# Perspectives on International Instruments

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# Types of International Instruments

# Distinctions between Instruments

#### Soft Law

- Influences the normative development of Public International Law (Progressive Approach)
- Influences formation of International Custom
- Guides the Implementation of Concrete Measures

## Binding Instruments

- Establishes International Obligations
- All Parties have an interest in securing compliance
- Facilitates Channels for Cooperation
- Requires Internal Measures for its Implementation

# Examples of Soft Law relating to Principle 10

- International Conference: Rio Declaration on Environment and Development
- International Institution: Bali Guidelines
- Seneral Comments

  Committee of Independent Experts: Human Rights

  General Comments
- International Non-Governmental Organization: Principles on Sustainable Development of the International Law Association

## Examples of Binding Instruments regarding P10

- Multilateral Environmental Agreements
  - Stockholm Convention on Persistent Organic Pollutants
  - UN Framework Convention on Climate Change
  - Liability Protocol to the Basel Convention on Transboundary Movements of Hazardous Wastes
- Human Rights Treaties
- Aarhus Convention

# Implementation and Compliance Mechanisms in Binding Instruments

## Terminology

#### Simplementation

Application of the obligations in a treaty

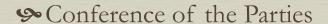
Implementation mechanisms strengthen the capacity of the Parties to apply the norms

#### **%** Compliance

Conformity between the content of the obligation and the conduct of the State

Compliance mechanisms examine State conduct

#### Implementation Mechanisms



Information Clearinghouse

Specialized Secretariat

Sinancial Mechanism

> Working Groups

#### Compliance Mechanisms

Supervisory Mechanisms

Dispute Resolution Mechanisms

Quasi-Jurisdictional Mechanisms

Separative Mechanisms

## Supervisory Mechanisms

#### Periodic Reports

Some Concluding Observations of the Committee on the Rights of the Child

#### Monitoring

Safeguards of the International Atomic Energy Agency

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- Universal Periodic Review of the UN Human Rights Council
- Environmental Performance Review of the OECD

#### Supering Property of the Pr

UNESCO World Heritage Convention

#### Dispute Resolution Mechanisms

- Characteristics
  - International Dispute
  - Determines International Responsibility
  - Sanctions or Fines
- Examples
  - Free Trade Agreements

### Quasi-Jurisdictional Mechanisms

- Characteristics
  - Examines situations of non-compliance
  - May adopt quasi-coercive measures
- Examples
  - Montreal Protocol (1987)
  - Enforcement Branch of the Kyoto Protocol (1997)

#### Facilitative Mechanisms

- Characteristics
  - Some Cooperative and non-confrontational approach
  - Identifies causes of non-compliance
  - Formulates recommendations
- Examples of Facilitative Committees
  - Multilateral Environmental Agreements
    - Facilitative Mechanism of the Kyoto Protocol (1997)
  - Aarhus Convention

# Landscape of Instruments relating to Principle 10

#### Global Instruments

Rio Declaration and Agenda 21

y Johannesburg Plan of Action

Rio+20 The Future We Want

# Regional Developments in Human Rights

- Jurisprudence of African Commission of Human and Peoples Rights
  - 9 Ogoni, Endorois
- Jurisprudence of the Inter-American Human Rights System
  - Awas Tingni, Saramaka
- Jurisprudence of European Court of Human Rights

### Regional Instruments

- Aarhus Convention and Kiev Protocol
- Summits of the Americas
- Inter-American Strategy for the promotion of public participation in decision-making regarding sustainable development
- Inter-American Democratic Charter
- Model Law on Access to Information
- Santiago Declaration CELAC

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