

GENDER AND INDIGENOUS PEOPLES' HUMAN RIGHTS



The international moment of Indigenous Peoples has since the 1970's articulated Indigenous Peoples' aspirations in human rights terms. Indigenous women and men have struggled together at national, regional and international fora to define and promote Indigenous human rights.

Article 2 of the Declaration on the Rights of Indigenous Peoples adopted by the Human Rights Council in June 2006 states that "*Indigenous peoples an individuals are free to all peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based their indigenous origin or identity*".

This note focuses mostly on Indigenous women's human rights within the broader context of internationally recognized human rights, including Indigenous Peoples' human rights.

In recent years, Indigenous women have made important strides in advancing their rights as women and as Indigenous Peoples using a human rights framework. Positioning Indigenous rights and women's rights as inextricably linked, Indigenous women work to secure these inter-related rights through the human rights framework, using instruments especially the Convention on the Elimination of All Forms of Discrimination Against Women. Yet, while Indigenous women conceive of women's human rights and collective rights as two parts of a coherent whole, conventional interpretations and applications of human rights often compartmentalize sets of rights, sometimes even setting them in opposition to one another. *The ways in which Indigenous women claim and use human rights at times departs from the conventional human rights framework. Yet, that difference need not be a source of discord. Rather, it can provide a point of vibrant engagement, strengthening an intercultural, gendered understanding and application of human rights that both promotes the rights of Indigenous women and enhances the human rights framework itself.*

Indigenous women seek to protect and advance the fundamental principles of human rights, including: the indivisibility of rights and the universality of rights, inflecting each with a unique Indigenous women's perspective. Indigenous women draw on instruments including the Charter of the United Nations,¹ the Universal Declaration of Human Rights,² the International Covenant on Economic, Social and Cultural Rights, the International Covenant of Civil and Political Rights,³ and the International Convention on the Elimination of all forms of Racial Discrimination⁴ to promote their rights as women and the collective rights of Indigenous Peoples, taking gender and the principle of non-discrimination into account.

Why are gender issues important?

How Indigenous Women Define Indigenous Women's Human Rights

Indigenous women hold that the indivisibility of rights means that Indigenous women do not enjoy the full range of human rights when the collective rights of their peoples are violated. Indigenous women's capacity to exercise fundamental social, economic, cultural, and political rights as guaranteed in international instruments is inextricably tied to their right to self-determination in their territories. These ancestral lands are the basis of Indigenous cultures, traditions, spiritual practices, economies, and political systems.

Indigenous women's claim for a conception of women's human rights predicated on collective rights challenges both the conventional rights paradigm and mainstream conceptions of women's human rights, which both posit the individual as the only subject of rights. Since the World Conference on Human Rights in Vienna in 1993, the global women's movement has succeeded in shifting the traditional rights framework by displacing the dichotomy between the private and public spheres and insisting on states' responsibility for rights viola-

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tions committed by non-state actors. But Indigenous women's claim represents more than an extension of the existing human rights framework: it requires an overhaul of underlying assumptions starting with the notion that collective rights threaten, rather than complement, individual rights.

How does applying a gender perspective make a difference?

The Universality of Rights: How Indigenous Women Negotiate Tensions between Culture and Human Rights

Indigenous women understand universality to mean that every woman in the world is entitled to exercise the full range of her rights without exceptions based on culture, tradition, or religion. Since the advent of the human rights framework, conceptions of culture have been placed in opposition to principles of universal human rights. Most commonly, the concept of "cultural relativity" has been used to justify violations of women's human rights by designating abuses as "cultural" and therefore beyond the legitimate reach of human rights. Indigenous women articulate positions outside of the relativist/universality dichotomy, rejecting the underlying premise of both sides, namely, that women are the victims of culture.⁵

While culture can be used as an excuse to violate human rights, it can also be used to promote rights, for example, by emphasizing cultural values of fairness, egalitarianism, and the sanctity of human life that underpin both the human rights framework and many of the world's cultures. This approach positions human rights in dialogue with—not in opposition to—local cultures. Thus, Indigenous women see the criminalization of rights violations (as enshrined, for example in Articles 2(f) and 5(a) the Convention for the Elimination of All Forms of Discrimination Against Women, which require states to abolish customs and practices that violate women's human rights) as a crucial, but partial, step in securing human rights. Building on the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW),⁶ Indigenous women seek to find points of alignment between international human rights instruments and local values and practices that uphold women's rights, thus promoting both gender equality and cultural identity as two crucial bases for the full enjoyment of human rights.

What are the key issues to be considered?

Indigenous Women and Indigenous Peoples' Rights

Indigenous women work to promote the rights of their peoples at every level of Indigenous life. Their primary involvement is at the community level, where women play leadership roles in producing Indigenous culture and identity and developing strategies to address the social problems that affect Indigenous communities. Women's leadership in this realm is based on their traditional responsibility for conservation and maintenance of natural resources and for preserving, developing and transmitting Indigenous knowledge and culture. In many instances, Indigenous women are the primary producers of food in their communities and share custodianship of biodiversity for many of the world's ecosystems. In many instances, they are practitioners of medicine, pharmacology, botany, and nutrition, and the keepers of the agricultural technology that sustains the polycultures critical to maintaining biodiversity the world over. In addition to being the stewards of environmental, technical, scientific, cultural, and spiritual knowledge, Indigenous women are also the primary transmitters of this knowledge to younger generations. Often knowledge is gendered so men share with boys and women share with girls. Indigenous women also hold the keys to combating poverty in their communities and creating and implementing strategies for sustainable development together with Indigenous men.

Indigenous Peoples have been active in all areas of politics and Indigenous women often play leadership roles in local and territorial governments and in national and international arenas, serving as mayors, council members, parliamentarians and national deputies. At the state level, a number of Indigenous women have promoted multiethnic democracies and respect for human rights. They have been instrumental in winning and monitoring implementation of national policies regarding education, health, social services, natural resource management, and economic development.

Indigenous women have also been active in the international human rights arena and within the UN system itself since the First UN World Conference on Women in Mexico in 1975. An Indigenous woman has presided over the UN's Permanent Forum on Indigenous Issues. Indigenous women have worked to impact international debates on environment, economy, intellectual property and collective rights of Indigenous and Tribal Peoples, among other

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issues. At the 4th World Conference on Women held in Beijing in 1995, Indigenous women produced a 40-point 'Declaration of Indigenous Women',⁷ which urged governments and non-state actors to adopt concrete measures to promote and reinforce national policies and programs in favour of Indigenous women regarding issues of human rights, health, education and economic development. At the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia, and other Forms of Intolerance, international Indigenous women's networks collaborated to secure the effective participation of young Indigenous women in this international process. In 2006, a number of Indigenous women were instrumental in securing the adoption by the Human Rights Council of the United Nations Declaration on the Rights of Indigenous Peoples.⁸

What are the practical implications?

What are the primary human rights issues that Indigenous women face?

At the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia, and other Forms of Intolerance, Indigenous women were among the many groups who contributed to an NGO Declaration that described how women are affected by the intersection of multiple forms of discrimination: "multiple forms of discrimination against women limit or negate women's potential for the full enjoyment and exercise of their human rights and fundamental freedoms in all spheres of life . . . racism also creates other forms of patriarchal subordination of women."⁹ This intersectional approach recognizes that people's experience of human rights is mediated by multiple identities, including race, class, ethnicity, religion, sexual orientation, gender, age, disability, citizenship, national identity, geopolitical context, and health. For Indigenous women, compound discrimination on the basis of gender, economic status, and ethnicity manifests itself in human rights violations rooted in: development aggression; armed conflict and the militarization of Indigenous territories; displacement, migration, and urbanization; the denial of basic services, including intercultural education, sanitation, and health care; fundamentalisms and "harmful traditional practices";¹⁰ and gender-based violence.

Indigenous Women and the Global Movement for Women's Human Rights

Indigenous women have been active in the global women's movement since its inception and have

played leadership roles in processes that yielded, for example, the Convention for the Elimination of All forms of Discrimination Against Women, the Americas Declaration mostly known as the Belem do Para Declaration, and the 1995 Beijing Platform for Action. Yet, Indigenous women have often been marginalized within the broader movement for women's human rights, which tends to stress the universality of women's oppression at the expense of recognizing differences in the forms and subjective experiences of that oppression. Indigenous women also believe that many non-indigenous women, as colonizer's have hardly come to terms with oppression of indigenous peoples, especially indigenous women. In response, Indigenous women have worked in the international arena to articulate their own perspective on women's human rights. In 1999, at the Beijing + 5 Review Process, Indigenous women founded the International Indigenous Women's Forum to strengthen Indigenous women's networks; increase their participation and visibility in the international arena; and develop Indigenous women's leadership capacity.

At the 49th Session of the Commission on the Status of Women (CSW) in March 2005 in New York, where the review and evaluation of the Beijing Declaration and Platform for Action took place, Indigenous women proposed a resolution,¹¹ which was adopted by the CSW, the first on Indigenous women. The resolution highlights their rights and specific needs, including regarding poverty and violence, and was considered a big achievement of the Indigenous women's work.

Indigenous women are committed to participating in the global women's movement on the basis of their own perspectives and priorities. For example, Indigenous women support calls in the Beijing Platform for Action, the Millennium Development Goals, and elsewhere for increased access to girls' education. **However, Indigenous women also note that the dominant paradigm of schooling has been used to as a tool of forced assimilation against Indigenous Peoples. Indigenous women therefore prioritize inter-cultural education as a strategy to meet the need for girls' education while protecting cultural rights.**

What are some of the challenges to be addressed?

Ways forward

Indigenous women are often the most marginalized

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sector of the societies in which they live. Compared with non-Indigenous women, they are denied education and health services at much higher rates and endure higher incidences of poverty, preventable diseases, gender-based violence and maternal mortality. Indigenous women work to combat human rights violations by promoting Indigenous women's leadership at the local, national, and international levels and by demanding recognition of Indigenous women's roles in promoting the rights of their Peoples.

Towards that end, Indigenous women have utilized and relied on the United Nations system for crucial support through such channels as the UN Permanent Forum on Indigenous Peoples, which has adopted recommendations in defence of Indigenous rights and dedicated its third session to Indigenous women's issues with some twelve pages of policy recommendations issued; Indigenous women's issues are now a perennial subject at the Forum's annual sessions; the Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People; the Working Group on Indigenous Populations; and a series of projects at the country level supporting planning and programming of UN initiatives.¹²

References

- ¹ *Charter of the United Nations June 26, 1945, 59 Stat. 1031, T.S. 993, 3 Bevans 1153, entered into force Oct. 24, 1945. See Article 55 and Article 73.*
- ² See Articles 2, 22 and 25.
- ³ *International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976. See Articles 1, 2, 3, 26 and 27.*
- ⁴ *International Convention on the Elimination of All Forms of Racial Discrimination (1965). See Article 1 and Article 5.*
- ⁵ "Bringing Indigenous Perspectives to the International Arena: An Indigenous Women's Conference", *International Indigenous Women's Forum Declaration, New York 2005.* See paragraph 5.
- ⁶ *The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force Sept. 3, 1981.*
- ⁷ *Beijing Declaration of Indigenous Women; NGO Forum, UN Fourth World Conference on Women Huairou, Beijing.*
- ⁸ *Declaration on the Rights of Indigenous Peoples, U.N. Doc. E/CN.4/Sub.2/1994/2/Add.1 (1994).*
- ⁹ *NGO Forum, World Conference Against Racism, Racial Discrimination Xenophobia and Related Intolerance, Durban, South Africa, August 27 - Sept 1, 2001.*
- ¹⁰ See Fact Sheet No.23, *Harmful Traditional Practices Affecting the Health of Women and Children;* www.ohchr.org/english/about/publications/docs/fs23.htm
- ¹¹ *Final Report on the 49th Session of the Commission on the Status of Women E/CN.6/2005/11.*
- ¹² *Collection of case studies Indigenous Women and the United Nations System, Task Force on Indigenous Women/IANGWE, 2007.*

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