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DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS
Division for Social Policy and Development
Secretariat of the Permanent Forum on Indigenous Issues

International Expert Group Meeting

Sexual Health and Reproductive Rights: Articles 21, 22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples

15 to 17 January 2014, New York

Concept Note

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Division for Social Policy and Development
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1. Introduction

The UN Permanent Forum on Indigenous Issues has the mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, human rights and health and to provide expert advice and make recommendations to Member States as well as the UN system. Throughout its twelve sessions, the Permanent Forum has made 19 recommendations that deal specifically with sexual health and/or reproductive health and rights. At its eighth session in 2009, the Permanent Forum recommended that an expert group meeting on sexual health and reproductive rights be held. This EGM is in response to this recommendation.[1]

At its twelfth session in May 2013, the UN Permanent Forum on Indigenous Issues decided to organize an international expert group meeting on the theme "Sexual health and reproductive rights: articles 21, 22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples". This meeting will be held at the United Nations Headquarters in New York from 15 to 17 January 2014.

This is the first international expert group meeting on indigenous peoples' sexual health and reproductive rights organized by the United Nations.

2. Context and Background

In many parts of the world indigenous peoples are invisible, either because national statistics systems do not disaggregate information, or simply because their indigenous identity is not recognized. Where data is available, indigenous peoples usually lag behind in most economic and social indicators whether income, poverty, nutrition, education, sexual and reproductive health and other health challenges.

Indigenous peoples' right to health materializes through the well-being of an individual as well as the social, emotional, spiritual and culture well-being of the whole community. The health of indigenous peoples is weakened by a range of underlying social and economic determinants, including poverty, inadequate housing, lack of education, food insecurity, unemployment, loss of traditional lands and languages, and institutionalized racism. They are disproportionately likely to have poor access to healthcare, and to be subjected to violence, including sexual violence. According to the 2009 State of the World's Indigenous Peoples, indigenous women are 2.5 times more likely to be raped or sexually violated than women in general in the United States. One in three of all American Indian and Alaska Native women will be raped during her lifetime. These numbers are almost certainly undercounted, because women (and especially indigenous

[1] See Report of the twelfth session of the UN Permanent Forum on Indigenous Issues (20-31 May 2013) at para. 5 (E/2013/43 - E/C.19/2013/25).

women) believe that they will be met with indifference, inaction and are often blamed for the incident by the authorities.

High maternal mortality rates are fairly consistent among indigenous women and, although data on reproductive health and voluntary family planning among indigenous peoples is far from complete, there is evidence of lower rates of voluntary contraceptive usage among indigenous women. Lack of access to sexual and reproductive health services makes indigenous women highly vulnerable to HIV/AIDS with economic, social and sex exploitation as contributing factors, although here too there is a serious gap in reliable data on sexually transmitted infections and HIV/AIDS.

Adolescence is a period characterized by rapid physical, cognitive and social changes, including sexual and reproductive maturation; the gradual building up of the capacity to assume adult behaviours and roles; new responsibilities; and requiring new knowledge and skills. The multiple discrimination indigenous adolescents and youth face - both in society and within their own communities- makes them particularly vulnerable to health challenges as manifested in the higher rates of alcoholism, suicide, sexual violence, early pregnancy, and the risk of contracting HIV and other sexually transmitted infections. These challenges include developing an individual identity and dealing with one's sexuality.

A regional study[2] conducted by the Pan American Health Organization (PAHO) in some Latin American Countries shows the limitations in the education and health infrastructure to cover the specific needs of indigenous peoples. This contributes to the lack of access by indigenous youth to information, early diagnosis of sexually transmitted infections and prevention of early pregnancies. Moreover, adolescents and youth have a limited knowledge of HIV, its modes of transmission, prevention and access to diagnosis and treatment. The lack of bilingual medical staff is compounded by the persistence of discriminatory attitudes towards indigenous women and youth. Discriminatory practices are also found within indigenous communities based on gender, HIV status, gender identity and sexual orientation and sex work. There is a tendency to blame and stigmatize women for HIV transmission (70% of men interviewed) even in cases where women get infected in cases of sexual violence or abuse. Gender diversity, sexual orientation and sex work are often perceived as 'alien' to the community and the indigenous culture, which impacts negatively in having a proper understanding of HIV prevention policies and ends up excluding certain groups within the communities.

Historically, indigenous women have been forced to undergo compulsory sterilization. A study by the U.S. General Accounting Office found that 4 of the 12 Indian Health Service regions sterilized 3,406 American Indian women without their permission between 1973 and 1976[3]. Unfortunately this practice has not been totally abolished and in recent years there have been allegations of cases in Latin America and in other regions of the world.

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[2] PAHO, Sexual and Reproductive health and HIV of Indigenous adolescents in Bolivia, Ecuador, Nicaragua, Guatemala and Peru, 2010.

[3] *See* Native voices. http://www.nlm.nih.gov/nativevoices/timeline/543.html

Intercultural healthcare

In recent years, culturally sensitive reproductive health policies, programmes and guidelines have been developed, integrated and rolled out in healthcare systems, especially, but not exclusively, in the Latin American region. Based on these policies and programmes, health services are being adapted and expanded to include symbolic and meaningful cultural elements and practices that contribute to enhancing indigenous women's access, and ensuring their right to respectful and quality health care. Many of these trends have focused on strengthening sexual and reproductive health, and in particular maternal health services in rural areas. In addition, with the support of indigenous women's networks, some innovative community monitoring processes are being set up to track these changes and ensure that indigenous women are well represented in this process. In some countries and contexts, governmental health systems are beginning to understand, respond to and engage more with indigenous peoples' notions of health and illness, and the traditional medicinal knowledge and conceptual framework that links their biological, spiritual and emotional lives.

Maternal health

Although the gap has narrowed in recent decades in most countries that collect disaggregated data, these rates continue to be significantly higher among indigenous peoples, compared to the non-indigenous populations. Child mortality (years 1-4) rates in 2005, for example, were twice as high for American Indian and Alaska Natives than for the total population in the United States, while in Australia for the period 1999-2003, the indigenous infant mortality rates were almost three times that of non-indigenous infants, and child mortality twice as high. Infant mortality rates in New Zealand are 1.5 times higher for the indigenous Maori than for non-Maori, whilst similar trends are visible in Canada. In Latin America, where disaggregated data is readily available, indigenous infant mortality rates are always higher than those of the total population, ranging from 1.11 times higher in Chile to 3.09 times higher than the general population in Panama.[4]"In Bolivia, Ecuador, Guatemala, México and Panama, which have collected information on ethnic group and mother's area of residence (i.e., urban vs. rural), infant mortality rates are consistently higher among rural indigenous populations than among their non-indigenous rural peers as well as among urban indigenous populations".[5]

Where disaggregated data is unavailable, it is sometimes helpful to look at regional differences, and the regions where indigenous peoples predominantly live tend to fare worse than other regions. In Ratankiri, the northeast province of Cambodia, the infant mortality rate was reported estimated at 187 per 1,000 births, compared to the national rate in 1999 of 86.34 Maternal mortality rates tend also to be higher than those of the general population. "In Viet Nam, access to maternal health care services ranges from 90 per cent in urban areas to as low as 20 per cent in remote areas of the Central Highland

[4] Economic Commission for Latin America and the Caribbean (ECLAC) 2007. Panorama Social de América Latina 2006. Santiago: United Nations. P. 180.

[5] Pan-American Health Organization (PAHO). 2007. Health in the Americas, 2007. Volume I – Regional Health. PAHO. Available online at http://www.paho.org/English/DD/PUB/csp27-stp622-e.pdf Page 32.

and Northern Uplands regions inhabited by indigenous peoples"[6].Similar trends have been recorded throughout Latin Americaas well as in the richer developed countries.

3. International Standards

The **UN Declaration on the Rights of Indigenous Peoples** provides the normative framework for this expert group meeting. Article 24 of the Declaration states that indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States should take the necessary steps to achieve the realization of this right. The Declaration reiterates that indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including in the area of health. States are urged to take effective measures to ensure continuing improvement of their economic and social conditions, with particular attention to the rights and needs of indigenous elders, women, youth, children and persons with disabilities (Article 21).

The Declaration also emphasizes indigenous peoples' right to determine and develop priorities and strategies for exercising their right to development (Article 23), including through developing, determining and administering health programmes. It stipulates that indigenous peoples have the right to their traditional medicines and to maintain their health practices, and the right to access all social and health services (Article 24).

Many of the recommendations of the UN Permanent Forum emphasize the urgent need to incorporate adequate cultural perspectives into health policies, programmes and reproductive health services for indigenous. This is an important principle, reinforced in the health-related recommendations of the Permanent Forum – that healthcare should be culturally appropriate and acceptable to indigenous peoples. The Forum has also made a number of recommendations to the UN system as well as to States that have focused on the need to improve indigenous women's access and the quality of reproductive health services and to allocate sufficient resources. Most of the recommendations refer to reproductive health in general or to specific themes such as emergency obstetric care, family planning or skilled attendance at birth, but not going far beyond that in terms of detail.

The **1994 Programme of Action of the International Conference on Population (ICPD)**is a milestone document that emphasizes the equality and empowerment of women and the centrality of sexual and reproductive health and rights in population and development policies. It lays out specific goals under the themes of education, infant and child mortality, maternal mortality and access to reproductive and sexual health services including family planning. Furthermore, the ICPD addresses the specific needs and rights of indigenous peoples in the context of population and development (Programme of Action, Chapter VI, D) The ICPD Programme of Action is the most important international instrument that deals with sexual and reproductive health and rights.

[6] UNICEF. 2003. "Ensuring the Rights of Indigenous Children". Innocenti Digest no. 11. Florence, Italy: UNICEF Innocenti Research Centre. Page 10

According to the ICPD Programme of Action, reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents[7].

As further reaffirmed in the **Beijing Plan of Action**, reproductive rights encompass a range of rights for each individual to have control over his or her own sexuality and to enjoy a satisfying sexual and reproductive life.

7.2 *Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. In line with the above definition of reproductive health, reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being by preventing and solving reproductive health problems. It also includes sexual health, the purpose of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases.*

The constellation of methods and services that contribute to sexual and reproductive health are further defined in article 7.6 of the ICPD Programme of Action, as follows:

7.6 …*Reproductive health care in the context of primary health care should, inter alia, include: family-planning counselling, information, education, communication and services; education and services for prenatal care, safe delivery and post-natal care, especially breast-feeding and infant and women's health care; prevention and appropriate treatment of infertility; abortion as specified in paragraph 8.25, including prevention of abortion and the management of the consequences of abortion; treatment of reproductive tract infections; sexually transmitted diseases and other reproductive health conditions; and information, education and counselling, as appropriate, on human sexuality, reproductive health and responsible parenthood. Referral for family-planning services and further diagnosis and treatment for complications of pregnancy, delivery and abortion, infertility, reproductive tract infections, breast cancer and cancers of the reproductive system, sexually transmitted diseases, including HIV/AIDS should always be available, as required. Active discouragement of harmful practices, such as female*

[7] ICPD Programme of Action 1994, Paragraph 7.3

genital mutilation, should also be an integral component of primary health care, including reproductive health-care programmes.

The ICPD Programme of Action contains numerous references to indigenous peoples. Principle 14 of the ICPD Programme of Action says:

> *In considering the population and development needs of indigenous people, States should recognize and support their identity, culture and interests, and enable them to participate fully in the economic, political and social life of the country, particularly where their health, education and well-being are affected.*

The ICPD Programme of Action also calls for the recognition of indigenous perspectives of population and development and that governments should address their specific needs for primary health care and reproductive health services in consultation with indigenous peoples. The Programme of Action also calls on the UN to compile data on the demographic characteristics of indigenous peoples, and for special efforts to integrate statistics pertaining indigenous peoples into national data collection systems.

The Beijing Women's Conference of 1995 followed up on ICPD by specifying women's rights to decide on issues related to their own sexuality. However, the term "Sexual and Reproductive Health and Rights" did not appear in the adopted texts. The Beijing Platform for Action did nevertheless emphasize that states should "…include women, especially local and indigenous women, in the identification and planning of health-care priorities and programmes; remove all barriers to women's health services and provide a broad range of health-care services". Furthermore article 109b states the following:

Promote gender-sensitive and women-centred health research, treatment and technology and link traditional and indigenous knowledge with modern medicine, making information available to women to enable them to make informed and responsible decisions;

The Millennium Development Goal framework picked up most of the quantitative time bound targets of the ICPD, including MDG 5 which is related to maternal health and maternity and MDG 4 on child and infant mortality. At the 2005 Millennium summit, the Secretary-General in his report on the Work of the Organization recommended the inclusion of additional targets, including a target on 'universal access to reproductive health', which became effective in 2008.

More recently, recently in the context of the ICPD beyond 2014 global review process Member States from the Latin America and Caribbean region made the **Montevideo Consensus**, which contains a specific section entitled "Indigenous Peoples: Interculturalism and Rights". In the Montevideo consensus, Member States committed to guaranteeing "… indigenous peoples' rights to health, including sexual and reproductive rights, as well as their rights to their own traditional medicines and health practices, especially as regards reducing maternal and child mortality considering their socio-

territorial and cultural specificities as well as the structural factors that hinder the exercise of this right." The Montevideo consensus also commits Member States to adopt measures to ensure that indigenous women, boys, girls, adolescents and young people enjoy protection from all forms of violence and discrimination. The Montevideo consensus also states that Member States will ensure that national statistics respect the principle of self-identification.

D. Objectives and Outcomes of the Meeting:

The Expert Group Meeting is intended to:

- Analyze enshrined human rights within international standards and policies and how these could be more responsive to advancing the sexual health and reproductive rights of indigenous peoples;
- Promote an opportunity to exchange information, analysis and good practices;
- Identify options and further plans to build the necessary conditions for addressing the sexual health and reproductive rights of indigenous peoples, through concrete recommendations to the UN system, Member States, indigenous peoples and their organizations as well as non-indigenous civil society organizations.

The final report and recommendations of the Expert Group Meeting will inform the thirteenth session of the Permanent Forum (12-23 May 2014), and also feed into the World Conference on Indigenous Peoples (September 2014) as well as the 20 year review of the International Conference on Population and Development and the ongoing discussions to define a development agenda beyond 2015.

Proposed themes for discussion

1. **Sexuality, culture, taboos and education**
2. **Maternal health and family planning**
3. **Intercultural approach to sexual and reproductive health: Access and quality**
4. **HIV/AIDS and Sexually Transmitted Infections**
5. **Gender equality, discrimination and violence**
6. **Harmful traditional practices**
7. **Indigenous peoples' SRH, the UN system, post 2015 Agenda, ICPD +20 and WCIP**

Working Language:

The working languages will be the UN working languages[8]

[8] English, Spanish, French, Chinese, Arabic and Russian.

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