**The Committee on the Elimination of Discrimination against Women (CEDAW)**

**General Recommendation No. 39 on the rights of indigenous women and girls**

**DRAFT**

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22. **Introduction**
23. There are an estimated 476.6 million indigenous peoples globally, of which more than half (238.4 million) are women.[[2]](#footnote-2) They are present in about 90 countries.[[3]](#footnote-3) They span 5,000 different cultures and constitute approximately 5 percent of the world’s population.[[4]](#footnote-4) Discrimination on the basis of indigenous origin or identity, racial discrimination, gender-based stereotypes, age, marginalization, and violence are recurrent phenomena in the lives of many indigenous women and girls living in both rural and urban areas.[[5]](#footnote-5) This General Recommendation provides guidance to States parties on legislative, policy, and other relevant measures to ensure the implementation of their obligations in relation to the rights of indigenous women and girls under the Convention. This General Recommendation applies to indigenous women and girls both within and outside indigenous territories.
24. This General Recommendation takes into account the voices of indigenous women and girls as driving actors and leaders in and outside of their communities. It identifies and addresses different forms of intersectional discrimination faced by indigenous women and girls, and their key role as leaders, knowledge-bearers, and culture transmitters within their peoples, communities, and society as a whole. Indigenous women and girls are crucial actors in the achievement of the right to development of their indigenous peoples and communities.[[6]](#footnote-6) The Committee has consistently identified patterns of discrimination faced by indigenous women in the exercise of their human rights,[[7]](#footnote-7) and the factors that continue exacerbating discrimination against indigenous women and girls. Such discrimination is often intersectional and based on factors such as sex, gender, indigenous origin or identity, ethnicity, race, age, language, disability, and situation of poverty, among others.[[8]](#footnote-8) As indicated by the Committee in its General Recommendation 28 on the core obligations of State parties, the Convention refers to both sex and gender-based discrimination against indigenous women and girls. The term “sex” in this General Recommendation alludes to biological differences between women and men.[[9]](#footnote-9) The term “gender” refers to socially constructed identities, attributes, and roles for women and men, and how these continue to disadvantage indigenous women and girls.[[10]](#footnote-10)
25. Discrimination against indigenous women and girls must be understood taking into consideration the multifaceted nature of their identity. As indigenous women and girls, they face discrimination and gender-based violence frequently committed by state and non-state actors. These forms of violence and discrimination are widespread and often remain in impunity. Indigenous women and girls also have an inextricable link and relation to their peoples, lands, territories, natural resources, culture, and worldview. To comply with articles 1 and 2 and other relevant provisions of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention), state action, legislation, and policies must reflect the multifaceted identity of indigenous women and girls.
26. State action to prevent and address discrimination against indigenous women and girls must integrate a gender, indigenous women, intersectional, intercultural, and multi-disciplinary perspective throughout their lifespan. A *gender perspective* takes into consideration the stereotypes and inferior treatment that have affected indigenous women and girls historically, and still affect them in the present. There stereotypes are based on both their sex and gender, as defined in paragraph 2 of this General Recommendation. An *intersectional* approach, requires for a state considering the multitude of factors which combine to increase the exposure of indigenous women and girls to different and arbitrary treatment, on the basis of their race, indigenous origin or identity, sex, gender, ethnicity, age, disability, language, situation of poverty, educational level, migration, and displacement. Indigenous women suffer intersectional discrimination both within and outside of their territories. An *indigenous women and girls’* perspective entails understanding the different history, experiences, realities, and needs of indigenous women and men related to human rights protection based on their sex and gender differences. It also involves considering the status of indigenous girls as developing persons, which requires a state response and interventions appropriate to their age, development, condition, and of quality. An *intercultural perspective* considers the cultural diversity of indigenous peoples, their worldview, culture, and languages. Finally, a *multidisciplinary approach* appreciates the multifaceted identity of indigenous women, and how different disciplines related to law, health, education, culture, anthropology, the economy, and work have and still shape the social experience of indigenous women and girls, and promote discrimination against them. These perspectives and approaches are key to prevent and eradicate discrimination against indigenous women and girls, and to fulfill the goal of social justice when human rights violations against them occur.
27. The prohibition of discrimination under articles 1 and 2 must be strictly applied to ensure the rights of indigenous women and girls, including those living in voluntary isolation or initial contact, to self-determination and integrity of their traditional lands, territories and resources, culture, worldview, and environment; and the right to consultation and to be consulted, through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, effective participation, and benefit-sharing in matters which concern them. This set of rights forms the foundation for a holistic understanding of the rights of indigenous women. The violation of any of these rights constitutes discrimination against indigenous women.
28. **Objectives and Scope**
29. The Committee considers self-identification a guiding principle in international law to determine rights holders’ status as indigenous women and girls.[[11]](#footnote-11) However, the Committee recognizes that some indigenous women and girls may prefer not to disclose their status due to historical discrimination, racism, and the legacy of colonial and colonization policies. This General Recommendation and the rights under CEDAW are applicable to all indigenous women and girls, inside and outside of their territories; in their countries of origin, while in transit, and in their destinations; and as migrants, including during their displacement, as refugees, and stateless persons.
30. Indigenous women and girls play a key role in their communities as leaders; transmitters of culture; custodians; food producers and guardians of native seeds; and workers involved in food and water security; and advocates for a sclean, healthy, and sustainable environment. The Committee underscores the importance of the advocacy and organization of indigenous women human rights defenders, including women environmental human rights defenders, at all levels.
31. The Committee recognizes that indigenous women and girls face intersecting forms of discrimination and persistent barriers to the full enjoyment of their human rights. These forms of discrimination affect them in and outside of their indigenous territories. Such discrimination is often founded on their indigenous origin or identity, sex, gender, age, disability, and is rooted in systemic racism and negative stereotypes.[[12]](#footnote-12)
32. Gender-based violence is adversely affecting the lives of many indigenous women and girls, including psychological, physical, sexual, economic, spiritual, and environmental violence. Indigenous women often suffer domestic violence and violence in the workplace, educational institutions, while receiving health services, in their participation as leaders in political and community life, as human rights defenders, while deprived of liberty, and when confined to institutions. Indigenous women and girls are disproportionately at risk of gender-based killings; disappearances; trafficking in persons; contemporary forms of slavery; exploitation; forced prostitution; sexual servitude; and domestic work which is not decent, safe, and adequately remunerated.[[13]](#footnote-13)
33. The Committee calls on States parties to promptly engage in data collection efforts to fully assess the situation of indigenous women and girls, and the forms of discrimination and gender-based violence they face.[[14]](#footnote-14) States must undertake efforts to collect data disaggregated by sex and ethnic origin, and collaborate with indigenous women and their organizations, as well as academic and non-profit institutions, in the achievement of this goal. Data collection and the development of indicators can be important to identify forms of discrimination against indigenous women and girls, and can inform the development of prevention measures, legislation, public policies, and programs.[[15]](#footnote-15)
34. One of the root causes of discrimination against indigenous women and girls is the historic absence of the effective implementation of their right to self-determination, as manifested in the continued dispossession of their lands, territories, and natural resources. The Committee acknowledges that the vital link between indigenous women and their lands often forms the basis of their culture, identity and survival. Indigenous women face lack of legal recognition of their rights to land and territories and wide gaps in the implementation of existing laws to protect their collective rights. The lack of legal recognition of indigenous peoples is evident worldwide in constitutions, and laws. There is also an increasing need for recognition of indigenous peoples in treaties. This situation is frequently compounded by the execution in indigenous territories of economic and development projects without their free, prior, and informed consent. Governments and third-party actors frequently implement investment, development, tourism, mining, logging, and extraction activities in indigenous territories without undertaking consultation processes designed to secure the consent of the indigenous peoples affected in line with international human rights standards and environmental sustainability. This undermines indigenous women’s and girls’ access, use and enjoyment of their ancestral territories and traditional lands; vital natural and water resources; and essential sources of livelihood. The Committee also recognizes the history of colonization, militarization, forced migration and displacement, and armed conflicts as important catalysts of gender-based violence and discrimination against indigenous women and girls.[[16]](#footnote-16) The disrespect of the right of self-determination of indigenous women and girls can be particularly acute in the case of women with disabilities, which severely limits the enjoyment of their rights and their effective participation in all social spheres.
35. Indigenous women and girls face forms of discrimination and gender-based violence as migrants, including during their displacement and as refugees, and as stateless persons. These human rights violations may occur in their countries of origin, while in transit, and in the countries of destination. Indigenous women also face gender-based and racial discrimination during refugee status determination procedures, throughout the return or resettlement processes, and during the integration process for those who have been granted asylum.[[17]](#footnote-17) Indigenous girls also often become stateless when their mothers are prevented, on an equal basis with fathers, from transmitting their nationality to their children. Without status as nationals or citizens, indigenous girls are often marginalized, deprived of the right to vote or run for public office, denied access to public benefits, a choice of residence, and free movement. Stateless indigenous girls also cannot enjoy key benefits flowing from status as a national, including education, health, care, property, and employment. Therefore, discriminatory nationality laws can lead to a cycle of statelessness that can be perpetuated from generation to generation.[[18]](#footnote-18)
36. As indicated in General Recommendation 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, environmental concerns such as climate change pose barriers to indigenous women’s and girls’ rights to a clean, healthy, and sustainable environment; access to food and water security; and their cultural survival and integrity.[[19]](#footnote-19) Moreover, the Committee expresses concern over the triple planetary crisis, including pollution, loss of biodiversity, and climate change. Environmental harm, biodiversity loss, and ecological degradation have a particularly detrimental impact on indigenous women and girls.[[20]](#footnote-20) The lack of state action to prevent foreseeable environmental harm, and adapt to and mitigate climate change constitutes discrimination against indigenous women and girls. Moreover, states should take into consideration indigenous environmental knowledge to preserve biodiversity and a clean, healthy, and sustainable environment, as key to the respect of all human rights of indigenous women and their culture.
37. The Committee acknowledges that indigenous women and girls have suffered and continue to suffer from forced assimilation policies and other large-scale human rights violations, which may in certain instances amount to genocide.[[21]](#footnote-21) It is critical for States parties to address the consequences of historic injustices and to provide support and reparations to the affected communities as part of reconciliation and the process of building societies free from discrimination against indigenous women and girls.
38. **Legal Framework**
39. The rights of indigenous women and girls derive from the articles of the Convention, as further developed in the Committee’s General Recommendations, as well as specific international instruments for the protection of the rights of indigenous peoples, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169 (1989) on Indigenous and Tribal Peoples. The Committee considers UNDRIP an authoritative guide to interpret state party and core obligations under CEDAW. In addition, all core international human rights treaties contain relevant protections for the rights of indigenous women and girls.[[22]](#footnote-22) In addressing the rights of indigenous girls, the Committee also makes reference to the Convention on the Rights of the Child (CRC) and General Comment 11 (2009) on indigenous children and their rights of the Committee on the Rights of the Child. States parties have an obligation to protect indigenous girls from all forms of discrimination. The creation of an enabling environment for indigenous girls’ leadership and effective participation is paramount to the full enjoyment of their rights to traditional territories, culture, worldview, and a clean, safe, healthy, and sustainable environment.[[23]](#footnote-23) The CEDAW Committee moreover recognizes the status of indigenous girls as developing persons, which entails a state response tailored to their needs, and the adaptation of government procedures and services to their age, development, and condition.
40. Indigenous women and girls’ rights have both an individual and collective dimension.[[24]](#footnote-24) As underscored in UNDRIP, indigenous women have the right to the full enjoyment as individuals and as a collective of all human rights and fundamental freedoms recognized in international human rights law, including the Convention.[[25]](#footnote-25)
41. The Committee recognizes self-determination as a key element to ensure that indigenous women live free from gender-based violence and discrimination based on sex, gender, indigenous origin or identity, race, age, and disability.[[26]](#footnote-26) The limited realization of the right to self-determination constitutes a form of discrimination against indigenous women and girls. Indigenous women and girls also have an inextricable link to their traditional lands, territories, and natural resources. The dispossession and usurpation of indigenous lands and territories without their free, prior, and informed consent[[27]](#footnote-27) deprives indigenous women and girls of livelihood sources which are vital for their survival; creates unsafe conditions for them; and facilitates the incursion of state and non-state actors which often commit violence against them. Barriers to access their lands and territories result in poverty and undermine indigenous women’s access to food, water, and essential activities to secure livelihoods and survival. The effective participation of indigenous women and girls in political and public life is a prerequisite for the full enjoyment of their rights under the Convention.
42. The Convention should also be interpreted taking into consideration the 2030 Agenda for Sustainable Development, in which states agreed that the achievement of gender equality and the empowerment of women and girls is paramount to sustainable development and the end of poverty.[[28]](#footnote-28) States also prioritized non-discrimination based on race and ethnicity, and cultural diversity.[[29]](#footnote-29) Moreover, the Beijing Declaration and Platform for Action is also an important reference document in this General Recommendation.
43. **General obligations of States parties in relation to the rights of indigenous women and girls: Articles 1 and 2 of CEDAW**
44. **Equality and Non-Discrimination with a focus on Indigenous Women and Intersecting Forms of discrimination**
45. The prohibition of discrimination in articles 1 and 2 of the Convention applies to all rights of indigenous women and girls under the Convention. It is an important pillar and foundational principle of international human rights law. Indigenous women and girls have the right to be free from all forms of discrimination based on their sex, gender, indigenous origin or identity, ethnicity, race, language, age, disability,[[30]](#footnote-30) poverty, educational level, and geographic location.[[31]](#footnote-31)
46. Discrimination against indigenous women and its effects should be understood in both their individual and collective dimensions. In its individual dimension, indigenous women and girls suffer intersecting forms of discrimination by both state and non-state actors on the basis of their sex, gender, indigenous origin or identity, ethnicity, race, age, disability, language, situation of poverty, and educational level. Racism, discriminatory stereotypes, marginalization, and gender-based violence are inter-related violations experienced by indigenous women and girls. Discrimination and gender-based violence threaten the individual autonomy, personal liberty and security, privacy, and integrity of all indigenous women and girls. As indicated in General Recommendation 29 on the economic consequences of marriage, family relations, and their dissolution, indigenous women as individuals can suffer discrimination in the name of ideology, tradition, culture, religious and customary laws and practices. Indigenous girls as individuals have the right to be free from discrimination and human rights violations throughout their life cycle and to choose their own paths and life plans.
47. In its collective dimension, discrimination and gender-based violence against indigenous women and girls threaten and disrupt the spiritual life, cultural integrity and survival, and social fabric of indigenous peoples and communities. They have a harmful effect on the continuance and preservation of the knowledge, culture, worldview, identity, and traditions of indigenous peoples. The failure to protect the rights to self-determination, ancestral land use and the effective participation and consent of indigenous women in all matters affecting them constitutes discrimination against them and their communities. As indicated in the preamble of UNDRIP, collective rights are indispensable for the existence, well-being, and integral development of indigenous peoples and indigenous women and girls.[[32]](#footnote-32) The individual rights of indigenous women and girls should never be neglected or violated in the pursuit of collective or group interests, as the respect of both dimensions of their human rights is essential.[[33]](#footnote-33) The individual rights of indigenous women and girls must always be respected, protected, fulfilled and promoted in the pursuit of collective rights as respect for both individual and collective rights is essential.
48. Discrimination against indigenous women and girls is perpetuated by gender stereotypes, but also forms of racism and the legacy of colonization. These underlying causes of discrimination are reflected directly and indirectly in laws and policies that impede access by indigenous women and girls to land use and ownership, natural and economic resources, credit, financial services, and income generating opportunities. They also impede the recognition, protection, and support for collective and cooperative forms of land ownership and use. Indigenous women still face weak legal protection of their land rights, which frequently exposes them to dispossession, displacement, expropriation, and exploitation.[[34]](#footnote-34) The lack of legal title to indigenous peoples’ territories increases their vulnerability to illegal incursions and the implementation of development projects by both state and non-state actors without their free, prior, and informed consent. Barriers to access land can disproportionately impact indigenous women resulting in the loss of their livelihoods; threatening their culture and intrinsic link to their environment, food and water security and health. The exploitation of indigenous lands, territories, and natural resources for extractive, development, tourism, investment, mining, and other economic activities by state and non-state actors without their free, prior, and informed consent and adequate benefit-sharing constitutes discrimination against indigenous women and girls. These problems also result in the lost of critical traditional indigenous knowledge and harm to nature and the environment.
49. Indigenous women and girls worldwide still do not enjoy the same legal capacity as men or equality before the law under article 15 of the Convention. In many parts of the world, indigenous women lack capacity to conclude contracts and administer property independent of their husband or a male guardian. Indigenous women also experience challenges in holding, controlling, and inheriting land, in particular when they are widowed. Inheritance laws – both ordinary and indigenous – frequently discriminate against indigenous women. Indigenous women with disabilities face pernicious obstacles in the area of legal capacity, which is particularly alarming when they are institutionalized. Many nationality laws still discriminate against women, including indigenous women, in relation to the transmission of their nationality to their children when they marry non-indigenous persons, which is contrary to Article 9 of CEDAW. Therefore, states must ensure that women and girls can acquire, change, retain or renounce their nationality, transfer it to their children and foreign spouse, and have access to information on these rights.
50. Many laws that affect indigenous women and girls are adopted without their effective participation or adequate spaces to voice their views and opinions. In addition, high illiteracy rates and legal illiteracy constitute barriers to indigenous women’s enjoyment of their human rights. Many supposedly gender-neutral laws fail to recognize the specific needs of indigenous women and girls, and the historical discrimination they have faced to access, control, and inherit land and other human rights.
51. The Committee in its General Recommendation 34 on rural women underscored the importance of indigenous women’s rights to land and collective ownership, natural resources, water, seeds, forests and fisheries under article 14 of the Convention.[[35]](#footnote-35) Key barriers to these rights are the lack of harmonization of laws; their ineffective implementation at the national and local levels; and discriminatory gender stereotypes and practices, particularly in rural areas. Indigenous women with disabilities often face intersecting forms of discrimination based on their sex, gender, disability, and indigenous origin, which further increase their risk of exploitation, violence, and abuse and undermine their rights to land, territories, and resources.[[36]](#footnote-36) Indigenous women and girls with disabilities are at a particularly high risk due to the lack of accessibility and reasonable accommodation in their communities and territories. Moreover, indigenous women who are lesbian, gay, bisexual, transgender, and intersex (LBTI), including those who are two spirit, gender fluid, non-binary, and bi-gender, regularly face intersecting forms of discrimination.
52. Indigenous women and girls face discrimination in both the private and public spheres. Indigenous women and girls, in particular those with disabilities, often face barriers to fully exercise their human rights in all social spheres, including in the family, in their communities, their employment, in the health and education sectors, while participating in the public and political life of their countries, and in the digital space.
53. Indigenous women and girls – and indigenous peoples in general – have suffered the burden and effects of forced assimilation and integration policies, which have contributed to destroying their cultures, worldviews, and heritage.[[37]](#footnote-37) These policies have exacerbated discrimination, racism, discriminatory stereotypes, and violence against indigenous women and girls. Some of these assimilation policies – in particular in the form of forced residential schools – have resulted in killings, disappearances, sexual violence, psychological abuse, and cultural genocide.[[38]](#footnote-38)
54. **The Committee recommends that States parties:**
55. **Develop comprehensive policies to eliminate discrimination against indigenous women and girls, guided by consultations with indigenous women and girls living in and outside of indigenous territories. This policy should include measures to address intersectional discrimination faced by indigenous women with disabilities; indigenous girls; older indigenous women; indigenous LBTI women; those in situations of poverty; rural indigenous women; and displaced, refugee and migrant indigenous women. States parties should collect disaggregated data on the forms of gender-based discrimination and violence faced by indigenous women and girls;**
56. **Provide information on legislative, judicial, administrative, and other measures specific to indigenous women and girls in their periodic reports to the Committee;[[39]](#footnote-39)**
57. **Repeal and amend laws, policies, regulations, programmes, administrative procedures, institutional structures, and budgetary allocations, which directly or indirectly discriminate against indigenous women and girls;**
58. **Recognize and address intersecting forms of discrimination against indigenous women and girls, and their compounded negative impact;**
59. **Ensure that indigenous women are equal before the law and have the same legal capacity as men to conclude contracts and administer property independent of their husband or any male guardian;**
60. **Adopt legislation to ensure indigenous women and girls’ rights to land, water, and other natural resources on an equal basis with men, including their right to a clean, healthy, and sustainable environment, irrespective of their marital status or of a male guardian or guarantor, and that their full legal capacity is recognized and respected. States should ensure that indigenous women in rural areas have equal access as men to ownership and possession of and control over land, water, forests, fisheries, aquaculture and other resources that they have traditionally owned, occupied, or otherwise used or acquired, including by protecting them against discrimination and dispossession;[[40]](#footnote-40)**
61. **Ensure that indigenous women and girls have adequate access to information on existing laws, including in their own languages, and opportunities to exercise their rights under the Convention;**
62. **Protect indigenous women and girls from discrimination by both state and non-state actors in and outside of their territories, especially in the areas of education, employment, health, social protection, and justice;**
63. **Adopt measures to legally recognize and protect the lands, territories, and natural resources of indigenous peoples, including indigenous women; take steps to fully respect the right to free, prior, and informed consent, and the effective participation of indigenous women and girls in decision-making on matters affecting them; and**
64. **Adopt measures to eliminate and prevent all forced assimilation policies. This includes the prompt investigation of and accountability for past and present assimilation policies, the establishment of truth and reconciliation bodies, and ensuring access to justice and reparations for the victims involved.**

**B. Access to justice and plural legal systems**

1. Access to justice for indigenous women requires a multi-disciplinary and holistic approach, understanding that their access to justice is linked to other human rights challenges they face, including racism and racial discrimination; sex- and gender-based discrimination; disability-based discrimination; barriers to access their lands, territories, and natural resources; and lack of adequate health and education services.[[41]](#footnote-41)
2. The Committee reiterates that the right of indigenous peoples to maintain their own judicial structures and systems is a fundamental component of their rights to autonomy and self-determination.[[42]](#footnote-42) At the same time, indigenous justice systems and their practices should be consistent with international human rights standards, as indicated in the United Nations Declaration on the Rights of Indigenous Peoples.[[43]](#footnote-43) Accordingly, the Committee considers that the Convention is an important reference for indigenous justice systems in addressing cases related to discrimination against indigenous women and girls.
3. The Committee recognized in its General Recommendation No. 33 (2015) on women’s access to justice, six essential components of women’s access to justice. [[44]](#footnote-44) These six interrelated components - justiciability, availability, accessibility, good quality, provision of remedies for victims and accountability of justice systems – are also applicable in the case of indigenous women and girls. Access to justice and remedies for indigenous women and girls should be offered with a gender, intersectional, indigenous women, intercultural, and multidisciplinary perspective as defined in paragraph 4 of this General Recommendation.
4. According to these principles, states must ensure that all justice systems, both ordinary and indigenous, act in a timely fashion to offer appropriate and effective remedies for indigenous women and girls who are victims of discrimination and violence. This entails having available interpreters, translators, anthropologists, psychologists, healthcare professionals, lawyers, and cultural mediators with experience and training on the realities, culture, and different worldview of indigenous women and girls. Justice systems should also have in place methods to collect evidence that are appropriate and compatible with the culture and worldview of indigenous women and girls. Justice officials should be consistently trained on the rights of indigenous women and girls, and the individual and collective dimensions of their identity. In this process, it is key to respect the different conceptions of justice and processes that ordinary and indigenous systems have. Justice can be a process of balance and healing for indigenous peoples, with the goal of restoring harmony to their communities.[[45]](#footnote-45)
5. State parties should also ensure the establishment of courts, quasi-judicial bodies, or other bodies throughout the State party in urban, rural, and remote areas, as well as their maintenance and funding. Indigenous justice systems should also be easily available, adequate, and effective for indigenous women and girls. Information should be available and be disseminated among indigenous women and girls of how to avail themselves of judicial avenues in both the ordinary and indigenous justice systems. Basic judicial services and free legal aid services should be available in close proximity to indigenous women and communities.
6. Indigenous women face obstacles in their access to both ordinary and indigenous justice systems, which can be particularly acute in the case of indigenous women and girls with disabilities.[[46]](#footnote-46) They are routinely denied their right to a remedy. As a result, many cases of discrimination and gender-based violence against indigenous women and girls end in impunity. Barriers to access to justice and reparations for indigenous women and girls include lack of information in indigenous languages on the legal remedies available in both ordinary and indigenous justice systems. Other barriers include the costs of legal assistance and the lack of free legal aid; the absence of interpreters; court fees; long distances to courts; and lack of training for justice officials on the rights and specific needs of indigenous women and girls.
7. In ordinary justice systems, indigenous women and girls frequently face racism, racial discrimination, and forms of marginalization, and often have to participate in procedures that are not culturally appropriate and do not take into account indigenous traditions and practices. Judicial structures tend to reflect colonial legacies and post-colonial policies. Obstacles include the remoteness of indigenous territories, forcing indigenous women and girls to travel long distances to file complaints. Indigenous women are often not provided with interpretation services necessary to fully participate in legal proceedings, and there is lack of culturally appropriate evidence collection methods. There is a lack of training of justice officials on the rights of indigenous women and girls and their individual and collective dimensions. Indigenous women and girls also have limited access to specialized medical care when they suffer acts of rape and sexual violence.
8. Indigenous justice systems are often male dominated and discriminatory towards women and girls, providing limited space for them to participate and voice their concerns.[[47]](#footnote-47) The Committee has also expressed its concern in the past over the influence of gender stereotypes in the activity of indigenous legal systems.[[48]](#footnote-48) In general, the Committee has recommended that both ordinary and indigenous justice systems adopt measures to comply with international human rights standards.[[49]](#footnote-49)
9. Indigenous women also tend to be overrepresented in prisons and face discrimination, gender-based violence, inhumane treatment, and forms of torture when they are in conflict with the law. The CEDAW Committee also highlights the need for every indigenous girl who is in conflict with the law to receive a fair treatment and trial. As indicated by the Committee on the Rights of the Child in its General Comment 24, this entails the continuous and systematic training of professionals – including police officers; prosecutors; lawyers; legal prosecutors; social workers, and other representatives – and work in interdisciplinary teams that are well informed of the adolescent’s physical, psychological, mental, and social development, and the special needs of indigenous girls.[[50]](#footnote-50) This also requires from state parties the establishment of a comprehensive juvenile justice system, including specialized units within the police, the judiciary, the court system, the prosecutor’s office, as well as specialized defenders or other representatives who provide legal or other appropriate assistance to indigenous girls.[[51]](#footnote-51)
10. The Committee encourages both ordinary and indigenous justice systems to create avenues and spaces of constructive dialogue, cooperation, and sharing of information, based on mutual respect and understanding, to address the human rights of indigenous women and girls. These mechanisms should include representatives from both the ordinary and indigenous justice systems. These instances should also respect the self-governance structures and autonomy of indigenous justice systems.
11. **The Committee recommends that States Parties:**
12. **Ensure that indigenous women and girls have effective access to adequate ordinary and indigenous justice systems that are free from racial and/or gender-based discrimination, bias, and stereotypes;**
13. **Provide training to judges in both the ordinary and indigenous justice systems on the rights of indigenous women and girls and the need for an approach to justice that is guided by a gender, intersectional, indigenous women, intercultural, and multidisciplinary perspective, as defined in paragraph 4 of this General Recommendation;**
14. **Ensure equal access to justice for all indigenous women and girls, including through the provision of procedural adjustments for those who need them due to age, disability or illness;**
15. **Ensure that justice systems include interpreters, translators, anthropologists, psychologists, and healthcare professionals specialized and trained on the needs of indigenous women and girls, giving priority to qualified indigenous women;[[52]](#footnote-52)**
16. **Provide information on legal remedies in both the ordinary and indigenous justice systems in indigenous languages and in accessible formats;**
17. **Ensure that indigenous women without sufficient means and legally incapacitated indigenous women have access to free legal aid, including in cases of gender-based violence against women. Free legal aid and assistance should be provided to girls. States parties should financially support non-governmental organizations providing free and specialized legal assistance to indigenous women;**
18. **Guarantee that judicial institutions, remedies and services are available in proximity to indigenous territories; and**
19. **Adopt measures and policies related to criminal justice that consider the historical conditions of poverty, racism, and gender-based violence which have and still affect indigenous women and girls. States should also conduct studies on the causes and factors that give rise to conflicts of indigenous women and girls with the law. States should ensure that indigenous women and girls in conflict with the law have a fair treatment by the justice system, including the availability of specialized defenders to provide needed legal assistance.**
20. **State party obligations in relation to specific dimensions of the rights of indigenous women and girls**
21. **Prevention of and protection from gender-based violence against indigenous women and girls (articles 3, 5, 6, 10 (c), 11, 12, 14, 16).**
22. Gender-based violence against indigenous women and girls is a form of discrimination under article 1 and therefore engages all obligations under the Convention. Under article 2, States parties must adopt measures without delay to prevent and eliminate all forms of gender-based violence against indigenous women and girls.[[53]](#footnote-53) The prohibition of gender-based violence against women is a principle of customary international law and applies to indigenous women and girls.[[54]](#footnote-54)
23. Gender-based violence is disproportionately affecting indigenous women and girls. Available statistics indicate that indigenous women are more likely to experience rape than non-indigenous women.[[55]](#footnote-55) It is estimated that 1 in 3 indigenous women is raped during their lifetime.[[56]](#footnote-56) While there is a growing body of evidence of the magnitude, nature, and consequences of gender-based violence globally, knowledge of its incidence against indigenous women is limited and tends to vary considerably by issue and region.[[57]](#footnote-57) The Committee highlights the need for States to engage in data collection efforts, in collaboration with indigenous organizations and communities, to understand the scope of the problem of gender-based violence against indigenous women and girls. It also highlights the need for States to address discrimination, stereotypes, and social legitimization of gender-based violence against indigenous women and girls.
24. The Committee recognizes with alarm the many forms of violence committed against indigenous women and girls. Gender-based violence against indigenous women occurs in all spaces and spheres of human interaction, including the family,[[58]](#footnote-58) community, public spaces, the workplace, educational settings, and the digital space.[[59]](#footnote-59) Violence can be psychological, physical, sexual, economic, and spiritual. Violence often occurs in institutions, particularly those that are closed and segregated, against indigenous women and girls with mental illness and disabilities and older indigenous women. Indigenous women and girls are frequently victims of rape, harassment, disappearances, killings, and femicide. Environmental violence also adversely impacts indigenous women and girls, who are disproportionately affected by environmental harm, degradation, and pollution.[[60]](#footnote-60) Trafficking, exploitation in prostitution and contemporary forms of slavery such as domestic servitude are other forms of gender-based violence against indigenous women and girls.
25. Gender-based violence against indigenous women and girls is drastically underreported and perpetrators regularly enjoy impunity due to indigenous women’s extremely limited access to justice and biased or flawed criminal justice systems.[[61]](#footnote-61) Racism, marginalization, poverty, and alcohol and substance abuse increase the risk of indigenous women and girls of gender-based violence.[[62]](#footnote-62) Indigenous women and girls suffer gender-based violence perpetrated by both state and non-state actors. State actors include members of the government, armed forces, law enforcement authorities, and public institutions, including in the health and education sectors and in prisons.[[63]](#footnote-63) Non-state actors include private individuals, businesses, paramilitary and rebel groups, illegal actors, and religious institutions.[[64]](#footnote-64)
26. States parties have a due diligence obligation to prevent, investigate and punish perpetrators, and provide reparations to indigenous women and girls who are victims of gender-based violence. This obligation is applicable to both ordinary and indigenous justice systems.[[65]](#footnote-65) Due diligence should be implemented with a gender, indigenous women, intersectional, intercultural, and multidisciplinary perspective as defined in paragraph 4 of this General Recommendation, and bearing in mind the gendered causes and impacts of the violence experienced by indigenous women. This entails taking into account how racial discrimination, racism, stereotypes, and post-colonial practices intersect with gender factors to reproduce violence against indigenous women and girls by state and non-state actors. The effects of the violence suffered by indigenous women severely impact their human rights to life, dignity, personal integrity and security, health, privacy, personal liberty, and to be free from torture.
27. Gender-based violence against indigenous women and girls undermines the collective spiritual, cultural, and social fabric of indigenous peoples and their communities. Sexual violence against indigenous women has been used by a plurality of actors during armed conflicts and times of unrest as part of a strategy to control and harm indigenous communities. The dispossession and militarization of their territories; the implementation of extractive activities and development projects without free, prior, and informed consent; the impact of climate change and the triple planetary crisis; attacks on sacred places; and forced migration, displacement, and assimilation policies, all exacerbate and increase the exposure of indigenous women and girls to gender-based violence. These problems pose formidable barriers for indigenous women to access livelihood sources which are vital for their survival; create unsafe conditions for them; and facilitate the incursion of state and non-state actors which often commit violence against them. Gender-based violence against indigenous women and girls also frequently curbs their rights to freedom of expression, association, political participation, and human rights advocacy. The Committee recognizes that gender-based violence against indigenous girls in particular can silence the voice and leadership of indigenous women for the transmission of culture, traditions, languages, the advancement of self-determination and effective participation, and the preservation of a safe, clean, healthy, and sustainable environment.
28. States should have an effective legal framework and adequate support services in place to address gender-based violence against indigenous women and girls. This framework must include measures to prevent, investigate, punish perpetrators, and provide assistance and reparations to indigenous women and girls who are victims, as well as services to address and mitigate the harm, of gender-based violence. This general obligation extends to all areas of State action, including the legislative, executive, and judicial branches, at the national, regional and local levels, as well as privatized services. They require the formulation of legal norms, including at the constitutional level, and the design of public policies, programs, institutional frameworks and monitoring mechanisms, aimed at eliminating all forms of gender-based violence against indigenous women and girls, whether committed by State or non-State actors.[[66]](#footnote-66) States are also obligated under the Convention to adopt and implement measures to eradicate discriminatory gender stereotypes and negative social attitudes which are the root cause of gender-based-violence against indigenous women and girls.[[67]](#footnote-67) The Committee reiterates that the failure of a State party to act proactively to prevent gender-based violence when its authorities knew of the danger of violence, and to promptly investigate, prosecute, punish, and grant reparations for these acts, may amount to violations of the Convention by acquiescence or omission.
29. **The Committee recommends that States parties:**
30. **Adopt legislation prohibiting gender-based violence against indigenous women and girls incorporating a gender, indigenous women and girls, intersectional, intercultural, and multidisciplinary perspective, as defined in paragraph 4 of this General Recommendation;**
31. **Recognize all forms of gender-based violence against indigenous women and girls, including environmental, spiritual, and cultural violence;**
32. **Ensure that indigenous women and girls have effective access to both ordinary and indigenous justice systems, including protection orders, free from discrimination and bias;**
33. **Repeal all laws that prevent or deter indigenous women and girls from reporting gender-based violence, such as guardianship laws that deprive women of legal capacity or restrict the ability of women with disabilities to testify in court; the practice of so-called “protective custody”; restrictive immigration laws that discourage women, including migrant domestic workers, from reporting such violence; and laws allowing for dual arrests in cases of domestic violence or for the prosecution of women when the perpetrator is acquitted;[[68]](#footnote-68)**
34. **Ensure that support services, including medical treatment, psychosocial counselling, professional training, as well as reintegration services and shelters are available and accessible to indigenous women and girls who are victims of gender-based violence against women, which are culturally relevant and appropriate. All services should be designed with an intercultural and multidisciplinary approach, as described in paragraph 4 of this General Recommendation; and**
35. **Systematically collect data and undertake studies, in collaboration with indigenous communities and organizations, to assess the magnitude and gravity of gender-based violence against indigenous women and girls, to inform measures to prevent and respond to such violence.**
36. **Right to effective participation in political and public life (articles 7, 8, and 14)**
37. Indigenous women and girls tend to be excluded from decision-making in local, national, and international processes, as well as in their own communities and indigenous systems.[[69]](#footnote-69) Under article 7, they have the right to effective participation at all levels in political and public life. This right includes participation in decision-making within their communities and traditional authorities; in the public service and decision-making positions at the local, national, and international levels; and their work as human rights defenders.[[70]](#footnote-70) The right to effective participation is also related to consultation and consent processes over economic activities by state and private actors in indigenous territories.
38. Indigenous women and girls face multiple and intersecting barriers to effective, meaningful, and real participation.[[71]](#footnote-71) Such barriers include lack of and unequal educational opportunities; illiteracy; language constraints; denial of access to health care services, including sexual and reproductive health and rights; and the lack of access, support, and information on legal, political, institutional, community, and civil society processes to vote, run for political office, organize campaign, and secure funding. Other barriers include discriminatory gender stereotypes and intersectional discrimination, racism, and unequal distribution of family responsibilities such as child care. Indigenous women are also at risk of political violence, harassment and other attacks and reprisals for political activism and advocacy work, both offline and online. In many cases, such reprisals remain unpunished in the absence of legislation prohibiting political violence and legal avenues to seek effective, gender-responsive remedies and report and punish the perpetrators of such acts.[[72]](#footnote-72) The barriers to participation can be particularly high in armed conflict contexts, including in transitional justice processes, in which indigenous women and girls, and their organizations are often excluded from peace negotiations or attacked and threatened when they do. In accordance with Security Council resolution 1325 (2000) on women, peace and security, and subsequent resolutions, States parties should create an enabling environment for indigenous women and girls to effectively participate in conflict resolution and transitional justice processes. The CEDAW Committee also underscores the need for states to take steps for indigenous women to participate in decision-making concerning environmental matters, mandated in important instruments such as the Rio Declaration on the Environment and Development; the Aarhus Convention; and the Escazú Agreement.[[73]](#footnote-73)
39. The Committee recognizes the fundamental role of education and online spaces to equip indigenous women and girls with the tools, skills, knowledge, and opportunities to actively engage in political and public life. States parties should adopt temporary special measures to facilitate the participation of indigenous women and girls in political and public life, including the provision of financial assistance and skills training on campaigning for indigenous women candidates, and the adoption of quotas and targets. Political parties should ensure that indigenous women of all ages are effectively represented on electoral lists in placements in which they are likely to succeed as candidates. Ensuring the effective participation of indigenous women and girls is also critical at the international level, before international organizations and in the diplomatic service.
40. The Committee acknowledges the threats faced by indigenous women human rights defenders, whose work is protected by the right to participate in political and public life. At particular risk are indigenous women and girls who are environmental human rights defenders, advancing their land and territorial rights, and those advocating against the implementation of development projects without the free, prior, and informed consent of the indigenous peoples concerned. Human rights defenders who are girls also need recognition, protection, and support. In many cases, indigenous women human rights defenders face killings, threats and harassment, or the criminalization, stigmatization, and discrediting of their work.[[74]](#footnote-74) They often work in conditions in which their rights to life, personal integrity, non-discrimination, freedom of expression, association, and assembly are curtailed and limited.[[75]](#footnote-75) They can be the subject of arbitrary detentions, deprivations of liberty, forms of torture, and attacks on their family members. Indigenous women human rights defenders are particularly targeted due to their leadership; their defiance of socially expected roles; and opposition to particular economic interests. The Committee considers that States parties should adopt immediate gender-responsive measures to publicly recognize, support, and protect the life, liberty, and security of indigenous women human rights defenders, and to ensure safe conditions and an enabling environment for their advocacy work free from discrimination, racism, killings, harassment, and violence.
41. **The Committee recommends that States parties:**
42. **In accordance with the Committee’s General Recommendations No. 23 (1997) on women in political and public life and No. 25 (2004) on temporary special measures, promote the meaningful, real and informed participation of indigenous women and girls in political and public life and at all levels, including in decision-making positions, which may include temporary special measures such as quotas, targets, and incentives;[[76]](#footnote-76)**
43. **Establish accountability mechanisms to prevent that political parties and trade unions discriminate against indigenous women and girls, and ensure that they have effective access to gender-responsive judicial remedies to report these violations when they occur;**
44. **Disseminate accessible information among indigenous women and girls on opportunities to exercise their right to vote, to participate in public life, and stand for election and promote their recruitment into the public service, including at the decision-making level;**
45. **Act with due diligence to prevent, investigate, and punish all forms of political violence against indigenous women politicians, candidates, human rights defenders, and activists, at the national, local, and community levels;**
46. **Promote indigenous women’s access to political office though campaign financing; political leadership; skills training; incentives; awareness-raising activities for political parties to nominate indigenous women as candidates; and adequate health, child care facilities, and support services for caring for older persons;**
47. **Ensure that economic activities, including logging, development, investment, tourism, extractive, mining, and conservation projects are only implemented in indigenous territories and protected areas with indigenous women’s free, prior, and informed consent by ensuring their full consultation and meaningful participation in relevant and decision-making processes;[[77]](#footnote-77)**
48. **In line with the Committee’s General Recommendation No. 30 (2013) on women in conflict prevention, conflict, and post-conflict situations, create spaces for indigenous women and girls to participate as decision-makers in peacebuilding efforts and transitional justice processes; and**
49. **Take proactive steps to recognize, support, and protect the life, integrity, and work of indigenous women human rights defenders and ensure that they conduct their activities in conditions of safety and in an enabling and inclusive environment. States measures should include the creation of specialized government instances to protect women human rights defenders, with the effective, real, and meaningful participation of women human rights defenders.**
50. **Adopt measures to create enabling environments for indigenous women and girls to meaningfully participate in civil society, their communities, and other social institutions free from discriminatory gender stereotypes.**
51. **Right to nationality (article 9)**
52. Under the citizenship laws in a number of countries, indigenous women and girls face discrimination to acquire, change, and retain their nationality. Article 9 provides that States parties shall grant indigenous women equal rights with men to acquire, change, or retain their nationality and with respect to the nationality of their children. These laws sometimes prevent indigenous women unlike men from directly passing their nationality to their children and foreign spouses and may result in statelessness of their children. Birth registration is closely linked to the enjoyment by indigenous women and girls of the right to a nationality. Indigenous women and girls often face barriers to adequate and effective access to birth registration procedures, including long distances to civil registry offices, transportation costs, legal illiteracy and lack of information on birth registration, marriage, divorce, and death certificates.[[78]](#footnote-78) Indigenous women and girls also face gender-based and racial discrimination in the context of refugee status determination procedures, return or resettlement processes, asylum procedures and during the integration process in countries of destination.[[79]](#footnote-79)
53. **The Committee recommends that States parties:**
54. **Ensure that indigenous women and girls can acquire, change, retain or renounce their nationality, transfer it to their children and foreign spouse, under the same conditions as men, and that they have access to information in comprehensible formats on these rights;**
55. **Ensure that indigenous women and girls have access to personal identification documents and affordable user-friendly birth registration procedures, for example through online procedures or mobile registration units, in line with the Committee’s General Recommendation 34 on rural women;[[80]](#footnote-80)**
56. **Ensure that refugee determination and asylum procedures, resettlement and integration processes integrate a gender, intersectional, indigenous women, and intercultural perspective as defined in paragraph 2 of this General Recommendation; and**

**Ensure international protection to indigenous women and girls at risk of persecution and gender-based violence.[[81]](#footnote-81)**

1. **Right to education (articles 5 and 10)**
2. Indigenous women and girls face multiple barriers to enrollment, retention, and completion at all levels of education and in non-traditional fields.[[82]](#footnote-82) Some of the most important educational barriers for indigenous women and girls include: poverty; discriminatory gender stereotypes, and marginalization;[[83]](#footnote-83) limited cultural relevance of educational curricula; instruction solely in the dominant language; and the scarcity of sexual education. Indigenous women and girls frequently must travel long distances to schools and they are at risk of gender-based violence on the way to and at schools. While at school, they may experience sexual violence, corporal punishment, and bullying. Gender-based violence and discrimination in education is particularly acute when forced assimilation policies are implemented in schools. Indigenous girls with disabilities face particular barriers to their access and retention in the educational system, including lack of physical accessibility; the refusal by schools to enroll them; the absence of accommodation of their needs in school curricula and teaching materials; stigma and stereotypes regarding their learning capacity; and the lack of teachers trained to assist students with special needs.[[84]](#footnote-84) Forced marriages, sexual abuse and adolescent pregnancies, the disproportionate burden of family responsibilities, child work, natural disasters, and armed conflicts can also hamper indigenous girls’ access to school. States in general should take steps to respect the rights of indigenous women in the area of education, as a key vehicle to transmit their culture, traditional knowledge, and respect for the environment.
3. **The Committee recommends that States parties:**
4. **Ensure that indigenous women and girls fully enjoy the right to education by:**
5. **Guaranteeing equal access of indigenous women and girls to quality education at all levels of education;**
6. **Addressing discriminatory stereotypes related to indigenous origin, history, culture, and the experiences of indigenous women;**
7. **Creating scholarship and financial aid programs to promote indigenous women’s and girls’ enrolment, including in non-traditional fields such as science, technology, engineering and mathematics (STEM) and information and communication technologies (ICT); and**
8. **Creating support systems for indigenous women and girls to reduce their unequal share of unpaid care work and combat child marriage, and to assist victims in reporting acts of gender-based violence and labor exploitation.**
9. **Ensure quality education that is accessible and affordable for all indigenous women and girls, including those with disabilities. States should guarantee the availability of quality and evidence-based sexual education;[[85]](#footnote-85)**
10. **Promote the adoption of curricula that reflect indigenous education, languages, cultures, history, knowledge systems, and epistemologies.[[86]](#footnote-86) These efforts should extend to all schools, including those in the mainstream;**
11. **Prevent and eliminate all forms of gender-based violence discrimination and stereotypes against indigenous women and girls in the school environment**
12. **Remove educational barriers for indigenous women and girls with disabilities;[[87]](#footnote-87)**
13. **Provide systemic training to teachers and school administration personnel at all levels of the educational system on the rights of indigenous women and girls;**
14. **Promote and create opportunities to recruit indigenous women as teachers and education administration personnel, and for indigenous women and girls to participate in the design of school curricula; and**
15. **Guarantee the right of indigenous peoples to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems, and indigenous art.**
16. **Right to work (articles 11 and 14)**
17. Indigenous women have limited access to decent, safe and adequately remunerated employment, which undermines their economic autonomy.[[88]](#footnote-88) Indigenous women are overrepresented in the agricultural sector, and in low-skilled, part-time, seasonal, low-paid or unpaid jobs, and home-based activities. A significant number of indigenous women and girls also engage in domestic work with low remuneration and in unsafe working conditions. Their overrepresentation in informal employment translates into weak income, benefits, and social protection. They also face discriminatory gender stereotypes and racial prejudice in the workplace, are prohibited to wear their traditional attire or to use their languages and subjected to gender-based violence, sexual harassment and unsafe working conditions. In some cases, their treatment amounts to forced labor or forms of slavery. States should create equal opportunities for indigenous women and girls to access the education and job skills training necessary to increase their employment prospects, and to facilitate their transition from the informal to the formal economy. States should promote entrepreneurship by ensuring equal access for indigenous women to loans and other forms of financial credit without collateral to enable them to create their own businesses.
18. **The Committee recommends that States parties:**
19. **Ensure equal, decent and safe conditions of work and income security for indigenous women and girls, including by:**
20. **Expanding and promoting vocational and professional training opportunities for indigenous women and girls;**
21. **Expanding opportunities for indigenous women to run businesses and become entrepreneurs;**
22. **Facilitating their transition from the informal to the formal economy;**
23. **Protecting the occupational health and safety of indigenous women;**
24. **Expanding the coverage of social protection and provide adequate child care services for indigenous women, including those who are self-employed; [[89]](#footnote-89) and**
25. **Fully incorporating the right to just and favorable conditions of work and the principle of equal pay for work of equal value into legal and policy frameworks, paying special attention to indigenous women, and girls who are working legally.[[90]](#footnote-90)**
26. **Take steps to prevent discrimination, racism, stereotypes, gender-based violence, and sexual harassment against indigenous women in the workplace and to establish and enforce effective reporting and accountability mechanisms, including through regular labor inspections; and**
27. **Ensure that indigenous women and girls have access to vocational and professional skills training, including in science, technology, engineering and mathematics (STEM) as well as information and communication technologies (ICT) and other traditionally male dominated fields.**
28. **Right to health (articles 10 and 12)**
29. Indigenous women and girls have limited access to adequate health care services, including sexual and reproductive health services and information, and face racial and gender-based discrimination in health systems. Health professionals are often insensitive to the realities, culture, and worldview of indigenous women, and rarely offer services respecting their dignity, privacy, informed consent, and reproductive autonomy.[[91]](#footnote-91) Indigenous women often experience difficulties in securing access to sexual and reproductive health information and education, including about family planning methods, contraception, and access to a safe and legal abortion. They are frequent victims of gender-based violence in the health system, including obstetrics violence[[92]](#footnote-92) and coercive practices such as involuntary sterilizations or forced contraception[[93]](#footnote-93), and such practices infringe on the right of indigenous women and girls to decide on the number and spacing of their children. These practices also adversely affect women´s physical and mental health.
30. Indigenous women with disabilities, those who are LBTI and indigenous girls and older indigenous women face wrongful stereotyping based on gender and race, and violence by health professionals. States must ensure that health services offered to indigenous women and girls are culturally appropriate and acceptable, taking into consideration and respecting their different culture, worldview, and languages. It is key that health officials are trained on the historical and present realities of indigenous women and girls, the stereotypes and different treatment they often suffer, and their different culture and worldview.States must ensure that health services offered to indigenous women are culturally appropriate, taking into consideration and respecting their different culture, worldview, and languages. It is key that health officials are trained on the historical and present realities of indigenous women and girls, the stereotypes and different treatment they often suffer, and their different culture and worldview.
31. Indigenous women are custodians of traditional medicine in their communities, often work as midwives, and have a key role in overseeing the health of their families. However, indigenous midwifery is often criminalized, and traditional knowledge is undervalued by ordinary health systems. [[94]](#footnote-94) States parties should encourage and facilitate the conditions for indigenous women and girls to become doctors; nurses; midwives working formally in health systems; and other health professionals.
32. **The Committee recommends that States parties:**
33. **Ensure that quality health services and facilities are available, accessible, affordable, culturally appropriate, and acceptable for indigenous women and girls, including those with disabilities, older women and LBTI indigenous women and girls;**
34. **Guarantee that indigenous women and girls receive prompt, comprehensive, and accurate information in accessible formats on sexual and reproductive health services and affordable access to such services, including safe abortion services and modern forms of contraception;**
35. **Ensure that health information is widely disseminated in indigenous languages and dialects, including through conventional and social media;**
36. **Ensure the recognition of indigenous health systems, knowledge, and practices and prevent and sanction the criminalization of this knowledge;**
37. **Provide gender-responsive and culturally responsive capacity building to health professionals treating indigenous women and girls, including community health workers and traditional birth attendants, and encourage indigenous women to enter the medical profession;**
38. **Adopt steps to prevent all forms of gender-based violence, discrimination, gender stereotypes and racial prejudice in the provision of health services; and**
39. **Ensure the existence of adequate and effective judicial remedies when forms of discrimination occur which violate the right to health of indigenous women and girls.**
40. **Right to equality in marriage and family relations (articles 16)**
41. Indigenous women and girls are often precluded from financial decision-making on the administration of property and other economic assets within their families. Discriminatory family and inheritance laws are still in place in a number of countries, rooted in discriminatory cultural practices, which treat indigenous women unequally in the administration and inheritance of marital property and economic assets and in entering into contracts within their families. Indigenous women also still carry an unequal burden of domestic and child-rearing responsibilities. Indigenous women and girls are at a disproportionate risk of gender-based violence by their family members, including domestic violence, forced pregnancies, so-called honor crimes, female genital mutilation, femicide, sexual harassment, rape, and incest. Early and forced marriages also affect indigenous girls, with important negative consequences for their health, autonomy, education, incursion into the employment sector, and their participation in the public and political life of their communities and countries. Indigenous women also often suffer the arbitrary removal of their children as well as discriminatory and stereotypical decisions concerning the custody of their children – when married and unmarried - or alimony following divorce.
42. **The Committee recommends that States parties:**
43. **Review and amend discriminatory provisions in personal status and family laws, including customary laws, to bring them in line with article 16 and General Recommendations No. 21 (1994) on equality in marriage and family relations and No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, with a view to ensuring that indigenous women and girls have equal rights in marriage and family relations;[[95]](#footnote-95)**
44. **Ensure that indigenous women and men have equal rights to acquire, inherit, and administer property, and enter contracts, without requiring the consent of their husbands and/or male guardians;[[96]](#footnote-96)**
45. **Prohibit child and forced marriages, without exceptions;[[97]](#footnote-97) and**
46. **Prevent all forms of discrimination against indigenous women and girls in child custody proceedings and ensure that judicial authorities, including traditional courts, take into account domestic violence and sexual abuse of girls when deciding on child custody.**
47. **Right to culture (articles 3, 5, 13 and 14)**
48. Culture is an essential component of the lives of indigenous women and girls. Culture is intrinsically linked to their lands, territories, histories, and community dynamics. There are many sources of culture for indigenous women and girls, including languages, dress, the way they prepare food, exercise medicine, respect sacred places, practice religion and their traditions, and transmit the history and heritage of their communities and peoples. Indigenous women are custodians of cultural heritage and traditional knowledge, as well as agents of artistic expression. [[98]](#footnote-98) Indigenous culture and traditions are integral to the holistic and harmonious development of indigenous girls.[[99]](#footnote-99)

1. Indigenous women have a right not only to enjoy their culture, but also to challenge aspects of their culture that they consider discriminatory, such as outdated laws, policies, and practices contrary to international human rights law and gender equality. According to article 12 of the Convention on the Rights of the Child, indigenous girls also have the right to express their views and to participate in cultural matters affecting them, either directly or through a representative, in accordance with their age and maturity. [[100]](#footnote-100)
2. The dispossession, lack of legal recognition and unauthorized use of indigenous territories, lands, and natural resources as well as environmental degradation, including biodiversity loss, pollution, and climate change, are direct threats to the cultural integrity and survival of indigenous women, as are the unauthorized use and appropriation of their traditional knowledge, spiritual practices, and cultural heritage by state actors and third parties. States should protect and preserve indigenous languages, culture and knowledge, including through digital tools; sanction their unauthorized appropriation and use; and respect and protect the lands, territories, and sacred places of indigenous peoples. States should also ensure and create opportunities for indigenous women and girls to participate fully in recreational activities, sports, and all aspects of cultural and social life.
3. **The Committee recommends that States parties:**
4. **Ensure the individual and collective rights of indigenous women and girls to maintain their culture, identity, and traditions, and to choose their own path and life plans;**
5. **Respect, protect, and expand the rights to land, territories, resources, and a safe, clean, sustainable, and healthy environment of indigenous peoples as a precondition for preserving the culture of indigenous women and girls;**
6. **Act with due diligence to prevent, investigate, punish transgressors, and provide reparations to victims in cases of unauthorized use or appropriation of indigenous women’s cultural knowledge and heritage, without their full, prior and informed consent, and adequate benefit sharing;**
7. **Collaborate with indigenous peoples, including women, to develop culturally appropriate education programmes and curricula;**
8. **Study the relationship between technology and culture, as digital tools can be important to transmit and preserve indigenous languages and culture;**
9. **Recognize and protect indigenous women’s intellectual property to their cultural heritage, traditional knowledge, and natural resources; and**
10. **Act with due diligence to respect and protect the sacred places of indigenous peoples and their territories, and hold those who violate them accountable.**
11. **Rights to land, territories, and natural resources (articles 13 and 14)**
12. Land and territories are an integral part of the identity, worldview, livelihood, culture, and spirit of indigenous women and girls. Their lives, well-being, culture, and survival are intrinsically linked to the use and enjoyment of their lands, territories, and natural resources.[[101]](#footnote-101) The limited recognition of ownership of their ancestral territories; the absence of titles to their lands and legal protection of their traditions and heritage; and the lack of recognition of indigenous peoples’ land rights at the treaty, constitutional, and legislative levels in many countries [[102]](#footnote-102) undermine and fuel disrespect by state and private actors for their rights to collective use and enjoyment of land and customary land tenure.
13. Lack of recognition of indigenous land rights can lead to poverty; food and water insecurity; barriers to access natural resources needed for survival; and create unsafe conditions, which facilitate the perpetration of gender-based violence acts against indigenous women and girls. It can also obstruct key activities necessary for indigenous women’s livelihoods, including farming, hunting, fishing, and cultural practices. Disputes over indigenous land and territories can also give rise to gender-based violence, harassment and other forms of discrimination against indigenous women by both state and non-state actors, and to killings and harassment of women environmental human rights defenders.
14. **The Committee recommends that States parties:**
15. **Recognize the rights of indigenous women to collective ownership and control over land and customary land tenure, and develop policies to properly reflect this recognition in the local and national economies;**
16. **Recognize legally the existence and rights of indigenous peoples to their lands, territories, and natural resources in treaties, constitutions, and laws at the national level;**
17. **Require the free, prior and informed consent of indigenous peoples, including women, before authorizing economic and development projects on their lands, territories, and using their natural resources;**
18. **Prevent and regulate activities by private actors that may undermine the rights of indigenous women and girls to their lands, territories and environment; and**
19. **Adopt a comprehensive strategy to address discriminatory stereotypes, attitudes, and practices, which undermine indigenous women’s rights to land, territories, and natural resources.[[103]](#footnote-103)**
20. **Rights to social protection and economic resources (articles 13)**
21. Indigenous women have limited access to social protection and economic resources. Many indigenous women have scarce opportunities to enter the formal labor market, and are very likely to engage in economic activities unregulated by social security and labor laws. States parties should therefore ensure that indigenous women working in the informal economy have adequate access to non-contributory social protection schemes. Indigenous women also face prejudice, stereotypes, and forms of discrimination in decision-making related to the grant of bank loans and other forms of financial credit, as well as entrepreneurship programs. States parties should ensure indigenous women’s income security; access to loans and financial credit without collateral and free from discrimination; and technical and financial support to become business owners and entrepreneurs.
22. **The Committee recommends that States parties:**
23. **Ensure non-discriminatory access by indigenous women to social protection and welfare schemes;**
24. **Ensure that indigenous women in unpaid work or informal employment have adequate access to non-contributory social protection schemes[[104]](#footnote-104) that are guided by a gender, indigenous women, and intercultural perspective, and take into account income inequalities;**
25. **Ensure that indigenous women have access to loans and other forms of financial credit without collateral; and**
26. **Provide technical and financial support to enable indigenous women to create their own businesses and enterprises.**
27. **Rights to food, water and seeds (Articles 12 and 14)**
28. Indigenous women have a key role in their communities in securing food, water, and forms of livelihood and survival.[[105]](#footnote-105) The dispossession of territories and lack of recognition of indigenous land rights limits the opportunities for indigenous women and girls to achieve food and water security, and to manage these needed natural resources. The implementation of extractive and other economic activities and development projects can cause food and water contamination, disruption, and degradation, and interfere with key forms of ancestral farming. Climate change and other forms of environmental degradation also threaten food security, and contaminate and disrupt water supplies. States should adopt urgent measures to ensure that indigenous women and girls have adequate access to sufficient levels of food, nutrition, and water. Of particular concern is the increasing commercialization of seeds, which are an essential part of the traditional knowledge and cultural heritage of indigenous peoples.[[106]](#footnote-106) This commercialization of seeds often occurs without benefit sharing with indigenous women. The proliferation of transgenics or genetically modified crops are of concern and often take place without any participation from indigenous women or girls.
29. **The Committee recommends that States parties:**
30. **Ensure adequate access to sufficient food, water, and seeds by indigenous women and girls and acknowledge their contribution to food production, sovereignty, and sustainable development;**
31. **Protect ancestral forms of farming and sources of livelihood for indigenous women and ensure the meaningful participation by indigenous women and girls in the design, adoption, and implementation of agrarian reform schemes and the management and control of natural resources;**
32. **Exercise due diligence to prevent, investigate, and punish gender-based violence against indigenous women and girls when performing agricultural work, procuring food and fetching water for their families and communities; and**
33. **Ensure that indigenous women and girls have access to the benefits of scientific progress and technological innovation to be able to achieve food and water security, and are compensated for their contributions and traditional knowledge**
34. **Right to a clean, healthy, and sustainable environment (articles 12 and 14)**
35. The right to a clean, healthy, and sustainable environment encompasses, inter alia, a safe and stable climate; safe and adequate food and water; healthy ecosystems and biodiversity; a non-toxic environment; participation; access to information; and access to justice in environmental matters.[[107]](#footnote-107) This right is critical to the many indigenous women and girls that have a special connection to their environment, lands, territories, natural resources, and ecosystems. Human-caused pollution, contamination, deforestation, burning fossil fuels, and biodiversity loss threaten the link between indigenous women, and the environment. [[108]](#footnote-108) The failure of states to take adequate action to prevent, adapt to, and remediate these serious environmental harms constitutes a form of discrimination and violence against indigenous women and girls that needs to be promptly addressed. Moreover, states should take steps to recognize the contribution of indigenous women through their traditional knowledge to biodiversity conservation and restoration.[[109]](#footnote-109) States should also act promptly to support the work of indigenous women and girls who are environmental human rights defenders and ensure their protection and security.
36. Under international human rights law, States should take individual and collective actions to address climate change, including measures to mitigate climate change-related foreseeable human rights harms; to effectively adapt by limiting negative human rights impacts; and to remedy loss and damage. States should take mitigation and adaptation measures, including through international cooperation, solidarity, and climate finance. The Committee underscores the importance of the Paris Climate Agreement (Adopted at COP21, December 12, 2015) in calling for climate action that respects, promotes and takes into consideration indigenous peoples’ rights and gender equality. Unfortunately, indigenous women and girls are often excluded from decision-making, negotiations, and discussions concerning climate action, mitigation, and adaptation measures[[110]](#footnote-110) despite their expert knowledge on climate change. States should also take measures to ensure indigenous women and girls’ access to clean and renewable energy.
37. **The Committee recommends that States parties:**
38. **Ensure that laws and policies related to the environment, climate change, and disaster risk reduction reflect the specific impacts of climate change and other forms of environmental degradation and harm, including the triple planetary crisis;[[111]](#footnote-111)**
39. **Ensure that indigenous women and girls have equal opportunities to meaningfully and effectively participate in decision-making related to the environment, disaster-risk reduction, and climate change;[[112]](#footnote-112)**
40. **Prevent human-induced environmental degradation from negatively impacting the territories, lands, and natural resources of indigenous women;**
41. **Ensure that effective remedies and accountability mechanisms are in place to hold the authors of environmental harm responsible, and ensure access to justice for indigenous women and girls in environmental matters;**
42. **Take action to mitigate climate change and build the adaptive capacities of indigenous women and girls;**
43. **Ensure the free, prior, and informed consent of indigenous women and girls in matters affecting their environment, lands, and natural resources. This includes their participation in environmental and social impact assessments; and**
44. **Ensure the safety and support the work of indigenous women human rights defenders engaged in advocacy for environmental protection and climate justice.**
45. **Effects of COVID-19 on Indigenous Women and Girls**
46. During the COVID-19 pandemic, indigenous women and girls faced high infection and mortality rates, as well as barriers to access adequate and culturally appropriate health care.[[113]](#footnote-113) In addition, the COVID-19 pandemic challenged food and water security for indigenous communities; undermined their sources of livelihood and ability to work; and limited their access to social protection. Indigenous women moreover bore the burden of increased child-care responsibilities due to the closing of child care facilities and schools. The pandemic also severely impeded the continuity of indigenous women and girls’ education efforts, due to limited access to technology, the virtual world, computers, and electricity. Home confinement measures led to increased reporting of domestic violence acts and other forms of violence, and a severe reduction in shelters, courts, sexual and reproductive health, and other needed services for victims. Indigenous women and girls were also largely absent from decision-making concerning how to address the COVID-19 pandemic, despite their traditional knowledge in the area of medicine. States should collect information and document the experiences of indigenous women and girls during the COVID-19 pandemic, and include them in decision-making, and in the identification of strategies to address future pandemics and major health events.
47. **The Committee recommends that States parties:**
48. **Address the disproportionate health impact of the COVID-19 pandemic on indigenous women and girls;**
49. **Ensure that indigenous women and girls have access to culturally acceptable health care, aiming at integrating both indigenous traditional medicine and modern medicine, including access to vaccination, equipment, testing, and urgent emergency treatment for COVID-19;[[114]](#footnote-114)**
50. **Ensure that courts, shelters, domestic violence reporting mechanisms and sexual and reproductive health services are considered essential and remain operational throughout the COVID-19 and during future pandemics;**
51. **Ensure that indigenous women and girls can effectively participate and be leaders in decision-making related to the COVID-19 pandemic and future pandemics; and**

**(e) Adopt proactive measures for indigenous women and girls to have the technology and training necessary to continue their education and employment.**

1. **Dissemination and Reporting**

1. Executive Summary will be a separate document from the core text of the General Recommendation. It will summarize the main principles and findings of the General Recommendation for ease of use by indigenous women and girls, and other stakeholders. [↑](#footnote-ref-1)
2. International Labor Organization, *Implementing the ILO Indigenous and Tribal Peoples Convention No. 169 Towards an inclusive, sustainable and just future* (2019), page 13; United Nations Department of Economic and Social Affairs, 5th Volume: [*State of the World’s Indigenous Peoples, Rights to Land, Territories, and Resources*](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2021/03/State-of-Worlds-Indigenous-Peoples-Vol-V-Final.pdf) (2021), page 119. [↑](#footnote-ref-2)
3. United Nations Development Programme, [*10 Things to Know about Indigenous Peoples*](https://stories.undp.org/10-things-we-all-should-know-about-indigenous-people), January 25, 2019. [↑](#footnote-ref-3)
4. *Id.* [↑](#footnote-ref-4)
5. Written Submission to CEDAW Committee Regarding the Elaboration of CEDAW General Recommendation 39 on the Rights of Indigenous Women and Girls (presented by FIMI - International Indigenous Women’s Forum AIWO - African Indigenous Women’s Organizations ECMIA - Continental Network of Indigenous Women of the Americas AMICAM - Alliance of Indigenous Women from Central America and México AIWN - Asian Indigenous Women’s Network NATSIWA - National Aboriginal and Torres Strait Islander Women’s Alliance, and MADRE. Prepared by the Human Rights Clinic of the University of Miami Law School. Hereinafter “FIMI Submission”, page 11. [↑](#footnote-ref-5)
6. *See* United Nations Commission on the Status of Women (CSW), Resolution 56/4, *Indigenous women: key actors in poverty and hunger eradication*, E/2012/27 E/CN.6/2012/16; United Nations News, Department of Economic Affairs, *Empowering Indigenous Women to Achieve Sustainable Development*, https://www.un.org/en/desa/empowering-indigenous-women-achieve-sustainable-development [↑](#footnote-ref-6)
7. # See, for example, CEDAW General Recommendation 34 on rural women, paras. 14 and 15. For more discussion of the work of CEDAW in the area of indigenous women, see UN Women and CEDAW, [*Recomendaciones Generales y Observaciones Finales del Comité para la Eliminación de la Discriminación contra la Mujer sobre mujeres indígenas y/o afrodescendientes realizadas a Estados de América Latina*](https://lac.unwomen.org/es/digiteca/publicaciones/2017/10/cedaw-indigenas-afrodescendientes) (2017).

   [↑](#footnote-ref-7)
8. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Article 2. [↑](#footnote-ref-8)
9. CEDAW Committee, General Recommendation 28, para. 5. [↑](#footnote-ref-9)
10. *Id.* [↑](#footnote-ref-10)
11. *See* Article 33.1, UNDRIP; Article 1, ILO Convention 169; United Nations Permanent Forum on Indigenous Issues, Fact Sheet, [*Who are Indigenous Peoples?*](https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf)*;* UN – Economic and Social Council – Commission on Human Rights – Sub‐commission on Prevention of Discrimination and Protection of Minorities – Working Group on Indigenous Populations: *Working Paper by the Chairperson‐Rapporteur, Mrs. Erica‐Irene A. Daes, on the concept of “indigenous people”*, UN Document E/CN.4/Sub.2/AC.4/1996/2, June 10, 1996, paras. 69‐70. [↑](#footnote-ref-11)
12. UNDRIP in Article 2 provides that “indigenous peoples and individuals 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.” [↑](#footnote-ref-12)
13. See, for reference, CEDAW Committee, *Report of the Inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, paras. 95-99; 111-127; FIMI Contribution, pages 37-41. [↑](#footnote-ref-13)
14. For more discussion on the need for data collection efforts to assess the situation of indigenous women and girls, *see* Contribution from UN Women and Generation Equality (June 2021), page 3; Contribution from United Nations Population Fund [hereinafter “UNFPA”] (June 2021), page 7; Contribution from Network of Indigenous Women of ASIA (NIWA) and Asia Indigenous Peoples Pact (AIPP), page 8. [↑](#footnote-ref-14)
15. *See* Committee on the Rights of the Child, General Comment No. 1 (2009), Indigenous Children and their Rights under the Convention, para. 26. [↑](#footnote-ref-15)
16. United Nations Rapporteur on Indigenous Peoples, *Report on Indigenous Women*, A/HRC/30/41, August 6, 2015, paras. 11-14, https://www.undocs.org/A/HRC/30/41 [↑](#footnote-ref-16)
17. CEDAW Committee General Recommendation 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, para. 14. [↑](#footnote-ref-17)
18. CEDAW Committee General Recommendation 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, para. 54. [↑](#footnote-ref-18)
19. CEDAW Committee, General Recommendation 37 on gender-related dimensions of disaster risk reduction in the context of climate change, paras. 1-9. [↑](#footnote-ref-19)
20. FIMI Contribution, pages 148-155. [↑](#footnote-ref-20)
21. *See, for reference*, UNDRIP, Article 8;Convention on the Prevention and Punishment of the Crime of Genocide, Article II; Rome Statute of the International Criminal Court, Article 6.

    [↑](#footnote-ref-21)
22. See for example, Committee on the Elimination of Racial Discrimination (CERD), General Recommendation XXIII on the Rights of Indigenous Peoples. paras. 3-6. [↑](#footnote-ref-22)
23. Committee on the Rights of the Child, General Recommendation 12, *The Right of the Child to be Heard*, para. 2. [↑](#footnote-ref-23)
24. ILO Convention 169, Article 13; United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Preamble and Articles 1 and 7. [↑](#footnote-ref-24)
25. UNDRIP, Preamble and Article 1. [↑](#footnote-ref-25)
26. FIMI Contribution, pages 1-4. [↑](#footnote-ref-26)
27. UNDRIP, Article 32; Convention on Biological Diversity, Article 15(5). [↑](#footnote-ref-27)
28. U.N. General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development Goals*, A/RES/70/1 (October 21, 2015), para. 20. [↑](#footnote-ref-28)
29. *Id.*, para. 8. [↑](#footnote-ref-29)
30. Contribution from Committee on the Rights of Persons with Disabilities (June 2021), pages 1, 4-5; Contribution from Women Enabled International; National Indigenous Disabled Women Association Nepal (NIDWAN); *Mujeres con Capacidad de Soñar a Colores* Collective (Women with the Ability to Dream in Color, Guatemala); *Fundación Paso a Paso* (Step by Step Foundation); Minority Rights Group (MRG); Endorois Indigenous Women Empowerment Network (EIWEN); and *Colectivo* *Ovejas Negras* (Black Sheep Collective), pages 1-4; Contribution from *Unión Latinoamericana de Ciegos* (June 2021), pages 203. [↑](#footnote-ref-30)
31. CEDAW Committee, General Recommendation 28, para. 9; UNDRIP, para. 2. [↑](#footnote-ref-31)
32. UNDRIP Preamble. [↑](#footnote-ref-32)
33. Committee on the Rights of the Child, General Comment No. 1 (2009), Indigenous Children and their Rights under the Convention, para. 30. [↑](#footnote-ref-33)
34. United Nations Rapporteur on Indigenous Peoples, *Report on Indigenous Women*, paras. 15-17. [↑](#footnote-ref-34)
35. CEDAW Committee General Recommendation 34 on rural women, para. 56. [↑](#footnote-ref-35)
36. United Nations Department of Economic and Social Affairs, 5th Volume: [*State of the World’s Indigenous Peoples, Rights to Land, Territories, and Resources*](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2021/03/State-of-Worlds-Indigenous-Peoples-Vol-V-Final.pdf) (2021), page 121. [↑](#footnote-ref-36)
37. Article 8, UNDRIP; CEDAW Committee, *Report of the Inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, para. 37. [↑](#footnote-ref-37)
38. *See, for reference*, UNDRIP, Article 8. [↑](#footnote-ref-38)
39. Contribution from International Work Group on Indigenous Affairs [Hereinafter “IWGIA’] (June 2021), page 10. [↑](#footnote-ref-39)
40. CEDAW Committee General Recommendation 34 on rural women, paragraph and recommendation 59. [↑](#footnote-ref-40)
41. See, United Nations, Human Rights Council, *Access to Justice in the Promotion and Protection of the Rights of Indigenous Peoples*, Study by the Expert Mechanism of the Rights of Indigenous Peoples, A/HRC/EMRIP/2014/3/Rev.1, June 25, 2014, para. 35-42; Inter-American Commission on Human Rights, *Indigenous Women and their Human Rights in the Americas*, OEA/Ser.L/V/II. Doc. 44/17, April 17, 2017, para. 138. [↑](#footnote-ref-41)
42. Article 34, UNDRIP; CEDAW Committee, General Recommendation 33 on women’s access to justice, para. 5. [↑](#footnote-ref-42)
43. Article 34 of UNDRIP provides that “Indigenous peoples have the right to promote, develop, and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.” [↑](#footnote-ref-43)
44. CEDAW Committee, General Recommendation 33 on women’s access to justice, para. 14. [↑](#footnote-ref-44)
45. United Nations Rapporteur on Indigenous Peoples, *Report on the Rights of Indigenous Peoples*, A/HRC/42/37, August 2, 2019, para. 25. [↑](#footnote-ref-45)
46. FIMI Contribution, pages 27-30; CEDAW Committee, General Recommendation 33 on women’s access to justice, paras. 61-64; United Nations Rapporteur on Indigenous Peoples, *Report on the Rights of Indigenous Peoples*, A/HRC/42/37, August 2, 2019, paras. 69-74. [↑](#footnote-ref-46)
47. United Nations Rapporteur on Indigenous Peoples, *Report on Indigenous Women*, para. 44; Study by the Expert Mechanism of the Rights of Indigenous Peoples, *Access to Justice in the Promotion and Protection of the Rights of Indigenous Peoples*, para. 42; FIMI Contribution, pages 27-38. [↑](#footnote-ref-47)
48. United Nations, CEDAW Committee, Concluding Observations of the Committee on Elimination of Discrimination against Women, CEDAW/C/MEX/CO/7-8, August 7, 2012, para. 34. [↑](#footnote-ref-48)
49. United Nations, General Recommendation 33 on women’s access to justice, para. 62. [↑](#footnote-ref-49)
50. Committee on the Rights of the Child, General Comment 24*: Children’s Rights in Juvenile Justice* (2019), para. 49. [↑](#footnote-ref-50)
51. *Id.*, paras. 116 and 118. [↑](#footnote-ref-51)
52. Inter-American Commission on Human Rights, *Indigenous Women Report*, para. 156. [↑](#footnote-ref-52)
53. CEDAW Committee, General Recommendation 35 on gender-based violence against women, para. 21. [↑](#footnote-ref-53)
54. CEDAW Committee, General Recommendation 35 on gender-based violence against women, para. 2. [↑](#footnote-ref-54)
55. United Nations Rapporteur on Indigenous Peoples, *Report on Indigenous Women*, para. 47. [↑](#footnote-ref-55)
56. United Nations Rapporteur on Indigenous Peoples, *Report on Indigenous Women*, A/HRC/30/41, para 47. [↑](#footnote-ref-56)
57. UN Women, UNICEF, UNFPA, *Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women*, May 2013, page 4. See also for reference, UN Inter-Agency Support Group on Indigenous Peoples Issues, *UN Thematic Paper on the Elimination and Responses to Violence, Exploitation and Abuse of Indigenous Girls, Adolescents and Young Women* (preparation on of the World Conference on Indigenous Peoples 2014), pages 1-2; 4-10. [↑](#footnote-ref-57)
58. United Nations Rapporteur on Indigenous Peoples, *Report on Indigenous Women*, paras. 57-59; IACHR, *Indigenous Women Report*, paras. 113-117. [↑](#footnote-ref-58)
59. CEDAW Committee General Recommendation 35, on gender-based violence against women, paragraph 20. [↑](#footnote-ref-59)
60. *See* Andrea Carmen, *Environmental Violence: Impacts on Indigenous Women and Girls,* in Indigenous Peoples’ Rights and Unreported Struggles: Conflict and Peace, Institute for the Study of Human Rights, Columbia University (2017), see pages 96-97; 98-102; 104-106; and FIMI Contribution, page 42. [↑](#footnote-ref-60)
61. CEDAW Committee, Report of the Inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, paras. 132-172. [↑](#footnote-ref-61)
62. Inter-American Commission on Human Rights, *Indigenous Women Report,* paras. 85-86. [↑](#footnote-ref-62)
63. See, for reference, UN Women, UNICEF, UNFPA, *Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women*, May 2013, pages 13-16; 19-20; FIMI Contribution, pages 149-155. [↑](#footnote-ref-63)
64. *Id.* [↑](#footnote-ref-64)
65. Inter-American Commission on Human Rights, *Indigenous Women Report*, para. 230. See also CEDAW Committee, General Recommendation 33 on women’s access to justice, para. 64. [↑](#footnote-ref-65)
66. CEDAW Committee, General Recommendation 35 on gender-based violence against women, para. 24(b). [↑](#footnote-ref-66)
67. CEDAW Committee, General Recommendation 35 on gender-based violence against women, para. 24(b). [↑](#footnote-ref-67)
68. CEDAW Committee General Recommendation 35, on gender-based violence against women, para. 29 (c) iii. [↑](#footnote-ref-68)
69. *See* United Nations Rapporteur on Indigenous Peoples, *Report on Indigenous Women*, paras. 38-39. [↑](#footnote-ref-69)
70. For reference, *see*, United Nations High Commissioner for Human Rights, *Guidelines for States on the effective implementation of the right to participate in public affairs*, pages 10-19, [GuidelinesRightParticipatePublicAffairs\_web.pdf (ohchr.org)](https://www.ohchr.org/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf) [↑](#footnote-ref-70)
71. EMRIP Contribution (June 18, 2021), page 4; Contribution by Indigenous Peoples and Development Branch – Secretariat of the UN Permanent Forum on Indigenous Issues/Division for Inclusive Development/UN Department of Economic Affairs, page 6; Contribution from Defensoría del Pueblo de la Nación Argentina, pages 5-6.  [↑](#footnote-ref-71)
72. Contribution from Comisión Nacional de Derechos Humanos de México (June 2021), pages 2, 5. [↑](#footnote-ref-72)
73. *See* United Nations General Assembly, *Rio Declaration the Environment and Development*, A/CONF.151/26 (Vol. I), August 12, 1992, Principle 10; Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, Denmark (June 25, 1998), Articles 3(2), 6-8; United Nations Economic Commission for Latin America and the Caribbean, *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean*, 2018 (Escazú Agreement), Article 7; [↑](#footnote-ref-73)
74. Contribution from Pueblo Originario K’ana - Comunidad de Urinsaya (Perú), Asociación de Mujeres Indígenas Mansen U’was (Pueblo Indígena U’wa -Colombia); Comunidad de Juristas Akubadaura (Colombia); and Earth Rights International, pages 6-9. [↑](#footnote-ref-74)
75. Contribution from Women Human Rights Defenders International Coalition and Center for Reproductive Rights (June 2021), pages 1-5. [↑](#footnote-ref-75)
76. CEDAW Committee General Recommendation 34 on rural women, para. 54. [↑](#footnote-ref-76)
77. CEDAW Committee General Recommendation 34 on rural women, para. 54. [↑](#footnote-ref-77)
78. CEDAW Committee General Recommendation 34 on rural women, para. 28. [↑](#footnote-ref-78)
79. CEDAW Committee General Recommendation 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, para. 14. [↑](#footnote-ref-79)
80. CEDAW Committee, General Recommendation 34 on rural women, paras. 28 and 29. [↑](#footnote-ref-80)
81. CEDAW Committee General Recommendation 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, paras. 36-37. [↑](#footnote-ref-81)
82. CEDAW General Recommendation 36 on the right of girls and women to education, para. 41; CEDAW General Recommendation 34 on rural women, para. 42. [↑](#footnote-ref-82)
83. CEDAW General Recommendation 36 on the right of girls and women to education, para. 41; CEDAW General Recommendation 34 on rural women, para. 42. [↑](#footnote-ref-83)
84. CEDAW General Recommendation 36 on the right of girls and women to education, para. 44. [↑](#footnote-ref-84)
85. CEDAW Committee, General Recommendation 34 on rural women, para. 43. [↑](#footnote-ref-85)
86. CEDAW Committee, General Recommendation 34 on rural women, para. 43. [↑](#footnote-ref-86)
87. CEDAW General Recommendation 36 on the right of girls and women to education, para. 46 (e, f, and g). [↑](#footnote-ref-87)
88. International Labour Organization’s submission to the CEDAW Committee for the General Recommendation on the Rights of Indigenous Women and Girls [Hereinafter “ILO Submission”), page 5. [↑](#footnote-ref-88)
89. General Recommendation 34 on rural women, paras. 40 and 41. [↑](#footnote-ref-89)
90. General Recommendation 34 on rural women, para. 50. [↑](#footnote-ref-90)
91. For more discussion, see UNFPA Contribution, pages. 2-3. [↑](#footnote-ref-91)
92. Contribution from Grupo de Información y Reproducción Elegida (GIRE) (June 2021), pages 4-6. [↑](#footnote-ref-92)
93. Contribution from Amnesty International (June 2021), page 2. [↑](#footnote-ref-93)
94. Contribution from Center for Reproductive Rights (June 2021), page 4. [↑](#footnote-ref-94)
95. CEDAW General Recommendation 34 on rural women, para. 33. [↑](#footnote-ref-95)
96. CEDAW Committee, General Recommendation 34 on rural women, paras. 30-31. [↑](#footnote-ref-96)
97. CEDAW General Recommendation 34 on rural women, para. 34; see also generally, Joint General Recommendation No. 31 (2014) of CEDAW/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices GR 31 and *Report of the inquiry concerning the Kyrgyz Republic under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women* (2018). [↑](#footnote-ref-97)
98. FIMI Contribution, pages 92-96. [↑](#footnote-ref-98)
99. Committee on the Rights of the Child, General Comment No. 11 (2009), Indigenous Children and their Rights under the Convention, para. 35. [↑](#footnote-ref-99)
100. Committee on the Rights of the Child, General Comment No. 11 (2009), Indigenous Children and their Rights under the Convention, para. 38. [↑](#footnote-ref-100)
101. Contribution from Landesa Center for Women’s Land Rights (June 2021), pages 1-3. [↑](#footnote-ref-101)
102. Study of the United Nations Expert Mechanism on Indigenous Peoples, *Right to Land under the United Nations Declaration on the Rights of Indigenous Peoples: A Human Rights Focus*, A/HRC/45/38, July 15, 2020, paras. 5-9; International Work Group for Indigenous Affairs (IWGIA) (Contribution June 2021), pages 2, 6. [↑](#footnote-ref-102)
103. CEDAW Committee, General Recommendation 34 on rural women, para. 57. [↑](#footnote-ref-103)
104. CEDAW Committee, General Recommendation 34 on rural women, para. 41 (a). [↑](#footnote-ref-104)
105. FIMI Contribution, pages 119-122; 136-139. [↑](#footnote-ref-105)
106. FIMI Contribution, pages 128-130. [↑](#footnote-ref-106)
107. For reference, *see* United Nations Human Rights Council Resolution, 48/13, *recognizing the human right to a clean, healthy, and sustainable environment*, A/HRC/RES/48/13 (October 18, 2021), https://undocs.org/A/HRC/RES/48/13 [↑](#footnote-ref-107)
108. Contribution from Justice for Girls & Just Planet (June 2021), pages 8-10. [↑](#footnote-ref-108)
109. Contribution from the Secretariat of the Convention on Biological Diversity, pages 2-4. [↑](#footnote-ref-109)
110. Contribution from Observatorio Ciudadano, the Global Initiative for Economic, Social, and Cultural Rights, and ProDESC (June 2021), pages 2-4, 15. [↑](#footnote-ref-110)
111. CEDAW Committee, General Recommendation 37 on gender-related dimensions of disaster risk reduction in the context of climate change, para. 26. [↑](#footnote-ref-111)
112. CEDAW Committee, General Recommendation 37 on gender-related dimensions of disaster risk reduction in the context of climate change, para. 36. [↑](#footnote-ref-112)
113. CEDAW Committee, Guidance Note on COVID-19 (2020), page 1. [↑](#footnote-ref-113)
114. CEDAW Committee, Guidance Note on COVID-19 (2020), page 3. [↑](#footnote-ref-114)