

**INTER-AGENCY
SUPPORT GROUP
ON INDIGENOUS
PEOPLES' ISSUES**

**THEMATIC PAPER towards
the preparation of the
2014 World Conference on
Indigenous Peoples**

**ELIMINATION AND RESPONSES
TO VIOLENCE, EXPLOITATION
AND ABUSE OF INDIGENOUS
GIRLS, ADOLESCENTS AND
YOUNG WOMEN**

Thematic Paper on the Elimination and Responses to Violence, Exploitation and Abuse of Indigenous Girls, Adolescents and Young Women

The United Nations Inter-Agency Support Group (IASG) on Indigenous Issues aims to strengthen cooperation and coordination among UN agencies, funds, entities and programmes on indigenous peoples' issues and to support the UN Permanent Forum on Indigenous Issues. It also seeks to promote the effective participation of indigenous peoples in relevant international processes.

At its annual meeting held in October 2013, the IASG decided to develop a set of collaborative thematic papers to serve as background information and analysis on key issues to contribute to the process and preparations for the World Conference on Indigenous Peoples.

The preparation of each paper was led by one or more agencies with inputs from other IASG members. The papers do not present or represent formal, official UN policy positions. Rather, they reflect the collective efforts of the Inter-Agency Support Group to highlight selected key issues and to provide substantive materials to inform the Conference, with a view to contributing to the realization of the rights of indigenous peoples.

**The chair of the IASG rotates annually amongst the participating agencies. The Support Group has been chaired by the United Nations Children's Fund (UNICEF) until the end of the 13th session of the Permanent Forum on Indigenous Issues in May 2014. The Office of the High Commissioner for Human Rights (OHCHR) is currently holding the chair of the Group. The Secretariat of the Permanent Forum on Indigenous Issues acts as co-chair of the Support Group.*

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Key messages

1. Violence against women and girls is a universal, unacceptable phenomenon, carrying grave consequences on victims and society

Although limited, evidence gathered to date, on the risk factors and different manifestations of violence against indigenous women and girls must influence global agenda setting milestones, in particular the 2014 World Conference on Indigenous Peoples and the post 2015 development framework. Violence against women and girls is globally recognized as a form of gender based discrimination deeply rooted in values of unequal power relations between males and females. The United Nations Declaration on the Elimination of Violence Against Women is protective of females of all ages. It defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.¹ Its impact ranges from immediate to long-term multiple physical, sexual and psychological consequences on victims as well as tremendous setback to socio-economic development. In its different manifestations —physical, sexual, psychological and economic, the most common forms include domestic violence, (including intimate partner violence) harmful practices, femicide, sexual harassment, sexual violence in conflict, attacks on human rights defenders, forced pregnancy and forced abortion.

2. Indigenous women and girls suffer discrimination and exclusion based on their multiple identities, including membership of a wider group that is perennially confronted with violations of their right to self-determination

Indigenous women and girl’s experiences of violence is closely linked to the history of colonization, poverty and exclusion of their wider communities – best contextualized in terms of the intersections of race, ethnicity, disability, age, sex and location and mutually reinforcing forms of inequalities. These conditions ensure that they do not benefit to the same extent as their non-indigenous counterparts from services which would otherwise protect them from violence and enhance their ability to seek redress when it does occur.²

The United Nations Permanent Forum on Indigenous Issues (UNPFII), the Special Rapporteur on the rights of Indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples have consistently documented the adverse impacts of loss of rights over lands, territories, resources and self-determination over development priorities on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. While infrastructural

¹ See the United Nations Declaration on the Elimination of Violence Against Women, **A/RES/48/104**.

² See *Social Justice? The challenge of intersecting inequalities*, UNDP, New York, 2010; United Nations, *State of the World’s Indigenous Peoples*, New York, 2009; Hall, Gillette H. and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Development*, Cambridge University Press, New York, 2012.

development is a fundamental necessity for the fulfilment of economic, social and cultural rights, as well as civil and political rights of all citizens, when such processes take place on the ancestral lands of indigenous peoples without their “free, prior and informed consent” and adequate compensation, the consequences are an erosion of these rights. Displacement, loss of livelihoods, forced migration and relocation increase the risk of trafficking and, economic and sexual exploitation. Indigenous girls and women are also at risk of violence in communities where intra-communal and inter-communal conflicts have arisen, as well as in those that conform to deeply-rooted patriarchal systems and practices that relegate women and girls to subordinate roles and positions in society. The protective environments afforded by both families and communities generally break down in circumstances of displacement, loss of livelihoods, forced migration and relocation.

3. Violence impedes the critical role that indigenous women and girls play as actors in the sustainable development of their communities

Indigenous women and girls possess both individual and collective rights. They contribute to the strength, resilience and maintenance of community vitality and wellbeing – playing essential roles as keepers of cultural identity, traditional guardians of the natural environment.³ A violation of their human rights therefore constitutes a violation of the sanctity of the ecological, spiritual and cultural identity of indigenous peoples as whole. The indigenous women’s movement therefore consistently advocates for measures which are culturally, spiritually and historically relevant to their experiences.

4. Strategies to prevent and respond to violence against indigenous women and girls must be comprehensive, effective and relevant to their context

Research and empirical evidence show that successful prevention and response to violence against women and girls are more sustainable if they form part of comprehensive and multi-sectoral interventions. Attracting representation from the seven socio-cultural regions of the world, the recent Peru Global Conference of Indigenous Women (2013), called for an end to violence against indigenous women in all settings through the design and implementation of culturally relevant legal frameworks and policies and the effectiveness of institutional frameworks to address structural and underlying causes and risk factors including the prevalence of impunity in many countries. These must be accompanied by investments in research and data collection (qualitative and quantitative), culturally relevant monitoring and evaluation, respect for indigenous peoples rights to self-determination, the maintenance of their cultures, lands, territories and resources, the full operationalization of free, prior and informed consent; and access to formal and informal systems of justice in line with the United Nations Declaration on the Rights of Indigenous Peoples.

³ Capobianco, L (2010). Community Safety and Indigenous Peoples: Sharing Knowledge, Insights and Action. Montreal: International Centre for the Prevention of Crime.

Summary

The two United Nations Secretary General's global studies on violence against children and violence against women, respectively underscore the universality of violence.⁴ Responding to the recommendations of these studies, the UNPFII requested the UN system to undertake a specific study on violence against indigenous girls and women at its fifth session in 2006.⁵

That study was informed by a progressively evolving normative framework, consisting of the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention on the Rights of the Child, the Declaration on the Elimination of Violence against Women and intergovernmental processes and mandates such as those of the Commission on Status of Women, the Human Rights Council and the Special Representative of the Secretary General on Violence Against Children and the Special Rapporteur on the rights of indigenous peoples.

Three critical challenges associated with research on violence against indigenous women and girls identified by the study point firstly, to the implications of government discretion over the analyse and reporting of data by ethnicity as is the case with Demographic and Health Surveys (DHS) and Multiple Indicator Cluster Surveys (MICS) which administer elective modules on specific aspects of violence (e.g. Female Genital Mutilation/Cutting, child marriage and domestic violence); secondly, significant sampling is limited in countries where indigenous peoples are spatially scattered (e.g. Nepal) and small in size (e.g. Burundi), in contrast to countries such as Bolivia, India, Kenya, Philippines and Viet Nam where there are larger concentrations of indigenous peoples in specific administrative regions as a result of which household surveys are able to capture data with a greater degree of precision; and thirdly, while qualitative data play an important role in filling data gaps, such data tend to be patchy and therefore do not offer comprehensive and cohesive detail of the situation of the groups that were studied.

Africa, Latin America and the Asia Pacific were selected for study on the basis of UNPFII findings of significant gaps in data in relation to indigenous women and girls in these regions, in contrast to more emergent literature on Europe, North America and the Pacific (i.e. Australia and New Zealand). It finds that paying specific attention to risk factors for violence is essential because when they accumulate and overlap – as they often do in the case of indigenous girls and women – they not only contribute to underlying causes of violence but also mitigate the protective factors that typically prevent or reduce the likelihood of its occurrence. Within this context, it identifies six risk factors – (1) gender inequality and discrimination; (2) customary and statutory standards on the minimum age of marriage; (3) poverty, exclusion and limited access to services; (4) the impact of stigma and discrimination on access to and quality of services; (5) the lack of legal recognition and identity; and (6) dispossession from ancestral lands that tend to

⁴ United Nations General Assembly, *United Nations Secretary-General's Study on Violence against Children*, United Nations, New York, 2006; United Nations General Assembly, *In-depth Study on all forms of Violence against Women: Report of the Secretary-General*, United Nations, New York, 2006.

⁵ The study was undertaken by UN Women, UNICEF, UNFPA, ILO and the Office of the Special Representative of the Secretary-General on Violence against Children.

overlap and increase the likelihood of violence occurring in the lives of indigenous women and girls.

Background and Analysis: Findings of the study

Introduction

The study's access to limited reliable data across a few countries implied that its outcomes can only be used for illustrative purposes rather than for generalising the situation in the regions that were studied. While the categories of violence against women and girls are wide in scope, it succeeded in locating relevant data in only four broad areas of violence, exploitation and abuse, namely (1) domestic violence; (2) harmful practices; (3) economic exploitation, sexual abuse, sexual exploitation and other forms of sexual violence, including in public settings; (4) and gender-based violence in situations of armed violence, insecurity and communal conflicts. Based on three reasons advanced above, reliable sources of information on these forms of violence emerged mainly from countries in which indigenous peoples are concentrated in specific localities (e.g. Bolivia, India, Kenya, Lao People's Democratic Republic, Myanmar, Philippines and Viet Nam) and data has been analysed and reported by sex, age, locality and ethnicity.⁶ The following findings in each of the four clusters point to a mix of results and particularly highlight how the situation of indigenous women and girls compares with the rest of the population:

Domestic violence

Data from Bolivia (Plurinational State of) (2008), India (2005-2006), and the Philippines (2008) provide illustrative findings on domestic violence across different age groups. In Bolivia, the departments of Chuquisaca, Cochabamba, La Paz, Potosí and Oruro possess the highest concentration of indigenous peoples who constitute 62 per cent of the population.⁷ Its DHS data show that Potosi records the highest prevalence of ever-married girls and women aged 15-49 reporting physical or sexual violence by a current or former partner (29 per cent) compared to the national average of 24 per cent. In relation to psychological violence by a current or former partner however, Chuquisaca records the same prevalence (38 per cent) as the national average and is lower than Santa Cruz, a more cosmopolitan department which records a prevalence rate of 41 per cent.⁸ The 2005-2006 DHS of India finds that 47 per cent of ever-married girls and women aged 15-49 belonging to Scheduled Tribes have experienced

⁶ See *Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women: A Call to Action Based on an Overview of Existing Evidence From Africa, Asia Pacific and Latin America*, 2013.

⁷ International Labour Organization, 'Bolivia', <ilo.org/indigenous/Activitiesbyregion/LatinAmerica/Bolivia/lang--en/index.htm>, accessed 14 May 2013.

⁸ Ibid.

emotional, physical, or sexual violence committed by their husband, compared to 40 per cent of the total population.⁹ In addition, 16 per cent of ever-married girls and women aged 15-49 who belong to a Scheduled Tribe report that their husband has displayed three or more 'control behaviours', compared to 12 per cent of the total population.¹⁰ The predominantly indigenous state of Arunachal Pradesh has the highest percentage of ever-married girls and women aged 15-49 who have ever experienced different forms of spousal violence: physical or sexual (39 per cent) and emotional, physical or sexual (43 per cent) violence and ranks higher than the experience of girls and women of the same age in the total population—at 37 per cent and 40 per cent, respectively.¹¹

The National Commission on Indigenous Peoples of the Philippines estimates that 61 per cent of indigenous peoples live in Mindanao, which consists of six administrative regions (the Autonomous Region of Muslim Mindanao, Caraga, Davao, Northern Mindanao, SOCCSKSARGEN and Zamboanga peninsula).¹² Mindanao generally reports higher percentages of ever-married girls and women aged 15-49 whose husbands have ever exhibited selected types of controlling behaviours, by background characteristics, compared to the total population.¹³ In Caraga of Mindanao 17 per cent of women indicate that their husbands display 3 or more specific behaviours as do 13 per cent in Northern Mindanao, Davao and SOCCSKSARGEN compared to 10 per cent of the total population.¹⁴

Harmful practices

In plural legal systems, the simultaneous existence and operation of national legislation, customary and/or religious laws often lead to tensions and complications in the implementation of the rights of women and girls. In this research, the area found to be most extensively documented in relation to indigenous women and girls was child marriage and to a lesser extent FGM/C – both with inherent other violence-related and attendant reproductive health consequences. In Viet Nam, the 8 per cent of adolescents aged 15–19 years who are currently married or are in a union nationally increases with lower levels of education and by localities populated by ethnic minority groups. In the Northern Midland and Mountain regions, the percentage of currently married 15-19-year-old adolescents is the highest, standing at 17 and 11 per cent, respectively.¹⁵ Similarly, while nationally, 12 per cent of women in the age group 20–49 were married by the age of 18, among those located in Northern Midland and Mountain areas, the prevalence rate was 19 per cent.¹⁶ In Myanmar, where 7 per cent of adolescents aged 15-19 are married nationally, the highest rates are found among the Shan indigenous group. Twenty-two (22) per cent or one in every five females is found in the largely indigenous

⁹ International Institute for Population Sciences and Macro International, *National Family Health Survey (NFHS-3), 2005–06: India: Volume I*, IIPS, Mumbai, 2007, p. 510.

¹⁰ Ibid. p. 506.

¹¹ Ibid. p. 519.

¹² National Commission on Indigenous Peoples: <http://www.ncip.gov.ph/indigenous-peoples-of-the-philippines.html>.

¹³ National Statistics Office, *Philippines National Demographic and Health Survey 2008*, p. 211.

¹⁴ Source: *Philippines National Demographic and Health Survey 2008: Key Findings*, p. 212.

¹⁵ General Statistics Office of Viet Nam, *Viet Nam Multiple Indicator Cluster Survey 2011, Final Report*, 2011, p. 179.

¹⁶ Ibid.

populated areas of Shan (East), followed by Shan (North) and Shan (South) at 14 per cent and 11 per cent, respectively.¹⁷

The Global Campaign to Stop Violence against Women finds that child marriage in the indigenous-dominated Autonomous Region of Muslim Mindanao (ARMM) of the Philippines is largely influenced by the Muslim Code, which sets the minimum age of marriage of both males and females at 15 years and also confers powers on sharia district courts to sanction the marriage of a girl who has attained puberty.¹⁸ A total of 593 respondents from five provinces in ARMM who were younger than 18 at marriage when surveyed by *Nisa Ul-Haqq Fi Bangsamoro*, and NGO, showed that 83 per cent were aged 15-17, while 17 per cent were aged 9-14. The ages of the respondents' husbands ranged between 11-59 years, and 57 per cent were between 17 and 21 at the time of marriage.¹⁹ The ARMM also has the lowest median age at first marriage and first sexual intercourse (both 19 years) among women aged 25-29, compared to 22 and 21 years respectively for the country's general population.²⁰

In India, there is a strong correlation between the low median age at first marriage and other reproductive concerns of Scheduled Tribe girls and women. For example, the percentage of Scheduled Tribe adolescents and young women aged 15-24 and 18-24 who had sexual intercourse before 15 and 18 years, are 14 per cent and 50 per cent, respectively. This contrasts with the total population of 10 per cent and 40 per cent for the same age groups on the one hand and for Scheduled Tribal men: 4 per cent and 19 per cent on the other. The data also shows that Scheduled Tribe girls and young women aged 15-24 are less likely (10 per cent) to have used a condom at the last higher-risk intercourse compared to Tribal males (22 per cent) and the total population of females (22 per cent) and males (26 per cent) of the same age group.²¹

Common place harmful myths about specific forms of violence (e.g. wife-beating and rape), many of which accord blame to women and girls for such crimes committed against them, are also documented on Africa.²² Such myths not only perpetuate violence but also justify its occurrence and negate possibilities for seeking justice. In the Democratic Republic of the Congo there is a prevailing myth that sex with a Pygmy woman, imbued with mythical qualities, can cure illness (including HIV).²³ Studies on the Great Lakes region similarly document prevailing myths that associate a cure of backaches with sexual relations with Batwa and Twa

¹⁷ See International Work Group for Indigenous Affairs, *The Indigenous World*, Denmark, 2012, p. 325 for a full description of indigenous peoples in Myanmar. The data on child marriage is taken from the Myanmar Multiple Indicator Cluster Survey 2009 – 2010, p. 50.

¹⁸ The Global Campaign to Stop Violence against Women in the Name of Culture. *Philippines: Early Marriage of Muslim Girls-Risks*, 2010.

¹⁹ Nisa Ul-Haqq Fi Bangsamoro. *Determinants and Impact of Early Marriage on Moro Women*, 2009.

²⁰ National Statistics Office, *Philippines National Demographic and Health Survey 2008*, pp. 73-75.

²¹ *Ibid.* pp 368-374.

²² Myths justifying violence against women and girls are common in both indigenous and non-indigenous contexts. For example "rape myths" are perpetuated in different societies in Latin America and the Caribbean, see Contreras, Juan Manuel, et al., *Sexual violence in Latin America and the Caribbean: A desk review*, Sexual Violence Research Initiative, 2010, p. 41.

²³ *Overview Report of the Research Project on the Constitutional and Legislative Protection of the Rights of Indigenous Peoples in 24 African Countries*, p. 134.

women.²⁴ In Namibia, San women are believed to be “generally sexually available and, when assaulted, do not ‘feel’ raped.”²⁵

In Kenya, DHS data from 1998, 2003 and 2008-2009 show a decline in the national prevalence of girls and women aged 15-49 years who have undergone FGM/C in the country (38 per cent by 1998, 32 per cent by 2003 and 27 per cent by 2008-2009).²⁶ The most current data demonstrates a higher prevalence of the practice among rural groups (31 per cent) than urban groups (17 per cent) and with regard to ethnicity, FGM/C is far more prevalent among the Somali (98 per cent), the Kisii (96 per cent), and the Maasai (73 per cent) and least common among the Luo and Luhya women.²⁷

Economic exploitation, sexual abuse, sexual exploitation, and other forms of sexual violence

Within the broad array of literature on economic exploitation, sexual abuse, sexual exploitation, and other forms of sexual violence, the study finds that disaggregation by both sex and ethnicity are rare, and references to indigenous girls and women are made in sectors that engage young people in bonded labour, forced labour, domestic labour, human trafficking, in which they are also at risk of being sold.

A 2003 ILO/IPEC baseline survey undertaken in Nepal among male and female short and long route child porters found that the majority of the more than 5,000 respondents interviewed comprised of ethnic groups who identify themselves as indigenous (e.g. Tamang, Rai and Tharuin). It found that the maximum weight carried by female short-route porters was as high as 50 kilograms, while for long distance routes it ranged between 20 and 30 kilograms and required carrying the weight for a period of one or more hours.²⁸ While trafficking affects many castes and ethnic groups in Nepal, an assessment undertaken by the ILO found that those most at risk are members of the hill ethnic groups and lower castes.²⁹ It finds that among girls who are victims of trafficking, 28 per cent are Tamang.³⁰ Additionally, roughly 70 per cent of persons trafficked from Nepal to India on an annual basis are girls under the age of 16 from ethnic minority groups such as Tamang, Gurung, Magar, and Sherpa, located in remote hill villages or impoverished border communities.³¹

²⁴ Ramsay, K. *Uncounted: the hidden lives of Batwa women*. Minority Rights Group International, 2010, p. 2; Jackson, Dorothy, *Twa women, Twa rights in the Great Lakes region of Africa*, London, Minority Rights Group International, 2003, p.13.

²⁵ Sylvain, Renee, *At the Intersections: San women and the rights of indigenous peoples in Africa*, International Journal of Human Rights, vol. 15, no. 1, January 2011, p. 99.

²⁶ Kenya National Bureau of Statistics, *Kenya Demographic and Health Survey 2008-2009*, p. 264. It must, however, be noted that the 1998 findings, as presented in the report are not fully comparable with the findings from the 2003 and 2008-2009 reports, as the sample in 1998 did not include the regions with the Somali population where FGM/C is most common. In this sense, the prevalence was likely to be higher in 1998. Also see Feed the Minds, *Female Genital Mutilation Practices in Kenya: The Role of Alternative Rites of Passage: A Case Study of Kisii and Kuria Districts*, London, 2011, p. 4.

²⁷ Kenya National Bureau of Statistics, *Kenya Demographic and Health Survey 2008-2009*, p. 265.

²⁸ International Programme on the Elimination of Child Labour, *Child Porters in Nepal: A Report on the 2002 Baseline Survey*. Compiled by Catalla, R.F. and Catalla, T., 2003, p. 42.

²⁹ Kumar KC, Bal, Govind Subedi Yogendra Bahadur Gurung, Keshab Prasad Adhikari, *Investigating the Worst Forms of Child Labour No. 2: Nepal Trafficking in Girls with Special Reference to Prostitution – A rapid assessment*, ILO/IPEC, Geneva, 2001.

³⁰ Ibid.

³¹ Kumar KC, Bal, Govind Subedi Yogendra Bahadur Gurung, Keshab Prasad Adhikari, *Nepal Trafficking in Girls with Special Reference to Prostitution: A Rapid Assessment*, ILO/IPEC, Geneva, 2001, p. 17.

Countries of the Asia Pacific serve as one or a combination of origin, transit or destination points for child trafficking. Indigenous girls and young women throughout the Mekong region (commonly known as hill tribes), are found to be especially vulnerable to trafficking for sexual exploitation.³² The sale of indigenous girls for purposes of trafficking as well as debt bondage has been documented in Cambodia, China, Indonesia, Myanmar, Taiwan Province of China and Thailand.³³ Girls aged 12-16 years from hill tribes in Thailand's north and north-east for example, make up most of the victims of internal trafficking, particularly for sexual exploitation.³⁴ Victims are usually lured by the promise of a better life, but are soon forgotten due to the social stigma attached to victims of trafficking.³⁵

ILO/IPEC finds that the steady decline in child labour in Latin America is not reflected among indigenous communities and therefore remains a serious concern.³⁶ Forced labour in the region is closely linked to patterns of inequality and discrimination, especially against indigenous peoples.³⁷ The country mission of the UNPFII to the Plurinational State of Bolivia in 2009 found evidence of sexual abuse of Guaraní girls while serving in homes of landowners.³⁸ In that same year, the Committee on the Rights of the Child expressed concern that the abuse of Guaraní girls of the same country was increasing due to the absence of data to monitor prosecutions and convictions for such crimes.³⁹

Using data by locality, sex, age and ethnicity, the findings from aggregated data by locality, sex, age and ethnicity in a 2010 survey supported by the Bolivia National Statistics Institute and ILO/IPEC finds that participation rates of males and female indigenous children and adolescents in hazardous employment is more pronounced compared to their non-indigenous counterparts in both urban and rural areas. Based on figures for the age group of between 5-17 years it suggests that 29 per cent of male and 24 per cent of female children and adolescents of indigenous background in urban areas are in these forms of employment, compared with 16 per cent and 14 per cent of their non-indigenous peers, respectively. At rural level, although the rates for both indigenous and non-indigenous groups increase sharply (82 per cent of males and 79 per cent of females in respect of those of indigenous background and 54 per cent and 46 per cent for those who are non-indigenous), those for the former remain significantly higher. Furthermore, in all cases, the data shows that the participation rate of indigenous girls and adolescents is consistently higher than that of non-indigenous males, non-indigenous females and in some instances, exceeds that of indigenous boys and adolescents.⁴⁰

³² Larsen, Peter, *Indigenous and tribal children: assessing child labour and education challenges*, Geneva, 2003; International Labour Organization, pp. 1, 28.

³³ *Ibid.*

³⁴ United Nations Children's Fund, *Children on the Edge. Protecting children from sexual exploitation and trafficking*, UNICEF, Bangkok, 2002, p.36.

³⁵ *Ibid.* p. 23, 28.

³⁶ International Labour Organisation and International Programme on the Elimination of Child Labour, *IPEC action against child labour 2010-2011: Progress and future priorities*, ILO/IPEC, Geneva, Switzerland, 2010, p. 4.

³⁷ International Labour Organization, *The Cost of Coercion: Regional Perspectives*, 2009, p. 1.

³⁸ United Nations Permanent Forum on Indigenous Issues. *Mission Report to Bolivia*, UNPFII, 2009, p. 20.

³⁹ United Nations Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations: The Plurinational State of Bolivia, paras. 73-77.

⁴⁰ Organización Internacional del Trabajo, Instituto Nacional de Estadística de Bolivia. *Magnitud y Características del Trabajo Infantil en Bolivia – Informe nacional 2010*, La Paz, p. 76.

The shadow report of the United Organisation for Batwa Development in Uganda to the Committee on the Elimination of Discriminations against Women details under-payment, forced labour, sexual and physical abuse of Batwa women and girls when working on the lands of dominant groups in Uganda.⁴¹ Similar situations pertain in Namibia, where the Working Group on Indigenous Populations/Communities of the African Commission on Human and Peoples' Rights learned of sexual abuse of indigenous girls in domestic work settings for which there had been police inaction even after the incidents had been reported.⁴² Recruitment for domestic labour of San girls and adolescents by non-San families in Namibia is sometimes disguised as adoption, often leading to trafficking to other parts of the country.⁴³ In all cases, the data shows that the participation rate of indigenous girls and adolescents is consistently higher than that of non-indigenous males, non-indigenous females and in some instances, exceeds that of indigenous boys and adolescents.

Gender-based violence in situations of armed violence, insecurity and communal conflicts

General insecurity facing a country or community may serve as a potential risk factor for violence, as it is often symptomatic of a breakdown of the rule of law and the systems established to prevent and respond to violence. Gender motivated killings or femicides emerging from the contexts of insecurity in Latin America is particularly critical for indigenous women and girls. Indigenous women and girls have been victims of gender-based violence in conflicts in countries such as Colombia, Guatemala, Mexico, Nicaragua and Peru.⁴⁴ The Rapporteur on the rights of women of the Inter American Commission on Human Rights notes that the situation of indigenous women and girls is particularly critical in the context of armed conflict, given that they are victims of multiple forms of discrimination on the basis of race, age, ethnicity and gender.⁴⁵ During a visit to Colombia, the Rapporteur received complaints about the use of indigenous women and girls as 'spoils of war' by armed actors and verified that they had often been victims of sexual violence perpetrated by these groups. She also found that armed groups occupying indigenous lands "had kidnapped indigenous women, collectively used them sexually and abandoned them with impunity," while young girls were forced to perform domestic duties.⁴⁶

The Women, Law and Development Asia Pacific Forum in 2008 on ending violence against indigenous women – held in consultation with the United Nations Special Rapporteur on violence against women, its causes and consequences and the United Nations Special

⁴¹ United Organisation for Batwa Development in Uganda and Forest Peoples Program, *Batwa Women in Uganda: Disproportionate human rights violations*, UOBDU/FPP, 2010, p. 12.

⁴² African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs, *Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Namibia*, Copenhagen, 2005, p. 99.

⁴³ Sylvain, Renee, *At the Intersections: San women and the rights of indigenous peoples in Africa*, International Journal of Human Rights, vol. 15, no. 1, January 2011, pp. 89-110.

⁴⁴ Bastick, Megan, Karin Grimm, Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*, Geneva Centre for Democratic Control of Armed Forces, Geneva, 2007, pp. 72-84. Also see Leiby, Michele, *Wartime Sexual Violence in Guatemala and Peru*. International Studies Quarterly, 2009 vol. 53, pp. 445-468.

⁴⁵ Organization of American States, Inter-American Commission on Human Rights, *Access to Justice: For Women of Victims of Violence in the Americas*, Washington, 2007, p. 5.

⁴⁶ Organization of American States, Inter-American Commission on Human Rights, 'Violence and Discrimination against Women in the Armed Conflict in Colombia', <www.cidh.org/countryrep/colombiamujeres06eng/IV.htm>, accessed 13 May 2013.

Rapporteur on the rights of indigenous peoples – assessed that forced dispossession from ancestral lands leads to a number of actions and consequences which potentially results in violence against women and girls. Primarily as a result of the expropriation of lands by both public and private entities leading to resistance from indigenous communities over the last decade, many indigenous communities in countries of the Asia Pacific region such as Fiji, India, Myanmar, Nepal, Thailand and Timor-Leste continue to witness increased armed conflict, political instability and militarization. In a number of these countries (e.g. Fiji, Myanmar, Papua New Guinea and the Philippines), research finds that armed groups used rape as a tool of war to terrorize indigenous communities.⁴⁷ The Special Rapporteur on the rights of indigenous peoples found evidence of numerous cases of gang-rape, sexual enslavement and killing of tribal women and girls in a number of countries and was concerned that these acts had not been investigated and prosecuted.

Situations of inter-communal and intra-communal conflicts involving indigenous communities in Africa appear much more documented. Such conflicts tend to be common among and between the Pokot, Turkana, Marakwet and Samburu of Kenya over issues such as diminishing water resources for animal grazing and worsening climatic conditions leading to competing access for land.⁴⁸ Cross-border conflicts have also erupted between pastoralist communities located along borderlands linking Kenya (Turkana and Pokot), south Sudan (Topsa) and Uganda (Karimojong).⁴⁹ Another source notes long standing and prevalent inter-clan and inter-ethnic conflicts between the Gurgura and Issa clans of the Erer district of the Somali region of Ethiopia for similar reasons and resulting consequences for women and girls.⁵⁰ Identical contexts and situations have also emerged among the Tuareg, Bororo, Wodaabe and the Toubou pastoralists of Niger; the Basarwa of Botswana; the Bagyéli of Cameroon; the Twa of Burundi, Rwanda and Uganda; and the Twa, Bongo and Mbendjele of the Congo.⁵¹

⁴⁷ Ibid.

⁴⁸ Pkalya, Ruto, Mohamud Adan, Isabella Masinde, *Indigenous Democracy: Traditional conflict resolution mechanisms – Pokot, Turkana, Samburu and Marakwet*, Intermediate Technology Development Group-Eastern Africa, 2004.

⁴⁹ Leff, Jonah, 'Pastoralists at War: Violence and security in the Kenya-Sudan-Uganda border region', *International Journal of Conflict and Violence*, vol. 3 (2), 2009, pp. 188-203.

⁵⁰ Bamlaku, Tadesse, 'Women in Conflict and indigenous conflict resolution among the Issa and Gurgura clans of Somali in Eastern Ethiopia,' African Journals Online, <www.ajol.info/index.php/ajcr/article/viewFile/59308/47606>, accessed 13 May 2013.

⁵¹ Example: Centre for Environment and Development, Réseau Recherches Actions Concertées Pygmées, Forest Peoples Programme, *Indigenous Peoples rights in Cameroon*. ACHPR, May 2010, p. 25; ACHPR and IWGIA, *Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Namibia*, ACHPR and IWGIA, Copenhagen, 2008, pp. 118-119.

Looking ahead

For sustainability, violence-related interventions for indigenous women and girls must be addressed within the overall context of broader measures of protection, security and justice for populations as a whole. At national level, countries continue to undertake legal, policy and institutional reforms to empower girls and women and strengthen protection from different forms of violence. In the past decade, many countries have enacted legislation designed to protect women and children – including those of indigenous background – from violence and exploitation. For example, more than 80 per cent of countries have full or partial legal prohibition on violence against children, and more than 90 per cent have prohibited sexual exploitation of children (including prostitution) and instituted legal measures to prohibit the sale or trafficking in children. Moreover, 33 countries have prohibited corporal punishment of children in all settings, such as the home, schools and penal institutions.

The capacities of national authorities to implement legislation and policies in a coordinated manner are also improving. A number of countries have established special police units to investigate gender-based violence and ensure gender-sensitive response to such violence. Many more countries are also investing in comprehensive support services, including the creation of shelters, counselling services, reporting mechanisms (such as helplines, legal and paralegal services) and health services. Furthermore, parallel efforts are being undertaken by governments and civil society to ensure that violence and exploitation of women and girls are prevented in the first place through various awareness-raising and information initiatives that aim to build community capacities to “break the silence” around violence.

The rights of indigenous women and girls will however be better secured if such broader measures took account of their historical and cultural realities. This would require the deployment of data gathering, analysis and reporting methods which take account of ethnicity; addressing what the Economic Commission for Latin America describes as “institutional violence”— a culture of impunity rooted in the lack of due diligence by relevant institutions to address the structural barriers to justice and due process; tackling risk factors which enhance the likelihood of violence committed against indigenous women and girls; promoting and building on existing intercultural models of violence prevention and response and ensuring the participation of indigenous women and girls in all phases of project formulation, implementation and monitoring.

Good Practice Resources

- ✓ http://www.unfpa.org/webdav/site/global/shared/documents/publications/2013/VAIW_G_FINAL.pdf
- ✓ <http://www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx>
- ✓ <http://srsq.violenceagainstchildren.org/category/regions/europe>
- ✓ <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>
- ✓ <http://childrenandarmedconflict.un.org/>
- ✓ <http://www.un.org/womenwatch/daw/csw/57sess.htm>
- ✓ Committee on the Rights of the Child. General Comment No. 11 (2009). Indigenous children and their rights under the Convention.
- ✓ United Nations. 2007. Indigenous Women and the United Nations System: Good Practices and Lessons Learned.