

**Submission to the Committee on the Elimination of Discrimination
Against Women for the General Recommendation on the
rights of Indigenous women and girls**

22 June 2021

The Women Human Rights Defender International Coalition and the Center for Reproductive Rights welcomes the response of the Committee to the longstanding demand of Indigenous women rights activists in developing a general recommendation on the rights of Indigenous women and girls. We also welcome the opportunity to present a short submission to the process. In this vein, we have set out below some brief points focusing on Indigenous women human rights defenders (WHRDs).

I. Challenges faced by Indigenous WHRDs

WHRDs¹ face unique challenges, driven by deep-rooted discrimination against women and stereotypes related to gender and sexuality. In addition to the risks of threats, attacks and criminalization faced by all defenders, WHRDs are exposed to specific risks. They are specifically targeted and face additional, specific obstacles, risks, violations and impacts, as well as multiple and intersecting forms of discrimination and violence, which are shaped by who they are, the movements they identify with or are part of, and/or what they are working to advance.²

This includes defenders who are part of historically oppressed groups such as Indigenous communities, as well as racial, ethnic and other groups. Indigenous WHRDs face exclusion, disproportionate criminalisation, threats, intimidation and violence, including sexual violence at the hands of state and non-State actors, including armed groups, private security agencies, corporations, and organized crime, among others. They face a higher level of risk when they are defending their lands, territories and resources from economic plunder (particularly in relation to the extractive industries and other large economic and development projects) and environmental degradation.³ For example, a WHRD from Ecuador shared that women have to sell family resources such as cattle to meet legal expenses associated with the criminal process.⁴ During

¹ The UN Special Rapporteur on the situation of human rights defenders, provides: women human rights defenders as both female human rights defenders, and any other human rights defenders who work in the defence of women's rights or on gender issues (A/HRC/16/44, para 30). The WHRD International Coalition provides: Women who engage in the defense of any and all human rights, and people of all genders who engage in the defense of women's rights and rights related to gender and sexuality are collectively known as women human rights defenders, <https://www.defendingwomen-defendingrights.org/>

² <https://www.ohchr.org/en/issues/women/wrgs/pages/hrdefenders.aspx>

³ https://www.iucn.nl/app/uploads/2021/03/iucn-srjs-briefs-wehrd-gbv-en_01.pdf

⁴ https://www.awid.org/sites/default/files/atoms/files/whrds-confronting_extractive_industries_report-eng.pdf at Page

arrest and detention, they often experience abuse and harassment and denial of sanitary conditions and medical attention including during pregnancy.⁵

The current global context of unchecked authoritarianism and nationalism, of corporate power, and anti-rights discourse, is advancing a view in which WHRDs, including Indigenous WHRDs, are seen as key targets because they fail to conform to what is deemed acceptable by those with power and are singled out for their “deviant” behaviour and for standing up for human rights. This situation has become so intense that it now poses an existential threat to all WHRDs and their movements.⁶

Indigenous women and their communities often live in some of the most militarized areas within the nation states that their territories fall under, and this has a deep impact on their lives because of who is perpetrating violence against them - with their communities remaining heavily militarised and targeted by military operations - and the impossibility of pursuing their rights in a military court.⁷

The COVID-19 pandemic has exacerbated systems of oppression and discrimination. Indigenous women have been severely and disproportionately impacted by the Covid-19 crisis, during which they have lost their livelihoods, the ability to sell their agriculture, and access to healthcare has been further restricted.⁸ The latest report of the UN High Commissioner for Human Rights on the rights of indigenous peoples states that in spite of the crucial role of Indigenous human rights defenders in overcoming challenges posed by COVID-19, ‘threats against and attacks on Indigenous peoples and the criminalization of their activities, in particular those carried out in defence of their lands and resources, continued to escalate in many countries, including in the context of large-scale infrastructure projects’.⁹

A recent Briefing by UN Women¹⁰ concluded that among the most predominant recommendations found in the 40 countries that received specific recommendations regarding civil society organizations, non-governmental organizations or WHRDs addressed the need for WHRDs to be protected from discrimination, intimidation, retaliation and violence by establishing effective protection measures, ending impunity for acts of abuse and attacks against WHRDs and ensuring that WHRDs are able to exercise all their human rights.¹¹ Specifically with regard to Indigenous

⁵https://www.awid.org/sites/default/files/atoms/files/whrds-confronting_extractive_industries_report-eng.pdf at Page 18

⁶ Women Human Rights Defenders International Coalition, Gendering documentation. A Manual for and about Women Human Rights Defenders, 2016; Amnesty International, Challenging Power, fighting discrimination, 2019, <https://www.amnesty.org/en/documents/act30/1139/2019/en/>

⁷ https://apwld.org/wp-content/uploads/2020/07/Submission_UNSRIP_covid19_FINAL.pdf

⁸ https://apwld.org/wp-content/uploads/2020/07/Submission_UNSRIP_covid19_FINAL.pdf

⁹ <https://undocs.org/A/HRC/45/22>

¹⁰ Leaving no woman or girl behind: Trends in specific recommendations issued by the CEDAW Committee, https://mcusercontent.com/ff9f2a2de058fd0d00c70a2ba/files/c58b7961-9254-4148-90a8-0c3348882f44/Analysis_CEDAW_Concl_Obs_Rec_LNOB_groups_women_and_CS0_FINAL_18_September_2020_formatted.pdf

¹¹ Leaving no woman or girl behind: Trends in specific recommendations issued by the CEDAW Committee, https://mcusercontent.com/ff9f2a2de058fd0d00c70a2ba/files/c58b7961-9254-4148-90a8-0c3348882f44/Analysis_CEDAW_Concl_Obs_Rec_LNOB_groups_women_and_CS0_FINAL_18_September_2020_formatted.pdf at page 19

women, recommendations to prosecute, investigate and prevent recurrence of violence against Indigenous defenders was one of the most common recommendations found in the 26 countries receiving recommendations on Indigenous women.¹² There are numerous cases of Indigenous WHRDs being criminalized and/or killed for their legitimate work and justice being denied to them, the case of Berta Caceres being an emblematic example.¹³

The defense of the right to access land, territory and to a healthy environment from plunder and degradation, is an activity that is eminently driven by Indigenous WHRDs. As noted by the Special Rapporteur on Indigenous Rights, “land appropriation is not gender neutral and indigenous women’s rights interact with violations of collective land rights. [...] The gendered effects of those violations become manifest in situations where indigenous women lose their traditional livelihoods, such as food gathering, agricultural production, herding, among others, while compensation and jobs following land seizure tend to benefit male members of indigenous communities. The loss of land and exclusion of women can create vulnerability to abuse and violence, such as sexual violence, exploitation and trafficking. Additionally, the secondary effects of violations of land rights, such as loss of livelihood and ill health, often disproportionately impact women in their role of caregivers and guardians of the local environment.”¹⁴ As a result of having to fight for their own survival, their culture and livelihoods, and struggling against increased gender inequality and gender-based violence, Indigenous WHRDs are often found at the forefront of driving community resistance to violations relating to land, environmental and collective rights. And as figureheads in these struggles, they become the targets of stigmatization, threats, physical attacks (including gender-based violence and sexual violence) and criminalization.

In addition, Indigenous WHRDs are targeted for challenging traditional gender roles in society, and for daring to challenge discrimination in their own communities, as women tend to be excluded from decision making and consultation processes about the use of common land and resources. A study by AWID on WHRDs defending the rights of their communities when dealing with extractive industries, found that women and WHRDs are often excluded or ignored from consultations with local communities affected by projects. For example, in Colombia, a mining company in La Guajira ignored the elected community representative — an Indigenous woman — and initiated talks only with men from the same community, creating a parallel male leadership.¹⁵ This has led in some cases to gender-based violence and defamation campaigns such as the spread of rumours that they are ‘dishonourable women of poor reputation who violate Indigenous traditions by engaging in public participation and advocacy on community concerns.’¹⁶ These campaigns aim to silence, disempower and alienate women from their families and communities.¹⁷

¹² Leaving no woman or girl behind: Trends in specific recommendations issued by the CEDAW Committee, https://mcusercontent.com/ff9f2a2de058fd0d00c70a2ba/files/c58b7961-9254-4148-90a8-0c3348882f44/Analysis_CEDA_Concl_Obs_Rec_LNOB_groups_women_and_CSO_FINAL_18_September_2020_fo_rmented.pdf at page 14

¹³ <https://www.escri-net.org/news/2020/bertas-murder-trial-report-highlights-justice-has-not-been-served>

¹⁴ Report of the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz, A/HRC/30/41, 2015, www.ohchr.org/en/hrbodies/hrc/regularsessions/session30/documents/a_hrc_30_41_eng.docx

¹⁵ AWID, Women human rights defenders confronting extractive industries, 2017

¹⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/246/34/PDF/G1824634.pdf?OpenElement>

¹⁷ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/246/34/PDF/G1824634.pdf?OpenElement>

The attacks, threats, criminalisation and stigmatization against Indigenous WHRDs have a profound impact on their psycho-social security, as well as their physical, emotional and spiritual health.¹⁸ Beyond the targeted individual WHRD, these attacks affect the entire community.¹⁹ Some attacks are strategised 'to divide an organization or community, undermine trust in community leadership, deter organizing or protest, or discredit an organization or community through slander.'²⁰

It is integral that any approach to protection acknowledges that the security of Indigenous WHRDs is often inherently linked to the security of their communities and their territories and can only be fully achieved with a holistic approach, to achieve sustainable and structural changes that guarantee the right of everyone to defend human rights.²¹ This can include the fight against impunity, the reduction of economic inequalities, and striving for social and environmental justice.

II. Proposed Recommendations to States:

- Ensure the participation of indigenous women in the development of laws, policies and programmes that affect them and their communities.
- Ensure and guarantee the political participation and informed consent of indigenous women in all decisions related to the exercise of collective property, which includes a duty to ensure the right of indigenous women to restitution, ownership, possession and use of their ancestral land and territories.
- Recognize that any progress towards equality, justice, and peace is only possible within an environment of protection and respect of the right to defend rights of all WHRDs²² including Indigenous WHRDs.
- Hold to account the perpetrators of violence including structural violence to women rooted in discriminatory, colonial and patriarchal systems.²³
- Develop measures that effectively address situations where attacks against WHRDs are connected to the intersection of different systems of oppression and violence that limit access to justice and protection.²⁴
- Dedicate particular attention to the stop the misuse of criminalization processes by business interests and corporations that use the justice system to silence Indigenous WHRDs and communities affected by their projects.²⁵
- Prevent the prevalence of sexual violence against indigenous women as a tool of power and a form of retaliation to install fear and displace indigenous women, leaders and land defenders and members of their family from their ancestral land and territories.

¹⁸<https://www.frontlinedefenders.org/en/statement-report/growing-concerns-regarding-situation-women-human-rights-defenders-northeast>

¹⁹ https://justassociates.org/sites/justassociates.org/files/collective_protection.pdf

²⁰ https://justassociates.org/sites/justassociates.org/files/collective_protection.pdf

²¹ <https://protectioninternational.org/en/news/latest-publication-collective-protection-human-rights-defenders-%C7%80-collective-approach-right>

²² <http://im-defensoras.org/wp-content/uploads/2021/03/IMD-GEF-Demandas-ENG-Final-1.pdf>

²³ <https://www.ipights.org/news-and-events/news-and-features/women-at-the-frontline-featuring-indigenous-women-land-rights-defenders-at-risk-for-asserting-their-rights-land-and-dignity>

²⁴ <http://im-defensoras.org/wp-content/uploads/2021/03/IMD-GEF-Demandas-ENG-Final-1.pdf>

²⁵ <http://im-defensoras.org/wp-content/uploads/2021/03/IMD-GEF-Demandas-ENG-Final-1.pdf>

- Create effective protective measures and comprehensive accountability mechanisms, to ensure access to justice for Indigenous women and their communities, including for those who has been dispossessed and displaced from their territories, had to flee violence and/or have been victims of rape and forced pregnancies, among others.²⁶
- Ensure access to comprehensive sexual and reproductive health services, in particular emergency contraception and abortion services to victims, in particular to survivors of sexual violence.
- Adopt special measures for the protection of the lives and safety of Indigenous WHRDs given the multiple and intersecting forms of discrimination they face as women and as members of Indigenous communities, and the unsafe conditions that characterize their defense work.²⁷
- Recognise the Indigenous identity of Indigenous women, particularly where Indigenous communities are not recognised by the state.
- Support Indigenous WHRDs' own methods for self-protection with their own social networks and support systems, their processes, recognizing their visions, their own concepts of feminism, worldview, and leadership.²⁸
- Efforts regarding safety, security and protection of Indigenous WHRDs should be guided by an holistic approach, bearing in mind the principles of intersectionality, self-determination, active participation, indivisibility of rights, and collective protection.²⁹
- Finance holistic protection programs that are designed together with WHRDs in order to appropriately respond to the needs of WHRDs, their communities and movements.³⁰
- Ensure laws protect freedom of assembly, association and speech for all WHRDs, including indigenous women.

²⁶<https://www.iprights.org/news-and-events/news-and-features/women-at-the-frontline-featuring-indigenous-women-land-rights-defenders-at-risk-for-asserting-their-rights-land-and-dignity>

²⁷ <https://www.oas.org/en/iachr/indigenous/docs/pdf/Brochure-MujeresIndigenas-en.pdf>

²⁸<https://indigenousrightsinternational.org/news-and-events/news-and-features/women-at-the-frontline-featuring-indigenous-women-land-rights-defenders-at-risk-for-asserting-their-rights-land-and-dignity>

²⁹ <https://www.oas.org/en/iachr/indigenous/docs/pdf/Brochure-MujeresIndigenas-en.pdf>

³⁰ <http://im-defensoras.org/wp-content/uploads/2021/03/IMD-GEF-Demandas-ENG-Final-1.pdf>