**General discussion on the General Comment on the rights of indigenous women and girls under the Convention on the Elimination of All Forms of Discrimination against Women**

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**Submitted by the Indigenous Peoples and Development Branch – Secretariat of the UN Permanent Forum on Indigenous Issues/Division for Inclusive Development/UN Department of Economic Affairs**

The Indigenous Peoples and Development Branch/DISD/DESA offers input to the General Comment on the rights of indigenous women and girls under the Convention on the Elimination of All Forms of Discrimination against Women. This draws on the recommendations of the United Nations Permanent Forum on Indigenous Issues (UNPFII), an advisory body to the [Economic and Social Council](http://www.un.org/en/ecosoc/), with a mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights, and through the Council to the UN system agencies, funds and programmes.

Since its inception, the Permanent Forum has paid special attention to indigenous women. In 2003, the special theme of the Permanent Forum was indigenous women and through its recommendations in the forthcoming years, the particular issues of indigenous women have been highlighted and recognition given to the urgent actions needed to overcome violations of their rights have been on the agenda of the Forum.

Noting that the Convention on the Elimination of All Forms of Discrimination against Women makes no reference to indigenous women and that it does not take into account the specific nature of the gender dimension of racial discrimination, the Permanent Forum in 2014 recommended that the Committee on the Elimination of Discrimination against Women: pay special attention to the issues related to maintaining the integrity of indigenous women and the gender dimension of racial discrimination against indigenous peoples and organize a meeting, in collaboration with indigenous women and UN entities with the objective of beginning a process to develop and adopt a general recommendation on indigenous women, including women living under colonization[[1]](#footnote-2).

In 2019, the Permanent Forum reiterated its invitation to the Committee on the Elimination of Discrimination against Women to adopt a general recommendation on indigenous women, following in the UN Declaration on the Rights of Indigenous Peoples (UN Declaration) and other international instruments. *The Forum recommended that the general recommendation on indigenous women consider issues related to the individual and collective rights to equality, non-discrimination, and self-determination; social and economic rights, including the rights to decent work and land, territory, and resources; the right to water and food; cultural rights; civil and political rights; and the right to live free of any form of violence.*

**Individual and collective rights to equality, non-discrimination and self-determination**

Indigenous women often face triple discrimination – based on their race, gender and economic status. This has different dimensions and can be both internal i.e. within the community, as well as external. Indigenous women are emerging as a compelling voice in the indigenous rights movement, promoting conditions to better exercise and enjoy their rights on the basis of equality, in a nuanced manner to balance customs and traditions that discriminate against them, while continuing to maintain and transmit indigenous cultures and values. The main demands for indigenous peoples including indigenous women are to exercise the right to self-determination, legal guarantees over their ancestral territories and resources and the right to development with culture and identity.

Top-down and paternalistic approaches to development have provided a social and economic environment whereby indigenous women have suffered from the effects of poverty, the breakdown of traditional social mechanisms and institutions, violence and militarization, dislocation and migration, and the depletion of their natural environment and resources.[[2]](#footnote-3)

Across the globe, indigenous women and girls face persistent inequalities and stigma, especially concerning maternal health and maternal mortality, yet the lack of data in this area renders them invisible and presents a major barrier to efforts to address the issue.

Indigenous women are overwhelmingly less likely to have received health-care services. Indigenous women are three times more likely to have had no antenatal care and twice as likely to give birth without a skilled birth attendant and have a significantly higher adolescent birth rate. This is directly related to the poverty, discrimination, and marginalization that indigenous women frequently face.[[3]](#footnote-4)

**Social and economic rights, including:**

**a) The right to decent work**

Indigenous women’s social and economic marginalization and unequal rights often hamper their ability to fully and effectively participate in the economic life of their communities and societies and they need special support and legal empowerment to address the challenges and take full advantage of the opportunities of globalization and market liberalization. States are urged to take particular measures to promote and strengthen policies and programmes for indigenous women with their full participation and respect for their cultural diversity, so they can choose the development process needed to overcome conditions of poverty. It is crucial to support the economic activities of indigenous women, in full consultation with them to improve their situation and enhance their equal access to productive resources and agricultural inputs, such as land, seeds, financial services, technology, and information.

Policies and mechanisms must be put in place to increase indigenous women’s access to markets and capital to enable them to turn their traditional skills into sustainable forms of income generation.[[4]](#footnote-5)

Governments are recommended to integrate a gender dimension across all areas of their policies and programmes, including their agricultural and economic policies, and include in their policies actions that directly benefit indigenous women, through the following measures: (i) Provide access for indigenous women to funding from public budgets; (ii) Create specific measures that enhance women’s participation in their development processes; (iii) Create national policies that generate employment for indigenous women; (iv) Improve indigenous women’s access to education and the development of their skills, and reform education systems that allow them to take advantage of training and employment opportunities; (v) Strengthen programmes in indigenous peoples’ communities that ensure benefits for indigenous women.[[5]](#footnote-6)

Efforts should be made to strengthen monitoring and evaluation and, where appropriate, to review existing policies and programmes to promote gender equality and the empowerment of indigenous women in education, training, science and technology, and access to full employment and decent work, to assess their effectiveness and impact.[[6]](#footnote-7)

**b) Right to land, territories and resources**

Indigenous peoples have a special relationship with the land and the environment,encompassing socio-political institutions, individual and collective land rights and sophisticated knowledge systems developed through centuries of practice, based on traditions, worldviews, spirituality, cultures and history. Indigenous women have a central role in this, one that is multi-layered and multi-faceted, due to their status and position as the principal transmitters of knowledge, culture and traditions.

Indigenous women who defend the rights of their peoples and territories are prosecuted and involved in incidents of violence against them.[[7]](#footnote-8) To avoid such violent incidents, indigenous peoples including indigenous women must participate fully in decision-making process and their free, prior and informed consent obtained (FPIC). FPIC is both a right and a process that enables indigenous peoples and especially indigenous women to reach consent and adopt decisions that are in accordance with their traditional systems of resource use and management.

States are urged to promote indigenous women’s rights to lands, territories and resources. Furthermore, it is important to ensure that indigenous women be recognized as equal partners in land use and management, demarcation, and registration of indigenous lands.

**c) Right to water and food**

The right to adequate food and the fundamental right to be free from hunger applies to everyone without discrimination. The right to food is frequently denied or violated, often due to systematic discrimination or the widespread lack of applicability of indigenous peoples’ rights. States are recommended to engage in an inclusive and participatory process to ensure food sovereignty and security, in accordance with the principles of free, prior and informed consent, and develop standards,methodologies and cultural indicators to assess and address food sovereignty.[[8]](#footnote-9)

Indigenous women play a key role in achieving food security, improved nutrition as well as the transmission and preservation of culture -such as language. Indigenous women are often the main contributors to the continuation and transmission of their peoples’ cultures, sustainable agricultural practices, food systems and production, including the preservation of biodiversity through seed banks.

States are urged to recognize and protect indigenous peoples’ cultural right to water and, through legislation and policy, to support the right of indigenous peoples to hunt and gather food resources from waters used for cultural, economic, and commercial purposes.[[9]](#footnote-10)

States are encouraged to take positive actions to facilitate the capacity of indigenous peoples to strengthen traditional food systems, such as formally recognizing and demarcating indigenous territories to enable them to carry out productive food activities, per article 8 (2) (b) of the UN Declaration, which prohibits States from any action that has the aim or effect of dispossessing indigenous peoples of their lands, territories and resources.[[10]](#footnote-11)

**Cultural rights**

States are encouraged to take effective measures to ensure that indigenous women, and in particular indigenous girls have equal access to education, based on their cultures and traditions including mother-tongue instruction to strengthen indigenous language revitalization.

States,  United  Nations  entities,  financial institutions and donors are recommended to promote and support development processes led and carried out by indigenous women’s organizations, in accordance with articles 3 and 32 of the UN Declaration, for instance,  leadership  and  capacity- building  schools  and  the  creation  of  funds  managed  by indigenous women[[11]](#footnote-12).

States are recommended to adopt legislation acknowledging that the traditional knowledge of indigenous peoples is their inalienable cultural heritage and embodies their cultural identity and that they make available such legislation and information in local indigenous languages[[12]](#footnote-13).

States are recommended to take practical steps to ensure that the inappropriate and unauthorized documentation and publication of traditional knowledge and traditional cultural expressions/folklore do not occur and to reinforce the capacity of indigenous peoples to make informed decisions in their interests concerning whether and how documentation should be issued.[[13]](#footnote-14)

**Civil and political rights, including the right to live free of any form of violence**

Indigenous women and girls encounter violence in two key domains: within their communities (such violence might be linked to traditions and customs, and may affect the health, sexuality or freedom of movement of women and girls); and outside their home/community environments (such violence may be sexual or otherwise physical, or may be structural and committed by public officials). Indigenous women have contended that violence against women is any act of violence committed against them because of their gender and as a consequence of their historical position within the patriarchal family. In addition, indigenous women have argued that violence against women and girls is a phenomenon that should be analyzed in a broader structural context, particularly with regard to the impact of colonization.[[14]](#footnote-15)

Although there is existing legislation in many parts of the world to eliminate sexual violence against women, enforcement remains an issue. Evidence to substantiate that acts of violence took place such violence is often questioned by enforcement agencies and victims can be reluctant to provide evidence. Therefore, data on reported cases to police will facilitate a better understanding of the extent of the problem.

Sexual and gender-based violence increases in settings of conflict. Sexual violence has also been used systematically as a weapon of war against indigenous women. In the light of the particular risks and vulnerabilities of indigenous women and girls relating to sexual and gender-based violence, Governments, local authorities, United Nations entities and civil society are recommended to collaborate with indigenous peoples to establish multisectoral and holistic approaches to combat the various forms of violence against women and girls.[[15]](#footnote-16)

Indigenous women and youth increasingly face racism and hate speech in social media and can be bullied or harassed mentally and physically. Furthermore, of great concern are the alarming levels of sexual abuse of indigenous children in educational contexts and increased femicide.[[16]](#footnote-17) The lack of data on self-harm and suicide among indigenous children and youth. States are encouraged to adopt measures aimed at addressing the specific problems.

States are urged to establish monitoring mechanisms to address violence against indigenous peoples, including assassinations, assassination attempts, rapes and other acts of intimidation and persecution against indigenous human rights defenders. Furthermore, with regard to article 22 of the UN Declaration, the Permanent Forum recommends that such monitoring mechanisms address the issue of missing and murdered indigenous women, and  that measures  be taken to ensure the full protection  of  indigenous women against all forms of violence.[[17]](#footnote-18)

The Permanent Forum has repeatedly expressed its concern to the high rates of suicide among indigenous youth. States are recommended to allocate adequate resources for community led-holistic prevention and support services, in partnership with indigenous peoples to reduce incidents of self-harm, violence and suicide among indigenous children and youth. [[18]](#footnote-19) These services should be designed in a culturally appropriate manner and in indigenous languages.

**Participation**

Often, indigenous women are excluded from both indigenous decision-making structures and local and national political processes in States. Participation and representation of indigenous women in decision-making at all levels is key to guaranteeing their rights and recognizing their experiences and demands.

To ensure that the rights of indigenous women are duly incorporated into policies, laws, and judicial decisions, it is essential to open spaces of participation for them, including participation in Federal, local, municipal and community government bodies including parliaments. It must be ensured that adequate numbers of indigenous women are placed in positions of political leadership, eliminating structural and legal barriers to their full, equal and effective participation in political, economic, social and cultural life.[[19]](#footnote-20)

1. Report of the third session of the PFII, E/C.19/2004/23, para. 6. [↑](#footnote-ref-2)
2. Idem, para 56, [↑](#footnote-ref-3)
3. Report of the Seventeenth session of the PFII, E/2018/43, para 54. [↑](#footnote-ref-4)
4. Report of the Third session of the PFII, E/2004/43, para 31. [↑](#footnote-ref-5)
5. Report of the Third session of the PFII, E/2004/43, para 57. [↑](#footnote-ref-6)
6. Commission on the Status of Women, access and participation of women and girls in education, training and science and technology, including for the promotion of women’s equal access to full employment and decent work, CSW55 Agreed Conclusions. Page 3, (e). [↑](#footnote-ref-7)
7. Report of the Sixteenth session of the PFII, E/2016/43, para 49. [↑](#footnote-ref-8)
8. Idem, para 58. [↑](#footnote-ref-9)
9. Report of the Tenth session of the PFII, E/2011/43, para 82. [↑](#footnote-ref-10)
10. Report of the Eleventh session of the PFII, E/2012/43, para 57. [↑](#footnote-ref-11)
11. Report of the Ninth Session of the PFII, E/2010/43, para 33. [↑](#footnote-ref-12)
12. Report of the Third session of the PFII, E/2004/43, para 27. [↑](#footnote-ref-13)
13. Idem, para 36. [↑](#footnote-ref-14)
14. Study on the extent of violence against indigenous women and girls in terms of article 22 (2) of the United Nations Declaration on the Rights of Indigenous Peoples, E/C.19/2013/9, para 5. [↑](#footnote-ref-15)
15. Report of the Fifteenth session of the PFII, E/2016/43, para 57. [↑](#footnote-ref-16)
16. Report of the Seventeenth session of the PFII, E/2018/43, para 101. [↑](#footnote-ref-17)
17. Report of the Sixteenth session of the PFII, E/2017/43, para 76. [↑](#footnote-ref-18)
18. Report of the Thirteenth session of the PFII, E/2014/43, para 44. [↑](#footnote-ref-19)
19. Report of the Sixteenth session of the PFII, E/2017/43, para 48. [↑](#footnote-ref-20)