

RECOMMENDATIONS OF THE UN PERMANENT FORUM ON INDIGENOUS ISSUES REGARDING SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS & GENDER-BASED VIOLENCE

Progress and Challenges



INTRODUCTION

Since its creation in 2000, the United Nations Permanent Forum on Indigenous Issues (UNPFII) has held more than 16 working sessions. The time has come to take stock and evaluate progress made in implementing the Permanent Forum's periodic recommendations, in order to better understand the associated limits, barriers and scope. This report therefore presents an analysis of the recommendations made at the 16 working sessions and their implementation by the United Nations Member States.

It aims to strengthen the capacities of the Permanent Forum and other actors to work towards tangible progress in the exercise of indigenous women's rights, particularly regarding sexual and reproductive health and gender-based violence. The study was undertaken with the support of the Centre for Indigenous Cultures of Peru (CHIRAPAQ) and the United Nations Population Fund (UNFPA).¹

The study classifies by theme the recommendations made during the 16 UNPFII sessions, focusing on sexual and reproductive health and gender-based violence affecting indigenous women, and analyses their implementation in nine countries: Australia, Canada, Guatemala, Kenya, Mexico, Norway, Peru, the Republic of the Congo and Thailand. Research for the study included an extensive review of documents from various sources, including the Secretariat of the Permanent Forum, United Nations organizations, special rapporteurs, Member States, indigenous women's organizations and multilateral organizations, both at the global and regional levels, as well as the countries selected. In addition, 41 interviews were conducted with members of the Secretariat of the Permanent Forum, UNFPA teams, and representatives of governments, indigenous women's organizations and other civil society organizations, and a workshop was held to discuss the study's preliminary results with UNFPA and representatives of indigenous women's organizations from five countries, in order to validate the outcomes achieved, identify information gaps and complete further analysis.

¹ The study was commissioned by the Latin American consulting firm Inclusión y Equidad.

WHAT IS THE PERMANENT FORUM?

The UNPFII is an advisory body to the Economic and Social Council (ECOSOC). Established on 28 July 2000 by resolution 2000/22, it is mandated to address indigenous issues that fall within ECOSOC competencies related to economic and social development, culture, the environment, education, health and human rights. The Permanent Forum consists of 16 independent experts who work ad honorem, each holding office for a period of three years, and may be re-elected or nominated for an

additional period. Eight are nominated by their respective governments and eight are appointed by indigenous peoples' organizations in their regions.

The Permanent Forum is one of three United Nations bodies mandated to specifically address the issues of indigenous peoples. The others are the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the Rights of Indigenous Peoples.

KEY FINDINGS OF THE STUDY

THE KEY FINDINGS OF THE STUDY ARE AS FOLLOWS:

1. **Indigenous women's organizations consider the Permanent Forum a valuable platform, though it has certain institutional limitations.**

The Permanent Forum is considered the only global platform that provides an overview of the situation of indigenous peoples and allows these peoples to express their demands, participate in discussions and engage in negotiations between indigenous peoples' organizations, governments and United Nations organizations. **The Forum is the result of indigenous peoples having mobilized themselves.** Besides making important recommendations every year, it is mandated to prepare and disseminate information on indigenous issues and to mainstream these issues within the United Nations system.

However, while this platform is valuable for indigenous diplomacy, there are **limitations in its institutional structure**, in terms of resources to carry out research and advocacy that would strengthen the preparation and implementation of recommendations. In addition, there are limited opportunities for its

members to participate in other United Nations bodies that would enhance the Forum's impact.

2. In its 16 sessions, the Permanent Forum has raised more than 1,260 recommendations on different themes to guarantee the rights of indigenous peoples. **The rights of indigenous women and youth have been on the agenda since the Forum's creation.** Indigenous women's organizations in particular have been very active in raising awareness on international platforms of the historic and ongoing discrimination of indigenous peoples worldwide and advancing international commitments to improve their situation.

Only 15.5 per cent of all recommendations make explicit reference to the situation of indigenous women or girls, and/or gender equality. Although most recommendations regarding sexual and reproductive health and the right to a life free from violence explicitly refer to the situation of women or girls (59.5 per cent and 58.8 per cent, respectively), these recommendations are only a small proportion of the total number of recommendations made (2.9 per cent and 6.3 per cent, respectively).

Conversely, while recommendations aimed at guaranteeing environmental rights are some of the most prominent to have emerged from the 16 sessions (13.5 per cent), only 4.1 per cent of these directly mention indigenous women.

3. Implementation of the Forum's annual recommendations depends on political will and is not directly or explicitly related to other international instruments that have higher compliance demands. One major challenge when analysing implementation is the lack of information from States and other actors.

Although the Forum sends a questionnaire to governments, United Nations organizations and indigenous organizations to follow up on the recommendations, only a small number of Member States respond, as shown in Table 1.

In the 16 years that the Permanent Forum has held sessions, **only 37 Member States have sent reports before the sessions.** Only one country (Mexico) has sent more than 10 reports, while most (20) have sent one or two reports in total. Even without evaluating the quality of the information, it is clear that governments provide little material regarding their actions in favour of indigenous peoples' rights and attribute a low level of importance to the Permanent Forum as an accountability platform.

4. According to the Permanent Forum database, the Forum has issued 170 recommendations specifically aimed at improving the situation of indigenous women, though information regarding their level of implementation has been provided for only 50 per cent of them. Of these 170 recommendations, 43.5 per cent are "being implemented" and only 5.9 per cent are reported as "completed". Those marked "completed" largely correspond to recommendations directed towards United Nations organizations or entities. Those reported as "being implemented" have been in this category since the second session (2003), which also indicates a lack of follow-up. It is problematic to have a recommendation "being implemented" for more than 15 years. Similarly, **some recommendations cover topics already raised in previous sessions,** indicating a lack of action by the Member States or United Nations organizations.

5. Information on the impact of the recommendations at the country level can be misleading. At its fourteenth session, the Permanent Forum recognized limitations in the implementation of its recommendations and initiated a process to improve its working methods. It gathered information from various stakeholders, who observed that the recommendations were very diverse in their scope, applicability and targeted actors. Based on this, suggestions were proposed to improve the recommendation drafting process, which included

Table 1. Number of reports sent by countries for each session of the Permanent Forum

Countries that have submitted reports	Total	Countries
Countries that have sent more than 10 reports	1	Mexico (13)
Countries that have sent 6-10 reports	7	Australia (6), Bolivia (9), Denmark and Greenland (9), Ecuador (6), Finland (8), Norway (6), Paraguay (7)
Countries that have sent 3-5 reports	9	Botswana (3), Burkina Faso (4), Chile (4), Colombia (5), Honduras (3), Peru (4), Russia (5), Spain (5), Switzerland (3)
Countries that have sent 2 reports	9	Argentina, Canada, El Salvador, European Council, Guatemala, Namibia, New Zealand, United States, Venezuela
Countries that have sent 1 report	11	Burundi, Cambodia, China, Congo, Germany, Guyana, Kuwait, Nicaragua, Niger, Sweden, Tanzania
Total countries	37	
Total reports sent	129	

Source: CHIRAPAQ (2017)

reducing the number issued each year and applying the “SMART” criteria, in order to promote more effective implementation in the Member States and/or by the United Nations system.

6. **Improvements made to the process still seem insufficient, since they do not cover the report content** (which should not only account for processes and activities, but also focus on results), nor the information sources (indigenous peoples, not only Member States and United Nations organizations), nor do they focus on strengthening the Member States’ response rate (there has not been a significant increase in the number of country reports).

7. **Most of the Forum’s recommendations are addressed to Member States and United Nations organizations.** Prior to each session, the Secretariat of the Permanent Forum sends a questionnaire to Member States’ Permanent Missions to the United Nations to follow up on implementation of the recommendations in their countries. The Permanent Missions then initiate the consultation process through their respective ministries and, following this, institutions responsible for indigenous issues.

The recommendations aim to encourage the development of comprehensive, sustainable responses that safeguard the full exercise of indigenous peoples’ rights. It is therefore important to understand who, at the national level, should be responsible for implementing the recommendations. **Institutions for indigenous peoples, particularly those for indigenous women, have been set up only recently in many countries and often have limited capacities. This affects their ability to push for public policies that follow up on the Forum’s mandates and recommendations and to establish relationships in line with them.**

In addition, the institutional fragmentation of countries according to sectoral issues, and of United Nations mandates according to themes, does not help with comprehensively addressing the problems of indigenous peoples, and of indigenous women and girls in particular.

Furthermore, many countries do not have recognized institutions that focus exclusively on indigenous women. In some cases, institutions treat “indigenous women” as rural and farming women, while in others, their concerns are included within more general issues that affect men, women, girls and boys.

Occasionally, inter-institutional commissions are created to ensure a more comprehensive approach to the recommendations, though this has been observed only with regard to recommendations that are legally binding and that have not necessarily come from the Permanent Forum.

Norway offers a different example of an institution responsible for ensuring the rights of indigenous peoples, through the creation of the Sameting (the Sami Parliament). As a democratic body supported by both the indigenous community and the Government, the Sameting has undoubtedly been a facilitating factor in implementing the recommendations.

The Office for the Protection of Indigenous Women (DEMI) in Guatemala is the only institution in the countries studied that takes a comprehensive approach to addressing issues specific to indigenous women. However, its mandate is limited and it does not have the institutional capacities to monitor the implementation of international commitments.

In Peru, there is optimism over the Working Group to Promote the Rights of Indigenous or Native Women, which is intended to be a coordination mechanism between the Ministry of Women and Vulnerable Peoples (MIMP) and women who belong to indigenous or native peoples.

8. **The Permanent Forum recognizes that progress has been made in Member States’ regulatory frameworks**, including recognizing indigenous peoples’ rights in their constitutions and enacting comprehensive laws or regulations that ensure the right to prior consultation with indigenous peoples. Progress has also been made in terms of countries (such as Australia and Canada) recognizing historic violations of indigenous peoples’ rights.

Nevertheless, the Permanent Forum has identified a **large gap between the formal recognition of indigenous peoples and the implementation of policies on the ground.**

9. **The analysis found that 22 recommendations issued to promote sexual and reproductive rights specifically mention indigenous women and girls.** These recommendations are diverse in terms of their content and scope. Some, for example, call for the preparation of a fact sheet to disseminate information on a situation or to encourage participation in a specific campaign, while others raise more structural

issues that should be included in public policies and services for indigenous women and girls to guarantee their rights. The recommendations also take on issues discussed and points raised by indigenous women's organizations and United Nations organizations.

These recommendations point to gaps in the development of relevant and intercultural public policies that address the interrelated aspects needed to protect the sexual and reproductive rights of indigenous women and girls. These include: the lack of information available to shed light on the situation of indigenous women and girls, due to the low level of disaggregation by ethnicity in the information sources used for this issue (e.g. censuses, special surveys and administrative records); the tension between a universalist vision of services and an intercultural perspective that incorporates the knowledge, worldview and practices of indigenous peoples in specific territories; the undervaluing of traditional medicine and the knowledge of indigenous practitioners, such as midwives; the lack of policies or programmes focused on incorporating indigenous staff into public health services; the abuse and discrimination towards indigenous women and girls in health services, which severely limits their access to quality care; the lack of participation of community organizations and indigenous women and girls in sexual and reproductive health and rights programmes; and the persistence of cultural practices that infringe on indigenous women's and girls' sexual and reproductive rights. In some cases, Member States have led initiatives to develop innovative programmes, though these have often lacked continuity and sustainability.

10. Although various issues have led to UNPFII recommendations on indigenous women's and girls' sexual and reproductive health, **a number of themes and dimensions placed on the Permanent Forum's agenda by indigenous organizations have not been raised in its recommendations.** Particular issues include the following: policies tend to homogenize indigenous peoples within one category of "indigenous populations", without distinguishing between indigenous women's and girls' varying circumstances; the need for sexual education and training for women and girls on sexual and reproductive health and reproductive rights is not addressed; recommendations make no reference to abortion or adolescent pregnancy, despite having become an international priority; and serious violations of indigenous women's

human rights persist, as reported by indigenous women's organizations.

11. The analysis found that the 47 UNPFII recommendations that **address indigenous women's and girl's right to a life free from violence aim to shed light on the situation and the extent and nature of such violence by producing information and conducting specific assessments.** Member States, United Nations organizations and their various actors should specifically include indigenous women and girls in their work, by carrying out their own studies and analyses.

Recommendations for Member States and United Nations organizations also emphasize the need to take into account the impacts of armed conflicts and trafficking of indigenous women, youth and children.

As regards public policy, recommendations have been proposed to improve the access of indigenous women, youth and children to justice, and specifically to create ombudsmen offices.

Recommendations on this issue also note the **important role that indigenous organizations, particularly indigenous women's organizations, have in addressing violence.** It is recommended that Member States support indigenous organizations' work and recognize their value. Furthermore, it is hoped that countries will end police violence against the mobilization of these organizations. In addition to requesting that Member States redouble their efforts, the recommendations call on United Nations organizations to take specific action. The recommendations have also identified human rights violations and acts of violence against indigenous women and girls in specific regions (Asia) and countries (Bangladesh and Canada), and request that Member States take swift action to end these abuses.

12. **The invisibility of rights violations is an aspect of violence against indigenous peoples, particularly women, that is often ignored in public policy.** There are no specific data on the extent of such violations, nor data that shed light on the issue according to how indigenous women's organizations have interpreted the violence these women experience. Initiatives that are specifically aimed at indigenous women either do not exist, or do not offer services with an intercultural approach.

13. Policies and measures to prevent violence are lacking and are not usually aimed at addressing stereotypes or unequal gender relations. This issue is among those that have not been captured in the UNPFII recommendations, but that are included in the agendas of indigenous women's organizations. Opportunities for indigenous women in situations of violence to access justice are scarce, and there is limited discussion on links with traditional justice systems. The role of indigenous women's organizations in reporting and mobilizing in situations of violence is not recognized.

14. In general, this study identifies that there is a **low level of awareness of UNPFII recommendations and shortcomings in the implementation process and follow-up initiatives at the country level.** These issues are linked to the persistent serious violations of indigenous women's rights, which are being increasingly brought to light thanks to the efforts of indigenous women's organizations, with the support of United Nations organizations on occasion and strong partnerships with special rapporteurs. Only a few symbolic situations of rights violations have been addressed in UNPFII recommendations, such as those issued for Canada related to missing or murdered indigenous women.

15. Certain factors limit the Permanent Forum's ability to promote the sexual and reproductive health and rights of indigenous women and their right to a life free from violence. These include:

- Limited stability and capacity of countries to sustain public policies over time in areas concerning indigenous women.
- General lack of culturally appropriate public policies, which do not focus on the most left-behind groups of women, who are often indigenous.
- Lack of budget and priority given to public policies developed for indigenous populations in general and indigenous women in particular.
- Lack of information disaggregated by ethnicity and life cycle, which masks the problems indigenous women face that require targeted efforts.
- Subnational entities do not always harmonize their legal and programmatic frameworks with the agreements entered into by national authorities.

- Political factors resulting in changes in administrations, teams and priorities.
- Lack of transparency of countries' implementation processes.
- Little consistency between the agendas of indigenous women's organizations and those of governments.
- There are limitations regarding information-sharing between national institutions and local governments, and in turn between local governments and indigenous communities and their members.

16. Certain factors that facilitate the implementation of the recommendations or their themes include:

- The presence of United Nations special rapporteurs (on the rights of indigenous peoples, on the right to health and on discrimination, among others) in Member States with rights violations helps strengthen national initiatives supporting indigenous peoples' rights, particularly women's and girl's rights.
- The work of indigenous women's organizations in reporting situations of discrimination or advocating for respect of indigenous women's rights drives the implementation of public measures or programmes included in the recommendations.
- The work of organizations, most often indigenous women's organizations, to communicate and enforce the commitments of international bodies and the specific work of the Forum.
- The presence and action of United Nations organizations in countries where there is still a high level of discrimination against indigenous women is highly beneficial in terms of advancing the agenda for respect of indigenous women's human rights.
- Committed Member States who report regularly and who have established dedicated mechanisms to follow up and support implementation

PROPOSALS FOR STRENGTHENING THE PERMANENT FORUM

A series of proposals are set out below to enhance the role of the Permanent Forum and the ability of its recommendations to improve the situation of indigenous women, particularly in the context of sexual and reproductive rights and gender-based violence. The proposals are based on the results of this study and the discussion that took place with representatives of indigenous women's organizations and UNFPA during the validation workshop. They aim to be constructive and collaborative and have been developed with the Permanent Forum and associated actors in mind.

1. STRENGTHEN THE PERMANENT FORUM'S POSITION AS A REFERENCE ON THE SITUATION OF THE RIGHTS OF INDIGENOUS PEOPLES, ESPECIALLY INDIGENOUS WOMEN

Permanent Forum

- Establish periodic coordination and articulation mechanisms between the various United Nations bodies responsible for defending the rights of indigenous peoples: the Permanent Forum, the



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Special Rapporteur and the Expert Mechanism on the Rights of Indigenous Peoples.

- Ask ECOSOC for greater recognition of Permanent Forum members and accredit them so that they can participate effectively in other international platforms where the situation of indigenous women is discussed.
- Study possible changes to the recommendations system, gathering good practices from other international instruments on countries' human rights situation, such as the universal periodic review (UPR). Similarly, the Permanent Forum could request more precise information on the situation of indigenous peoples and develop recommendations aimed at effecting change in the areas discussed. If this is not possible, request the input of the Permanent Forum in the country review process as a trusted stakeholder in order to develop recommendations.
- Strengthen the Permanent Forum's participation in the various follow-up mechanisms of the 2030 Agenda for Sustainable Development.
- Establish an accessible and efficient system, based on networks of indigenous organizations, to widely disseminate their mandates, the issues discussed in the Permanent Forum and the recommendations resulting from their sessions.
- Systematize and strengthen the practice of preparatory meetings that highlight regions where violations of indigenous peoples' rights need to be addressed and improve the coordination of women's and indigenous peoples' organizations and the development of their advocacy agendas.

UN Member States

- Refer to and underline the recommendations of the Permanent Forum in inter-governmental negotiations and discussions.
- Disseminate and raise attention to the recommendations from the Permanent Forum in the country

Indigenous women's organizations

- Organize face-to-face and online spaces for organization to collaborate and plan their participation in the Permanent Forum's sessions and develop recommendations to be approved prior to each session.
- Establish strategies to encourage mixed indigenous peoples' organizations to support indigenous women's issues.

United Nations organizations

- Organize training opportunities for indigenous women's organizations to share how the United Nations functions, its different mechanisms and spaces for advocacy.
- Strengthen the skills of members of indigenous women's organizations and governments in managing information and indicators, to encourage a more rigorous debate on the situation of indigenous women.

2. IMPROVE SPACES FOR DIALOGUE AND EXCHANGES AND STRENGTHEN THE DEVELOPMENT OF RECOMMENDATIONS AS A TOOL FOR VARIOUS ACTORS TO CREATE AGENDAS

Permanent Forum

- Continue to establish specific topics for each session and communicate these in advance to the participants.
- Rigorously apply the standards proposed by the expert group to improve the development of recommendations. For example, apply the SMART criteria (specific, measurable, achievable, relevant and time-bound), reduce the number of recommendations and identify the target recipient.
- Review, list and disseminate recommendations that have not been addressed, as well as those that have been implemented. Create a transparent and accessible information system on compliance with recommendations.

- Improve database categorization, both regarding recommendation themes and how implementation is reported, to more accurately record the responses of different actors and processes carried out effectively.
- Strengthen spaces for dialogue and bilateral meetings facilitated by members of the Permanent Forum among governments, agencies and indigenous women's organizations, creating opportunities for agreements to be made on improving the situation of indigenous women.
- Establish an online space to share good practices of governments, agencies and indigenous peoples' organizations related to compliance with the United Nations Declaration on the Rights of Indigenous Peoples.

United Nations Member States

- Form delegations to attend the Permanent Forum's sessions, ensuring that the delegation includes indigenous peoples' organizations and indigenous female leaders.

Indigenous women's organizations

- Collectively plan interventions for the Permanent Forum's sessions and advocacy spaces to strengthen the impact of organizations' agendas.

3. CONSOLIDATE A SYSTEM FOR MONITORING PROGRESS ON RECOMMENDATIONS THAT SUPPORTS EFFECTIVE CHANGE IN COUNTRIES

Permanent Forum

- Establish a monitoring system that includes the participation of indigenous peoples' organizations and has direct links with representatives of the Member States to ensure they complete reporting. Furthermore, establish a reporting system that validates the quality of the reports.
- Include a strategic communication component within the monitoring system, aimed at communicating the situation of indigenous peoples in a transparent and accessible manner, drawing attention to the situation

of women and girls, the UNPFII recommendations and any resulting action taken by Member States.

Permanent Forum and United Nations Member States

- Establish a thematic country reporting system (one report per thematic area chosen by the Permanent Forum).
- Prepare, with the participation of indigenous peoples' organizations, particularly indigenous women's organizations, a model that Member States should follow to report the implementation of recommendations in their country. This model should be included in the questionnaires sent to Member States and clearly set out the quality of reporting expected. The information that countries must provide should:
 - be up-to-date
 - be disaggregated by gender, age, residential area (rural/urban)
 - give an account of measures taken
 - provide evidence about the effects achieved
 - show changes from the initial situation
 - indicate the intervening actors
 - demonstrate that indigenous women and girls were consulted in the response
 - show how the results of consultations and gathered opinions have been organized.

United Nations Member States

- Designate multisectoral teams to prepare reports submitted to the Permanent Forum and inform the Permanent Missions to the United Nations of their composition and relationship with the institutional structure that defends the rights of indigenous peoples in each country.
- Strengthen the institutional structure designed to defend the rights of indigenous peoples, women, youth and children.

- Share good practices of public policies related to indigenous peoples' rights, particularly those related to the sexual and reproductive rights of indigenous women and girls and their right to a life free from violence.

Indigenous women's organizations

- Request information from governments and agencies on the implementation of recommendations and their response to the Permanent Forum.

United Nations organizations

- Convene dialogues and discussion spaces on the implementation of the UNPFII recommendations, in which representatives of indigenous women's organizations and governments participate.
- Involve United Nations Country Teams in requesting information from governments on the implementation of recommendations, incorporating this information into reports that governments regularly complete as part of accountability processes linked to their international commitments.

4. STRENGTHEN RECOMMENDATIONS ON THE SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS OF, AND GENDER-BASED VIOLENCE AGAINST, INDIGENOUS WOMEN AND GIRLS. LINK THESE RECOMMENDATIONS TO THE INTERNATIONAL AGENDA, AGENDAS OF INDIGENOUS ORGANIZATIONS AND KNOWLEDGE OF PUBLIC POLICY GOOD PRACTICES

Permanent Forum

- Draw on experiences and knowledge of the sexual and reproductive health and rights of, and gender-based violence against, indigenous women and girls as much as possible when developing related recommendations, as well as requests of indigenous women's organizations and the implementation of other international commitments or instruments.
- Establish a reporting format that provides basic information on this matter, identifies key issues, communicates progress towards the

fulfilment of international commitments and specifies developments and actions of strategic approaches recommended.

- Establish specific annual sessions for both themes, with pre-sessional preparation that requires quality information, ensuring that these are linked to other international instruments and that recommendations form part of a robust and well-orientated work agenda to be implemented by Member States.

United Nations organizations

- Provide the Permanent Forum with up-to-date information on the situation of indigenous women and girls for both themes on a regular basis for each session.

United Nations Member States

- Report progress and limitations in the situation of indigenous women and in public policies developed to guarantee their sexual and reproductive rights, as well as their right to a life free from violence, noting:
 - existing institutions responsible for these matters
 - available information and sources
 - progress on the indicators of the 2030 Agenda
 - policy and programme evaluations
 - consultation and participation mechanisms.

Indigenous women's organizations•

- Share with different actors (Member States, the UN, civil society), the demands and proposals that they would like to see taken forward to ensure that the Permanent Forum picks them up in its recommendations.

Agencies of the United Nations system

- Provide the Permanent Forum with updates on the situation of indigenous women and youth in the area of sexual and reproductive health and rights and gender based violence for each session.

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