

# Leaflet No 4: Human Rights Treaty Bodies and Indigenous Peoples

## The Treaty-based System and how to use it

### Key Words and Ideas

<b>Committees</b>	<b>Treaty Bodies</b>
<b>Reports</b>	
<b>Complaints</b>	<b>Complaints mechanisms</b>
<b>Views</b>	<b>First Optional Protocol</b>
<b>Admissibility</b>	<b>Exhaustion of domestic remedies</b>
<b>Concluding Observations</b>	

**Summary:** *The United Nations' treaty-based human rights system includes legal procedures through which indigenous peoples can seek protection for their human rights. This leaflet focuses on six major international human rights treaties dealing with civil and political rights, economic, social and cultural rights, racial discrimination, torture, gender discrimination, and children's rights. Complaint mechanisms available to indigenous peoples who believe their rights, as contained in the relevant human rights treaty, have been violated are described first. Then, the reporting system common to all human rights treaties will be outlined to show how indigenous peoples can raise their human rights concerns in an international forum.*

### **UN HUMAN RIGHTS TREATY BODIES**

There are six major international human rights treaties (legally binding instruments) within the UN human rights system that deal with civil and political rights, economic and social rights, racial discrimination, torture, gender discrimination, and children's rights. In order to use them effectively, you need to know to which treaties your country is a party. A country becomes a party to a treaty by ratifying or acceding to it. This is because you can only use the treaty system to seek redress when your country is failing to observe obligations it has formally accepted by becoming party to a treaty. This also applies to the complaints mechanisms: you can only make a complaint if your country has accepted the complaints provisions in the treaty in question. You can find out the status of ratification of the principal international human rights treaties through the OHCHR web site, [www.unhchr.ch](http://www.unhchr.ch), under: OHCHR Programmes, Conventional Mechanisms.

There is a supervisory committee for each of these treaties that monitors the way in which States Parties (the countries whose governments have accepted the treaty) are fulfilling their human rights obligations as stated in the relevant treaty. The **committees** (also known as **treaty bodies**) vary in size from 10 to 23 members and are composed of international human rights experts. Committee members serve for four-year terms. Though they are elected by States Parties, they serve in their personal capacity and not as representatives of their governments. Committee members generally do not take part in deliberations relating to their own country. The committees meet for several weeks each year and most of the meetings are held in Geneva. However, the Committee on the Elimination of Discrimination Against Women meets in New York and the Human Rights Committee meets once in New York and twice in Geneva each year.

## HUMAN RIGHTS TREATIES AND THEIR SUPERVISORY BODIES

HUMAN RIGHTS TREATY	NAME OF SUPERVISORY BODY
The International Covenant on Civil and Political Rights (ICCPR)	The Human Rights Committee (HRC)
The International Covenant on Economic, Social and Cultural Rights (ICESCR)	The Committee on Economic, Social and Cultural Rights
The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	The Committee on the Elimination of Racial Discrimination
The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	The Committee Against Torture
The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	The Committee on the Elimination of Discrimination Against Women
The Convention on the Rights of the Child (CRC)	The Committee on the Rights of the Child

The full text of each treaty can be found on the OHCHR web site, [www.unhchr.ch](http://www.unhchr.ch), under "Treaties", and under the concluding observations of the treaty bodies.

### **Functions of the Committees**

There are two ways in which the supervisory committees monitor a State Party's performance on implementing its human rights treaty obligations. The first is by considering **complaints** from individuals that their rights under a particular treaty have been violated. The International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention Against Torture (CAT), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) include complaints mechanisms. The International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC) do not have complaints mechanisms, although a draft for a complaints procedure for the ICESCR is under consideration by the Commission on Human Rights.

The second way supervisory committees monitor States Parties is by considering **reports**, regularly submitted by governments, on how those governments are implementing treaties. States Parties to any of the treaties listed above are legally obliged to submit these reports, as all the treaties provide for a reporting procedure. In its reports, a government must inform the relevant supervisory body of measures taken to implement the human rights obligations contained in the corresponding treaty.

While complaints generally focus on one or two specific issues (*see below*), a committee's observations on a government report can address all of the rights set out in a treaty. Thus, a committee's comments can amount to a comprehensive review of whether and how a country protects the rights contained in a particular treaty.

## **MAKING COMPLAINTS ABOUT HUMAN RIGHTS VIOLATIONS**

### **Human Rights Treaties with Complaints Mechanisms**

The ICCPR, CERD, CAT and CEDAW each have **complaints mechanisms** that enable individuals to complain that their rights, as enumerated in the particular treaty, have been

violated. A committee will only consider **complaints** that are made against a country that has agreed to be bound by *both* the treaty *and* its complaints system. This is because complaints mechanisms are optional. A country can be party to a treaty, and agree to observe its provisions, but may decide that it will not be bound by the treaty's complaints system. That would mean that the corresponding committee could not consider individual complaints against that government. The optional provisions are set out in the **first Optional Protocol** to the ICCPR, Article 14 of CERD, and Article 22 of CAT, and the Optional Protocol to CEDAW.

The procedures for handling complaints are similar for all three of these instruments. The relevant committee considers a complaint and the comments of the government concerned, and reaches a **view** as to whether or not a violation has occurred. This is a quasi-judicial process. The consideration of complaints does not require a personal appearance by complainants or other parties before the committee, and the committee's views are not legally binding on governments. However, views are persuasive; ignoring them would leave a government that is not complying with its international obligations open to criticism, both at home and abroad. If the committee finds that the rights set out in the treaty have been violated, there will be an expectation that the government concerned will take appropriate actions to remedy the situation.

The complaints mechanism of the ICCPR is the best established within the UN human rights system. Since 1976, the Human Rights Committee has made findings on about 1,000 complaints, from people in many different countries, about violations of this Covenant. A smaller but growing number of complaints have been filed under CERD and CAT. Indigenous peoples should note that CERD's complaints mechanism allows *groups*, not just individuals, to take their complaints to the Committee on the Elimination of Racial Discrimination.

Several bodies dealing with communications have developed model forms to make it easier to examine reports of human rights violations. These forms have been made available to persons who wish to report cases of alleged violations. Model forms can be found on the OHCHR web site, [www.unhcr.ch](http://www.unhcr.ch), under "OHCHR Programme", "Conventional Mechanisms/Communication, complaints procedures" However, communications are considered even when they are not submitted on this form. All communications should clearly indicate the name of the Committee you are addressing and be sent to:

<p><b>(Name of the Committee concerned)</b> <b>OHCHR-UNOG, 1211 Geneva 10</b> <b>Switzerland</b> <b>FAX: 41-22-917-90-11</b></p>
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### ***Complaints under the International Covenant on Civil and Political Rights and the first Optional Protocol***

The Human Rights Committee monitors the implementation of the ICCPR, which provides for specific civil and political rights. The first Optional Protocol and the Human Rights Committee's rules of procedure outline the steps involved in making a complaint about a violation under this Covenant. Article 1 of the first Optional Protocol limits the right to submit complaints to individuals. That prevents indigenous peoples from complaining about violations of their *collective* rights.

### **Important articles in the ICCPR**

Before preparing a complaint, you should examine the rights set out in the Covenant. The following Articles from the ICCPR are of particular relevance to indigenous peoples:

Article 1: the right of self-determination for all peoples, including the right to determine one's political status and economic, social and cultural development

Article 6: the right to life

Article 7: the right to be free from torture or cruel, inhuman or degrading treatment or punishment

Article 9: the right to liberty and security of person and freedom from arbitrary arrest or detention

Article 10: the right of all persons deprived of their liberty to be treated with humanity and respect

Article 14: the right to be equal before the courts, including the right to a fair and public hearing and the right to free legal aid and assistance of an interpreter

Article 18: the right to freedom of thought, conscience and religion

Article 24: the right of every child to protective measures as required for minors

Article 27: the right of ethnic, religious or linguistic minorities to enjoy their own culture, profess and practice their own religion and to use their own language (The Human Rights Committee has decided that indigenous peoples are covered by this article, even though they may not necessarily be a true "minority" of a population.)

### **Making a complaint to the Human Rights Committee**

The first step taken by the Committee when considering a complaint is to determine whether the complaint is **admissible**. The criteria for admissibility are as follows:

- ∅ Communications must not be anonymous and cannot be considered unless they come from a person or persons subject to the jurisdiction of a State that is a party to the Optional Protocol.
- ∅ Normally, a communication should be sent in by the individual who claims that his or her rights have been violated by the State. When the alleged victim cannot submit the communication, the Committee may consider a communication from another person who must prove that he or she is acting on behalf of the alleged victim. A third party with no apparent links with the person whose rights have allegedly been violated cannot submit a communication.
- ∅ The complaint cannot be considered if the same problem is being investigated under another international procedure, and **all domestic remedies must have been exhausted** before it can be taken up by the Committee.
- ∅ Even before deciding whether a communication is admissible or not, the Committee, or its Working Group on Communications, may ask the alleged victim or the State concerned for additional information or comments and set a time limit for the submission of that information. If the State has anything to say at this stage, the person who filed the complaint will receive a copy of its reply for comment.
- ∅ If the case is referred back to the author for more information before being found inadmissible, nothing will have been transmitted to the State.
- ∅ The Committee may decide to drop a complaint without a written decision, for example, when the author withdraws it, or shows in some other way that he or she does not want to continue with the matter.

### **Assessing a complaint**

Once a communication has been declared admissible, the Committee asks the State concerned to explain or clarify the problem and to indicate whether anything has been done to resolve it. A time limit of six months is set for the State Party's reply. Then the author of the

complaint has an opportunity to comment on the State's reply. After that, the Committee expresses its final views and sends them to the State concerned and to the author of the complaint.

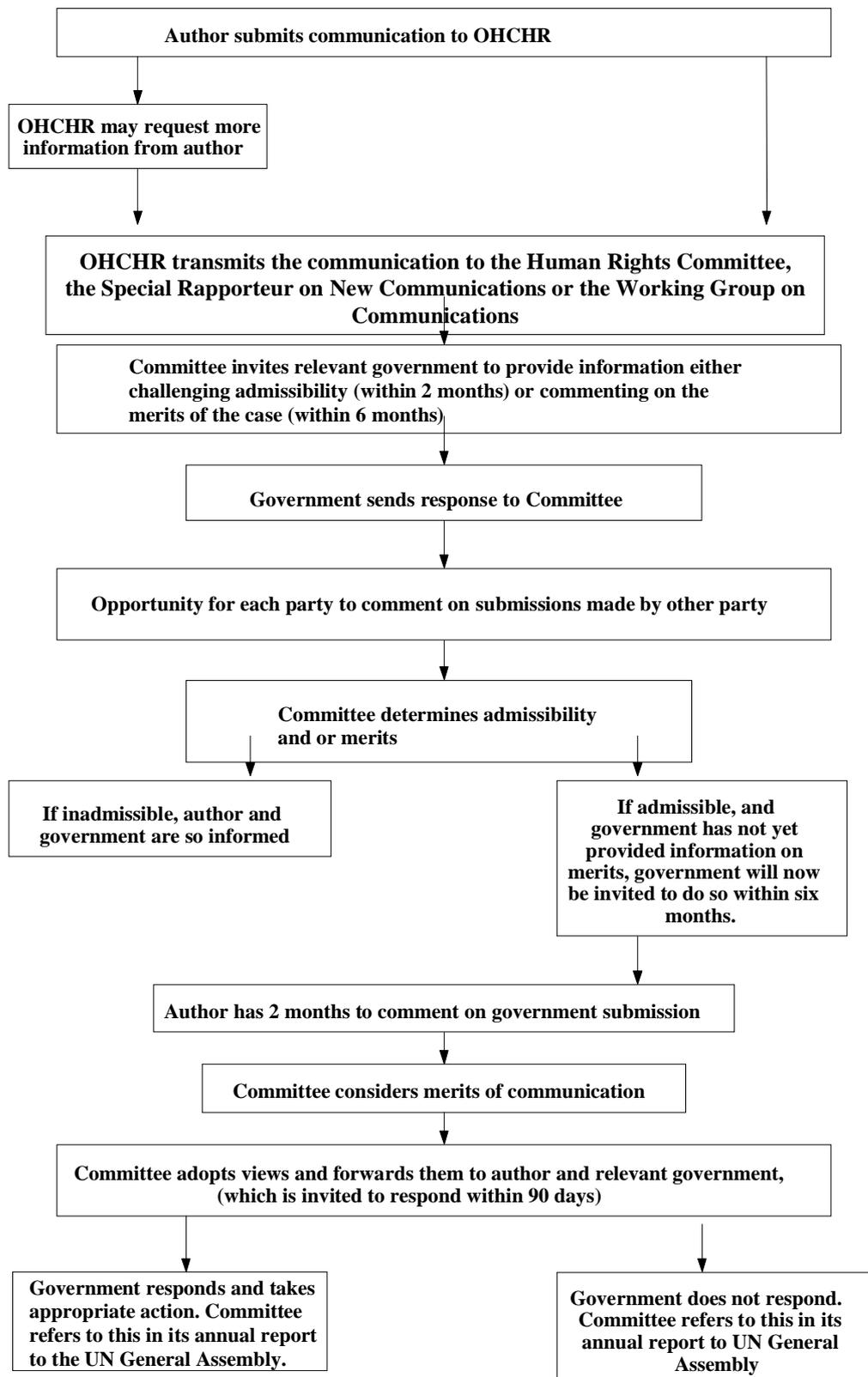
The Committee gives equal weight to the individual who complains and the State that is alleged to have violated his or her rights. Each has an opportunity to comment on the other's arguments.

The findings of the Committee, which include its views on the communications that have been declared admissible and examined on their merits, as well as its decisions declaring other communications inadmissible, are always made public immediately after the session at which the findings were adopted. The findings are then included in the Committee's annual report to the General Assembly.

#### **Generating publicity for a complaint**

Until recently, the consideration of a complaint was completely confidential until the Human Rights Committee decided on the case and published its views. Those individuals who filed the complaint were thus unable to seek public support for their grievance during the entire time the Committee was deliberating. Now, the Committee no longer insists on confidentiality while it is considering a complaint. The deliberations of the Human Rights Committee remain confidential, but a person making a complaint may publicize his or her submission or any information bearing on the proceedings, unless the Committee requests otherwise. This freedom to seek publicity also applies to the government involved.

## STAGES IN HANDLING A COMMUNICATION UNDER THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS



## **Complaints under the Convention on the Elimination of All Forms of Racial Discrimination**

The Committee on the Elimination of Racial Discrimination monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination (CERD). States Parties to the Convention agree to prohibit and eliminate “racial discrimination in all its forms and to guarantee the right of everyone ... to equality before the law” with respect to the full range of rights set out in the covenants and elsewhere. Article 5 of the Convention lists rights such as equality before the law, the right to protection by the State against violence or bodily harm, the right to own property in association with others, freedom of religion, the right to housing, the right to public health and medical care, and the right of access to any place or service intended for use by the general public, such as hotels or parks.

The procedure for making a complaint to the Committee is similar to that for the Human Rights Committee. The principal difference is that the complaints mechanisms under CERD allows groups of people, not just individuals, to file complaints. As with the Human Rights Committee, a complaint must show that all available domestic remedies have been exhausted, such as complaints or appeals through the judicial system, national human rights commissions or tribunals. The complaint must be in writing and the same format can be used, with appropriate changes to the name of the instrument in question. The admissibility considerations that apply to this Convention are essentially the same as those that apply to the first Optional Protocol. Complaints are limited to allegations of human rights violations that occurred after the date on which a country accepted the complaints mechanism.

### ***Complaints under the Convention Against Torture***

The Committee Against Torture monitors the implementation of the Convention Against Torture (CAT). This Convention prohibits all acts of torture, which it defines as “severe pain or suffering ... intentionally inflicted on a person ... when such pain or suffering is inflicted by or at the instigation of ... a public official for reasons of obtaining information or confessions...” The procedure for making a complaint is the same as the procedure for complaints under both the ICCPR and CERD. The complaint must be in writing and the same format may be used. The requirements for admissibility are similar to those for complaints made under the ICCPR and CERD.

### ***POSSIBLE COMPLAINTS UNDER THE HUMAN RIGHTS SYSTEM***

Before making a complaint under the three international human rights treaties that contain complaints mechanisms--the ICCPR, CERD and CAT--you should examine how the rights set out in those treaties relate to the specific human rights situation you are concerned about. Indigenous peoples may consider filing complaints on issues such as:

Mandatory sentencing: In some cases, indigenous peoples are imprisoned for relatively minor offences and mandatory sentencing can result in prison terms disproportionate to the alleged crime. Articles that may be relevant include Articles 2(1), 9(1), 10(3), 14(4), 24(1) and 26 of the ICCPR and Articles 5(a) and 2(1)(c) of CERD. Remember that a complaint would not be considered under more than one treaty. In countries that have mandatory sentencing based on domestic legislation, there can be no domestic remedy available to a person affected by such legislation, except to appeal against excessive sentences.

Infant mortality: Rights relevant to the problem of disproportionate rates of indigenous infant mortality are primarily addressed in provisions of the ICESCR and CRC. Neither of these instruments has a complaints mechanism. However, it could be argued that certain provisions of the ICCPR would also be relevant, particularly Articles 2(1), 6(1), 24(1) and 27. Articles 2(1)(c) and 5(e)(iv) of CERD may also apply.

Property Rights: Any action by a government that has the effect of discriminating against indigenous peoples with respect to their property rights would probably violate CERD, specifically Articles 2(1)(a), 2(1)(c), 5(d)(v)-(vi) and 5(e)(vi). Such action by a Government

might leave no means of domestic redress, in which case there would be no domestic remedies to exhaust.

Deaths in Custody: Depending on the situation, a number of Articles of the ICCPR might be relevant to concerns over the deaths of indigenous persons in custody. These would include Articles 2(1), 6(1), 7, 10(1), 10(2)(b), 10(3), 14(4), 24(1), 26 and 27. In such cases, complainants would have to be sure to exhaust domestic remedies before filing a complaint with the Committee.

Interpreters: Article 14(3)(f) of the ICCPR provides that a defendant has the right to the free assistance of an interpreter if he or she cannot understand or speak the language used in a court. There may be a domestic remedy available to this violation: appealing to a higher court that there has been an abuse of process or that a conviction is unsafe and unsatisfactory. If a defendant in this situation is in custody, domestic remedies that may result in the earlier release of the defendant should be pursued as a priority. However, such circumstances may also form the basis for a complaint under the Covenant.

### **How to maximize prospects for a successful outcome**

Statements from the author of the complaint or from witnesses, family members or others who could shed light on matters raised in the communication should be included. You should also consider including medical or psychiatric reports, texts of relevant laws, policies, codes of practice and guidelines, and relevant legal judgments in your country to support your claim. It may further strengthen your argument if you can refer to relevant international activity, such as decisions of UN Committees or of other international human rights mechanisms, such as the European Court of Human Rights. If these precedents support your argument, they may help persuade the Committee to which you are appealing to reach a decision in your favour. In addition, you can seek advice from those in your country who have legal expertise and understand the UN system. In some countries, legal services may be able to provide such assistance.

## **HUMAN RIGHTS TREATIES AND THE REPORTING SYSTEM**

The six major international human rights treaties discussed in this leaflet contain arrangements for a reporting system to monitor the way in which a government is fulfilling its treaty's obligations. States Parties to these treaties are required to submit a report to the relevant supervisory committee every four or five years (the reporting period for the Convention on the Elimination of All Forms of Discrimination is every two years). Such a State report should contain detailed information on the efforts the government of a State is making to respect the human rights contained in the treaty, what progress has been made, and what obstacles and problems the State has encountered. After considering a State Party's report, the committee will adopt so-called **Concluding Observations**, a public document that comments on the State's performance, recognizing positive developments, highlighting areas of concern and providing suggestions and recommendations on specific issues.

In theory, the reporting system encourages openness and constructive dialogue. It should enable everyone who is interested to monitor the degree to which States Parties are observing their human rights obligations. In practice, however, there are many problems:

- Many countries are late in submitting their reports, in some cases several years late.
- The committees generally do not have sufficient resources to review all reports in a timely way.
- Governments do not always take account of the committees' comments, suggestions and recommendations.
- Not enough publicity is given to the process.

## **Using the reporting system to protect human rights**

The previous part of this leaflet dealing with complaints mechanisms outlines Articles of particular interest to indigenous peoples contained in the International Covenant on Civil and Political Rights, the Convention Against All Forms of Racial Discrimination, the Convention Against Torture and the Convention on the Elimination of All Forms of Discrimination Against Women. These Articles also represent subjects of concern that can be addressed through the reporting system. This section outlines Articles of interest to indigenous peoples contained in those treaties that do not have complaint mechanisms: the Convention on the Rights of the Child, the Covenant on Economic, Social and Cultural Rights.

### ***Reporting under the Convention on the Rights of the Child***

This is the most recent of the major, legally binding human rights instruments. It concerned specifically with the promotion and protection of children's rights (children are defined as from 0 to 18 years of age). The Convention's supervisory body, the Committee on the Rights of the Child, receives strong support from governments, NGOs and the UN Children's Fund (UNICEF).

Articles of particular interest to indigenous peoples could include:

Article 3 (1): the best interests of the child should be the primary consideration in all actions concerning children

Article 6: the right to life of every child and the obligation of governments to provide the maximum protection possible to ensure the survival and development of every child

Article 24(1) and (2a): the right of every child to the highest attainable standard of health and the obligation of governments to reduce infant and child mortality

Article 30: the right of every child belonging to an ethnic, religious or linguistic minority to enjoy their own culture and practice their own religion and language (This is similar to Article 27 of the ICCPR - see discussion at the beginning of this leaflet).

Article 33: measures to protect children from the illicit use of drugs

Article 34: protection from sexual exploitation and abuse

Article 37 (b): the obligation of governments to ensure that no child is deprived of his or her liberty unlawfully or arbitrarily. Arrest, detention or imprisonment of a child must conform with the law, and be used as a measure of last resort for the shortest possible time

Article 40 (2) (b)(vi): the right of a child accused of having infringed the law to have "the free assistance of an interpreter if the child cannot understand or speak the language used." (This is similar to Article 14 (f) of the ICCPR - see discussion at the beginning of this leaflet).

### ***Reporting under the International Covenant on Economic, Social and Cultural Rights***

This instrument was adopted at the same time as the International Covenant on Civil and Political Rights (1966) to emphasize the equal status of the various categories of rights. In practice, many governments don't regard economic, social and cultural rights as human rights. Some governments tend to consider these issues in terms of policy-making and programmes rather than rights. The result is that governments decide when they want to act and what level of resources they are prepared to allocate to these matters. But this approach perpetuates the practice of providing hand-outs to disadvantaged groups rather than ensuring entitlements based on recognized international human rights standards. Because governments have agreed to recognize the economic, social and cultural rights contained in

this Covenant as human rights, it is important for indigenous peoples, and others who are concerned about their rights in this area, to pressure governments to adhere to their obligations.

While the ICESCR clearly sets out economic, social and cultural rights, the international human rights system gives States more flexibility in ensuring that these rights are observed than it does with regard to civil and political rights. In Article 2(1), the Covenant recognizes that there may be limits to the availability of resources and that different countries have different capacities to provide services such as health care and education. At the same time, Article 2(1) establishes that each State Party commits itself “to take steps ... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant, including particularly the adoption of legislative measures.”

To some extent, this Article can be used by governments as an excuse for failing to ensure that appropriate standards have been achieved. However, governments that have seriously failed in areas such as indigenous health and the reduction of infant mortality cannot easily hide behind this Article. The Committee on Economic, Social and Cultural Rights has said that a State cannot take retrogressive measures - that is, measures taken by the State that result in decreasing the enjoyment of rights - unless it can fully justify them (this is contained in the Committee’s General Comment No. 3, on Article 2[1] of the Covenant, and the nature of the obligations of States Parties under the Covenant).

The ICESCR also includes a non-discrimination clause (in Article 2[2]) guaranteeing that rights will be exercised without discrimination of any kind. This non-discrimination provision must be applied immediately, not over a period of time.

Articles of particular interest to indigenous peoples include:

Articles 6 and 7: the right to work, including the opportunity to gain a living through work freely chosen or accepted, as well as the right of everyone to the enjoyment of just and favourable conditions of work

Article 11: the right to adequate standards of living, including adequate food, clothing, housing and the continued improvement of living conditions

Article 12: the right to the highest attainable standard of physical and mental health and the obligation of governments to reduce infant mortality and promote the healthy development of the child

Article 13: the right of everyone to education

Article 14: the right to primary education, which is compulsory and free for all

Article 15: the right of everyone to take part in cultural life, to enjoy the benefits of scientific progress and its applications, and to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author.

To clarify the meaning of some of these rights, the Committee has adopted what are known as General Comments, which can be found in the Treaty Body Database of the OHCHR the web site ([www.unhcr.ch](http://www.unhcr.ch)). These General Comments can help indigenous peoples formulate their concerns in the context of the Covenant. The Committee has adopted General Comments on, among other issues, the right to housing and forced evictions (General Comments Nos. 4 and 7), the right to an adequate standard of living, in particular the right to food (General Comment No. 12), the right to education, including primary education (General Comments Nos. 11 and 13), and the right to health (General Comment No. 14).

## ***Reporting under the Convention on the Elimination of All Forms of Discrimination Against Women***

The Committee on the Elimination of All Forms of Discrimination Against Women supervises this Convention, which deals specifically with the rights of women. These rights include the right to equal treatment under the law, in education, political participation, employment, health and the economy, and the rights to freedom from sexual exploitation and to temporary special measures to overcome inequality. This Convention is useful for all women facing discrimination on the grounds of gender, whether or not questions of race also arise.

Articles that may be of particular relevance to indigenous women include:

Article 12: the obligation of governments to take all appropriate measures to eliminate discrimination against women in the field of health care and to ensure access to appropriate services and adequate nutrition during pregnancy and lactation

Article 14: the obligation of governments to consider the particular problems faced by rural women and to promote women's right to development, access to health care, and adequate living conditions, including housing, water and sanitation

The Committee on the Elimination of Discrimination against Women has made it clear that it considers Article 12 (on health), Article 16 (on non-discrimination in marriage and family life), and Article 15 (on equality before the law) as relevant to the issue of violence against women, which the Committee has said "seriously impedes their rights and freedoms as individuals."

### ***HOW TO MAKE USE OF THE REPORTING SYSTEM***

Reporting is an important part of the treaty system, and anyone who wants to try to make sure that States Parties and their governments keep their commitments should make use of this process. You can do several things to use this system effectively:

Encourage the government to make a comprehensive and accurate report: In many countries, a government department or agency is responsible for preparing reports for submission to the relevant supervisory committees. It is important to find out who is responsible for preparing these reports and when the various reports are being prepared (the Ministry for Foreign Affairs is often the department responsible for coordinating the preparation of a country's report). This will enable you to find out whether the government is accepting input from indigenous peoples' organizations or from other NGOs with an interest in the rights of the relevant treaty. You can also consider writing letters to relevant government ministers, and to politicians from all political parties, to keep them informed on the reporting process and to raise any concerns you may have. You can also encourage people such as judges, lawyers and legal academics to write to politicians and to write articles in the news media. If, as a result of this contact and activity, government officials are aware that the reporting process is under public scrutiny, they will be more likely to present a comprehensive and accurate report without excessive delays.

Ensure that weaknesses in reports become publicly known: It is important to make weaknesses in reports known both within your country and to the committees that study the reports. Many mainstream human rights NGOs are taking a great interest in the process and it is worthwhile expressing your concerns to both domestic and international human rights organizations.

Prepare an alternative (also called a "shadow" or "parallel") report: You can contribute to the preparation of an alternative report. In some countries, alternative reports are coordinated by established human rights or community organizations that have a special interest in the treaty's area of human rights. In this way, the concerns of various groups can be included in the report, which will then provide a more comprehensive, alternate view of the government's performance. If you feel that the interests and situations of indigenous peoples are sufficiently different from other groups, you could consider preparing a specific *indigenous*

alternative report, separate from any alternative report coordinated by a mainstream human rights NGO. This would give a more specific focus to indigenous concerns, but it would involve more work and it may be difficult to obtain the necessary funding. The alternative report should directly address the Articles of the relevant instrument and it should be concise, factually accurate, and free of unnecessary political comment. The publication of the alternative report can itself be a public event that draws attention to the human rights problems cited in the report. For example, a media launch of the alternative report could be the start of a continuing campaign to highlight the weaknesses of the State report and ongoing violations of human rights.

### **Contacting Committees and participating in their meetings**

Information that highlights weaknesses in a State's report, such as alternative reports, can be sent directly to the relevant supervisory committee in Geneva. The most effective approach is to coordinate with other organizations that are also preparing information on the State's report for a particular treaty. That way, the committee will receive a comprehensive alternate view to the State's report. The information you submit should address specific Articles set out in the relevant human rights treaty. You should also organize the information in the order of the rights contained in the Covenant. The information you provide should be concise and include a summary of the main points. You should also consider referring to relevant authorities and other material that may support your position, such as statistical evidence, official reports and court cases. You should send 20 copies to the committee, together with a written request that they be distributed to all committee members.

It is very important that your information is received by the relevant committee well before the committee meets to consider the State's report. Contact the Office of the UN High Commissioner for Human Rights in Geneva to make sure that the information is disseminated in time. The address is:

<b>(Name of the Committee concerned) OHCHR-UNOG, 1211 Geneva 10 Switzerland FAX: 41-22-917 90 11</b>
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You can also consider going to Geneva at the time the committees are considering the reports to emphasize to members of the committees the shortcomings in the reports and any gaps between the report and reality. The rules covering the participation of non-government representatives vary from committee to committee. The Committees on the Rights of the Child and on Economic, Social and Cultural Rights, would probably allow you to address the formal session. The Committee on Economic, Social and Cultural Rights has allocated the afternoon of its first day of each session to hearing NGOs that would like to present their information. If you are considering going to Geneva, you should contact the Office of the High Commissioner well in advance. Other committees do not provide for formal participation, but you can seek out individual committee members before or after their sessions or during breaks to speak to them about your concerns. The points you make need to be clearly demonstrable facts, rather than opinion. If a substantive alternative report has been prepared, it would be best to speak in support of this report, adding a personal dimension to the factual information included in the report.

By being present at a committee session you will also find out quickly what the committee's conclusions and recommendations are and you will be in a position to ensure that they are publicized in your country.

In July 2000, the Committee on Economic, Social and Cultural Rights adopted a paper on the participation of NGOs in its work (document number E/C.12/2000/6). The paper can be found under "Other treaty-related documents" in the Treaty Body Database of the OHCHR web site ([www.unhchr.ch](http://www.unhchr.ch)). This document provides useful information on how NGOs can contribute effectively to the Committee's work, as it is based on the Committee's extensive experience in working with NGOs. You can also contact the secretariats of the committees concerned for more information.

### **Generating publicity and bringing pressure to bear on the government**

To generate public and media interest in a committee's consideration of a government report, arranging for someone to be in Geneva for the committee hearing can ensure that you have direct access to the conclusions of the treaty supervisory committee. You may consider contacting helpful NGOs in Geneva, such as the Anti-Racism Information Service, the International Service for Human Rights or the Indigenous Peoples' Centre for Documentation, Research and Information, which may be able to cover the committee meeting for you and fax the committee's conclusions and recommendations to you. Their contact details are provided in the list of useful NGOs and international organizations in Geneva enclosed in this information material. You can also try to obtain the committee's conclusions from the government agency responsible for preparing the report or from the UN's human rights web site. However, preparation of these records can take some time.

A committee's adverse conclusion about a country's human rights performance can be used to generate media and public awareness. It is worthwhile providing information to the media and other human rights organizations to raise awareness prior to the report's consideration. Then, when the committee reaches its conclusions, there will already be some awareness of the weaknesses of a government's report. You can also consider issuing a media release after the committee announces its conclusions and recommendations to generate media interest in the issues involved.

The next step is to ensure that the conclusions and recommendations of the treaty committee are used as part of a continuing campaign to pressure the government to address human rights concerns. The facts of the situation should be brought to the attention of politicians from all parties at all levels: civil servants, members of the legal and other professions, human rights organizations and the media. Failures of the government to respond to the committee's conclusions should also be relayed back to the relevant treaty committee in Geneva.