



A Guide to Indigenous Women's Rights under the International Convention on the Elimination of All Forms of Discrimination Against Women

2nd Edition, 8 June 2012

Ellen-Rose Kambel



Forest
Peoples
Programme

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Indigenous women in Rwanda. Photo: Dorothy Jackson

Preface

Indigenous women around the world continue to suffer from systematic violations of their human rights. Not only as indigenous peoples but also as women. This updated *Guide to Indigenous Women's Rights under the International Convention on the Elimination of All Forms of Discrimination Against Women* is written to assist indigenous women in seeking recognition and protection of their human rights through the use of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This Convention was adopted in 1979 and is one of the six core international human rights instruments. It is also one of the most widely ratified treaties with 187 member states as of May 2012.

Compliance of CEDAW is monitored by the Committee on the Elimination of Discrimination Against Women (CEDAW Committee). While indigenous women used to be practically invisible in the work of this Committee, in recent years, in particular after the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, indigenous women's concerns have featured more prominently in the dialogue between the Committee and member states.

Among others, in its **reporting procedure** the Committee has urged various states to adopt policies and special measures in order to increase indigenous women's participation in decision-making processes, and to improve their access to health services and education. The Committee has also adopted **general recommendations** calling on states parties to pay special attention to the health status of indigenous women and to the specific concerns of older indigenous women. Additionally, the Committee has highlighted that women may be affected by intersecting forms of discrimination including race, ethnicity, religion and belief and has recommended that states legally recognize such intersecting forms of discrimination and prohibit the negative

effects this has on women.¹

In 1999, a separate treaty was created, the Optional Protocol to CEDAW (OP-CEDAW) which allows women from the 104 countries that have now ratified this treaty, to file **individual complaints** about violations of their rights. In April 2012, the Committee agreed with an indigenous woman from Canada, that the state had violated her right to non-discrimination in relation to property rights. The complaint concerned the removal of the victim's name from jointly held marital property on the reserve where she was residing. This was done at the request of her ex-partner, who was at the time member of the government-controlled Housing Authority. The victim was seeking protection from his abusive behavior in a domestic violence shelter. The Committee found that the petitioner was a victim of intersectional discrimination based on her status as an indigenous woman and a victim of domestic violence. As reparation, the Committee recommended among others that Canada provide adequate housing to the victim, as well as "appropriate monetary compensation for material and moral damages commensurate with the gravity of the violations of her rights". In addition, the Committee held that Canada should "recruit and train more aboriginal women to provide legal aid to women from their communities, including on domestic violence and property rights and review its legal aid system to ensure that aboriginal women who are victims of domestic violence have effective access to justice."²

These and other cases show that since its entry into force in 1981, CEDAW has become increasingly relevant to the lives of indigenous women around the world. We hope that this Guide will provide indigenous women with a better understanding of the Convention and assist them in using the procedures in order to gain redress. We also hope it will help spur states throughout the world to reform their domestic laws as well as their policies and programmes to provide effective and meaningful protections for the rights of indigenous women within their jurisdictions.

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¹ CEDAW Committee, *General recommendation No. 24: Article 12 of the Convention (women and health)*, 1999; *General recommendation No. 27 on older women and protection of their human rights*, 2010; and *General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 2010.

² Cecilia Kell v. Canada, [Communication No. 19/2008](https://www.unhcr.org/refugees/article/43c91111.html), UN Doc. CEDAW/C/51/D/19/2008 (26 April 2012).

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Abbreviations and acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CESCR	Convenant on Economic, Social and Cultural Rights
CSW	Commission on the Status of Women
EMRIP	Expert Mechanism on the Rights of Indigenous Peoples
FPP	Forest Peoples Programme
GR	General Recommendation
ILO	International Labour Organization
NGO	Non-Governmental Organization
OP-CEDAW	Optional Protocol to CEDAW
PF	UN Permanent Forum on Indigenous Issues
SRIP	UN Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples
UN	United Nations
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
WGIP	UN Working Group on Indigenous Populations



Nahua women in their ancestral territory, South East Peru. Photo: Johan Wildhagen

We, the women of the original peoples of the world, have struggled actively to defend our rights to self-determination and to our territories which have been invaded and colonised by powerful nations and interests. We have been and are continuing to suffer from multiple oppression; as indigenous peoples, as citizens of colonised and neo-colonial countries, as women, and as members of the poorer classes of society. (...)

Beijing Declaration of Indigenous Women, adopted at the NGO Forum of the Fourth Women's Conference, Huairou (China), 1995.

Introduction

Indigenous women around the world suffer from the same human rights abuses that are perpetrated against indigenous men, including forced relocation from their ancestral lands, pollution and destruction of their waters and territories, no or limited access to education and health care and murder and violence by armed forces. Indigenous women also face human rights violations that are specifically related to their gender, such as rape, forced sterilizations, inadequate reproductive health care and domestic violence. In many cases the colonization process, missionisation and the introduction of cash have caused or contributed to the decline of indigenous women's status within their communities. For instance, cases document the exclusion of indigenous women from negotiations and decision making processes relating to their lands and territories, because of erroneous assumptions that this was a men's task.³

Indigenous women have chosen various strategies to deal with these problems, including addressing the international community to demand recognition and protection of their human rights.⁴ This updated *Guide to Indigenous Women's Rights under the International Convention on*

³ See Etienne and Leacock 1980.

⁴ See for the role of indigenous women in the international indigenous movement: Sjørsløv 1998, 306-312, Nicholas-MacKenzie 2000, 6-9, FIMI 2009 and Cunningham Kain 2011.

the Elimination of All Forms of Discrimination Against Women, is one of a series produced by the Forest Peoples Programme (FPP) which aims to provide indigenous peoples and organizations with practical information to support their use of United Nations (UN) and regional human rights mechanisms and procedures for the vindication of their rights.⁵

The Convention on the Elimination of All Forms of Discrimination Against Women (also called the Women's Convention or CEDAW) was adopted by the UN General Assembly in 1979 and entered into force in 1981. Although the prohibition of sex discrimination is included in several other human rights treaties, the pervasiveness of discrimination against women was cited as one of the reasons why a Convention dealing exclusively with this topic was needed. The primary aim of this Convention is to prevent and eliminate *all forms of discrimination* against women. Its substantive provisions cover a wide range of areas prohibiting discrimination against women in the fields of political participation, health, labor rights, marriage, the ability to enter into contracts and so forth. Yet, the Convention may be criticized for failing to reflect and address the forms of discrimination experienced by *indigenous* women.

One of the primary concerns of indigenous women is recognition of the collective right of indigenous peoples to self-determination, including their rights to their territories and natural resources, which are 'inextricably linked to our survival, development, identity and self-determination'.⁶ Indigenous women have recognized that

(...) five years after Beijing [Fourth World Conference of Women in 1995], Indigenous women continue to experience extreme and disproportionate poverty, and face a decline in health, education, social, economic, cultural and political conditions. This is due to factors such as racism, colonialism, neo-colonialism, macroeconomic policies promoting trade and financial liberalization, privatization, deregulation and displacement. (idem)

As argued by the International Indigenous Women's Forum (FIMI), "for indigenous women, the systematic violation of their collective rights as Indigenous Peoples is the single greatest risk factor for gender-based violence including violence perpetrated within their communities. Indigenous women's anti-violence strategies are therefore rooted in defending the collective rights of their Peoples."⁷

The Increasing Visibility of Indigenous Women within the United Nations Human Rights System

The text of the Women's Convention makes no references to indigenous women, barely mentions land or natural resource rights and does not contain a provision prohibiting racial discrimination. And until fairly recently, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee), the body charged with monitoring the Convention, has shown little interest in and awareness of the specific concerns of indigenous women. Between 1994 and

5 Guides have also been written on the Inter-American human rights system, the International Labour Organization, the UN Human Rights Committee, the Convention on the Elimination of All Forms of Racial Discrimination and the African Commission on Human and Peoples' Rights. Also, a toolkit on Indigenous Women's Rights in Africa is available on the website. See <http://www.forestpeoples.org/>

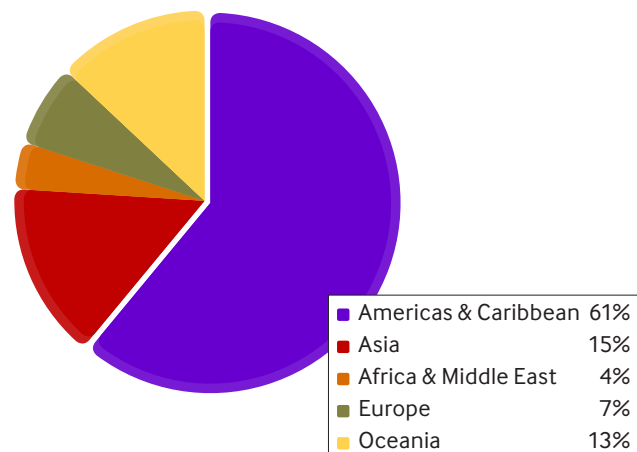
6 Declaration of the International Indigenous Women's Forum, adopted in New York at the Beijing +5 review in 2000.

7 FIMI 2006.

2000, of the 95 country reports that were reviewed by the Committee, indigenous women were mentioned in only 13 cases (or 14%). This has improved in recent years. Between 2001 and 2011, of the 237 country reports, indigenous women were mentioned in 56 cases (or 24%).⁸

There still does not however, seem to be a systematic review of the situation of indigenous women by the CEDAW Committee. Much appears to depend on the extent to which the state party itself or non-governmental organizations (NGOs) provide information about discrimination experienced by indigenous women. There is also a clear difference in the geographical representation of indigenous women. Most of the Committee's attention goes to indigenous women in Canada, the US and Latin-America, whereas the numerous indigenous women in Asia (home of an estimated two thirds of the 300 million indigenous peoples worldwide) and Africa are barely mentioned (see figure 1 below). This is undoubtedly related to the higher level of organization of indigenous groups, including indigenous women's groups, in North and Latin America.

Fig. 1. Geographical distribution of the attention for indigenous women's concerns in the review of state party reports by the CEDAW Committee (Concluding observations CEDAW Committee 1994-2011; total number of reports reviewed: 332; indigenous women mentioned in 17% of reports).



The increasing awareness of the human rights concerns of indigenous women is also visible in the work of other institutions within the UN.

The **UN Permanent Forum on Indigenous Issues (PF)** is perhaps the most active with regard to mainstreaming the rights and concerns of indigenous women. It has devoted a special session to indigenous women and gender in 2004. Its many recommendations on indigenous women are compiled after each session and it has produced a series of briefing notes on Gender and

⁸ Country reports are issued on a regular basis by states which have ratified the Convention and are aimed at providing the Committee with information about their efforts to comply with their obligations under the Convention (see chapter 2 of this Guide). Indigenous women were discussed in the Committee's concluding observations of Argentina (2002 and 2010), Australia (1994, 1997, 2006 and 2010), Belize (2007), Bolivia (1995 and 2008), Brazil (2003 and 2007), Canada (1997, 2003 and 2008), Chile (1999), China (1999), Colombia (2007), Cook Islands (2007), Costa Rica (2003 and 2011), Denmark (2009), Dominica (2009), Ecuador (1994, 2003 and 2008), El Salvador (2003 and 2008), Fiji (2002), Finland (2001 and 2008), Gabon (2005), Guatemala (1994, 2002, 2006 and 2009), Guyana (1994, 2001 and 2006), Honduras (2007), India (2000 and 2007), Japan (2009), Kuwait (2011), Laos (2005), Malaysia (2006), Mexico (1998, 2002 and 2006), Myanmar (2008), Nepal (2011), New Zealand (1994, 1998, 2003 and 2007), Nicaragua (2001 and 2007), Panama (1998 and 2009), Paraguay (1996, 2005 and 2011), Peru (1995, 1998, 2002 and 2007), Philippines (2006), Suriname (2002 and 2007), Sweden (2001 and 2008), Thailand (1999 and 2006), Uganda (2010) and Venezuela (2006). The country reports and the concluding observations can be found at: <http://www2.ohchr.org/english/bodies/cedaw/sessions.htm>.

Indigenous Peoples.⁹ In 2004, a specialized body was established: the Task Force on Indigenous Women (TFIW). Its main purpose was “to integrate and strengthen gender mainstreaming in the work of the UN system that impacts on indigenous people, highlighting the roles of indigenous women and the urgent need to address all forms of discrimination they face.”¹⁰ In 2007, the task force published a series of good practices on indigenous women and the UN system.

The UN Working Group on Indigenous Populations (WGIP) worked for over a decade on the **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**. Indigenous women were mentioned for the first time in its annual reports of its 9th session in 1991.¹¹ After years of negotiations, the Declaration was eventually adopted in 2007. It contains two provisions which refer specifically to indigenous women:

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, **women**, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that **indigenous women** and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Why Focus on the Women's Convention?

For many indigenous women their indigenous identity is perceived as the main cause of their inability to enjoy their human rights - not that they are women. This may explain why few indigenous women are interested in feminist movements that focus exclusively on gender rather than on issues such as (neo)colonialism, racism and indigenous self-determination which impacts both men and women.¹² The Women's Convention, which is aimed at eliminating sex discrimination is certainly part of this feminist tradition. For example, if women and men of an indigenous community experience similar problems, such as lack of adequate health care or

9 <http://social.un.org/index/IndigenousPeoples/CrossThematicIssues/IndigenousWomen/RecommendationsrelatedtoIndigenousWomen.aspx>

10 <http://www.un.org/womenwatch/feature/ruralwomen/spfi-comparative-advantage.html>

11 UN Doc E/CN.4/Sub.2/1991/40/Rev. 1, §59.

12 See also Sjorslev 1998.

education, the Women's Convention would only apply if the women in this community suffer more from the absence of a health clinic or a school than the men. If this is not the case, the issue would have to be resolved under other human rights treaties, such as the Covenant on Economic, Social and Cultural Rights (CESCR) or the Convention on the Elimination of All Forms of Racial Discrimination (CERD), which prohibit discrimination based on race or ethnicity (as well as sex).

This begs the question why indigenous women should vest time and energy into the Women's Convention rather than focus on other human rights treaties such as CERD or the CESCR. While it is certainly important to make full use of these treaties, there are two arguments why the Women's Convention deserves attention from indigenous women.

The first (negative) argument, is that without doing so, without providing information and educating the members of the Committee, the Convention might be interpreted in a way that undermines, rather than strengthens the human rights of indigenous women. As will be discussed further below (chapter 1.3), this is particularly true with regard to land rights. As a way to combat gender discrimination and poverty, UN bodies have called on states to end discrimination against women with respect to land rights. Issuing alienable individual titles to women are an implicit part of this policy. In 1997, for example, the Committee recommended to the government of Australia that the state should 'ensure women's equal access to *individual ownership of native land*'.¹³

Issuing individual titles to women would threaten indigenous strategies to gain recognition of their collective land rights as a necessary condition for the preservation and development of their identity and the social, economic and cultural survival of their communities. It is critical therefore to engage in a dialogue with the members of the Committee (and other UN bodies) in order to counter the dominant views on women's land rights (from a perspective of having access to credit and economic empowerment). And to explain the importance of collective land for indigenous women, with its cultural, social, economic as well as spiritual dimensions.

The second (positive) argument for indigenous organizations to pay more attention to the Women's Convention is that, as an international treaty, the Women's Convention is legally binding upon states who have ratified it. To date it is one of the most widely ratified conventions in the world. As of May 2012, of the 193 countries, only six have not ratified it, namely Iran, Palau, Somalia, Sudan, Tonga and notably: the United States of America. Most states in which indigenous women live are therefore likely to be a party to the Convention.¹⁴

Like all human rights treaties, CEDAW is not a static document, but is interpreted and re-interpreted in accordance with the prevailing circumstances and conditions at a given period in time. By using the procedures provided under the Convention, and by engaging in a dialogue with the members of the Committee, indigenous women may influence the obligations of states parties in relation to the Convention and use the Convention as an (additional) global platform for highlighting the human rights abuses perpetrated against indigenous women.

13 Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations: Australia, 22/07/97, A/52/38/Rev.1, part II, para. 405.

14 See Annex III for a list of countries that have ratified the Convention.

There are strong indications that the Committee is already shifting in that direction. The Committee's observations about indigenous women have moved from merely 'noting with concern' the situation of rural and indigenous women, to detailed accounts of the various obstacles faced by indigenous women in education, decision making, health care, domestic violence and (occasionally) the impacts of large scale resource extraction.

The adoption of the UN Declaration on the Rights of Indigenous Peoples may have played an important factor in this respect. Another important factor which is likely to expand the space afforded to indigenous women in the work of the Committee, is the recognition that women may suffer from multiple forms of discrimination, including racial discrimination. In its general recommendation on the core obligations of states parties (2010), the Committee confirmed that States parties must *legally recognize and prohibit* intersecting forms of discrimination:

"The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men. States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25.¹⁵

It should be noted that the Guide does not provide a comprehensive overview of women's rights, but merely serves as an introduction to the Convention. Throughout the Guide we have suggested various actions that indigenous organisations may take to increase the 'visibility' of indigenous women's concerns within the United Nations human rights system, a summary of which is included in the box below (Box 1). Ultimately it will depend on indigenous women and their advocates to make full and creative use of the procedures provided by this instrument.

Content of the Guide

This Guide starts out by providing general information on the Convention and its monitoring body (chapter 1). Chapter 2 provides an overview of the procedures that can be used by indigenous women to hold states accountable for the human rights violations under the Convention. Chapter 3 includes information on other UN human rights bodies and procedures that might be invoked to highlight the concerns of indigenous women within the UN system. Practical information is included in chapter 4.

¹⁵ General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010, para. 18.

Box 1: Indigenous Women's Rights and the UN: Suggestions for Action

The Women's Convention and the Committee on the Elimination of all Forms of Discrimination Against Women

If your state is a member of the Women's Convention (see annex III for a list of member states), you could:

- submit **shadow reports** to the Committee in charge of monitoring the Convention each time your government submits its country report. In the shadow reports you can provide additional information about the situation of indigenous women in your country, make comments on the government's report and suggest questions to the Committee members when discussing the state report;
- **attend the Committee meetings** where the country reports are discussed;
- **disseminate** (and if necessary translate) the Committee's concluding observations in your country, using the media to highlight the situation of indigenous women;
- if your country has also ratified the Optional Protocol and you feel that your rights under the Convention have been violated (see Annex III), you may **file a complaint** against your state with the Committee;
- **contact the Committee members**, invite them for discussions, conferences or round tables to inform them about the situation of indigenous women in your country or region;

Whether or not your country is a party to the Convention, you could:

- lobby for a **general recommendation** that will direct the attention of both states and the Committee itself to the situation of indigenous women, and/or;
- lobby for a general recommendation on women's land and resource rights drawing attention to the special relationship between indigenous women and land;

Other UN Procedures

- attend the annual sessions of the **Commission on the Status of Women** to help set their agenda for its thematic issues on women's rights;
- report cases or send urgent appeals about violence against women to the **Special Rapporteur on Violence against Women**
- report cases and submit information to the **Special Rapporteur on Indigenous Peoples** and lobby your government to invite the Rapporteur for a country visit;
- submit information to and attend meetings of **the Permanent Forum on Indigenous Issues** and the **Expert Mechanism on Indigenous Peoples**;
- submit information to the **Working Group on the issue of discrimination against women in law and in practice** and lobby your government to invite the working group for a country visit;
- submit 'shadow reports' about indigenous women's rights violations in relation to other human rights treaties such as the **International Convention on Civil and Political Rights** and the **Convention on the Elimination of All Forms of Racial Discrimination**



Indigenous Batin Sembilan woman and her children from SAD 113 village, PT Asiatic Persada oil palm concession, Jambi, Sumatra, Indonesia. Photo: Sophie Chao

1. The Convention

The Women’s Convention is divided into six parts. The general objectives of the Convention are set out in articles 1-5 (part I). This is followed by the substantive provisions (parts II-IV), which describe the areas in which states must eradicate discrimination against women such as education, health care, labour relations and marriage (articles 6-16). Part V contains articles governing the composition and functioning of the Committee (articles 17-22). Finally, part VI contains some general provisions (articles 23-30).

Box 2: Outline of the Women’s Convention¹⁶

Article 1:	<ul style="list-style-type: none"> • definition of “discrimination against women”
Article 2:	<ul style="list-style-type: none"> • condemnation of discrimination against women and commitment to eliminate this
Article 3:	<ul style="list-style-type: none"> • full development and advancement of women, and equality of women’s and men’s rights and freedoms • national constitution and laws to embody equality of men and women • sanctions and new legislation, if necessary, prohibiting discrimination against women • tribunals and other institutions for effective protection of women against any act of discrimination • modifications or abolition of laws, regulations, customs and practices discriminatory to women
Article 4:	<ul style="list-style-type: none"> • temporary special measures • affirmative-action measures to hasten factual equality of men and women (because new legislation and amendments are invariably a long, tedious process)
Article 5:	<ul style="list-style-type: none"> • customary practices and stereotypes • changes in social and cultural patterns that promote stereotyped roles of men and women • family education for a proper understanding of maternity as a social function and concept of shared responsibilities at home

16 This outline is based on an overview by the Women’s Aid Organisation in Malaysia.

Article 6:	<ul style="list-style-type: none"> • trafficking in women and exploitation of women in prostitution
Article 7:	<ul style="list-style-type: none"> • political and public life • women's right to vote and hold public office • participation in government policy making and implementation • participation in NGOs and civil-society groups
Article 8:	<ul style="list-style-type: none"> • representation in international organisations
Article 9:	<ul style="list-style-type: none"> • citizenship • equal rights to acquire, change or retain nationality, regardless of marriage to a foreign husband • equal rights in determining the nationality of children
Article 10:	<ul style="list-style-type: none"> • education • equal opportunity in all levels, from pre-school to higher education • access to the same facilities, equipment, teachers and examinations, and scholarships and grants available to men • removal of stereotypes through coeducation and revision of learning/teaching materials • programmes to reduce any gender gap in education or to reduce the female student drop-out rates • participation in sports and cultural activities • information and advice on family planning
Article 11:	<ul style="list-style-type: none"> • employment and labour rights • women's right to work • right to the same employment opportunities available to men • free choice of profession and work • equal pay for work of equal value • equal treatment at the workplace and equal evaluation criteria • health and safety protection, including protection from harmful work during pregnancy • prohibition of dismissal on the grounds of pregnancy or marital status • maternity leave with pay and no loss of seniority or benefits • social services to support the combination of family and work responsibilities
Article 12:	<ul style="list-style-type: none"> • health • equal access to health care services, including family planning services • appropriate services in connection with pregnancy and childbirth, plus adequate nutrition during pregnancy and breastfeeding
Article 13:	<ul style="list-style-type: none"> • economic, social and cultural rights • social security, especially in case of retirement, sickness, unemployment, invalidity and old age • right to family benefits • equal rights to bank loans and other forms of credit • participation in recreational activities and all aspects of cultural life
Article 14:	<ul style="list-style-type: none"> • rural women • recognition of the significant role and contributions of rural women and their special circumstances • rural women's rights to adequate living conditions (housing, sanitation, basic utilities, transport and communications); participation in development planning and community activities; health care; direct social security benefits; training and education; and establishment of membership in self-help groups • women's access to production resources including credit, technology and marketing facilities • equal treatment in land, agrarian reform and land resettlement schemes

Article 15:	<ul style="list-style-type: none"> • legal rights and contractual capacity • equality before the law and the courts • equal rights to conclude contracts and administer property • governments' nullification of contracts and other private instruments that curb women's legal rights • freedom of movement • right to choose place of residence and domicile
Article 16:	<ul style="list-style-type: none"> • marriage and family • right to enter into marriage only with full consent • freedom to choose a spouse • equal rights and responsibilities during marriage and at its dissolution • women's rights to choose freely the number and spacing of children • access to information, education and means to make family-planning choices • equal rights and responsibilities regarding guardianship or adoption with children • equal rights regarding ownership, management and disposition of conjugal property • nullification of child marriages • minimum age for marriage and registration of marriages in an official order
Article 17-22:	<ul style="list-style-type: none"> • establishment and functions of the monitoring committee
Article 23-27:	<ul style="list-style-type: none"> • administration of the convention
Article 28:	<ul style="list-style-type: none"> • reservations • prohibition of reservations incompatible with the essence of convention • withdrawal of reservations
Article 29:	<ul style="list-style-type: none"> • arbitration of disputes
Article 30:	<ul style="list-style-type: none"> • stewardship of convention text

1.1 Objectives and Obligations of States Under the Convention

The primary goal of the Women's Convention is to eradicate discrimination against women both in law (*de jure*) and in practice (*de facto*). However, this is not all that states are required to achieve under the Convention as the Committee has adopted a three-pronged approach to the objectives of the Convention, which requires:

- the achievement of complete equality for women before the law;
- the improvement of the position of women; and
- efforts to confront the dominant gender-based ideology.¹⁷

Each substantive provision of the Convention (each 'right') should be interpreted using these three objectives. The preamble also gives clues to the rationale and purposes behind the adoption of the Convention. Some have criticized the preamble for diverging too far from the central issue of discrimination against women, but nonetheless it is useful for drawing some links between indigenous women's concerns and the rights protected in the Convention. Paragraphs 10 and 11, for instance, state that:

.....
¹⁷ Concluding observations A/56/38, CEDAW/C/SR. 512 and 513, para 196.

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women.

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women.

In practice, the significance of the preamble is limited as states parties are not required to address it in their reports to the Committee.¹⁸

Prohibition of Discrimination

Art. 1 contains the following definition of discrimination against women:

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.

The words '*which has the effect*' indicate that a distinction made on the basis of sex does not have to be intentional to be classified as discrimination. Therefore, criteria which appear to be gender neutral, but have the effect of discriminating against women are also considered to be discriminatory. An example is height or weight requirements which bear no relation to the job but which may exclude women as a group.¹⁹ Another important characteristic is that the Women's Convention does not prohibit discrimination based on sex, but discrimination against *women*. Discrimination of men therefore, does not fall under the protection of the Convention. The definition is similar to those found in other human rights treaties, in particular the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). An important difference is that under the Women's Convention, discrimination against women is also prohibited in *private life*. Under the ICERD, by contrast, racial discrimination is prohibited only in the 'political, economic, social, cultural or any other field of *public life*' [emphasis added]. This extension to private life in the Women's Convention is also laid down in article 2, which requires states to 'take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise' (art. 2e). In General Recommendation no. 19, the Committee underlined that:

discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2(e), 2(f) and 5)... Under general international law and specific

¹⁸ According to the reporting guidelines of the Committee, states parties need only to report on the provisions under part I to IV of the Convention.

¹⁹ Meron 1986, p. 60.

human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation (para. 9).

This was reiterated in General Recommendation no. 28 in which the Committee stated that States parties are obliged to ensure that private actors do not engage in discrimination against women and that "*the appropriate measures that States parties are obliged to take include the regulation of the activities of private actors with regard to education, employment and health policies and practices, working conditions and work standards.*"²⁰ This means that states are responsible for preventing discrimination against women by, for instance, multinational companies who pay lower wages to indigenous women than to men for the same jobs.

Obligations of States under the Women's Convention

First and foremost, states are required to eliminate discrimination against women 'in all its forms'. States are not only required to abolish discrimination in the legal system (including in the laws, in the administration and in the judicial system), but they must also eradicate discrimination in practice. This is explicitly stated in article 2f, which requires that states parties "take all appropriate measures, including legislation, to modify and abolish existing laws, regulations, *customs* and *practices* which constitute discrimination against women" [emphasis added]. This should not only be achieved by legal means (modifying or making new laws) but by 'all appropriate measures', which may include designing specific policies, setting up national mechanisms,²¹ making available financial resources, and so on.

In General Recommendation No. 28 on the core obligations of States parties under article 2 (adopted in 2010), the Committee has reiterated that States parties must address all aspects of their legal obligations under the Convention to **respect, protect and fulfill** women's right to non-discrimination:

- The **obligation to respect** requires that States parties refrain from making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights.
- The **obligation to protect** requires that States parties protect women from discrimination by private actors and take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women.
- The **obligation to fulfill** requires that States parties take a wide variety of steps to ensure that women and men enjoy equal rights de jure and de facto, including, where

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 20 General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010, para 13.

21 According to general recommendation no. 6 of the Committee, 'national machineries' include the establishment of institutions and procedures at a high level of Government, that are provided with adequate resources, commitment and authority to: (a) advise on the impact of women of all government policies, (b) monitor the situation of women, (c) help formulate new policies and carry out strategies and measures to eliminate discrimination.

appropriate, the adoption of temporary special measures.²²

Collection of disaggregated data: In order to be able to measure the results of their policies to eradicate discrimination, States parties have an "international responsibility to create and continuously improve statistical databases."²³ This is a particularly important point for indigenous women, as information on their specific situation is often lacking.

Improvement of the Position of Women

The Women's Convention goes further than requiring states to abolish discrimination; states must also formulate and actively implement policies to improve the situation of women. This can be inferred from articles 3 and 4.

Article 3 contains a positive duty for states to take all appropriate measures 'to ensure the *full development and advancement* of women with the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men' (emphasis added). Should states take temporary special measures to speed up women's equality, then article 4 provides that this shall not be construed as discrimination against men (see box 3). For instance, in societies where there is a substantial difference in the number of girls attending schools as compared to boys, a state could adopt a policy to build more schools for girls and to encourage parents to allow their daughters to go to school. Under article 4.1, this policy would not be regarded as discrimination against boys, provided the state shows that the measures are appropriate, that they are temporary and that they will be abolished as soon as the participation of girls in schools has reached the same level as boys. Other examples include amending electoral procedures, providing training and financial assistance for female candidates and developing campaigns directed at equal participation of women and men in decision-making.²⁴

Box 3: What Are Temporary Special Measures?

General Recommendation No. 25 on Temporary Special Measures, adopted by the Committee in 2004, clarified that states parties should make a clear distinction between "temporary special measures taken under article 4, paragraph 1, to accelerate the achievement of a concrete goal for women of de facto or substantive equality, and other general social policies adopted to improve the situation of women and the girl child".²⁵ The Committee pointed out that "not all measures that potentially are, or will be, favourable to women are temporary special measures. The provision of general conditions in order to guarantee the civil, political, economic, social and cultural rights of women and the girl child, designed to ensure for them a life of dignity and non-discrimination, cannot be called temporary special measures." (para. 19).

- The term "temporary" refers to the nature of such special measures. These measures

²² General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010, para 9.

²³ Idem, para 10.

²⁴ See General Recommendation no. 23, adopted by the Committee at its 16th session, 1997, para 15.

²⁵ [http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)

should not be deemed necessary forever and must be discontinued when their desired results have been achieved and sustained for a period of time (para. 20).

- The term "special", though being in conformity with human rights discourse, also needs to be carefully explained. Its use sometimes casts women and other groups who are subject to discrimination as weak, vulnerable and in need of extra or "special" measures in order to participate or compete in society. However, the real meaning of "special" in the formulation of article 4, paragraph 1, is that the measures are designed to serve a specific goal (para. 21).
- The term "measures" encompasses a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems (para 22).

Elimination of Gender Ideology Based on Superiority of One of the Sexes

The most far reaching objective of the Women's Convention is laid down in art. 5a:

States parties shall take all appropriate measures to 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.

States not only have to remove all discriminatory legislation and adopt active policies to improve the situation of women, they must also break through dominant or "fixed" gender roles which are based on the belief that one of the sexes is inferior or superior to the other. For example, the notion that women are unable to take up high government positions or that men are unfit to do the laundry or take care of small children.

Discrimination Against Women and Indigenous Peoples' Rights to Culture: Putting the Theory into Practice

In many indigenous communities women and men traditionally have different roles, tasks and responsibilities according to their gender. But, as Leonor Zalabata, an Arhuacan woman from Colombia argued, 'just because there is a difference does not mean that in indigenous communities women are undervalued.'²⁶ Opinions as to what constitute 'practices which are based on the idea of the inferiority or the superiority of either of the sexes' (article 5) may differ widely. Not only between indigenous and non-indigenous people, but also within indigenous communities. The question is who ultimately decides and who implements the decision: the state? the Committee? What about the indigenous community itself, given that states, not indigenous peoples, are parties to the Convention? This is even more complicated in light of the increasing recognition in international human rights law that indigenous peoples have the right

.....
26 Zalabata 1998, 23.

to maintain their own traditions, cultures and laws and to govern themselves autonomously.²⁷

There are of course no simple answers and a full discussion goes beyond the objective of this Guide. Part of the solution, however, may be found in ensuring the full participation of those most affected by the practices in question: indigenous women (and men!), should be involved in defining the issues but also in implementing the changes.

As will be discussed further below, the provisions of the Women's Convention and the general recommendations, statements and decisions issued by the Committee can all be used to highlight and ultimately address the human rights concerns of indigenous women in the various countries that are party to the Convention.

1.2 Areas Covered by the Convention

As stated above, the three objectives (prevention of discrimination, improvement of the position of women and abolishing negative gender ideology), should be read together and implemented in each of the areas covered by the Convention. These are:

- Trafficking and Prostitution (article 6)
- Participation in Political and Public Life (articles 7, 8, 13a and c)
- Nationality (article 9)
- Education (article 10)
- Paid Employment (article 11)
- Health (article 12)
- Rural Women (article 14)
- Marriage (article 16)
- Pregnancy, Children and Maternity (articles 4.2, 5b and 9.2),
- Violence (General Recommendation no. 19)

All these areas are relevant to indigenous women. However, we will limit our discussion to the provision relating to rural women and land.

1.3 Rural Women and Land Rights

The Convention does not contain an independent right of individual women to have property or land, requiring only that states ensure that women are treated on an equal basis with men in case of land or agrarian reform schemes and that women are not discriminated against when owning or administering property. Since 1995, a number of UN organs have adopted resolutions with regard to discrimination against women concerning land.²⁸ These resolutions seem to be

27 These rights have been recognized by various international human rights treaties, such as the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the International Labour Organization Convention no. 169 on the Rights of Indigenous and Tribal Peoples in Independent Countries.

28 These include the General Assembly, the Commission on the Status of Women, the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights. See, for instance the Commission on Human Rights: Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing, Resolution 2003/22, E/CN.4/2003/L.11/Add.3, 22 April 2003.

largely based on the experiences of non-indigenous rural women. Dominating this analysis is the assumption that rural women who depend on land and natural resources for their livelihood have lost their access to and control over land as a result of discriminatory traditional practices, such as traditional laws that prevent women from owning or inheriting land. The proposed solution is to encourage states to ensure women's equal right to own land and property. See, for example, a recently adopted resolution by the Commission on Human Rights, urging states to 'design and revise laws to ensure that women are accorded full and equal rights to own land and other property, [and] ... to undertake administrative reforms and other necessary measures to give women the same right as men to credit...'²⁹

Apart from tackling gender discrimination, the main rationale behind the call for women's equal access to land is the eradication of poverty. This is reflected in the Beijing Platform for Action, adopted during the Fourth World Conference of Women in 1995, in which all 'strategic objectives' concerning women's land rights have been placed in the chapter on 'Women and Poverty'.³⁰ Although giving out individual land titles is not advocated directly as a measure to improve women's access to land, the various resolutions and documents on this issue consistently link access to land with access to credit. Providing women with land titles so that women can use these titles as collateral strongly suggests that governments should ensure women's access to *individual real* (alienable) titles. As noted above, the Committee in charge of monitoring the Women's Convention took a similar approach when recommending to Australia that it guarantee 'women's equal access to individual ownership of native land'.³¹

These analyses of and proposed solutions to the problems women face with regard to land fail to reflect indigenous women's experiences. Indigenous women's loss of access to and control over land and natural resources often has little to do with their sex, but rather with assimilationist and other government policies which disregard the collective character of traditional indigenous land tenure. In the case of Suriname, issuing individual titles to indigenous women would force them into an alien system which eventually supports the objective of the Surinamese government to integrate indigenous peoples into mainstream society.³² Introducing individual land titling systems also fails to take account of the demands of indigenous women themselves, who have emphasised the importance of collectively held indigenous territories for the preservation and development of their collective identity and the very survival of their peoples. Finally, evidence from around the world shows that introducing individual land title systems in indigenous lands, which can be sold and mortgaged, does not alleviate poverty, but rather facilitates the loss of land of the entire community and directly undermines indigenous strategies to preserve their livelihoods.

Given the importance of land for both indigenous and non-indigenous women in rural areas, this requires careful attention from the international community and from national governments.

29 Commission on Human Rights, *Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing*, Resolution 2003/22, E/CN.4/2003/L.11/Add.3, 22 April 2003.

30 See Strategic Objectives A1 (Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty), in particular §§58(n) and §60(f), and Strategic Objective A.2 (Revise laws and administrative practices to ensure women's equal rights and access to economic resources) §61(b).

31 The Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding Observations: Australia*, 22/07/97, A/52/38/Rev.1, part II, para. 405. See further: Kambel 2002.

32 Kambel 2002, 212.

However, generalisation across regions should be avoided and careful analysis should be applied to take account of the specific needs and conditions of different groups of women. This also means that in cases where indigenous communities and peoples have lost their traditional lands and are unlikely to get them back, the individual rights of indigenous women to land should be guaranteed and protected.

As mentioned above, CEDAW does not contain any direct reference to indigenous women. It does however include a provision on 'rural women' in article 14:

1. States Parties shall take into account the particular problems faced by **rural women** and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Article 14 was included primarily as the result of pressure from developing countries who felt that the draft Convention did not pay sufficient attention to the needs of women living in rural areas, arguing that an important number of women in the world belong to this category. Certainly not all indigenous women are 'rural women', or living in rural areas – in fact, the rapid migration of indigenous women to urban areas is witnessed in every part of the world.³³ Yet, it is still assumed that the majority of indigenous women are based in rural areas and this is also where conflicts over lands and resources affecting indigenous women in specific ways, are most prominent.

In its country reviews, the Committee consistently, although not in as much detail compared to other provisions, pays attention to article 14. Rural women have also been mentioned in the Committee's general recommendations. For example, the Committee has called on states to pay special attention to rural women who work without payment, social security and social benefits in family enterprises³⁴ and to ensure that services for victims of violence are available

33 United Nations Human Settlements Programme (UN-HABITAT) 2010; Vinding and Kambel 2012.

34 General Recommendation no. 16 on Unpaid Workers in Rural and Urban Family Enterprises, 1991

to rural women.³⁵ The situation of older women in rural areas was also highlighted, pointing out their difficulties in accessing services, including rights to water, food and housing.³⁶ The Committee also adopted a General Recommendation (no. 24) on article 12 (The Right to Health), which provides that states parties 'should take steps to facilitate physical and economic access to productive resources especially for rural women, and to otherwise ensure that the special nutritional needs of all women within their jurisdiction are met' (paragraph 7). These provisions may be useful for highlighting the concerns of indigenous women in relation to mining and other resource extraction activities.

With regard to land and property, the Women's Convention requires states to ensure women's rights to equal treatment in land and agrarian reform (article 14.2(g)) and for equal rights of spouses to own and administer property (article 16.2(h)). For indigenous women, the equal right to enjoy adequate living conditions protected in article 14.2(h) might be interpreted to include the protection of natural resource rights.

The Committee has paid some attention to the importance of natural resources and the environment for women. In 2002 it issued a decision on gender and sustainable development and in 2010 a statement was issued on gender and climate change, which specifically referred to indigenous women.

Decision on gender and sustainable development (2002):

429. Convinced that sustainable development cannot be achieved without addressing the above problems or a commitment to the full realization of the human rights of women or without ensuring women's full participation in implementing the agenda for sustainable development, the Committee recommends that:

- (a) Women be considered as stakeholders with an important contribution to make to sustainable development. The empowerment of women, at all levels, in leadership and decision-making roles in government and as responsible members of civil society must be considered central to sustainable development;
- (h) Sustainable forest management systems be developed to address the concerns of rural women, recognizing in particular women's land entitlement;
- (i) Increased access to safe drinking water and adequate sanitation facilities be provided;
- (j) Priority be given in developing action plans and measures to address climate change, pollution and their adverse effects, in particular on the health of women and children [...]³⁷

Statement on gender and climate change (2010)

1. The Committee on the Elimination of Discrimination against Women expresses its concern about the absence of a gender perspective in the United Nations Framework Convention on Climate Change and other global and national policies and initiatives on climate change. From the Committee's examination of the reports of States Parties, it is apparent that climate change does not affect women and men in the same way and that it has a gender-differentiated impact. Women are not just helpless victims of climate change, however. They are powerful agents of change, and their leadership is critical. All stakeholders should ensure that climate change

³⁵ General Recommendation no. 19, Violence against Women, 1992

³⁶ General Recommendation no. 27, Older Women and Protection of their Human Rights, 2010.

³⁷ Committee on the Elimination of All Forms of Discrimination Against Women Decision 26/II, Gender and sustainable development, 7 May 2002, A/57/38 (Part I), paras. 422-429.

and disaster risk reduction measures are gender-responsive and sensitive to indigenous knowledge systems and that they respect human rights. The right of women to participate at all levels of decision-making must be guaranteed in climate change policies and programmes.

2. ... Women are the main producers of the world's staple crops, but they face multiple discriminations such as unequal access to land, credit and information. Particularly at risk are poor urban and rural women who live in densely populated coastal and low-lying areas, drylands and high mountainous areas and small islands. Vulnerable groups such as older women and disabled women and minority groups such as **indigenous women**, pastoralists, nomads and hunters and gatherers are also of concern.³⁸

Such decisions and statements can all be used to draw the Committee's attention to indigenous women's issues.

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38 Decision 44/II Statement of the Committee on the Elimination of Discrimination against Women on gender and climate change, CEDAW Annual Report : A/65/38, 30 April 2010.



Members of the Nepal Indigenous Women's Federation (NIWF) at the 49th Session of the Committee on the Elimination of Discrimination Against Women (CEDAW) in July 2012 in New York. Photo: Helen Tugendhat

2. Monitoring and Enforcement of the Convention

The CEDAW-Committee was established in 1982 pursuant to article 17 of the Convention. It consists of 23 experts "of high moral standing and competence in the field covered by the Convention." While they are elected by states parties, the experts serve in their private capacity, not as government representatives. In electing them, attention is paid to an equitable geographical distribution, representation from different civilizations and legal systems. Unlike the other UN treaty monitoring bodies where the overwhelming majority is male, the Committee consists almost entirely of women.

The Committee meets three times a year (twice in Geneva and once in New York) for three weeks each. It is in charge of monitoring compliance with the Convention by states parties. This is primarily done by examining reports that are submitted by states parties. After consideration of the reports and discussion of the content with state representatives, the Committee provides its views on the report in the form of *concluding observations*. The Committee may also formulate *general recommendations*, which help states parties to interpret and implement articles of the Convention.

The Committee also has two additional enforcement procedures: a *communications procedures*, which allows women to bring complaints about violation of their rights before the Committee, and an *investigative procedure*, which empowers the Committee to investigate grave and/or systematic violations of women's rights in a certain country. Note however that both procedures

are only available in states which have ratified the Optional Protocol. The different monitoring and enforcement procedures of the Convention are discussed in greater detail below.

2.1 General Recommendations

Under article 21, the Committee can make suggestions and general recommendations to states parties based on the report they submitted. General recommendations are not legally binding for states parties, but they are important as they provide greater understanding of how the provisions of the Convention should be interpreted. A general recommendation on indigenous women could be a way of directing both the Committee's and states parties' attention to the specific needs and interests of indigenous women, for example, by requiring states to include statistical and other information in their reports about the situation of indigenous women.

To date, the Committee has issued 28 general recommendations ("GRs").³⁹ While the first GRs deal mostly with procedural issues and are short and concise, they have steadily become more extensive, both in length and in scope. GR no. 19 on violence against women, for instance, explains for selected provisions of the Convention how issues are related to gender-based violence. With regard to rural women, it states that:

Rural women are at risk of gender-based violence because traditional attitudes regarding the subordinate role of women that persist in many rural communities. Girls from rural communities are at special risk of violence and sexual exploitation when they leave the rural community to seek employment in town. (para. 21).

GRs are formulated and adopted in a three-stage process. First, an open dialogue is held between the Committee, non-governmental organizations and others regarding the topic of the GR. A committee member is then asked to draft the text. This draft is discussed at the next session of the Committee in one of its working groups and at the following session, the revised draft is adopted by the Committee.

Other important GRs include no. 21 (1994), concerning the status of women in the family and women's property rights, discussed above in chapter I; no. 23 (1997), concerning women's participation in decision making (articles 7 and 8) and no. 24 (1999), on women and health (article 12). GR no. 24 is the first general recommendation in which the Committee explicitly referred to indigenous women:

While biological differences between women and men may lead to differences in health status, there are societal factors which are determinative of the health status of women and men and which can vary among women themselves. For that reason, special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups, such as migrant women, refugee and internally displaced women, the girl child and older women, women in prostitution, **indigenous women** and women with physical or mental disabilities (para. 6, emphasis added)

39 These are available at: <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

The GR specified that in reporting under article 12, states parties should include the measures they have taken to ensure appropriate services in connection with pregnancy, confinement and the post-natal period and to provide information on the 'rates at which these measures have reduced maternal mortality and morbidity in their countries, in general, and in *vulnerable groups, regions and communities*, in particular' (para. 26).

In 2010, general recommendation no. 27 on older women was adopted, which recognized the disproportionate degree of discrimination experienced by older indigenous women:⁴⁰

The discrimination experienced by older women is often multidimensional, with the age factor compounding other forms of discrimination based on gender, ethnic origin, disability, poverty levels, sexual orientation and gender identity, migrant status, marital and family status, literacy and other grounds. Older women who are members of minority, ethnic or **indigenous groups**, internally displaced or stateless often experience a disproportionate degree of discrimination (para 13, emphasis added).

Finally, as mentioned earlier, in GR no. 28 on the core obligations of states parties under article 2, the Committee recommended that states parties legally recognize and prohibit intersecting forms of discrimination and their compounded negative impact on the women concerned.

2.2 State Party Reports

Under article 18 of the Convention, states parties are required to submit reports on the legislative, judicial, administrative or other measures it has adopted to give effect to the provisions of the Convention and progress made in this respect. These reports are considered by the Committee. States parties must submit their first report within one year after ratification of the Convention. Subsequently, thereafter they must submit periodic reports every four years or whenever the Committee so requests. Many, if not most, states parties fail to submit their reports in time. Consequently, the reports are often consolidated, containing, for example, the second and third reports. To help states compile their reports, the Committee has issued guidelines:⁴¹

- The reports should consist of two parts: a common core document and a document that relates to the implementation of the Convention. The report includes a review of the state party's geography, economy, population, political system, and describes the laws, policies, institutions, and remedies relating to human rights and specifically to discrimination.
- The state should report on the articles of the Convention contained in parts I through IV including the general recommendations relating to these articles or themes addressed by the Convention;
- It should indicate which factors and difficulties have affected the fulfillment of its obligations under the Convention and explain the nature of these difficulties and what steps have been taken to overcome them;
- The state should also provide data and statistics disaggregated based on sex;
- The state should provide not only a description of legal norms, but also explain the factual situation, and the effect and implementation of remedies for violations of the legal norms;

.....
40 General Recommendation no. 27, Older Women and Protection of their Human Rights, 2010.

41 The guidelines are updated regularly, so it is best to check the website of the Committee: http://www2.ohchr.org/english/bodies/cedaw/docs/Working_methods_CEDAW_en.pdf

- The state should describe the non-governmental organisations and women's associations in their country and their participation in the implementation of the Convention and in the preparation of the report.

Procedure

After receiving the written state party report, the Committee draws up a list of issues and questions that will serve as a basis for the 'constructive dialogue' to be held with the state party in question. Other available information, including reports submitted by indigenous organizations, is also used when formulating these questions. The state is then expected to submit written answers several months before the meeting with the Committee is held.

At the meeting, which may be attended by representatives of national and international NGOs and indigenous organizations, government representatives first give an oral introduction of their report to the Committee. The Committee members will make general comments and recommendations on the content of the report and the government representatives then proceed to discuss the individual articles of the Convention. They explain what measures they have taken to comply with the provisions and what obstacles they have experienced in the process. This is followed by questions and comments from the Committee members. These may be answered immediately or a day or two later. The dialogue continues with answers and more questions from the Committee. Finally, the Committee issues a written report (*the concluding observations*), in which it outlines the positive aspects of the state party report, the issues about which the Committee has expressed concern and indicates what the state party should include in its next report. The Committee may also issue recommendations.

The concluding observations are not legally binding on states. Most states are sensitive however to denunciations of their human rights record. Whether they will act upon the recommendations and views of the Committee also depends on the extent to which the Committee's concluding observations are disseminated, both locally and internationally. States should disseminate the report of the Committee, including translating it into the local languages. As they often do not do this, especially when the report contains critical language, there is an important role for NGOs and indigenous organizations to play in this respect.

Follow-up procedure

In 2008, the Committee decided to introduce a follow-up procedure. Under this procedure, States parties are requested to report within two years on the steps they have taken to implement specific recommendations contained in the concluding observations.

Role of Non-Governmental and Indigenous Organisations

When considering state party reports, the Committee, like other treaty bodies, has increasingly welcomed information provided by non-governmental and indigenous organisations in addition to states. Reports compiled by these organizations are called 'shadow reports' and may draw the Committee's attention to issues that have been omitted or incorrectly reported by the state party. These reports may also propose questions that Committee members could ask during the dialogue with the state party.

Shadow reports are an extremely important and effective means for indigenous organizations to influence the reporting procedure and ensure that the Committee obtains an accurate picture of the situation in a given country. In order to prepare an effective shadow report, it is important to obtain the state party's report as soon as possible and know well in advance when it will be considered by the Committee. This information can be obtained from the website of the Committee, where the reviewing schedules are posted about one year in advance. State party reports, once submitted to the UN, are public documents and should be available to all citizens. They are posted on the website, but sometimes only a few weeks before the session. It is better therefore to obtain them directly from the government. If that proves difficult, the secretariat of the Committee can be contacted directly.

Indigenous organizations have several opportunities to present their reports and provide other information directly to members of the Committee:

- during the pre-sessional working group; this is held after each regular session, when a few members of the Committee remain in Geneva or New York to discuss the periodic reports that will be considered at the next session and draw up a list of issues to be sent to the state party. Indigenous organizations can submit written reports at least 2 weeks before the pre-sessional meeting and are allowed to make short oral presentations (max. 10 minutes) to Committee members at the beginning of the meeting.⁴²
- at least 3 months before the session at which the state party report will be reviewed, indigenous organizations may submit written shadow reports and additional materials to the Committee members and the Secretariat;
- during the session when the state party report is reviewed, indigenous organizations can make oral presentations; they can approach the committee members to clarify issues and to lobby, and they can attend the official presentation of the government and the constructive dialogue with committee members.

How to Prepare a Shadow Report

The International Women's Rights Action Watch (IWRAP), which has over ten years experience with submitting shadow reports to the Committee, has produced useful manuals on preparing shadow reports, which can be downloaded from their website.⁴³

2.3 Individual Complaints

In 1999, an Optional Protocol to the Convention was adopted by the UN General Assembly, which provides for two enforcement procedures: a complaint procedure (the 'Communications Procedure') and an inquiry procedure. The Optional Protocol came into force on 22 December 2000. It is a separate treaty that must be ratified by a state party to the Convention before it has legal effect for that state. As of May 2012, 104 states have ratified the Optional Protocol. For the text of the Protocol, see annex II of this Guide. The states that have ratified the Protocol are listed

.....
42 See the Information Note Prepared for NGOs for more practical information.

43 <http://www1.umn.edu/humanrts/iwrap/proceduralguide-08.html#reporting>

in annex III.

Under this procedure, women who believe their rights under the Convention have been violated, may submit complaints to the Committee. After reviewing the facts of the complaint and the state's response, the Committee issues a decision ('views') on whether the state has violated the Convention and, if so, offers recommendations to the state on how to remedy the situation. At any time of the procedure, the Committee may request that the state adopt *interim measures* to avoid irreparable damage to the victim or victims (article 5).

Who can file a complaint?

The Optional Protocol stipulates that both individuals and groups of individuals who are victims of an alleged violation of the Convention may file a complaint. Complaints may also be submitted by others acting on behalf of a victim or victims, provided that the victim has given her consent, unless the lack of consent is justified (article 2).

What is required to bring a complaint?

The first requirement is that all domestic remedies are exhausted. This means that the victim must use all the means available in her own country to seek redress of the alleged violation. This may include filing complaints with administrative tribunals and/or going to the domestic court system. It is not necessary to fulfill this requirement however, if the remedies are unreasonably prolonged or if they do not provide effective relief.

Further requirements, set forth in articles 3 and 4, are:

- the country against which they are complaining is a party to the Convention and the Optional Protocol (see Annex II of this Guide);
- The violation occurred after the date that the Optional Protocol came into force, or is ongoing and has continued past the date when the Optional Protocol came into force;
- The right that is claimed to have been violated, is included in the Convention;
- The complaint has not been or is not being examined by another international procedure;
- the complaint must be in writing;
- The victim or victims must agree that her/their name(s) will be disclosed to the state party against which they are complaining

The procedure

The complaints procedure is similar to those pertaining to other human rights treaties. After receipt of a communication, the Committee sends the complaint to the state party in question and requests a written reply within six months. In its reply, the state party should respond to the admissibility of the communication as well as to the merits of the case. If the state is of the opinion that the domestic remedies have not been exhausted, it should indicate in detail which remedies are available in the specific case. The Committee may then request additional written explanations from both parties, who will receive each others' submissions. It may also request and receive information from other UN bodies, provided these are also sent to both parties.

If the Committee declares the communication inadmissible, this will be communicated to the

state and the author of the communication, and the proceedings end. The admissibility decision may be reviewed if the reasons for admissibility no longer apply. If the communication is declared admissible, the Committee will send its views and any recommendations to the state party and the author(s) of the communication. Within six months, the state party should submit a written response to the Committee indicating what actions it has taken with regard to the Committee's views. If no response from the state is received, the Committee may request the state to do so. The Committee may also appoint a Rapporteur or a working group to ascertain the measures taken by the state party. The report on follow-up will be published in the Committee's annual report.

Confidentiality

Unless the Committee decides otherwise, the communication procedure remains confidential until the Committee issues its views. The state party and the author(s) of the communication have the right to make public any submissions or information relating to the case, except if the Committee requests confidentiality and the author has requested that the identity of the victim is not disclosed. The views of the Committee and submission and reports of the follow-up are not confidential and, unless the Committee decides otherwise, are published in the Committee's annual report.

How to file a complaint with the Committee

The Committee has issued guidelines to help those who wish to file a complaint with the Committee. These can be found in Annex IV of this Guide.

Results

As of May 2012, the Committee has issued 12 decisions on the merits, and rendered 12 complaints inadmissible. As mentioned in the Preface, the case of Cecilia Kell vs. Canada, was filed (and won) by an indigenous women. The views or findings of the Committee are not legally binding, and other than publishing the reports and 'shaming' the state party in question, there are no other means of forcing states to comply with their recommendations. As with all human rights procedures, effectiveness also depends on the creativity of human rights advocates in the use of these procedures.

2.4 The Inquiry Procedure: Grave and Systematic Violations

The inquiry procedure is outlined in articles 8 and 9 of the Optional Protocol. While states are not allowed to register reservations to the Protocol, they may object to this procedure under article 10. If no such declaration has been submitted, the Committee may determine whether, based on information obtained from the Secretary General, there is an indication that grave and systematic violations of the Convention are taking place within a certain state. In this case, it will invite the state party in question to submit its written observations and may request additional information from governments, NGOs and individuals. The inquiry may also include a visit to the state where hearings may be held, but the prior consent of the state party must be obtained. After completing the inquiry, the Committee will transmit its findings, comments and recommendations to

the state party. The state is then required to respond within six months to the findings of the Committee. The state may also be asked to include the steps they have taken in response to the inquiry procedure, in their periodic reports to the Committee. Apart from the (summary of) findings published in the Committee's annual report, the inquiry procedure is confidential. In 2005, the Committee concluded its inquiry procedure about the abduction, rape and murder of women in the Ciudad Juárez area in Mexico and published its findings.⁴⁴ In December 2011, the Committee announced that it decided to initiate an inquiry procedure regarding disappearances and murders of aboriginal women and girls in Canada.

⁴⁴ Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico



Baka women and their children at a community meeting in Cameroon. Photo: Valerie Couillard

3. Other UN Bodies and Procedures relevant to Indigenous Women's Rights

3.1 UN Women

In July 2010, four UN organizations that focused on women and gender equality were merged into a new institution: UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women. These organizations included the Division for the Advancement of Women (DAW) which served as the secretariat for the Commission on the Status of Women as well as the CEDAW-Committee and the United Nations Development Fund for Women (UNIFEM).

The main roles of UN Women are:

- To support inter-governmental bodies, such as the Commission on the Status of Women, in their formulation of policies, global standards and norms.
- To help Member States to implement these standards, standing ready to provide suitable technical and financial support to those countries that request it, and to forge effective partnerships with civil society.
- To hold the UN system accountable for its own commitments on gender equality, including regular monitoring of system-wide progress.

3.2 The Commission on the Status of Women (CSW)

The Commission on the Status of Women (CSW) was established in 1946. Its task is to make recommendations and report to the UN Economic and Social Council (ECOSOC) on women's

rights. Since the Fourth World Conference on Women in 1995, CSW's mandate also includes integrating a follow-up process to the Conference into its programme and reviewing the critical areas of concern formulated in the Beijing Platform of Action.

The CSW has a communications procedure that allows it to receive confidential and non-confidential communications about discrimination against women from other UN organs. The procedure is not linked to the Women's Convention and CSW does not examine individual complaints nor does it offer recommendations or issue any views. It does however publish a summary of its conclusions based on the communications received in its annual report, which is available on the web (see addresses below). Indigenous women have been mentioned several times in this review. In 2001, for instance, the working group of the CSW that deals with the communications, noted with concern:

the continued discrimination against indigenous groups, in particular women and children. It also noted with concern the increasing number of cases of systematic attacks on indigenous communities, including arbitrary killings, detention, torture, rape, forced sterilization and forced disappearances.⁴⁵

The main use of the communications procedure is for the CSW itself, in guiding its policy making activities and determining, for example, the thematic issues it will focus on each year during its annual session. NGOs with accredited status at the UN are allowed to attend the meetings, submit written statements and hold oral presentations. They may also organise side-events. At the end of the session, the CSW usually adopts so-called 'agreed conclusions' on the themes, providing recommendations to governments, the UN system and civil society in general.

In 2001, one of the thematic issues considered by CSW was gender and racial discrimination. The Committee organised an expert meeting and adopted agreed conclusions on gender and all forms of discrimination, in particular racism, racial discrimination, xenophobia and related intolerance. Racism experienced by indigenous women was mentioned both during the expert meeting and in the agreed conclusions. For example, during the expert meeting it was pointed out,

that in parts of the developing world, the majority of the female population experienced racial and ethnic discrimination, and that the situation of *indigenous women and girls* and those belonging to well-established national and ethnic minorities should also be taken into account. Special consideration and efforts should be made to view these women not as victims but as actors in efforts to combat racism [emphasis added],

and that;

in particular migrant and *indigenous women* needed to be educated about their rights in order that they could be assured access to redress against all forms of discrimination in all spheres of public and private life.[emphasis added]⁴⁶

⁴⁵ CSW Report on its 45th session (2001), UN Doc E/2001/27-E/CN.6/2001/14. In 2002, the Working Group also noted the inhumane treatment, sexual harassment and torture of women in custody, including indigenous women (CSW Report on its 46th session, 2002, UN Doc E/2002/27-E/CN.6/2002/13).

⁴⁶ See the summary of the expert meeting in the CSW Report on its 45th session (2001), UN Doc E/2001/27-E/

In its agreed conclusions the CSW called on governments, the United Nations and civil society to adopt an integrated, holistic approach to address multiple forms of discrimination against women and girls, in particular racism, racial discrimination, xenophobia and related intolerance; which among others, would ensure:

the full and equal opportunity for the sustained participation and representation of indigenous women and girls and women and girls, as appropriate, from culturally diverse backgrounds in all relevant decision-making processes,

and to

[t]ake measures, as appropriate, to promote and strengthen policies and programmes for indigenous women with their full participation and respect for their cultural diversity, to combat discrimination based on gender and race, to ensure their full enjoyment of all human rights.⁴⁷

Twelve years later, in March 2012, the CSW adopted a resolution specifically focusing on Indigenous women, entitled "Indigenous women: key actors in poverty and hunger eradication". The full text of this resolution is included in Annex VI of this Guide.

3.3 The Special Rapporteur on Violence Against Women

Following the adoption of the UN Declaration on the Elimination of Violence Against Women in 1993, the United Nations Commission on Human Rights appointed a Special Rapporteur on Violence against Women, its Causes and Consequences in 1994 (resolution 1994/45). The mandate of the Special Rapporteur is to:

- Seek and receive information on violence against women, its causes and its consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information; and,
- Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences.

Additionally, the Special Rapporteur is supposed to work closely with the other UN organs to ensure that they incorporate information on violence against women in their reports and activities.

The Special Rapporteur regularly makes country visits, receives (confidential) communications about cases of violence against women, writes letters and, if necessary, issues urgent appeals to governments concerning these cases. In some cases, the urgent appeals are written jointly with other Special Rapporteurs (such as the Special Rapporteur on Torture and the Special Rapporteur

CN.6/2001/14, Annex II.

⁴⁷ See the agreed conclusions on the thematic issue of gender and all forms of discrimination, in particular racism, racial discrimination, xenophobia and related intolerance in the CSW Report on its 45th session (2001), UN Doc E/2001/27-E/CN.6/2001/14.

on Extra-Judicial, Summary and Arbitrary Executions).

Organisations or individuals who wish to report cases of violence against women, may use a special form, available at the website of the Special Rapporteur.⁴⁸

3.4 The UN Special Rapporteur on Indigenous Peoples

In 2001, a Special Rapporteur on the Situation Of Human Rights And Fundamental Freedoms of Indigenous People was appointed with a broad mandate which includes:⁴⁹

- **Promotion of best practices:** To formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous peoples.
- **Communications:** To gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous peoples themselves and their communities and organizations, on violations of their human rights and fundamental freedoms.

There are no formal requirements to send communications to the Special Rapporteur on alleged violations. Any person or organization, whether or not they are victims themselves, can send (confidential) information to the Special Rapporteur.

Box 4. How to submit information to the Special Rapporteur on Indigenous Peoples

Source: [website of the Special Rapporteur on Indigenous Peoples.](#)

Information submitted to the Special Rapporteur on alleged violations should include a detailed description of the circumstances of the case. It should be precise and as brief as possible (1-2 pages may suffice) while providing a complete statement of the situation, and may be accompanied by annexes providing written or graphic evidence of the facts.

The information should include, where applicable:

When and Where: Date, time and precise location of the incident (Country, region, municipality)

Victim(s) or Community Affected: Name, number and full details on the location of the indigenous people, community or individual(s) whose rights allegedly have been violated or are under threat.

What happened: Detailed circumstances of the alleged violation. If an initial event leads to others, please describe them chronologically. In cases of general measures, such as national

48 Individual Complaint Form for the Special Rapporteur on Violence against Women.

49 Commission on Human Rights, Resolution 2001/57, adopted at its 76th meeting on 24 April 2001.

legislation or policies, indicate their stage of development and how indigenous peoples have or will be affected by them.

Perpetrator(s): Detailed information on the person(s) or institution(s) responsible for the violation and their relation, if any, to the Government concerned. If circumstances require, provide an explanation of the reasons for suspecting responsibility of the person(s) or institution(s) identified.

Action taken by State authorities: If applicable, what actions have been taken by the relevant authorities to remedy the situation? Has the matter been reported to the administrative or judicial authorities of the State concerned? Note that exhaustion of domestic remedies is not a requirement. This information merely aids the Special Rapporteur in understanding the allegation and developing an appropriate response.

Action taken before international bodies: Has any action been initiated before other international or regional human rights mechanisms? If so, at what stage are these other international actions?

Source: Name and full address of the indigenous people, organization or individual(s) submitting the information. These contact details are essential in the event the Special Rapporteur needs clarification or further information on the case. This information is kept confidential, unless the source authorizes otherwise.

Submitting the Information — contact information

Anyone who wishes to submit information to the Special Rapporteur may do so in one of the following ways:

Email (preferred method):

indigenous@ohchr.org

Please include "Communication regarding [country or indigenous people]" in the Subject Line

Mail:

Special Rapporteur on the Situation of human rights
and fundamental freedoms of indigenous people
c/o OHCHR-UNOG
Office of the High Commissioner for Human Rights
Palais Wilson
1211 Geneva 10, Switzerland

Fax:

+41 22 917 92 32

3.5 The Permanent Forum on Indigenous Issues

In 2000, the UN established the Permanent Forum on Indigenous Issues. This is a high-level body that coordinates indigenous issues across the UN system and acts as an advisory body to the Economic and Social Council. Its mandate is to:

- provide expert advice and recommendations on indigenous issues to the Economic and Social Council, as well as to programmes, funds and agencies of the United Nations;
- raise awareness and promote the integration and coordination of activities related to indigenous issues within the UN system; and
- prepare and disseminate information on indigenous issues

What makes the Permanent Forum unique in the UN system is that it is the only body whose members are (partly) elected by non-state representatives. Of the 16 experts that serve on the Forum, eight are nominated by governments and eight by indigenous organisations. The Permanent Forum meets every year in May at the UN Headquarters in New York. Indigenous women are well represented and as mentioned in the introduction, the Permanent Forum has devoted much attention to indigenous women. An analysis of its recommendations on indigenous women has been compiled by the International Indigenous Women's Forum (FIMI).⁵⁰ In 2004, a **Task Force on Indigenous Women** was established, chaired by the Permanent Forum, whose aim is to integrate and strengthen gender mainstreaming with regard to indigenous women's roles in the work of the UN system. Among its tasks are to identify and disseminate good practices, to follow-up on specific recommendations of the Permanent Forum and to produce practical tools including checklists to make sure indigenous women's issues are mainstreamed, reviewing existing gender-training tools and, where needed, filling gaps relating to indigenous women's issues.⁵¹

3.6 The UN Expert Mechanism on indigenous peoples

The **Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)** was established to serve as the expert body advising the Human Rights Council on the rights of indigenous peoples. So far it has issued two studies: one on the right to education of indigenous peoples and one on the right to participate in decision-making.

The EMRIP has referred to the situation of indigenous women in both studies. For instance, in its second report on the right to participate in decision making, the EMRIP recognized indigenous women's 'exceptional impediments' to participate in decision making and advised states to design appropriate strategies to increase indigenous women's participation.⁵²

The annual sessions of the EMRIP are open to representatives of states, indigenous organizations and academics. These are also invited to submit information regarding the issue under review.

50 FIMI 2009.

51 Taskforce for Indigenous Women: <http://www.un.org/womenwatch/ianwge/taskforces/tfIndigenousWomen2005.htm>

52 Expert Mechanism on the Rights of Indigenous Peoples, *Final report of the study on indigenous peoples and the right to participate in decision-making*, A/HRC/18/42, 17 August 2011, para 32.

At present, the EMRIP is preparing a study on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples. It is also looking at best practices regarding possible appropriate measures and implementation strategies in order to attain the goals of the UNDRIP and it will be discussing the upcoming World Conference on Indigenous Peoples (2014).

3.7 Other Treaty Based Bodies

As part of the efforts to mainstream women's human rights within the general human rights conventions and procedures of the UN, the Human Rights Committee and the Committee on the Elimination of Racial Discrimination (CERD), which are charged with monitoring the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, respectively, have adopted general comments and recommendations relating to women that contain references to indigenous women and girls. These can all be used to highlight the human rights concerns of indigenous women and girls.⁵³

The Committee on the Elimination of All Forms of Racial Discrimination

CERD, General Recommendation no. 25, Gender related dimensions of racial discrimination, 20/03/2000 (full text):

1. The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.
2. Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers. Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape; in some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.
3. Recognizing that some forms of racial discrimination have a unique and specific impact on women, the Committee will endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination. The Committee believes that its practices in this regard would benefit from developing, in conjunction with the States parties, a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights on grounds of race, colour,

.....
53 For more information on how to use the procedures relating to these conventions, see the guides produced by the Forest Peoples Programme (<http://www.forestpeoples.org/>)

descent, or national or ethnic origin.

4. Accordingly, the Committee, when examining forms of racial discrimination, intends to enhance its efforts to integrate gender perspectives, incorporate gender analysis, and encourage the use of gender-inclusive language in its sessional working methods, including its review of reports submitted by States parties, concluding observations, early warning mechanisms and urgent action procedures, and general recommendations.
5. As part of the methodology for fully taking into account the gender-related dimensions of racial discrimination, the Committee will include in its sessional working methods an analysis of the relationship between gender and racial discrimination, by giving particular consideration to:
 - (a) The form and manifestation of racial discrimination;
 - (b) The circumstances in which racial discrimination occurs;
 - (c) The consequences of racial discrimination; and
 - (d) The availability and accessibility of remedies and complaint mechanisms for racial discrimination.
6. Noting that reports submitted by States parties often do not contain specific or sufficient information on the implementation of the Convention with respect to women, States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. Data which have been categorized by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

The Human Rights Committee

Human Rights Committee, General Comment no. 28, Equality of Rights between Men and Women (article 3), UN Doc CCPR/C/21/Rev.1/Add.10, 29 March 2000.⁵⁴

32. The rights which persons belonging to minorities enjoy under article 27 of the Covenant in respect of their language, culture and religion do not authorize any State, group or person to violate the right to the equal enjoyment by women of any Covenant rights, including the right to equal protection of the law. States should report on any legislation or administrative practices related to membership in a minority community that might constitute an infringement of the equal rights of women under the Covenant (communication No. 24/1977, *Lovelace v. Canada*, Views adopted July 1981) and on measures taken or envisaged to ensure the equal right of men and women to enjoy all civil and political rights in the Covenant. Likewise, States should report on measures taken to discharge their responsibilities in relation to cultural or religious practices within minority communities that affect the rights of women. In their reports, States parties should pay attention to the contribution made by women to the cultural life of their communities. (..)

54 The full text is available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/13b02776122d4838802568b900360e80?Op=document](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/13b02776122d4838802568b900360e80?Op=document)



Wayuu women in Colombia. Photo: Fuerza de Mujeres Wayuu

4. Useful Contacts and Further Reading

Committee on the Elimination of Discrimination against Women (CEDAW-Committee)

UNOG-OHCHR

CH-1211 Geneva 10 (Switzerland)

Tel.: +41 22 917 94 43

Fax: +41 22 917 90 08

E-mail: cedaw@ohchr.org

Website: <http://www2.ohchr.org/english/bodies/cedaw/contact.htm>

For individual complaints:

Petitions Team

Office of the High Commissioner for Human Rights

United Nations Office at Geneva

1211 Geneva 10 (Switzerland)

Fax: + 41 22 917 9022 (particularly for urgent matters)

E-mail: petitions@ohchr.org

Commission on the Status of Women (CSW)

Secretariat: see UN Women

Website: <http://www.un.org/womenwatch/daw/csw/index.html>

The Expert Mechanism on the Rights of Indigenous Peoples

Office of the High Commissioner for Human Rights

Palais des Nations

CH-1211 Geneva 10

Switzerland

E-mail: expertmechanism@ohchr.org

Special Rapporteur on Violence Against Women, its Causes and Consequences

OHCHR-UNOG,

8-14 Avenue de la Paix

1211 Geneva 10,

Switzerland

Fax: + 41 22 917 9006

Email: vaw@ohchr.org

Special Rapporteur on The Situation Of The Human Rights and Fundamental Freedoms of Indigenous People (Prof. S. James Anaya)

c/o OHCHR-UNOG

Office of the High Commissioner for Human Rights

Palais Wilson

1211 Geneva 10, Switzerland

Fax: +41 22 917 92 32

E-mail: indigenous@ohchr.org

Website: <http://www.ohchr.org/EN/Issues/IPeoples/SRIIndigenousPeoples/Pages/SRIPeoplesIndex.aspx>

See also: <http://unsr.jamesanaya.org/>

UN Permanent Forum for Indigenous Issues

Secretariat of the Permanent Forum for Indigenous Issues

United Nations, 2 UN Plaza

Room DC2-1772

New York, NY 10017

Tel: (1) 917-367-5100

Email: IndigenousPermanentForum@un.org

Website: <http://www.un.org/esa/socdev/pfii/>

UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women (secretariat for CSW)

UN Women

405 East 42nd Street

New York, NY 10017

United States

Tel: +1 646 781-4400

Fax: +1 646 781-4444

Website: www.unwomen.org

UN Women Watch

UN Womenwatch is the UN's "central gateway to information and resources on the promotion of gender equality and the empowerment of women throughout the United Nations system".

Web site: <http://www.un.org/womenwatch/>

International Indigenous Women's Forum (FIMI)

The International Indigenous Women's Forum is "a network of indigenous women leaders that is joined to local, national and regional organizations in Asia, Africa and America."

121 W. 27th Street, #301 New York, NY 10001

Tel: (212) 627-0444

Email: fimi@iiwf.org

Website: <http://indigenouswomensforum.org/>

International Women's Rights Action Watch (IWRAP)

IWRAP operates as an "international resource and communications center that serves activists, scholars, and organizations throughout the world".

Humphrey Institute of Public Affairs

University of Minnesota

301-19th Avenue South, Minneapolis MN 55455 USA

Tel: (612) 625-5557

Fax: (612) 624-0068

Web site: <http://www1.umn.edu/humanrts/iwraw/>

Women's Human Rights Resources

This is a database maintained by the Women's Human Rights Resources Programme (WHRR) with a link to some (older) articles and other documents on indigenous women's issues, the focus is mainly in Canada.

Bora Laskin Law Library

University of Toronto

Web site: <http://www.law-lib.utoronto.ca/diana/mainpage.htm>

* * *

Further Reading

- [ILO Working paper 1/2012, Indigenous women workers: with case studies from Bangladesh, Nepal and the Americas](#) (Geneva, 2012)
- International Indigenous Women's Forum, *Analysis And Follow Up Of The United Nations Permanent Forum On Indigenous Issues Recommendations Related To Indigenous Women*, UN Permanent Forum on Indigenous Issues, May 2009 (an executive Summary is available in [English](#) and [Spanish](#)).
- UN Permanent Forum, *Analysis prepared by the secretariat of the Permanent Forum on Indigenous Issues: Indigenous Women*, E/C.19/2009/8, 4 March 2009. http://www.un.org/esa/socdev/unpfii/documents/E_C_19_2009_8_en.pdf
- [Indigenous Women and the United Nations System: Good Practices and Lessons Learned \(Report on the Task Force on Indigenous Women\)](#)
- Mairin Iwanka Raya, [Indigenous Women Stand Against Violence](#). FIMI Companion Report

to the UN Secretary-General's study on violence against women.

- [Briefing Notes on Gender and Indigenous Women](#)
 - Myrna Cunningham Kain, Permanent Forum on Indigenous Issues, [Role of Institutions in Rural Areas Addressing Women's Needs, With a Focus on Indigenous Women](#).
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Annexes

Annex I: Text of the Convention on the Elimination of All Forms of Discrimination Against Women

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of man and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems,

general and complete disarmament, and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1. For the purposes of the present Convention, the term "discrimination against women" shall mean 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.

Article 2. States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure

through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 3. States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4. 1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5. States Parties shall take all appropriate measures:

(a) To 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;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6. States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7. States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on

equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8. States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9. 1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10. States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;
 - (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
 - (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
 - (d) The same opportunities to benefit from scholarships and other study grants;
 - (e) The same opportunities for access to programmes of continuing education including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
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(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11. 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in

the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12. 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13. States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14. 1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
 - (f) To participate in all community activities;
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(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15. 1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16. 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management,

administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17. 1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a

member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18. 1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned; and

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19. 1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

Article 20. 1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21. 1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22. The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23. Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24. States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25. 1. The present Convention shall be open for signature by all States.

2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.

3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26. 1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27. 1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28. 1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29. 1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30. The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

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Annex II. Text of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

The States Parties to the present Protocol,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Also noting that the Universal Declaration of Human Rights⁵ proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Recalling that the International Covenants on Human Rights⁶ and other international human rights instruments prohibit discrimination on the basis of sex,

Also recalling the Convention on the Elimination of All Forms of Discrimination against Women⁴ ("the Convention"), in which the States Parties thereto condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women,

Reaffirming their determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms,

Have agreed as follows:

Article 1

A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Elimination of Discrimination against Women ("the Committee") to receive and consider communications submitted in accordance with article 2.

Article 2

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Article 3

Communications shall be in writing and shall not be anonymous. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 4

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief.

2. The Committee shall declare a communication inadmissible where:

(a) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;

- (b) It is incompatible with the provisions of the Convention;
- (c) It is manifestly ill-founded or not sufficiently substantiated;
- (d) It is an abuse of the right to submit a communication;
- (e) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Article 5

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

Article 6

1. Unless the Committee considers a communication inadmissible without reference to the State Party concerned, and provided that the individual or individuals consent to the disclosure of their identity to that State Party, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State Party concerned.
2. Within six months, the receiving State Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been provided by that State Party.

Article 7

1. The Committee shall consider communications received under the present Protocol in the light of all information made available to it by or on behalf of individuals or groups of individuals and by the State Party concerned, provided that this information is transmitted to the parties concerned.
2. The Committee shall hold closed meetings when examining communications under the present Protocol.
3. After examining a communication, the Committee shall transmit its views on the communication, together with its recommendations, if any, to the parties concerned.
4. The State Party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee, within six months, a written response, including information on any action taken in the light of the views and recommendations of the Committee.
5. The Committee may invite the State Party to submit further information about any measures the State Party has taken in response to its views or recommendations, if any, including as deemed appropriate by the Committee, in the State Party's subsequent reports under article 18 of the Convention.

Article 8

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State Party

concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

Article 9

1. The Committee may invite the State Party concerned to include in its report under article 18 of the Convention details of any measures taken in response to an inquiry conducted under article 8 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 8.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 10

1. Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 8 and 9.

2. Any State Party having made a declaration in accordance with paragraph 1 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General.

Article 11

A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

Article 12

The Committee shall include in its annual report under article 21 of the Convention a summary of its activities under the present Protocol.

Article 13

Each State Party undertakes to make widely known and to give publicity to the Convention and the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular, on matters involving that State Party.

Article 14

The Committee shall develop its own rules of procedure to be followed when exercising the functions conferred on it by the present Protocol.

Article 15

1. The present Protocol shall be open for signature by any State that has signed, ratified or acceded to the Convention.

2. The present Protocol shall be subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 16

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 17

No reservations to the present Protocol shall be permitted.

Article 18

1. Any State Party may propose an amendment to the present Protocol and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify her or him whether they favour a conference of States Parties for the purpose of considering and voting on the proposal. In the event that at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments that they have accepted.

Article 19

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the notification by the Secretary-General.
2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 or any inquiry initiated under article 8 before the effective date of denunciation.

Article 20

The Secretary-General of the United Nations shall inform all States of:

- (a) Signatures, ratifications and accessions under the present Protocol;
- (b) The date of entry into force of the present Protocol and of any amendment under article 18;

(c) Any denunciation under article 19.

Article 21

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 25 of the Convention.

* * *

Annex III: States Parties to CEDAW and OP-CEDAW

As of 1 May 2012, 187 countries (out of 193) have ratified the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and 104 states are member of the Optional Protocol.⁵⁵

State	CEDAW	Optional Protocol
Afghanistan	5 Mar 2003	
Albania	11 May 1994	23 Jun 2003
Algeria	22 May 1996	
Andorra	15 Jan 1997	14 Oct 2002
Angola	17 Sep 1986	1 Nov 2007
Antigua and Barbuda	1 Aug 1989	5 Jun 2006
Argentina	15 Jul 1985	20 Mar 2007
Armenia	13 Sep 1993	14 Sep 2006
Australia	28 Jul 1983	4 Dec 2008
Austria	31 Mar 1982	6 Sep 2000
Azerbaijan	10 Jul 1995	1 Jun 2001
Bahamas	6 Oct 1993	
Bahrain	18 Jun 2002	
Bangladesh	6 Nov 1984	6 Sep 2000
Barbados	16 Oct 1980	
Belarus	4 Feb 1981	3 Feb 2004
Belgium	10 Jul 1985	17 Jun 2004
Belize	16 May 1990	9 Dec 2002
Benin	12 Mar 1992	
Bhutan	31 Aug 1981	
Bolivia (Plurinational State of)	8 Jun 1990	27 Sep 2000
Bosnia and Herzegovina	1 Sep 1993	4 Sep 2002
Botswana	13 Aug 1996	21 Feb 2007
Brazil	1 Feb 1984	28 Jun 2002
Brunei Darussalam	24 May 2006	
Bulgaria	8 Feb 1982	20 Sep 2006
Burkina Faso	14 Oct 1987	10 Oct 2005
Burundi	8 Jan 1992	
Cambodia	15 Oct 1992	13 Oct 2010
Cameroon	23 Aug 1994	7 Jan 2005
Canada	10 Dec 1981	18 Oct 2002
Cape Verde	5 Dec 1980	10 Oct 2011
Central African Republic	21 Jun 1991	

⁵⁵ For updates on the Women's Convention see: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en and the Optional Protocol, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en.

Chad	9 Jun 1995	
Chile	7 Dec 1989	
China	4 Nov 1980	
Colombia	19 Jan 1982	23 Jan 2007
Comoros	31 Oct 1994	
Congo	26 Jul 1982	
Cook Islands	11 Aug 2006	27 Nov 2007
Costa Rica	4 Apr 1986	20 Sep 2001
Côte d'Ivoire	18 Dec 1995	20 Jan 2012
Croatia	9 Sep 1992	7 Mar 2001
Cuba	17 Jul 1980	
Cyprus	23 Jul 1985	26 Apr 2002
Czech Republic	22 Feb 1993	26 Feb 2001
Democratic People's Republic of Korea	27 Feb 2001	
Democratic Republic of the Congo	17 Oct 1986	
Denmark	21 Apr 1983	31 May 2000
Djibouti	2 Dec 1998	
Dominica	15 Sep 1980	
Dominican Republic	2 Sep 1982	10 Aug 2001
Ecuador	9 Nov 1981	5 Feb 2002
Egypt	18 Sep 1981	
El Salvador	19 Aug 1981	
Equatorial Guinea	23 Oct 1984	16 Oct 2009
Eritrea	5 Sep 1995	
Estonia	21 Oct 1991	
Ethiopia	10 Sep 1981	
Fiji	28 Aug 1995	
Finland	4 Sep 1986	29 Dec 2000
France	14 Dec 1983	9 Jun 2000
Gabon	21 Jan 1983	5 Nov 2004
Gambia	16 Apr 1993	
Georgia	26 Oct 1994	1 Aug 2002
Germany	10 Jul 1985	15 Jan 2002
Ghana	2 Jan 1986	3 Feb 2011
Greece	7 Jun 1983	24 Jan 2002
Grenada	30 Aug 1990	
Guatemala	12 Aug 1982	9 May 2002
Guinea	9 Aug 1982	
Guinea-Bissau	23 Aug 1985	5 Aug 2009
Guyana	17 Jul 1980	
Haiti	20 Jul 1981	
Honduras	3 Mar 1983	
Hungary	22 Dec 1980	22 Dec 2000

Iceland	18 Jun 1985	6 Mar 2001
India	9 Jul 1993	
Indonesia	13 Sep 1984	
Iraq	13 Aug 1986	
Ireland	23 Dec 1985	7 Sep 2000
Israel	3 Oct 1991	
Italy	10 Jun 1985	22 Sep 2000
Jamaica	19 Oct 1984	
Japan	25 Jun 1985	
Jordan	1 Jul 1992	
Kazakhstan	26 Aug 1998	24 Aug 2001
Kenya	9 Mar 1984	
Kiribati	17 Mar 2004	
Kuwait	2 Sep 1994	
Kyrgyzstan	10 Feb 1997	22 Jul 2002
Lao People's Democratic Republic	14 Aug 1981	
Latvia	14 Apr 1992	
Lebanon	16 Apr 1997	
Lesotho	22 Aug 1995	24 Sep 2004
Liberia	17 Jul 1984	
Libya	16 May 1989	18 Jun 2004
Liechtenstein	22 Dec 1995	24 Oct 2001
Lithuania	18 Jan 1994	5 Aug 2004
Luxembourg	2 Feb 1989	1 Jul 2003
Madagascar	17 Mar 1989	
Malawi	12 Mar 1987	
Malaysia	5 Jul 1995	
Maldives	1 Jul 1993	13 Mar 2006
Mali	10 Sep 1985	5 Dec 2000
Malta	8 Mar 1991	
Marshall Islands	2 Mar 2006	
Mauritania	10 May 2001	
Mauritius	9 Jul 1984	31 Oct 2008
Mexico	23 Mar 1981	15 Mar 2002
Micronesia (Federated States of)	1 Sep 2004	
Monaco	18 Mar 2005	
Mongolia	20 Jul 1981	28 Mar 2002
Montenegro	23 Oct 2006	23 Oct 2006
Morocco	21 Jun 1993	
Mozambique	21 Apr 1997	4 Nov 2008
Myanmar	22 Jul 1997	
Namibia	23 Nov 1992	26 May 2000
Nauru	23 Jun 2011	

Nepal	22 Apr 1991	15 Jun 2007
Netherlands	23 Jul 1991	22 May 2002
New Zealand	10 Jan 1985	7 Sep 2000
Nicaragua	27 Oct 1981	
Niger	8 Oct 1999	30 Sep 2004
Nigeria	13 Jun 1985	22 Nov 2004
Norway	21 May 1981	5 Mar 2002
Oman	7 Feb 2006	
Pakistan	12 Mar 1996	
Panama	29 Oct 1981	9 May 2001
Papua New Guinea	12 Jan 1995	
Paraguay	6 Apr 1987	14 May 2001
Peru	13 Sep 1982	9 Apr 2001
Philippines	5 Aug 1981	12 Nov 2003
Poland	30 Jul 1980	22 Dec 2003
Portugal	30 Jul 1980	26 Apr 2002
Qatar	29 Apr 2009	
Republic of Korea	27 Dec 1984	18 Oct 2006
Republic of Moldova	1 Jul 1994	28 Feb 2006
Romania	7 Jan 1982	25 Aug 2003
Russian Federation	23 Jan 1981	28 Jul 2004
Rwanda	2 Mar 1981	15 Dec 2008
Samoa	25 Sep 1992	
San Marino	10 Dec 2003	15 Sep 2005
Sao Tome and Principe	3 Jun 2003	
Saudi Arabia	7 Sep 2000	
Senegal	5 Feb 1985	26 May 2000
Serbia	12 Mar 2001	31 Jul 2003
Seychelles	5 May 1992	1 Mar 2011
Sierra Leone	11 Nov 1988	
Singapore	5 Oct 1995	
Slovakia	28 May 1993	17 Nov 2000
Slovenia	6 Jul 1992	23 Sep 2004
Solomon Islands	6 May 2002	6 May 2002
South Africa	15 Dec 1995	18 Oct 2005
Spain	5 Jan 1984	6 Jul 2001
Sri Lanka	5 Oct 1981	15 Oct 2002
St. Kitts and Nevis	25 Apr 1985	20 Jan 2006
St. Lucia	8 Oct 1982	
St. Vincent and the Grenadines	4 Aug 1981	
Suriname	1 Mar 1993	
Swaziland	26 Mar 2004	
Sweden	2 Jul 1980	24 Apr 2003
Switzerland	27 Mar 1997	29 Sep 2008

Syrian Arab Republic	28 Mar 2003	
Tajikistan	26 Oct 1993	
Thailand	9 Aug 1985	14 Jun 2000
The former Yugoslav Republic of Macedonia	18 Jan 1994	17 Oct 2003
Timor-Leste	16 Apr 2003	16 Apr 2003
Togo	26 Sep 1983	
Trinidad and Tobago	12 Jan 1990	
Tunisia	20 Sep 1985	23 Sep 2008
Turkey	20 Dec 1985	29 Oct 2002
Turkmenistan	1 May 1997	20 May 2009
Tuvalu	6 Oct 1999	
Uganda	22 Jul 1985	
Ukraine	12 Mar 1981	26 Sep 2003
United Arab Emirates	6 Oct 2004	
United Kingdom of Great Britain and Northern Ireland	7 Apr 1986	17 Dec 2004
United Republic of Tanzania	20 Aug 1985	12 Jan 2006
Uruguay	9 Oct 1981	26 Jul 2001
Uzbekistan	19 Jul 1995	
Vanuatu	8 Sep 1995	17 May 2007
Venezuela (Bolivarian Republic of)	2 May 1983	13 May 2002
Viet Nam	17 Feb 1982	
Yemen	30 May 1984	
Zambia	21 Jun 1985	
Zimbabwe	13 May 1991	

Annex IV. Guidelines for submission of a Communication to the CEDAW Committee under the Optional Protocol

The CEDAW Committee has developed the following questionnaire as a guideline for those who wish to submit a communication for consideration by the Committee under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

Send your communication to:

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland
E-Mail : tb-petitions@ohchr.org

1. Information concerning the author(s) of the communication

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children • Profession
- If relevant, ethnic background, religious affiliation, social group
- Present address
- Mailing address for confidential correspondence (if other than present address)
- Telephone/e-mail
- Indicate whether you are submitting the communication as:
 - Alleged victim(s). If there is a group of individuals alleged to be victims, provide basic information about each individual.
 - On behalf of the alleged victim(s). Provide evidence showing the consent of the victim(s), or reasons that justify submitting the communication without such consent.

2. Information concerning the alleged victim(s) (if other than the author)

- Family name
 - First name
 - Date and place of birth
 - Nationality/citizenship
 - Passport/identity card number (if available)
 - Sex
 - Marital status/children
 - Profession
 - Ethnic background, religious affiliation, social group (if relevant)
 - Present address
-

- Mailing address for confidential correspondence (if other than present address)

3. Information on the State party concerned

- Name of the State party (country)

4. Facts of the complaint and nature of the alleged violation(s)

Please detail, in chronological order, the facts and circumstances of the alleged violations,, including:

- Description of alleged violation(s) and alleged perpetrator(s)
- Date(s)
- Place(s)
- Provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were allegedly violated. If the communication refers to more than one provision, describe each issue separately.

5. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies; for example, attempts to obtain legal, administrative, legislative, policy or programme remedies, including:

- Type(s) of remedy sought
- Date(s)
- Place(s)
- Who initiated the action
- Which authority or body was addressed
- Name of court hearing the case (if any)
- If you have not exhausted domestic remedies on the ground that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail.

Please note: Enclose copies of all relevant documentation.

6. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement? If yes, explain:

- Type of procedure(s)
- Date(s)
- Place(s)
- Results (if any)

Please note: Enclose copies of all relevant documentation.

7. Disclosure of your name (s)

Do you consent to the disclosure of your name(s) to the State party should your communication be registered by the Committee in accordance with article 6, paragraph 1 of the Optional Protocol

and rule 69, paragraph 1 of the Committee's rules of procedure?

8. Date and signature

Date/place:

Signature of author(s) and/or victim(s):

9. List of documents attached (do not send originals, only copies)

Annex V: Concluding Observations of the CEDAW Committee: 2011-March 2012

1. Bangladesh
2. Brazil
3. Congo
4. Costa Rica
5. Nepal
6. Norway
7. Paraguay

Note: Concluding observations of the previous period (1993-2010) can be found in the compilation produced by the Forest Peoples Programme available at the website: <http://www.forestpeoples.org/sites/fpp/files/publication/2011/06/cedaw-compilationfinaleng.pdf>

1. Bangladesh: CEDAW/C/BGD/CO/7, 22 March 2011

37. The Committee is concerned at the very limited information and statistics provided on disadvantaged groups of women and girls, including minority women such as Dalit women, migrant women, refugee women, older women, women with disabilities and girls living on the streets. The Committee is also concerned that those women and girls often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, housing, protection from violence and access to justice.

38. The Committee recommends that the State party:

() Collect disaggregated data on the situation of disadvantaged groups of women facing multiple forms of discrimination and adopt proactive measures, including temporary special measures, to eliminate such discrimination and protect them from violence and abuse;

2. Brazil: CEDAW/C/BRA/CO/7, 23 March 2012

16. The Committee acknowledges that the State party has adopted temporary special measures aimed largely at achieving equality among its population, such as quotas based on race and ethnicity to increase the number of Afro-descendent and indigenous students enrolled in higher education programmes, for example those related to science and technology. Even though women might benefit from these measures, the Committee is concerned about the lack of specific assessment of their impact on women to evaluate how effectively these measures have contributed to the acceleration of the substantive equality of women. It is further concerned at the apparent inefficiency in the use of temporary special measures targeting different groups of women.

17. The Committee recommends that the State party take further steps to expand the understanding of the concept of temporary special measures and the use of these measures, in accordance with article 4 (1) of the Convention and general recommendation 25 (2004), as part of necessary strategy towards the achievement of women's substantive equality, in particular for women with disabilities, Afrodescendent, indigenous and rural women, in fields such as political participation, health, education and employment.

23. The Committee calls upon the State party to:

(b) Adopt and implement temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004), in order to accelerate women's full and equal participation in public and political life, in particular with respect to disadvantaged groups of women, such as Afro-descendent and indigenous women, and women with disabilities;

26. The Committee notes the establishment, in 2008, of the Commission for Equal Opportunities on the basis of Gender, Race, and Ethnic origin and for Persons with Disabilities and to Combat Discrimination by the Ministry of Labour and Employment. However, it notes with concern that despite the increased participation of women in the labour market, the achievement of equality between men and women in the field of employment remains a challenge in the State party. It is concerned that the wage gap between men and women fluctuates between 17% and 40% depending on the race, ethnicity and education of women. It is also concerned that stereotypes related to gender and race contribute to the segregation of Afro-descendent and indigenous women into lower quality jobs. It is further concerned at the lack of information regarding measures to protect women from sexual harassment in the workplace as well as about the persistence of the exploitation of women and children as domestic workers.

32. The Committee expresses its concern about the significant increase in the number of women and girls in prison in the State party. It takes note that a large proportion of them have been imprisoned for committing drug trafficking-related offences, in particular for having transported drugs (as "mules") at the request of their partners. The Committee is further concerned at the precarious conditions and overcrowding of some detention facilities; the difficulties faced by women prisoners with access to justice, including the lack of interpretation services for indigenous women; the increasing reports of sexual violence in the prisons; and the lack of adequate health facilities and services for female inmates, in particular pregnant women.

33. The Committee urges the State party to:

(...) Take measures to reduce the number of women in conflict with the law, including through targeted prevention programmes aimed at addressing the causes of women's criminality;

(b) Address the situation of women and girls in detention through the development of comprehensive gender-sensitive policies, strategies and programmes aimed at facilitating their access to justice and ensuring compliance with their fair trial guarantees, in particular for indigenous women; and providing educational, rehabilitative and resettlement programmes for women and girls; and

(c) Improve the conditions of women's detention facilities in accordance with international standards, to solve the problems of overcrowding in the prisons, guarantee separate accommodation for men and women inmates; and ensure the provision of adequate health facilities and services, in particular for pregnant women.

3. Congo: CEDAW/C/COG/CO/6, 1 March 2012

41. While welcoming the adoption of the law of 25 February 2011 prohibiting traffic and sexual exploitation of indigenous children and women, the Committee is concerned that indigenous women and girls are extremely vulnerable to sexual violence. It is further concerned about reports of discrimination against indigenous women by health workers. The Committee is also concerned

that the State party did not provide adequate information on this issue.

42. The Committee recommends that the State party:

() Take, without delay, concrete actions to protect indigenous women and girls from all forms of violence, establish mechanisms for redress and rehabilitation and take steps to investigate, prosecute and punish all perpetrators of violence against them;

(b) Pay special attention to the needs of indigenous women and girls to ensure that they have access, without discrimination, to health, education, clean water, sanitation services and employment; and

(c) Provide information in the next periodic report on efforts undertaken in this regard and results achieved.

4. Costa Rica: CEDAW/C/CRI/CO/5-6, 2 August 2011

24. ... It is further concerned at the lack of temporary special measures in place aimed at ensuring the participation in political and public life of disadvantaged groups of women, such as women with disabilities, indigenous women and women of African descent.

25. The Committee recommends that the State party:

(b) Adopt, wherever necessary, temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004), in order to accelerate women's full and equal participation in public and political life, in particular with respect to disadvantaged groups of women, such as women with disabilities, indigenous women and women of African descent.

38. While acknowledging initiatives such as the celebration of the first forum of indigenous women in 2007 aimed at improving the status of indigenous women, the Committee notes with concern that indigenous women continue to have limited opportunities and restricted access to quality education, health care and legal aid services. The Committee is further concerned about the limited information provided by the delegation regarding measures to improve the status of women of African descent in the State party.

39. The Committee encourages the State party to adopt concrete, targeted measures to accelerate the improvement of conditions of indigenous women and women of African descent in all spheres of life. It calls upon the State party to ensure that both groups of women have full access to education, health services and credit facilities and can fully participate in decision-making processes. It requests the State party to include in its next periodic report information and data on the situation of indigenous women and women of African descent and on the impact of measures taken to overcome multiple discrimination against them.

5. Nepal: CEDAW/C/NPL/CO/4-5, 11 August 2011

23. The Committee welcomes the 33 per cent representation of women in the Constituent Assembly. However, it is deeply concerned about the extremely low representation of women, in particular *Dalit* and indigenous women, in high-level decision-making positions, public service, the judiciary and the diplomatic service; in the National Human Rights Commission; and at the local level.

24. The Committee recommends that:

(a) The quota system for women's representation in the Constituent Assembly be increased in the future Parliament;

(b) The State party fully utilize the Committee's general recommendation No. 23 and adopt temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25, in order to accelerate the full and equal participation of women in public and political life. To this end, the Committee recommends that the State party:

(i) Establish concrete goals and timetables in order to accelerate the increase in the representation of women, including *Dalit* and indigenous women, in elected and appointed bodies in all areas of public life from the local level, including the Village Development Committee, to the national and diplomatic levels;

(ii) Implement awareness-raising activities on the importance of the participation of women in decision-making for society as a whole, and develop targeted training and mentoring programmes for women candidates and women elected to public office, and programmes on leadership and negotiation skills for current and future women leaders.

27. While welcoming the overall increase in gender parity in primary and secondary education, the Committee is concerned about the minimal increase in female enrolment, the extremely high drop-out rate for girls, the urban/rural disparities in access to education and illiteracy rates, and the low literacy rate for female adults. The Committee is further concerned about the extremely low number of female teachers at all levels of education.

28. The Committee urges the State party to enhance its compliance with article 10 of the Convention and to raise awareness of the importance of education as a human right and as the basis for the empowerment of women. To this end, it urges the State party to:

(a) Strengthen its efforts to achieve universal provision of quality education for girls at each level of the education system in urban, rural and remote areas and to provide access to education to girls with disabilities through the improvement of infrastructures and the provision of support systems, with special attention to girls from *Dalit*, indigenous and other disadvantaged groups;

29. While welcoming the prohibition of so-called bonded labour, the Committee is concerned about reports that this practice still exists among the indigenous Tharu community. It is further concerned about the high rate of child labour, particularly among girls between the ages of 8 and 14; the high proportion of women in the informal sector; and the widespread prevalence of sexual harassment in the workplace. The Committee notes with concern that the draft law on sexual harassment has been pending before Parliament since 2009.

30. The Committee recommends that the State party ensure equal opportunities for women in the labour market, in accordance with article 11 of the Convention. To this end, it recommends that the State party:

(a) Strengthen its efforts to eradicate bonded labour and child labour and ensure effective implementation of the International Labour Organization (ILO) Convention concerning the Abolition of Forced Labour (Convention No. 105);

(b) Regulate the informal sector to ensure that women in this sector are not exploited;

(c) Align the draft law on sexual harassment in the workplace with the Committee's general recommendation No. 19, enact it without delay and ensure its effective implementation;

- (d) Develop confidential and safe system of filing complaints, facilitate access to justice for victims of sexual harassment and conduct awarenessraising campaigns targeting working women in particular, to break the culture of silence surrounding sexual harassment;
- (e) Consider ratifying the ILO Convention concerning Decent Work for Domestic Workers (Convention No. 189).

39. The Committee is deeply concerned about the multiple forms of discrimination against disadvantaged groups of women such as *Dalit* and indigenous women, widows and women with disabilities.

40. The Committee urges the State party to prioritize combating multiple forms of discrimination against women from various disadvantaged groups through the collection of data on the situation of these women and the adoption of legal provisions and comprehensive programmes, including public education and awareness-raising campaigns involving the mass media and community and religious leaders.

6. Norway: CEDAW/C/NOR/CO/8, 9 March 2012

31. While acknowledging the increased supportive measures for Sami women regarding social and health services, the Committee is concerned that Sami women continue to face multiple discrimination, including difficulty in accessing adequate health care due also to the unavailability of adequate services for the Sami women living outside the defined Sami area. (...)

32. The Committee calls upon the State party to:

- () Ensure that all Sami women are provided with adequate social and health services, including mental health services;
- (b) Ensure that gender perspectives are mainstreamed in all policies and programmes regarding the Sami people; (...)

7. Paraguay: CEDAW/C/PRY/CO/6, 8 November 2011

12. The Committee is concerned that, despite the prohibition contained in article 48 of the Constitution, the State party's legislation does not provide definition of discrimination in accordance with article 1 of the Convention. The Committee is further concerned that, despite the preparation of draft laws on equality and against all forms of discrimination against women, endorsed by ministerial entities, several commissions of the legislative branch and civil society, these drafts have not been approved by the legislature. The lack of comprehensive law disproportionately affects disadvantaged groups of women, including indigenous and rural women, lesbians and transsexuals, who are particularly vulnerable to discrimination. The Committee is further concerned at the persistence of discriminatory provisions in the legislation which denotes need to further harmonize domestic legislation with international instruments ratified by the State party.

13. The Committee reiterates its recommendation to the State party to take effective steps to prohibit discrimination against women in line with article 1 of the Convention through the adoption of appropriate national legislation, such as the drafting of comprehensive law on discrimination that awaits the approval of parliament. The Committee also recommends that the

State party review its domestic legislation in order to harmonize it with the Convention.

26. ... The Committee is further concerned about the gap with regard to the education of indigenous girls.

27. The Committee recommends the State party to:

(d) Step up its efforts towards implementing equal education opportunities for indigenous girls.

32. The Committee welcomes the efforts by the State party to implement action to improve institutional services for rural women, such as the drafting of the Specific Policy for Rural Women (*Política Específica para Mujeres Rurales*). However, the Committee remains concerned about the disadvantaged position of women in rural areas, who are most affected by poverty, challenges in access to health and social services and lack of access to land, not due to legal impediments, but to traditional practices and cultural patterns, which are stronger in rural areas and indigenous communities. The Committee is further concerned that, despite the measures implemented to regulate the use of agro-toxic products, their misuse in agriculture can negatively impact on the health of rural women.

33. The Committee recommends the State party to:

() Implement specific policies with a view to advancing the realization of women's rights, including through effective temporary special measures to accelerate the achievement of substantive equality;

(b) Strengthen its efforts to implement comprehensive nationwide health and educational programmes, including programmes in the areas of functional literacy, enterprise development, skills training and microfinance, as means of poverty alleviation; and

(c) Undertake a comprehensive study on the probable negative causes of the misuse of agro-toxic products in agriculture in order to implement the necessary measures to eradicate their impact on the health of women and their children.

34. The Committee welcomes the efforts by the State party to improve the living conditions of indigenous women, including monolingual Guaraní women. However, the Committee reiterates its concern about the persistence of illiteracy, low school enrolment rates, poor access to health care and significant levels of poverty. The Committee is deeply concerned about the high levels of vulnerability in relation to the right to adequate food and to safe drinking water, especially in the Chaco region, which has been repeatedly affected by droughts. The Committee is also concerned about indigenous women's wages, which are usually below the national average.

35. The Committee recommends the State party to:

() Adopt temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004) to accelerate the realization of the rights of indigenous women;

(b) Ensure that indigenous women have easy access to schools and health services, in an affordable manner – both physically and financially – with bilingual services, which take into account the special needs of women from monolingual indigenous communities; and

(c) Strengthen its efforts to realize the right to adequate food and water in a consultative and participatory manner, involving indigenous women in order to achieve culturally adequate outcomes.

Annex VI: Resolution of the Commission on the Status of Women: Indigenous women: key actors in poverty and hunger eradication

Adopted at The fifty-sixth session of the Commission on the Status of Women from Monday, 27 February to Friday, 9 March 2012.

ADVANCE UNEDITED VERSION

The Commission on the Status of Women,

Reaffirming the Beijing Declaration and Platform for Action,¹ the outcome of the twenty-third special session of the General Assembly,² and the declarations adopted by the Commission on the occasion of the tenth and fifteenth anniversaries of the Fourth World Conference on Women,³

Reaffirming also that the Convention on the Elimination of All Forms of Discrimination against Women⁴ and the Optional Protocol thereto,⁵ as well as other relevant international human rights instruments, provide a framework for the promotion and protection of the human rights of indigenous women,

Recalling the United Nations Declaration on the Rights of Indigenous Peoples,⁶ which addresses their individual and collective rights,

Stressing the importance of promoting and pursuing the objectives of the United Nations Declaration on the Rights of Indigenous Peoples also through international cooperation in supporting national and regional efforts to achieve the ends of the Declaration, including the right to maintain and strengthen the distinct political, legal, economic, social and cultural institutions of indigenous peoples and the right to participate fully, if they so choose, in the political, economic, social and cultural life of the State,

Recalling its resolution 49/7, entitled "Indigenous women: beyond the ten-year review of the Beijing Declaration and Platform for Action", which calls upon Governments, intergovernmental agencies, the private sector and civil society to take measures that ensure the full and effective participation of indigenous women in all aspects of society,

Affirming that indigenous women represent a wide variety of cultures and traditions with different needs and concerns and contribute to the diversity and richness of civilizations and cultures around the world, *Stressing* the importance of recognizing the distinct and crucial contribution of indigenous women, their knowledge and their vital roles in diverse local economies to poverty eradication, food security and sustainable development,

Recognizing that a significant number of smallholder farmers and rural entrepreneurs in developing regions are women, including indigenous women, and that they play a vital role in agricultural and rural development, including by enhancing food security and nutrition for their communities and families, *Recognizing also* that the involvement, perspectives and traditional knowledge of indigenous women make an important contribution to sustainable development and the conservation of biodiversity and natural resources, such as land, forests, water, seeds and coastal seas,

Expressing deep concern about the increasing feminization of poverty, emphasizing that the empowerment of women, including indigenous women, is a critical factor in the eradication of poverty and that the implementation of special measures aimed at empowering women can help to achieve this objective, and recognizing that poverty of women, including indigenous women, is directly related, inter alia, to the absence of economic opportunities and of autonomy, lack of access to economic resources,

lack of access to education and support services, and minimal participation in the decision-making process,

Concerned about the extreme disadvantages that indigenous peoples, in particular indigenous women, have typically faced across a range of social and economic indicators and the impediments to their full enjoyment of their rights,

Concerned also that the adverse impacts of climate change on women and girls, including indigenous women, can be exacerbated by gender inequality, discrimination and poverty,

Concerned further that indigenous women often suffer from multiple forms of discrimination and poverty which increase their vulnerability to all forms of violence,

Emphasizing that indigenous women should exercise their rights free from discrimination of any kind,

Emphasizing also that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples, and the empowerment of indigenous women and their enjoyment of all human rights and fundamental freedoms,

1. *Urges* States to:

(a) Take particular measures to promote and strengthen policies and programmes for indigenous women with their full participation and respect for their cultural diversity, so that they have the opportunities and the possibility of choice in the development process needed to eradicate the poverty that affects them;

(b) Support the economic activities of indigenous women, in consultation with them and taking into account their traditional knowledge, so as to improve their situation and development, in particular by enhancing their equal access to productive resources and agricultural inputs, such as land, seeds, financial services, technology, transportation and information;

(c) Ensure the realization of the right of indigenous women and girls to education, and promote a multicultural approach to education that is responsive to the needs, aspirations and cultures of indigenous women, including by developing appropriate education programmes, curricula and teaching aids, to the extent possible in the languages of indigenous peoples, by promoting their access to information and communications technologies and by providing for the participation of indigenous women in these processes, and take measures to ensure that indigenous women and girls have the right to equal access to all levels and forms of education without discrimination;

(d) Provide support, investment and technical assistance for the training of indigenous women, and support women's organizations and cooperatives, which contribute to promoting mutual support and leadership;

(e) Formulate and implement, in consultation and collaboration with indigenous women and their organizations, policies and programmes designed to promote capacity-building processes and strengthen their leadership, and take measures to ensure full and effective participation of indigenous women in decisionmaking processes at all levels and in all areas, and eliminate barriers for their participation in political, economic, social and cultural life;

(f) Take concrete measures to provide and enhance equal access and enjoyment of the highest attainable standard of health for indigenous women, including sexual and reproductive health, and access to safe and clean drinking water and sanitation, and safe cooking and heating;

(g) Respect, preserve and promote, where appropriate, the traditional knowledge of indigenous women

with respect to medicine, including the conservation of their vital medicinal plants, animals and minerals;

(h) Comply with and effectively implement all their human rights obligations so as to ensure the full realization and equal enjoyment of the rights of indigenous women;

(i) Take concrete measures to provide equal access to justice for indigenous women at all levels, and ensure that indigenous women have equal rights to own land and other property;

(j) Recognize that poverty and discrimination increase the conditions that generate violence against women, and take actions at the national, local and community levels to prevent and eliminate all forms of violence against indigenous women;

(k) Collect and disseminate disaggregated data on indigenous women, including those living in rural areas, in order to monitor and improve the impact of development policies and programmes for their well-being;

2. *Encourages* States to support the participation of indigenous women in the United Nations Conference on Sustainable Development, also called Rio+20, and in the High-level Meeting of the General Assembly that is to be called the World Conference on Indigenous Peoples, to be held in 2014;

3. *Encourages* States, intergovernmental organizations, the private sector and civil society to take appropriate measures to promote the rights of indigenous peoples, and respect their cultures, lands, territories and resources and their contribution to sustainable development;

4. *Encourages* UN-Women and, as appropriate, relevant funds, programmes and specialized agencies of the United Nations system, international financial institutions, the private sector, non-governmental organizations and other civil society actors to take measures to develop, finance, implement and support policies and programmes aimed at promoting the empowerment of indigenous women and their enjoyment of all human rights.

¹ *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

² General Assembly resolution S-23/2, annex, and resolution S-23/3, annex.

³ See Economic and Social Council decisions 2005/232 and 2010/232, respectively.

⁴ United Nations, *Treaty Series*, vol. 1249, No. 20378.

⁵ *Ibid.*, vol. 2131, No. 20378.

⁶ General Assembly resolution 61/295, annex.