



**Forest Peoples  
Programme**

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



**Ellen-Rose Kambel**

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

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Cover photograph:

Mrs Lorita Lingaard of Apura (Suriname) taking  
notes during a village workshop on indigenous  
rights. Apura is one of the villages in West-  
Suriname that is facing the construction of a  
major bauxite mine and several hydroelectric  
dams.  
Photograph by the author.

## Summary

The International Convention on the Elimination of All Forms of Discrimination Against Women is one of the six core international human rights instruments and the only one focused exclusively on eliminating discrimination against women. Given that indigenous women have been and continue to be subject to multiple forms of discrimination, it is obviously of great relevance to indigenous peoples' rights. The Convention places **binding** obligations on the states that have ratified it – 175 as of 10 December 2003.

A Committee on the Elimination of All Forms of Discrimination Against Women was created to oversee implementation of and to monitor state compliance with the Convention. This Committee receives reports from states on how the Convention has been implemented and then issues conclusions about compliance. These conclusions occasionally refer to the situation of indigenous women. A complaints procedure has recently been established which permits indigenous women, in certain countries, to complain about violations of their rights.

This Guide provides an overview of the Convention and the Committee and gives guidance on how to make use of the various procedures offered by the Convention. We hope that it will provide indigenous women with a better understanding of the Convention and support their use of these international procedures to gain redress. We also hope it will help spur states throughout the world to reform their domestic laws and judicial procedures so that they provide **effective and meaningful** protections for the rights of indigenous women within their jurisdictions.

Ellen-Rose Kambel holds a law degree and a Ph.D in Social Sciences from the University of Leiden, the Netherlands. She has worked with indigenous organisations in Suriname since 1995 and is currently conducting a human rights training programme for indigenous leaders in Suriname. She is the author of several books and articles on indigenous rights and gender issues.

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*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, 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 sterilisations, inadequate reproductive health care, 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.<sup>1</sup> 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.<sup>2</sup> So far, relatively little attention has been paid to the possibilities offered by the only international convention that deals exclusively with the rights of women.

This *Guide to Indigenous Women's Rights under the International Convention on the Elimination of All Forms of Discrimination Against Women*, is one of a series produced by the Forest Peoples Programme which aims to provide indigenous peoples and organizations with practical information to support their use of United Nations and regional human rights mechanisms and procedures for the vindication of their rights.<sup>3</sup>

The Convention on the Elimination of All Forms of Discrimination Against Women (also called the Women's Convention or CEDAW) was adopted by the United Nations General Assembly in 1979 and entered into force in 1981. As of 10 December 2003, 175 states are party to the Convention. 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, among others, in the fields of political participation, health, labour rights, marriage, the ability

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<sup>1</sup> See Etienne and Leacock 1980.

<sup>2</sup> See for the role of indigenous women in the international indigenous movement: Sjørøsløv 1998, 306-312 and Nicholas-MacKenzie 2000, 6-9.

<sup>3</sup> 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. See <http://www.forestpeoples.org/>

to enter into contracts. Yet, despite its scope and its name the Convention may be criticised 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 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'.<sup>4</sup> Furthermore, indigenous women have recognised 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)

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. Until recently, the Committee on the Elimination of All Forms of Discrimination Against Women (hereafter 'the 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 2000, indigenous women were mentioned in only 11 of the 97 country reports that were reviewed by the Committee.<sup>5</sup> Unfortunately, the Committee is not the only UN body that has largely ignored the human rights of indigenous women.

### ***The Invisibility of Indigenous Women within the United Nations Human Rights System***

A review of the annual reports of the UN Working Group on Indigenous Populations (WGIP) for example, shows that from its inception in 1983 until 2000, indigenous women were only mentioned in 1991, at its 9th session. During this session, several indigenous representatives demanded attention for the 'particularly critical situation of indigenous women', stating that '[t]hey have less access to education, are economically exploited, oppressed and marginalized'.<sup>6</sup> Since then, although indigenous representatives have made references to human rights violations committed against indigenous women, such as limited or no access to health services, high incidence of illiteracy because of inadequate education, forced sterilizations and rape by military forces, there has been little focused discussion within the WGIP on the human rights problems experienced by indigenous women.

Further, the UN Special Rapporteur on Indigenous Peoples, who was appointed in 2001, is explicitly mandated to pay special attention to discrimination against indigenous women and take into account a gender perspective. It is disappointing therefore that in his first thematic report (January 2003) which focused on the impact of large-scale or major development projects on the human rights and fundamental freedoms of indigenous peoples, the Special Rapporteur only referred to indigenous women once:

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<sup>4</sup> Declaration of the International Indigenous Women's Forum, adopted in New York at the Beijing +5 review in 2000. See annex V for the full text.

<sup>5</sup> 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 4 of this Guide). Indigenous women were discussed in the country reports of Guatemala (1994), Guyana (1994), Australia (1994 and 1997), Ecuador (1994), New Zealand (1994 and 1998), Bolivia (1995), Peru (1995 and 1998), Paraguay (1996), Canada (1997), Mexico (1998), Panama (1998), Chile (1999), China (1999) and India (2000).

<sup>6</sup> UN Doc E/CN.4/Sub.2/1991/40/Rev. 1, §59.



Potential long-term economic, social and cultural effects of major development projects on the livelihood, identity, social organization and well-being of indigenous communities must be included in the assessment of their expected outcomes, and must be closely monitored on an ongoing basis. Such effects would include health and nutrition status, migration and resettlement, changes in economic activities, levels of living, as well as cultural transformations and socio-psychological conditions, with special attention given to **women** and children (emphasis added).<sup>7</sup>

### **Why Focus on the Women's Convention?**

For many indigenous women the fact that they are indigenous is seen 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.<sup>8</sup> 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 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 Convention 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. Over the past decade, several UN bodies have called on states to end discrimination against women with respect to land rights, as a way to combat gender discrimination and poverty. Issuing individual titles to women that can be alienated are an implicit part of this policy. Although so far the Committee has rarely focused on women's land rights, in 1997 it recommended to the government of Australia that it 'ensure women's equal access to *individual ownership of native land*'.<sup>9</sup> Issuing individual titles to women would clearly 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 and explain the importance of collective land for indigenous women.

The second (positive) argument for indigenous organisations 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, ratified by more than 90% of the United Nations members. Most

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<sup>7</sup> E/CN.4/2003/90, 21 January 2003

<sup>8</sup> See also Sjorslev 1998.

<sup>9</sup> 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.

states in which indigenous peoples live are therefore likely to be a party to the Convention.<sup>10</sup> Like all human rights treaties, the Women's Convention 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.

Furthermore, once sensitised to the concerns of indigenous women, the Committee might be more likely to take a structured and consistent approach to indigenous women's issues, rather than general human rights bodies which may consider 'gender' merely as another theme to be dealt with during a given year. The Committee's annual report of 2003, which contains several concluding observations and recommendations on indigenous women, provides some indication that the Committee has already moved in this direction. For example, in its review of Brazil's report, the Committee expressed concern about sexual abuse perpetrated against indigenous women by military units and gold miners on indigenous lands. The Committee called upon Brazil to ensure that sexual violence against indigenous women and girls is prosecuted and punished as a grave crime (see Annex IV, Brazil 2003, para. 114).

***Content of the Guide***

This Guide begins by providing general information on the Convention and its monitoring body, the Committee on the Elimination of All Forms of Discrimination Against Women (chapters 1-3). Chapters 4 and 5 give 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 6 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.

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 to make full and creative use of the procedures provided by this instrument.

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<sup>10</sup> See Annex III for a list of countries that have ratified the Convention.

**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 (*chapter 4*);
- **attend the Committee meetings** where the country reports are discussed (*chapter 4*);
- **disseminate** (and if necessary translate) the Committee's concluding comments 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 (*chapter 5.1*);
- 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 (*chapter 2*);

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 rights drawing attention to the special relationship between indigenous women and land (see *chapter 3*, on the procedure for adopting general recommendations, see also the general discussion on women and land rights within the UN in *chapter 1*);

**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 (*chapter 6.1*);
- report cases or send urgent appeals about violence against women to the **Special Rapporteur on Violence against Women** (*chapter 6.2*);
- submit information on the human rights situation of indigenous women to the **Special Rapporteur on Indigenous Peoples** (*chapter 6.3*);
- submit information to and attend meetings of the **Permanent Forum on Indigenous Issues**; note that the third session of the Permanent Forum, to be held in May 2004, will focus on indigenous women (*chapter 6.4*);
- 'mainstream' indigenous women's issues into 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** (*chapter 6.5*).

## 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 Convention<sup>11</sup>

Article 1:	Definition of "Discrimination against Women"
Article 2:	Condemnation of Discrimination against Women and Commitment to Eliminate this
Article 3:	Full Development and Advancement of Women, and Equality of Women's and Men's Rights and Freedoms <ul style="list-style-type: none"> <li>• national constitution and laws to embody equality of men and women</li> <li>• sanctions and new legislation, if necessary, prohibiting discrimination against women</li> <li>• tribunals and other institutions for effective protection of women against any act of discrimination</li> <li>• modifications or abolition of laws, regulations, customs and practices discriminatory to women</li> </ul>
Article 4:	Temporary Special Measures <ul style="list-style-type: none"> <li>• affirmative-action measures to hasten de facto equality of men and women (because new legislation and amendments are invariably a long, tedious process)</li> </ul>
Article 5:	Customary Practices and Stereotypes <ul style="list-style-type: none"> <li>• changes in social and cultural patterns that promote stereotyped roles of men and women</li> <li>• family education for a proper understanding of maternity as a social function and concept of shared responsibilities at home</li> </ul>
Article 6:	Trafficking in Women and Exploitation of Women in Prostitution
Article 7:	Political and Public Life <ul style="list-style-type: none"> <li>• women's right to vote and hold public office</li> <li>• participation in government policy making and implementation</li> <li>• participation in NGOs and civil-society groups</li> </ul>
Article 8:	Representation in International Organisations
Article 9:	Citizenship <ul style="list-style-type: none"> <li>• equal rights to acquire, change or retain nationality, regardless of marriage to a foreign husband</li> <li>• equal rights in determining the nationality of children</li> </ul>
Article 10:	Education <ul style="list-style-type: none"> <li>• equal opportunity in all levels, from pre-school to higher education</li> <li>• access to the same facilities, equipment, teachers and examinations, and scholarships and grants available to men</li> <li>• removal of stereotypes through coeducation and revision of learning/teaching materials</li> <li>• programmes to reduce any gender gap in education or to reduce the female student drop-out rates</li> <li>• participation in sports and cultural activities</li> <li>• information and advice on family planning</li> </ul>

<sup>11</sup> This overview was developed by the Women's Aid Organisation (Malaysia) and is available at <http://www.wao.org.my/research/cedaw.htm> - cedaw.

Article 11:	<p>Employment and Labour Rights</p> <ul style="list-style-type: none"> <li>• women's right to work</li> <li>• right to the same employment opportunities available to men</li> <li>• free choice of profession and work</li> <li>• equal pay for work of equal value</li> <li>• equal treatment at the workplace and equal evaluation criteria</li> <li>• health and safety protection, including protection from harmful work during pregnancy</li> <li>• prohibition of dismissal on the grounds of pregnancy or marital status</li> <li>• maternity leave with pay and no loss of seniority or benefits</li> <li>• social services to support the combination of family and work responsibilities</li> </ul>
Article 12:	<p>Health</p> <ul style="list-style-type: none"> <li>• equal access to health care services, including family planning services</li> <li>• appropriate services in connection with pregnancy and childbirth, plus adequate nutrition during pregnancy and breastfeeding</li> </ul>
Article 13:	<p>Economic, Social and Cultural Rights</p> <ul style="list-style-type: none"> <li>• social security, especially in case of retirement, sickness, unemployment, invalidity and old age</li> <li>• right to family benefits</li> <li>• equal rights to bank loans and other forms of credit</li> <li>• participation in recreational activities and all aspects of cultural life</li> </ul>
Article 14:	<p>Rural Women</p> <ul style="list-style-type: none"> <li>• recognition of the significant role and contributions of rural women and their special circumstances</li> <li>• 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</li> <li>• women's access to production resources including credit, technology and marketing facilities</li> <li>• equal treatment in land, agrarian reform and land resettlement schemes</li> </ul>
Article 15:	<p>Legal Rights and Contractual Capacity</p> <ul style="list-style-type: none"> <li>• equality before the law and the courts</li> <li>• equal rights to conclude contracts and administer property</li> <li>• governments' nullification of contracts and other private instruments that curb women's legal rights</li> <li>• freedom of movement</li> <li>• right to choose place of residence and domicile</li> </ul>
Article 16:	<p>Marriage and Family</p> <ul style="list-style-type: none"> <li>• right to enter into marriage only with full consent</li> <li>• freedom to choose a spouse</li> <li>• equal rights and responsibilities during marriage and at its dissolution</li> <li>• women's rights to choose freely the number and spacing of children</li> <li>• access to information, education and means to make family-planning choices</li> <li>• equal rights and responsibilities regarding guardianship or adoption with children</li> <li>• equal rights regarding ownership, management and disposition of conjugal property</li> <li>• nullification of child marriages</li> <li>• minimum age for marriage and registration of marriages in an official order</li> </ul>
Article 17-22:	Establishment and Functions of the Monitoring Committee
Article 23-27:	Administration of the Convention
Article 28:	<p>Reservations</p> <ul style="list-style-type: none"> <li>• prohibition of reservations incompatible with the essence of Convention</li> <li>• withdrawal of reservations</li> </ul>
Article 29:	Arbitration of Disputes
Article 30:	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.<sup>12</sup>

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:

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.<sup>13</sup>

### **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. Criteria which appear to be gender neutral, but have the effect of discriminating against women are therefore also considered to be discrimination. An example is height or weight requirements which bear no relation to the job but which may exclude women as a group.<sup>14</sup> Another important characteristic is that the

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<sup>12</sup> Concluding Comments A/56/38, CEDAW/C/SR. 512 and 513, para 196.

<sup>13</sup> According to the new reporting guidelines of the Committee, states parties need only to report on the provisions under part I to IV of the Convention.

<sup>14</sup> Meron 1986, p. 60.

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 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 would mean that states are responsible for preventing discrimination against women by, for instance, multinational companies who pay lower wages to 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'. Specifically, article 2 requires that states:

- lay down the principle of equality of men and women in their national constitution;
- ensure through law 'and other appropriate measures' the realization of the principle of equality in practice;
- adopt legislative 'and other measures' to prohibit all discrimination against women;
- ensure effective protection of women against any act of discrimination;
- refrain from any act or practice of discrimination against women;
- take 'all appropriate measures' to eliminate women's discrimination by any person, organization or enterprise;
- repeal all penal provisions which constitute discrimination against women.

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,<sup>15</sup> making available financial resources, and so on.

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<sup>15</sup> 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.

***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 women candidates and developing campaigns directed at equal participation of women and men in decision-making.<sup>16</sup>

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<sup>16</sup> See General Recommendation no. 13, adopted by the Committee at its 16th session, 1997, para 15.



### Box 3: What are Temporary Special Measures?

During an expert meeting organised to assist the Committee in writing a general recommendation on the meaning of article 4 of the Women's Convention, the following points, among others, were made:

- Article 4(1) does not in itself impose a duty on States to adopt and apply temporary special measures (TSMs). Rather, it makes clear that if a State does take such measures, and if these measures fall within the terms of this provision, there can (by definition) be no complaint of discrimination raised by men.
- Objectives of affirmative action programs or temporary special measures may include: to remedy the effects of past or present discrimination against women and offer equal starting points or equal opportunities to women; to accelerate the process of equal participation of women in all fields of social, economic, political and cultural life and/or the process of redistribution of power and resources and initiation of social and cultural change that will improve the de facto position of women; and, to neutralise the advantages that men have in the existing social, economic, political and cultural systems.
- Temporary special measures must be tailored to deal with a variety of different situations involving discrimination (...). Differences among women should be recognised. Some TSMs are specifically needed for particular groups of women. And some women suffer from multiple forms of discrimination.
- Temporary means that the measures are not deemed to be necessary on a permanent basis. They aim at achieving particular concrete results in response to certain concrete problems. Once the desired result has been reached, the measure can (and must) be abolished. The result can be described in terms of a certain redistribution of power or of resources or of a certain degree of participation of women.
- Special is a term that is problematic in the sense that it may suggest that women are somehow deviant, undeserving or belonging to a category that needs special measures to be able to participate or compete in the "otherwise normal" society. But, the only things special about these measures are that they are directed exclusively at women and that they serve a special goal!
- *Measures* encompass a great variety of forms, ranging from outreach programs, to targeted hiring and to quota systems. The choice of a particular type of measure depends on *the nature of the problems* at hand, the *context* in which the program has to function and the specific *targets* that are set in the program.

Source: Rikki Holtmaat, Building Blocks for a General Recommendation on Article 4(1) of the CEDAW-Convention. Report of the Expert Meeting in Maastricht (Valkenburg) 10-12 October 2002, in: Boerefijn 2003.

### ***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.

This means that 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.

### ***Sex Discrimination and Indigenous Peoples' Rights to Culture: Putting the Theory into Practice***

So far, we have discussed the general obligations of states set forth in the Women's Convention. On paper these may seem straightforward and clear. On closer inspection, the Women's Convention raises a number of questions, particularly as it may relate to indigenous peoples.

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 argues, 'just because there is a difference does not mean that in indigenous communities women are undervalued.'<sup>17</sup> 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 to maintain their own traditions, cultures and laws and to govern themselves autonomously.<sup>18</sup>

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.

## **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 and to some recent decisions adopted by the Committee that could be used to better link the Convention to indigenous women's concerns with regard to land, natural resources and eradication of racial discrimination.

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<sup>17</sup> Zalabata 1998, 23.

<sup>18</sup> 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.

### 1.3 Rural Women and Land Rights

As mentioned above, the Convention does not contain any reference to indigenous women. It does however contain 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 Third World governments 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. In its review of country reports (see chapter 4), 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 several of the Committee's general recommendations (see chapter 3). 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 enterprises<sup>19</sup> and to ensure that services for victims of violence are available to rural women.<sup>20</sup> In 1999, 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, for example, 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)). In the case of indigenous peoples, women's equal rights to enjoy adequate living conditions (article 14.2(h)), might be interpreted to include the protection of natural resource rights. In May 2002, the Committee adopted a

<sup>19</sup> General Recommendation no. 16 on Unpaid Workers in Rural and Urban Family Enterprises, 1991

<sup>20</sup> General Recommendation no. 19, Violence against Women, 1992

decision with regard to gender and sustainable development, which underlines the importance of natural resources and the environment for women:

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 [...]<sup>21</sup>

Given that the Women's Convention only protects women's rights in relation to rights of men, article 14.2(h) may arguably only be invoked against states if the loss of land or natural resources affects women more, or differently, than men. For instance, if a government-approved agricultural project would create jobs only for men and destroy agricultural plots that are traditionally owned by women.

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. However, for several years now various UN bodies have called on the Committee to pay closer attention to the issue of women and land rights. As mentioned in the introduction, this is an issue that deserves close scrutiny from indigenous organisations because of its potentially negative impact on indigenous strategies seeking recognition and protection of collective land and resource rights.

Since 1995, a number of UN organs have adopted resolutions with regard to discrimination against women concerning land.<sup>22</sup> These resolutions seem to be 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....'<sup>23</sup>

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<sup>21</sup> Committee on All Forms of Discrimination Against Women Decision 26/II, Gender and sustainable development, 7 May 2002, A/57/38 (Part I), paras. 422-429.

<sup>22</sup> 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. The most recent was adopted by 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.

<sup>23</sup> See footnote 20.

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'.<sup>24</sup> Although issuance of individual land titles is not advocated directly as the means 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'.<sup>25</sup>

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, for instance, 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.<sup>26</sup> 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 facilitate 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. 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.

With regard to differences among women, it is encouraging that the Committee submitted a statement to the World Conference Against Racism (Durban 2001), in which it elaborated on the obligations of states parties with regard to discrimination against women in the context of racism and racial discrimination:<sup>27</sup>

376. The Convention on the Elimination of All Forms of Discrimination against Women obliges States parties to work towards the realization of the human rights of women in all

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<sup>24</sup> 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).

<sup>25</sup> 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.

<sup>26</sup> Kambel 2002, 212.

<sup>27</sup> Committee on All Forms of Discrimination Against Women, Contribution of the Committee to the preparatory process for and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, A/56/38, paras. 373-385.

fields throughout their life cycle, such rights being an inalienable, integral and indivisible part of universal human rights. This commitment also requires active intervention to prevent all forms of discrimination against women, including prevention of such discrimination in the context of racism, racial discrimination, xenophobia and related intolerance.

377. The reports submitted to the Committee by States parties demonstrate that women all over the world continue to suffer multiple discrimination because of their sex and other factors of social exclusion. This multiple discrimination is often suffered by women migrant workers, women asylum seekers and women of diverse race, ethnicity, caste and nationality.

Recognition by the Committee that women may suffer from multiple forms of discrimination, including racial discrimination, may have an important impact on the way the Committee will consider state party reports and open up space for groups that have long remained invisible, including indigenous women. As will be discussed 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 the situation of indigenous women in the various countries that are party to the Convention.

## 2 The Committee

The 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.<sup>28</sup>

The Committee meets twice a year in New York for three weeks each (in January/February and June/July). 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 comments*. The Committee may also formulate *general recommendations*, which help states parties to interpret and implement articles of the Convention.

Since 2000, when a new Optional Protocol entered into force, the Committee's tasks have been extended to include two, new enforcement procedures. A *communications procedure*, 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.

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<sup>28</sup> See <http://www.un.org/womenwatch/daw/cedaw/members.htm> to find out who the current members of the Committee are.

### 3 General Recommendations

Under article 21, the Committee can make suggestions and general recommendations to states parties based on the report they submitted. So far, however, the Committee has only issued general recommendations which are directed to all states parties rather than individual states. 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 24 general recommendations ("GRs").<sup>29</sup> 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. General Recommendation no. 19 ("Violence against Women"), adopted in 1992, for instance, significantly expanded the definition of discrimination against women to include gender-based violence:

The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provision of the Convention, regardless of whether those provisions expressly mention violence (para 6).

This GR also 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).

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 in fact the first GR in which the Committee has explicitly mentioned 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)

The GR specifies 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).

<sup>29</sup> These are available at: <http://www.un.org/womenwatch/daw/cedaw/recommendations.htm>

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.

During the Committee's 28th session (January 2003) it was decided that members of the Committee would draft background papers with a view to elaborating GRs on the following issues:

- art. 6 (trafficking of women and prostitution)
- refugee women
- migrant women
- the outcome of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, 2001)
- equity and equality

With regard to the World Conference against Racism, attention should be drawn to article 18 of the Programme of Action, in which states are requested to adopt policies with regard to indigenous women (see annex VI). This may be another way of drawing the Committee's attention to indigenous women's issues.

#### **4 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 and a considerable number has yet to submit their initial report. 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 according to which states must, among others:

- 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;
- indicate which factors and difficulties have affected the fulfilment of its obligations under the Convention and explain the nature of these difficulties and what steps have been taken to overcome them;
- provide data and statistics disaggregated based on sex;
- 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;
- describe the non-governmental organisations and women's association in their country and their participation in the implementation of the Convention and in the preparation of the report.<sup>30</sup>

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<sup>30</sup> HRI/GEN/2/Rev.1/Add.2, 5 May 2003.



An interesting new addition requires that states parties provide information on the actions and steps that have been taken with regard to the Beijing Platform of Action, adopted at the Fourth World Women's Conference in 1995, as well as other declarations, platforms and programmes of action adopted during conferences, summits and special sessions of the General Assembly. This includes the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban 2001). As some of these texts refer explicitly to indigenous women, this can be a way of linking the concerns of indigenous women with the Convention (see annexes V and VI).

### **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 comments*), in which it outlines the positive aspects of the state party report, the issues on 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 comments 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 comments 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.

### **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 Division for the Advancement of Women (DAW), which acts as the secretariat of the Committee (see addresses below) and posts the reviewing schedules 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 of DAW, but sometimes only a few weeks before the session. It is

better therefore to obtain them directly from the government. If that proves difficult, DAW 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 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. This applies only to periodic reports, not to initial reports. Indigenous organizations can submit written reports at least 2 weeks before the pre-sessional meeting and are allowed to make oral presentations to Committee members at the beginning of the meeting.
- 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 (DAW);
- 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 two useful manuals on preparing shadow reports, both of which can be downloaded from their website.<sup>31</sup>

## **5 The Optional Protocol**

The Women's Convention has long been criticized for its weak enforcement mechanisms, which until recently consisted only of the reporting procedure outlined above. 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 9 January 2004, 75 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 in annex III.

### **5.1 The Communications Procedure**

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).

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<sup>31</sup> IWRAP, Producing NGO Shadow Reports to CEDAW: A Procedural Guide (Revised in June 2003): <http://iwrw.igc.org/shadow.htm> and IWRAP/Commonwealth Secretariat Manual on reporting under the CEDAW Convention, Assessing the Status of Women: <http://iwrw.igc.org/publications.htm> - otherpubs

***Who can bring 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 their 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 fulfil 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;
- 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 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 the following guidelines to help those who wish to file a complaint with the Committee (Box 4).

### **Box 4: Guidelines for submission of a complaint to the Committee on the Elimination of Discrimination against Women under the Optional Protocol**

The following questionnaire provides a guide for those who wish to submit a communication for consideration by the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Please provide as much information as available in response to the items listed below.

#### **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
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Mailing address for confidential correspondence (if other than present address)
- Fax/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)
- Fax/telephone/e-mail

#### **3 Information on the State party concerned**

- Name of the State party (country)

#### **4 Nature of the alleged violation(s)**

Provide detailed information to substantiate your claim, 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 domestic remedies have not been exhausted, explain why.

*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 Date and signature**

Date/place: \_\_\_\_\_

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

#### **8 List of documents attached (do *not* send originals, only copies)**

Send your communication to:

Committee on the Elimination of Discrimination against Women  
c/o Division for the Advancement of Women  
Department of Economic and Social Affairs  
United Nations Secretariat  
2 United Nations Plaza  
DC-2/12th Floor  
New York, NY 10017  
United States of America  
Fax: 1-212-963-3463

## **5.2 The Inquiry Procedure**

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.

## **5.3 Effectiveness of the Optional Protocol**

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. Nevertheless, it is too early to tell how effective the communications and inquiry procedures under the Convention are, since the Committee has not yet published any views or findings. As with all human rights procedures, effectiveness also depends on the creativity of human rights advocates in the use of these procedures.

# **6 Other UN Bodies and Procedures Concerning Indigenous Women's Rights**

## **6.1 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.<sup>32</sup>

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. The annual sessions could provide a good opportunity for indigenous women to have their voices heard.

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]<sup>33</sup>

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

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<sup>32</sup> 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).

<sup>33</sup> See the summary of the expert meeting in the CSW Report on its 45th session (2001), UN Doc E/2001/27-E/CN.6/2001/14, Annex II.

[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.<sup>34</sup>

Other thematic issues which included references to indigenous women were poverty and women's empowerment in a globalizing world, and environmental management and mitigation of natural disasters (both in 2002).<sup>35</sup> The themes that will be addressed by CSW during the following years are:

2004:

- The role of men and boys in achieving gender equality
- Women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace-building

2005

- Review of the implementation of the Beijing Platform for Action and the outcome documents of the special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century"
- Current challenges and forward looking strategies for the advancement and empowerment of women and girls

2006

- Enhanced participation of women and development: an enabling environment for achieving gender equality and the advancement of women, taking into account, inter alia, the fields of education, health and work.
- Equal participation of women and men in decision-making processes at all levels.

## 6.2 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

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<sup>34</sup> 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.

<sup>35</sup> See the report of the CSW on its 46th session,



other Special Rapporteurs (such as the Special Rapporteur on Torture and the Special Rapporteur on Extra-Judicial, Summary and Arbitrary Executions).

Organisations or individuals who wish to report cases of violence against women, can use a special form, available at <http://www.unhchr.ch/html/menu2/7/b/women/womform.htm>.

### 6.3 The Special Rapporteur on Indigenous Peoples

In 2001, the Commission on Human Rights appointed Dr. Rodolfo Stavenhagen from Mexico as Special Rapporteur on the Situation Of Human Rights And Fundamental Freedoms of Indigenous People, for a three year period. The Special Rapporteur has the following functions:

- 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;
- 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; and,
- To work in close relation with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights, [...] <sup>36</sup>

The Special Rapporteur is also instructed to pay special attention to discrimination against women and take into account a gender perspective. As discussed in the Introduction above, his first thematic report on the impact of major development projects on indigenous peoples was rather disappointing on this issue. The Special Rapporteur indicated that he will focus on the following themes in the forthcoming years:

- Evaluation of the implementation of recent legislation at the national level related to the rights of indigenous peoples;
- Human rights issues for indigenous peoples in the realm of administration of justice, including, where relevant, the relationship between positive and customary (non-written) legal systems;
- Cultural rights of indigenous peoples as reflected in bilingual and intercultural education, as well as the preservation and development of their own cultural heritage;
- Human rights issues - particularly economic and social rights - regarding indigenous children, especially girls, in different settings, such as migrations, trafficking of women and girls, violent conflicts, the informal economy, etc.;
- Participation of indigenous peoples in decision-making processes, autonomic arrangements, governance and policy-making, with special regard to the full implementation of civil and political rights;
- Old and new forms of discrimination against indigenous peoples, within a gender perspective, in the light of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as measures and remedies undertaken to combat discrimination and implement the human rights and fundamental freedoms of indigenous peoples.

In addition to thematic reports, the Special Rapporteurs makes country-visits and receives communications about human rights violations against indigenous peoples. Information on the themes and communications can be sent to the address provided below (see chapter 7 'Useful Contacts').

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<sup>36</sup> Commission on Human Rights, *Resolution 2001/57*, adopted at its 76th meeting on 24 April 2001.

## 6.4 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.

### ***Second session of the Permanent Forum (May 2003)***

During its second session in 2003, the Permanent Forum focused on the special theme of indigenous children and youth. It recommended, among others, that 'United Nations bodies address issues related to the trafficking and sexual exploitation of indigenous girls, and urged states to create rehabilitation programmes.' With regard to indigenous women, the Permanent Forum recommended that the Special Rapporteur on violence against women pay special attention to the impact of violence against indigenous women, 'including war-related violence and domestic violence'. It also recommended that the UN Development Fund for Women allocate funding for capacity-building in connection with the Forum and for special outreach to indigenous women. Finally, the Forum recommended that the relevant UN agencies and governments provide support for the organisation of several regional indigenous women's meetings, including the Fourth Continental Summit of Indigenous Women of the Americas, to be held in Lima in March 2004 and the Second Conference of Asian Indigenous Women, also to be held in 2004.

Importantly, for its next session, to be held from 10 to 21 May 2004, the Permanent Forum has decided to focus on indigenous women. One of the possible recommendations that could be pursued at this session is that the Committee meet with indigenous women to begin the process of adopting a general recommendation on indigenous women.

## 6.5 The Human Rights Committee and the Committee on the Elimination of All Forms of Racial Discrimination

As part of the efforts within the UN to mainstream women's human rights within the general human rights conventions and procedures, both the Human Rights Committee and the Committee on the Elimination of Racial Discrimination (CERD), charged with monitoring the International Covenant on Civil and Political Rights and the International Convention on the Eradication of All Forms of Racial Discrimination, respectively, have adopted general comments/recommendations relating to women that contain references to indigenous women. Both can be used to highlight indigenous women's human rights concerns under these conventions.<sup>37</sup>

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<sup>37</sup> 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/>)

**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, 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.

**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.**<sup>38</sup>

(. . .)

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.

(. . .)

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<sup>38</sup> The full text is available at:

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/13b02776122d4838802568b900360e80?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/13b02776122d4838802568b900360e80?Opendocument)

## 7 Useful Contacts

### **DAW - UN Division For The Advancement Of Women** (Secretariat of the Committee and the CSW)

Two United Nations Plaza, Room DC2-1236  
New York, NY 10017 USA  
Tel: (212) 963-3153  
Fax: (212) 963-3463.  
Web site: <http://www.un.org/womenwatch/daw>

### **Committee on the Elimination of All Forms of Discrimination Against Women**

Secretariat: see DAW  
web site: <http://www.un.org/womenwatch/daw/cedaw/>

### **Commission on the Status of Women (CSW)**

Secretariat: see DAW  
web site: <http://www.un.org/womenwatch/daw/csw/index.html>

### **UN High Commissioner for Human Rights (contains Treaty Database)**

<http://www.unhchr.ch/>

### **Special Rapporteur on Violence Against Women, its Causes and Consequences (Ms. Yakin Ertürk)**

The Special Rapporteur On Violence Against Women  
OHCHR-UNOG  
1211 Geneva 10,  
Switzerland  
Fax: 00 41 22 917 9006,  
E-Mail: [Urgent-Action@Ohchr.Org](mailto:Urgent-Action@Ohchr.Org)  
Web site: <http://www.unhchr.ch/html/menu2/7/b/mwom.htm>

### **Special Rapporteur on The Situation Of The Human Rights and Fundamental Freedoms of Indigenous People (Mr. Rodolfo Stavenhagen)**

OHCHR  
United Nations  
1211 Geneva 10  
Switzerland  
Tel. (41 22) 917 94 13  
Fax (41 22) 917-90 10  
E-mail: [InfoDesk@ohchr.org](mailto:InfoDesk@ohchr.org).  
Web site: [www.unhchr.ch/indigenous/rapporteur.htm](http://www.unhchr.ch/indigenous/rapporteur.htm)

### **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: <mailto:IndigenousPermanentForum@un.org>  
Web site: <http://www.un.org/esa/socdev/pfii/>

**International Women's Rights Action Watch (IWRAP):**

Humphrey Institute of Public Affairs  
University of Minnesota  
301-19th Avenue South, Minneapolis MN 55455 USA  
Tel: (612) 625-5557  
Fax: (612) 624-0068  
E-mail: <mailto:iwraw@hhh.umn.edu>  
Web site: <http://www.igc.org/iwraw>

**Women's Human Rights Resources**

Bora Laskin Law Library  
University of Toronto  
web site: <http://www.law-lib.utoronto.ca/diana/mainpage.htm>  
(contains a database with link to indigenous women's issues)

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(<http://www.minorityrights.org/admin/Download/Pdf/TwaWomen2003.pdf>)
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- Zalabata, L., The Arhuacan Woman: Our Life is our Art. In: Vinding 1998, p. 21-36.



## **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;

(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;

(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.

## **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 Rights 5 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 Rights 6 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 Women 4 ("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 the Convention on the Elimination of All Forms of Discrimination Against Women (175 parties as of 10 December 2003) and the Optional Protocol (75 parties as of 9 January 2004)<sup>39</sup>**

<i>a/ Accession; b/ Declarations or reservations; c/ Reservation subsequently withdrawn; d/</i>		
<b>State</b>	<b>ratification, accession or</b>	<b>signature (s), ratification</b>
Afghanistan	5 March 2003 <u>a/</u>	
Albania	11 May 1994 <u>a/</u>	23 June 2003 (a)
Algeria	22 May 1996 <u>a/ b/</u>	
Andorra	15 January 1997 <u>a</u>	14 October 2002
Angola	17 September 1986 <u>a/</u>	
Antigua and Barbuda	1 August 1989 <u>a/</u>	
Argentina	15 July 1985 <u>b/</u>	28 February 2000 (s)
Armenia	13 September 1993 <u>a/</u>	
Australia	28 July 1983 <u>b/</u>	
Austria	31 March 1982 <u>b/</u>	6 September 2000
Azerbaijan	10 July 1995 <u>a/</u>	1 June 2001
Bahamas	6 October 1993 <u>a/ b/</u>	
Bahrain	18 June 2002 <u>a/</u>	
Bangladesh	6 November 1984 <u>a/ b/</u>	6 September 2000
Barbados	16 October 1980	
Belarus	4 February 1981 <u>c/</u>	29 April 2002 (s)
Belgium	10 July 1985 <u>b/</u>	10 December 1999 (s)
Belize	16 May 1990	9 December 2002 (a)
Benin	12 March 1992	25 May 2000 (s)

<sup>39</sup> For updates on the Women's Convention see: <http://www.un.org/womenwatch/daw/cedaw/states.htm> and the Optional Protocol, see <http://www.un.org/womenwatch/daw/cedaw/sigop.htm>.

Bhutan	31 August 1981	
Bolivia	8 June 1990	27 September 2000
Bosnia & Herzegovina	1 September 1993 <u>d/</u>	4 September 2002
Botswana	13 August 1996 <u>a/</u>	
Brazil	1 February 1984 <u>b/</u>	28 June 2002
Bulgaria	8 February 1982 <u>c/</u>	6 June 2000 (s)
Burkina Faso	14 October 1987 <u>a/</u>	16 November 2001 (s)
Burundi	8 January 1992	13 November 2001 (s)
Cambodia	15 October 1992 <u>a/</u>	11 November 2001 (s)
Cameroon	23 August 1994 <u>a/</u>	
Canada	10 December 1981 <u>c/</u>	18 October 2002 (a)
Cape Verde	5 December 1980 <u>a/</u>	
Central African Republic	21 June 1991 <u>a/</u>	
Chad	9 June 1995 <u>a/</u>	
Chile	7 December 1989 <u>b/</u>	10 December 1999 (s)
China	4 November 1980 <u>b/</u>	
Colombia	19 January 1982	10 December 1999 (s)
Comoros	31 October 1994 <u>a/</u>	
Congo	26 July 1982	
Costa Rica	4 April 1986	20 September 2001
Cote d'Ivoire	18 December 1995 <u>a/</u>	
Croatia	9 September 1992 <u>d/</u>	7 March 2001
Cuba	17 July 1980 <u>b/</u>	17 March 2000 (s)
Cyprus	23 July 1985 <u>a/ b/</u>	26 April 2002
Czech Republic	22 February 1993 <u>c/ d/</u>	26 February 2001

Democratic People's	27 February 2001 <u>a/</u>	
Democratic Republic of	16 November 1986	
Denmark	21 April 1983	31 May 2000
Djibouti	2 December 1998 <u>a/</u>	
Dominica	15 September 1980	
Dominican Republic	2 September 1982	10 August 2001
Ecuador	9 November 1981	5 February 2002
Egypt	18 September 1981 <u>b/</u>	
El Salvador	19 August 1981 <u>b/</u>	4 April 2001 (s)
Equatorial Guinea	23 October 1984 <u>a/</u>	
Eritrea	5 September 1995 <u>a/</u>	
Estonia	21 October 1991 <u>a/</u>	
Ethiopia	10 December 1981 <u>b/</u>	
Fiji	28 August 1995 <u>a/ b/</u>	
Finland	4 September 1986	29 December 2000
France	14 December 1983 <u>b/ c/</u>	9 June 2000
Gabon	21 January 1983	
Gambia	16 April 1993	
Georgia	26 October 1994 <u>a/</u>	30 July 2002
Germany	10 July 1985 <u>b/</u>	15 January 2002
Ghana	2 January 1986	24 February 2000 (s)
Greece	7 June 1983	24 January 2002
Grenada	30 August 1990	
Guatemala	12 August 1982	9 May 2002
Guinea	9 August 1982	



Guinea-Bissau	23 August 1985	12 September 2000 (s)
Guyana	17 July 1980	
Haiti	20 July 1981	
Honduras	3 March 1983	
Hungary	22 December 1980 <u>c/</u>	22 December 2000
Iceland	18 June 1985	6 March 2001
India	9 July 1993 <u>b/</u>	
Indonesia	13 September 1984 <u>b/</u>	28 February 2000 (s)
Iraq	13 August 1986 <u>a/ b/</u>	
Ireland	23 December 1985 <u>a/ b/ c/</u>	7 September 2000
Israel	3 October 1991 <u>b/</u>	
Italy	10 June 1985	22 September 2000
Jamaica	19 October 1984 <u>b/</u>	
Japan	25 June 1985	
Jordan	1 July 1992 <u>b/</u>	
Kazakhstan	26 August 1998 <u>a/</u>	24 August 2001
Kenya	9 March 1984 <u>a/</u>	
Kuwait	2 September 1994 <u>a/ b/</u>	
Kyrgyzstan	10 February 1997 <u>a/</u>	22 July 2002
Lao Peoples Democratic	14 August 1981	
Latvia	14 April 1992 <u>a/</u>	
Lebanon	21 April 1997 <u>a/ b/</u>	
Lesotho	22 August 1995 <u>a/ b/</u>	6 September 2000 (s)
Liberia	17 July 1984 <u>a/</u>	
Libyan A. Jamahiriya	16 May 1989 <u>a/ b/</u>	

Liechtenstein	22 December 1995 <u>a/ b/</u>	24 October 2001
Lithuania	18 January 1994 <u>a/</u>	8 September 2000 (s)
Luxembourg	2 February 1989 <u>b/</u>	1 July 2003
Madagascar	17 March 1989	7 September 2000 (s)
Malawi	12 March 1987 <u>a/ c/</u>	7 September 2000 (s)
Malaysia	5 July 1995 <u>a/ b/</u>	
Maldives	1 July 1993 <u>a/ b/</u>	
Mali	10 September 1985	5 December 2000 (a)
Malta	8 March 1991 <u>a/ b/</u>	
Mauritania	10 May 2001 <u>a/</u>	
Mauritius	9 July 1984 <u>a/ b/</u>	11 November 2001 (s)
Mexico	23 March 1981	15 March 2002
Mongolia	20 July 1981 <u>c/</u>	28 March 2002
Morocco	21 June 1993 <u>a/ b/</u>	
Mozambique	16 April 1997 <u>a/</u>	
Myanmar	22 July 1997 <u>a/ b/</u>	
Namibia	23 November 1992 <u>a/</u>	26 May 2000
Nepal	22 April 1991	18 December 2001 (s)
Netherlands	23 July 1991 <u>b/</u>	22 May 2002
New Zealand	10 January 1985 <u>b/ c/</u>	7 September 2000
Nicaragua	27 October 1981	
Niger	8 October 1999 <u>a/</u>	
Nigeria	13 June 1985	8 September 2000 (s)
Norway	21 May 1981	5 March 2002
Pakistan	12 March 1996 <u>a/ b/</u>	

Panama	29 October 1981	9 May 2001
Papua New Guinea	12 January 1995 <u>a/</u>	
Paraguay	6 April 1987 <u>a/</u>	14 May 2001
Peru	13 September 1982	
Philippines	5 August 1981	21 March 2000 (s)
Poland	30 July 1980 <u>b/</u>	22 December 2003 (a)
Portugal	30 July 1980	26 April 2002
Republic of Korea	27 December 1984 <u>b/ c/</u>	
Republic of Moldova	1 July 1994 <u>a/</u>	
Romania	7 January 1982 <u>b/</u>	25 August 2003
Russian Federation	23 January 1981 <u>c/</u>	8 May 2001 (s)
Rwanda	2 March 1981	
Saint Kitts and Nevis	25 April 1985 <u>a/</u>	
Saint Lucia	8 October 1982 <u>a/</u>	
St. Vincent & the	4 August 1981 <u>a/</u>	
Samoa	25 September 1992 <u>a/</u>	
San Marino	10 December 2003	
Sao Tome and Principe	3 June 2003	6 September 2000 (s)
Saudi Arabia	7 September 2000 <u>b/</u>	
Senegal	5 February 1985	26 May 2000
Seychelles	5 May 1992 <u>a/</u>	22 July 2002 (s)
Sierra Leone	11 November 1988	8 September 2000 (s)
Singapore	5 October 1995 <u>a/ b/</u>	
Slovakia	28 May 1993 <u>d/</u>	17 November 2000
Slovenia	6 July 1992 <u>d/</u>	10 December 1999 (s)

Solomon Islands	6 May 2002	6 May 2002
South Africa	15 December 1995 <u>a/</u>	
Spain	5 January 1984 <u>b/</u>	6 July 2001
Sri Lanka	5 October 1981	15 October 2002 (a)
Suriname	1 March 1993 <u>a/</u>	
Sweden	2 July 1980	24 April 2003
Switzerland	27 March 1997 <u>a/ b/</u>	
Syrian Arab Republic	28 March 2003 <u>a/</u>	
Tajikistan	26 October 1993 <u>a/</u>	7 September 2000 (s)
Thailand	9 August 1985 <u>a/ b/ c/</u>	14 June 2000
The former Yugoslav	18 January 1994 <u>d/</u>	17 October 2003
Timor-Leste	16 April 2003 <u>a/</u>	16 April 2003 (a)
Togo	26 September 1983 <u>a/</u>	
Trinidad and Tobago	12 January 1990 <u>b/</u>	
Tunisia	20 September 1985 <u>b/</u>	
Turkey	20 December 1985 <u>a/ b/</u>	29 October 2002
Turkmenistan	1 May 1997 <u>a/</u>	
Tuvalu	6 October 1999 <u>a/</u>	
Uganda	22 July 1985	
Ukraine	12 March 1981 <u>c/</u>	26 September 2003
UK & Northern Ireland	7 April 1986 <u>b/</u>	
United Republic of	20 August 1985	
United States of America		
Uruguay	9 October 1981	26 July 2001
Uzbekistan	19 July 1995 <u>a/</u>	

Vanuatu	8 September 1995 <u>a/</u>	
Venezuela	2 May 1983 <u>b/</u>	13 May 2002
Viet Nam	17 February 1982 <u>b/</u>	
Yemen	30 May 1984 <u>a/ b/</u>	
Yugoslavia	12 March 2001 <u>d/</u>	
Zambia	21 June 1985	
Zimbabwe	13 May 1991 <u>a/</u>	

**Annex IV: Concluding Observations of the Committee on the Elimination of All Forms of Discrimination Against Women with Reference to Indigenous Women: 2001-2003**

Country	Year	Observations/Recommendations by the Committee
Guyana	2001	<p>174. <i>The Committee expresses concern about the situation of rural women and Amerindian women, and the lack of information thereon.</i></p> <p>175. <i>The Committee encourages the Government to give full attention to the needs of rural women and Amerindian women and to ensure that they benefit from policies and programmes in all areas, in particular access to decision-making, health, education and social services. The Committee requests that the Government provide detailed information in that regard in its next periodic report.</i></p>
Nicaragua	2001	<p>314. <i>The Committee expresses concern about the lack of information in the reports on [...] minority and indigenous women.</i></p> <p>315. <i>The Committee requests the Government to provide in its next report information on [...] minority and indigenous women, especially as regards their health, employment and educational status;</i></p> <p>317. <i>The Committee requests the Government to respond to the concerns expressed in the present concluding comments in its next periodic report submitted under article 18 of the Convention. It urges the Government to improve the collection and analysis of statistical data, disaggregated by sex, age and minority or ethnic group, and to submit such data to the Committee in its next report. The Committee invites the Government to seek international cooperation in connection with the collection and analysis of such data.</i></p>
Sweden	2001	<p>356. [...] <i>The Committee also expresses concern about discrimination against Sami [...] women</i></p>
Fiji	2002	<p>48. <i>The Committee is concerned that the Social Justice Act and the "Blue Print", which propose affirmative action for the indigenous Fijian population, do not integrate a gender perspective.</i></p> <p>49. <i>The Committee recommends that the Social Justice Act and the "Blue Print" be evaluated for their impact on both ethnicity and gender, to ensure respect for gender equality, and human rights in Fiji's multicultural plural society. The Committee urges the State party to introduce an effective monitoring mechanism to ensure that these programmes conform with fundamental rights guaranteed by the Constitution and the Convention's concept of temporary special measures, and contributes to the elimination of discrimination against all Fijian women.</i></p>
El Salvador	2003	<p>261. <i>The Committee is concerned at the high level of poverty among women, especially rural and indigenous women.</i></p> <p>262. <i>The Committee urges the State party to develop a poverty eradication strategy that gives priority attention to rural and indigenous women through the allocation of budgetary resources, and to take appropriate measures to inform itself about their situation with a view to formulating effective specific programmes and policies to improve their socio-economic situation and ensure that they receive the services and support they need.</i></p> <p>263. <i>Although the overall illiteracy rate has declined, the Committee is concerned that the problem persists, especially in rural areas. It is also concerned at the high drop-out rates among girls, especially in rural and indigenous areas.</i></p> <p>264. <i>The Committee recommends that efforts to address this problem should be intensified, through sustainable plans and programmes, particularly in rural and indigenous areas.</i></p> <p>275. <i>The Committee observes a lack of gender-disaggregated data in the reports, as well as insufficient information on indigenous women.</i></p>

		<p>276. <i>The Committee recommends the comprehensive and exhaustive compilation of sex-disaggregated data and urges the State party to include relevant statistics that show the evolution and impact of programmes on the country's female population, particularly indigenous women, and to include the data in its next periodic report.</i></p>
Canada	2003	<p>357. <i>While appreciating the federal Government's various anti-poverty measures, the Committee is concerned about the high percentage of women living in poverty, in particular elderly women living alone, female lone parents, aboriginal women, older women, women of colour, immigrant women and women with disabilities, for whom poverty persists or even deepens, aggravated by the budgetary adjustments made since 1995 and the resulting cuts in social services. The Committee is also concerned that those strategies are mostly directed towards children and not towards these groups of women.</i></p> <p>361. <i>While appreciating the federal Government's efforts to combat discrimination against aboriginal women, including the pending amendment to the Canadian Human Rights Act, and to achieve substantive equality for them, the Committee is seriously concerned about the persistent systematic discrimination faced by</i></p> <p><i>aboriginal women in all aspects of their lives. The Committee is concerned that aboriginal women, among other highly vulnerable groups of women in Canada, are over-concentrated in lower-skill and lower-paying occupations, they constitute a high percentage of those women who have not completed secondary education, they constitute a high percentage of women serving prison sentences and they suffer high rates of domestic violence. The Committee is further concerned that the First Nations Governance Act currently under discussion does not address remaining discriminatory legal provisions under other Acts, including matrimonial property rights, status and band membership questions which are incompatible with the Convention.</i></p> <p>362. <i>The Committee urges the State party to accelerate its efforts to eliminate de jure and de facto discrimination against aboriginal women both in society at large and in their communities, particularly with respect to the remaining discriminatory legal provisions and the equal enjoyment of their human rights to education, employment and physical and psychological well-being. It urges the State party to take effective and proactive measures, including awareness-raising programmes, to sensitize aboriginal communities about women's human rights and to combat patriarchal attitudes, practices and stereotyping of roles. It also recommends to the State party to ensure that aboriginal women</i></p> <p><i>receive sufficient funding in order to be able to participate in the necessary governance and legislative processes that address issues which impede their legal and substantive equality. It also requests the State party to provide comprehensive information on the situation of aboriginal women in its next report.</i></p> <p>377. <i>While commending the State party's efforts towards bringing aboriginal women into improved income-generating positions, the Committee is concerned that the focus on entrepreneurship may not lead to aboriginal women's economic independence.</i></p> <p>378. <i>The Committee recommends that the State party ensure that income-generating activities for aboriginal women provide for a sustained and adequate income, including all necessary social benefits.</i></p>
Costa Rica	2003	<p>62. <i>The Committee notes with concern that although the Constitution guarantees the right to work and the principle of non-discrimination in the employment sphere, norms and practices still exist that discriminate against working women, and that there is a wage gap, to the disadvantage of women, which has greater impact in the private sector than in the civil service; it also notes with concern the precarious working and living conditions of women domestic workers, including migrant workers, as well as of salaried women workers, rural women, women in the informal sector and indigenous women.</i></p> <p>63. <i>The Committee requests the State party to continue promoting the approval of the reforms to the Labour Code contained in the draft Law on Gender Equity, and requests it to include in its next report information on the results of activities aimed at neutralizing the negative effects of free-trade agreements on female employment and the quality of life of women, as indicated by the State party. The Committee also requests the State party to adopt the legislative, administrative or other measures</i></p>

		<p><i>needed to ensure that women domestic workers, including migrant workers, temporary wage earners, women in the informal sector and rural and indigenous women have access to social security and other employment benefits, including paid maternity leave.</i></p> <p><i>67. The Committee requests the State party to pay specific attention to households headed by women and to groups of women in a vulnerable situation, as well as to rural women, older women, indigenous women and disabled women, in drawing up and implementing programmes to combat poverty, and to seek to ensure their access to production resources, education and technical training.</i></p>
Brazil	2003	<p><i>110. The Committee is concerned about the impact of poverty on Brazilian women of African descent, indigenous women, female heads of household and other socially excluded or marginalized groups of women and about their disadvantaged position with respect to access to education, health, basic sanitation, employment, information and justice.</i></p> <p><i>111. The Committee urges the State party to ensure that its poverty eradication measures give priority attention to Brazilian women of African descent, indigenous women, female heads of household and other socially excluded or marginalized groups of women through adequately funded programmes and policies addressing their specific needs.</i></p> <p><i>114. The Committee is concerned about reports that indigenous women are being sexually abused by military units and prospectors (gold miners) on indigenous lands. The Committee notes that the Government is considering developing a code of conduct to regulate the presence of the armed forces on indigenous lands.</i></p> <p><i>115. The Committee calls upon the State party to take necessary measures to raise awareness of the situation of indigenous women and girls and ensure that sexual violence against them is prosecuted and punished as a grave crime. It also urges the State party to adopt preventive measures, including swift disciplinary inquiries and human rights education programmes for the armed forces and law enforcement personnel.</i></p> <p><i>134. The Committee requests the State party to respond in its next periodic report, due in 2005, to the issues covered in the present concluding comments. It also requests the State party to improve the collection and analysis of statistical data, disaggregated by sex, age, race and ethnicity, and to report on the results of programmes and policies, planned and undertaken, in its next periodic report to the Committee.</i></p>
Ecuador	2003	<p><i>304. The Committee urges the State party to strengthen the regulatory and normative role of the National Council for Women by adopting a law institutionalizing and regulating its activities and giving it a more active role in monitoring the enforcement of standards to promote gender equality, and to allocate to it the financial resources necessary for its operation and the exercise of its functions. Furthermore, the Committee encourages the State party to appoint a director to head the National Council for Women. The Committee encourages the State party to ensure the participation of civil society in the Council and to promote the participation of movements of indigenous women and women of African descent.</i></p> <p><i>307. The Committee is concerned at the high levels of poverty and extreme poverty among women, and notes in particular the situation of rural and indigenous women. Despite the existence of isolated anti-poverty plans, the Committee is concerned at the lack of a general and comprehensive poverty eradication policy specifically targeting rural and indigenous women.</i></p> <p><i>308. The Committee urges the State party to develop a general poverty eradication policy incorporating a gender perspective and focusing particularly on rural and indigenous women.</i></p> <p><i>329. While acknowledging efforts made by the State party to establish gender-disaggregated indicators, the Committee notes that the reports submitted contain an insufficient amount of gender-disaggregated data and insufficient information concerning rural and indigenous women.</i></p> <p><i>330. The Committee recommends a broader and more exhaustive compilation of gender-disaggregated data and urges the State party to include in its next report</i></p>



		<i>statistics indicating the status of programmes and their impact on the country's female population, in particular rural and indigenous women.</i>
New Zealand	2003	<p><i>397. The Committee welcomes the State party's efforts in implementing the 'Treaty of Waitangi', which aim to 'strengthen national identity and uphold the principles of the Treaty of Waitangi'. It also commends the State party for the adoption of the New Zealand Public Health and Disability Act, 2000, which includes a section on the Treaty, intended to achieve the Act's objectives for the health of Maori women.</i></p> <p><i>423. While recognizing the State party's efforts to address the needs of Maori and Pacific women and girls through the 'Reducing Inequalities' programme, the Committee is concerned that the situation of Maori and Pacific women and girls remains unsatisfactory in many areas, particularly with regard to employment, political participation, decision-making positions in the public and private sector, the judiciary and tertiary education and economic independence. The Committee is also concerned about Maori and Pacific women and girls' unfavourable health situation, including their limited access to health care and their high mortality rate as well as the high incidence of domestic violence and of arranged marriages. The Committee is also concerned that the Human Rights Act, 1993, does not explicitly cover non-discrimination on the basis of language and the cultural field, which are of particular relevance to Maori and Pacific women.</i></p> <p><i>424. The Committee urges the State party to continue to implement the "Treaty of Waitangi" and to monitor the impact of measures taken through the "Reducing Inequalities" programme on Maori and Pacific women and girls, in particular in the social, economic and political areas and in criminal justice. It also recommends that the State party implement targeted measures to respond to the needs of Maori and Pacific women and girls, and to continue to invest in Maori and Pacific women and girls, taking into account their linguistic and cultural interests.</i></p>

## **Annex V The Fourth World Conference of Women (Beijing 1995) and Beijing plus Five (New York 2000)**

### **Excerpts from the Beijing Declaration and Platform of Action**

(Adopted at the Fourth World Conference on Women, 15 September 1995, Beijing, China, A/CONF.177/20 and A/CONF.177/20/Add.1).

#### **Beijing Declaration**

32. We are determined to ... ensure equal enjoyment of all human rights ... for all women and girls who face multiple barriers to their empowerment and advancement because of such factors as their race, age, language, ethnicity, culture, religion, or disability, or because they are indigenous people....

#### **Beijing Platform for Action**

34. The past decade has also witnessed a growing recognition of the distinct interests and concerns of indigenous women, whose identity, cultural traditions and forms of social organization enhance and strengthen the communities in which they live. Indigenous women often face barriers both as women and as members of indigenous communities.

36. Continuing environmental degradation that affects all human lives often has a more direct impact on women. Women's health and their livelihood are threatened by pollution and toxic wastes, large-scale deforestation, desertification, drought and depletion of the soil and of coastal and marine resources, with a rising incidence of environmentally related health problems and even death reported among women and girls. Those most affected are rural and indigenous women, whose livelihood and daily subsistence depends directly on sustainable ecosystems.

48. The Platform for Action recognizes that women face barriers to full equality and advancement because of such factors as their race, age, language, ethnicity, culture, religion or disability, because they are indigenous women or because of other status. [...]

#### **A. Women and Poverty**

*Strategic objective A.1. Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty.*

Actions to be taken

60. By Governments: (s) 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 opportunities and the possibility of choice in the development process in order to eradicate the poverty that affects them.

*Strategic objective A.1. Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty.*

Actions to be taken

62. By national and international non-governmental organizations and women's groups:(a) All parties involved in the development process, including academic institutions, non-governmental organizations and grass-roots and women's groups, mobilize to improve the effectiveness of anti-poverty programmes directed towards the poorest and most disadvantaged groups of women, such as rural and indigenous women, [...], recognizing that social development is primarily the responsibility of Governments;

#### **B. Education and Training of Women**

*Strategic objective B.4. Develop non-discriminatory education and training*

Actions to be taken

85. By Governments, educational authorities and other educational and academic institutions: (n) Recognize and support 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 people and by providing for the participation of indigenous women in these processes; (o) Acknowledge and respect the artistic, spiritual and cultural activities of indigenous women;

### C. Women and health

91. Women have the right to the enjoyment of the highest attainable standard of physical and mental health. The enjoyment of this right is vital to their life and well-being and their ability to participate in all areas of public and private life. Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. Women's health involves their emotional, social and physical well-being and is determined by the social, political and economic context of their lives, as well as by biology. However, health and well-being elude the majority of women. A major barrier for women to the achievement of the highest attainable standard of health is inequality, both between men and women and among women in different geographical regions, social classes and indigenous and ethnic groups.

*Strategic objective C.1. Increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services.*

Actions to be taken

107. By Governments, in collaboration with non- governmental organizations and employers' and workers' organizations and with the support of international institutions: (c) [...] include women, especially local and indigenous women, in the identification and planning of health-care priorities and programmes; and remove all barriers to women's health services and provide a broad range of health-care services; (y) Ensure full and equal access to health care infrastructure and services for indigenous women.

Strategic objective C.4. Promote research and disseminate information on women's health

Actions to be taken

110. By Governments, the United Nations system, health professions, research institutions, non-governmental organizations, donors, pharmaceutical industries and the mass media, as appropriate: (j) Acknowledge and encourage beneficial traditional health care, especially that practised by indigenous women, with a view to preserving and incorporating the value of traditional health care in the provision of health services, and support research directed towards achieving this aim;

### D. Violence against women

116. Some groups of women, such as women belonging to minority groups, indigenous women, refugee women, women migrants, including women migrant workers, women in poverty living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women, displaced women, repatriated women, women living in poverty and women in situations of armed conflict, foreign occupation, wars of aggression, civil wars, terrorism, including hostage-taking, are also particularly vulnerable to violence.

### F. Women and the Economy

*Strategic objective F.2. Facilitate women's equal access to resources, employment, markets and trade*

169. By Governments, central banks and national development banks, and private banking institutions, as appropriate: (c) Structure services to reach rural and urban women involved in micro, small and medium-scale enterprises, with special attention to young women, low-income women, those belonging to ethnic and racial minorities, and indigenous women who lack access to capital and assets;

*Strategic objective F.4. Strengthen women's economic capacity and commercial networks*

Actions to be taken

177. By Governments: (f) Support the economic activities of indigenous women, taking into account their traditional knowledge, so as to improve their situation and development;

#### G. Women in Power and Decision Making

*Strategic objective G.1. Take measures to ensure women's equal access to and full participation in power structures and decision-making*

Actions to be taken

192. By Governments: (g) Encourage greater involvement of indigenous women in decision-making at all levels;

#### I. Human Rights of Women

226. Many women face additional barriers to the enjoyment of their human rights because of such factors as their race, language, ethnicity, culture, religion, disability or socio-economic class or because they are indigenous people, [...].

*Strategic objective I.1. Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women*

Actions to be taken

230. By Governments: (p) Taking into account the need to ensure full respect for the human rights of indigenous women, consider a declaration on the rights of indigenous people for adoption by the General Assembly within the International Decade of the World's Indigenous People and encourage the participation of indigenous women in the working group elaborating the draft declaration, in accordance with the provisions for the participation of organizations of indigenous people.

#### J. Women and the Media

*Strategic objective J.1. Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication*

Actions to be taken

239. By Governments: (g) Encourage and provide the means or incentives for the creative use of programmes in the national media for the dissemination of information on various cultural forms of indigenous people and the development of social and educational issues in this regard within the framework of national law;

#### K. Women and the Environment

250. [...]Women, especially indigenous women, have particular knowledge of ecological linkages and fragile ecosystem management. Women in many communities provide the main labour force for subsistence production, including production of seafood; hence, their role is crucial to the provision of food and nutrition, the enhancement of the subsistence and informal sectors and the preservation of the environment. In certain regions, women are generally the most stable members of the community, as men often pursue work in distant locations, leaving women to safeguard the natural environment and ensure adequate and sustainable resource allocation within the household and the community

*Strategic objective K.1. Involve women actively in environmental decision-making at all levels.*

Actions to be taken

253. By Governments, at all levels, including municipal authorities, as appropriate: (a) Ensure opportunities for women, including indigenous women, to participate in environmental decision-making at all levels, including as managers, designers and planners, and as implementers and evaluators of environmental projects; (c) Encourage, subject to national legislation and consistent with the Convention on Biological Diversity, the effective protection and use of the knowledge, innovations and practices of women of indigenous and local communities, including practices relating to tradition medicines, biodiversity and indigenous technologies, and endeavour to ensure that these are respected, maintained, promoted and preserved in an ecologically sustainable manner and promote their wider application with the approval and involvement of the holders of such knowledge. In addition, safeguard the existing intellectual property rights of these women as protected under national and international law. Work actively, where necessary, to find additional ways and means for the effective protection and use of such knowledge, innovations and practices, subject to national legislation and consistent with the Convention on Biological Diversity and relevant international law,

encourage fair and equitable sharing of benefits arising from the utilization of such knowledge, innovation and practices;

Strategic objective K.2. Integrate gender concerns and perspectives *in policies and programmes for sustainable development*

Actions to be taken

256. By Governments: (a) Integrate women, including indigenous women, their perspectives and knowledge, on an equal basis with men, in decision-making regarding sustainable resource management and the development of policies and programmes for sustainable development, including in particular those designed to address and prevent environmental degradation of the land; (c) Ensure adequate research to assess how and to what extent women are particularly susceptible or exposed to environmental degradation and hazards, including, as necessary, research and data collection on specific groups of women, particularly [...] indigenous women [...]; (f) Promote knowledge of and sponsor research on the role of women, particularly [...] indigenous women, in food gathering and production, soil conservation, irrigation, watershed management, sanitation, coastal zone and marine resource management, integrated pest management, land-use planning, forest conservation and community forestry, fisheries, natural disaster prevention, and new and renewable sources of energy, focusing particularly on indigenous women's knowledge and experience;

\* \* \*

## **The Beijing Declaration of Indigenous Women**

*Adopted in Huairou, Beijing, China at the NGO Forum, United Nations Fourth World Conference on Women, 30 August - 8 September 1995.*

1. The Earth is our mother. From her we get our life, and our ability to live. It is our responsibility to care for our mother and in caring for our mother, we care for ourselves. Women, all females, are the manifestation of Mother Earth in human form.

2. We, the daughters of Mother Earth, the indigenous women present at the NGO Forum of the UN Fourth World Conference on Women in Beijing, have come together to collectively decide what we can do to bring about a world which we would like our children and our children's children to live in. We acknowledge and build upon earlier declarations which evolved from earlier meetings and conferences, like the 1990 Declaration of the Second International Indigenous Women's Conference, the Kari-Oca Declaration of 1992, and those of various regional conferences of indigenous women, and the consultations and conferences done in preparation for this Beijing conference.

3. This declaration is drafted in recognition of the existence of the UN Declaration of the International Decade of the World's Indigenous Peoples, the Draft Declaration on the Rights of the Indigenous Peoples, the Convention on the Elimination of All Forms of Discrimination Against Women, the Nairobi Forward Looking Strategies for the Advancement of Women, Agenda 21 and the Rio Declaration on Environment and Development, the Cairo Declaration, and the Copenhagen Social Summit Declaration. While we agree with most of the provisions of ILO Convention 169, we cannot fully endorse a Convention which remains silent on the use of nation-states of military force to remove indigenous peoples from their lands.

4. We stand in unity behind this '1995 Beijing Declaration of Indigenous Women' which is the fruit of our collective efforts to understand the world and our situation as indigenous women, critique the Draft Platform for Action, and articulate our demands to the international community, the governments, and the NGOs.

5. 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. In spite of this, we have been and continue to protect, transmit, and develop our indigenous cosmology, our science and technologies, our arts and culture, and our indigenous socio-political and economic systems, which are in harmony with the natural laws of Mother Earth. We still retain the ethical and aesthetic values, the knowledge and philosophy, the spirituality, which conserves and nurtures Mother Earth. We are persisting in our struggles for self-determination and for our rights to our territories. This has been shown in our tenacity and capacity to withstand and survive the colonisation happening in our lands in the last 500 years.

6. The 'New World Order' which is engineered by those who have abused and raped Mother Earth, colonised, marginalised, and discriminated against us, is being imposed on us viciously. This is recolonisation coming under the name of globalisation and trade liberalisation. The forces behind this are the rich industrialised nation-states, their transnational corporations, financial institutions which they control like the World Bank, the International Monetary Fund, and the World Trade Organisation (WTO). They will cooperate and compete among themselves to the last frontiers of the world's natural resources located in our lands and waters.

7. The Final Agreement of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and the establishment of the WTO has created new instruments for the appropriation and privatisation of our community intellectual rights through the introduction of the trade-related intellectual property rights (TRIPs). This facilitates and legitimises the piracy of our biological, cultural, and intellectual resources and heritage by transnational corporations. Our indigenous values and practice of sharing knowledge among ourselves, and mutual exchange will become things of the past because we are being forced to play by the rules of the market.

8. Bio-prospecting, which is nothing but the alienation of our invaluable intellectual and cultural heritage through scientific collection missions and ethnobotanical research, is another feature of recolonisation. After colonising our lands and appropriating our natural resources, they are now appropriating our human genetic resources, through the Human Genetic Diversity Project. Their bid for the patenting of life forms is the ultimate colonisation and commodification of everything we hold sacred. It won't matter any more that we will disappear because we will be 'immortalised' as 'isolates of historic interest' by the Human Genetic Diversity Project.

9. It is an imperative for us, as Indigenous Peoples, to stand in their way, because it means more ethnocide and genocide for us. It will lead to the disappearance of the diverse biological and cultural resources in this world which we have sustained. It will cause the further erosion and destruction of our indigenous knowledge, spirituality, and culture. It will exacerbate the conflicts occurring on our lands and communities and our displacement from our ancestral territories.

### **Critique of the Beijing Draft Platform for Action**

10. The Beijing Draft Platform for Action, unfortunately, is not critical at all of the 'New World Order'. It does present a comprehensive list of issues confronting women and an even longer list of actions which governments, the UN and its agencies, multilateral financing institutions, and NGOs should do. It identifies 'the persistent and increasing burden of poverty' as the number one critical concern. It acknowledges that 'most of the goals of the Nairobi Forward Looking Strategies ... have not been achieved.' It also acknowledged that 'in the past decade the number of women living in poverty has increased disproportionately to the number of men...'

11. However, it does not acknowledge that this poverty is caused by the same powerful nations and interests who have colonised us and are continuing to recolonise, homogenise, and impose their economic growth development model and monocultures on us. It does not present a coherent analysis of why is it that the goals of 'equality, development, and peace', become more elusive to women each day in spite of three UN conferences on women since 1975. While it refers to structural adjustment programmes (SAPs), it only talks about mitigating its negative impacts, not questioning the basic framework undergirding SAPs. It even underscores the importance of trade liberalisation and access to open, and dynamic markets, which to us, pose the biggest threat to our rights to our territories, resources, intellectual and cultural heritage.

12. The clear bias of the New World Order for big industries, big agribusiness corporations, etc, has meant the decimation of traditional livelihood and economic activities of indigenous peoples like hunting, food gathering and harvesting, reindeer herding, subsistence agriculture, fishing, small handicraft businesses, etc. The non-economic activities of indigenous women have been ignored and rendered invisible, although these sustain the existence of indigenous peoples. Our dispossession from our territorial land and water base, upon which our existence and identity depends, must be addressed as a key problem. The Platform is very vague on this.

13. The critical areas of concern it has identified are also critical for indigenous women. While it correctly identifies unequal access to education and health as areas of concern, it does not question the basic Western orientation of the prevailing education and health systems. It does not reflect the fact that these systems have perpetuated the discrimination against indigenous peoples. It also does not acknowledge the role of Western media, education, and religion, in eroding the cultural diversity which exists among indigenous peoples. These Western systems hasten ethnocide. It does not give proper recognition and importance to indigenous health care systems and the role of its practitioners.

14. The violence and sexual trafficking of indigenous women and the increasing numbers of indigenous women becoming labour exports, has been aggravated by the perpetuation of an economic growth development model which is export-oriented, import-dependent, and mired in foreign debt. Military operations conducted on indigenous peoples' lands use rape, sexual-slavery, and sexual trafficking of indigenous women, to further subjugate indigenous peoples. The development of tourism to attract foreign capital has also led to the commodification of indigenous women and the dramatic increase in the incidence of HIV/AIDS. This reality is not addressed by the Platform. Domestic violence and the increasing suicide rates among indigenous women, especially

those who are in highly industrialised countries, are caused by psychological alienation and assimilationist policies characteristic of these countries.

15. While it talks about the effects of persecution and armed conflict, it does not acknowledge that many of these armed conflicts are occurring on indigenous peoples' lands. These armed conflicts are the result of the aggressive actions of transnational corporations and governments to appropriate the remaining resources on indigenous peoples' territories despite the assertion of indigenous peoples to their right to control these resources. It does not recognise that the resolution of armed conflict especially those happening on indigenous peoples' lands, lies in the recognition of our rights to self-determination and to our lands and waters. The phrase 'internally displaced' in the text is bracketed, when in fact, this is the reality for many indigenous peoples all over the world.

16. Its recommended 'strategic objectives' and actions focus on ensuring women's equal access and full participation in decision-making, equal status, equal pay, and in integrating and mainstreaming gender perspectives and analysis. These objectives are hollow and meaningless if the inequality between nations, races, classes, and genders, are not challenged at the same time. Equal pay and equal status in the so-called First World is made possible because of the perpetuation of a development model which is not only unsustainable but causes the increasing violation of the human rights of women, indigenous peoples, and nations elsewhere. The Platform's overemphasis on gender discrimination and gender equality depoliticises the issues confronting indigenous women.

### **Indigenous Women's Proposals and Demands**

17. Within the context of our understanding of our situation and our critique of the 'New World Order' and of the Beijing Draft Platform for Action, we present the following demands:

#### **Recognise and Respect Our Right to Self-Determination**

18. That all governments and international non-governmental and governmental organisations recognise the right of indigenous peoples to self-determination, and enshrine the historical, political, social, cultural, economic, and religious rights of the indigenous peoples in their constitutions and legal systems.

19. That the governments ratify and implement the ILO Convention 169 only after thorough consultations with indigenous peoples.

20. That the 1994 Final Draft Declaration on the Rights of Indigenous Peoples be adopted and ratified by governments without any revisions and reservations. That the full participation of indigenous peoples in the open-ended working group of the Commission on Human Rights to further elaborate on the draft will be ensured.

21. That the 's' in the term indigenous peoples be put in all United Nations documents, declarations, and conventions. That, hereafter, we will not be referred to as ethnic minorities or cultural communities but as indigenous peoples.

#### **Recognise and Respect our Right to our Territories, and Right to Development, Education, Health**

22. We demand that the international community and governments recognise and respect our rights to our territories. This includes our right to decide what to do with our lands and territories and to develop in an integrated, sustainable way, according to our own cosmovision.

23. We urge the governments who are opening up our territories to foreign investors especially to mining corporations, to respect these rights. Full disclosure of development projects and investments to be put into our territories should be done. We should be fully involved in making decisions on these matters. Indigenous peoples' lands which have been ravaged by mining corporations, or which have become dumping sites of toxic, radioactive and hazardous wastes, should be rehabilitated by the corporations or the governments which allowed this devastation.



24. That the governments, international organisations and NGOs assume their responsibility to alter their policies and allocate resources for the intercultural and bilingual educational system and the development of indigenous health care systems according to our cultural principles and cosmovision. That books, audio and video materials, etc. be screened and purged of discriminatory, racist, and sexist, content.

25. That the governments implement realistic policies which will solve the problem of illiteracy among indigenous and peasant women, providing them access to intercultural and bilingual education which respects indigenous cosmologies, promotes non- sexist formative education which puts women and men in touch with the land.

26. That the governments and international community implement health policies which guarantee accessible, appropriate, affordable and quality services for indigenous peoples and which respect and promote the reproductive health of indigenous women. That budget allocations to health and other social services be increased to at least 20% of the national budget and that a significant amount of this goes to indigenous peoples' communities.

27. That the indigenous health care systems and practices of indigenous peoples be accorded the proper recognition and respect and the roles of indigenous health practitioners and healers be further enhanced.

28. That the dumping of hazardous drugs, chemicals and contraceptives on indigenous peoples communities be stopped. We demand that coercive family planning services, like mass sterilisation of indigenous women, coercive abortion programmes, be stopped. That population policies like transmigration be condemned and halted.

29. We demand that uranium mining taking place in our lands and nuclear testing in our territories and waters be stopped. If no uranium mining is done then there will be no nuclear weapons, nuclear reactors, and nuclear accidents.

### **Stop Human Rights Violations and Violence against Indigenous Women**

30. That the United Nations create the necessary mechanisms to monitor the indigenous peoples' situation especially those facing the threat of extinction and human rights violations and to stop these ethnocidal and genocidal practices.

31. Call on all the Media and Communication Systems to realise that Indigenous Women refuse to continue to be treated and considered as exotic, decorative, sexual objects, or study- objects, but instead to be recognised as human beings with their own thinking and feeling capabilities and abilities for personal development, spiritually, intellectually and materially.

32. Demand for an investigation of the reported cases of sexual slavery and the rape of indigenous women by the military men happening in areas of armed conflict, such as those within Karen territories in Burma, Chittagong Hill Tracts in Bangladesh, etc. The perpetrators should be persecuted and the survivors be provided justice and rehabilitation services.

33. Demand for an investigation of the forcible mass sterilisation and anti-fertility programmes done among indigenous women. Identify which international and national agencies are responsible for these and make them accountable.

34. That all acts of discrimination against Indigenous Women be considered and punished as a crime.

35. That the governments create juridical and social instruments adequate to protect women from domestic and state violence.

36. That indigenous customary laws and justice systems which are supportive of women victims of violence be recognised and reinforced. That indigenous laws, customs, and traditions which are discriminatory to women be eradicated.

37. That all internally displaced indigenous peoples be allowed to return to their own communities and the necessary rehabilitation and support services be provided to them.

**Recognise and Respect our Rights to our Intellectual and Cultural Heritage and our Rights to Control the Biological Diversity in our Territories**

38. We demand that our inalienable rights to our intellectual and cultural heritage be recognised and respected. We will resist all processes seeking to destroy this heritage and alienate our resources and knowledge from us.

39. We demand that the Western concept and practice of intellectual property rights as defined by the TRIPs in GATT, not be applied to indigenous peoples' communities and territories. We demand that the World Trade Organisation recognise our intellectual and cultural rights and not allow the domain of private intellectual rights and corporate monopolies to violate these.

40. We call for a stop to the patenting of all life forms. This to us, is the ultimate commodification of life which we hold sacred.

41. We demand that the Human Genetic Diversity Project be condemned and stopped. Those responsible for this project should be asked to make an accounting of all the genetic collections they have taken from indigenous peoples and have these returned to the owners of these genes. The applications for patents to these genetic materials should be stopped and no applications, thereafter, should be accepted and processed. Indigenous peoples should be invited to participate in the ongoing discussions in UNESCO on the bioethics of the Human Genome.

42. We demand that governments at the local, regional, and national levels, recognise our intellectual community rights and support us in our defence of these rights, an obligation which they have undertaken as Parties to the Biodiversity Convention.

43. We will continue to freely use our biodiversity for meeting our local needs, while ensuring that the biodiversity base of our local economies will not be eroded. We will revitalise and rejuvenate our biological and cultural heritage and continue to be the guardians and custodians of our knowledge and biodiversity.

**Ensure Political Participation of Indigenous Women and Enhance their Capabilities and Access to Resources**

44. We demand equal political participation in the indigenous and modern structures of socio-political structures and systems at all levels.

45. We will dialogue with non-indigenous women's organisations and formations to implement a realistic plan of solidarity with the us.

46. We ask that NGOs that work with Indigenous Women be guided by principles of mutual respect and promote the full participation of Indigenous Women in action and in articulating issues regarding Indigenous Women and Indigenous Peoples.

47. Call on the funding agencies and donor agencies that support and promote women's organisations and programmes, to share space and financial resources in order to promote the development of Indigenous Women.

48. We will work towards reinforcing our own organisations, enhancing communications between us, and gain the space that is rightfully ours, as members of specific identities (nations and cultures)

within the Decade of Indigenous Peoples and other institutions that represent governmental and non-governmental organisations.

49. We will work towards the holding of an International Conference of Indigenous Women which will be held as part of the celebration of the International Decade of the World's Indigenous Peoples.

50. We offer our sincere thanks to the Chinese Organising Committee and the Chinese people for their efforts in hosting and providing hospitality to us.

## Beijing plus Five, New York, 2000

### **Further actions and initiatives to implement the Beijing Declaration and Platform for Action** (Resolution adopted by the General Assembly, 16 November 2000, A/RES/S-23/3)

#### *Actions to be taken at the national level by Governments:*

66. (b ) Address the barriers faced by women, particularly by indigenous and other marginalized women, in accessing and participating in politics and decision-making, including lack of training, women's double burden of paid and unpaid work, negative societal attitudes and stereotypes.

69(h ) Take concrete steps, as a priority and with their full and voluntary participation, to address the impact of violence on indigenous women in order to implement appropriate, effective programmes and services to eliminate all forms of violence;

71. (a ) Consider adopting, where appropriate, national legislation consistent with the Convention on Biological Diversity 12 to protect the knowledge, innovations and practices of women in indigenous and local communities relating to traditional medicines, biodiversity and indigenous technologies;

74. (a ) Undertake socio-economic policies that promote sustainable development and support and ensure poverty eradication programmes, especially for women, by, *inter alia*, providing skills training, equal access to and control over resources, finance, credit, including microcredit, information and technology, and equal access to markets to benefit women of all ages, in particular those living in poverty and marginalized women, including rural women, indigenous women and female-headed households;

93 (d ) Undertake appropriate data collection and research on indigenous women, with their full participation, in order to foster accessible, culturally and linguistically appropriate policies, programmes and services;

95 (e) With the full voluntary participation of indigenous women, develop and implement educational and training programmes that respect their history, culture, spirituality, languages and aspirations and ensure their access to all levels of formal and non-formal education, including higher education;  
(j) Apply and support positive measures to give all women, particularly indigenous women, equal access to capacity-building and training programmes to enhance their participation in decision-making in all fields and at all levels.

### **Declaration of the International Indigenous Women's Forum (Beijing+5)**

*Adopted on the Occasion of the Special Session of the General Assembly at the United Nations on Beijing+5, June 9, 2000 in New York.*

We, the women of the International Indigenous Women's Forum, have come together in New York in order to assess our situation five years after the Beijing Platform for Action. We reaffirm the Beijing Declaration of Indigenous Women, which emerged from the Indigenous Women's Tent in Huairou in 1995. The analysis, issues and proposals in the Declaration are still relevant and must be addressed.

Affirming that, as Indigenous Peoples, like all Peoples under international law, our inherent right to self-determination guarantees our ability to freely determine our political status and pursue our economic, social and cultural development. This includes our collective rights to land and territory, natural resources, biodiversity and intellectual property.

Affirming further, that, as Indigenous Peoples, our lands and territories are inextricably linked to our survival, development, identity and self-determination.

Reaffirming also that, as Indigenous women, we recognize that the well-being of our Peoples is dependant upon the past, present and future generations, the balance between men and women, the experience and knowledge of our elders and the energy of our youth.

Recognizing that, five years after Beijing, Indigenous women continue to experience extreme an 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.

Recognizing also that Indigenous women face an increase in violence and trafficking of women and girls. Militarization and armed conflict have also increased, leading to internal and external displacement, increased poverty and violations of human rights, particularly violence against Indigenous women.

Considering that the exploitation of natural resources in Indigenous Peoples' lands and territories, and the dumping of nuclear waste, and toxic and hazardous materials, infringes upon the human and collective rights of Indigenous Peoples by causing displacement and endangering lives.

We therefore recommend the following:

- 1 As the midpoint of the International Decade of the World's Indigenous Peoples has passed without seeing the adoption of the Draft Declaration on the Rights of Indigenous Peoples, we urge member States to adopt it in its present form without further delay.
- 2 We urge governments and the United Nations to consistently use the term "Indigenous Peoples" in all international instruments.
- 3 We strongly urge UN member States to continue their commitment, as expressed by the Commission on Human Rights at its 56th session, to establish a Permanent Forum on Indigenous Peoples' Issues, as an effective mechanism for addressing Indigenous Peoples' concerns, with the full and equal participation of Indigenous Peoples and their organizations.
- 4 Recognizing the devastating impact of multilateral organizations and lending institutions upon the socio-economic conditions of Indigenous Peoples, the World Bank should not be involved in shaping the social development policies and programs of governments. Likewise, the International Monetary Fund should not be involved in the macroeconomic policies of governments. Finally, the World Trade Organization should recognize the rights of Indigenous Peoples to their territories and resources.
- 5 We call upon governments to honour the commitments made to Indigenous women in the Beijing Platform for Action without further delay. We strongly recommend that the lives and experiences of Indigenous Peoples be taken into account when implementing the Platform for Action.

- 6 We call for the ratification and implementation of all international instruments that relate to the lives and conditions of Indigenous Peoples, including the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Elimination of Racial Discrimination (CERD), and the Convention on the Rights of the Child (CRC).
- 7 We call for an immediate moratorium on the patenting of all life forms, traditional knowledge and all forms of intellectual property.
- 8 Recognizing the drastic poverty levels faced by Indigenous Peoples, including Indigenous women, we urge that the eradication of poverty amongst Indigenous Peoples be made a priority.
- 9 We urge governments to implement, in full partnership with Indigenous Peoples, formal and informal education programs that respect our history, languages and cultures.
- 10 We urge governments to give a commitment to ensure that Indigenous women fully participate in decision-making at all levels, so that we are able to actively and effectively participate in policy decision that affect our Peoples.
- 11 We call upon governments to ensure that Indigenous Peoples have full access, without any discrimination, to all medical institutions, health services, and medical care, including traditional medicines and health practices.
- 12 We call for the full and equal participation of Indigenous Peoples in the process leading up to and at the World Conference on Racism, Xenophobia and Other Forms of Discrimination, including mechanisms and resources to ensure our participation.
- 13 We urge governments, agencies and institutions to address the issue of displacement of Indigenous Peoples due to development, aggression, armed conflict and other factors. This would include conflict resolution and reparations, with the full participation of Indigenous Peoples.
- 14 We strongly urge that governments review and address the proposals and demands contained within the Beijing Declaration of Indigenous Women, which to date have not been addressed.

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## **Annex VI The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance**

Excerpts from the Durban Declaration and Platform for Action  
(adopted in Durban, South Africa in 2001)

*Reaffirming* that States have the duty to protect and promote the human rights and fundamental freedoms of all victims, and that they should apply a gender perspective, recognizing the multiple forms of discrimination which women can face, and that the enjoyment of their civil, political, economic, social and cultural rights is essential for the development of societies throughout the world,

18. Requests States to adopt public policies and give impetus to programmes on behalf of and in concert with indigenous women and girls, with a view to promoting their civil, political, economic, social and cultural rights; to putting an end to their situation of disadvantage for reasons of gender and ethnicity; to dealing with urgent problems affecting them in regard to education, their physical and mental health, economic life and in the matter of violence against them, including domestic violence; and to eliminating the situation of aggravated discrimination suffered by indigenous women and girls on multiple grounds of racism and gender discrimination.

50. Urges States to incorporate a gender perspective in all programmes of action against racism, racial discrimination, xenophobia and related intolerance and to consider the burden of such discrimination which falls particularly on indigenous women, [...], ensuring their access to the resources of production on an equal footing with men, as a means of promoting their participation in the economic and productive development of their communities;

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The only Convention that exists to eliminate discrimination against women is the International Convention on the Elimination of All Forms of Discrimination Against Women. We hope that with this guide indigenous women will gain a better understanding of the Convention and its procedures in order to gain redress.

Forest Peoples Programme  
1c Fosseway Centre, Stratford Road  
Moreton-in-Marsh, GL56 9NQ, UK  
Tel: +44 (0)1608 652893, fax: +44 (0)1608 652878

email: [info@forestpeoples.org](mailto:info@forestpeoples.org)  
<http://www.forestpeoples.org>