

**Pacific Indigenous Peoples Preparatory meeting for the
World Conference on Indigenous Peoples
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Agenda Item: Violence Against Women

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Introduction

Violence, abuse and dependency to chemicals and other dysfunctional processes were brought to Indigenous peoples by the colonisers of our lands. Through the acculturation process of adapting to a dominant violent culture during the frontier wars of early colonisation and generational subjugation, Indigenous peoples have suffered the effects of these processes by learning the introduced behaviours of the colonisers and internalising those same behaviours to such a degree that we now perpetrate them on each other. This is a direct result of the colonisation of our lands.

Indigenous peoples were, during a time of violent warfare and generational violence, introduced to alcohol and other drugs that were used to control them. Our Ancestors were subjected to levels of physical, sexual and psychological violence that produced generations of trauma, shame, loss and grief. This allowed violence to fester and invade our own family systems as a direct result of engaging with the dysfunctionality of the British colonial system. Some of our peoples have become chemically dependent, violent and abusive as a learned process of adaptation due to this violent confrontation and frontier warfare. Over generations and through loss of those cultural traditions that sustained our integral moral values, Indigenous peoples internalised the trauma and violence to such a degree that we now impose violence and abuse on our most vulnerable and each other, just as the colonial system did to us.

The British brought dysfunctional societal, family, legal and judicial systems through their invasion and colonisation of our lands, during which they imposed upon us those systems in violent frontier warfare. At the same time the colonisers denied us our own family systems which were healthy and functional under a system of Law and cultural protocols.

The effects of adapting to survive the process of colonisation have permeated our peoples psychologically over time. This has occurred through institutionalisation and forcible removal to missions in a system of apartheid and removal from general society, the influence of alcohol and other introduced chemicals, the loss of liberty and freedoms and the destruction of cultural spirituality and ceremonial life. As a result of the violence experienced during the war of colonisation coupled with the internalised anger of racism and trauma from sexual and physical abuse we have now internalised it to each other and externalised it within a system which continues to oppress us. We do this now by actively being violent with each other, being

violent to the self, and externalising it with an increasing number of juveniles and adults in the criminal justice system.

The ongoing generational transferral of trauma from living in a war zone during these generations of colonisation has meant that we now, with the loss of a cultural spiritual rudder, engage in the types of dysfunctional behaviour exhibited by the invading colonial culture. Being denied our very existence was a trauma of being a people belonging nowhere, which shamed us for years until the legal fiction known as *terra nullius* was overturned by the 1992 Mabo judgement.

We now engage in behaviour which under our traditional Laws would not have occurred; suicide, homicide, violence against women and children, chemical addictions which often lead to family violence and displacement, imprisonment and the sexual violence toward children. The suffering of those generations under a dysfunctional British system of society and law, where lawlessness prevailed has had a direct devastating affect on our culture and society and we now see the results of that. We have managed to survive and adapt despite the very real attempts to wipe us out. This survival is our strength, our ability to adapt and change is not only a positive but also a negative, in that we now hurt each other more than those who oppress and imprison us. It is imperative that, instead of viewing violence against children and women as a process in Indigenous culture, that we address this violence and have it recognised as internalised behaviour from the effects of adapting to survive during colonisation.

We now grow up in dysfunctional family systems directly because of our loss of culture, family structure and Law. In our systems we have the uniqueness of culture and spirituality applied and as such, prior to invasion, we lived by those spiritual and cultural traditions and Law. When this is forcibly taken from a culture, it experiences a dispossession and depression from which it may never recover. We cannot because of colonisation, recover that spirituality that enables us to stay functional as a system, we are forever changed.

Recovery is a choice, a decision an individual makes to change their life, to renounce dysfunctionality, certain behaviours and actions that destroy relationships and enable dependency and violence to thrive and which breeds an environment in which children learn these behaviours. This hurts families and individuals and grows up perpetrators of violence. Bringing back the values and traditions of our culture and Law enables a strong spiritual foundation absolutely necessary for recovery to be supported emotionally, mentally and physically. Our medicine and our Law teach us that we are holistic and all parts of us require healing and recovery. We cannot only treat our physical or mental illnesses separate from all the other parts of ourselves, but holistically. This requires a return to Law, to ceremony, to surrender, to change, to engage with cultural traditions properly, and to reject the dysfunctional traditions we have internalised and cleanse ourselves of the immoralities of colonisation.

A holistic approach to recovery for all Indigenous peoples in all nation states is required to heal the emotional, mental, spiritual, physical and cultural traumas. Recognition of the impacts of colonisation and the effects of acculturation in order to

survive as peoples of those lands needs recognition. The continuing denial by the dominant culture that they are also responsible for the levels of violence perpetrates the view that Indigenous peoples are by nature violent towards our women and children.

Attached in Appendix 1 is the report *Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women: an overview of existing knowledge and a call to action*. The study concludes with a set of 10 recommendations which primarily call for improving data collection and analysis to address the statistical silence around violence against Indigenous girls and young women.

Recommendations

We recommend that:

1. States acknowledge publicly, in discourse, across policy, programs and through education that, as a result of the violence inflicted upon Indigenous peoples through the process of colonisation and acculturation that this violence itself has been internalised in Indigenous family systems and has become a disease to which we have been forcibly afflicted. It must now be viewed as a familial and community disease to be treated holistically in partnership with Indigenous peoples themselves, and in accordance with the principles of the Declaration on the Rights of Indigenous Peoples, in particular Article 3 self determination.
2. In regard to Indigenous peoples that United Nations agencies move away from the discourse of violence against women and instead adopt this area as violence against Indigenous peoples.

Appendix 1

Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women: an overview of existing knowledge and a call to action

EXECUTIVE SUMMARY



SRSG on VIOLENCE
AGAINST CHILDREN



International
Labour Organization



United Nations Entity for Gender Equality
and the Empowerment of Women



Background

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted in 2007 marked a watershed in the history of indigenous peoples' struggle for recognition of their rights. The Declaration guarantees the rights of indigenous peoples - estimated to number more than 370 million in some 90 countries around the world. In particular, Article 22 calls on States, "to 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."¹

To this effect, in 2012, the United Nations Permanent Forum on Indigenous Issues held its annual International Expert Group Meeting on the theme: *Combating violence against indigenous women and girls: article 22 of the United Nations Declaration on the Rights of Indigenous Peoples*. The meeting sought to address the paucity of quantitative and qualitative information on the nature, causes and extent of violence against indigenous women and girls and its impact on the full realization of their rights.

In support of this effort, and in response to a recommendation of the Forum at its 5th session in 2006, the Office of the Special Representative of the Secretary General on Violence against Children (OSRSG/VAC), the United Nations Children's Fund (UNICEF), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Population Fund (UNFPA), and the International Labour Organisation (ILO) agreed to support a literature review on: the (1) interface between the historical, political, economic, social and cultural contexts of indigenous peoples and the risk factors associated with violence against indigenous girls, adolescents and young women (2) types of violence which have been documented against these groups and their settings e.g. domestic, community, school and reproductive health and (3) relevance and effectiveness of protection, prevention and response services, institutions and legal frameworks.²

The study builds on the United Nations Secretary General's *World Report on Violence against Children*, including its follow up processes, the *in-depth study on all forms of violence against women*, both published in 2006 as well as the Report of the Secretary General *on the Status of the Convention on the Rights of the Child*, with a focus on the rights of indigenous children (2012).³ It also draws upon the

¹ The UNDRIP builds on ILO Convention No. 169, Indigenous and Tribal Peoples Convention of 1989.

² There was a conscious effort to limit the research objectives to a manageable level. Hence it excludes dimensions such as incidence, prevalence and consequences of violence against the target group as the data on these did not appear to be readily available, but nevertheless could be considered in subsequent research.

³ Pinheiro, P.S. 2006. *World Report on Violence Against Children*, (Geneva: ATAR Roto Presse SA, 2006); United Nations, *United Nations Secretary-General's Study on Violence Against Children (A/61/299)*; UN General Assembly, *In-depth study on all forms of violence against women: report of the Secretary-General*, 6 July 2006, (A/61/122/Add.1).

International Indigenous Women's Forum's report, *Mairin Iwanka Raya* which highlights the special circumstances of indigenous women and girls. While violence is not unique to indigenous girls, adolescents and young women, the findings of these reports point out that the intersecting forms of inequality and discrimination experienced by virtue of their gender, age and indigenous status heightens their vulnerability to multiple forms of violence.

Constrained by data limitations, it was not possible to highlight all manifestations of violence against indigenous girls, adolescents and young women comprehensively. Hence, drawing on findings from available information from the Africa, Asia and Latin America regions, the study highlights the gravest, most prevalent and entrenched forms of violence in three focus countries: Kenya, the Philippines and Guatemala. It was undertaken through a systematic desk review of existing material, covering qualitative research on violence, Demographic and Health Surveys, Child Labour Surveys, reports of Member States to UN Special Procedures mechanisms, Treaty Bodies (and their concluding observations and recommendations), human rights regional bodies and ILO supervisory bodies. It attempts to consolidate current knowledge and thinking on violence against indigenous girls and young women in age-specific contexts: girls (0-9 years); female adolescents (10-19 years) and female youth (15-24 years).

I. Contexts and risk factors for violence against indigenous girls, adolescents, and young women

Indigenous peoples generally experience discrimination and exclusion in all areas of social, economic, cultural and political life and also tend to be the poorest of the poor in their respective countries.⁴ Many issues, such as the condition of displacement, loss of land, low rates of birth registration, limited access to culturally appropriate education and health services (including sexual and reproductive health), low enrolment and literacy rates, conflict and the lack of access by indigenous peoples to justice and other essential basic services create conditions affecting their human rights, development, human security and, ultimately their very survival. The report illustrates that when risk factors accumulate and overlap they not only contribute to underlying causes of violence against indigenous girls, adolescents and young women, but potentially mitigate the protective factors that typically prevent or reduce the likelihood of violence.

For example, while human trafficking is a serious problem in Asia, in some parts of the region, it disproportionately affects indigenous girls and adolescents. In an environment with low birth registration of indigenous children, the lack of an identity may act as an incentive to promote trafficking of girls and adolescents and limit their access to protection and response services for victims. In parts of Africa

⁴ Kabeer, N. "Can the MDGs Provide a Pathway to Social Justice? The Challenge of Intersecting Inequalities", (New York, UNDP, 2010); United Nations, *State of the World's Indigenous Peoples* (New York, 2009); and G. Hall and H.A. Patrinos, *Indigenous Peoples, Poverty and Development* (Cambridge University Press, 2012).

where indigenous girls may marry as young as age 12, the low value placed on educating the indigenous girl and the high emphasis on her reproductive role places her at risk of child marriage which is a violation of a girl's rights and, in turn, places her at higher risk of domestic and sexual violence, contributing to a greater vulnerability to early pregnancies, maternal death and disability and to contracting sexually transmitted infections, including HIV. Poverty among indigenous peoples is particularly entrenched in Latin America and overlaps with an environment where traditional notions of masculinity and "machismo" sustain deeply rooted negative gender roles and stereotypes which, when compounded with racial and ethnic discrimination, exacerbate barriers that prevent girls and women from accessing basic services, social security and opportunities for employment.

II. Forms of violence against indigenous girls, adolescents and young women: Examples from Africa, Latin America, and Asia

This study acknowledges the universality of violence and the growing body of evidence on the incidence, prevalence and consequences of gender based violence in its various forms. It however finds that the available documentation fails to examine dimensions related to ethnicity and life cycle and where it does, the analysis tends to be inadequate and therefore inconclusive. Based on available literature, the study highlights illustrative examples of how indigenous girls, adolescents and young women are affected by violence.

Intimate partner violence

Although intimate partner violence is the most prevalent form of violence against women and girls globally⁵, including for adolescents and young women aged 15 to 24, data is often not disaggregated by variables such as race and ethnicity rendering indigenous women and girls largely invisible in national data on the issue. While a 2008 indigenous women's consultation in Asia points to high levels of intimate partner violence across the region,⁶ data from the Philippines is able to shed light on the experiences of intimate partner violence of indigenous young women and girls by focusing on regions with large indigenous populations. The Demographic and Health Survey of the Philippines (2008) demonstrates that child marriage, most common in the Autonomous Region of Muslim Mindanao,⁷ is a risk factor for

⁵UN General Assembly, *In-depth study on all forms of violence against women: report of the Secretary-General*, 6 July 2006, (A/61/122/Add.1), para 112.

⁶ Asia Pacific Forum on Women, Law and Development (APWLD), 'Defending the Rights of Indigenous Women in Asia Pacific Towards an Inclusive and Violence-free Future, Summary Report of the Asia Pacific NGO Consultation with the United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk and the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, S. James Anaya', Chiang Mai, Thailand: APWLD, 2008.

⁷ According to the Global Campaign to Stop Violence Against Women in the Name of Culture (2010) Article 16 of the Muslim Code provides that the minimum age of marriage is 15 for both males and females. A total of 593 respondents from five provinces in

violence as married adolescents and young women (ages 15-19 and ages 20-24) report the greatest frequency of spousal violence in the last 12 months.⁸ The youngest age cohort of ever married women (15-19) reports the highest frequency of spousal physical or sexual violence.⁹ Generally, the number of marital control behaviors displayed by a husband is highly associated with the prevalence of violence and these experiences were high (above 12 per cent) for women in four regions with large indigenous populations in Mindanao: Northern Mindanao, Caraga, Davao, and Soccsksargen.¹⁰

Harmful practices

Harmful practices prevail in many countries around the world, ranging from widely known practices such as female genital mutilation/cutting (FGM/C), child marriages, prenatal sex selection and infanticide. Where national legislation exists alongside customary and religious laws, legal interpretation and implementation often face complexities and tensions that can lead to situations that compromise the realization of the rights of girls, adolescent and young women. The Committee on the Rights of the Child expressed concern for instance about the continued existence of child marriage among indigenous girls in Lao People's Democratic Republic and found that the absence of an effective statistical database to monitor the law which prohibits the practice impedes its implementation.¹¹ In Kenya, although trends from 1998, 2003 and 2008/9 (current) show a decline in the percentage of adolescents and women aged 15-49 years who have undergone FGM/C (38 per cent by 1998, 32 per cent by 2003 and 27 per cent by 2008),¹² the practice remains far more prevalent among the Somali (98 per cent), the Kisii (96 per cent), and the Maasai (73 per cent) indigenous populations than among other groups.¹³

Violence in situations of armed conflict, post conflict settings and natural disasters

Conflict and displacement affecting indigenous peoples, specifically in Asia and Latin America, are a result of militarization, natural disasters, and disputes related to land, self-determination and large-scale development projects. In the Philippines, indigenous peoples of Mindanao and the Cordillera Administrative Region live against a backdrop of conflict and violence that affect children and young people's lives and increases insecurity in places where they should feel safe. Though fighting has abated

ARMM, who were younger than 18 at marriage when surveyed showed that 83 per cent were 15-17, while 17 per cent were between nine and 14 years old. The ages of the respondents' husbands ranged from 11-59 years, with 57 per cent between 17 and 21 at the time of marriage.

⁸ Government of the Republic of Philippines, 2008. National Demographic and Health Survey, Manila, Philippines, p218.

⁹ Ibid.

¹⁰ Ibid, p212.

¹¹ UN Committee on the Rights of the Child, Concluding Observations: Concluding Observations: Lao People's Democratic Republic, CRC/C/LAO/CO/2, 2011

¹² Kenya National Bureau of Statistics (KNBS) and ICF Macro, *Kenya Demographic and Health Survey 2008-2009*, Calverton, Maryland: KNBS and ICF Macro, 2010, p. 264. DHS, p 246. Also see Feed the Minds, *Female Genital Mutilation Practices in Kenya: The Role of Alternative Rites of Passage: A Case Study of Kisii and Kuria Districts*, London: Feed the Minds, 2011, p. 4.

¹³ Kenya National Bureau of Statistics (KNBS) and ICF Macro, *Kenya Demographic and Health Survey 2008-2009*, Calverton, Maryland: KNBS and ICF Macro, 2010, p. 264. DHS, p 246

in recent years, in 2011 there were 52 incidents involving militants or armed groups affecting schools and hospitals, in mostly indigenous areas.¹⁴ Reports of grave violations against children in armed conflict (killing of children, abduction, abuse, forced sterilization and recruitment and use of children by armed groups) showed little difference according to sex, pointing to the need for further research to understand the specific impact and consequences for indigenous girls, adolescents and young women.¹⁵

In Latin America, sexual violence as a weapon of war has been targeted against indigenous women and girls in the conflicts of Colombia, Guatemala, Nicaragua and Peru.¹⁶ In particular, the Special Rapporteur on violence against women, its causes and consequences (2012) finds that Maya women constituted 88 per cent of victims of sexual and systematic attacks that were perpetuated by military and para-military forces during Guatemala's 36 year civil war.¹⁷ While a significant proportion of indigenous girls, adolescents and young women in Guatemala today were born after the end of the conflict in 1996, they are living its legacy. Even with the consolidation of legal protections for women and indigenous peoples and the creation of new institutions aimed at guaranteeing their rights, high levels of violence and the climate of impunity continue to be major challenges.¹⁸

Economic and sexual exploitation

Human trafficking is a serious problem in Asia that affects a considerable number of indigenous girls and adolescents. Countries of East and South East Asia for instance, serve as one or a combination of origin, transit or destination points for child trafficking. Indigenous young women and girls, throughout the Mekong region of South East Asia (commonly known as hill tribes) are found to be especially vulnerable to trafficking for sexual exploitation.¹⁹ While there has been a steady overall decline in child labour in Latin America, it remains a serious concern within indigenous communities.²⁰ In Guatemala, the majority of domestic workers are indigenous women and girls, mainly from the Western part of the country.²¹ As part of a 'survival strategy' of families living in poverty, young women and adolescent girls are sent to the city by their families where they live without the protective factors provided by their family in their own

¹⁴ Report of the Secretary-General to the Security Council, A/66/782-S/2012/261, para 150.

¹⁵ Report of the Secretary-General to the Security Council, A/66/782-S/2012/261, para 152.

¹⁶ M. Bastick, K. Grimm and R. Kunz. *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector* (Geneva Centre for Democratic Control of Armed Forces, Geneva, 2007): pp. 72-84.

¹⁷ United Nations Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo. Report on the expert group meeting on gender-motivated killings of women. 16 May, 2012. A/HRC/20/16, para 63.

¹⁸ United Nations Economic Commission for Latin America and the Caribbean, *No more! The right of women to live a life free of violence in Latin America and the Caribbean* (2009), p. 69.

¹⁹ Organization of American States, Inter-American Commission on Human Rights, *Access to Justice: For Women of Victims of Violence in the Americas* (General Secretariat, Organization of American State, Washington, D.C., 2007), para 123.

²⁰ ILO/IPEC, *IPEC action against child labour 2010-2011: Progress and future priorities*, Geneva, Switzerland: ILO/IPEC, 2012, p. 4.

²¹ Human Rights Watch, *Swept Under the Rug: Abuses against Domestic Workers around the World* (New York, Human Rights Watch, 2006) p. 34.

socio-cultural environment. Deeply entrenched patterns of gender, racial and ethnic discrimination intersect behind closed doors, increasing the vulnerability of adolescent girls and young women to physical and psychological abuse as well as sexual harassment by their employers.²² There are also reports of sexual abuse of indigenous girls in domestic labour settings in other parts of Latin America, as well as the Africa and Asia regions.

III. Relevance and effectiveness of recent and on-going interventions

The study briefly examines the relevance and effectiveness of prevention and response measures in addressing violence against indigenous girls, adolescents and young women, including select constitutional and legislative reforms, policy measures, institutional arrangements, and services for survivors. While some of these measures are generally considered promising, gaps in implementation persist, often affecting these groups disproportionately. In particular, measures have resulted in limited success given their inability to address obstacles such as language barriers, lack of confidentiality measures in procedures for reporting abuse, geographic remoteness of indigenous territories (concentration of services in town and cities), patriarchal and discriminatory attitudes of service providers, law enforcement and judicial personnel, the lack of relevance of prevention strategies and response services and limited awareness of the rights of indigenous peoples in general and women and girls in particular.

IV. Recommendations

The study concludes with a set of 10 recommendations which primarily call for enhanced efforts to be focused on improving data collection and analysis to address the statistical silence around violence against indigenous girls and young women. Other recommendations call for region and country-specific research, addressing accessibility, acceptability, affordability and quality of culturally appropriate prevention and response measures; improved sensitivity of national, regional and global human rights monitoring bodies to the situation of indigenous girls and young women, taking into account violations of their rights in the contexts described in the research; increased attention to addressing violence against indigenous girls, adolescents and young women in on-going global processes such as the 2014 World Conference on Indigenous Peoples, the International Conference on Population and Development Beyond 20 Review process and the post-2015 development agenda; and creation of platforms for knowledge sharing and south-south co-operation.

The recommendations are based on six underlying principles: (1) equality and non-discrimination; (2) adoption of a life course approach; (3) accountability; (4) recognition of the collective rights of indigenous

²² Seventh periodic report of States parties Guatemala (CEDAW/C/GUA/7 2008), para 404.

peoples; (5) participation of indigenous peoples, especially indigenous girls, adolescents and young women in the design and implementation of violence prevention and response policies and programmes and (6) the adoption of affirmative action and special measures in prevention and response policies and programmes targeted to indigenous women and girls to expand reach to this population and ensure their inclusion. The application of these principles aim to promote a transformative agenda in the human rights and well-being of the groups concerned based on their recognition as rights-holders and agents of change.