**Submission on the draft General Recommendation on the rights of indigenous women and girls of the Committee on the Elimination of Discrimination against Women**

Submission by Simavi

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1. Simavi is a non-governmental organization based in the Netherlands that strives to create space for civil society to make sure the voices of women and girls are being heard and to hold public and private sector actors accountable on their human rights obligations, responsibilities and commitments, in particular in the areas of water, gender and climate. The organisation focuses on influencing policy formulation and implementation at three levels: in the Netherlands and EU; in the countries in which Simavi works and globally.
2. Simavi welcomes CEDAW’S draft general recommendation on the rights of indigenous women and girls, and thank the Committee for the opportunity to submit a written submission on the draft prepared. The Convention on the Elimination of all Forms of Discrimination against Women and the documents adopted by the Committee are crucial tools that NGOs and CSOs need to further advocate for the realisation of the rights of women and girls, and in particular indigenous women and girls. Simavi is hopeful that this general recommendation will shed lights on barriers that prevent the realisation of human rights of many indigenous women and girls, and present explicit recommendations to States Parties to protect, respect and fulfill their rights.
3. Simavi is pleased to submit comments on the draft presented by the Committee.
4. Sometimes country-specific, Indigenous women and girls, and indigenous CSOs, or CSOs representing indigenous women and girls can face dramatic risks in providing inputs on the barriers they face and suggestions to State actors. Many fear to share the reality of the violence they face, in public (including social media) or confidentially, and share the silent violence they experience, due to repercussions they would face by State actors and non-State actors, due to discriminatory laws and/or practices. The comments to the draft recommendations made by Simavi are based on Simavi’s work with various partners, non-governmental organization and civil society actors around the world. In particular, to strengthen certain areas of the draft general recommendation, Simavi and partners recommend the following:

II. Objectives and Scope

1. Simavi considers that gender-based violence occurs in situations that are less spoken of and in particular in women’s and girls’ every-day activities. It is important to add to paragraph 9 that indigenous suffer violence or are at risk of violence in the way to school, when they travel short distances to perform regular economic, social or other activities, including gathering firewood, forest products, going to cultivated lands or to fetch water. The risk of violence limits women’s movement, specially in rural isolated areas where they need to travel longer distances to access basic services or installations, such as health and education. Due to this violence, States parties should prioritize remote areas where indigenous women live for the provision of basic services, to address the consequences of isolation on the realization of various women’s and girls’ human rights. To address this issue, the following sentence could read as follows (addition in bold): “Indigenous women often suffer domestic violence and violence in the workplace, educational institutions, while receiving health services, while deprived of liberty, when confined to institutions, **and in their daily economic, social and other activities including when gathering firewood, forest products, going to cultivated lands, or fetching water. The risks of violence restricts their movements, impacting further the realisation of their human rights. State Parties should prioritize indigenous women living in remote areas for the provision of basic services.**”
2. Kidnapping, rape and gang rape, and sexual harassment, are other risks which disproportionally affect indigenous women and girls that according to Simavi should be emphasized in the examples listed in paragraph 9. The following sentence would read (addition in bold): “Indigenous women and girls are disproportionately at risk of gender-based killings; disappearances **and kidnapping**; trafficking in persons; contemporary forms of slavery; exploitation; forced prostitution; sexual servitude; **rape and gang rape**; **sexual harassment**; and domestic work which is not decent, safe, and adequately remunerated.”
3. Paragraph 9 does not address lack of justice. In certain areas, offenders of violence against indigenous women outside of the home (when it is not domestic violence) are often non-indigenous. There is also discrimination and overall lack of access to justice for the victims of violence. When it comes to domestic violence, the absence of awareness within indigenous community leaders and conflict resolution instances of gender based violence also affects indigenous women to obtain justice within the customary judicial system. Additional suggestions on the justice system may be found below the respective section. With respect to customary law, these are not always in line with national laws. Domestic violence is in some cases ignored because it is considered a private issue, or otherwise, in case of sexual violence, settled by imposing fines instead of filing a case, due to the customary law in place. Customary law becomes also inapplicable particularly when any incident involves a non-indigenous person and any indigenous female. The gap between customary and national laws should be addressed.The following mention could be added to paragraph 9: *There is a culture of silence and lack of justice with regards to gender based violence against indigenous women and girls within customary and national laws, reinforcing the normalisation of violence and re-victimizing violence survivors. Even if national law is applicable to all citizens, the enforcement, via judicial system and law enforcement agencies, is discriminatory and politicized.*
4. Paragraph 11 addresses the root causes of discrimination against indigenous women and girls. In the experience of Simavi, in some cases, the absence of the effective implementation of their right to self-determination is not only manifested in the dispossession of land and territories, but it is also manifested by the impossibility of self-identify as indigenous. Using the term indigenous is dangerous in certain regions. Indigenous women and girls and communities cannot celebrate, for example, the International Day of Indigenous Peoples. In addition to the absence of effective implementation of their right to self-determination and the culture of impunity are other key root causes of discrimination against indigenous women and girls.
5. With respect to stateless indigenous women and girls addressed in paragraph 12, other key benefits that indigenous girls and women cannot enjoy are access to information and the right to be informed, and social safety net programs (including for accessing safe drinking water and sanitation). These should be added to this sentence (addition in bold): “Stateless indigenous girls also cannot enjoy key benefits flowing from status as a national, including education, health, care, property, employment, **access to information and the right to be informed, and social safety net programs (including for accessing safe drinking water and sanitation)**.”
6. Finally, indigenous girls’ and women’s Sustainable livelihood and wellbeing are particularly affected by environmental concerns such as climate change and have a detrimental impact on them. Simavi and partners consider that this should be emphasized in paragraph 13.

IV. A. Equality and Non-Discrimination with a focus on Indigenous Women and Intersecting Forms of discrimination

As specified by the Committee in this section, although women are perceived to have rights in certain customary law, they can be disadvantaged by customary inheritance law since they are not allowed to inherit property from their families or husbands. Simavi therefore recommends to add inheritance in recommendation to State parties under paragraph 28(e) (suggested addition in bold): “Ensure that indigenous women are equal before the law and have the same legal capacity as men to conclude contracts, administer, **and inherit,** property independent of their husband or any male guardian”

IV. B. Access to justice and plural legal systems

1. As mentioned previously, when it comes to domestic violence, the absence of awareness within indigenous community leaders and conflict resolution instances of gender based violence also affects indigenous women to obtain justice within the customary judicial system. Simavi therefore suggests to emphasize in paragraph 30 the need for gender-based violence and gender equality to be considered within indigenous justice systems. For example, an explicit mention of this should be added to the sentence “At the same time, indigenous justice systems and their practices should be consistent with international human rights standards”.
2. In addition, because indigenous, women-led civil society has a key role to play as intermediary in justice for indigenous women, Simavi considers that State parties should also acknowledge, respect and protect the role of civil society in the accessibility of justice by indigenous women. This can be clarified in paragraph 30. Simavi invites the Committee to also add a recommendation to States Parties on this matter in paragraph 39.

V. A. Prevention of and protection from gender-based violence against indigenous women and girls

1. Indigenous women and girls living in isolated rural areas are vulnerable to violence when travelling or moving around to access basic services. The risk of violence restricts their freedom of movement. This may have further implications on their other human rights. For example, Simavi is aware of cases where indigenous women and girls need to be accompanied by another person to go to school or access health service, or participate in donor-funded programme activities. Simavi suggests to emphasize in paragraph 42 these broader impacts of the risks of violence that indigenous women and girls face.
2. Furthermore, in addition to the “psychological, physical, sexual, economic, and spiritual violence” that is currently mentioned under paragraph 42 of the draft recommendation, indigenous women and girls can also face political violence. This occurs for example in cases where there is limitation of self-determination of indigenous women and their status and/or identification as indigenous in organized institutions. Simavi therefore suggests to add “political” violence to the aforementioned sentence.
3. Moreover, where paragraph 43 informs that “Gender-based violence against indigenous women and girls is drastically underreported […]”, Simavi suggests to clarify that this violence is underreported both when it occurs within their own communities and when it is domestic violence, and also when done by people outside of their communities so to note reference to domestic violence. The sentence could read (added text in bold): “Gender-based violence against indigenous women and girls, **both within their own communities and as domestic violence, including by offender outside of their communities,** is drastically underreported […]”
4. Finally, in relation to the impacts of gender based violence on various human rights, Simavi considers it important to recall that indigenous women’s and girls’ freedom of movement are also affected, in addition to impacts on sexual and reproductive rights. For example, gender based violence affects women’s bodily autonomy and their ability to make decisions over their own bodies to live womanhood with dignity and safety. This should be further emphasised in paragraph 45.
5. In addition, Simavi suggests that paragraph 47 (e) makes an explicit mention of the right to sexual and reproductive health in the list of support services that States parties are recommended to ensure. Such services should be referred to not only as support for women and girls that are victims of gender-based violence but also as support to have information on prevention which is as essential for indigenous women and girls. Indigenous women and girls should know their rights when it comes to sexual and reproductive health and rights, and to live a life free of violence and discrimination, which should be explicitly mentioned.
6. Prevention mechanisms are also essential to address gender based violence. Simavi suggests to add ‘prevention mechanisms’ in paragraph 47 (c)(suggested addition in bold): “Ensure that indigenous women and girls have effective access to both ordinary and indigenous justice systems, including protection orders, free from discrimination and bias, **as well as prevention mechanisms**”;

V. B Right to effective participation in political and public life

1. Although sexual and reproductive health is mentioned in the draft recommendation in section F, and because of the interdependence of human rights, Simavi considers it important to mention access to sexual and reproductive health information and services, and gender equality, in the clarifications on the right to effective participation for indigenous women. These are essential for women to be able to make appropriate distribution of tasks and unpaid work, to also make decisions over their own bodies, which is a crucial prerequisite to their active participation in political and community live. Indigenous women depending on the communities have key roles in unpaid work, as care givers and work in cultivation. Participation can therefore be seen as an additional burden. In addition to the current mentions of this issue in paragraph 49, Simavi suggests that State Parties are also recommended, under paragraph 52 (i), to adopt measures to remove barriers preventing indigenous women and girls from actively participating in public life, including barriers arising from their unrealized right to sexual and reproductive health.

V. D. Right to education

1. Many girls that overcome the educational barriers often attend education facilities that are available have inadequate infrastructure and facilities, in particular with a lack of menstrual hygiene friendly sanitation facilities and lack of water. Simavi suggests to add this information to the description of barriers faced by girls while at school, for example in the following sentence of the draft recommendation paragraph 55 (addition in bold): “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. **In addition, they often have inadequate education infrastructure and facilities, including lack on menstrual hygiene-friendly sanitation facilities and lack of water.**
2. Simavi suggests to add a recommendation to States under paragraph 56 to *ensure adequate school infrastructure and facilities, in particular acceptable drinking water and sanitation facilities of quality, that are adequate for managing menstruation.*

V. F. Right to health

1. Indigenous women face dramatic barriers to the realization of their right to health, as clarified by the Committee in the current draft recommendation. In addition to the barriers mentioned, indigenous women also do not go to the health facilities due to the poor quality of services that are available to them, long distance to these services, the high costs for available services, high levels of mistrust towards hospitals, in addition to the fact that their husband or in-laws or parents/guardians make the decision on whether they may go to the facilities. They also often face language barriers in accessing health care services. As for adolescent indigenous girls, they face additional barriers to access health services due to their age. To fully capture all these barriers, Simavi suggests to add “affordability” in the first sentence of paragraph 59, followed by adding a sentence on language barriers and youth services, such as: “Indigenous women and girls have limited access to adequate **and affordable** health care services **of quality**, **that are also youth-friendly,** including sexual and reproductive health services and information, and face racial and gender-based discrimination in health systems. **They also often face language barriers in accessing health care services**.”
2. In addition, Simavi welcomes the recommendation on ensuring health information in adequate languages. In light of the challenges many indigenous peoples face in not only accessing health information in their languages but also accessing quality services in languages they understand, Simavi suggests to emphasize this need in recommendation 1(c): “Ensure that health information is widely disseminated in indigenous languages and dialects, including through conventional and social media; **and ensure that indigenous women and girls have access to health services in indigenous languages**.”

V. L. Right to a clean, healthy, and sustainable environment

1. Simavi welcomes the separate section on the right to a clean, healthy and sustainable environment.
2. Women indigenous representation in governance systems is crucial also in climate adaptation and mitigation, and disaster risk reduction policies. Laws and policies related to the environment, climate change and disaster risk reduction, should therefore include women indigenous representation in governance provisions, and address specific gender impacts exacerbated for indigenous women and girls, by addressing impacts on gender-based violence, impacts on employment, and on access to services, such as water. This could be articulated in recommendation 78 (a), for example with this addition (in bold): “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**; include indigenous women representation in the governance provisions; and address also the specific gender impacts of disasters and climate change on indigenous women and girls**;”
3. In addition, Simavi suggests to emphasize the gender impacts of climate change and disasters in paragraph 77, for example in the following sentence (suggested addition in bold): “Unfortunately, indigenous women and girls are often excluded from decision-making, negotiations, and discussions concerning climate action, mitigation, and adaptation measures despite their expert knowledge on climate change. **Disasters and climate change can exacerbate certain impacts for indigenous women, such as gender-based violence and lack of support services in times of emergency, impacts on employment, and access to services, such as water.”**

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