

Committee on the Elimination of Discrimination against Women (CEDAW)

Draft General Recommendation No. 39 on the rights of Indigenous Women and Girls (IWAG)

Submission of Comments by the Indigenous Peoples Rights International- IPRI

Endorsed by: Foro Internacional de Mujeres Indigenas (International Network of Indigenous Women) and the Asia Indigenous Women's Network (AIWN)

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Para 2: Insert “and food producers”

It identifies and addresses...and culture transmitters **and food producers** within...

Para 3: Insert “distinct” and “as part of their identity and well-being”

Discrimination against indigenous women and girls must be understood taking into consid-
eration the multifaceted nature of their **distinct** identity... Indigenous women and girls...and
worldview **as part of their identity and well-being**.

Para 7: Insert “and nature” and “and sustainable resource management practices, including
conservation of biodiversity”

Indigenous women and girls play a...native seeds **and nature**; and workers involved in food,
water security **and sustainable resource management practices, including conservation of
biodiversity**;

Para 8: Insert “both individual rights and collective rights” and “patriarchy”

The Committee recognizes...of their human rights **both individual rights and collective rights**.
These forms of discrimination...and is rooted in systemic racism, **patriarchy** and negative ste-
reotypes.

Para 9: Insert “political” and “including in the exercise of their traditional livelihoods as indig-
enous women”

Gender-based violence is adversely affecting...spiritual, **political** and environmental violence. Indigenous women often suffer domestic violence and violence in the workplace, **including in the exercise of their traditional livelihoods as indigenous women**;

Para 11: Insert “of indigenous peoples”; “, as well as their right to property”; and In countries where land rights of indigenous peoples are legally recognized, this is often not properly implemented by states.”; and “, including indigenous women”

One of the root causes of discrimination against indigenous women and girls is the historic absence of the effective implementation of the right to self-determination **of indigenous peoples**, as... Indigenous women face lack of legal recognition...their collective rights, **as well as their right to property**. The lack of legal recognition of indigenous peoples is evident worldwide in constitutions, and laws. **In countries where land rights of indigenous peoples are legally recognized, this is often not properly implemented by states...Governments...to secure the consent of the indigenous peoples, including indigenous women** affected...

Para 12: Insert “forced or involuntary”; Likewise, the remoteness of indigenous communities, lack of facilities and existing discriminatory practices against indigenous peoples and women are factors to the statelessness of indigenous women.”; “The statelessness of indigenous women and girls also make them more vulnerable to abuse and violence and they cannot access state services and protection mechanisms.”

Indigenous women and girls face forms of discrimination and gender-based violence as migrants, including during their **forced or involuntary** displacement... Indigenous girls also often become stateless when their mothers are prevented, on an equal basis with fathers, from transmitting their nationality to their children. **Likewise, the remoteness of indigenous communities, lack of facilities and existing discriminatory practices against indigenous peoples and women are factors to the statelessness of indigenous women...Stateless indigenous girls also cannot enjoy key benefits flowing from status as a national, including education, health, care, property, and employment. The statelessness of indigenous women and girls also make them more vulnerable to abuse and violence and they cannot access state services and protection mechanisms.**

Para 13: Insert “and resource management practices”

...Moreover, states should take into consideration indigenous environmental knowledge **and resource management practices** to preserve biodiversity...

Para 15: Insert “women and”; “women and”; “and livelihoods”; “identity,”; “and specific conditions; “appropriate”

... States parties have an obligation to protect indigenous **women and** girls from all forms of discrimination. The creation of an enabling environment for indigenous **women and** girls’ leadership and effective participation is paramount to the full enjoyment of their rights to **their** traditional territories **and livelihoods**, culture, **identity**, worldview, and a clean, safe, healthy, and sustainable environment. The CEDAW Committee moreover recognizes the

status of indigenous girls as developing persons, which entails a state response tailored to their needs, and specific conditions and the adaptation of government procedures and appropriate services to...

Para 17: Insert “, economic, social”

...The effective participation of indigenous women and girls in political, economic, social and public life...

Para 21: Insert “right to lands, territories and resources”

... The failure to protect the rights to self-determination, right to lands, territories and resources and the effective...

Para 22: Insert “, patriarchal system”; “weakens their intergenerational transmission of traditional and indigenous knowledge”; “; health problems, food insecurity/hunger, poverty and further marginalization of indigenous communities, including indigenous women and girls; and increased vulnerability to violence by indigenous women and girls as they have to fend of themselves and search for food and livelihood outside their territories.”

... Discrimination against indigenous women and girls is perpetuated by gender stereotypes, but also forms of racism, patriarchal system and the legacy of colonization... Barriers to access land can disproportionately impact indigenous women resulting in the loss of their livelihoods; weakens their intergenerational transmission of traditional and indigenous knowledge; threatening their... These problems also result in the lost of critical traditional indigenous knowledge and harm to nature and the environment; health problems, food insecurity/hunger, poverty and further marginalization of indigenous communities, including indigenous women and girls; and increased vulnerability to violence by indigenous women and girls as they have to fend of themselves and search for food and livelihood outside their territories.

Para 23: Insert “Indigenous women also have the right to maintain their distinct identity/ethnicity and pass this to their children including their culture and languages without discrimination.”

Therefore, states must ensure... Indigenous women also have the right to maintain their distinct identity/ethnicity and pass this to their children including their culture and languages without discrimination.

Para 24: Insert “in decision making processes”; “to be accounted”; “awareness and”; “be able to fully exercise their individual and collective rights, including in relation to land and property inheritance, non-discrimination in employment, education, appropriate health services and other”

Many laws that affect indigenous women and girls are adopted without their effective participation or adequate spaces in decision making processes to voice their views and opinions to be accounted. In addition, high illiteracy rates and legal illiteracy constitute barriers to

indigenous women's awareness and enjoyment of their human rights. Many supposedly gender-neutral laws fail to recognize the specific needs of indigenous women and girls, and the historical discrimination they have faced to be able to fully exercise their individual and collective rights, including in relation to land and property inheritance, non-discrimination in employment, education, appropriate health services and other human rights.

Para 25: Insert "Likewise, elderly unmarried indigenous women accused as "witches," or "carriers of bad spirits" and married indigenous women who cannot bear children are heavily stigmatized and are subjected to serious acts of violence and attacks, including killings and exclusion from family/clans or communities."

... Moreover, indigenous women who are lesbian, gay, bisexual, transgender, and intersex (LBTI), including those who are two spirit, gender fluid, non-binary, and bi-gender, regularly face intersecting forms of discrimination. Likewise, elderly unmarried indigenous women accused as "witches," or "carriers of bad spirits" and married indigenous women who cannot bear children are heavily stigmatized and are subjected to serious acts of violence and attacks, including killings and exclusion from family/clans or communities.

Para 26: Insert "The digital divide is aggravating the lack of access of indigenous women to information technology."

... Indigenous women and girls...the digital space. The digital divide is aggravating the lack of access of indigenous women to information technology.

Para 28 (a): Insert "and ethnic-based"; "and in the reporting to the processes relating to their implementation of the 2030 Agenda for Sustainable Development with the pledge of leaving no one behind"

... States parties should collect disaggregated data on the forms of gender-based and ethnic-based discrimination and violence faced by indigenous women and girls; and in the reporting to the processes relating to their implementation of the 2030 Agenda for Sustainable Development with the pledge of leaving no one behind;

Para 28 (c): Insert "and consistent with the recognition and protection of the rights of indigenous peoples as affirmed by the UNDRIP"

Repeal and amend laws...women and girls; and consistent with the recognition and protection of the rights of indigenous peoples as affirmed by the UNDRIP

Para 28 (f): Insert "Likewise, this recognition and protection of the land and property rights of indigenous women shall also ensure the full recognition and protection of the collective rights of indigenous peoples to their lands, territories and resources. This recognition of the collective rights of indigenous peoples to their lands, territories and resources will provide better protection for the rights of indigenous women to ownership of land and property against dispossession"

States should...and dispossession; Likewise, this recognition and protection of the land and property rights of indigenous women shall also ensure the full recognition and protection of the collective rights of indigenous peoples to their lands, territories and resources. This recognition of the collective rights of indigenous peoples to their lands, territories and resources will provide better protection for the rights of indigenous women to ownership of land and property against dispossession;

Para 28 (g): Insert “to information and to communication technologies; and”

Ensure that indigenous women and girls have adequate access to information and to communication technologies; and to information...

Para 29: Insert “and ownership of; “, employment, livelihood”

Access to justice...barriers to access and ownership of their lands, territories...

Para 32: Insert “and traditional indigenous women and men leaders and elders”; “and social cohesion in”

... This entails having available interpreters, translators, anthropologists, psychologists, healthcare professionals, lawyers, and cultural mediators and traditional indigenous women and men leaders and elders... Justice can be a process of balance and healing for indigenous peoples, with the goal of restoring harmony and social cohesion in their communities.

Para 34: Insert “Elderly unmarried indigenous women accused as witches and married indigenous women who cannot bear children who experience violence and attacks”; “also”

Indigenous women face obstacles...with disabilities. Elderly unmarried indigenous women accused as witches and married indigenous women who cannot bear children who experience violence and attacks are also routinely denied their right to a remedy.

Para 35: Insert “Both ordinary and indigenous justice systems often have bias against indigenous women filing cases of sexual abuse by putting the unjust burden of proof to victims while victims are often stigmatized. Perpetrators or their families or relatives in many cases harass, intimidate and threaten victims when they file case against perpetrators. Thus, many indigenous women, girls and the families restrain from using these justice systems as they believe they will not facilitate justice and may even aggravate their condition as victims of violence and abuse.”

... Indigenous women and girls also have limited access to specialized medical care when they suffer acts of rape and sexual violence. Both ordinary and indigenous justice systems often have bias against indigenous women filing cases of sexual abuse by putting the unjust burden of proof to victims while victims are often stigmatized. Perpetrators or their families or relatives in many cases harass, intimidate and threaten victims when they file case against perpetrators. Thus, many indigenous women, girls and the families restrain from using these justice systems as they believe they will not facilitate justice and may even aggravate their condition as victims of violence and abuse.

Para 39 (g): Insert “measures to protect victims from possible reprisals by perpetrators”

Guarantee that judicial institutions, remedies and services are available in proximity to indigenous territories; and **measures to protect victims from possible reprisals by perpetrators**

Para 42: Insert “Likewise, elderly single women accused as witches and indigenous married women who cannot bear children are subjected to violence and abuse often within and outside their communities, based on unjust and gender-based cultural beliefs.”

Trafficking, exploitation in prostitution and contemporary forms of slavery such as domestic servitude are other forms of gender-based violence against indigenous women and girls. **Likewise, elderly single women accused as witches and indigenous married women who cannot bear children are subjected to violence and abuse often within and outside their communities, based on unjust and gender-based cultural beliefs.**

Para 43: Insert “patriarchy and discriminatory gender-based as cultural practices”

Gender-based violence against indigenous women and girls is drastically... Racism, marginalization, poverty, **patriarchy and discriminatory gender-based as cultural practices** and alcohol...

Para 44: Insert “and protection”

States parties have a due diligence obligation to prevent, investigate and punish perpetrators, and provide reparations **and protection** to indigenous women...

Para 49: Insert “resource management and conservation and”

The CEDAW Committee...decision-making concerning **resource management and conservation and** environmental...

Para 50: Insert “meaningful”; “, awareness-raising and different forms of needed capacity building;”

States parties should adopt special measures to facilitate the **meaningful** participation of indigenous women and girls in...skills training, **awareness-raising and different forms of needed capacity building;** campaigning for indigenous women candidates, and the adoption of quotas and targets.

Para 51: Insert “; and those filing cases of violence against women”; “, sexual and other forms of violence”; “and exposing abuse of political power”

... At particular risk are...and informed consent of the indigenous peoples concerned; **and those filing cases of violence against women**... They can be the subject of arbitrary detentions, deprivations of liberty, forms of torture, **sexual and other forms of violence** and

attacks on their family members. Indigenous women human rights defenders are...; and opposition to particular economic interests **and exposing abuse of political power**.

Para 52: Insert “employment”; “; and”; “and provide appropriate protection mechanisms and services”; “in political offices”; “industries,”; “and actors”

- (c) Disseminate...and stand for election and promote their **employment** into the public service; **and** at the decision-making level;
- (d) Act with due diligence to...community levels; **and provide appropriate protection mechanisms and services**;
- (e) Promote indigenous women’s access to...; and adequate health, child care facilities, and support services for caring for older persons **in political offices**;
- (f) Ensure that economic activities, including logging, development, investment, tourism, extractive **industries**...
- (g) In line with the Committee’s General Recommendation No. 30 (2013)...and girls to participate as decision-makers **and actors** in peacebuilding...

Para 53: Insert “and retain their distinct ethnic identity”

... Birth registration is closely linked to...a nationality **and retain their distinct ethnic identity**.

Para 56: Insert “(i) Integrate mother tongue education at the primary schools in indigenous territories and provide conducive learning environment for indigenous children, particularly indigenous girls in schools with mixed indigenous and non-indigenous children.”

Para 58 (a): Insert “if desired”; “iv. Facilitate technical and other forms of support to enhance their sustainable food production systems; traditional livelihoods including handicrafts and other economic activities”; “, including their practice of traditional occupations”

- iii. Facilitating their transition from the informal to the formal economy **if desired**
- iv. **Facilitate technical and other forms of support to enhance their sustainable food production systems; traditional livelihoods including handicrafts and other economic activities**
- v. Protecting the occupational health and safety of indigenous women, **including their practice of traditional occupations**;

Para 58 (b): Insert “without fear of reprisals from employers/petpetrators of gender violence”

Take steps to prevent...accountability mechanisms, **without fear of reprisals from employers/petpetrators of gender violence** including...

Para 63: Insert “and economic”; “and practices”; “The stigmatization of elderly single indigenous women accused as witches and married women who cannot bear children continue to be practiced, especially in rural areas.”

Indigenous women...financial and economic decision-making on the... Discriminatory family and inheritance laws and practices are still in place in a number of countries... Indigenous women also still carry an... The stigmatization of elderly single indigenous women accused as witches and married women who cannot bear children continue to be practiced, especially in rural areas.

Para 65: Insert “indigenous costumes and attires, music and arts, social and economic rituals, the food production and preparation, sports”

... There are many sources of culture for indigenous women and girls, including languages, indigenous costumes and attires, music and arts, social and economic rituals, the food production and preparation, sports...

Para 66: Insert “and change”

Indigenous women have a right not only to enjoy their culture, but also to challenge and change aspects of their...

Para 67: Insert “with consent by indigenous women and peoples”

... States should protect and preserve indigenous languages, culture and knowledge, including through digital tools with consent by indigenous women and peoples; sanction...

Para 68: Insert “and indigenous peoples”; “while ensuring it is gender and culturally sensitive”

(b) Respect, protect...indigenous women and girls and indigenous peoples;

(e) Study the relationship...indigenous languages and culture; while ensuring it is gender and culturally sensitive...

Para 71: Insert “their lands, territories and resources as indigenous peoples”; “legislations and economic plans”; “(f) Provide effective mechanisms in the settlement and peaceful resolutions of disputes and conflicts in the recognition and protection of the rights of indigenous peoples, including indigenous women, to their lands, territories and resources”

(a) Recognize the rights of indigenous women to collective ownership and control over their lands, territories and resources as indigenous peoples; and develop policies to properly reflect this recognition in the local and national legislations and economic plans;

(f) Provide effective mechanisms in the settlement and peaceful resolutions of disputes and conflicts in the recognition and protection of the rights of indigenous peoples, including indigenous women, to their lands, territories and resources

Para 73 (d): Insert “, cooperatives”

Provide technical and financial support to enable indigenous women to create their own businesses, cooperatives and enterprises.

Para 78: Insert “(f) Fully recognize, protect and enhance their knowledge and sustainable resource management and conservation practices of indigenous women as effective solutions to climate change.”

Para 80: Insert “, economic and social”; “and health practices”; “and be cultural and gender sensitive;”; “and livelihood activities, including in relation to sustainable food systems for food security”

(a) Address the disproportionate health, economic and social impact of...

(b) Ensure that indigenous women and girls have access to culturally acceptable health care, aiming at integrating both indigenous traditional medicine and health practices and modern medicine...

(c) Ensure that courts...considered essential and be cultural and gender sensitive; and remain operational throughout the COVID-19 and during future pandemics;

(e) Adopt proactive measures...employment and livelihood activities, including in relation to sustainable food systems for food security

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