

**A LOOK AT THE HUMAN RIGHTS OF
INDIGENOUS WOMEN IN COLOMBIA**

SHADOW REPORT

**CEDAW Session 56 of the Committee on the
Elimination of All Forms of Discrimination against
Women - CEDAW**

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FOREWORD

The CEDAW is a tool that we indigenous women in Colombia only began to get to know and internalize a few years ago: we recognize that although its content does not propose specific measures for indigenous women, we understand that its articles are comprehensive, and that as such, CEDAW is an essential tool for the defence of women's human rights. This makes it an extremely important mechanism for our struggles, because we indigenous women are the most affected by discrimination in a country where women suffer disproportionately from violence because of our condition as women, and we suffer this even more deeply because of our status as women *and* indigenous.

We intend to show in this report a reality that speaks of multiple and cross-cutting discrimination¹, based on gender, ethnicity and also, poverty which increases this discrimination. In addition, we will describe the extremely poor response from the Colombian State.

Colombia signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on July 17, 1980, ratified it on January 19, 1982 and signed its optional protocol on October 12, 1999. To date, the Colombian State has filed eight periodic reports, and for its examination of Colombia, scheduled in October 2013, the CEDAW Committee will consider the combined VII and VIII presented by the government of President Santos. The objective of this upcoming session is to evaluate the compliance of the Colombian State with the Convention and the most recent recommendations made by the Committee (2007).

The recommendations issued by the CEDAW Committee sessions in 2007, represent a major breakthrough for indigenous women, as these include two recommendations specifically targeting the health issues and political participation of indigenous women (Recommendations 23 and 27); which are relevant to us. Nevertheless, pronouncements and recommendations regarding the defence of our rights, need to more comprehensive, in line with the urgent need to address the situation of indigenous women in Colombia from a clearly differential point of view because of our status as indigenous women. **We**

¹ Intersectional discrimination is that which evokes a situation in which different discriminatory factors interact simultaneously, producing a specific form of discrimination. Definition taken from "Multiple Discrimination, an old reality, a new concept". REY M, Fernando. University of Valladolid

therefore ask the Committee to consider the possibility of undertaking the examination and permanent monitoring of the reality faced by indigenous women throughout the world.

This report was prepared by indigenous women from different peoples, is a result of the initiative and the work of women organised in the Council for Women, Family and Generation of the National Indigenous Organization of Colombia (*Organización Nacional Indígena de Colombia – ONIC*²), the Women, Family and Children's process of the - Organization of Indigenous Peoples of the Colombian Amazon (*Organización de Pueblos Indígenas de la Amazonía Colombiana - OPIAC*³) and women from the Indigenous Association for Wayuu Women's Strength (*Asociación Indígena Fuerza de Mujeres Wayuu - Sutsuin Jiyeyu Wayu*) who have played a significant leading role in this process. Many Indigenous women in the country sent us their contributions, which we have tried to faithfully reflect to show the reality they live in.

We hope that this report contributes to the work of the Committee in its review of the progress of the Colombian State regarding the implementation of the Convention and that we will also therefore have tools that help us in our task of claiming our rights.

I. INTRODUCTION

In Colombia, the enactment of the 1991 National Constitution which describes Colombia as a multi-ethnic and multicultural country, and the establishment of the Rule of Law, marked the formal end of more than a century of a mono-cultural (Hispanic), mono - religious (Catholic) and mono -linguistic (Castilian Spanish) State vision. Despite this, and despite some efforts on the part of the State, including multiple spaces for “dialogue and consultation” and laws seeking to protect indigenous peoples, the reality for these peoples and their members is serious, because the State does not guarantee the protection and realization of their individual and collective rights. Indigenous women are in many cases the most affected by the violation of our human rights, as invisible victims of the overwhelming collective situation that we live through as indigenous peoples.

² National Indigenous Authority, which groups together 42 regional organisations

³ Organisation which groups together 47 organisations from the Colombian Amazon region.

No public policy has been drafted for the comprehensive protection of indigenous peoples which takes into account the impact of the armed conflict on indigenous women and men in their own territories; a development model that is based on mining policies which invade, loot and expropriate indigenous habitats, and which do not ensure the proper implementation of consultation processes for free, prior, and well informed consent in which we women participate equally; and a model of society based on cultural beliefs and practices that belittle and discriminate against indigenous and afro-Colombian women not only because of their gender, but also because of their ethnicity. This allows us to conclude that the discrimination experienced by indigenous women is deep and multi-layered, precisely because of their ethnic identity.

The recognition of the existence of indigenous peoples in Colombia, led to the recognition of Special Indigenous Jurisdiction, that is to say, we have the autonomy to exercise our own government: “indigenous territories have their rights recognised to govern themselves, to have their own authorities, to levy taxes, to participate in the revenues of the Nation, to manage their own resources and provide their own public services as local authorities, such as health, education, sanitation and community infrastructure”; powers that could well mean the territorial and political autonomy of indigenous peoples, “given that under the principle of the autonomy of indigenous peoples, they can freely and independently organise themselves in administrative and jurisdictional terms, so long as their procedures ensure full compliance with the fundamental right of due process and recognise the fundamental freedoms that every Colombian has the right to in a judicial process”.

Nevertheless, despite this recognition, indigenous peoples in Colombia suffer the serious violation of our human and collective rights which has led us to the brink of physical and cultural disappearance and which it is necessary to briefly analyse in order to contextualize the reality of indigenous women.

II. EXECUTIVE SUMMARY

We indigenous women suffer constant human rights violations, yet no public policy has been drafted for the comprehensive protection of indigenous peoples which takes into account the impact of the armed conflict on indigenous women and men in their own territories. We live with a development model based on mining policies which do not

ensure the proper implementation of consultation processes for free, prior, and well informed consent, in which we women can participate equally. These projects invade, loot and expropriate indigenous habitats; and a model of society based on cultural beliefs and practices that belittle and discriminate against indigenous and afro-Colombian women not only because of their gender, but also because of their ethnicity. This allows us to conclude that the discrimination experienced by indigenous women is deep and multi-layered, precisely because of their ethnic identity.

Although it is clear that the situation of indigenous women is extremely serious, data on human development and human rights is not disaggregated by ethnicity and gender, meaning that there is no official information describing the reality of indigenous women's rights. These rights include among other aspects, a life free from violence, education, health care, political participation, access to justice, economic empowerment, and land tenure.

Rape and sexual offences against indigenous women and girls are neither reported nor investigated: "The reality is poorly documented and not quantified, there is no data that faithfully describes this reality, we often hear of cases which disappear because they were "not true", or were "a misinterpretation of the facts", or were "imagined"⁴. According to ONIC information, between 2011 and 2012, 11 cases of sexual violence were reported against indigenous women and girls. All of these cases remain unpunished, and most have not even been brought to justice.

Maternal mortality in Colombia is still, according to official data⁵, one of the major causes of inequality in the country. The poorest departments, where the majority of inhabitants are indigenous, suffer the greatest inequality, with a rate of 115.24 deaths per thousand live births, above the average of 79.5 in departments with less poverty. According to the UNDP report on the Millennium Development Goals, the 2009 rates in the poorest departments were: 391.8 (Amazon), 235.5 (Vichada), 220.4 (Guajira), 162.8 (Guainía), 161.8 (Vaupés), followed by Nariño and Cauca which stand above 100. These figures are alarming because some of the rates are as high as nearly 5 times the national average.

⁴ Report "INDIGENOUS WOMEN, INVISIBLE VICTIMS OF THE ARMED CONFLICT IN COLOMBIA". Sexual violence, a strategy of war. 2012 presented to the UN Special Representative on Sexual Violence in Armed Conflict, by the ONIC Council for Women, Family and Generation.

⁵ Analysis of the Health Situation by Region in Colombia. Colombian Ministry of Health and Social Protection, 2013.

In terms of forced displacement caused by violence, despite political pressure and legal Orders 092 and 004 (*'Autos'* in Spanish) dictated by the Constitutional Court, this scourge continues to occur creating further victims: "Between 2007 and 2010 more than 79,000 indigenous people were displaced from their lands; and the ONIC recorded 33 events of indigenous displacement in 2011, amounting to 5,327 people. The main victims of forced displacement are children and women, widows and female heads of household. The constant factor is the Colombian state's failure in attending to these situations".

One of indigenous women's rights being violated is the right to access justice. Generally, neither the indigenous justice system nor the ordinary courts respond to their demands. The fragility of the indigenous justice system and the failure of the regular courts, which have multiple barriers to access, often lead to the re-victimization of indigenous women victims. When women finally manage to file a legal complaint, there are no translators in court proceedings and there are no protocols for the specific treatment of indigenous women. Often, cases are heard collectively, in violation of the basic rules that protect the right to the privacy of victims of sexual violence.

The Colombian State has not created information systems that reflect the differentiated reality for indigenous women in terms of human rights. It could be argued that the "multiethnic and multicultural nation" with institutions, information systems, policies and programs that recognize this diversity, does not exist.

Despite agreements for the formulation of public policies in favour of Colombian women and indigenous peoples, the issue of indigenous women has been mainstreamed to the extent of not focusing any special attention on their situation, with the effect of making them invisible.

- State institutions and officials do not have adequate tools and training to respond to an ethnic and gender differential focus in their actions.
- According to indigenous women, Law 1257 does not contain a framework beneficial to the defence of their rights, there is no coordination between the national ordinary courts and indigenous justice systems and because of this, women remain unprotected and have nowhere to turn. Likewise, the implementation of this law does not take into account the particular characteristics

of indigenous women, and the measures adopted do not have an appropriate focus for indigenous women.

- The implementation of policies such as Decree 4633 on the Victims Law has been slowed down by meetings and negotiations which have not lead to concrete actions.

III. Considerations on the context in which the Indigenous peoples of Colombia live⁶

In order to understand women's human rights it is important to recognize the reality of indigenous peoples' lives in the Colombian context, where it is a well-known fact that an internal armed conflict has been raging for 60 years.

In general, in Colombia there is no reliable population data to describe the indigenous population; a number of different figures are therefore used, and there are no official State sources. The ONIC⁷ asserts that the total indigenous population is 1.4 million, which corresponds to 3.43% of the total population, and that 49 % of indigenous people are women. Over 73% of indigenous peoples inhabit two regions: the South West (Cauca and Nariño) and the North (Cesar, Córdoba, Guajira and Sucre); this situation explains the demographic fragility of peoples inhabiting especially the Colombian Amazon and Orinoco regions, where there is a great ethnic diversity, concentrated in 56 different indigenous peoples.

The vast majority of indigenous men and women live in legally recognised Indigenous territories, of which there are 642 in total, originally created by Law 89 of 1890. These are established "protected" indigenous territories, as collective property with our own political jurisdiction .

We have found that, It is noted that of the 102 peoples already contacted in Colombia⁸, 66 are at risk of physical and cultural extermination (i.e. 62.7% of the total existing indigenous peoples): of these 66 peoples, 31 have less than 500 inhabitants, 18 have fewer than 200 and 10 have less than 100, and all suffer disproportionately the impacts of armed conflict, discrimination, implementation of economic policies and institutional neglect, factors that

⁶ Much of this chapter is taken from the report "Indigenous Women, Invisible Victims of the armed conflict in Colombia. Sexual Violence – a war strategy" presented in 2012 to the Secretary General's Special Representative for Sexual Violence in armed conflict.

⁷ National Indigenous Organisation of Colombia (Organización Nacional Indígena de Colombia)

⁸ The National Government only recognises the existence of 84 indigenous peoples

increase their situation of imminent physical and cultural extinction⁹. The same Constitutional Court Order 004 of 2009 recognizes this situation. It is noteworthy that although the collective situation of Indigenous peoples at risk of disappearing has been documented, no research has been carried out into the particular situation of women living in the midst of that reality.

The internal armed conflict has made our people and our lives the main victims of the war; a conflict that feeds itself on the dispute over our territories, and for the control of their great wealth, their biodiversity, and their bioenergy and mining resources. This conflict has led to the almost total militarization of our territories and of our everyday life and with it the use of women for interests which are unrelated to our indigenous Life Plans.

For the national government and transnational capital, our territories are merely a source of energy, mineral and environmental resources, which is a permanent threat to the integrity and physical and cultural survival of our peoples and of individual beings who inhabit these lands. These territories are an immense source of wealth for the country.

Despite this wealth, the situation of inequality in the distribution of wealth is enormous: “In the case of Colombia, 49.1% of the country's income goes to the coffers of the most affluent 10%, compared to the 0.9% that is left over for the poorest sectors”¹⁰. According to the National Human Development Report 2011, 63% of indigenous peoples live below the poverty line (compared to the national rate of 34.1%), and 47.6% below the extreme poverty line. In interpreting this data we have to take into account that women are the most affected by poverty, because of the historical ethnic and gender discrimination against them. Added to this is the discrimination and violence faced by indigenous women within their own villages and communities.

One severe impact of the conflict in the lives of our peoples is the constant forced displacement that has facilitated processes for the illegitimate occupation and dispossession of indigenous land by large landowners, corporations, paramilitary groups, and others interested in mining and agricultural megaprojects. Between 2007 and 2010, more than 79,000 indigenous people were displaced from their territories; according to the ONIC in 2011, 33 events were recorded of Indigenous displacement, amounting to 5,327

⁹ See National Indigenous Organisation of Colombia (Organización Nacional Indígena de Colombia –ONIC), “Sweet words – breath of life”. Forging pathways for the survival of Indigenous peoples at risk of extinction in Colombia. Page 1. Ediciones ONIC. 2010

¹⁰ UN Habitat 2010.

people¹¹. These events mainly involve children and women, widows and female heads of household. The constant, is the Colombian State 's failure in providing care.

It is difficult to register crimes for many reasons. “It is possible to estimate that during 2012 at least 18,154 indigenous people were displaced from their places of residence and, even though a large part of indigenous peoples displaced within their territory or to nearby places to avoid dispossession of their lands, many members of these communities came to cities and were thereby removed from their cultural practices, causing the breakdown of their livelihoods and their reason for living”¹². CODHES concludes that these indigenous people represent 7.08% of the total displaced population, which is proportionately twice as high as the percentage of displaced people from the rest of the population.

Killings are another factor greatly affecting the lives of indigenous peoples. Between 2002 and 2009 over 1,400 indigenous people were murdered, and According to the ONIC from January to November 2011, there were 111 homicides (official figures only recognize 79), indicating an increase of 8 % over the previous year. To name just one specific case, between 2000 and 2012, the Indigenous Movement of Wayuu Women's Strength (Movimiento Indígena Fuerza de Mujeres Wayuu), documented 240 cases of murders and disappearances of indigenous Wayuu people [1], of which 16 are indigenous women. They believe that the lack of data on women, is due to the absence of formal complaints made by Wayuu women victims.

For indigenous women, undoubtedly one of our major concerns relates to the impact that the presence of so many external actors, in conflict, invading our territories, is having on our lives and our bodies. These actors include armies, companies who unlawfully gain mining concessions, the implementation of mining or infrastructure megaprojects, for the most part without exhausting the mandatory procedure of prior consultation (free, prior and informed consent), a constant during this government as part of the framework for the implementation of the “engines for Development” in the National Development Plan.

¹¹ <http://www.derechoshumanos.gov.co/Observatorio/Paginas/Observatorio.aspx>

¹² “The humanitarian crisis in Colombia continues”. Report on forced displacement in 2012. CODHES

According to our knowledge, in 2012 there were 8,000 existing mining permits, 233 of which are fully or partially overlapping with 113 indigenous territories. We know of 22 prior consultation processes implemented since 1994. These processes were for the most part irregular and did not include the participation of indigenous women.

One case is that of the “Open Round 2010”, in which the National Hydrocarbons Agency awarded 78 oil blocks without consulting indigenous peoples, and which wholly or partially affect territories of indigenous peoples at risk of extinction. The violation of the right to prior consultation is systematic, as described in the Constitutional Court Sentences T-129, T-235 and C-366 of 2011, which order the protection of this right.

The State guarantees protection and security to companies implementing mega projects. This means the presence and installation of army battalions, which in many cases, have been installed in indigenous territories, for example Infantry Battalion No. 43 was installed in Cumaribo, department of Vichada, with numbers of soldiers highly exceeding the indigenous Population there. This has brought, as we have described, in the municipality of Cumaribo itself, growing prostitution involving indigenous girls, unwanted pregnancies, sexually transmitted diseases, emotional involvement and sexual violence.

Along with the military and police forces, come illegal armed groups, namely the paramilitaries and guerrillas, who have also turned our bodies into spoils of war .

As reported by the Nasa peoples of northern Cauca: “The presence of 5,000 soldiers from the Pichincha Battalion, two ‘High Mountain’ Battalions, 6 ‘Peasant Soldier’ Battalions, 2 Counternarcotics Battalions, plus mobile brigades and special forces, as well as about 2,500 fighters, and hundreds of guerrilla militia, have caused serious attacks against our community. The presence of military and police bases in urban areas has led to an increase in insurgent attacks in densely populated areas causing multiple casualties ...”

Recommendation

- Urge the State to agree upon and implement the necessary protection measures to address the risk of the physical and cultural extinction of indigenous peoples.

- Stop the handover of Indigenous territories for the exploitation of mining resources, without consultation and which damage peoples' health and impact negatively on the ecosystem.
- Demand the demilitarisation of Indigenous territories and support the strengthening of Indigenous governments and their territorial autonomy.

V. A LOOK AT THE RIGHTS OF INDIGENOUS WOMEN

Although one of the recommendations in Special Rapporteur Stavenhagen's¹³ 2004 report¹⁴, invited the State to formulate specific indicators describing the situation of indigenous women, today, almost ten years later, there is still no statistical information on indigenous women, which crosscuts the categories of gender and ethnicity.

The Colombian National Statistics Department (DANE) has little data differentiated by gender, but the figures available which describe the situation of indigenous peoples, as well as data describing the status of women, are not differentiated by ethnicity descriptors. A similar case occurs with the human rights observatory in the President's Office, which issues reports on the humanitarian crisis of indigenous peoples and also of women, however the issue of indigenous women is invisible.

The lack of statistics available to help us gain an accurate idea of the real situation for indigenous women in Colombia, is commonplace among State institutions. Neither the Public Prosecutor, the Attorney General, nor institutions such as the ICBF¹⁵ and the Interior Ministry Office for Indigenous Affairs itself, are able give an overview of the situation for indigenous women supported by figures.

¹³ UN Special Rapporteur on the rights of Indigenous peoples.

¹⁴ On the situation of the human rights and fundamental freedoms of indigenous peoples in Colombia, 2004

¹⁵ Colombian Institute of Family Welfare (Instituto Colombiano de Bienestar Familiar) – responsible for child protection

In our analysis we will now consider some of the rights enshrined in the Convention that we consider relevant at this time. It is important to mention that the difficulty to document cases, in a rigorous manner, also occurs in part because we indigenous women do not dare to report crimes against us, added to the fact that neither the State nor the indigenous organisations themselves have taken care to ensure that this information is recorded systematically and appropriately. In short crimes against us are under-reported, in some regions in almost 100% of cases.

Recommendation

- Urge the State to create and guarantee information systems that reflect and permanently monitor the human rights situation and in particular the implementation of CEDAW for indigenous women.

1. NON discrimination

The Convention condemns discrimination against women and urges States to take steps to eliminate it. It defines “discrimination against women” as meaning any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. (art. 2) and later establishes that States must “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women” (art.5a).

In Colombia, discrimination against women is evident, as described in the many reports by both official and unofficial institutions and international human rights organisations. The Constitutional Court in its Order (*Auto*) 092 of 2008¹⁶, in reference to the situation of indigenous women, acknowledged that indigenous women “suffer a burden of multiple discrimination and violence, because of their gender and indigenous status, and at the

¹⁶ Colombian Constitutional Court Order 092 of 2008 requires the Colombian State to adopt measures to protect the fundamental rights of women victims of forced displacement due to the armed conflict

same time, they are the least prepared in terms of material and psychological conditions, to face the conditions imposed by forced displacement, moreover, the occurrence, frequency and severity of cases of sexual violence increase significantly for women who are in a position of greater vulnerability, are unprotected and exposed to all kinds of crimes perpetrated against them in the context of the armed conflict”.

The Constitutional Court also recognizes the severity of the impact on our lives: “they are vital for the reconstruction and strengthening of the social fabric affected by armed conflict, via their grassroots social organisations and their community integration processes, in such a way that the effects of the situation against them weaken their peoples”. The Constitutional Court concludes, in the court order, that “it has been demonstrated by various sources that indigenous women are one of the groups of women displaced by violence, and are the population sector that has been most severely affected by crimes, injustices and inequalities which are a fundamental part of both the armed violence and forced displacement”.

From our perspective, we do not only suffer discrimination because of the war, we suffer it in everyday life and in our relationships with Western society. This is expressed in a thousand ways: offensive stereotypes, insults, social and media representations in which we are disqualified for being women, our social place in the world of work in which we are only considered suitable for “domestic work”. These are just some of the forms of cultural discrimination and “non-recognition”¹⁷, and we certainly could name other ways such as what happens to us when we try to access services related to health, education, or the economy, to name a few.

The recognition of Colombia as a multiethnic and multicultural country, is not enough to understand that we indigenous women possess a particular way of being and living in our territories which are linked to indigenous worldviews, are different for each indigenous people, but in the vast majority are governed by principles of “duality”, “reciprocity” and “complementarity”, a close relationship with the cosmos and all beings that inhabit it and a deep sense of community that strengthens the notion of the people we belong to. The lack of understanding of these realities means that society and the State in general, ultimately adopt measures which do not respect us and intend to assimilate us with the “majority” of women.

¹⁷ Nancy Fraser, in her analysis of “the righteousness of recognition and redistribution”

We also suffer discrimination when “culturalist” positions justify “customary practices”, which for different reasons cause harm to our lives and dignity, for example in the case of harmful practices such as female genital mutilation, “la pelona” (a ritual in which the hair of young girls entering puberty is pulled out), violence, abuse, marriage of underage girls, among other practices that we indigenous women have identified in discussions on this topic.

Poverty, armed conflict, the “development model”, the State and its centralist policies, sharpen and deepen discrimination against us as women and indigenous people. For this reason we consider that discrimination against us is multiple and cuts across our whole lives, causing us great suffering.

Recommendation:

- Urge the Colombian State to implement affirmative actions aimed at eliminating action in Colombian society and its institutions all images, representations and practices that discriminate against indigenous women.
- Implement actions and media campaigns that contribute to transforming discriminatory images in society.
- Make progress to coordinate with indigenous authorities the implementation of the agreements of the “Summit of indigenous and non-indigenous State authorities”, held in October 2005 in relation to the eradication of harmful practices to the lives and health of indigenous women and girls.

2. A life free from violence

Throughout this report we show that indigenous women do not enjoy the fundamental right to a life free from violence. Everything tells us this, and many Indigenous women have expressed in different meetings that their lives tell a story of ongoing and systematic violence:

- According to research carried out by indigenous organisations, at least 70% of women have suffered or are suffering from violence within the family and community. This violence has become normal, which makes its elimination more complex. We have found that these forms of domestic and community violence

worsen with processes for indigenous acculturation and the imposition of cultural models which are alien to them.

- Violence caused by the attacks on our peoples: invasion, militarization, recruitment, looting, displacement, fear of fighting and landmines, among other damage to our peoples and territories that causes us suffering.
- Sexual violence committed by both outsiders and by people in the communities and in some cases, incest and sexual abuse of girls.
- Psychological and spiritual violence committed through the indifference of indigenous authorities and women themselves; through exclusion and a lack of opportunities for equal participation.

Recommendation

- Articulate and coordinate actions among indigenous governments and local, regional and National governments, to promote the eradication of all forms of violence against women.

3. Education:

In terms of education, 28.6% of indigenous women over 15 are illiterate, compared to the national average of 5.8%. Prejudice that women do not need education has been overcome and a significant number of indigenous girls attend school, however, they often fail to complete basic education, have much less access to higher education and are less likely to complete it. Poverty, early childbearing, armed conflict (militarization, landmines, fighting, bombing, ...) and displacement, among other factors, are barriers to access or to staying in school, added to the fact that in many cases the systems, curricula and school dynamics are culturally inappropriate. The figures themselves describe the plight of children aged between 12-17 years of age in the poorest departments where indigenous people live. There is less than 50% overall attendance in educational establishments; for example in the Chocó department the figure stands at only 34%, information which is not disaggregated by gender, but which describes the denial of the right to education.

In Colombia we often speak of a crisis in education, especially linked to budget issues and quality of education, which undoubtedly affects indigenous education and is clearly

demonstrated by the poor quality of education, intermittent educational cycles, outsourcing of education and difficulties in access, among other issues.

There is very little research, data and figures on the coverage and quality of education for indigenous peoples. One source of information is the 2005 national census, which with respect to educational levels in general, states that indigenous peoples have the highest percentage of people (30.1%) who have not studied, tripling the percentage of population who have not studied in other population groups, likewise says the census, there is a higher rate of illiteracy than in other ethnic groups.

Therefore indigenous peoples find themselves in a precarious situation in terms of access to education. It is important to take into account that we indigenous women have greater difficulties to access education in rural areas and in urban centres, including:

- The lack of financial resources of indigenous women in a situation of forced displacement to access higher education.
- Few designated places for indigenous people in universities
- No maintenance grants that would enable them to study in cities
- Displacement, economic poverty, lack of teaching materials
- No differential training or psychosocial support for women who are victims of the armed conflict.

Recommendations:

- Urge the State to develop Adult Education and Literacy programs with a differential ethnic and gender perspective to ensure the right to education throughout life
- Facilitate processes so that indigenous peoples' own education systems include a gender focus.
- Create the conditions to guarantee access for Indigenous women to secondary, higher and vocational education.

4. Health:

Maternal mortality in Colombia is still, according to official data¹⁸, one of the major causes of inequality in the country. The poorest departments, where the majority of inhabitants are indigenous, suffer the greatest inequality, with a rate of 115.24 deaths per thousand live births, above the average of 79.5 in departments with less poverty. According to the UNDP report on the Millennium Development Goals, the 2009 rates in the poorest departments were: 391.8 (Amazon), 235.5 (Vichada), 220.4 (Guajira), 162.8 (Guainía), 161.8 (Vaupés), followed by Nariño and Cauca which stand above 100. These figures are alarming because some of the rates are as high as nearly 5 times the national average.

We believe that this high rate of maternal mortality, is also linked to the fact that indigenous midwives are not taken into account by the mainstream health services, they are also discriminated against and their knowledge and work are not sufficiently valued. "The vital and effective role that coordination between traditional health networks and the formal health system could play is not recognised. On the contrary, indigenous midwives are prohibited from accompanying the pregnant woman, even when it is explained to the doctor, they do not listen, however, the Indigenous midwives are told they are responsible for the bad things that can happen, if they intervene in the birth process".

Despite the fact that up-to-date official information exists related to health, it is disturbing that we have no statistical data differentiated by ethnicity and sex. All the information we have has to be inferred from the regional results and this situation does not allow us to clearly ascertain the state of indigenous women's sexual and reproductive health.

We know that indigenous women face barriers to access a coordinated health system which acts in accordance with our practices and traditional systems of health care; and the difficulties we face in accessing medical care in their communities. There are no staff, medicines or instruments; and infrastructure is inadequate to address situations of medium and high severity in indigenous communities. Conditions and transportation do not exist to ensure that indigenous patients can be moved to centres offering higher level health care. Care in hospitals and medical centres does not include culturally appropriate care protocols: there is no translation into indigenous languages, there are no conditions for indigenous patients to be accompanied by family members, there are no indigenous-

¹⁸ Analysis of the Health Situation by Region in Colombia. Colombian Ministry of Health and Social Protection, 2013.

friendly information systems that contribute to our understanding of the medical procedures we may face.

Discrimination is evident when health centres do not attend us properly “because we do not speak fluent Spanish, because we do not understand Western medical diagnosis, because we do not take drugs because we cannot read, because we do not allow our bodies to be touched when we are being medically examined, because indigenous women do not arrive perfumed and well dressed”. These are all situations that make us feel prefer like staying in our communities rather than being rejected.

Perhaps one of the biggest cultural differences can be demonstrated by the concept of healthcare, that is to say that according to the wide diversity of indigenous peoples, our conception of health is linked firstly to our view of the world and the relationship between the individual with the environment in our territories, which is why the concept of healthcare is different within each indigenous people. However, we can highlight some general features such as: the importance of the relationship between health and nature, spiritual aspects, and the relationship between individual health and the health of the community.

Indeed, the traditional and ancestral medicine of indigenous peoples has been seriously affected by various factors associated with the weakening of the culture of these peoples. Armed conflict is one of the factors that have most seriously affected our health. This is expressed by the following factors:

- The loss of knowledge related to medicinal plants by doctors, women and especially young people.
- Deforestation, restrictions on movement in the territories imposed by armed groups (legal and illegal), the fumigation of forests close to illicit crops and the influence of churches which designated as “evil” the practice of traditional medicine. These are the most important factors that lead to the progressive loss of indigenous peoples’ own medical practices.
- The decline of midwives in communities as a result of mobility restrictions due to territorial control pursued by armed actors.

- Spread of STDs by the security forces and other armed groups that control our territories, previously unknown diseases which we know little about, and we do not know how many indigenous women have been affected. Health authorities have never carried out an analysis of this in order to carry out prevention campaigns, which have been concentrated in urban areas.

RECOMMENDATIONS:

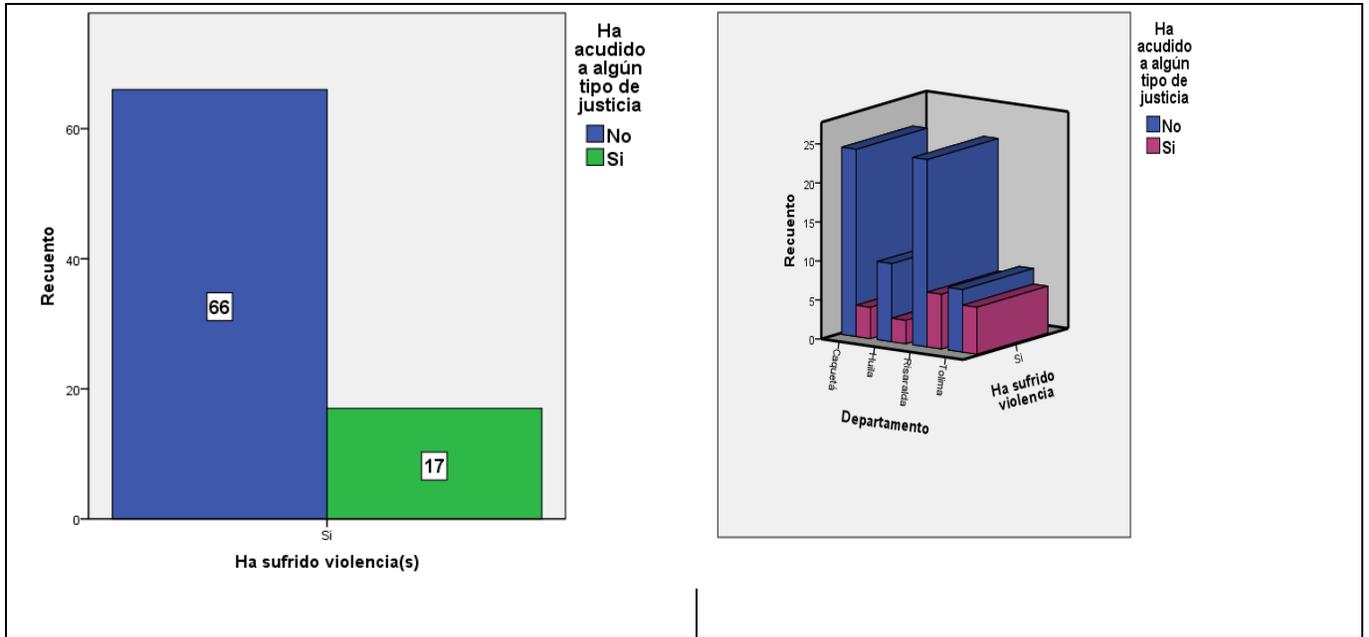
- That the State facilitates and coordinates between indigenous and national health systems the inclusion of culturally appropriate practices and protocols with a gender perspective that ensure indigenous women the full realization of the right to health
- That the necessary resources are designated for institutional adaptation, sensitization of health personnel and the necessary staffing for culturally appropriate healthcare with a gender perspective.
- That special attention is paid to the sexual and reproductive health of indigenous women, especially concerning the prevalence of STDs and HIV-AIDS.

5. Access to justice

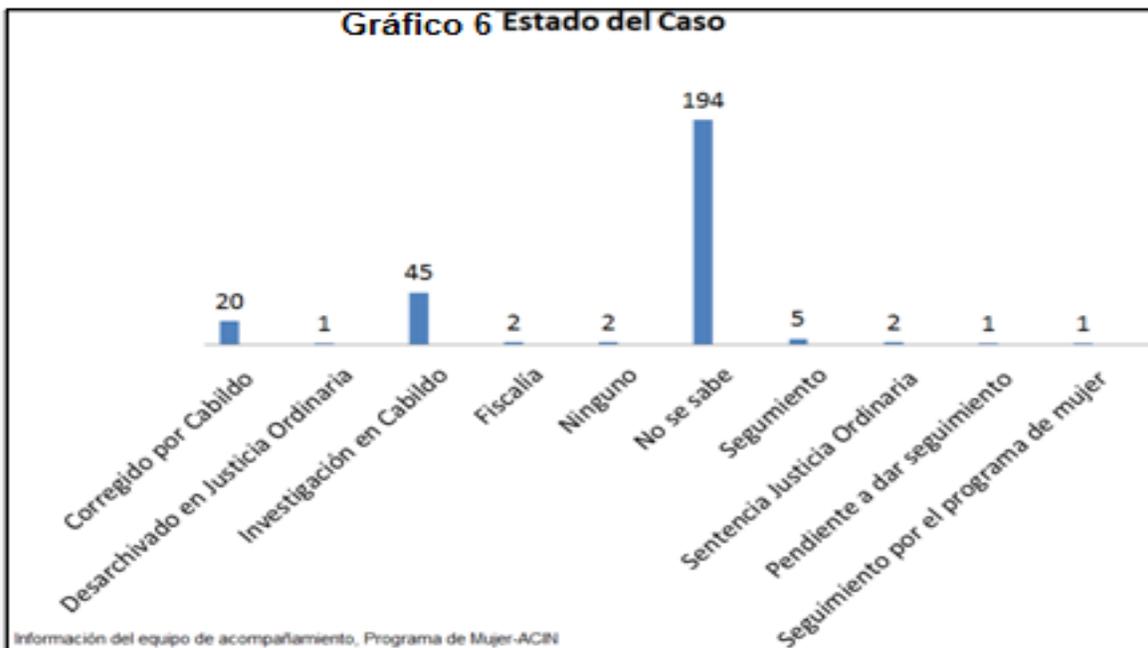
Another right of indigenous women which is being violated is the right to access justice. Generally, neither the indigenous justice system nor the ordinary courts respond to their demands. The fragility of the indigenous justice system and the failure of the regular courts, which have multiple barriers to access, often lead to the re-victimization of indigenous women victims. When women finally manage to file a legal complaint, there are no translators in court proceedings and there are no protocols for the specific treatment of indigenous women. Often, cases are heard collectively, in violation of the basic rules that protect the right to the privacy of victims of sexual violence.

According to research carried out by the ONIC and women from the ACIN¹⁹, indigenous women have severe difficulties in accessing justice. In one study carried out in four regional Indigenous organisations we found that:

¹⁹ Association of Indigenous Leaders in the North of Cauca (Asociación de Cabildos Indígenas del Norte del Cauca) - Women's Program



Only 20% of women interviewed who said they had been victims of violence, took their cases to the justice system. Equally, women from the ACIN also found that of 273 cases reported by women victims of the armed conflict, 71% have gone unpunished:



The reality is that the vast majority of women who have suffered a violation of their rights, do not go to the justice system, as we do not see this as an option for the restoration of our rights. Justice does not work for indigenous women, and when we do manage to receive attention, there are no proper protocols in the ordinary justice system. The indigenous justice system is not sensitive to the needs of indigenous women and does not have the methodological or legal tools to treat cases related to GBV.

Recommendations:

- Call upon the State to immediately initiate a process in consultation with women and indigenous organisations to include effective measures in the policy for the implementation of Law 1257 and in the policy for a life free from violence, which involves indigenous peoples' own judicial officers.
- Make progress in the coordination mechanisms between Special Indigenous Jurisdiction and the ordinary courts to ensure that women receive a fair and adequate response to their demands.

6. Political participation:

The political participation of indigenous women in national policy spaces is scarce, and although there are more opportunities in indigenous government systems, they are still precarious, scarce and with similar difficulties as those faced by Colombian women in general. Under the Constitution, indigenous peoples have an allotted space in the Colombian Parliament; however, this small representative quota has always been filled by men. According to the law, election lists to legislative bodies should be filled by at least one third women, this has meant that in some municipalities women have been invited to be part of the lists for municipal councils, departmental assemblies, House of Representatives and Senate, yet in many cases this was only to meet the legal requirement and women had very little chance of being elected. We do not know how many indigenous women have been elected to municipal councils or other regional governmental scenarios. They have no representation at the national level.

In local indigenous government we know that there are a growing number of women taking on the role or elected as “governors” or indigenous authorities, however we do not know the exact number.

In many indigenous organisations we have not consolidated our participation in positions different to those associated with our gender status, that is to say, we are only elected on issues related to women, children, as treasurers or in administrative positions and sometimes in areas of culture, health and education. There are exceptions and a few women have come to coordinate organisations or represent indigenous peoples in national dialogue scenarios with the national government, such as the Standing Negotiation Committee (*Mesa Permanente de Concertación - MPC*), the National Land Commission (*Comisión Nacional de Territorio*), the National Human Rights Commission (*Comisión Nacional de DDHH*) and the Amazon Regional Standing Committee (*Mesa Regional Amazónica - MRA*). By way of example, in the MPC, of 13 delegates only two are women.

Another place where our participation should be relevant, is in prior consultation processes²⁰ that take place throughout Colombia, in order to define public policies, bills that affect or benefit us as indigenous peoples and especially for the approval of mining and oil projects. "Prior Consultation", despite a few good practices - particularly in procedures for legislation such as the National Development Plan, the Victims' Law and orders of the Constitutional Court, is nevertheless being widely questioned by indigenous organisations because most procedures are flawed and biased, especially in the case of consultations involving mining, oil and the creation of national parks.

It is common practice that during the discussion processes in prior consultations, differential impacts are not taken into account, i.e. the impacts of projects which place our lives at risk. Nor are strategies designed to mitigate and prevent the permanent violation of our rights in cases where mining camps are installed, among others. Furthermore, the Office on Prior Consultation of the Interior Ministry has not developed gender-appropriate methodology so that we may be more involved in the processes.

Significantly, under the pretext of indigenous peoples' autonomy and self-government, institutions and companies do not make any efforts to facilitate women's participation and delegate this to the political will of our local, regional or national indigenous authorities, depending on the case.

Recommendation:

²⁰ Colombia has ratified ILO Convention 169 on indigenous and tribal peoples, via Law 21 of 91, this law guarantees the right of indigenous peoples to prior consultation for development projects, laws, public policies, the exploitation of resources in their territories and infrastructure construction.

- Urge the Colombian State to respect, strengthen and promote opportunities and methodologies for dialogue, consultation, and free, prior and informed consent, with indigenous peoples where the presence, voice and proposals of indigenous women are taken into account .

7. The impact of the internal armed conflict on women's lives

The internal armed conflict has made indigenous peoples its victims, and although in many cases the figures are not the highest considering the national average, they are still highly disturbing, precisely because of the demographic fragility of indigenous peoples. It is important to mention that the underreporting of figures increases in the case of human rights violations against indigenous women:

- From 1985 to date 2,628 murders of indigenous people have been recorded. This trend continues; according to the ONIC so far in 2013, 22 indigenous people have been killed in the armed conflict, and 4 of these people were women.
- Rape and sexual offences against indigenous women and girls are neither reported nor investigated: "The reality is poorly documented and not quantified, there is no data that faithfully describes this reality, we often hear of cases which disappear because they were "not true", or were "a misinterpretation of the facts", or were "imagined"²¹. According to ONIC information, between 2011 and 2012, 11 cases of sexual violence were reported against indigenous women and girls. All of these cases remain unpunished, and most have not even been brought to justice.
- Constitutional Court Order 092 (of 2008), orders the Colombian State to investigate at least 9 cases of indigenous women victims of sexual violence, 6 of which took place in the Colombian Amazon region. According to a response from the Attorney General's Office to the ONIC, none of these cases are being investigated. We are not aware of the existence of any convictions for rape or other violence against indigenous women.

²¹ Report "INDIGENOUS WOMEN, INVISIBLE VICTIMS OF THE ARMED CONFLICT IN COLOMBIA". Sexual violence, a strategy of war. 2012 presented to the UN Special Representative on Sexual Violence in Armed Conflict, by the ONIC Council for Women, Family and Generation.

- As part of the negotiations in the MPC, it was agreed that the Ministry of Defence should establish a policy of prevention and protection, with a differential focus, aimed at preventing violations by members of the security forces, especially sexual violations committed against indigenous women. Although intentions were formally presented to the MPC to develop a joint proposal, progress to date has been limited to “good intentions” to develop a concerted process and to develop an internal policy in the Ministry of Defence.

Despite the urgency of a policy, given the impact the presence of the state security forces in the territories and communities has on us, nothing has been done beyond human rights courses taught to new recruits, there are no criminal proceedings (presented as progress in the Standing Committee meetings) against members involved in acts of violation of the rights of indigenous women, on the contrary, lawyers from indigenous organisations that investigate such facts are harassed and threatened²², and there are no measures to include indigenous women in the formulation of a policy or protocol related to the police relationship with indigenous women.

- The militarization of our territories is felt in many ways: in the case of army checkpoints, trenches are built in our territories, sometimes occupying communal spaces, schools, community assembly areas, in clear violation of IHL; in the case of the guerrilla, they impose rules on indigenous and rural communities in the area, rules such as not using camera phones and not using pathways, and not going to the river at night. During the last election period, the guerrilla warned the Koreguaje authorities in the Caquetá region that they would kill whoever supported one of the mayoral candidates (Ombudsman, 2011: 161).
- As we move into rural areas we see signs referring to the war. This militarization has instilled fear in our communities, limiting their mobility by land and forcing us to live in constant fear that disputes over our territories will become exacerbated. As one woman told us “we can hear the bombardments from here, you hear everything and you think, when are they going to bomb us here?”
- The war, constraints upon our movement, fear, the occupation of our sacred sites, impact upon our peoples in a way which we have termed “spiritual violence”, as we have no conditions to perform protection rituals for our territories and people, there

²² Public denunciation made by the ONIC Chief Councillor to the MPC, on September 5, on the International Day of Indigenous Women.

is no way to visit sacred sites and it is increasingly difficult to think of celebrating rituals at night, among other aspects. Traditional doctors have also been killed because of fears about the protection work they undertake. This collective spiritual destabilization affects women more deeply because of their commitment to tradition and cultural reproduction.

Recommendations

Call upon the Colombian State to:

- Show respect for and take the necessary measures to ensure indigenous territorial autonomy, in which women and their families can move freely and in their “safe lands”.
- Order the demilitarization of indigenous territories.
- Guarantee and create information systems that reflect and permanently monitor the human rights situation and in particular the implementation of CEDAW for indigenous women.

8. Economic rights and employment

The participation of indigenous women in the labour and economic sphere is highly limited; on the one hand our entry into the Colombian productive market depends in large part on the production and marketing, at very low prices, of some food, with demands for unattainable quality standards for handicrafts. While there is a mixed institution (called Artesanías de Colombia) which has the function of marketing crafts, the value we receive for the products is not commensurate with the time spent on their preparation, nor is it proportional its commercial value within and outside the country.

On the basis of agreements made under the National Development Plan some indigenous women benefit from programs that support productive initiatives for indigenous peoples; however these programs do not have a gender focus and resources are insufficient to cover our demands, even more so when productive projects are becoming the alternative to the food crisis and indigenous peoples are becoming dependent on external markets. This crisis is caused by three fundamental factors, the first and most important being the armed conflict which limits mobility in the areas for crops, fishing, hunting and gathering, in

indigenous territories; the lack of opportunities to produce, hunt and gather traditional foods; the expansion of illicit crops and the State strategy for drug fumigation with glyphosate in indigenous territories causing deforestation and degradation of ecosystems.

Craft production is an important economic area for us and is today being placed at risk by the signing of Free Trade Agreements (FTA) and the little protection available for traditional knowledge. There are no strategies to protect women artisans and their knowledge and there are no fair markets for the sale of handicrafts. Of particular concern is the promotion of an artisans' law in the Colombian Congress, which has not included a proper procedure or a consultation process with indigenous women.

On the other hand, we indigenous women face multiple barriers and discrimination to enter the labour market. Firstly, training programs for work do not have a culturally relevant approach, and requirements to access them in many cases are not possible for us because we are illiterate or do not have the required educational level, and furthermore, these programs are not always adequate for job offers in areas inhabited by indigenous women.

The feminization of certain tasks is combined with phenomena of forced displacement because of violence or the search for better living conditions for indigenous women, forcing us to work in fields such as the caring profession, in exploitative working conditions and payments below the minimum wage with timetables that exceed the legal limit of 8 hours, and in many cases without social security.

Given these two problems outlined above, programs with a cultural or gender focus are very scarce, the Labour Ministry has no policy or program for indigenous women, there are no campaigns to protect the labour rights of indigenous women who are employed as maids or work in the service industry, and rural employment policies do not take into account the particularities of indigenous women.

Finally, the participation of we women and of indigenous peoples in the economic sphere of the country is not considered in the national accounts, or as part of GDP, as we are not considered as productive and because we live in special territorial entities.

Recommendations

- Call upon the Colombian government to formulate and implement a national training policy for decent work and employment for indigenous women which articulates the various ministries responsible and in agreement and cooperation with indigenous peoples.
- Include in the Law on Traditional Knowledge and the Law on the Protection of Artisans a differential gender approach that protects in particular indigenous women's knowledge and work.

9. Public policies and indigenous women

With regards to the National Development Plan, indigenous organisations came to 96 agreements in the prior consultation process, however only three points mention indigenous women directly, a fact that demonstrates the lack of inclusion of women's proposals in the countrywide negotiations between the State and indigenous peoples.

Even in departments where most of the population is indigenous, such as the Amazon, there is no consistency in the relationship between reality, women's needs and what is planned in development programs. In many cases it is external advisers and consultants who formulate these plans, ignoring reality, not prioritizing these components and allocating little resources for the development of policies and programs that focus on women.

In the third year of Santos' Presidency and the Development Plan, we evaluated the level of compliance of the 96 agreements and found that there is a less than 20% compliance level and that there has not been any progress in the agreements related to indigenous women.

The implementation of the policy for the prevention of gender based violence does not include coordination or consultation with indigenous women. For us this issue is directly linked to the application of Law 1257. Although this law mentions that prevention is the responsibility of Indigenous Jurisdiction, to date no steps have been taken aimed, on the one hand, at bringing this to discussion at the Standing Negotiation Committee (MPC), or the Amazon Regional Standing Committee (MRA), and no appropriate protocols have been constructed to offer a differential approach coordinated with indigenous women for the implementation of the law.

Moreover, with regards to the protection of children, actions are still being taken without consulting indigenous authorities and organisations, and women remain on the margins when decisions are taken.

One of the latest visible agreements allows for policies, led by the Colombian Institute of Family Welfare (ICBF) to implement actions aimed at protecting children, without prior consultation with indigenous women, even though we are the most interested as the direct or indirect beneficiaries of these policies. It is important to note that although the rights of children take precedence for any eventuality or problem, no mechanisms have been defined together by indigenous women, authorities and organizations and the ICBF. This is the case for attention in cases in which, for example, the ICBF has been forced to remove children from indigenous families.

In the case of territorial bodies, which also have a mandate to engage in their development plans, policies that benefit women and indigenous peoples, indigenous women continue to be excluded and invisible. It is important to highlight in relation to this point, proposals such as those made in the departments of Cauca, Arauca and Nariño, where progress has been made to target actions for indigenous women, including both policies for women and for indigenous peoples. But overall the trend is to ignore the particularities of indigenous women, or to only mention us as the beneficiaries of productive projects in the policy framework for rural women.

- Regarding the Victims Law and Decree Law 4633 for indigenous peoples.

Decree 4633 (decree for the attention and comprehensive reparation of victims from indigenous peoples), is a breakthrough in the formulation of a comprehensive policy of differentiated services for indigenous peoples and particularly for women; the decree contains significant advances in different aspects for indigenous women, recognizing women as subjects of special protection.

However, the application of this decree as part of a comprehensive policy for Colombian victims has not seen significant progress, it is important to mention that women are not included differentially in the structure of the plan for attention and reparation, which implies that indigenous women are not contemplated in the actions and budgets for attention, prevention and reparation.

There is no consolidated data that accounts for the number of indigenous women victims of violence and forced displacement in particular; although there are differential spaces to define protective measures for both indigenous peoples and women, there are no concerted protection protocols for indigenous women leaders; in territorial plans for the implementation of the Victims' Law there is no differential ethnic or gender approach for indigenous women's cases; officials do not have tools to particularly address indigenous women's situations, which is serious if one considers that most indigenous women victims do not know their rights and therefore hardly ever approach the territorial units for attention; this lack of knowledge leads them to not identify themselves by their ethnic origin.

Recommendations:

- Call upon the State to not only adopt public policies which include indigenous women as a cross-cutting issue, but instead to focus specific policies and programs aimed at women that guarantee the realization of their individual and collective rights.
- Public policies must have guidelines specific to indigenous world views, with culturally appropriate responses which are the outcome of informed consultation processes with indigenous women.