**Submission from the Center for Reproductive Rights following the call for submission of the Committee on Economic, Social and Cultural Rights (ESCR Committee) for the draft general comment on Land and Economic, Social and Cultural Rights**

**The Center for Reproductive Rights (the Center)—an international non-profit legal advocacy organization headquartered in New York City, with regional offices in Nairobi, Bogotá, Geneva, and Washington, D.C.—uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to respect, protect, and fulfill. Since its inception 27 years ago, the Center has advocated for the realization of women and girls’ human rights on a broad range of issues, including on the right to access sexual and reproductive health services free from coercion, discrimination and violence; on the right to bodily autonomy; preventing and addressing sexual violence; and the eradication of harmful traditional practices.**

The Center for Reproductive Rights (the Center) is pleased to provide this submission for the draft general comment on Land and Economic, Social and Cultural Rights.

This submission will focus on the link between land rights and indigenous women’s fundamental human rights to autonomy and reproductive health and the effects of glyphosate on sexual and reproductive health. In this vein, it also examines the linkages between structural discrimination, poverty and access to land that impact women in the full enjoyment of their sexual and reproductive health and rights (SRHR).

1. **Background**

In different types of situations, access to land, its use and control are denied on discriminatory grounds and therefore, for numerous women worldwide, discrimination is the main obstacle to access, use and control land, affecting mainly poor rural women who are among the most marginalized.[[1]](#endnote-2) The ESCR Committee recognizes that indigenous peoples have a specific knowledge regarding nature, species and their properties and stresses that States must take measures to protect it and to secure the ownership and control of this traditional knowledge.[[2]](#endnote-3) It also indicates that “States parties must provide indigenous peoples, with due respect for their self-determination […] and must take all measures to protect [their] rights, particularly their land”.[[3]](#endnote-4)

Indigenous women and girls are particularly vulnerable to discrimination, acts of violence, retaliation and persecution, including sexual violence and violations of their SRHR, including in relation to access, use and control of land. Their intersectional identity and characteristics, including their culture, sex, gender, ethnicity, socio-economic situation, and languages, among others, places them at the center of systemic and intersectional discrimination in this and all other contexts.[[4]](#endnote-5) This situation is the product of, and is compounded by, the historical, structural and enduring colonialism, discrimination, violence and racism found in society and in its laws, policies and institutions.[[5]](#endnote-6) Violence against indigenous women and girls is closely linked to the continuing colonial dispossession of their peoples’ lands and most commonly involves discriminatory and coercive practices, including acts of sexual abuse and rape.[[6]](#endnote-7) This situation impacts indigenous women human rights defenders and women land defenders in a disproportionate manner, and has an impact on their health, including their SRHR. The Human Rights Committee, indicates that States have the duty to protect life, meaning that they “should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or preventing individuals from enjoying their life with dignity”, which may include degradation of environment, deprivation of land, territories and resources of indigenous peoples.[[7]](#endnote-8) In addition, the ESCR Committee highlights the indivisibility and interdependence of the right to sexual and reproductive health with other human rights, including civil and political rights.[[8]](#endnote-9)

1. **International Legal framework**

States have legal obligations under current human standards to ensure the respect, protection and fulfillment of SRHR of indigenous women and girls without discrimination. The ESCR Committee notes that people belonging to particular groups, including indigenous peoples may be disproportionately affected by intersectional discrimination in the field of sexual and reproductive health.[[9]](#endnote-10) In addition, the ESCR Committee recognizes that a number of barriers (legal, procedural, practical and social), seriously restrict access to the full range of sexual and reproductive health facilities, services, goods and information, stressing that multiple and intersecting forms of discrimination exacerbate exclusion in both law and practice further restricting the full enjoyment of the right to sexual and reproductive health.[[10]](#endnote-11) The legal obligations require States to guarantee that women and girls not only have access to comprehensive reproductive health information and services, but also that they experience positive reproductive health outcomes, including lower rates of maternal mortality, and have the opportunity to make fully informed decisions about their sexuality and reproductive lives.[[11]](#endnote-12)

1. **Equality and non-discrimination**

Treaty Bodies have recognized that gender equality is essential to the realization of human rights.[[12]](#endnote-13) States have an obligation to address the historical roots of gender discrimination, gender stereotypes and traditional understandings of gender roles that perpetuate gender and inequality. In its General Comment No. 22, the ESCR Committee) identified “groups as, but not limited to, poor women, persons with disabilities, migrants, indigenous or other ethnic minorities, adolescent, lesbian, gay bisexual, transgender and intersex persons, and people living with HIV/AIDS [as] more likely to experience multiple discrimination.[[13]](#endnote-14) In the same line, in its General Recommendation No. 28 the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) stated that “States parties should recognize that rural women are not a homogenous group and often face intersecting discrimination” and that “[m]any indigenous and afro-descendent women live in rural settings and experience discrimination based on their ethnicity, language and traditional way of life”.[[14]](#endnote-15) The CEDAW Committee recommended that “States parties should eliminate all forms of discrimination against disadvantaged and marginalized groups or rural women”, including indigenous women and ensure that they “are protected from intersecting forms of discrimination and have access to [...] health care”.[[15]](#endnote-16)

The Committee on the rights of the Child (CRC Committee), the CEDAW Committee, the ESCR Committee, the Committee on the Rights of Persons with Disabilities (CRPD Committee) and the Human Rights Committee have urged States to address both *de jure* and *de facto* discrimination in private and public spheres, adopt measures to eliminate gender stereotypes towards women, and address practices that disproportionately impact women.[[16]](#endnote-17) States should take positive measures to create an enabling environment that improves social conditions, including poverty and unemployment, factors that have an impact on women’s right to health.[[17]](#endnote-18) The ESCR Committee reaffirmed that the right to the highest attainable standard of health extended to the underlying determinants of health, which is applicable to the right to sexual and reproductive health and includes “access to safe and potable water, adequate sanitation, adequate food and nutrition, adequate housing, safe and healthy working conditions and environment, among others.[[18]](#endnote-19)

Treaty Bodies recognized that the failure to provide women with quality maternal health services violates the rights to equality and non-discrimination, since these are services that only women need to meet their specific health needs.[[19]](#endnote-20) The Committees have also specifically recognized that intersectional discrimination can hinder women’s access to reproductive health services and have recommended to States to place a particular focus on the maternal health needs of marginalized groups of women, including adolescents, poor women, minority women, rural women and women with disabilities.[[20]](#endnote-21)

1. **Right to a healthy environment**

The right to health is enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights. In 2000, the ESCR Committee adopted General Comment No. 14, stating that “the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life” which also “extends to the underlying determinants of health, […] a healthy environment”.[[21]](#endnote-22) In its General Comment No. 36, the Human Rights Committee indicates that [“environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life”, stressing that the right to life and “life with dignity depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors”.[[22]](#endnote-23) Among the threats to the right to life with dignity the Human Rights Committee includes the degradation of the environment, as well as the deprivation of land, territories and resources of indigenous peoples”.[[23]](#endnote-24) In relation to science, the ESCR Committee indicates that “the development of science in the service of peace and human rights should be prioritized by States over other uses”, which also includes the industrial or agricultural applications, highlighting that “[h]uman rights assessments might be necessary to protect persons against risky applications” and recalling the importance of the precautionary principle.[[24]](#endnote-25)

In the groundbreaking Advisory Opinion No. OC-23/17 on the Environment and Human Rights,[[25]](#endnote-26) the Inter-American Court on Human Rights (IACtHR) recognized the human right to the environment as an autonomous right protected in the Inter-American System by Article 11 of the San Salvador Protocol and Article 26 of the American Convention on Human Rights.[[26]](#endnote-27) The IACtHR stressed, nonetheless, the undeniable relationship between the protection of the environment and the realization of other human rights,[[27]](#endnote-28) such as the right to life or the right to personal integrity[[28]](#endnote-29), but also the right to health,[[29]](#endnote-30) to participate in cultural life[[30]](#endnote-31) and not to be forcibly displaced.[[31]](#endnote-32) In addition, the IACtHR also stressed the close link that exists between the right to a dignified life and the protection of ancestral territory and natural resources[[32]](#endnote-33) and recognized that impact of a violation of the right to the environment and other interrelated human rights, may be felt with greater intensity by certain groups in vulnerable situations.[[33]](#endnote-34)

1. **The linkages between land rights and indigenous women’s fundamental human rights autonomy and reproductive health**

Treaty Bodies, including the ESCR Committee,[[34]](#endnote-35) have long recognized the linkages between the realization of a range of human rights and women’s reproductive health, as well as to social and other determinants of health, [[35]](#endnote-36) which refer to the conditions in which people are born, grow, live, work and age.[[36]](#endnote-37) These are shaped by power structures and resource distribution at the local, national and global levels. These determinants impact the choices and meaningful agency that individuals can exercise with respect to their sexual and reproductive health,[[37]](#endnote-38) which also applies to indigenous women and girls.  The UN Inter-Agency Support Group on Indigenous Issues indicatesthat “[d]isempowerment and discrimination, including indirect discrimination through inattention in public policies and budgets, are two main structural factors preventing many indigenous peoples from enjoying sexual and reproductive health and rights”.[[38]](#endnote-39)

With respect to the link between the right to land and the full realization of reproductive rights, studies have shown that land access and use by indigenous peoples, and especially for indigenous women and youth, including their use of land for subsistence and for the practice of traditional customs, the sharing of knowledge and building of communities, is a crucial factor in the determination of health and well-being outcomes.[[39]](#endnote-40) The Inter-American Court on Human Rights has recognized that “relations to the land are not merely a matter of possession and production [for indigenous communities] but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations.[[40]](#endnote-41) Similarly, UN Women and the Office of the High Commissioner for Human Rights (OHCHR) note that “women’s access to land and other productive resources is integrally linked to discussions around global food security, sustainable economic development, as well as the pressing fight against the HIV epidemic and prevention of and responses to gender-based violence” and stress that “gender inequality when it comes to land and other productive resources is intimately related to women’s poverty and exclusion”.[[41]](#endnote-42)

Particularly, dispossession of indigenous lands, territories and resources which have traditionally been owned, occupied and used by indigenous peoples, is an expression of the structural, historical and colonial forms of violence and discrimination that indigenous peoples suffer to this day and has tremendous impacts on their lives, integrity and livelihood, with a disproportional impact suffered by indigenous women and girls. In fact, indigenous women, in particular women defenders of indigenous land rights, are especially vulnerable to face dispossession of their lands,[[42]](#endnote-43) but also to suffer severe economic consequences, carrying with the burden of sustaining their families,[[43]](#endnote-44) and to suffer sexual violence, including rape, as a form of instilling fear and exercising power and forcing them to flee their land.[[44]](#endnote-45)

The case of Fausia, presented below, is emblematic of the situation. It illustrates the connection between land rights and historical, structural, and colonial forms of discrimination, gender-based violence against indigenous women, and the devasting consequences of the lack of access to sexual and reproductive health services and of forced dispossession and displacement.

1. **The case of Fausia** (Honduras)[[45]](#endnote-46)

On 13 November 2016, Fausia,[[46]](#endnote-47) an indigenous woman human rights and indigenous land defender from Honduras was raped by two mestizo men as a form of retaliation for her work as a community leader and defender of her ancestral land. As a result, she faced a forced pregnancy. Given Honduras’ severe restrictions on access to reproductive information and healthcare, including the complete ban on access to the emergency contraceptive pill[[47]](#endnote-48) and a complete ban and criminalization of abortion in all circumstances,[[48]](#endnote-49) including rape, Fausia was not able to prevent the pregnancy, nor to  undergo an abortion, as she wanted. Therefore, she was forced into an unwanted pregnancy and maternity.

Fausia’s search for justice for the sexual violence she suffered, led to threats, attacks, and other forms of retaliation against her and her family by the aggressors. Consequently, she and her family were forced to flee their home and ancestral land and, due to fear of reprisals and lack of adequate protection measures by the State, they have been forcibly displaced at least eight times. This has severely impacted her and her family’s physical and mental health, life, and integrity, as well as their right to cultural heritage and tradition, to self-sufficient livelihood, to collective property, and to ownership, possession and use of their ancestral territory. To this day, Fausia has yet to access justice and reparations for these violations, nor have she and her family been able to return to their land, even though they have pursued three different legal recourses – all ineffective. Fausia and her family continue to live in hiding and fear, in a situation of extreme vulnerability, which has been further aggravated by the COVID-19 pandemic.

Fausia’s case is emblematic of the systemic use of sexual violence against women in Honduras as a form of power and gender-based discrimination and violence, which disproportionally impacts indigenous, poor, and rural women. It also illustrates how rape was (and still is) used as a form of direct retaliation and coercion to force indigenous women leaders and their families (and/or communities)[[49]](#endnote-50) to flee from their ancestral land, in complete disregard of, and with the intent of undermining and diminishing, their life and integrity, as well as their right to sexual autonomy and privacy.

In addition, Fausia never had access to information regarding her sexual and reproductive rights, including the healthcare she needed as a survivor of rape, forcing her, after this traumatic experience, into a forced pregnancy and an unwanted maternity. This case also exposes the implications that the restrictions and denial of women’s reproductive rights, have on rural, indigenous, poor women, particularly those who are victims of sexual violence.

1. **Context of the use of glyphosate in Colombia and its impacts on the right to health and particularly to the full realization of reproductive health rights[[50]](#endnote-51)**

In 1992, the Colombian Government launched a program called Illicit Crop Eradication Program using aerial spraying of the herbicide Glyphosate, (PECIG by its Spanish acronym) to carry out aerial spraying of glyphosate herbicide to eradicate declared illegal crops in rural areas.[[51]](#endnote-52) It is estimated that at least 1.8 million hectares have been sprayed within the Colombian territory under this program.[[52]](#endnote-53) In 2015, the Narcotics Nacional Council suspended this program on the grounds that it posed a potential risk to human health and the environment.[[53]](#endnote-54) Currently, the program is suspended by order of the Constitutional Court which established some conditions for its resumption, which requires a participatory and impartial decision-making process involving the people and communities impacted in the areas to be fumigated.[[54]](#endnote-55) The resumption of the program has not yet been authorized, however, the Colombian Government have repeatedly expressed its interest in resuming the program despite the requirements established by the Court.

There have been multiple reports of damage caused to reproductive health associated with glyphosate exposure. The Center for Reproductive Rights and the University of Valle launched a study that evidences the harmful consequences of this substance, including impact on fertility, miscarriages, perinatal and transgenerational effects.[[55]](#endnote-56) Additionally, the International Federation of Gynecology and Obstetrics (FIGO) declared that there was evidence to support the effect of chemical exposures on health.[[56]](#endnote-57) Both reports, based on the precautionary principle, recommended that glyphosate exposure to populations should end with a full global phase out.[[57]](#endnote-58)

1. **Cases illustrating the consequences from the use of Glyphosate on reproductive health**

Miscarriages caused by the exposure of pregnant women to glyphosate sprayed by the Colombian State have been reported.[[58]](#endnote-59) The two cases below illustrate the devastating impact of the exposure of pregnant women to glyphosate.

On 28 September 1998, planes and helicopters from the Colombian National Police fumigated Yaneth Valderrama’s family farm in a rural area of Caquetá, which was covered by the herbicide. At that time, she was four months pregnant. Her husband took her to the Hospital in Florencia after experiencing staining on her skin, difficulty in her breathing and walking, and intense pain in her bones and muscles, among other symptoms. A uterine curettage was performed because she was diagnosed with an incomplete miscarriage. Her health steadily declined. Yaneth Valderrama died on 23 March 1999.[[59]](#endnote-60) Her husband and daughters were forced to flee their land fearing to be further sprayed which could cause serious damage to their health.[[60]](#endnote-61)

The second case that illustrates this situation is the case of Doris Yaneth Alape. Between 15 April and 30 May 1999, the Colombian Antinarcotics Police carried out a massive spraying campaign using glyphosate. The wind carried the chemical over crops, water sources, animals, and homes, contaminating the "intake" of the aqueduct, making people and animals sick, and damaging crops. Doris was pregnant at the time. Following several days of symptoms of poisoning, she gave birth at only 28 weeks. Her son died on 1 June 1999. Doris experienced other effects that prevented her from being able to work.[[61]](#endnote-62)

Both cases have been admitted by the Inter-American Commission of Human Rights for possible violations of the American Convention on Human Rights.[[62]](#endnote-63) These cases, which exemplify the impacts on pregnant women of the exposure to glyphosate, are not the only ones as there are other reports indicating that more cases like these have occurred.[[63]](#endnote-64)

1. **Suggested recommendations/Conclusion**

To combat entrenched discrimination and violence, including “systemic forms of continuing discrimination related to States’ dispossession of indigenous peoples’ lands, territories and resources”,[[64]](#endnote-65) States must, in accordance with the principle of substantive equality, take positive measures to address the inequalities that women face by:

* Addressing discriminatory structures of power.[[65]](#endnote-66)
* Recognizing that women and men experience different kinds of rights violations due to discriminatory social and cultural norms, including in the context of health,[[66]](#endnote-67) and that, women may also face multiple discrimination, based on multiple grounds, including race, disability, age or other marginalized statuses.[[67]](#endnote-68)
* Recognizing that women are the main victims of territorial disputes[[68]](#endnote-69) and that, States have an obligation to protect or defend them in these contexts given their condition as women, which is exacerbated when they have intersecting identities, including as indigenous, leaders and advocates, among others.[[69]](#endnote-70)
* Ensuring equality of results, including by taking temporary special measures.[[70]](#endnote-71)
* Develop and implement laws and policies based on a gender and intercultural approach that guarantees access to and use of these lands to indigenous peoples as vital to their positive health outcomes, including their sexual and reproductive health.

States must also ensure that women, in particular rural and indigenous women and girls, not only have access to the complete range of sexual and reproductive health services, but also that they experience positive reproductive health outcomes, including lower rates of maternal mortality, and have the opportunity to make fully informed decisions about their sexuality and reproductive lives. In this regard, States must also be held to account for the SRHR violations, including gender-based violence, related to the denials of use, control of indigenous lands and lands used by indigenous peoples.[[71]](#endnote-72) This would include ensuring access to justice for violations and addressing underlying causes of such violations, including recognizing the ownership and possession of indigenous peoples over the lands which they traditionally occupy; ensuring the principle of free, prior, informed consent; ensure indigenous women have equal, secure and sustainable rights to land and other resources, regardless of marital status; promoting the participation of indigenous women in decisions regarding their tenure systems to name a few.[[72]](#endnote-73)

In relation to the use of glyphosate and considering the seriousness of the violations occurred because of the use of glyphosate as a part of a public policy of the Colombian State, which also resulted in forced displacement,[[73]](#endnote-74) it is necessary that the States implement measures to protect and respect reproductive health,[[74]](#endnote-75) in relation with the right to life,[[75]](#endnote-76) the right to equal protection and non-discrimination[[76]](#endnote-77) as well as the right to land. In this regard, States must:

* Refrain from engaging, approving, carrying out or allowing any practices that impact the use and enjoyment of the right to land, with a particular emphasis on activities that may endanger the life, health, integrity or well-being of people living and using such land.
* Refrain from adopting any policy that involves the use of substances such as herbicides or pesticides – such as glyphosate – without providing comprehensive information to the residents, landowners and/or communities surrounding the land about the adverse effects and serious impacts on their health and particularly their reproductive health and must secure their informed consent prior to the use of this substance.
* Under the precautionary principle, consciously take decisions and implement policies that will prevent the harmful exposure to herbicides of women, girls and people with reproductive capacity, as well as their children and partners, and as such, refrain from spraying glyphosate over land and crops in order to preserve their life, health, reproductive health, integrity and well-being.
1. OHCHR, Land and Human Rights – Standards of Application, 2015, available at: <https://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf> [↑](#endnote-ref-2)
2. ESCR Committee, General Comment No. 25, para 39. [↑](#endnote-ref-3)
3. *Ibid*. para. 40. [↑](#endnote-ref-4)
4. CEDAW Committee, General Recommendation No. 34, paras. 14-15. [↑](#endnote-ref-5)
5. Inter-American Commission on Human Rights. *Indigenous Women*. OEA/Ser.L/V/II. Doc. 44/17. 2017. Paras 9, 10, 42, available at: <http://www.oas.org/en/iachr/reports/pdfs/IndigenousWomen.pdf> [↑](#endnote-ref-6)
6. Working Group on discrimination against women and girls*. Women’s and girls’ sexual and reproductive health rights in crisis.* A/HRC/47/38, para. 64; See also: Inter-agency support group on indigenous peoples’ issues. *Thematic paper towards the preparation of the 2014 World Conference on Indigenous Peoples. Elimination and responses to violence, exploitation and abuse of indigenous girls, adolescents and young women*. 2014. p. 1. Additionally, in Peru, for example, sexual violence against women was widespread and used as a weapon of war during the Peruvian armed conflict, where 75% of the victims of the conflict were indigenous peoples. Inter-American Commission on Human Rights. *Indigenous Women*. OEA/Ser.L/V/II. Doc. 44/17. 2017. para 97, available at: <http://www.oas.org/en/iachr/reports/pdfs/IndigenousWomen.pdf> [↑](#endnote-ref-7)
7. Human Rights Committee, General Comment No. 36, para. 26. [↑](#endnote-ref-8)
8. ESCR Committee, General Comment No. 22, para. 10. [↑](#endnote-ref-9)
9. Ibid., para. 30. [↑](#endnote-ref-10)
10. *Ibid*, para 2. [↑](#endnote-ref-11)
11. See: ESCR Committee, General Comment No. 22; Human Rights Committee, General Comment No. 36, para 8 and CEDAW Committee, General Recommendation No. 19. [↑](#endnote-ref-12)
12. *Ibid.* See also: Convention on the Elimination of All Forms of Discrimination against Women, adopted Dec. 18, 1979, art. 1, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (entered into force Sept. 3, 1981); International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, art. 3, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force Mar. 23, 1976); International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, art. 3, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1966) (entered into force Jan. 3, 1976); Convention on the Rights of Persons with Disabilities, adopted Dec. 13, 2006, art, 6, G.A. Res. A/RES/61/106, U.N. GAOR, 61st Sess., U.N. Doc. A/61/611, (entered into force May 3, 2008); Convention on the Rights of the Child, adopted Nov. 20, 1989, art. 29(1)(d), G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (entered into force Sept. 2, 1990), Human Rights Committee, Concluding Observations: Cape Verde, para. 8, U.N. Doc. CCPR/C/CPV/CO/1 (2012); Human Rights Committee, Concluding Observations: Jordan, para. 7, U.N. Doc. CCPR/C/JOR/CO/4 (2010); Human Rights Committee, Concluding Observations: Canada, para. 20, U.N. Doc. CCPR/C/79/Add.105 (1999); CEDAW Committee, Gen. Recommendation No. 25, para. 10; CRC Committee, Gen. Comment No. 15, para. 10; CPRD Committee, Concluding Observations: United Kingdom, U.N. Doc. CRPD/C/GBR/CO/1 (2017). [↑](#endnote-ref-13)
13. CESCR Committee, Gen. Comment No. 22, paras. 30, 39-40. [↑](#endnote-ref-14)
14. CEDAW Committee, General Recommendation No. 34, para. 14. [↑](#endnote-ref-15)
15. *Ibid*, para. 15. [↑](#endnote-ref-16)
16. Human Rights Committee, Concluding Observations: Cape Verde, para. 8, U.N. Doc. CCPR/C/ CPV/CO/1 (2012); Human Rights Committee, Concluding Observations: Jordan, para. 7, U.N. Doc. CCPR/C/JOR/CO/4 (2010); Human Rights Committee, Concluding Observations: Canada, para. 20, U.N. Doc. CCPR/C/79/Add.105 (1999); CEDAW Committee, Gen. Recommendation No. 25, supra note 3, para. 10; CRC Committee, Gen. Comment No. 15, supra note 4, para. 10; CPRD Committee, Concluding Observations: United Kingdom, U.N. Doc. CRPD/C/GBR/CO/1 (2017). [↑](#endnote-ref-17)
17. Human Rights Committee, Concluding Observations: Kyrgyzstan, para. 13, U.N. Doc. CCPR/ CO/69/KGZ (2000); CRC Committee, Gen. Comment No. 15, supra note 4, paras. 10, 24. [↑](#endnote-ref-18)
18. ESCR Committee, General Comment No. 22, para. 7. [↑](#endnote-ref-19)
19. Alyne da Silva Pimentel Teixeira v Brazil, CEDAW Committee, Commc’n No. 17/2008, paras. 7.6- 7.7, U.N. Doc. CEDAW/C/49/D/17/2008 (2011); CRC Committee, Gen. Comment No. 20, para. 59. [↑](#endnote-ref-20)
20. See, e.g., CEDAW Committee, Concluding Observations: Thailand, paras. 42-43, U.N. Doc. CEDAW/C/THA/CO/6-7 (2017); Lesotho, paras. 32-33, U.N. Doc. CEDAW/C/LSO/CO/1-4 (2011). [↑](#endnote-ref-21)
21. CESCR Committee, Gen. Comment No. 14, para. 4. [↑](#endnote-ref-22)
22. Human Rights Committee, General Comment No. 36, para. 62. [↑](#endnote-ref-23)
23. *Ibid*., para 26. [↑](#endnote-ref-24)
24. ESCR Committee, General Comment No. 25, paras, 6-7, 22 and 56. [↑](#endnote-ref-25)
25. I/A Court H.R., The Environment and Human Rights (State obligations in relation to the environment in the context of the protection and guarantee of the rights to life and to personal integrity – interpretation and scope of Articles 4(1) and 5(1) of the American Convention on Human Rights). Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 23. [I/A Court H.R, Advisory Opinion OC-23/17]. [↑](#endnote-ref-26)
26. *Id.,* paras 56 and 57. [↑](#endnote-ref-27)
27. *Id.,* para 47. [↑](#endnote-ref-28)
28. *Id.,* paras 59, 66, and 112. [↑](#endnote-ref-29)
29. *Id.,* paras 66, 64, and 110. [↑](#endnote-ref-30)
30. *Id.,* para 66. [↑](#endnote-ref-31)
31. *Id.* [↑](#endnote-ref-32)
32. *Id.,* para 48. [↑](#endnote-ref-33)
33. *Id.,* para 67. [↑](#endnote-ref-34)
34. Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14, The Right to the Highest Attainable Standard of Health, UN Doc. E/C.12/2000/4 (2000), para 11, referring that their right to health not only includes the right to “timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health”. See also, ESCR Committee, Concluding Observations: Australia, para. 28, U.N. Doc. E/C.12/AUS/CO/4 (2009). [↑](#endnote-ref-35)
35. WHO, About social determinants of health (2017), available at: <http://www.who.int/social_determinants/sdh_definition/en/>. [↑](#endnote-ref-36)
36. See, e.g., CEDAW Committee & CRC Committee, Joint General Recommendation No. 31 & General Comment No. 18, paras. 68-9. See also CRC Committee, Concluding Observations: Mongolia, para. 51(a), U.N. Doc. CRC/C/MNG/CO/3-4; [↑](#endnote-ref-37)
37. ESCR Committee, Concluding Observations: Australia, para. 28, U.N. Doc. E/C.12/AUS/CO/4 (2009); WHO, About social determinants of health, *op. cit*. note 18. [↑](#endnote-ref-38)
38. Inter-Agency Support Group On Indigenous Peoples’ Issues, “Sexual And Reproductive Health And Rights Of Indigenous Peoples”, *Thematic Paper towards the preparation of the 2014 World Conference on Indigenous Peoples,* June 2014., p.1. Available at: <https://www.un.org/en/ga/69/meetings/indigenous/pdf/IASG%20Thematic%20Paper_Reproductive%20Health%20-%20rev1.pdf>; [↑](#endnote-ref-39)
39. Different research studies have shown the connection of land rights, including land access and use and from that, the possibility to practice cultural and traditional customs, passing on knowledge, understanding history, and constructing a sense of community, among other, as fundamental and interconnected factor to the realization of the right to health and specifically to increase the wellbeing of indigenous peoples. See, Lines, LA., Yellowknives Dene First Nation Wellness Division. & Jardine, C.G. “Connection to the land as a youth-identified social determinant of Indigenous Peoples’ health”, *BMC Public Health* 19,176 (2019). <https://doi.org/10.1186/s12889-018-6383-8> (referring, for example, that “[t]he youth emphasized the land-health relationship in photos and videos that showed: surviving off the land (Fig. 1), learning and passing on traditional knowledge (Fig. 2), cultural camp, practicing cultural skills, understanding YKDFN history, gathering and preparing food, being out on-the-land, and working together. Activities that promoted a connection to the land were considered health priorities by the youth. The youth were purposeful in taking the photos. For example, the youth took a photo immediately following a hunting trip to capture their excitement of being able to provide traditional food and survive off the land. The youth captured many photos of the traditional knowledge camp resource workers using Indigenous teaching methods to pass on traditional knowledge. They identified teaching and learning traditional knowledge on-the-land as a health priority, at p. 5, emphasis added).; Kant, Shashi et al. “Social, cultural, and land use determinants of the health and well-being of Aboriginal peoples of Canada: a path analysis.” *Journal of public health policy* vol. 34,3 (2013): 462-76. https://doi:10.1057/jphp.2013.27 (referring, *inter alia,* that “Holistic health is also a key ingredient of the Aboriginal health system. In this system, social, cultural, and land use (SCLU) factors are the essential foundation of Aboriginal well-being and health”, at p. 463; in fact the study found thatsocial cultural and land use was “the most important [factor…] for Aboriginal well-being” and that for females the SCLU factors were the most important, followed by Education and then Income and Health domains. Indeed the study found that “[f]or First Nation women, satisfaction with life seemed dependent on securing the future of their families. Education may support their families to secure both income and health. The relative importance of each domain, however, is not independent of the other domains, and therefore increasing satisfaction in one domain may tend to increase the general satisfaction directly or indirectly through its influence on other domains”, at p 472, emphasis added.); Charlotte Loppie Reading Ph.D, Fred Wien Ph.D. University of Victoria Dalhousie University, “Health Inequalities and Social Determinants of Aboriginal Peoples’ Health”, *National Collaborating Center for Aboriginal Health,* (2009). Available at: <https://www.nccah-ccnsa.ca/docs/social%20determinates/nccah-loppie-wien_report.pdf> (referring that “...researchers have discovered that traditional harvesting is linked to a greater rapport with the land, an increased sense of self-reliance and enhanced overall health”, at p. 21, emphasis added). [↑](#endnote-ref-40)
40. IA Court. *Case of Awas Tingni v. Nicaragua*, 2001. Para. 149: “(…) Indigenous groups, by the fact of their very existence, have the right to live freely in their own territory; the close ties of indigenous people with the land must be recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival. For indigenous communities, relations to the land are not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations.” [↑](#endnote-ref-41)
41. UN Women and the United Nations Office of the High Commissioner on Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources*, New York and Geneva (2013), p. 2. Available at: <https://www.ohchr.org/documents/publications/realizingwomensrightstoland.pdf> [↑](#endnote-ref-42)
42. UN Women and the United Nations Office of the High Commissioner on Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources*, New York and Geneva (2013), p. 17. Available at: <https://www.ohchr.org/documents/publications/realizingwomensrightstoland.pdf>; See also, Inter-American Commission on Human Rights. *Indigenous Women*. OEA/Ser.L/V/II. Doc. 44/17. 2017. para 29, available at: <http://www.oas.org/en/iachr/reports/pdfs/IndigenousWomen.pdf> (referring that, for example, in Colombia, indigenous women have been impacted by the consequences of the armed conflict, including forms of displacement, which are compounded by the history of discrimination and exclusion affecting them”). [↑](#endnote-ref-43)
43. See, United Nations, Report of the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli Corpuz, August 6, 2015, A/HRC/30/41, para. 16 (referring that “Additionally, the secondary effects of violations of land rights, such as loss of livelihood and ill health, often disproportionally impact women in their roles of caregivers and guardians of the local environment”); IACHR. *Indigenous Women*. OEA/Ser.L/V/II. Doc. 44/17. 2017, para 62 (referring that “The IACHR has previously stressed the fact that indigenous women are generally recognized as “the key to the continuation of their culture, the guarantors of their peoples’ survival.”122 The loss of land thus entails harm to women in their key roles within the community, as well as having a serious impact on the collective identity”) and para 110 (referring that “Given the household responsibilities of indigenous women and their roles as spiritual leaders in charge of the continuation of indigenous culture, it is alleged that the militarization of their lands, the environmental damage, as well as the forced displacement and consequent danger of the extinction of the Rama language, will have a disproportionate impact on the indigenous women”). Available at: <http://www.oas.org/en/iachr/reports/pdfs/IndigenousWomen.pdf>; See also, *a contrario,* for example, UN Women and the United Nations Office of the High Commissioner on Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources*, New York and Geneva (2013), p. 8. Available at: <https://www.ohchr.org/documents/publications/realizingwomensrightstoland.pdf>(referring that “[b]y diminishing the threat of forced eviction or poverty, direct and secure land rights boost women’s bargaining power in the home and improve their levels of public participation]. [↑](#endnote-ref-44)
44. For example, in the report *Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia*, the Inter-American Commission on Human Rights addressed the multiple forms of discrimination and violence affecting indigenous women in Colombia due to the armed conflict and noted with particular concern that sexual violence was being used as a tactic of war, having an especially severe impact on indigenous women. Inter-American Commission on Human Rights. *Indigenous Women*. OEA/Ser.L/V/II. Doc. 44/17. 2017. para 28, available at: <http://www.oas.org/en/iachr/reports/pdfs/IndigenousWomen.pdf>,citing IACHR, Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia, OEA/Ser.L/V/II. Doc. 49/13, December 31, 2013, paras. 812-821; UN Women and the United Nations Office of the High Commissioner on Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources*, New York and Geneva (2013), p. 17. Available at: <https://www.ohchr.org/documents/publications/realizingwomensrightstoland.pdf>; See also, United Nations, Report of the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli Corpuz, August 6, 2015, A/HRC/30/41, para. 16 (referring that The loss of land and exclusion of women can create vulnerability to abuse and violence, such as sexual violence, exploitation and trafficking”). [↑](#endnote-ref-45)
45. See: Center for Reproductive Rights, Twitter account: <https://twitter.com/reprorightslac/status/1349105762090561540> [↑](#endnote-ref-46)
46. Fausia is the pseudonym chosen by the victim. At the express request of the represented party and in order to preserve the victim's right to confidentiality and her need for protection and security, the pseudonym is and should always be used to when referring to the victim in any communications related to the case. No reference shall be made either to the real names of the members of her family and details regarding her city of origin and the indigenous peoples to which she belongs, as well as other specific information about her case, will be omitted to avoid her identification. [↑](#endnote-ref-47)
47. Since 2009 Honduras institute a total prohibition on the promotion, use, purchase, and sale of the emergency contraception pill. See, Honduras *Health Secretariat*, Ministerial Accord No. 2744-2009. See also, Center for Reproductive Rights. *Corte Suprema de Honduras reafirma prohibición de venta, distribución y uso de PAE,* Feb. 29, 2012, <https://www.reproductiverights.org/es/centro-de-prensa/corte-suprema-de-honduras-reafirma-prohibici%C3%B3n-de-venta-distribuci%C3%B3n-y-uso-de-pae> [↑](#endnote-ref-48)
48. Honduras is one of the six countries in Latin America the criminalizes abortion under all circumstances, not even providing, as a minimum, an exceptions-based framework. Honduras Criminal Code. Decree 130-2017, article 196. Available at: <https://www.tsc.gob.hn/web/leyes/Decreto_130-2017.pdf> [↑](#endnote-ref-49)
49. United Nations, Report of the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli Corpuz, August 6, 2015, A/HRC/30/41, para. 47, 48, 53. [↑](#endnote-ref-50)
50. Center for Reproductive Rights and Epidemiology and Population Health Group of the University of Valle, *Salud Reproductiva y Glifosato en el Contexto de Conflicto Armado*, 2020, available at: <https://reproductiverights.org/sites/default/files/documents/Salud%20Reproductiva%20y%20Glifosato%20en%20el%20Contexto%20de%20Conflicto%20Armado.pdf> [↑](#endnote-ref-51)
51. Luis Felipe Cruz Olivera, Ana María Malangón Pérez, and Camilo Castiblanco Sabogal, *El daño que nos hacen. Glifosato y guerra en Caquetá*. Dejusticia (2020), available at: <https://bit.ly/3k2id0L>. [↑](#endnote-ref-52)
52. Indepaz, “La decisión de la Corte sobre glifosato” (2019), available at: <https://bit.ly/2THFzh5>. [↑](#endnote-ref-53)
53. National Environmental Licensing Agency, Resolution 1214 of September 30, 2015 (2015), available at: <https://bit.ly/3yv0hzw>. [↑](#endnote-ref-54)
54. Constitutional Court, Judgment T-236 of 2017 (Reporting Judge Aquiles Arrieta Gómez: April 21, 2017). [↑](#endnote-ref-55)
55. University of Valle, “*Glyphosate effects on reproductive human health”* (2020), available in Spanish in: <https://bit.ly/3ysQB8H>. [↑](#endnote-ref-56)
56. International Federation of Gynecology and Obstetrics, Removal of glyphosate from global usage (2019) available at <https://bit.ly/3dOhM6i>. [↑](#endnote-ref-57)
57. University of Valle, “*Glyphosate effects on reproductive human health”* (2020), available in Spanish in: <https://bit.ly/3ysQB8H>. International Federation of Gynecology and Obstetrics, Removal of glyphosate from global usage (2019) available at <https://bit.ly/3dOhM6i>. [↑](#endnote-ref-58)
58. Luis Felipe Cruz Olivera, Ana María Malangón Pérez, and Camilo Castiblanco Sabogal, *El daño que nos hacen. Glifosato y guerra en Caquetá*. Dejusticia (2020), available at: <https://bit.ly/3k2id0L>. [↑](#endnote-ref-59)
59. IACHR, admissibility report 76/18, Yaneth Valderrama and Family v. Colombia. OEA/Ser.L/V/II.88, Doc. 88 (2018). [↑](#endnote-ref-60)
60. IACHR, admissibility report 76/18, Yaneth Valderrama and Family v. Colombia. OEA/Ser.L/V/II.88, Doc. 88 (2018). [↑](#endnote-ref-61)
61. IACHR, Admissibility Report 125/17, Henry Torres et al. v. Colombia, OEA/Ser.L/V/II.164, (2017). [↑](#endnote-ref-62)
62. IACHR, Admissibility Report 125/17, Henry Torres et al. v. Colombia, OEA/Ser.L/V/II.164, (2017). IACHR, admissibility report 76/18, Yaneth Valderrama and Family v. Colombia. OEA/Ser.L/V/II.88, Doc. 88 (2018) [↑](#endnote-ref-63)
63. Luis Felipe Cruz Olivera, Ana María Malangón Pérez, and Camilo Castiblanco Sabogal, *El daño que nos hacen. Glifosato y guerra en Caquetá*. Dejusticia (2020), available at: <https://bit.ly/3k2id0L>. [↑](#endnote-ref-64)
64. UN Women and the United Nations Office of the High Commissioner on Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources*, New York and Geneva (2013), p. 8. Available at: <https://www.ohchr.org/documents/publications/realizingwomensrightstoland.pdf> [↑](#endnote-ref-65)
65. CEDAW Committee, General Recommendation No. 25: Article 4, para. 9; CESCR, General Comment No. 20, paras. 8, 9 & 39. [↑](#endnote-ref-66)
66. CRC Committee, General Comment No. 15, para. 9. [↑](#endnote-ref-67)
67. CRPD Committee, General Comment No. 6, paras. 19 and 21; CEDAW Committee, Gen. Recommendation No. 25, para. 12; CEDAW Committee, Gen. Recommendation No. 28, para. 18; ESCR Committee, Gen. Comment No. 20, para. 17; Human Rights Committee, General Comment No. 28, para. 30; CRPD Committee, General Comment No. 3, paras. 3, 4, 38. [↑](#endnote-ref-68)
68. See., United Nations, Report of the Special Rapporteur on the Rights of Indigenous Peoples, Victoria

Tauli Corpuz, August 6, 2015, A/HRC/30/41, para. 16; and Inter-American Commission on Human Rights. *Indigenous Women*. OEA/Ser.L/V/II. Doc. 44/17. 2017. para 62 (referring that “The loss of lands has a disproportionate impact on indigenous women”). [↑](#endnote-ref-69)
69. United Nations, Report of the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli Corpuz, August 6, 2015, A/HRC/30/41, para. 75 (referring that “States must find a way to strike a delicate balance between protection of indigenous women and respect for self-determination and autonomy of indigenous peoples. Engagement and consultation with indigenous women and girls is central to finding that balance”), para 78.d (referring that States must “ensure protection of the activities of all female human rights defenders”) and 79.a ( referring that States should “develop a holistic approach to violence against women, based on the indivisibility and universality of all human rights, which recognizes the multiple interconnections between different forms of violence against women, its causes and consequences, and addresses multiple and intersecting forms of discrimination”). [↑](#endnote-ref-70)
70. CEDAW Committee, Gen. Recommendation No. 25, paras. 8-10; ESCR Committee, Gen. Comment No. 3, para. 10; Human Rights Committee, Gen. Comment No. 28, para. 3; CEDAW Committee, Gen. Recommendation No. 28, para. 20. [↑](#endnote-ref-71)
71. UN Women and the United Nations Office of the High Commissioner on Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources*, New York and Geneva (2013), p. 56. Available at: <https://www.ohchr.org/documents/publications/realizingwomensrightstoland.pdf> [↑](#endnote-ref-72)
72. UN Women and the United Nations Office of the High Commissioner on Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources*, New York and Geneva (2013), p. 56. Available at: <https://www.ohchr.org/documents/publications/realizingwomensrightstoland.pdf> [↑](#endnote-ref-73)
73. Rincón-Ruiz, Alexander y Giorgos Kallis. 2013. “Caught in the middle, Colombia’s war on drugs and its effects on forest and people”. Geoforum 46 (2013), 60 – 78. [↑](#endnote-ref-74)
74. United Nations General Assembly. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover. A/69/299. August 11, 2014. Para. 8 and 10. [↑](#endnote-ref-75)
75. Human Rights Committee, General comment No. 36: Article 6 (Right to life), para. 8, UN Doc. CCPR/C/GC/36 (2018). [↑](#endnote-ref-76)
76. CESCR, General Comment 16 (2005): The equal right of men and women to the enjoyment of all economic, social and cultural rights (article 3 of the International Covenant on Economic, Social and Cultural Rights), para. 29, UN Doc. E/C.12/2005/4 (2005). CEDAW Committee, Case of L.C. v. Peru, Communication 22/2009, UN Doc. CEDAW/C/50/D/22/2009, (2011). [↑](#endnote-ref-77)