

*EUniWell OLS, 18 May 2023*

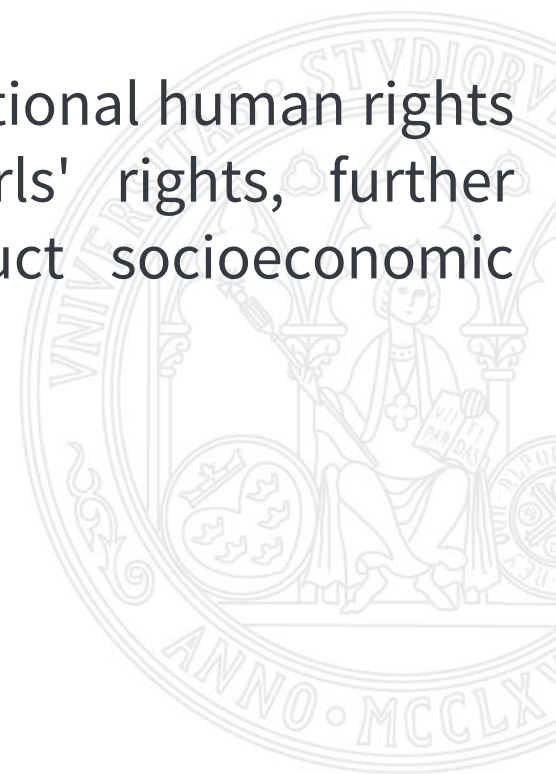
*“International law, equality and socioeconomic justice: a view from women’s and girls’ human rights”*



*Prof. Dorothy Estrada-Tanck*

UNIVERSIDAD DE  
MURCIA

1. How has the legal international economic order specifically impacted women and girls?
2. In which ways can we use and apply international human rights law creatively to reaffirm women's and girls' rights, further economic and gender equality and construct socioeconomic justice?



# GLOBAL CONTEXT

- Poverty is more than the outcome of a lack of income or wealth. It is the result of a blatant systemic failure leading to a vicious cycle of exclusion and discrimination that violates the civil, cultural, economic, environmental, political and social rights of both present and future generations.
- Women and girls, 49.7 % of global population in 2022, are disproportionately represented among the world's poor. Global projections show that an estimated 388 million women and girls were living in extreme poverty in 2022 (compared with 372 million men and boys), and 83.7% of these women and girls were located in two regions: sub-Saharan Africa (62.8 per cent) and Central and South Asia (20.9 %).
- Extreme inequality has also deepened and, since 2020, the richest 1% of the world has seized nearly two thirds of all new wealth, almost twice as much money as the bottom 99 per cent of the world's population.
- COVID-19 pandemic and the global food, energy and care crises, which are in turn connected to other crises, including armed conflict, occupation and forced displacement, have resulted in the first rise in inter-country income inequality in a generation, with women and girls being particularly affected in many countries and regions.

- Women's and girls' inequality and poverty are the result of historical and continuing economic policy choices at the global, regional and national levels. These policy priorities are not gender-neutral, as they have been developed within patriarchal political, legal and socioeconomic systems and institutions that ignore the specific experiences and rights of girls and women while privileging the dominant forms of male and corporate power that perpetuate existing hierarchies.
- Poverty and inequalities are structural phenomena that negatively affect the sustainable development of people, communities and nations and that impede effective responses to the existential threat posed by climate change and ecological collapse as well as other global challenges, including public health emergencies, armed conflicts, economic recessions, and migration, food and care crises.

**Art. 1,3 UN Charter** International cooperation in socio-economic issues for better protection of HR

**Art. 55** “With a view to the creation of conditions of *stability and well-being* which are necessary for peaceful and friendly relations among nations..., the UN shall promote:

- a) *higher standards of living*, full employment, and conditions of economic and social progress and development;
- b) solutions of *international economic, social, health, and related problems*; and international cultural and educational *cooperation*; and
- c) universal respect for, and observance of, *human rights and fundamental freedoms for all* without distinction as to race, sex, language, or religion”.

Specialized agencies (IMF & WB) - linked to UN

**Art. 62** The **Economic and Social Council** (main body)- studies and issues reports/ recommendations to the GA, to the Members of the UN & to specialized agencies (IMF & WB)

- Traditional subject of International Law: States
- Traditional duty-bearer in IHRL: States
- Innovation: rights-holder in IHRL: the individual

- UN Commission on Human Rights: created in 1946 as a body dependent of the Economic and Social Council (from 2006 onwards: UN Human Rights Council dependent of the UNGA)
- Universal Declaration of Human Rights (1948):
  - *All* human rights -civil, political, economic, social and cultural- at the same hierarchy
  - Initially: non-binding declaratory instrument
  - Today: international customary law

[HR are protected through several branches of Public International Law, mainly: IHRL; but also Int. Humanitarian Law; Int'l Refugee Law; and Int'l Criminal Law].

# UN Human Rights System

- **Universal Declaration of Human Rights (UDHR):**

Art. 1: All human beings are born free and equal in dignity and rights and, endowed with reason and conscience, must behave fraternally with one another.

It refers to *all* HR equally: civil and political, and economic, social and cultural

But what happens after 1948? Cold War

- **International Covenant on Civil and Political Rights (ICCPR); and**
- **International Covenant on Economic, Social and Cultural Rights (ICESCR), both international treaties adopted in 1966**

Art. 5 Vienna Declaration (1993, post-Cold War): All human rights are universal, indivisible and interdependent

UDHR (1948), ICCPR & ICESCR (Covenants of 1966): jointly referred to as **‘International Bill of Human Rights’**: legally binding obligations for States (and for executive, legislative and judicial bodies within the State)



- Two main mechanisms of protection of HR in UN system (and similar in regional systems):



1) Treaty based-bodies

2) Charter-based bodies (UN Charter), also known as Special Procedures



# 1. UN Treaty-based bodies

## Human Rights Treaty (Convention)

## Treaty body

1. International Covenant on Civil and Political Rights
2. International Covenant on Economic, Social and Cultural Rights
3. International Convention for the Elimination of All Forms of Racial Discrimination

1. Human Rights Committee
2. Committee on Economic, Social and Cultural Rights
3. Committee for the Elimination of All Forms of Racial Discrimination

- **Human Rights Treaty**

4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

5. Convention against Torture and other Cruel, Inhuman or Degrading Treatments or Punishments

6. Convention on the Rights of the Child

7. Convention on the Rights of All Migrant Workers and Members of their Families

8. Convention on the Rights of Persons with Disabilities

9. Convention for the Protection of All Persons against Enforced Disappearances

- **Treaty body**

4. Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)

5. Committee against Torture

6. Committee on the Rights of the Child

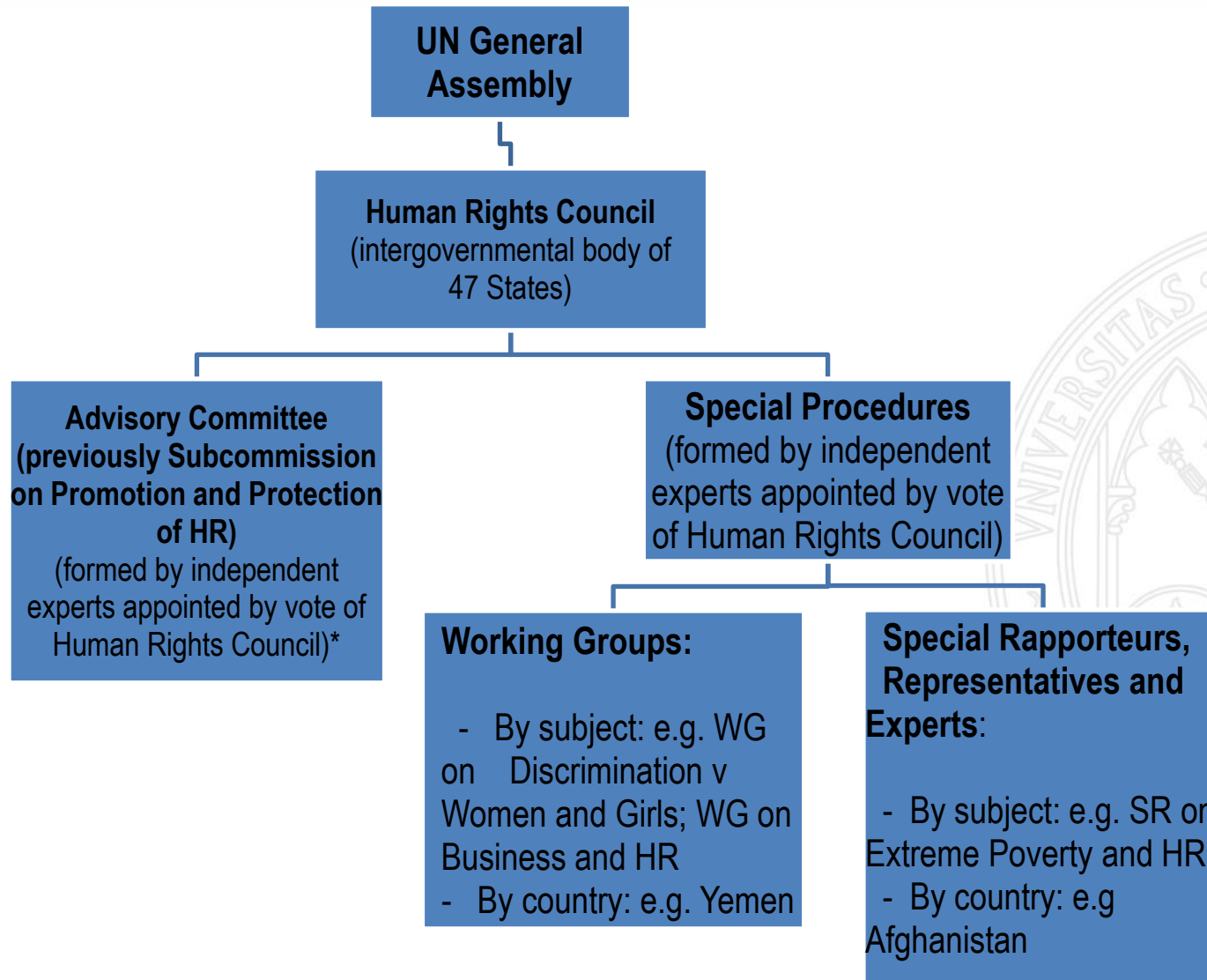
7. Committee on the Rights of All Migrant Workers and Members of their Families

8. Committee on the Rights of Persons with Disabilities

9. Committee on the Protection of All Persons against Enforced Disappearances

## 2) Charter-based bodies (in place since June 2006)

(they complement the treaty-based system, specially regarding countries not parties to treaties)



## Obligations in HR may be:

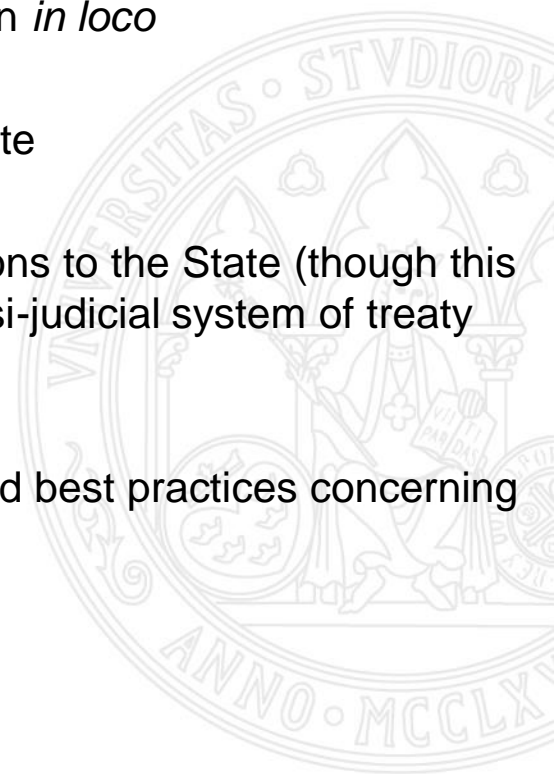
- Negative: abstaining from violating HR
- Positive: actively carrying out measures for HR fulfillment

Consequently, IHRL has interpreted that human rights norms impose, at least, three **State duties**:

1. To respect: abstain from directly violating HR by its State officials
2. To protect: issue regulation and carry out active measures to assure respect for HR, including from non-State or private actors (eg, business corporations, criminal organisations, private individuals, eg, partners in cases of violence against women/domestic violence, or corporations)
3. To fulfill: put administrative and judicial mechanisms in place to issue sanctions and reparations in cases of HR violations

## General faculties of Charter-based bodies (Special Procedures)

- Carrying out visits to States to evaluate the human rights situation *in loco*
- Receiving urgent appeals and issuing communications to the State
- Receiving individual communications and issuing recommendations to the State (though this is not a formal mechanism of individual complaints as in the quasi-judicial system of treaty bodies)
- Issuing annual reports on emerging issues, points of concern, and best practices concerning the subject/country of their mandate



# Poverty, inequality and women's and girls' human rights

- HR Special Procedures: Extreme poverty is not only living on less than 1,90 USD a day (World Bank), but it also includes:
  - A lack of income
  - A lack of access to basic services
  - And social exclusion

Thus, from a HR-based approach, we should prioritize fulfilment of all UN SDG, and when addressing poverty and inequality of women and girls, especially of SDGs 1, 5 and 10, to include not only the elimination of poverty but also the reduction of gender inequality and of socioeconomic inequalities within and between countries



# What can IHRL offer and how can it be better applied?

- Feminist and human rights-based approaches to women's poverty and inequality
- Gendered inequalities and international human rights: the right to live free from poverty and socioeconomic inequality
- A feminist human rights-based economy: substantive equality, solidarity, and socioeconomic and environmental justice

- Feminist approaches to women's poverty and inequality, are based on the reaffirmation of substantive equality for women in the legal, social, economic, cultural, environmental and political arenas and in all spheres of life.
- While gender equality is a human right in itself, and as such feminism is connected to the human rights framework, the feminist approach adds a critical analysis of the ways in which patriarchal institutions and structures contribute to maintaining discrimination against women and girls.
- A human rights-based approach to poverty and inequality emphasizes that participation, accountability, non-discrimination and equality, empowerment and the implementation of equitable normative frameworks are core principles that must be respected, protected and fulfilled by States and other duty bearers in order to guarantee the full enjoyment of all human rights for all people at all times
- Standardized measures of poverty and inequality in global and national development frameworks which focus on household-level data fail to adequately capture sex- and gender-based inequalities in generation, distribution and consumption of resources



- **Proposals for States (and other actors such as International Economic Institutions, and business corporations):**
- Complying with the immediate obligations to eliminate discrimination, and guarantee the minimum core of all economic, social and cultural rights and their progressive realization; dedicating maximum available resources to the realization, availability and accessibility of such rights for all women and girls
- Creating and promoting mechanisms for their full legal recognition and justiciability, including by ratifying the ICESCR and CEDAW, as well as their Optional Protocols
- Fulfilling, particularly in the case of economically developed and wealthy States, the obligations of international assistance and cooperation under the ICESCR, and applying a gender- and human rights-based approach under the CEDAW and applicable standards, and promoting the adoption of a binding international instrument on the right to development, as crucial redistributive mechanisms

Feminist and human rights-based perspective as the necessary basis, facilitator and accelerator of a *culture of peace, cooperation and solidarity* to confront poverty and socioeconomic inequality



Many thanks!

