

**57th Session of the Commission on the Status of Women
New York, March 4 – 15, 2013**

**Special Theme: 'Elimination and prevention of all forms of violence
against women and girls'**

**Written Statement
Asia Indigenous Peoples' Pact Foundation
Forest Peoples Programme**

Submitted November 15, 2012

'Violence Against Indigenous Women and Girls: a complex phenomenon'

Introduction

1. We welcome the attention being given to the chosen theme of *'Elimination and prevention of all forms of violence against women and girls'* in this 57th Session of the Commission on the Status of Women (CSW). In this submission we focus on violence against indigenous women and girls, drawing on the experiences of indigenous women in Asia. Indigenous peoples in Asia are gaining increasing recognition of their status as indigenous peoples, but many continue to face a lack of recognition by their own governments and others. In this statement we are referring to peoples who may be known by other terms in their own countries, as 'ethnic minorities', or 'hill tribes', or 'adivasi', and our reference is inclusive of all peoples who chose to self-define as 'indigenous' regardless of national government terminology.

Violence against Indigenous Women (VAIW)

2. Violence against indigenous women (as distinct from VAW more generally) is used here to mean violence which is enacted against the collective rights of indigenous women, or violence which disproportionately affects indigenous women due to their status as indigenous persons. As noted by the International Indigenous Women's Federation (known by its Spanish acronym FIMI), VAIW and more broadly gender-based violence against indigenous persons is "shaped not only by gender discrimination within Indigenous and non-Indigenous arenas, but by a context of ongoing colonization and militarism; racism and social exclusion; and poverty-inducing economic and "development" policies."¹
3. The multiple human rights frameworks and challenges involved must be met in a comprehensive and holistic fashion. This means in the context of indigenous women, investigation of human violations must take into consideration the basic human rights of women and also the collective rights of indigenous peoples. A key document is the UN Declaration on the Rights of Indigenous Peoples, which provides the international legal context for such a multi-dimensional approach.²

Land acquisition and alienation

4. Forced removal of indigenous peoples from their lands and resources triggers the 'urgent action/early warning' procedure under the Committee on the Elimination of Racial Discrimination, a procedure designed to be used to avert the most egregious forms of racial discrimination.³ In doing so, it is accepted that the loss of lands and resources threatens the very survival of the affected people as a people – as a collective, culturally cohesive group. Such displacement entails not only physical but economic and social dislocation. Loss of general collective rights can result in specific loss for women,

¹ *Mairin Iwanka Raya: Indigenous Women Stand Against Violence: A Companion Report to the UN Secretary-General's Study on VAW*, FIMI, USA, 2006: p. 6

² Article 22 (2), UN Declaration on the Rights of Indigenous Peoples, September 2007

³ Revised Guidelines for the Early Warning Procedure, CERD, 2007

highlighted by the UN Permanent Forum on Indigenous Issues: “the introduction by dominant outsiders of institutions of private property [led to] indigenous women progressively losing their traditional rights to lands and natural resources.”⁴

5. For indigenous peoples, land is the material and spiritual basis that provides food and health security and cultural survival. In many indigenous communities women are the main food producers, knowledge holders, healers and keepers and transmitters of culture. When lands and access to traditionally used resources are lost indigenous women can lose their traditional teaching roles and their abilities to use and maintain traditional knowledge. As traditional knowledge about the use of local resources is weakened, so is the ability of a community to respond to climate-driven changes in their environment. In Mindanao (Philippines), serious droughts have resulted in deaths as communities resort to eating wild foods which they have lost the knowledge to effectively process, and thereby poisoning themselves.
6. As societies increasingly engage in low wage labour, women can become economically more dependent on men, and vulnerable in the forms of labour available to them. In Kalimantan and Sulawesi (Indonesia) replacement of forests and agricultural land by oil palm plantations has adverse impacts on the indigenous communities, some felt disproportionately by women. The expertise of women in managing natural resources and supporting their families has been jeopardized by loss of access to traditional crops and they become poorer as their families become poorer. In the plantations they are paid lower wages than men. Women who travel for migrant labour are particularly vulnerable.

Exclusion from social services

7. Denial of permanent ownership over lands and resources, in places combined with a lack of recognition of basic political rights, result in denial of basic services in a manner that disproportionately impacts indigenous women and children. In countries where indigenous peoples are denied even citizenship access to social services is constrained.⁵
8. Exclusion from social services is a form of what can be termed ‘structural violence’, where the structures of society have resulted in wide disparities of wealth and power, causing generational poverty, forced labour migration, bonded labour, human trafficking and other serious rights violations. Examples of structural violence against indigenous persons include the *Kamaiya* (agricultural workers) and *Kamlari* (female domestic servants), both forms of enslavement in which servants are bound to specific individuals or families to pay off their debts incurred by them or by previous generations. In Nepal

⁴ UNPFII, *Briefing Note: Gender & Indigenous Women*, May 10, 2010: p. 2

⁵ “When Citizenship is Denied to Indigenous Children: The Hill Tribes of Southeast Asia”, November 12, 2004; <http://topics.developmentgateway.org/indigenous/highlights/viewHighlights>

this bonded labour is specifically tied to ethnic and cultural background – violence tied to indigenous status.⁶

9. Lack of social services is exacerbated by other factors: the remote locations of indigenous communities and lack of government access; security problems in these areas; and social discrimination. Social discrimination can include rejection by the hospitals and inadequate treatment by the health professions.⁷ Loss of traditional healing systems due to loss of land and resources, limited national health budgets in many Asian countries and emerging social, economic and political changes in indigenous communities can adversely affect the health conditions of indigenous women.

Violence in the name of tradition

10. Indigenous women recognize and are responding to the existence of discrimination and violence within their own societies. Violence exists within indigenous communities, as it does elsewhere, and some forms of violence against women and girls are defended with reference to tradition. These forms of violence may include use of a bride price, the dowry system and child marriages, among others. Rather than inherent to the cultures concerned, it is the interpretation and reinterpretation of culture through tradition and/or practices where gender discrimination occurs and such violence can only be effectively fought from within a cultural framework.⁸
11. In Asia some of the causes of the discrimination and violence that indigenous women face within their societies stem from patriarchal attitudes. In many indigenous societies, politics and public affairs are dominated by men and women are marginally involved in the decision making customary institutions like village or tribal councils, although complimentary roles may be played in a traditional setting. Where these institutions have been replaced by the state administrative systems, differential power relationships can be established or exacerbated.
12. Physical and psychological domestic violence are increasing in some indigenous societies partly as a result of loss of land and resources and increasing poverty, and the adoption of external values which are more discriminatory to women. In Jharkhand, India the dowry system practiced by the wider Indian society has also become part of the customary practices of some of the indigenous communities. This often results in heavy debts for bride's family, the harassment of women and other violations.⁹

⁶ *The Rights of Indigenous Women in Nepal: Shadow Report for the combined 4th and 5th Periodic Reports of Nepal*, CEDAW, 49th Session, 11–29 July 2011 (CEDAW/c/NPL/4-5): p. 27-28

⁷ AIPP Briefing Paper, *Situation of Indigenous Women's Reproductive Health and Rights in Asia*, 2012: 10

⁸ See, for instance, 'Violence in the name of tradition: An Indigenous Women's Perspective', *Mairin Iwanka Raya* (FIMI) 2006: p. 22

⁹ *Violence, Customary Law and Indigenous Women's Rights in Asia*. AIPP briefing paper 2012:10

Recommendations

1. To address VAIW effectively, both sets of rights must be respected: the collective rights of indigenous peoples are part of protecting the individual rights of indigenous persons. Interpretation and application of human rights treaties concerned with individual rights, including CEDAW, should happen with reference to the UN Declaration on the Rights of Indigenous Peoples. Responses to VAIW that undermine the self-governance of indigenous peoples are not sustainable nor are they long-term.
2. Responses to VAIW need to proactively seek to strengthen the other rights of indigenous peoples as a means to support and empower women as members of indigenous peoples. States must take measures to address the systematic discrimination and widespread violation of the rights of indigenous peoples by recognizing their status as indigenous and their collective rights to lands and resources.
3. States must work to strengthen the legal framework for recognition of the rights of women under CEDAW and develop appropriate systems to address violence against the individual rights of women through information and education campaigns and capacity building of relevant government agencies. Specialized bodies at the national or sub-national level may be needed to specifically address the situations of indigenous women, and should be designed with the full and effective participation of indigenous women.
4. National census and data collection on socio-economic indicators should include disaggregated data on the situation of indigenous peoples, and indigenous women.
5. The role of indigenous women in the transmission and maintenance of traditional knowledge and their roles in sustainable resource management should be recognized and respected along with recognition and respect for their rights to their lands, environment, livelihoods and resources. The full, informed and effective participation of indigenous women in consultation and decision-making processes which impact on their lands and resources should be assured.