National Human Rights Commission, India

79th Session of the CEDAW Committee on the Rights of Indigenous Women and Girls under the CEDAW Convention

Namaste and greetings from NHRC-India to one and all!

Women face discrimination due to their sex and gender and yet the intersectionality of other identities such as class, caste, race and ethnicity account for greater discrimination against women.

In India the concept of indigenous people is not there, all Indians are considered indigenous by Govt. of India. The Govt. instead recognizes ethnic groups under the category of ‘Scheduled Tribes (ST)’. Although the term indigenous is not recognised with reference to the tribal, safeguards are nonetheless provided for the rights of the Scheduled Tribes through various laws, policies and programmes.

As per Article 366 (25) of the Constitution of India, Scheduled Tribes are being declared by the President of India, the inclusion of a community as a Scheduled Tribe is an ongoing process, currently, 705 ethnic groups have been given the status of Scheduled Tribes in India.

From the data pertaining to the various developmental measures concerning tribal women, what becomes evident is that their access to education, food & nutrition, health rights, economic and political power still suffer and are quite far behind the national average.

In India, keeping in mind the diverse nature of tribal communities and their spatial habitat, the Constitution of India has incorporated the Fifth Schedule (Administration of Scheduled Areas & Scheduled Tribes) and the Sixth Schedule (Administration of Tribal Areas in specific States) to protect, restrict, and govern rights of specific groups in identified areas. In electoral politics, in Parliament, States Legislative Assemblies, Panchayati Raj Institution, seats have been reserved for the candidates from Schedule castes and schedule tribes.

Supreme Court of India has also addressed inheritance rights of tribal women in “*Madhu Kishwar & Ors vs State Of Bihar*” in 1996 by suspending the exclusive right of male succession so long as the right of livelihood of the female descendants of the last male holder remains valid and in vogue.

The National Human Rights Commission of India is taking steps like conducting research on the health inequities among the tribal communities. Recently, in the context of the COVID-19 pandemic, the Commission issued advisories and one such advisory included ‘ Women Belonging to Scheduled Castes (SCs), Scheduled Tribes (STs), and Minority Communities’. The Commission is preparing a comprehensive document that examines whether the domestic laws, policy frameworks and schemes meet the requirements of the articles of the CEDAW, and, thereafter, make recommendations to fill the gaps that would be identified, if any.

In conclusion, considering the status of “tribal” women, the General Recommendation should be formulated and understood in sync with the General Recommendation No. 23 (1997) that discusses ‘women in political and public life’, and General Recommendation No. 24 (1999) discusses ‘women and health’. Equality and non-discrimination of tribal women and girls must be recognized in statistics and policy. The issues of the sexual and reproductive health, early marriage, access to property, lack of safety net and earning capacity, reservation in electoral politics etc. must be by public investment, welfare programs as well as awareness campaigns.

Thank you.