

Report: Recommendations of the UN Permanent Forum on Indigenous Issues on Sexual and Reproductive Health and Rights & Gender Based Violence: Progress and Challenges

EXECUTIVE SUMMARY

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CHIRAPAQ CENTER FOR INDIGENOUS PEOPLES' CULTURES OF PERU

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Introduction

The United Nations Permanent Forum on Indigenous Issues (UNPFII) has held more than 16 working sessions since its creation in 2000. The 2018 study, “Recommendations of the UN Permanent Forum on Indigenous Issues regarding Sexual and Reproductive Health and Reproductive Rights and Gender Based Violence: Progress and Challenges”, evaluates the progress made in implementing the Permanent Forum’s recommendations. The aim is to better understand the achievements, limits, barriers, and scope of the proposals, and improve their implementation.

Among its key findings, the study found that the Permanent Forum is highly valued as a voice for indigenous peoples yet implementation of its recommendations appears to be low. It also has far to go in addressing the well-being of indigenous women: of 1,262 total recommendations issued, only 2.9 per cent are related to sexual and reproductive health and 6.3 per cent to the right to a life free from violence.

The purpose of the study is to contribute to strengthening the capacities of the Permanent Forum and the actors involved in generating actions necessary to achieve tangible progress in the exercise of indigenous women’s rights – with a focus on sexual and reproductive health and reproductive rights and gender-based violence prevention and response. The study was undertaken with the support of CHIRAPAQ Center for Indigenous Peoples’ Cultures of Peru and UNFPA, the United Nations Population Fund.

About the study

The study collects and classifies recommendations made by the Permanent Forum and provides an analysis complemented with information on their implementation in nine countries: **Australia, Canada, Guatemala, Kenya, Mexico, Norway, Peru, the Republic of the Congo and Thailand**. The study places particular emphasis on collecting the voices of indigenous women’s organizations in order to analyse implementation of the Permanent Forum’s recommendations from their perspective. Research for the study includes a range of sources:

- Review of 200 documents and 80 websites with extensive analysis of documents from diverse sources including the Secretariat of the Permanent Forum, UN agencies, Special Rapporteurs, UN Member States, indigenous women’s organizations and multilateral organizations;
- 41 interviews with members of the Secretariat of the Permanent Forum, UNFPA teams, and representatives of governments and indigenous women’s organizations and other civil society organizations;
- A workshop to discuss the preliminary results of the study with UNFPA and representatives from indigenous women’s organizations from five countries.

What is the Permanent Forum?

The United Nations Permanent Forum on Indigenous Issues is an advisory body to the Economic and Social Council (ECOSOC), established on 28 July 2000 by resolution 2000/22, with the mandate to address indigenous issues within ECOSOC competencies regarding 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 who may be re-elected or nominated for an additional period. Eight are nominated by their respective governments, and eight are appointed by the organizations of indigenous peoples in their regions.

The Permanent Forum is one of three UN bodies mandated to 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.

Main conclusions of the study

The key findings of the study are as follows:

- 1. The United Nations Permanent Forum on Indigenous Issues is a global space highly valued by indigenous women's organizations; however, it has institutional limitations.** The Permanent Forum is considered the only global space where the situation of indigenous peoples can be made visible, including those of women. It is where they express their demands, participate in discussions, and engage in negotiations between organizations of indigenous peoples and UN Member States and agencies. Each year the Permanent Forum makes recommendations and takes action to prepare and disseminate information and promote mainstreaming of indigenous issues within the United Nations system.

There are limitations in its institutional system, however, including a lack of resources to carry out research and communications activities that would strengthen the preparation and implementation of recommendations. In addition, opportunities are limited for its members to participate in UN events that would enhance the Forum's impact.

The rights of **indigenous women and youth** have been on the agenda from the start of the Permanent Forum. Indigenous women's organizations have been as dynamic actors in the process of bringing to attention and advocating against the historic discrimination of indigenous peoples in countries around the world. Women play a key role in advancing international commitments. Monitoring of the situation of indigenous women is a longstanding priority for the Permanent Forum: it dedicated its 2nd Session to indigenous children and youth, reviewing physical and mental health, education in indigenous languages and the transmission of cultures and values; it devoted the 3rd Session to analyzing the human rights situation of indigenous women.

- 2. In its 16 sessions, the Permanent Forum has raised more than 1,260 recommendations on different areas to guarantee the rights of indigenous peoples. Only 15.5 per cent of the recommendations contain an explicit appeal to the situation of indigenous women, young women and/or girls and/or gender equality.**

Only 2.9 per cent of the total recommendations relate to sexual and reproductive health and 6.3 per cent to the right to a life free from violence. Among these, most refer explicitly to the situation of women (59.5 and 58.8 per cent, respectively). In contrast, environmental rights – one of the concerns raised most often during the 16 sessions – represent 13.5 per cent of the total recommendations. However, only 4.1 per cent of recommendations on environmental rights mention indigenous women directly.

- 3. Implementation of the recommendations made by the Forum each year depends on political will and is not directly or explicitly related to other international instruments, which have higher compliance demands.** The lack of information from States and other actors limits analysis of implementation. In effect, the Forum follows up on the implementation of the recommendations by sending questionnaires to governments, agencies of the United Nations system and indigenous organizations. Table 1 shows the limited level of response from the States.

Table 1
Number of reports sent by countries for the 16 sessions of the Permanent Forum

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

Source: CHIRAPAQ (2017)

In the 16 years the Forum has been held, **only 37 UN Member States have submitted reports** for the annual Sessions. Of them, only one country (Mexico) has sent more than 10 reports, while most (20) have sent one or two reports in total. The lack of material provided by governments regarding their actions in favour of the rights of indigenous peoples may be an indication of the low level of importance that they attribute to the Permanent Forum as a mechanism to which they owe accountability.

- 4. The Forum has issued 170 recommendations specifically aimed at improving the situation of indigenous women; however, data on their implementation level is lacking. States report on about half of them.** According to the Permanent Forum database, of the 170 recommendations, 43.5 per cent are “under implementation” and only 5.9 per cent are “completed”. Those completed correspond largely to recommendations addressed to agencies or bodies of the United Nations system. Those reported as “under implementation” have been since so since 2003, which means more than 15 years, hence also representing a lack of follow up. Similarly, the Forum has issued recommendations that repeat topics previously addressed, which also indicates a lack of action.

- 5. Recognizing severe shortcomings in country-level implementation, the Forum has made some improvements in how it shapes its recommendations.** At its 14th Session, the Permanent Forum recognized that implementation of its recommendations is limited and initiated a process to improve its working methods. It gathered the best practices from various actors and responded to feedback from stakeholders who observed that the recommendations are far too diverse in their scope, precision and recipients. They range, for example, from “produce a brochure” to “change public policy”. Improvements for their elaboration were proposed, including reducing their quantity and applying “SMART” formulation criteria, namely that the recommendations should be specific, measurable, attainable, relevant, and should include completion deadlines (time for enactment). The aim is to promote more effective implementation in the countries and/or by the United Nations system.
- 6. More action is needed to make the weak reporting process stronger.** Similarly, to the improvements made to the recommendations, steps have been taken to improve reporting. Yet these efforts have not been able to change the low rate of reporting by Member States. Moreover, steps have not addressed the contents of the reports, which tend to focus on processes and activities and not results. The lack of timely and in-depth information submitted to the Forum limits the Forum’s ability to measure progress.
- 7. Most of the Forum’s recommendations are addressed to UN Member States and UN agencies.** In the former the process is as follows: The Secretariat of the Permanent Forum prepares a questionnaire in advance of each Session that asks about implementation of the recommendations, which is delivered to the countries’ Permanent Missions to the United Nations. The Missions initiate the consultation process with the foreign ministries and then the institutions in charge of policies for indigenous peoples. In this context, they seek to discuss the development of comprehensive responses sustained over time, which are aimed at safeguarding the full exercise of the rights of indigenous peoples.

In this context, it is thus important to ask who, at the national level, should be responding regarding implementation. Institutions for indigenous peoples, and even more so for indigenous women, may have limited capacities and be recently established. Another challenge is that country institutions are often fragmented by sector and UN agencies by mandate; this fragmentation makes it difficult to comprehensively address the problems of indigenous peoples in general and of women and youth in particular. Further, most countries have no specific or recognized institutional means to address the specific issues of indigenous women, though some merge “indigenous women” with rural women and female farm workers; in other cases, they are invisible among larger global issues.

Examples of stronger institutional roles supporting indigenous peoples exist in a few countries:

- Interinstitutional commissions have been created for a more comprehensive approach to the recommendations. This has only been observed in recommendations that are legally binding and that do not necessarily come from the UNPFII.
- In Norway, the creation of the Sami or Sámediggi Parliament is a facilitating factor in the implementation of the Forum’s recommendations as it is a democratic body supported both by the indigenous community and the Government.

- In Guatemala, the Office for the Defense of Indigenous Women (DEMI) is the only existing institutional system among the countries studied that looks at indigenous women's issues in an integrated manner, although its mandate is limited and it does not have institutional capacities to follow up on the implementation of international commitments.
- In Peru, the Working Table on the Promotion of Indigenous or Native Women's Rights is a mechanism that seeks to incorporate the demands of indigenous women in the work of the Ministry of Women and Vulnerable Populations.

8. The Permanent Forum recognizes that progress has been made in the regulatory frameworks of UN Member States, including recognizing indigenous peoples' rights in their constitutions and enacting comprehensive laws or regulations that ensure the right to prior consultation. There has also been progress in countries recognizing where violations of indigenous people's rights have occurred, as is the case in Australia and Canada. Despite this progress, effective implementation of the "spirit" of the norms has been weak and insufficient to tackle the complex and deep-rooted challenges indigenous peoples face.

9. The analysis found 22 recommendations (out of a total 1,262) linked to promoting sexual and reproductive rights, with specific mention of indigenous women, young women and/or girls. The recommendations take up problems raised by indigenous women's organizations and UN agencies, focusing on areas where policies are not relevant to the issues, is, intercultural or comprehensive. These recommendations are diverse in their content and range, however. As noted above, some suggest the development and dissemination of an information leaflet or participation in an awareness-raising campaign, while others raise more structural issues that should be incorporated into public policies and services.

The recommendations recognize that the following issues pose barriers to effective policy reform:

- Lack of information required to highlight the situation of indigenous women and youth, given the low level of disaggregation of data by ethnic origin in the different information sources used for these issues (e.g. censuses, special surveys and administrative records);
- 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 low valuation of traditional medicine and the knowledge of traditional medicine practitioners such as midwives;
- Lack of policies or programmes focused on incorporating indigenous health personnel into public services;
- Mistreatment and discrimination in health services towards indigenous women and youth that severely limits their access to quality care;
- Lack of participation of community organizations and of indigenous women and girls in programming addressed to them regarding their sexual and reproductive health and reproductive rights; and
- Persistence of cultural practices harmful to the exercise of the reproductive rights of indigenous women and youth.

In some cases, there are efforts by States to develop innovative programmes, but they often lack continuity and sustainability.

10. There are gaps in the recommendations, notably in comprehensive sexuality education and human rights. While many issues have been addressed by the Forum, specific themes and dimensions are absent from the recommendations, though indigenous women's organizations have put them on the table. Among them are the following issues: policies tend to homogenize indigenous peoples within one category of "indigenous populations" while in reality the situation of indigenous women and youth is diverse; the need for comprehensive sexuality education and training for women and young people on sexual and reproductive health and reproductive rights is not addressed; there is no reference to abortion or adolescent pregnancy, significant problems the world over; there continue to be serious violations of the human rights of indigenous women, as reported by indigenous women's organizations.

11. The analysis found that of the 47 recommendations (out of a total 1,262) linked to a life free from violence, recommendation generally aim to shed light on the magnitude and characteristics of the violence suffered by indigenous women and youth. Recommendations for Member States and agencies of the United Nations system also emphasize the need to take into account the impact of **armed conflicts** and **trafficking** on indigenous women, youth and children. Proposals for public policy include improving **access to justice** for indigenous women, youth and children. Often the creation of an ombudsperson/human rights institution is suggested.

UN Member States and UN agencies should recognize the **important role of indigenous women's organizations in the fight against violence** and support these organizations. States are expected to cease police violence against the mobilization of indigenous peoples' organizations and redouble their efforts towards non-violence. In addition, specific actions are requested of the UN system. Situations of rights violation and violence against indigenous women and youth in specific regions and countries (e.g. Asia, Bangladesh and Canada) are have been identified, and rapid action by States is requested to curb such abuses.

12. The issue of human rights violations against indigenous peoples, particularly women, is often invisible in public policy debates. Violence against indigenous women highlights that lack of visibility regarding violation of rights. There is no specific prevalence data nor systematic review of reporting by indigenous women's organizations on the violence they suffer.

13. Policies and actions on violence prevention are rare and generally not aimed at ending stereotypes or unequal gender relations. This is among the concerns absent from the recommendations formulated by the Permanent Forum yet which are part of the agenda of indigenous women's organizations. Access to justice for indigenous women who experience violence is scarce and the discussion on links with ancestral justice is rare. The role of indigenous women's organizations in reporting and mobilizing in situations of violence is not recognized.

14. In general, the study identifies a low level of awareness of the recommendations by the Permanent Forum, the implementation process and its link with initiatives at country level – and this hinders the realization of rights. The limited level of knowledge and responsiveness of

countries to the Forum's recommendations is linked to the persistence of serious violations of the rights of indigenous women. Increasingly, this problem is made visible by the efforts of the organizations themselves and sometimes with the support of United Nations agencies, and through an important alliance with Special Rapporteurs.

15. Certain factors limit the action of the Permanent Forum in the promotion of sexual and reproductive health and reproductive rights and a life free from violence for indigenous women:

- Limited political will and capacity of countries to sustain public policies over time in areas that concern indigenous women.
- Lack of culturally appropriate public policies in general that focus on groups of women who are left behind, , meaning specifically that indigenous women are left behind.
- Lack of budget and priority for public policies for and with the indigenous population in general and indigenous women in particular.
- Lack of disaggregated information according to ethnicity and life cycle that renders invisible the problems faced by indigenous women that require focused attention.
- Subnational dynamics do not always harmonize their legal and programmatic frameworks in accordance with the agreements taken by the national level authorities.
- Political factors associated with turnover in administration result in changed teams and priorities.
- Limited information provided to the Forum on progress in implementing the recommendations in countries.
- Lack of harmony between agendas of indigenous women's organizations and agendas of governments.
- Absence of a link between recommendations of the Permanent Forum and other international instruments, and limitations when it comes to relaying information from national institutions to local governments and from this level to indigenous communities and on to the individuals residing in them.

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

- The presence of United Nations Special Rapporteurs (on Indigenous Peoples, Right to Health, Against Discrimination, among others) in situations of violation of rights in countries strengthens action at Member State level in favour of the rights of indigenous peoples, and within them, women and young people.
- The action of indigenous women's organizations, either by reporting situations of discrimination or by advocating for their rights to be respected, encourages implementation of public measures or programmes that are contained in the recommendations.
- Indigenous women's organizations are also often the entities that disseminate and enforce the international commitments assumed by the Government to international bodies and the specific work of the Forum.
- The presence and action of United Nations agencies in countries where there is still a high level of discrimination against indigenous women is important in terms of advancing the respect for indigenous women's rights.
- Committed Member States who report regularly to the Forum and have established dedicated institutions to follow up and support implementation of the recommendations

Proposals for maximizing the full potential of 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, in particular in the context of sexual and reproductive health and reproductive rights and gender-based violence. These positive and constructive proposals are based on the results obtained from the study and the discussion held with the participants of the workshop carried out with representatives from indigenous women's organizations and UNFPA.

1. Strengthen the position of the Permanent Forum as a reference on the situation of the rights of Indigenous Peoples, especially indigenous women

Permanent Forum

- Generate periodic coordination and articulation mechanisms between the different United Nations bodies responsible for defending the rights of indigenous peoples: Permanent Forum, Expert Mechanism on the Rights of Indigenous Peoples, and the Special Rapporteur on the Rights of Indigenous Peoples.
- Ask ECOSOC for greater recognition of members of the Permanent Forum and accredit them so they can have a more effective voice in other global spaces where the situation of indigenous women is discussed.
- Study possibilities for changing the system of making recommendations, including review of good practices from other international instruments on the situation of human rights such as the

Universal Periodic Review (UPR). Similarly, the Forum could request more precise information on the situation of indigenous peoples, as well as make more specific recommendations to generate effective changes in the issues analysed.

- Strengthen participation of the Permanent Forum in the various follow-up mechanisms and processes 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 originating from their sessions.
- Systematize and strengthen the practice of preparatory meetings that highlighting critical situations that need to be confronted; and strengthen the coordination of women's and indigenous peoples' organizations and 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 virtual spaces for collaboration between organizations to plan participation in respective sessions of the Permanent Forum, and develop recommendations prior to commencement of each session.
- Establish strategies to encourage indigenous peoples' organizations working on other issues to join and support indigenous women's organizations to increase the focus on women and girls in the Forum.

Agencies of the United Nations system

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

2. Improve spaces for dialogue and exchange and strengthen the effective implementation of recommendations.

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 group of experts to improve the formulation of recommendations, e.g. to apply the SMART criteria, reduce the number and identify the target recipient for action by a specified date.
- Review, list and disseminate recommendations that have not been implemented, 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. This will more accurately record the responses of different actors and enable the Forum to evaluate more precisely their performance.
- 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 a virtual space to disseminate good practices of governments, agencies and organizations of indigenous peoples related to compliance with the United Nations Declaration on the Rights of Indigenous Peoples.

UN Member States

- Form delegations that attend the Sessions of the Permanent Forum, with participation of indigenous organizations and leaders and ensure that the delegations is gender balanced.

Indigenous women's organizations:

- Collectively plan interventions in sessions of the Permanent Forum, as well as in spaces for lobbying, in order to strengthen the impact of the organization's agenda.

3. Consolidate a system for monitoring progress on recommendations that supports effective change in countries.

Permanent Forum

- Establish a monitoring system that includes participation of indigenous peoples' organizations, and has direct links with representatives of the Member States to ensure their responsiveness and timely reporting; also, establish a more systematic approach to soliciting and collecting reports and validating their quality.
- This monitoring system should include a strategic communication component aimed at disseminating, in a transparent and accessible manner, the situation of indigenous peoples, the recommendations of the Permanent Forum and the actions taken by Member States and bringing it to the attention of women and young people.

Permanent Forum and UN Member States

- Establish a country reporting system that is thematic (one report per thematic area chosen by the Forum).

- Prepare, with the participation of indigenous peoples' organizations, and particularly indigenous women's organizations, a standard that Member States must follow to report the implementation of recommendations in the countries. These standards should be included in the sent questionnaires, and must be clear about the quality of response expected. The information delivered by the countries must:
 - be up-to-date;
 - be disaggregated by gender, age, residential area (rural/urban);
 - give an account of measures actually taken;
 - deliver evidence about the effects achieved;
 - show changes regarding the initial situation;
 - indicate the intervening actors;
 - present evidence of consultation with indigenous women and youth regarding the response;
 - publicize the results of consultations and the opinions collected.

UN Member States

- Designate multi-sectoral teams to prepare reports submitted to the Permanent Forum and inform the Permanent Missions in the UN of their composition and relationship with the institutional structure that defend the rights of indigenous peoples in each country.
- Strengthen the institutional system designed to defend the rights of indigenous peoples, women, youth and children.
- Share good practices in matters of public policies related to rights of indigenous peoples, and especially of indigenous women in matters related to sexual and reproductive health and reproductive rights and a life free from violence.

Indigenous women's organizations

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

Agencies of the United Nations system

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

4. Strengthen recommendations on sexual and reproductive health and reproductive rights and gender-based violence, linking recommendations with the international agenda and the agendas of indigenous organizations

Permanent Forum

- Recommendations for indigenous women linked to sexual and reproductive health and reproductive rights and gender-based violence should interact more fluidly with experiences and knowledge accumulated on the subject, with the demands of indigenous women's organizations, and with implementation of other international commitments or instruments.
- Align the annual questionnaire and database such that reports are in a format that facilitates delivery of basic information, identifies key problems and responses taken, tracks progress towards fulfilment of international commitments, articulates the strategic approaches taken to implement the recommendations of the Permanent Forum, and specifies actions and results.
- Establish specific annual sessions for each of these priority themes, with pre-sessional preparation that implies having prior and quality information, linkage with other international instruments, and ensuring that the recommendations form part of a robust and well-orientated work agenda for implementation by Member States.

UN Member States

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

Indigenous women's organizations

- Disseminate and make known to different actors the demands and proposals that they would like to see taken forward to ensure that the Permanent Forum picks them up in its recommendations on sexual and reproductive health and reproductive rights and gender-based violence picks them up.

Agencies of the United Nations system

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