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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Violence against indigenous women and girls

Report of the Special Rapporteur on violence against women, its causes and consequences, Reem Alsalem

Summary

In the present report, submitted pursuant to Human Rights Council resolution 41/17, the Special Rapporteur on violence against women, its causes and consequences, Reem Alsalem, describes the activities that she has undertaken and addresses the theme of violence against indigenous women and girls. In particular, she highlights several causes, manifestations and consequences of gender-based violence against indigenous women and girls and describes good practices and challenges with regard to their access to justice, to truth and redress, and to support services, and their participation in initiatives and processes related to prevention of and protection from gender-based violence.



I. Introduction

1. The present report of the Special Rapporteur on violence against women, its causes and consequences, Reem Alsalem, is submitted to the Human Rights Council pursuant to its resolution 41/17. In the report, the Special Rapporteur addresses the theme of gender-based violence against indigenous women and girls. With the report, she intends to shed light on the specific manifestations of violence against indigenous women and girls, which have in most cases extended across generations; to explore their connections to other human rights violations that affect indigenous peoples, and indigenous women and girls in particular, and to provide guidance for States and other stakeholders on the measures needed to further prevent and combat violence against indigenous women and girls in the context of their international human rights obligations.

2. In preparing the report, the Special Rapporteur sought contributions from Member States, international and regional organizations, national human rights institutions, non-governmental organizations, indigenous organizations and communities and other stakeholders. She is grateful to all those who submitted a response and shared their testimonies.¹ The Special Rapporteur is also grateful to the Office of the United Nations High Commissioner for Refugees (UNHCR) for hosting an online consultation on 7 March 2022 with Latin American indigenous women and girls who are leaders and activists.

II. Activities undertaken by the Special Rapporteur

3. In July 2021, Ms. Alsalem was appointed by the Human Rights Council as Special Rapporteur on violence against women, its causes and consequences for a three-year term, which she started on 1 August 2021.

4. In the first five months, the Special Rapporteur, as part of a series of introductory meetings, engaged with many parts of the United Nations system and with several affiliated funds, programmes and specialized agencies. On 21 September 2021, the Special Rapporteur held the first of four thematic consultations with various stakeholders; the second, third and fourth consultations were held on 23, 27 and 29 September 2021, respectively.

5. On 5 October 2021, the Special Rapporteur addressed the General Assembly to present the last report prepared under the tenure of the previous mandate holder,² in which the previous mandate holder had taken stock of two of the initiatives pursued under the mandate, namely, the femicide watch initiative and the Platform of Independent Expert Mechanisms on the Elimination of Discrimination and Violence against Women.³ The Special Rapporteur also presented her own vision for the mandate for the coming three years.

6. On 14 March 2022, the Special Rapporteur delivered a statement at the opening meeting of the sixty-sixth session of the Commission of the Status of Women, in New York, and was co-organizer of three side events.

III. Introduction: gender-based violence against indigenous women and girls

7. Indigenous women and girls face complex and intersectional forms of violence, linked to patriarchal structures, racial and ethnic discrimination and socioeconomic status. Evidence from various countries shows that indigenous women have been particularly exposed to serious forms of gender-based violence, such as forced sterilization; trafficking and sexual

¹ A total of 65 submissions were received for the report. They can be found at <https://www.ohchr.org/en/calls-for-input/calls-input/call-inputs-report-violence-against-indigenous-women-and-girls>.

² [A/76/132](https://www.ohchr.org/en/76/132).

³ For more information, see <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/CooperationGlobalRegionalMechanisms.aspx>.

violence in the context of displacement or migration; harmful traditional practices; and gender-based violence in the context of conflict. These different manifestations of violence are perpetrated by State agents; non-State actors, such as private companies and armed groups; members of their own community; and others.

8. Unfortunately, gender-based violence against indigenous women and girls is drastically underreported and perpetrators regularly enjoy impunity. Despite the increased risk of violence, indigenous women and girls face significant obstacles in accessing justice, either within their community or through State institutions, due to discrimination, bias, fear of stigmatization, language barriers and re-victimization risks. As a result, indigenous women and girls receive no remedies for the violence they experienced. They also suffer the consequences of intergenerational trauma that, left unaddressed, is transmitted to the following generations.

9. Indigenous women and girls experience violence both at the individual level and at the collective level. They also bear the gendered consequences of the violence against themselves and their communities disproportionately.⁴ However, there is still insufficient understanding of the specific ways in which indigenous women and girls experience human rights violations at the intersection of their individual and collective identities, in particular how indigenous women and girls experience the systemic discrimination in indigenous and non-indigenous justice systems and barriers they confront in accessing effective justice. Similarly, there is insufficient understanding of how their experiences differ from non-indigenous women.

10. In the present report, the Special Rapporteur presents an overview of the main causes, manifestations and consequences of gender-based violence against indigenous women and girls, as well as good practices and challenges with regard to their access to justice, to truth and redress and to support services, and their participation in initiatives and processes related to prevention of and protection from gender-based violence. She also provides recommendations for States and other stakeholders to guide their efforts towards implementing policy and legal reforms to protect the right of indigenous women and girls to a life free from violence, in accordance with their international human rights obligations.

IV. Legal and policy frameworks

A. International and regional frameworks and their interpretation

11. At the international level, two instruments specifically address the rights of indigenous peoples. The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly on 13 September 2007. The Declaration affirms the basic rights of indigenous peoples in a number of areas under the broad overarching right to self-determination. Article 22 (1) states that particular attention is to be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of the Declaration. In article 22 (2), States are reminded of their obligation to take measures to ensure indigenous women and children the enjoyment of full protection and guarantees against all forms of violence and discrimination. As requested by the General Assembly in 2014 at the World Conference on Indigenous Peoples, the system-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples was developed in 2015.⁵

12. The second instrument is the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO). The Convention is, to date, the most advanced international treaty specifically targeted at the advancement of the rights of indigenous peoples. However, the only specific reference to women is in article 20 (3) (d), which refers to equal opportunities, equal treatment and protection from sexual harassment.

⁴ Rauna Koukkanen, "Self-determination and indigenous women's rights at the intersection of international human rights", *Human Rights Quarterly*, vol. 34 (2012), pp. 225–250.

⁵ For more information, see www.un.org/development/desa/indigenouspeoples/about-us/system-wide-action-plan.html.

No other reference regarding prevention of or protection from violence exists in the Convention. Nevertheless, subsequent studies carried out by ILO have, to a certain extent, examined the issue of violence against indigenous women and girls within the context of the implementation of the Convention, stating that the full spectrum of the rights recognized in the Convention is central to addressing gender-based violence against indigenous women.⁶

13. Indigenous peoples' rights, including those of indigenous women and girls, are also indirectly protected under the core human rights treaties and cited in several other United Nations conventions and instruments.⁷ Although the human rights treaties do not contain specific provisions on indigenous women and girls, the treaty bodies monitoring their implementation have addressed their rights specifically in the exercise of their monitoring functions, for example in concluding observations and general recommendations and general comments.⁸ The Committee on the Elimination of Discrimination against Women is currently drafting a general recommendation on the rights of indigenous women and girls, including on the prevention of and response to gender-based violence.

14. Other relevant international instruments, mechanisms, reports and resolutions include Human Rights Council resolution 32/19, which was focused on eliminating violence against women and girls, including indigenous women and girls. Furthermore, by its resolution 33/25, the Council established the Expert Mechanism on the Rights of Indigenous Peoples, which has included some consideration of violence against indigenous women and girls in certain thematic reports and studies.⁹ In response to a recommendation of the United Nations Permanent Forum on Indigenous Issues,¹⁰ the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) developed a strategy for the inclusion and visibility of indigenous women in 2016.

15. The rights of indigenous women and girls have also been considered in regional human rights systems. The American Declaration on the Rights of Indigenous Peoples, adopted in 2016, refers to their rights explicitly, and under article VII, States have an obligation to adopt the necessary measures to prevent and eradicate all forms of violence and discrimination, particularly against indigenous women and children. Indigenous women and girls' rights are also indirectly protected through the 2018 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), under which States parties are required to meet their international obligations related to the rights of indigenous peoples. While no specific reference is made to indigenous women and girls in the American Convention on Human Rights or the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, monitoring bodies have addressed their rights specifically through their activities.¹¹ Both the Inter-American Commission on Human Rights and the Inter-

⁶ See ILO, *Exploring and Tackling Barriers to Indigenous Women's Participation and Organization* (Switzerland, 2021); ILO, *Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an Inclusive, Sustainable and Just Future* (Switzerland, 2020); ILO, *Indigenous Women's Realities: Insights from the Indigenous Navigator* (International Work Group for Indigenous Affairs and ILO, 2020).

⁷ See, for example, the Convention on Biological Diversity and the Paris Agreement.

⁸ See, for example, Committee on the Elimination of Discrimination against Women, general recommendations No. 24 (1999) on women and health, and No. 34 (2016) on the rights of rural women; and Committee on the Rights of the Child, general comment No. 11 (2009) on indigenous children and their rights under the Convention.

⁹ See [A/HRC/21/55](#), [A/HRC/48/74](#) and [A/HRC/EMRIP/2019/2/Rev.1](#). Moreover, the Special Rapporteur on the rights of indigenous peoples focused on the rights of indigenous women and girls in her 2015 thematic report, dedicating part of the report to highlighting the prevalence, root causes and impact of multiple forms of violence against indigenous women and girls ([A/HRC/30/41](#)).

¹⁰ See [E/2014/43-E/C.19/2014/11](#) and [E/2014/43/Corr.1-E/C.19/2014/11/Corr.1](#), para. 35.

¹¹ In its third follow-up report on the implementation of recommendations (2021), the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention included an evaluation of domestic laws and policies to guarantee a life free from violence aimed at protecting rural women, women and peasants of indigenous origins, and women of African descent (available at <https://www.oas.org/en/mesecvi/docs/Tercer-Informe-Seguimiento-EN.pdf>). References to indigenous women and girls are also included in the *Practical Guide to the System of Progress*

American Court of Human Rights have focused on these rights in their decisions and reports.¹² In a report published in 2017, the Inter-American Commission on Human Rights included an overview of relevant jurisprudence related to eliminating violence against indigenous women and girls.¹³

16. While the African Charter on Human and Peoples' Rights and the Protocol thereto on the Rights of Women in Africa do not refer specifically to the right of indigenous women to be free from violence, the African Commission on Human and Peoples' Rights adopted an advisory opinion stating that the United Nations Declaration on the Rights of Indigenous Peoples is consistent with the Charter and the jurisprudence of the Commission.¹⁴ Moreover, in 2011, the Commission adopted its resolution 183, on the protection of the rights of indigenous women in Africa, in which it noted the persistence of violence and various forms of discrimination and marginalization faced by indigenous women, and urged States to collect disaggregated data on the general situation of indigenous women and adopt laws, policies, and specific programmes to promote and protect all human rights of women.¹⁵ In a landmark judgement in 2017, the African Court on Human and Peoples' Rights elaborated on the concept of "peoples' rights" and recognized indigenous peoples' rights to land.¹⁶

17. At the European Union level, the European Parliament adopted its resolution of 3 July 2018 on violations of the rights of indigenous peoples in the world, including land grabbing, in which it referred specifically to violence against women and the rights of indigenous women and girls.¹⁷ With regard to the Council of Europe, the European Social Charter and the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) do not contain specific references to indigenous peoples and, thus far, no specific cases have arisen through their monitoring bodies. The Group of Experts on Action against Violence against Women and Domestic Violence, the monitoring mechanism for the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), identifies various State obligations to address violence against indigenous women in its baseline evaluation reports for a number of countries under article 4 of the Convention.¹⁸

B. Examples of domestic frameworks and interpretations

18. A number of indigenous communities have developed autonomous rights-based consultation and consent protocols, defining how they are to be consulted, according to their own laws, traditions, customs and representative institutions and organizations for the effective exercise of their collective rights as well as their relationship with States and third parties. They are meant to provide frameworks in which consultations are carried out. While not directly related to violence against women, they can play an important role in developing measures to prevent potential human rights abuses, including the risks indigenous women face because of non-consensual projects on their land and territories.

19. In some States, domestic or communal frameworks encompass indigenous peoples' rights specifically. For example, the Constitution of Ecuador acknowledges the existence of

Indicators for Measuring the Implementation of the Belém do Pará Convention, issued by the Committee in 2015.

¹² See, for example, Inter-American Commission on Human Rights, *Derecho a la Libre Determinación de los Pueblos Indígenas y Tribales* (2021).

¹³ *Indigenous Women and Their Human Rights in the Americas* (2017), pp. 59–89.

¹⁴ Advisory opinion on the United Nations Declaration on the Rights of Indigenous Peoples (2007).

¹⁵ Another example of the African Commission's engagement on this topic is the *Manual on the Promotion and Protection of the Rights of Indigenous Populations/Communities through the African Human Rights System*, which covers the rights of indigenous women.

¹⁶ *African Commission on Human and Peoples' Rights v. Kenya*, Application No. 006/2012, Judgment, 26 May 2017.

¹⁷ The Council of the European Union resolution of 30 November 1998 on indigenous peoples within the framework of the development cooperation of the Community and Member States provides the main guidelines for support to indigenous peoples.

¹⁸ Submission from the secretariat of the Council of Europe secretariat of the monitoring mechanism under the Istanbul Convention.

indigenous communities, peoples and nations; guarantees their rights of self-determination and enumerates specific rights, such as, in article 171, the right of indigenous authorities to exercise jurisdictional functions, based on their traditions and their own law, within their territorial sphere, with a guarantee for the participation of, and decision-making by, women. Similarly, to name but a few, the constitutional acts of Canada, Malaysia, Mexico, Nepal and Paraguay also contain recognition of and protections for indigenous peoples' rights.¹⁹

20. Even when their rights are not specifically protected in constitutional acts, other national, federal or local laws or legislative acts often confer specific rights or protections. For example, in the United States of America, the Violence against Women and Department of Justice Reauthorization Act of 2005 specifically inserted provisions for "Indian women" into the Violence against Women Act. However, while the Act provided for funding for indigenous governments to serve victims, and access for indigenous law enforcement agencies to national criminal justice data, those authorities were often unable to prosecute cases of violence on Indian reservations and only a few cases were prosecuted by the federal Government. The Violence against Women Reauthorization Act of 2013 repealed most restrictions on tribal authorities to prosecute on Indian reservations.²⁰

21. Domestic laws can set certain standards for indigenous communities' own frameworks and customs. For example, in the Plurinational State of Bolivia, article 18 of the 2013 comprehensive law to guarantee women a life free from violence states that indigenous authorities are to adopt prevention measures that they consider most appropriate under the three criteria of action established to avoid all acts of violence against women, with the participation of women in their planning, execution and follow-up, respecting their rights. It also states that no norm or procedure may violate the rights recognized in the Constitution and the body of constitutional law.

22. While specifically recognizing indigenous peoples or enumerating rights and protections for indigenous women and girls is promising, it does not always lead to the implementation of those rights or improved outcomes in practice. For example, in Brazil, where indigenous peoples are constitutionally recognized and their rights to land are guaranteed, bill 191/2020, aimed at expanding mining in indigenous territories and about to be voted on in the National Congress, could significantly impede the enjoyment of those rights if passed.²¹ In Ecuador, although precise constitutional provisions lay out indigenous peoples' rights to free, prior and informed consultation, in reality many indigenous communities were not consulted before oil or mining projects were developed on their lands, or the consultation process was flawed. Nonetheless, on 4 February 2022, the Constitutional Court of Ecuador ruled that the State had an obligation to guarantee the consultation process, which should be clear and accessible for the whole community and should be carried out with the purpose of obtaining consent or reaching an agreement with the indigenous communities.

23. Similarly, in a decision in 2020, the Supreme Court of Panama confirmed the State's obligation to protect indigenous collective rights to land, emphasizing indigenous peoples' critical roles in protecting biodiversity, natural resources and the climate. Moreover, the Committee on the Elimination of Discrimination against Women, in March 2022, having considered claims of long-standing gender-based discrimination in the Indian Act of Canada that continued to affect tens of thousands of descendants of indigenous women, called on Canada to amend its legislation to enshrine the fundamental criterion of self-identification and to provide registration to all matrilineal descendants on an equal basis to patrilineal descendants.²²

¹⁹ Constitution Act of Canada, sect. 35; Federal Constitution of Malaysia, art. 8 (5) (c) (Orang Asli peoples) and art. 161 A (natives of the States of Sabah and Sarawak); Constitution of Mexico, art. 2; Constitution of Nepal, art. 51 (j) (8); and the Constitution of Paraguay, arts. 63–64. Chile is the only Latin American State that does not recognize indigenous peoples in its constitution.

²⁰ Another reauthorization act is currently pending before the United States Senate.

²¹ See <http://www.mpf.mp.br/pgr/noticias-pgr/mpf-reafirma-inconstitucionalidade-de-mineracao-em-terras-indigenas> (in Portuguese).

²² *Matson v. Canada* (CEDAW/C/81/D/68/2014).

V. Manifestations of violence against indigenous women and girls

A. Root causes of violence and connected issues

24. As reported by the Special Rapporteur on the rights of indigenous peoples in 2015, indigenous women and girls experience a broad, multifaceted and complex spectrum of mutually reinforcing human rights abuses.²³ A close connection exists between gender-based violence perpetuated against them and the multiple forms of discrimination they face, based on the intersection of gender, race, ethnicity and socioeconomic circumstances.²⁴ Historic and systemic patriarchal power structures, racism, exclusion and marginalization, maintained by the legacy of colonialization, have led to high levels of poverty, dire financial and social stress, and significant gaps in opportunities and well-being between indigenous and non-indigenous women.²⁵ These structures and systems are both cause and consequence of the structural and institutional stereotyping, discrimination and violence that indigenous women and girls still face from all sectors of society today.

25. Moreover, many forms of violence and abuse against indigenous women and girls contain a strong intergenerational component. Violations of the right to self-determination of indigenous peoples are historically and currently endemic and have been especially detrimental to the rights of indigenous women and girls. Violations, through both colonization and post-colonial power structures and State practices, have included assaults on the cultural integrity of indigenous communities, non-recognition of customary laws and governance systems, failure to develop frameworks for self-governance, and practices that strip indigenous peoples of autonomy over land and natural resources.²⁶ Furthermore, the lack of recognition of indigenous land rights can lead to poverty, food and water insecurity and barriers to access natural resources needed for survival, and can create unsafe conditions that facilitate the perpetration of gender-based violence acts against indigenous women and girls.

26. The rise of indigenous women to claim their rights has – in several contexts – been met by resistance from inside indigenous communities, as women’s rights have often been considered divisive and external to the indigenous struggle. This false dichotomy between collective and women’s rights further entrenched the vulnerability of indigenous women and girls to abuse and violence, leaving them stripped of their rights to self-determination and agency by both violations of their collective rights and violations of their individual rights, creating and perpetuating systemic and generational vulnerability.²⁷ However, it is also important to recognize that indigenous customary practices can be favourable to indigenous women and can strengthen their position in the communities, with prominent examples being the matrilineal systems of the Khasi in India and Bangladesh, and the Kreung in Cambodia.²⁸

27. Expectedly, situations of armed conflict, which often are related to lands, territories and natural resources, have a heavy impact on the rights of indigenous peoples and indigenous women and girls. In nearly every region of the world, indigenous peoples are being displaced and severely affected by violence on their lands and territories.²⁹ For example, the islands of Okinawa in Japan, once the Kingdom of Ryukyu, historically became the battlefields for various conflicts over territory. Today, reportedly, this still has a profound gender-based impact on Ryukyuan/Okinawan women and girls, who face high rates of sexual

²³ See [A/HRC/30/41](#).

²⁴ See Inter-American Commission on Human Rights, *Indigenous Women*.

²⁵ See [A/HRC/41/33](#).

²⁶ [A/HRC/30/41](#), para. 12.

²⁷ *Ibid.*, paras. 13–14.

²⁸ Submission from the International Work Group for Indigenous Affairs. In accordance with customary practices of the Kreung in Cambodia, newly wed couples first live in the community of the bride, then move to the groom’s community, and finally jointly decide where they wish to live, which provides some protection for young women.

²⁹ Submission from the International Indigenous Women’s Forum.

violence and domestic violence.³⁰ Likewise, the armed conflict in and militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation, since 2014, and the increase in armed clashes since late 2018 between Indonesian security forces and pro-Papua armed independence groups are examples of conflict that has an impact on indigenous women.³¹

28. Indigenous women and girls are additionally specifically affected by the climate crisis, environmental degradation, industrial-scale agriculture and extractive industries and projects, and face an elevated risk of health problems, including reproductive health problems and high infant mortality rates³² associated with environmental contamination and degradation,³³ leading to the loss of their traditional and spiritual ways of life, affecting their cultural identity and livelihood, and pulling them into a cycle of impoverishment and exposure to gender-based violence.³⁴

B. Manifestations of violence, intersectionality and special groups

29. The different manifestations of gender-based violence perpetrated against indigenous women and girls include, but are not limited to, the following: domestic violence, sexual harassment, sexual violence, trafficking, female genital mutilation, child, early or forced marriage, obstetric violence, violations of sexual and reproductive health and rights, gender-related or “honour” killings, forced displacement,³⁵ kidnapping and forced labour. This violence is largely driven by the desire to occupy and control indigenous territories and resources and by the militarization that accompanies those efforts. These actions are committed by a multitude of actors, such as State actors, private companies, criminal groups and members of women’s own indigenous communities, including family members. At a minimum, this series of structural violence results in indigenous women being victimized by the realities of their daily life, and has a negative impact on the enjoyment of their fundamental human rights.³⁶

30. As the Inter-American Commission on Human Rights has rightly observed, these “acts of violence and discrimination against indigenous women not only harm those women individually, but also negatively impact the collective identity of the communities to which they belong”.³⁷ The violation of their collective rights is particularly pronounced through the denial of dignified and culturally sensitive enjoyment of their sexual and reproductive health and rights, as indigenous women and girls have been subjected to eugenically imposed birth control, forced sterilization and attempts to force them to have children with non-indigenous men as part of assimilation policies.³⁸ Furthermore, instances of health workers verbally assaulting indigenous women or violently forcing them to give birth in a horizontal position against ancestral customs have been reported, indicating a lack of understanding of, or a rejection of, traditional culture and practices.³⁹ Moreover, some States have prohibited and criminalized indigenous midwifery or denied indigenous women the opportunity to give birth on the land of their ancestors,⁴⁰ while respect for indigenous and ancestral practices, such as

³⁰ Submission from the All Okinawa Council for Human Rights.

³¹ Submission from the Crimean Tatar Resource Centre and joint submission from six organizations working on West Papua.

³² Submissions from UN-Women, the International Indian Treaty Council and the Center for Promotion and Defense of Sexual and Reproductive Rights (Peru).

³³ Submissions from the International Work Group for Indigenous Affairs, the International Indian Treaty Council, and Taller de Estudios Internacionales “José Luis Bustamante y Rivero”.

³⁴ Inter-American Commission on Human Rights, *Indigenous Women*.

³⁵ Submission from UN-Women.

³⁶ A/HRC/30/41, para. 46; and submission from Azerbaijan.

³⁷ Inter-American Commission on Human Rights, *Indigenous Women*, para. 80. For example, the Commission has understood the barriers to securing indigenous status classification as rising to the level of cultural and spiritual violence.

³⁸ A/HRC/47/38, para. 64; A/HRC/30/41, para. 34.

³⁹ A/74/137, para. 31; submissions from the Center for Reproductive Rights, the Center for Promotion and Defense of Sexual and Reproductive Rights, and Movimiento de Mujeres Indígenas Tz’uunija’.

⁴⁰ A/HRC/47/38, para. 65; Inter-American Commission on Human Rights, *Derecho a la Libre Determinación*, para. 198.

allowing indigenous midwives, can help disrupt the cycle of intergenerational violence and trauma, and protect against structural violence and racism within the medical system.⁴¹

31. Indigenous women and girls with multiple and intersecting identities or characteristics are likely facing even higher rates of gender-based violence. For example, indigenous women and girls who live far from their home communities or in areas far from main cities are particularly vulnerable to these acts of violence.⁴² Furthermore, a study conducted in Nepal in 2021 with 210 indigenous women with and without disabilities indicated that indigenous women with disabilities were at an even higher risk of violence. Discrimination at the intersection of gender, disability and indigenous status, such as in education, may also result in barriers for indigenous women and girls with disabilities in recognizing, defining and describing the violence they face.⁴³ Furthermore, indigenous women and girls with diverse sexual orientations and gender identities can experience intracommunity obstacles and violence, and can also face violence from State or non-State actors outside of the community. However, depending on the indigenous community and region, their diverse sexual orientation and gender identity may be accepted and even praised by their communities.⁴⁴ Statistics from Canada reveal that indigenous women with diverse sexual orientations and gender identities are more likely to experience intimate partner violence in their lifetime compared with other indigenous women.⁴⁵

32. Indigenous women who are defenders of human, environmental or land rights are particularly targeted, in order to force them to stop their advocacy and activism. Notable examples include the killing in 2016 of Berta Cáceres and other members of Consejo Cívico de Organizaciones Populares e Indígenas de Honduras in response to their opposition to the construction of the Agua Zara hydroelectric dam. Mujeres Indígenas por la Conservación, Investigación y Aprovechamiento de los Recursos Naturales, a small indigenous women-led organization in rural Oaxaca, Mexico, funded under the Spotlight Initiative partnership with the United Nations trust fund in support of actions to eliminate violence against women, reported threats from aggressive ranchers for the work they do on indigenous women's rights and environmental justice. Similarly, MADRE, an international women's organization working in collaboration with a community development organization for indigenous women on the Atlantic coast in the north of Nicaragua, had faced pushback from local communities and State law enforcement.⁴⁶

33. Violence against indigenous women and girls in politics is also prevalent; exemplified by the harassment of and threats made against the first indigenous Democratic woman, elected in 2018, to serve in the North Dakota legislature in the United States.⁴⁷ Despite these challenges, indigenous women continue to try to surmount the obstacles faced in their political participation and to advocate for their rights.

34. As noted by the Expert Mechanism on the Rights of Indigenous Peoples, gender discrimination puts indigenous women in vulnerable situations, particularly during migration.⁴⁸ Indigenous women and girls who have been displaced, because of armed conflict, mostly related to their lands, territories or natural resources, suffer heightened vulnerability to gender-based violence.⁴⁹ This violence manifests itself in multiple ways, such as through ethnic cleansing or forceful deportation; sexual violence; or trafficking, extortion, criminality, or labour exploitation in situations of vulnerability as a result of poverty.⁵⁰

⁴¹ Submission from Jaime Cidro, Ashley Hayward and Larissa Wodtke.

⁴² Submission from the International Work Group for Indigenous Affairs, p. 2 (quoting a publication issued by the Economic Commission for Latin America and the Caribbean).

⁴³ Joint submission from six organizations working on Nepal.

⁴⁴ Submission from the International Lesbian, Gay, Bisexual, Trans and Intersex Association.

⁴⁵ See <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00007-eng.htm#r23>.

⁴⁶ Submission from the United Nations trust fund in support of actions to eliminate violence against women.

⁴⁷ Submission from the First Nations Women's Alliance.

⁴⁸ *A/HRC/EMRIP/2019/2/Rev.1*, para. 72.

⁴⁹ Submission from the International Indigenous Women's Forum.

⁵⁰ Submissions from Azerbaijan, Guatemala and the International Work Group for Indigenous Affairs.

VI. Indigenous women and girls' effective access to and participation in the prevention of and protection from violence

A. Access to prevention and protection services

35. Several good practices in ensuring indigenous women and girls' effective access to mechanisms relating to prevention and protection from violence have been identified.⁵¹ For example, regarding access to emergency support and hotlines on gender-based violence, in Guatemala, the ombudsperson for indigenous women, in collaboration with prosecution and law enforcement authorities, established a free hotline during the coronavirus disease (COVID-19) pandemic, available in four languages – K'iche', Mam, Q'eqchi' and Kaqchikel – to provide care and advice for indigenous women who were victims of violence.⁵² Moreover, a Guatemala-based civil society organization, the Women's Justice Initiative, produced radio programmes in local languages to broadcast information on the pandemic, and also used the opportunity to generate awareness about the hotline for psychological services.⁵³

36. Practices regarding reporting gender-based violence or seeking protection or related support services have also been reported. For example, in Brazil, reporting channels of the National Human Rights Ombudsman, whose staff receive training in supporting indigenous women and girls, can be used to search for information and to file complaints.⁵⁴ In Mali, given that the majority of indigenous Tuareg communities reside in hard-to-reach areas, mobile gender-based violence clinics have been established.⁵⁵

37. Indigenous-led victim support services are often preferred by indigenous survivors of sexual assault. For example, the StrongHearts Native Helpline in the United States found that of the 3,074 calls received in 2020, not one of the callers chose to transfer to a non-Native hotline for support during non-staffed hours.⁵⁶ The Government of Canada, together with Pauktuutit Inuit Women of Canada, has announced its commitment to fund the construction and operation of new shelters for Inuit women and children, including those with diverse sexual orientations and gender identities, across Inuit Nunangat.⁵⁷ In Australia, the Sexual Assault Referral Centre Service, operating in the Top End of the Northern Territory, is staffed by Aboriginals and non-Aboriginals, providing counselling, training, clinical support services and legal assistance.⁵⁸

38. In terms of collecting research and evidence, the Swedish authorities allocated research grants to fund research into how Sami women are served by and benefit from the current national response to violence against women.⁵⁹ A study was commissioned and financed to map Sami society from a gender-equality perspective, to form the basis for any

⁵¹ See, for example, Chirapaq, *Prácticas Prometedoras y Modelos Interculturales Replicables para Prevenir y Responder a las Violencias contra las Mujeres, Jóvenes y Niñas Indígenas en América Latina y el Caribe* (2021).

⁵² Submissions from UNHCR and from the United Nations Population Fund (UNFPA). As at the date of submission (January 2022), the call centre had answered 1,579 calls. It had responded to and provided legal advice in 2,018 cases, provided social services in 2,138 cases, and provided mental health and psychosocial support to 759 users.

⁵³ Submission from the United Nations trust fund in support of actions to eliminate violence against women.

⁵⁴ Submission from Brazil.

⁵⁵ Submission from UNFPA. In addition, Tuareg community leaders are trained, and their awareness is raised, so that they can lead efforts to address gender-based violence and harmful practices in their communities.

⁵⁶ Submission from Amnesty International–United States.

⁵⁷ Submission from Canada.

⁵⁸ Submission from the Office of the Children's Commissioner in the Northern Territory, Australia. Since 2017, the number of clients relying on this service has doubled. Of all clients who are children, almost all are Aboriginal girls.

⁵⁹ Submission from the Council of Europe secretariat of the monitoring mechanism under the Istanbul Convention.

proposed measures that the Sami Parliament deems necessary. The resulting study, presented in April 2021, contained proposals for measures for Sami gender equality, violence prevention work and further research.⁶⁰

39. When it comes to prevention, the Office of the Children’s Commissioner in the Northern Territory supports the work of the Tangentyere Council in Central Australia, an Aboriginal community-controlled organization dedicated to self-determination, service provision and community leadership. One of the Council’s projects, “Girls can, boys can”, works to debunk gender and social norms for Aboriginal children and communities.⁶¹ In Argentina, accessible materials were produced in several indigenous languages to help children learn about their rights, taking into account respect for their languages, identities and world views.⁶² The Ministry for Women in Paraguay, through regional women’s centres, held awareness-raising and prevention workshops for women in indigenous communities, to provide information about the different types of violence and legal provisions, prevention and reporting mechanisms, and supporting mechanisms.⁶³

40. Despite these advances, it is clear that support services are often not aimed at, appropriate for or inclusive of the specific needs of indigenous women and girls. Many survivors of violence or those at risk of violence are also often not aware that services are delivered, or how to access them.

41. Moreover, having experienced violence, indigenous women and girls may suffer stigmatization when they try to access support services, both from their communities and from the staff that provides the services. Due to lack of training and awareness-raising, health professionals are often insensitive to the realities, culture and worldview of indigenous women, and rarely offer services respecting their dignity, privacy, informed consent and reproductive autonomy. The double stigmatization exacerbates the reluctance of indigenous women and girls to seek assistance, owing to fear of the consequences of the stigmatization and to mistrust of the service providers.

B. Participation in initiatives and processes

42. Several good practices were reported regarding indigenous women and girls’ participation in initiatives and processes on issues that affect their lives. For example, in terms of indigenous women and girls’ leadership and advocacy, in Peru, the National Network for the Promotion of Women recruited older indigenous women in rural communities as senior women leaders to advocate for gender- and age-sensitive policies with local authorities. The Network, from the start, took a participatory and inclusive approach so as to not reproduce patterns of social exclusion of indigenous women but instead generate new forms of relationships with project participants.⁶⁴ Also in Peru, indigenous women established the National Organization of Andean and Amazonian Indigenous Women, which implements actions aimed at strengthening grass-roots organizations, raising awareness of their demands and influencing the public agenda in order to gain representative spaces at the local, regional, national and international levels.⁶⁵

43. Participation in national plans, policies and agreements relating to violence against women is key to ensuring effective, comprehensive and culturally appropriate approaches in the prevention of and protection from gender-based violence. In Australia, the process for a new 10-year strategy to reduce gender-based violence is currently ongoing. Through the advocacy of indigenous women leaders, the previous strategy’s failure in acknowledging their specific circumstances and needs was recognized. This led to work on developing, in

⁶⁰ Submission from Sweden. In 2021, the Sami Parliament received SEK 400,000 for the assignment and will receive an additional SEK 1.8 million per year during the period 2022–2024.

⁶¹ Submission from the Office of the Children’s Commissioner in the Northern Territory, Australia.

⁶² Submission from Argentina.

⁶³ Submission from Paraguay.

⁶⁴ Submission from the United Nations trust fund in support of actions to eliminate violence against women.

⁶⁵ Submission from the International Development Law Organization.

collaboration with the communities, a national plan dedicated to reducing gender-based violence against Aboriginal and Torres Strait Islander women.⁶⁶

44. Regarding prevention and holistic care, a network of for indigenous women in Mexico promotes culturally appropriate models in preventing and addressing gender-based violence, through an approach based on human rights and gender equality. It started with five homes, in the States of Chiapas, Guerrero, Puebla and Oaxaca. Now there are 34 homes, although budget cuts during the COVID-19 pandemic significantly affected their activities.⁶⁷

45. Advocacy by indigenous women has led to concrete advances in creating more accessible justice systems for them. For example, in 2014, and following consistent reporting by the Enlace Continental de Mujeres Indígenas de las Américas on cases of racism and discrimination, the judicial branch of the Province of Chaco, Argentina, established services of translation and expert opinions in indigenous languages.⁶⁸

46. Furthermore, some countries have maximized efforts to strengthen opportunities for the participation of indigenous women and girls in policymaking. For example, in El Salvador, UN-Women implemented a project with funds from the Canada Fund for Local Initiatives, with the objective of creating an observatory on the rights of indigenous women, as a citizen instrument of control and social oversight from a gender, legal and intersectional perspective. It is also envisioning the training of 25 indigenous women leaders on women's rights, and mechanisms for the handling and reporting of violence against women.⁶⁹

47. Nevertheless, the political participation of indigenous women and girls in processes that are important to their lives is still limited, for example, in governance processes, or legislative or advisory bodies or mechanisms, due to the existence of many barriers, such as violence against indigenous women and girls in politics. Similarly, there is still insufficient participation of indigenous-led organizations in designing and implementing strategies to prevent and respond to violence directed against indigenous women and girls that are adapted to their contexts, settings and needs. Moreover, indigenous women have not been sufficiently recognized as the guardians of valuable traditional knowledge in their communities, including regarding nature and sustainable practices, which can also inform climate mitigation and adaptation strategies. Lastly, domestic legislation and frameworks to prevent violence against women often do not take into account the specific vulnerabilities and realities of indigenous women and girls.

VII. Fair and effective judicial procedures for indigenous women and girls, and access to justice

48. Several countries have adopted or strengthened normative frameworks with specific references to indigenous peoples. Furthermore, more States are recognizing that policies intended to prevent and respond to gender-based violence are unlikely to be effective in addressing violence among indigenous women and girls unless the policies are specifically tailored to their needs. For example, the National Institute of Indigenous Affairs in Argentina has recently created an area on women and indigenous diversity and an area on indigenous children and adolescents.⁷⁰

49. Because many members of indigenous communities live in rural and remote areas, ensuring physical access to justice systems is key for indigenous women and girls' effective access to justice. Paraguay provided information on its itinerant programme, the mobile

⁶⁶ Submissions from the Law and Advocacy Centre for Women and Tania Wilkinson Brown Consultancy.

⁶⁷ Submission from UNFPA, and communication MEX 12/2020, sent by the Special Rapporteur and other mandate holders, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25626>.

⁶⁸ Submission from UNFPA.

⁶⁹ Submission from UN-Women.

⁷⁰ Submission from the Office of the Ombudsperson of the Nation (Argentina).

house of justice, which includes alternative conflict resolution methods, with 90 per cent of its beneficiaries being women.⁷¹

50. Representation within the justice system and in broader politics and governance is key to effective access. For example, in Guatemala, an association of indigenous women lawyers was created with the objective of supporting the professional development of indigenous women lawyers. The association offers legal and technical advice to indigenous women and communities in defending their individual and collective rights, taking into account intercultural and gender perspectives.⁷² Similarly, indigenous women and men from the Garífuna communities of Punta Piedra and Triunfo de la Cruz in Honduras received support from a local organization to legally defend their territories before the Inter-American Court of Human Rights. The Court ordered Honduras to comply with its State obligation to delimit and demarcate the traditional territories of both communities, and to grant protection measures to their members, owing to serious incidents of violence.⁷³

51. The implementation of the extraterritorial human rights obligations of States is an important concept in the fight against gender-based violence against indigenous women and girls, allowing for accountability by non-State actors for violations of human rights they have committed. For example, following the rape and sexual violence inflicted on women from Lote Ocho by private security guards working for a Canadian mining company, while they were being forcefully evicted in Izabal, Guatemala, a Canadian provincial court determined that the Canadian parent mining company could be tried in Canada for its legal responsibility for acts of human rights violations caused by its subsidiary abroad, including the rape of 11 Q'eqchi women'. This legal decision set an important precedent.⁷⁴

52. Furthermore, providing awareness-raising and training to indigenous authorities can lead to their increased engagement in addressing gender-based violence within the indigenous community. This is especially important where domestic laws allow for indigenous communities to use their own judicial systems and customs. For example, in the Plurinational State of Bolivia, the government of the municipality of Viacha developed training sessions, in the Aymara language, for the native indigenous rural authorities. The training was led by indigenous leaders and organizations, in collaboration with the Municipal Legal Service and UNFPA, and reached approximately 400 indigenous authorities from 60 different communities.⁷⁵ Similarly, the creation of leadership schools for indigenous women and women of African descent provided participants with conceptual and methodological knowledge that was key to eradicating femicide.⁷⁶

53. States are also investing in awareness-raising and training on the specific needs of indigenous women and how to engage them. In 2021, the National Human Rights Commission of Mexico developed a toolbox on how to incorporate gender, intersectional and multicultural perspectives in the handling of complaints of alleged violations of the human rights of indigenous women.⁷⁷ Another example is the Indigenous Courtwork Programme in Canada, which assists indigenous people seeking justice in understanding their rights, and raises the cultural awareness of those involved in the administration of the criminal justice system.⁷⁸ In Argentina, the Spotlight Initiative and other partnerships facilitated access to legal aid and financial education for indigenous women and guaranteed the participation of women in the process of monitoring laws against violence against women and girls.⁷⁹

54. Some good practices reassert the applicability of human rights to all and protect rights to be free from violence that may not be identified as such by the indigenous community. For example, in its findings in *Amparo* review proceeding 5008/2016, the Supreme Court of

⁷¹ Submission from Paraguay.

⁷² Submission from UNFPA. A similar professional association exists in Mexico.

⁷³ Submission from Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos.

⁷⁴ Submission from the International Indian Treaty Council.

⁷⁵ Submission from UNFPA.

⁷⁶ Submission from UN-Women.

⁷⁷ Submission from the National Human Rights Commission of Mexico.

⁷⁸ Submission from Canada.

⁷⁹ Submission from UN-Women.

Mexico decided that indigenous men could not continue with the practice of marrying girls under the age of 14.⁸⁰

55. Gaps and challenges persist, however. As highlighted by the Working Group on the issue of discrimination against women in law and in practice in its 2019 report, indigenous women are disproportionately more likely to be criminalized, involved with the criminal justice system and overrepresented in many domestic prisons, due to a myriad of reasons, including harmful racial and gender stereotyping and intergenerational poverty.⁸¹ The disproportionately high incarceration rate of indigenous women compared to their non-indigenous counterparts, such as in Australia, Canada and Costa Rica,⁸² is a reflection of structural discrimination and of the barriers to accessing fair and effective judicial processes that are posed by State criminal justice systems and within indigenous systems.⁸³ In some countries, indigenous women who are human rights and environmental defenders and women seeking abortions are particularly targeted in order to unfairly punish them and to set an example for others.

56. Some States do not recognize specific particularities that characterize the violence that indigenous women and girls face, which can result in barriers to access to justice. Other barriers include, but are not limited to, lack of expertise in indigenous languages and culture; lack, or poor allocation, of legal support and assistance; bias, stigmatization and stereotyping of indigenous women and girls by justice and law enforcement authorities; and high levels of impunity for crimes committed against indigenous women and girls. These constitute serious barriers within the justice system at large, resulting in discrimination and re-victimization, reinforcing the already existing and deep-seated fear and distrust of the justice system.⁸⁴ Where indigenous communities live in rural and remote areas, isolation and weak institutional presence in indigenous territories form a physical barrier to justice.⁸⁵ Lack of documentation and recognized legal status can also exacerbate violence against indigenous women and girls and further prevent them from seeking justice.⁸⁶

57. Challenges still exist with respect to the issue of jurisdiction, intercultural justice and the application of indigenous law in cases of violence against women, or even the lack of recognition of indigenous women and girls' particular circumstances and the structural violence they face.⁸⁷ In numerous instances, indigenous women and girls are obliged to first access traditional justice mechanisms that rule on the basis of traditional customary laws, which can, like national justice systems, be patriarchal and biased. For example, in Palestine, cases of gender-based violence tend to be first referred to traditional community leaders (mukhtars).⁸⁸ In some cases, violence against indigenous women and girls is understood and accepted by the community, which renders seeking justice for or protection from abuse a challenge.⁸⁹

⁸⁰ Submission from Mexico.

⁸¹ [A/HRC/41/33](#), paras. 27, 52 and 62.

⁸² Submissions from Australia, Canada and Costa Rica.

⁸³ [A/HRC/27/65](#).

⁸⁴ Submissions from the American Civil Liberties Union, the Council of Europe secretariat of the monitoring mechanism under the Istanbul Convention, the Danish Institute for Human Rights, the National Justice Project, and UNFPA, and the joint submission from six organizations working on West Papua.

⁸⁵ Submission from UNFPA.

⁸⁶ Submission from UNHCR. See also Laura van Waas and others, *A Methodology for Exploring the Interaction between Statelessness and Human Trafficking* (2015).

⁸⁷ Submissions from Denmark, the Russian Federation, UN-Women and the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention.

⁸⁸ Submission from the Center for Women's Legal Research, Counseling and Protection.

⁸⁹ Submission from UN-Women.

VIII. Indigenous women and girls' access to truth, redress and guarantees of non-repetition

58. Under numerous international, regional and domestic laws, States carry an obligation to guarantee indigenous women and girls' rights to justice and comprehensive rehabilitation, restitution and reparation measures for gross violations of international human rights law and international humanitarian law, including sexual and other gender-based violence. Justice in such cases is also a critical component of the women, peace and security agenda.⁹⁰

59. An important form of reparation and satisfaction is the search for and acknowledgment of truth, responsibility and fault.⁹¹ Several truth commissions, such as those in Chile, Guatemala, Kenya and Peru, have described human rights violations that were committed against indigenous women.⁹² More recently, the conclusion of a three-year inquiry by Canada in 2019 is an important example of such moral and non-monetary reparation, as it was found that Canada had committed genocide against its indigenous population. The findings also characterized the violence against indigenous women, girls and persons of diverse sexual orientation and gender identity as a national tragedy of epic proportion.⁹³

60. Courts can play an important role in emphasizing the importance of truth seeking. In the case of *Fernández Ortega et al. v. Mexico*, the Inter-American Court on Human Rights established that from the moment the State became aware of the existence of a sexual violation committed against someone who belonged to a group in a situation of special vulnerability due to her status as indigenous and as a girl, it had the obligation to carry out a serious and effective investigation to verify the facts and identify the perpetrators.⁹⁴

61. There is evidence to show that investing in indigenous women's leadership and participation in legal and political processes concerning the violence they experience can result in justice and reparations for victims. UN-Women, civil society organizations, women's human rights defenders and public prosecutors came together to support indigenous Q'eqchi' women in winning the first ruling by a national court on sexual violence as a war crime. The *Sepur Zarco* case was the first time a national court considered charges of sex slavery during armed conflict and recognized the acts as a war crime, leading to important reparations for the affected community.⁹⁵

62. Mujeres Transformando el Mundo, a multidisciplinary initiative of non-governmental organizations in collaboration with the United Nations trust fund in support of actions to eliminate violence against women, is taking comprehensive legal, psychological and social approaches to support survivors of violence, with a view to improving access to justice and reparations for indigenous and mestiza women living with disabilities who have experienced gender-based violence.⁹⁶

63. Despite these advances, indigenous women and girls are still generally excluded from reparation programmes. For example, in Peru, a programme was initiated in 2007 for individual and collective reparations for victims of the country's conflict (1980–2000). However, there have been insufficient efforts to address sexual violence and other forms of gender-based violence in the conflict, with some 6,000 victims who have not yet been provided with reparations.⁹⁷

⁹⁰ UN-Women, "Indigenous women and the women, peace and security agenda".

⁹¹ International Commission of Jurists, *The Right to a Remedy and Reparation for Gross Human Rights Violations: A Practitioner's Guide*, revised ed. (Geneva, 2018), p. 209.

⁹² UN-Women, "Indigenous women", p. 1.

⁹³ *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*.

⁹⁴ Submission from Mexico.

⁹⁵ It specifically addressed the systemic violence and sexual slavery perpetrated near the military base of Sepur Zarco against 15 Q'eqchi' women during armed conflict. Submissions from the International Indigenous Women's Forum and the International Development Law Organization.

⁹⁶ Submission from the United Nations trust fund in support of actions to eliminate violence against women.

⁹⁷ UN-Women, "Indigenous women", p. 2.

64. Effective implementation of recommendations by truth commissions or commissions of inquiry, and concrete follow-up on judicial decisions, remain a challenge. For example, while the conclusion of the three-year inquiry by Canada was an important step, its practical implications will be limited if not followed by robust policies. There continues to be a lack of movement to satisfy indigenous women's demands for accountability, demonstrable action and policy changes. This will require greater visibility and involvement of indigenous women as agents of change in the decision-making processes. In general, as women and girls remain predominantly depicted as victims of violence, more efforts, including in the area of redress and non-repetition, are needed to highlight their resilience and their roles in resisting, addressing and eliminating violence and as agents of change.

65. Moreover, insufficient effort is being exerted to protect indigenous women wishing to participate politically, to design laws that protect them from violence and to safeguard that space for them. Furthermore, issues relating to indigenous women and girls are often not included in the spaces to which indigenous women politicians are invited, which contributes to making them feel more invisible.

IX. Disaggregated data on violence against indigenous women and girls

66. Disaggregated data on violence against indigenous women and girls are scarce and not systematically collected. The data and evidence that are available indicate that indigenous women have poorer access to health-care services, and experience worse sexual and reproductive health outcomes and higher rates of violence than non-indigenous women.⁹⁸

67. A number of Latin American countries are gathering data on violence against indigenous women and girls, either through national statistical surveys or administrative data sources, under specific programmes or through justice systems. Argentina has collected comprehensive data from its hotline and its “Acompañar” programme,⁹⁹ while Guatemala gathered data from the Public Prosecution Service and from sentencing, including information on the relationship between perpetrator and victim.¹⁰⁰ Paraguay collected judicial data on femicide of indigenous women in 2021 and statistical data on the sexual abuse of indigenous girls for the period 2019–2021.¹⁰¹ In Peru, the Ministry for Women and Vulnerable Groups collects administrative data on violence, which includes disaggregation on the basis of self-identification, indigenous or non-indigenous language and form of violence, among others.¹⁰² In Brazil, the main source of national data is the National Human Rights Ombudsman.¹⁰³ Mexico collects data disaggregated by whether or not women speak indigenous languages or consider themselves indigenous.¹⁰⁴ Lastly, Canada provides statistics of violence disaggregated by First Nation, Métis and Inuit populations when possible, and further disaggregated by other intersectional variables where data are available.¹⁰⁵

68. According to UNFPA, in Colombia, the observatory on violence against indigenous women collects and analyses data regarding violence experienced by indigenous women and children.¹⁰⁶ The Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence, in its 2019 baseline evaluation reports to Finland and

⁹⁸ Submission from UNFPA.

⁹⁹ Submission from Argentina.

¹⁰⁰ Submission from Guatemala. According to data from the Public Prosecution Service, between January and December 2021, 3,805 cases of indigenous women who were victims of crimes related to gender-based violence were reported. Between 2020 and 2021, sentences were handed down by the courts in cases involving 613 indigenous girls and women.

¹⁰¹ Submission from Paraguay.

¹⁰² Submission from Peru.

¹⁰³ Submission from Brazil. According to the mortality information system of the Ministry of Health, 38 violent deaths of indigenous women were recorded in Brazil in 2020.

¹⁰⁴ Submission from Mexico.

¹⁰⁵ Submission from Canada.

¹⁰⁶ Submission from UNFPA.

Sweden, noted the lack of measures taken and surveys carried out to identify Sami women's exposure to gender-based violence, and encouraged both States to carry out a population-based survey to assess Sami women's exposure to sexual and domestic violence as a starting point for further policy measures.¹⁰⁷

69. In short, while the situation seems to be improving, there is still a lack of comprehensive, comparative and disaggregated data and statistics on violence against indigenous women and girls at the domestic, regional and international levels. This renders it difficult to determine the full extent of violence against women, its manifestations and its consequences. In turn, this presents obstacles to developing evidence-based policies and plans to prevent gender-based violence against indigenous women and girls and provide effective support and protection.

X. Conclusions and recommendations

70. **Indigenous women and girls are subjected to a complex web of structural forms of violence that are perpetrated against them by State and non-State actors in a systemic way. While this discrimination is often based on their identity as indigenous and as women, it is further exacerbated when these identities intersect with other characteristics, such as race, age, disability, migration status and sexual orientation and gender identity.**

71. **Indigenous women and girls experience violence at both the individual level and the collective level. These individual and collective rights interact together; they are mutually interdependent and not exclusive. The collective dimension to the violence that indigenous women and girls face is often overlooked and forms an important part of their experience of violence. Discrimination and gender-based violence against indigenous women and girls threaten to disrupt their spiritual and cultural lives, and have an impact on the very essence of the social fabric of their communities and nations. Furthermore, the lack of recognition of indigenous peoples' overarching rights to self-determination and land rights can facilitate the perpetration of gender-based acts of violence against indigenous women and girls.**

72. **While the collective rights of indigenous peoples are paramount for their existence, identity, well-being and prosperity, these should not come at the expense of the individual rights of indigenous women and girls. Their individual rights should never be overlooked or violated in the pursuit of collective or group interests, as respecting both dimensions of their human rights is essential. At the same time, preventing and responding to such violence will allow indigenous women and girls to participate more fully and equally in advancing collective self-determination rights.**

73. **The effects of the violence suffered by indigenous women and girls permeate all aspects of their lives and severely affect their human rights to life, dignity, personal integrity and security, health, privacy and personal liberty, and their rights to a healthy environment and to be free from ill-treatment. Indigenous women and girls are particularly at risk of violence, harassment and punishment while pursuing their political rights and environmental protection work and during their resistance of attempts to control their territories and resources. Indigenous women and girls do not only experience gendered forms of violence, they also experience gendered consequences of violence, as they often bear the consequences of such violence disproportionately.**

74. **These intersecting forms of structural discrimination result in limited access to justice for indigenous women and girls, and widespread impunity for perpetrators of gender-based violence against them. While the present report has shed light on some of the barriers that survivors face, and on the uniqueness of their experiences, further investigations need to be carried out, including by collecting disaggregated data, to**

¹⁰⁷ Submission from the Council of Europe secretariat of the monitoring mechanism under the Istanbul Convention.

guide processes of evidence-informed, victim-centred and human rights-based policymaking at the domestic level.

75. States must ensure that their domestic legislation on gender-based violence against women is fully applicable to indigenous women and girls and sensitive to their experiences, including by ensuring specific provisions to account for all forms of violence against them, such as environmental, spiritual, political and cultural violence. Additionally, States must ensure that indigenous women are appropriately consulted and that their participation is sought in any legislative processes related to violence against them.

76. States have a due diligence obligation to prevent, investigate and punish perpetrators, and to provide reparations for indigenous women and girls who are victims of gender-based violence. States must therefore design and implement public policies to prevent gender-based violence against indigenous women and girls. Addressing the endemic impunity that prevails for crimes committed against them can also contribute to preventing further violence.

77. States must ensure all laws and policies across jurisdictions work in a way to prevent and respond to violence against indigenous women. States must further amend any laws or policies that erode the ability of indigenous communities to prevent and respond to violence against indigenous women. To ensure that these laws are relevant and culturally appropriate, indigenous representatives, specialists in indigenous law and cultural interpreters should be involved to increase the understanding of processes and rights.

78. Governments, financial institutions, the private sector and other non-State actors must ensure that any large infrastructure, development and natural resource extraction projects are carried out in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, respecting the right to self-determination and the principle of full, free, prior and informed consent of the indigenous peoples affected by the project, on whose land and territories the project would rest or affect, or who have claims to cultural sites potentially affected by such projects.

79. States must establish multisectoral and holistic approaches to combat the various forms of violence against women and girls by implementing ongoing training and capacity-building on diligent investigation in cases of sexual and other gender-based violence against indigenous women, and ensure that such training includes a gender and ethnicity perspective.

80. States should adopt and implement measures to eradicate discriminatory gender stereotypes and negative social attitudes that are the root cause of gender-based-violence against indigenous women and girls, including in the school environment and curricula.

81. States must also ensure that indigenous women and girls have effective access to health-care systems and services, including sexual and reproductive health and rights services, that are provided in a culturally sensitive manner and include access to indigenous health workers. They should also allocate budgets to implement quality health-care services to reduce maternal and infant mortality and to ensure adequate access by women and girls to reproductive health services.

82. All stakeholders must make every effort to work with and through indigenous organizations, particularly women-led organizations, when addressing gender-based violence. Furthermore, addressing barriers faced in the context of sexual and reproductive health and rights and gender-based violence requires working with and through indigenous organizations, which must be provided with core yet flexible funding to strengthen organizational resilience in a sustainable manner.

83. All stakeholders must, rather than continuously perceiving and portraying indigenous women and girls as primarily victims or vulnerable groups, recognize them for being resilient, survivors, change makers and important leaders in the movement and struggle for the rights of indigenous peoples.

84. States and other stakeholders must step up efforts to collect disaggregated data on the situation of indigenous women and girls and on the forms of violence and discrimination they are subjected to, as well as on the impact of militarization of the habitat and territories of indigenous peoples. The data should – to the extent possible – be disaggregated according to age, ethnicity, sex, and the relationship between perpetrator and victim. Data should be used to inform policies that are aimed at preventing and responding to acts of violence against indigenous women and girls.
85. States must ensure that indigenous women and girls have effective access to justice systems that are free from ethnic and/or gender-based discrimination, bias and stereotypes. This includes access to legal aid and representation, and to information in their own indigenous languages.
86. States should ensure that indigenous women and girls who are survivors of violence have adequate access to protection and support services, including culturally appropriate medical treatment, psychosocial counselling and professional training.
87. States should take proactive and effective steps to recognize, support and protect the life, integrity and work of indigenous women human rights defenders and ensure that they conduct their activities in conditions of safety and in an enabling and inclusive environment, while providing robust protections for those at risk of violence and investigating violence committed against them.
88. States should implement public policies that promote the healthy development of girls and their right to a life free from violence, as well as retain them in the education system. This requires early detection of barriers to education and reasons for school dropout, including because of child, early and forced marriage and a lack of bilingual education opportunities.
89. States must act to protect indigenous women human rights defenders and land protectors who are at risk of discrimination and violence. This includes ensuring robust protections for the right to protest and ensuring that violence against indigenous women human rights defenders and land protectors is fully investigated.
90. States must adopt policies in favour of rural and indigenous women that include a focus on strengthening the involvement of women in the governance of land. All actors should strengthen support for the implementation of programmes relating to climate mitigation and adaption in a gender-responsive manner.
91. States should ensure that indigenous women of all ages and stages of the life cycle, including older women, are included in prevention and response policies related to gender-based violence. Indigenous women exercise a role as knowledge keepers, counsellors, healers, community leaders and decision makers, which should be appropriately acknowledged and supported by States, through, for example, the provision of funding and their effective inclusion in and consultation on all processes that affect them.
92. The Commission on the Status of Women should include the issue of indigenous women and girls in its official programme of discussion in the coming years.
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