

***Submission by the Asia Indigenous Women's Network  
(AIWN) and Tebtebba  
to the CEDAW Committee***

***re : Draft General Recommendation No. 19 (1992):  
Accelerating Elimination of Gender-Based  
Violence Against Women***

“When examining the rights of indigenous women and girls, it is vital to consider the unique historical experiences of indigenous communities. Many forms of violence and abuse against indigenous women and girls have a strong intergenerational element. Violations of the broad right to self-determination of indigenous peoples are historically and currently endemic. Those have included gross and sustained assaults on the cultural integrity of indigenous peoples; denigration and non-recognition of customary laws and governance systems; failure to develop frameworks that allow indigenous peoples appropriate levels of self-governance; and practices that strip indigenous peoples of autonomy over land and natural resources. Those patterns of violations are vividly exemplified by colonization, but have also been perpetuated by post-colonial power structures and State practices. Those violations of the right to self-determination have been highly detrimental to the advancement of the rights of indigenous women and girls in a number of ways.”  
(Victoria Tauli-Corpuz, UNSR Report to the UN Human Rights Commission A/HRC/30/41).

**Intersectionality of vulnerabilities, oppression and violence among indigenous women and girls (*paras 4, 9-11 in CEDAW/C/GC/19/Add.1*)**

Indigenous women the world over experience particular forms of discrimination because of their multiple identities - as indigenous peoples and as women, as poorer members of society among others. Indigenous peoples' struggle for the recognition of collective ownership of land, territories and resources—a primary concern of indigenous peoples—has been criticized by some as placing greater importance on collective rather than individual rights, resulting in further marginalization of the individual woman. However, this also reveals a gap in comprehending the collective contexts in which individual rights are experienced or enjoyed and a general reservation on the recognition of the importance of collective rights to indigenous peoples. Indigenous women acknowledge the

need to address violence in the name of tradition and domestic violence. Having to face multiple forms of oppression and discrimination, indigenous women assert individual human rights and collective rights to self-determination, land, territories and resources at the same time. Collective rights, tightly intertwined with the survival and identities of indigenous peoples, are complementary conditions that enable the enjoyment of individual rights. The assertion of collective rights, therefore, is a strategic approach to the realization and fulfillment of indigenous women's rights.

At the outset, indigenous women's experiences of violence may not necessarily fit into the 'gender-based violence' category but crass violation of individual and collective rights. Understanding VAW from the perspectives of indigenous women involves broader lenses that capture the intersectionalities of their diverse identities and circumstances. Historical discrimination has led to the current marginalization of indigenous peoples, especially women. Prevalent poverty, lack of basic services nor the access thereto, coupled with geographical isolation and the general lack of political will among states has put indigenous women in vulnerable situations. Such vulnerabilities are galvanized when conflicts from policies and programmes arise without the full and effective participation and consent from the community, including indigenous women.

Unfortunately, several indigenous territories the world over are hosts to conflicts and militarization. Indigenous resistance to land grabs, militarism, exclusive nature protection or reserves among others has been met with impunity. The cases of Berta Caceres,<sup>1</sup> Juvy Capion and children<sup>2</sup> are only two of the many other indigenous women targeted to sow fear in indigenous communities. In Bangladesh where the Adivasi has been asserting their rights to their ancestral lands, recent monitoring reports by the Kapaeeng Foundation reveals "an alarming trend of violence against indigenous women and girls (VAIWG) in the country"... with 42 cases documented from January – July 2015 with a total of 56 indigenous women and girls (8 women and girls fell gang raped, 11 rape, 10 attempted rape, 16 physical assault, 6 sexual harassment, 2 abduction and 3 killing). "What is most disturbing is the victims are mostly minor and adolescent girls, belonging to the age group of 2 to 19. It appears that this age group was the easiest target of the perpetrators during the period of observation. Most of the perpetrators of these incidents allegedly belong to Bengali settler community and influential members of mainstream population. Kapaeeng, further observes that : "the causes of VAIWG remained similar to previous years. A good number of cases were centered around the lands of indigenous peoples. For example, on 19 June 2015, at least 10 indigenous women were physically assaulted and one woman was raped in Mirsarai, Chittagong in connection to an attempted forced

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<sup>1</sup> A Lenca woman leader assassinated on 3 March 2016 in relation to her work against the Agua Zarca Dam which threatens displacement and dislocation of her people in Honduras.

<sup>2</sup> Juvy and 2 sons were instantly killed by multiple gunshot wounds from an indiscriminate strafing by alleged members of the Philippine Army 27<sup>th</sup> IB led by a certain 1Lt. Dante Jimenez (<https://renatomabunga.wordpress.com/tag/juvy-capion/>).

expropriation of their ancestral land. In most cases, the perpetrators who are members of Bengali settlers in the CHT and influential locals in the plains used rape or other forms of sexual violence as weapons to uproot indigenous peoples from their lands. And in other cases, the perpetrators used violence as a way to express their hegemonic masculine attitude towards indigenous women using them as sexual objects.”<sup>3</sup>

**Recommendations to accelerating the elimination of gender-based violence against indigenous women** (paras 13-15 CEDAW/C/GR/19/Add.1):

1). To accelerate the elimination of all forms of gender-based violence against indigenous women and girls, we support and reiterate the recommendations contained in the UNHRC Resolution 32/19 “ Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and girls” adopted 1 July 2016 ( A/HRC/RES/32/19).

2). States to fully and effectively operationalize their commitments to the World Conference on Indigenous Peoples (WCIP) Outcome Document to intensify efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks, and recalling the work of indigenous-specific United Nations mechanisms in addressing violence against women and girls.

The key to addressing the intersecting vulnerabilities and violence against indigenous women and girls, is the recognition of the distinct identities and rights of indigenous peoples as provided by the United Nations Declaration on the Rights of Indigenous Peoples ( UNDRIP). Particularly, indigenous peoples rights to ownership of their lands and territories, their right to free and prior informed consent and self-determination, their right to development and their rights to be free from all forms of violence are basic in responding to the prevalent problems of poverty, land/economic and food insecurity, security of persons, violence which disproportionately affect indigenous women and girls.

3. Consistent with UNSC Resolution 1325, Article 22 of the UNDRIP and the CEDAW, States should comply to their obligations to recognize, protect and fulfill the human rights and fundamental freedoms of all peoples, ensure security of person and life free from violence and displacement.

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<sup>3</sup>Kapaeeng Foundation. *Alarming Trend of Violence Against Indigenous Women and Girls Continue in Bangladesh. 7 August 2015.*

To ensure effective implementation of institutional standards that address structural and underlying causes and vulnerability factors of violence against indigenous women and girls including the alarming culture of impunity, states and their agencies should specifically:

- a) Fully and effectively comply to its commitment to UNDRIP, particularly Articles 30, 11, 19, 28 and 29 to prevent conflict in indigenous territories which puts women in a vulnerable position. Specifically, States should pull out its armed forces from indigenous territories and ensure safe return and appropriate, gender and culture sensitive rehabilitation to displaced and dislocated indigenous peoples;
- b) Reiterate the call for the Commission on the Status of Women to hold a half-day session on Empowerment of Indigenous Women and the CEDAW to make a general comment on indigenous women.
- c) Support the recommendation of the World Conference on Indigenous Peoples Outcome Document to have the Special Rapporteur on the Rights of Indigenous Peoples and the Special Rapporteur on Violence against Women, its causes and consequences, prepare a report on violence against indigenous women and girls which can be presented to the CSW, the CEDAW and the Human Rights Council. (Para 19, A/RES/69/2; un.org)
- d) Ensure strict compliance to the UN Declaration on the Rights of Indigenous Peoples and monitoring of how indigenous peoples rights to their lands, territories and resources, their right to self-determination and to free, prior and informed consent are respected and fulfilled. Monitoring of how FPIC is obtained in all development initiatives of government and corporations in indigenous territories should be done. This includes providing specific spaces and mechanisms for indigenous women, to be able to articulate their views and concerns and ensure their effective participation and equitable share in benefits.
- e) Call on the government, its agencies and personnel to adhere to their international human rights obligations by allocating appropriate logistical, technical and financial support to the full and effective implementation and operationalization of the CEDAW and the UNDRIP jointly with indigenous women.