

Indigenous Peoples and Human Rights

International and Regional Jurisprudence

Ben Saul



• H A R T •
PUBLISHING

OXFORD AND PORTLAND, OREGON

2016

Contents

<i>Acknowledgements</i>	v
<i>Abbreviations</i>	ix
<i>Table of Cases</i>	xiii
<i>Table of Instruments</i>	xxiii

Introduction: Indigenous Peoples and Human Rights:

Institutions and Influences	1
UN Treaty Committee Jurisprudence	2
Regional Jurisprudence	3
Background Influences on International and Regional Jurisprudence	4
1. Identifying 'Indigenous' Peoples in International Law	22
International Labour Organization Approaches	27
United Nations Approaches	30
Regional Approaches	41
Conclusion	52
2. The United Nations Human Rights Committee and Indigenous Peoples	54
Right to Self-Determination (ICCPR, Article 1)	55
Right to Take Part in Cultural Life (ICCPR, Article 27)	59
Other Civil and Political Rights	74
Conclusion	82
3. Other UN Human Rights Treaty Bodies and Indigenous Peoples	84
UN Committee on Economic, Social and Cultural Rights	85
UN Committee on the Elimination of Racial Discrimination	96
UN Committee on the Elimination of Discrimination Against Women	116
UN Committee on the Rights of the Child	121
UN Committee Against Torture	128
Conclusion	129
4. Regional Human Rights Systems: Indigenous Property Rights in Land and Natural Resources	131
Indigenous Rights in Property: Land and Natural Resources	134
Inter-American Commission on Human Rights	134
Inter-American Court of Human Rights	144
African System: African Commission on Human and Peoples' Rights	159
Conclusion	163

5. Regional Human Rights Systems: Indigenous Cultural, Socio-economic and Physical Integrity Rights	165
Cultural Rights in Regional Jurisprudence	165
Socio-economic Rights.....	173
Violence and Excessive Law Enforcement Against Indigenous Peoples.....	185
Indigenous Peoples in the European Human Rights Systems.....	200
Conclusion.....	204
Conclusion: Future Normative and Implementation Challenges.....	207
<i>Index</i>	211