



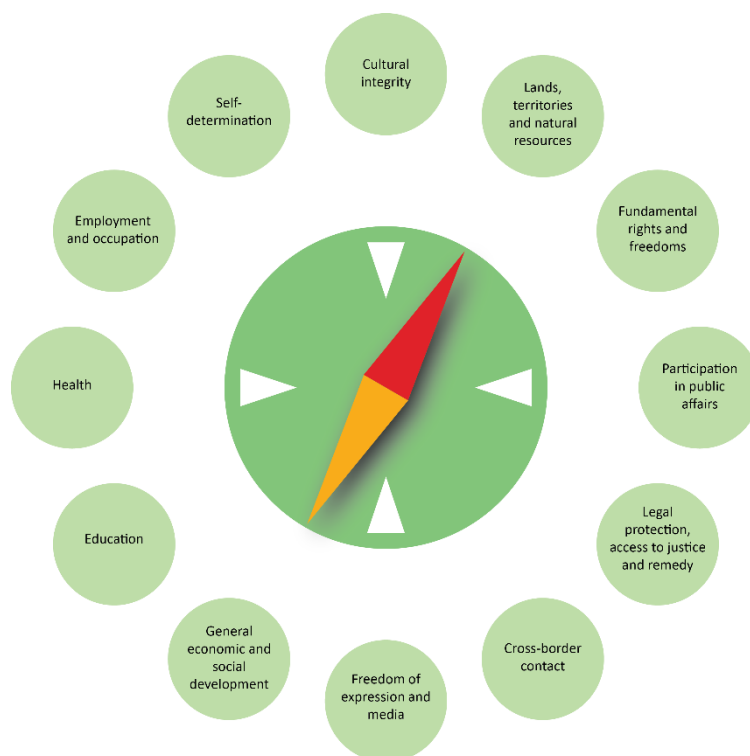
Indigenous Navigator

Monitoring the United Nations Declaration on the Rights of Indigenous Peoples

The Indigenous Navigator is solidly anchored in the provisions of the **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**.

Like all other human rights instruments, UNDRIP is composed of building blocks, which reflect specific rights and cross-cutting human rights norms.

UNDRIP covers the **full range** of indigenous peoples' specific rights, including rights to lands, territories and resources; self-determination; participation in public affairs; health; education; general economic and social development; access to justice and customary law, etc.



In order to address the overarching concerns of marginalization and assimilation of indigenous peoples, UNDRIP provides for the combined application of the principles of **non-discrimination** and **self-determination**.

This means, for example, that indigenous peoples have the same right to education as all other citizens, without any discrimination. This is the **non-discrimination aspect**. In addition, they have the right to an education in their own culture, provided in their own language. This is the **self-determination aspect**.

Likewise, indigenous peoples have right to participate in all general elections – but they also have right to self-government and to participate in public affairs through their own representative institutions. They have the right to access general health services – but they also have the right to maintain traditional medicinal and healing practices.

The principles of non-discrimination¹ and self-determination are not unique to UNDRIP, but are enshrined in other key international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

In the case of indigenous peoples, the principle of non-discrimination has a double dimension in order to ensure equality for **indigenous peoples as collectives** and for **indigenous individuals**, including ensuring **equality between men and women**.

- This is made explicit in the UNDRIP, which stipulates that: *Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity* (article 2).

UNDRIP further underlines that all rights and freedoms:

- *...are equally guaranteed to male and female indigenous individuals* (article 44).

ADDRESSING GENDER EQUALITY IN THE INDIGENOUS NAVIGATOR

In order to address inequalities within indigenous societies, UNDRIP stipulates that particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

When designing the Indigenous Navigator tools, the partners discussed whether the situation of indigenous women should be addressed specifically, or whether it should be mainstreamed throughout the monitoring framework. In the end, the team opted for the mainstreaming approach, considering that gender equality is an issue that is important for numerous substantial rights. With regards to data collection, this implies that, to the extent that it is possible, data should be disaggregated by sex.

Monitoring core human rights conventions

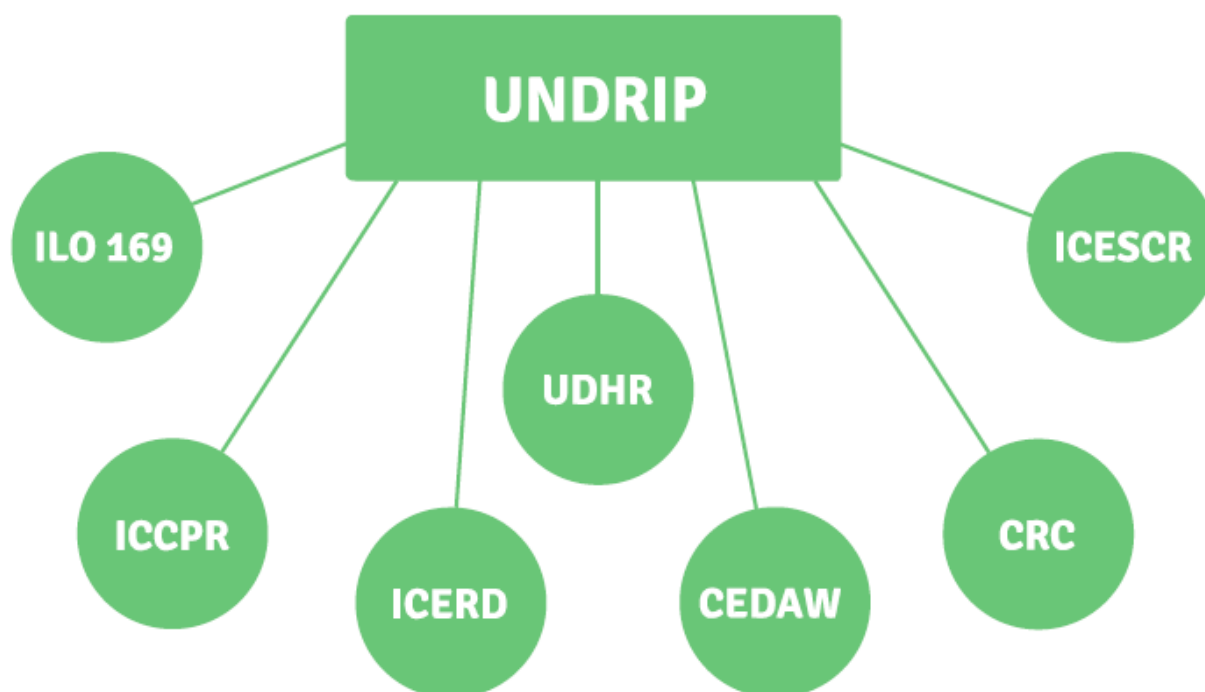
UNDRIP does not create new rights or privileges for indigenous peoples but is a **reflection of universal human rights** as they pertain to indigenous peoples. This is a basic argument, which is emphasized by indigenous peoples and legal specialists, including the previous UN Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, who notes that:

¹ “Non-discrimination is at the heart of all work on human rights. It is a cross-cutting human rights norm that is invoked in all the international human rights treaties and provides the central theme of several international human rights conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women or the Convention on the Rights of Persons with Disabilities””, OHCHR, 2012, *Human rights indicators: a guide to measurement and implementation*, p.13.

“While the Declaration does articulate standards that are specific to indigenous peoples, it does not fundamentally create for indigenous peoples new substantive rights that others do not enjoy [...]. Rather, it recognizes for them the human rights that they should have enjoyed all along as part of the human family, contextualizes those rights in the light of their particular circumstances and characteristics, in particular their communal bonds, and promotes measures to remedy the rights’ historical and systemic violation” (A/68/317, para. 70).

Hence, UNDRIP mirrors universally applicable human rights and contextualizes these to the situation of indigenous peoples. It means that UNDRIP is complementary to – and underpinned by – the full range of human rights instruments.

This “**mirror effect**” between UNDRIP and other human rights instruments means that, by monitoring the implementation of UNDRIP, the Indigenous Navigator also monitors key elements of other human rights instruments.



The implications of this “mirror effect” between UNDRIP and other human rights instruments of general application are multiple:

- The argument that UNDRIP is only aspirational - with no legal implications for States - is wrong. States’ duties to respect, protect and fulfil indigenous peoples’ rights, do not only arise on the basis of UNDRIP, but are an integral element of States’ duties under other generally applicable human rights instruments.
- Treaty monitoring bodies, ILO supervisory bodies, UN Special Rapporteurs, regional human rights bodies and other bodies mandated to examine the implementation of human rights norms already (and increasingly) examine the situation of indigenous peoples under other generally applicable human rights instruments, interpreted with due regard to the collective aspects of their rights. Therefore, these mechanisms contribute to providing quantitative and qualitative information on the progressive application of UNDRIP in many countries.

- Indigenous peoples can make use of existing monitoring mechanisms to hold States accountable for their human rights obligations vis-à-vis indigenous peoples.

TREATY BODIES CONTRIBUTE TO MONITORING INDIGENOUS PEOPLES' RIGHTS

For example, the Committee on Economic, Social and Cultural Rights monitors the application of the International Covenant on Economic, Social and Cultural Rights (ICESCR). In its General Comment No. 21, the Committee has authoritatively interpreted article 15(1)(a) of ICESCR to comprise indigenous peoples' collective right to take part in cultural life, including the right to the lands, territories and resources, which they have traditionally owned, occupied or otherwise used or acquired, and emphasizes that State parties should respect the principle of free, prior and informed consent of indigenous peoples in all matters covered by their specific rights (see E/C.12/GC/21).

Moreover, **highlighting that the provisions of UNDRIP are reflections of provisions of general human rights instruments is politically important**, particularly in countries that do not yet recognize indigenous peoples' rights as such.

In order to show how UNDRIP links to the specific provisions of other human rights instruments, the Indigenous Navigator has developed a **comparative matrix**, which links the articles of UNDRIP to the following instruments:

- The Universal Declaration of Human Rights (UDHR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The International Covenant on Civil and Political Rights, (ICCPR)
- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- The Convention on the Rights of the Child (CRC)
- The International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED)
- ILO Convention No. 169
- Fundamental labour conventions concerning discrimination, child labour and forced labour

| | UNDRIP | ILO 169 | UNDHR | ICCPR/ICESCR |
|---|--|---|---|--|
| Lands, territories and natural resources | Art 26 (2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired | Art. 15 (1): The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources | Art. 17: (1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property. | Art. 47: Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources. |

Based on a systematic analysis of the UNDRIP and the comparative matrix, the Indigenous Navigator has developed a comprehensive set of indicators for monitoring all key aspects of the UNDRIP, and shows how these are linked to the SDGs and the WCIP commitments (see Training Modules 4 and 6).

Navigator tools and resources

Indicators for monitoring the UN declaration on the Rights of Indigenous Peoples

Human Rights Comparative Matrix

Other resources

AIPP, 2016: *Rights! Updated training-manual on the UNDRIP - Volume 2*