indigenous Populations and the Permanent Forum on Indigenous Issues. The SRIP's mandate can be summarized by three main activities:

- 1) thematic research on the situation of indigenous peoples (e.g. impact of development projects on the rights of indigenous communities, cultural rights of indigenous peoples);
- 2) on-site visits to countries where problems have been signalled to the SR and constructive dialogue with local authorities; and
- 3) communications with governments regarding allegations of violations of rights of indigenous populations, following an in-depth analysis of the credibility of these allegations.