



A Brief Version of
**CEDAW General
Recommendation No. 39
(2022)**

For ensuring the Rights of Indigenous
Women and Girls



Network of Indigenous Women in Asia (NIWA)

October 2024

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Supported by



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Published Year 2024

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Published by:

Network of Indigenous Women in Asia (NIWA)

<https://aippnet.org/network-of-indigenous-women-in-asia-niwa/>

Produced by Indigenous Women Programme of AIPP and NIWA

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Layout and Cover design: Kishor Pradhan

Supported by: FIMI/Ayni Fund



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Table of Contents

1

I. Context

3

II. Convention on the
Elimination of All Forms
of Discrimination Against
Women

6

III. CEDAW General
Recommendation No. 39
(2022) on the Rights of
Indigenous Women and Girls

22

IV. Key Terms and
Concepts in the GR 39





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Acknowledgments

NIWA would like to express its sincere gratitude to the International Indigenous Women's Forum (FIMI) and the Asia Indigenous Peoples Pact (AIPP) for their valuable support in the publication of the briefer on CEDAW GR 39. This initiative has been greatly enhanced through the collective efforts and contributions of NIWA member organizations.

We wish to acknowledge legal expert Rukmanee Maharjan, Vashti Re bong from IRAW Asia Pacific, Chanda Thapa Magar from the International Funders for Indigenous Peoples (IFIP) for their dedication in drafting this brief version on CEDAW GR 39. Their expertise and commitment have been instrumental in bringing this document to fruition.

Special thanks go to Sushmita Lama, Indigenous Women Program Coordinator and Naw Mu Paw Htoo Indigenous Women Program Officer of AIPP, for their technical guidance and support. We also extend our appreciation to the National Indigenous Women Forum (NIWF) team for their coordination support.

Together, these contributions reflect a strong commitment to advancing the rights of Indigenous women and enhancing advocacy through CEDAW GR 39.

Thank you all for your dedication and support.





Photo by IMN, Thailand



Photo by IMN, Thailand

Foreword

The CEDAW General Recommendation 39 (GR 39) addresses the distinct rights and needs of Indigenous women and girls, recognizing the unique challenges they face—such as discrimination, limited access to resources, and marginalization in policy frameworks. GR 39 was introduced to ensure that CEDAW principles are applied in ways that account for the cultural and socio-economic conditions of Indigenous women, offering governments and civil society a critical tool for improving policies and practices. For Indigenous women across Asia, GR 39 represents a significant opportunity to advance their rights and access justice, healthcare, education, and economic opportunities.

The Network of Indigenous Women in Asia (NIWA) was established in 2019 as a regional coalition dedicated to unifying Indigenous women's organizations and advocating for their rights across the region. With member organizations across Asia, NIWA strives to empower Indigenous women leaders, strengthen advocacy efforts, and foster solidarity to protect Indigenous women's rights and heritage.

This brief on GR 39 was created for NIWA members and the wider public to understand, engage with, and utilize the Recommendation as an advocacy tool within their communities, national policies, and regional dialogues. Through this resource, we hope to educate Indigenous communities, engage policymakers, and support stakeholders in implementing GR 39's Recommendation. By deepening NIWA members' understanding of these rights, we anticipate improved policy responses and greater awareness among Indigenous women of their entitlements under CEDAW. This briefer aims to amplify Indigenous women's voices across Asia, paving the way for a future where they play a central role in shaping policies and securing justice.

I. Context

90 countries are home to an estimated 476 million Indigenous Peoples worldwide.¹ They make up less than 5 percent of the world's population, but account for 15 percent of the poorest.² They speak an overwhelming majority of the world's estimated 7,000 languages and represent 5,000 different cultures.³ Approximately 50 percent of the total indigenous population, 238 million people, are estimated to be women.⁴

The Indigenous World 2024 report emphasises the disproportionate impact of climate change, resource extraction, and development projects on Indigenous communities, particularly Indigenous Women.⁵ The report also indicates that indigenous women face a unique set of challenges due to the intersection of gender and indigenous identity, and often experience multiple forms of discrimination.⁶

The key challenges faced by Indigenous Women in Asia are follows:

- **Discrimination and Marginalisation:** Indigenous Women are often subjected to discrimination and marginalisation based on both their gender and ethnicity. This can lead to limited access to resources, opportunities, and decision-making processes. In most cases, indigenous women experience

¹ United Nations, We need indigenous communities for a better world. Available at <https://www.un.org/en/observances/indigenous-day/background> (accessed on 25 October 2024).

² *ibid*

³ *ibid*

⁴ United Nations, Shattering the Glass Ceiling for Indigenous Women. Available at <https://www.un.org/en/academic-impact/we-are-indigenous-shattering-glass-ceiling-indigenous-women> (accessed on 25 October 2024).

⁵ IWGIA, Indigenous World 2024, April 2024.

⁶ *ibid*



prejudice because of their culture, customs and beliefs, which may cause stigma and social exclusion.

- **Lack of Access to Education and Healthcare:** Many Indigenous Women face barriers to education and healthcare. This can result in poor health outcomes, limited economic opportunities, and a reduced ability to participate fully in society.
- **Land Dispossession and Loss of Cultural Heritage:** Indigenous Peoples worldwide have often experienced land dispossession and loss of cultural heritage due to colonisation and other forms of oppression.
- **Violence and Abuse:** Indigenous Women are at a higher risk of violence, including domestic violence, sexual assault, and human trafficking.
- **Economic Disadvantage:** Indigenous Women are disproportionately poor and lack access to education and employment opportunities. This can contribute to poverty and food insecurity.
- **Land Rights Violations:** They often face challenges in securing and maintaining land rights, which are essential for their livelihoods and cultural identity.
- **Lack of Representation:** Indigenous women are underrepresented in government and other decision-making bodies, which further marginalises their voices and needs.
- **Environmental Threats and Climate Change:** Climate change and other environmental threats pose significant challenges to indigenous communities in the world. These threats have disproportionately affected indigenous women, who often bear the brunt of the impacts on their communities.

II. Convention on the Elimination of All Forms of Discrimination Against Women⁷

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), also known as the International Bill of Rights for Women, was adopted in 1979 by the UN General Assembly. It defines what constitutes all forms of discrimination against women, and sets up an agenda for national action to end such discrimination.

Three Foundational Principles of the CEDAW

Non-discrimination: State parties to the Convention must eliminate all forms of discrimination against women in all spheres of public and private life. This means any kind of discrimination based on sex, marital status, family status, race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status should be eliminated and this is the obligation of the States.

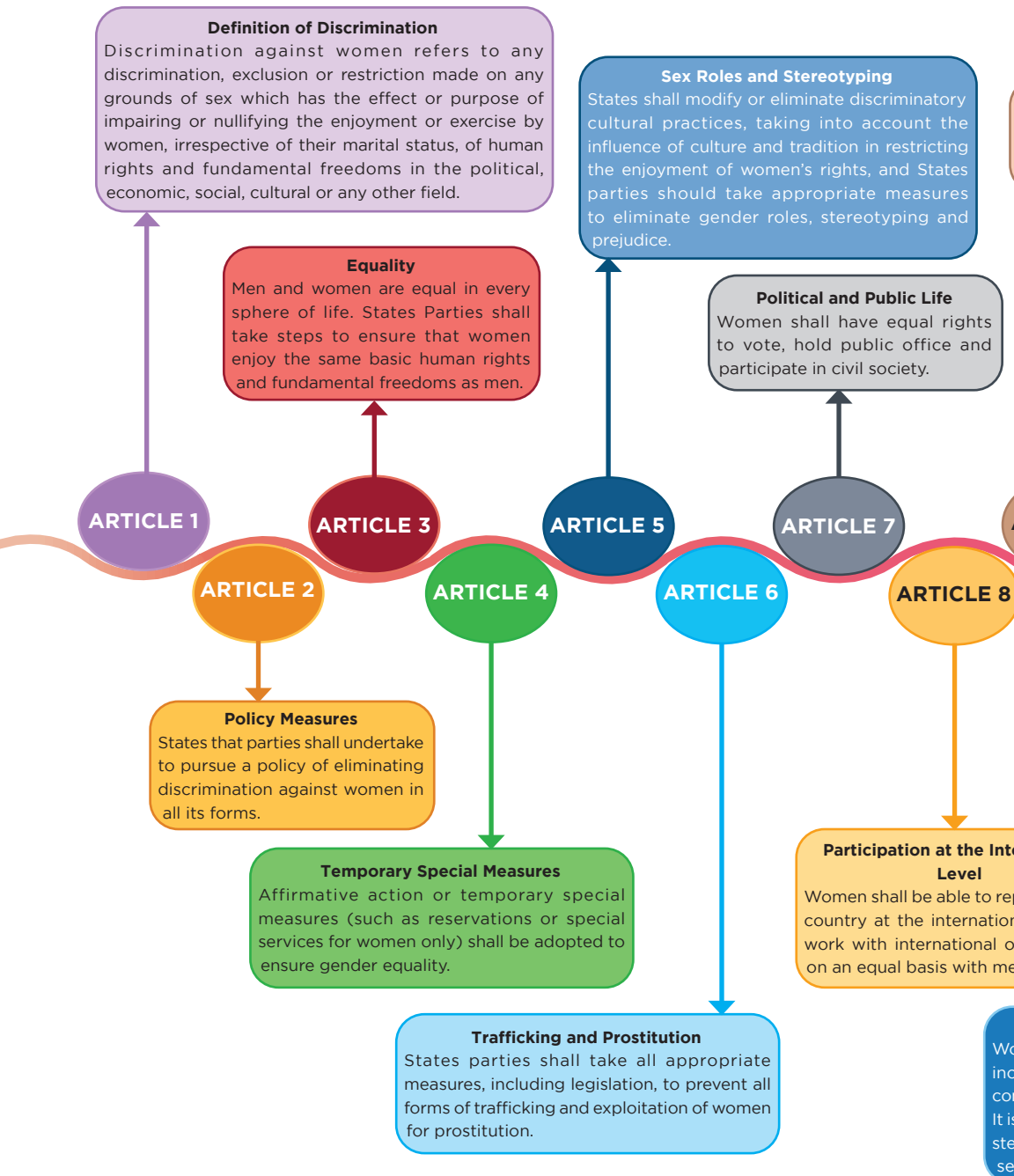
State Obligations: State parties to the Convention have a legal obligation to respect, protect and fulfill women's rights. This means that State parties should not violate women's rights, create enabling conditions for women's rights to be protected and take positive steps to ensure women's rights.

Substantive Equality: The Convention aims to ensure substantive equality between women and men. This means that women should have equal opportunities in all areas of life and equality in results. Special measures such as reservation and affirmative action may be made to eliminate historical and social discrimination, marginalisation and inequalities faced by women.

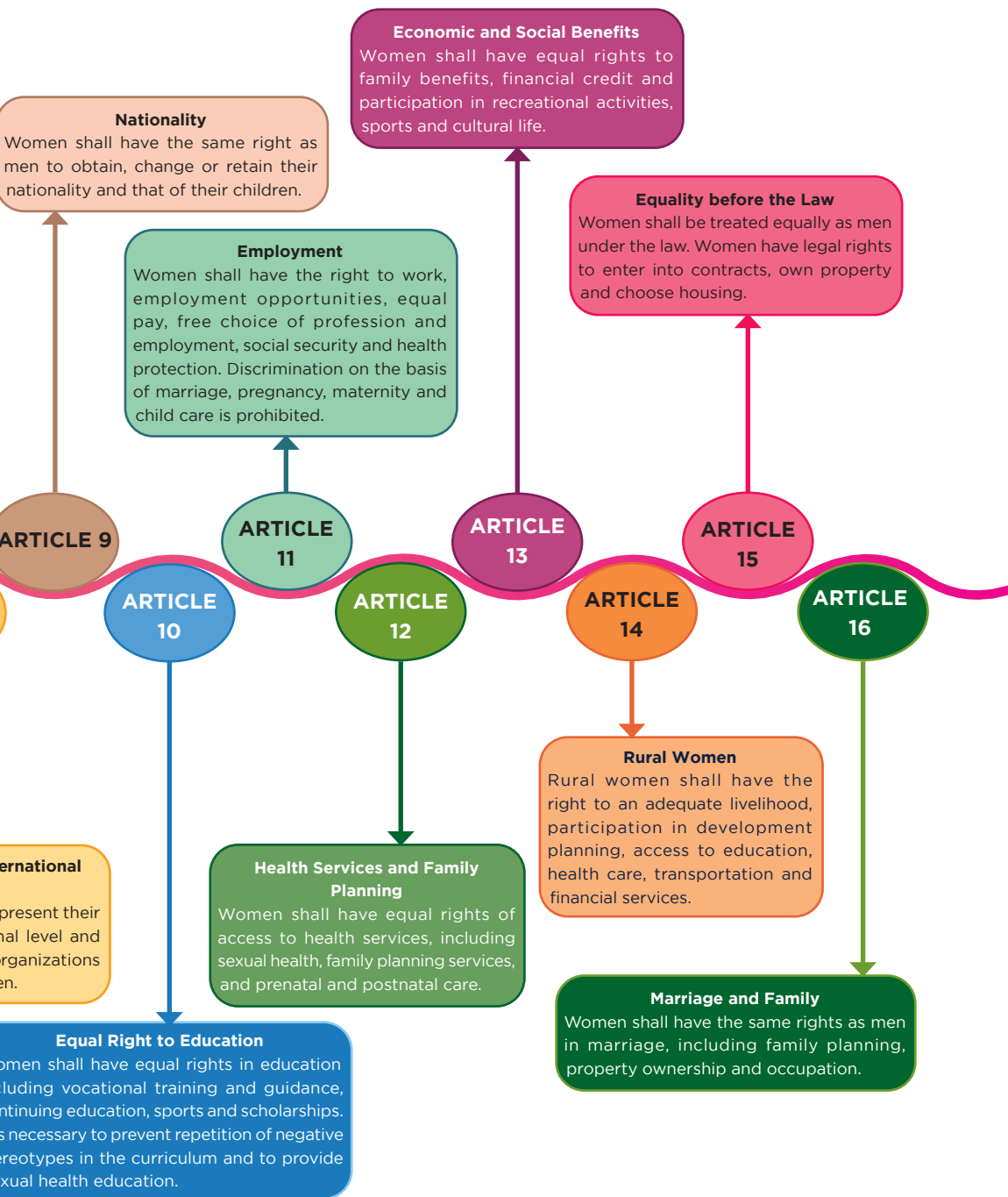
Source: CEDAW 1979

⁷ This section includes a summary of CEDAW. See, United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, Treaty Series, vol. 1249, p. 13, 18 December 1979.

The Key Provisions



of CEDAW Include:



III. CEDAW General Recommendation No. 39 (2022) on the Rights of Indigenous Women and Girls⁸

In 2022, the CEDAW Committee adopted General Recommendation No. 39 (GR 39), which articulates the rights of Indigenous women and girls. This is a ground-breaking triumph for Indigenous women and girls everywhere because it is a direct response to their persistent call for a specific international instrument that further promotes, protects, and fulfils their rights. This is the first time that a binding international treaty uses language that focuses on their rights. It provides guidance to State parties on their obligation to respect, protect, promote, and fulfil the rights of Indigenous women and girls.

GR 39 is a comprehensive legal framework that

- seeks to **ensure the protection and promotion** of Indigenous Women's rights across various dimensions—**political participation, economic empowerment, protection from violence, health, and environmental rights**;
- provides **detailed guidance** on how to **implement** the CEDAW in relation to Indigenous women and girls;
- provides **legislative, policy, and other measures** for States to ensure the rights of Indigenous women and girls under the Convention;
- applies to indigenous women and girls **both within and outside their territories**;

⁸ This section is a summary of General Recommendation No. 39 (2022) on the rights of Indigenous women and girls. Please see, Committee on the Elimination of Discrimination Against Women, General Recommendation No.39 (2022) on the rights of Indigenous women and Girls, CEDAW/C/GC/39, 26 October 2022.

The Key Features of CEDAW GR No. 39 Includes:

Recognition of Specific Types of Discrimination: It acknowledges multiple forms of discrimination faced by indigenous women and girls due to their gender, and identity including cultural, social and economic marginalisation.

Emphasis on Self-determination: It emphasises on self-determination for indigenous peoples, including the right to participate meaningfully in decisions affecting the lives of indigenous peoples. This also translates for indigenous women and girls.

Free, Prior, and Informed Consent and Consultation: It emphasises the need for states parties to obtain free, prior, and informed consent from indigenous communities before undertaking development projects or other initiatives that may affect the lands, resources, or cultural heritage of indigenous communities. This means indigenous women and girls also should have a say in the decisions that affect their lands, resources and cultural heritage.

Addressing Gender-Based Violence: It emphasises on the need to adopt effective prevention and response measures to specifically address gender-based violence experienced by indigenous women and girls.

Call for Access to justice: It calls on State parties to ensure access to justice and effective remedies for violations of the rights of indigenous women and girls.

Source: General Recommendation No. 39 (2022)

- recognises and highlights **indigenous women's critical roles as key actors, leaders, knowledge-bearers, and culture transmitters** in their communities;



- reflects on the unique challenges faced by indigenous women and girls, including **intersectional discrimination** based on both gender and indigenous identity.
- calls for ensuring the participation of Indigenous Women and girls in **decision-making processes**, and the development of **culturally appropriate policies and programmes**.

Preventing and Addressing Intersecting Discrimination and Rights Violations against Indigenous Women and Girls

CEDAW GR39 provides five different perspectives that State Parties must fulfil to address specific forms of discrimination faced by Indigenous women and girls.

- 1. Gender Perspective:** State Parties must examine the discriminatory norms, harmful social practices, stereotypes, and inferior treatment that have affected Indigenous women and girls historically and still affect them in the present.
- 2. Intersectional Perspective:** State Parties must consider the many factors that increase the vulnerability of Indigenous women and girls to unequal and unfair treatment due to their statuses and identities (see intersectional discrimination). Intersectional discrimination against Indigenous women and girls is structural, and embedded in constitutions, laws, policies, government programs, actions, and services. Thus, it is crucial to acknowledge the interdependence and interconnectedness of all intersecting factors in the adoption of laws, policies, national budgets, and interventions by State Parties.

- 3. Indigenous Women and Girls Perspective:** State Parties must understand the distinction between the experiences, realities, and needs of Indigenous women and girls in the area of human rights protection and those of Indigenous men, based on their gender differences. State Parties must consider the status of Indigenous girls as developing women, which means interventions must be appropriate to their age, development, and condition.
- 4. Intercultural Perspective:** State Parties must acknowledge the diversity of Indigenous peoples, including their cultures, languages, beliefs, values, and the social appreciation and value of this diversity.
- 5. Multidisciplinary Perspective:** State Parties must account for the multifaceted identity of Indigenous women and girls and how law, health, education, culture, spirituality, anthropology, economy, science, and work, among other aspects, have shaped and continue to shape the social experience of Indigenous women and girls and to promote discrimination against them.

General Obligations of States parties in Relation to the Rights of Indigenous Women and Girls

GR 39 includes two general obligations of State parties in relation to the rights of Indigenous women and girls as follows:



A. Equality and Non-discrimination, with a Focus on Indigenous Women and Girls and Intersecting Forms of Discrimination

Indigenous women and girls experience discrimination based on multiple factors, including gender, ethnicity, race, disability, age, and socioeconomic status. This intersectional discrimination can lead to severe human rights violations, such as gender-based violence, marginalisation, and denial of access to resources. Discrimination affects both the individual and collective rights of Indigenous women and girls. Individually, they face discrimination in areas like education, healthcare, employment, and legal rights. Collectively, their cultural identity, land rights, and self-determination are threatened.

In this light, State parties have an obligation to ensure equality and non-discrimination. Therefore, State parties should

- develop policies to address intersectional discrimination faced by Indigenous women and girls, including those with disabilities, older women, LGBTQ+ women, and those in vulnerable situations;
- collect disaggregated data on gender-based discrimination and violence faced by indigenous women and girls;
- repeal discriminatory laws and policies and ensure equal legal rights for indigenous women;
- protect indigenous women's rights to land, water, and natural resources;
- provide information on rights and remedies in accessible formats;
- ensure protection from discrimination by both state and non-state actors;

- respect indigenous peoples' right to self-determination and free, prior, and informed consent; and
- take steps to address past and present assimilation policies and practices.

B. Access to Justice and Plural Legal System

Indigenous women face various barriers to accessing justice, including lack of information, language barriers, cultural misunderstandings, and discrimination. In order to improve access to justice for indigenous women, States should recognise the importance of indigenous justice systems and ensure they align with international human rights standards. Indigenous women should have access to both indigenous and non-indigenous justice systems, which should be culturally appropriate, accessible, and effective. States should take steps to address these challenges, such as providing legal aid, training justice officials, and ensuring that justice systems are responsive to the needs of indigenous women.

In this light, GR 39 recommends that States should

- ensure that both non-Indigenous and Indigenous justice systems are culturally appropriate and accessible to Indigenous women and girls;
- train justice officials on the rights of Indigenous women and girls, including intersectional discrimination and gender-based violence;
- provide free legal aid to Indigenous women, especially those who are marginalized or have limited resources;
- ensure physical accessibility to justice institutions for Indigenous women with disabilities;

- provide interpretation, translation, and culturally sensitive support services; and
- implement measures to ensure that victims of human rights violations receive adequate reparations, including consideration for spiritual and collective harm.

Specific Dimension of the Rights of Indigenous Women and Girls Included in General Recommendation No. 39 (2022)

The GR 39 includes nine specific concerns of indigenous women and girls as follows:

Specific Concerns of Indigenous Women and Girls	Recommendations
Prevention of and protection from gender-based violence against indigenous women and girls	9
Right to effective participation in political and public life	8
Right to education	3
Right to work	3
Right to health	6
Right to culture	7
Rights to land, territories and natural resources	5
Rights to food, water and seeds	3
Right to a clean, healthy and sustainable environment	4

Source: General Recommendation No. 39 (2022)

Considering the fact that indigenous women and girls are more likely to experience gender-based violence than non-indigenous

women and girls, it is an obligation of each and every State to prevent sexual violence, investigate, prosecute, and punish it; and provide adequate compensation to the victims. Likewise, regarding other rights, it is equally the obligation of the State to implement and ensure the rights of indigenous women and girls.

Recommendations to the State for the Specific Concerns of Indigenous Women and Girls

A. Prevention of and Protection from Gender-based Violence against Indigenous Women and Girls

Gender-based violence against indigenous women and girls is high and affects them disproportionately. This is happening in various forms including physical, sexual, psychological, economic, and mental violence. Due to limited access to justice and a biased criminal justice system, offenders remain unaccounted for and unpunished, leading to impunity.

The GR 39 recommends:

- States must enact laws to prevent, prohibit and respond to gender-based violence against indigenous women and girls..
- States must recognise, prevent, address, and eliminate all forms of gender-based violence against indigenous women and girls.
- States must ensure indigenous women and girls have timely access to justice systems and effective investigation of missing and murdered cases.
- States must repeal laws that prevent or deter indigenous women and girls from reporting sexual violence.



- States must ensure availability of culturally appropriate support services for survivors of gender-based violence.
- States must provide resources for indigenous women and girls who are victims of gender-based violence to access the legal system.
- States must systematically collect data and conduct studies on gender-based violence against indigenous women and girls to inform prevention and response measures.

B. Right to Effective Participation in Political and Public Life

Indigenous women and girls are often excluded from the decision-making process at all levels. They face numerous barriers to effective participation, including political violence, lack of education, and discrimination. Indigenous women as human rights defenders are particularly vulnerable and in need of protection. Political participation of indigenous women and girls is low. It is equally challenging when there is no mechanism to disseminate accessible information for them regarding political participation and opportunities.

The GR 39 recommends:

- States must promote indigenous women and girls' participation in political and public life, including decision-making positions, using temporary special measures if necessary.
- States must establish accountability mechanisms to prevent discrimination against indigenous women and girls by political parties and trade unions. Ensure access to gender-responsive judicial remedies for reporting such violations.

- States must disseminate information about voting, participation, and election opportunities to indigenous women and girls.
- States must prevent, investigate, and punish political violence against indigenous women politicians, candidates, and activists.
- States must create incentives and support services for indigenous women to participate in politics, including campaign financing, skills training, and childcare facilities.
- States must ensure economic activities in indigenous territories are implemented with effective participation of indigenous women and respect for their free, prior, and informed consent.
- States must ensure indigenous women and girls participate as decision-makers and actors in peace-building and transitional justice processes.
- States must recognise, support, and protect the life, integrity, and work of indigenous women human rights defenders.

C. Right to Education

Indigenous women and girls face many barriers to education, including lack of culturally appropriate education, gender-based violence, and discrimination. These barriers can limit their access to education and their ability to complete their studies.

The GR 39 recommends:

- States must ensure indigenous women and girls have equal access to quality education at all levels.



- States must ensure quality education is inclusive, accessible, and affordable for all indigenous women and girls, including those with disabilities.
- States must promote the adoption of curricula that reflect indigenous education, languages, cultures, history, knowledge systems, and epistemologies. The curriculum development process should include indigenous women and girls.

D. Right to Work

Indigenous women face discrimination in the workplace and access to decent employment. They contribute significantly to the agricultural sector but often work in low-paid or informal jobs. States should create equal opportunities for indigenous women to access education and training and facilitate their transition from the informal sector into the formal economy.

The GR 39 recommends:

- States must ensure equal, safe, and just working conditions for indigenous women and girls.
- States must expand social protection and provide adequate childcare services for indigenous women.
- States must take steps to prevent discrimination, racism, stereotypes, gender-based violence, and sexual harassment against indigenous women in the workplace and to establish and enforce effective reporting and accountability mechanisms, including through regular labor inspections.
- States must ensure indigenous women and girls have access to vocational and professional skills training, including in STEM fields.

E. Right to Health

Indigenous women and girls have limited access to adequate health services, including sexual and reproductive health services. They face discrimination in the health system and experience gender-based violence in places where healthcare is available. States should ensure access to culturally appropriate health care, testing and vaccines, especially during emergencies.

The GR 39 recommends:

- States must ensure quality health services are available, accessible, affordable, culturally appropriate, and respect free, prior, and informed consent, confidentiality, and privacy.
- States must guarantee indigenous women and girls receive accurate information and affordable access to sexual and reproductive health services, including safe abortion and contraception.
- States must ensure health information is widely disseminated in indigenous languages.
- States must recognise and protect indigenous health systems, ancestral knowledge, and practices.
- States must provide gender-responsive and culturally responsive training to health professionals treating indigenous women and girls.
- States must adopt steps to prevent all forms of gender-based violence, discrimination, and stereotypes in the provision of health services.

F. Right to Culture

Culture is essential to the lives of indigenous women and girls and is linked to their land, region and traditions. They have the right to challenge and reform the discriminatory aspects of their culture. Indigenous women and girls have the right to participate in cultural matters. States should ensure the protection of their lands and territories while protecting indigenous language, culture and knowledge.

The GR 39 recommends:

- States must ensure indigenous women and girls' rights to maintain their culture, identity, and traditions.
- States must respect, protect, and expand indigenous Peoples' rights to land, territories, resources, and a safe environment.
- States must prevent unauthorized use or appropriation of indigenous women and girls' cultural knowledge and heritage without their free, prior, and informed consent.
- States must collaborate with indigenous Peoples to develop culturally appropriate education programs.
- States must study the relationship between technology and indigenous culture, ensuring digital tools are accessible and culturally appropriate.
- States must recognise and protect indigenous women's intellectual property, cultural heritage, scientific knowledge, and artistic expressions.
- States must act with due diligence to respect and protect sacred places of indigenous Peoples.

G. Rights to Land, Territories and Natural Resources

The identities, livelihoods and cultures of indigenous women and girls are deeply connected to their land and territory. The limited recognition of indigenous land rights weakens the rights of ownership, possession, use and enjoyment of these lands. This lack of recognition can lead to increased risk of poverty, food insecurity and gender-based violence. In order to prevent discrimination against indigenous women and girls, States have an obligation under international law to demarcate indigenous territories and give them ownership.

The GR 39 recommends:

- States must recognise and protect indigenous Peoples' rights to individual and collective ownership of their lands.
- States must recognise indigenous Peoples' right to self-determination and their rights to their lands, territories, and natural resources.
- States must require free, prior, and informed consent from indigenous women and girls for projects affecting their lands, territories, and natural resources.
- States must prevent and regulate activities by businesses that may undermine indigenous women and girls' rights to their lands, territories, and environment.
- States must adopt a comprehensive strategy to address discriminatory stereotypes and practices that undermine indigenous women's land rights.

H. Rights to Food, Water and Seeds

Indigenous women and girls play an important role in securing food, water and livelihoods for their communities. Displacement, forced displacement, and lack of land rights limit their access to natural

resources and contribute to food insecurity. Extractive industries and development projects can contaminate food and water sources, disrupt traditional farming practices, and degrade the environment. Climate change has also threatened food security and water supply. The commercialisation of seeds and the expansion of transgenic crops have raised concerns for indigenous peoples.

The GR 39 recommends:

- States must ensure indigenous women and girls have adequate access to food, water, and seeds, recognising their contributions to food production and sustainability.
- States must protect traditional farming practices and ensure indigenous women's meaningful participation in agrarian reform and natural resource management.
- States must prevent, investigate, and punish gender-based violence against indigenous women and girls involved in agricultural activities. It also must ensure their access to scientific progress and technological innovation for food and water security and compensate them for their contributions and knowledge.

I. Right to a Clean, Healthy and Sustainable Environment

The right to a clean, healthy and sustainable environment is important and essential for indigenous women and girls. Environmental degradation such as pollution, deforestation, and climate change threaten their well-being and cultural heritage. States should take concrete steps to prevent environmental degradation and damage and ensure the participation of indigenous women in decisions related to environmental issues. In addition, states should recognise and support the work of indigenous women as environmental human rights defenders.

The GR 39 recommends:

- States must ensure laws and policies address the specific impacts of climate change, environmental degradation, and the "triple planetary crisis."
- States must ensure indigenous women and girls have equal participation in environmental decision-making.
- States must establish effective remedies and accountability mechanisms for environmental harm, ensuring access to justice for indigenous women and girls.
- States must ensure indigenous women and girls have free, prior, and informed consent for any environmental actions affecting their lands, heritage, and resources, including conservation, climate mitigation, or green energy projects.



IV. Key Terms and Concepts in the GR 39

Self-identification: Self-identification means the guiding principle in determining the status of rights holders as Indigenous women and girls.

Right to self-determination and autonomy: Right to self-determination and autonomy means the rights of all peoples to pursue freely their economic, social and cultural development without outside interference.

Gender based violence: Gender based violence includes psychological, physical, sexual, economic, spiritual, political and environmental violence that adversely affects the lives of many indigenous women and girls. Gender based violence is frequently committed by State and non-State actors. These forms of gender based violence are widespread and are often treated with impunity.

Discrimination: Discrimination means any distinction, exclusion, restriction, or preference based on sex, race, colour, ethnic origin, religion, political opinion, national origin, property, birth or other status, which has the effect or purpose of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms.

Intersectional discrimination against Indigenous women and girls: Intersectional discrimination means the overlapping and compounding forms of discrimination based on multiple factors, such as gender, race, ethnicity, disability, and socioeconomic status. Intersectional discrimination against Indigenous women and girls have an inextricable link and relation to their peoples, lands, territories, natural resources and culture. Intersectional

discrimination experienced by Indigenous women and girls are on the basis of factors such as sex; gender; Indigenous origin, status or identity; race; sexual orientation; gender identity; ethnicity; disability; age; language; socioeconomic status; and HIV/AIDS status.

Cultural Rights: Cultural rights mean the rights of indigenous Peoples to practice and revitalize their cultures, traditions, and languages.

Land Rights: Land rights mean the rights of indigenous peoples to their traditional lands, territories, and resources.

Indigenous Justice Systems: Indigenous Justice Systems mean legal systems and practices that are specific to indigenous peoples and often incorporate customary laws and traditions.

Access to Justice: Access to justice means the ability of individuals to seek legal remedies and redress for violations of their rights.

Reparations: Reparations mean measures taken to redress past wrongs and harm, including compensation, restitution, rehabilitation, and satisfaction.



The CEDAW General Recommendation No.39 (2022) (GR 39) addresses the specific rights and needs of Indigenous women and girls, acknowledging their unique challenges, from discrimination to limited access to resources. GR 39 provides governments and civil society with a vital framework for advancing fair policies that respect the cultural and socio-economic realities of Indigenous women. This briefer, created by the Network of Indigenous Women in Asia (NIWA), serves as an essential tool for Indigenous communities, policymakers, and advocates across Asia, aiming to promote justice, healthcare, education, and opportunity for Indigenous women. By amplifying Indigenous women's voices, this resource strengthens their role in shaping policies and securing a just future.



Network of Indigenous Women in Asia (NIWA)

<https://aippnet.org/network-of-indigenous-women-in-asia-niwa/>