

CEDAW GENERAL RECOMMENDATION 39: ENSURING THE RIGHTS OF INDIGENOUS WOMEN AND GIRLS

A POSITION PAPER BY THE NETWORK OF INDIGENOUS WOMEN IN ASIA (NIWA)



Introduction

Indigenous Women globally share a common struggle to uphold their rights while maintaining harmony between humans and nature, fostering sustainable living, especially in the face of authoritarianism, unsustainable development, climate threats, and resource exploitation. Network of Indigenous Women in Asia (NIWA) was established and founded in 2019 to address these challenges collectively. The establishment of NIWA is rooted in the need to strengthen indigenous women's movements as part of the broader struggle to restore Indigenous Peoples' rights and to secure equality for indigenous women within our communities. NIWA is driven by indigenous women's movements, guided by our shared vision, and supported by allies. We are committed to upholding our collective principles of self-determination, equality, equity and sustainable stewardship of lands, territories, and resources.

This position paper is developed by NIWA in support from International Indigenous Women's Forum (FIMI) and Asia Indigenous Peoples Pact (AIPP) as NIWA stand as a united force to advance the rights, governance, and leadership of Asian Indigenous Women, ensuring a just and sustainable future for all. This position paper strongly urges for the immediate implementation of the principles and goals of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its General Recommendation No. 39 (GR 39), which focuses on the rights of Indigenous women and girls. NIWA views GR 39 as an essential tool for promoting these rights and tackling the multiple forms of discrimination they encounter.

Context of Indigenous Women in Asia

Indigenous women across Asia face systemic and multi-faceted discrimination that stems from the intersection of their gender, ethnicity, and socio-economic status. Representing diverse cultural, social, and political contexts, they face exclusion from decision-making processes, limited access to education, healthcare, and justice, and are disproportionately impacted by land dispossession, resource extraction, and militarization. In many countries, Indigenous women are further marginalized due to the lack of constitutional recognition of Indigenous peoples and the persistent denial of their identities by the state.

This denial exacerbates the challenges faced by Indigenous women, subjecting them to intersecting layers of discrimination based on their gender, Indigenous identity, and poverty. For instance, recent conflicts in Bangladesh have seen Indigenous women specifically targeted, with a disturbing rise in gender-based violence and sexual assault. Such events underscore the urgent need for stronger protections and state accountability.

Moreover, Indigenous women's access to policymaking and justice is minimal in most of the Asian countries. Structural barriers, such as language barriers in policy discourse, the lack of spaces for Indigenous women and girls to engage in policy processes, and discriminatory state laws and policies, prevent their meaningful participation. Even in countries where Constitutions endorse the rights of Indigenous peoples, a lack of implementation mechanisms and access to information hinders Indigenous women and girls from exercising and enjoying these rights. These systemic challenges perpetuate inequality and hinder the realization of GR 39's potential to transform the lives of Indigenous women and girls.

Adopted in 2022, CEDAW General Recommendation No. 39 brought renewed hope for the recognition and realization of the rights of Indigenous women and girls. However, awareness of CEDAW and GR 39 remains limited. While national-level advocates may be aware of these frameworks, grassroots Indigenous women, especially those in rural areas, often lack access to information about their rights under CEDAW.

Furthermore, mechanisms to implement GR 39 are either insufficient or entirely absent in many countries, exacerbating the challenges.

As a regional organization dedicated to advancing and safeguarding the rights of Indigenous women and girls, NIWA presents this position paper to call for the urgent implementation of CEDAW GR 39.

Key Areas of Concern

NIWA has identified several critical areas of concern that require immediate attention:

- 1. Land and Resource Rights:** Indigenous women play a central role in managing and conserving natural resources. However, they are often excluded from land ownership and decision-making on resource governance. The widespread exploitation of natural resources disproportionately affects Indigenous women, displacing them from their homes and livelihoods and subjecting them to increased vulnerability to violence and discrimination.
- 2. Violence Against Indigenous Women and Girls:** Indigenous women and girls face heightened risks of gender-based violence, including domestic violence, trafficking, and violence related to militarization and conflict in Indigenous territories. Legal systems often fail to provide justice or protection, and perpetrators are frequently left unpunished. In addition to these challenges, witch-hunting is a grave issue in regions like Assam, where innocent Indigenous women and girls are falsely accused of witchcraft. This practice is often used as a means to seize their land and property, further perpetuating violence and dispossession among Indigenous communities.
- 3. Access to Justice:** Barriers such as language difficulties, discriminatory legal practices, and lack of legal aid prevent Indigenous women from accessing justice. Moreover, legal frameworks are often not culturally appropriate, which further isolates Indigenous women from justice systems.
- 4. Political Participation and Decision-Making:** Indigenous women are underrepresented in political processes and decision-making spaces. Patriarchal norms, lack of education, and limited access to resources prevent them from participating fully in governance and policy-making.
- 5. Education and Healthcare:** Indigenous women and girls face significant disparities in education and healthcare, with high rates of illiteracy, poor maternal health, and lack of access to culturally relevant healthcare services. These systemic issues reflect the state's neglect of Indigenous communities.

Key Challenges and Gaps

NIWA has identified the following key gaps and challenges that hinder the effective implementation of CEDAW GR 39 in Asia:

- 1. Cultural Norms and Practices:** Deep-rooted patriarchal traditions, such as gender-based violence, early marriage, and gender discrimination, continue to limit Indigenous women's rights and opportunities. In most of the countries, cultural norms and practices marginalize women and impede their advancement.
- 2. Religious Fundamentalism:** In most countries, religious interpretations that favor traditional gender roles complicate the recognition and implementation of women's rights. Religious fundamentalism often undermines efforts to achieve gender equality for Indigenous women.
- 3. Fragmented Advocacy and Representation:** Indigenous women's organizations in Asia often face challenges in uniting for collective advocacy. The fragmentation of advocacy efforts means that only a few organizations, take the lead, while the broader issues facing Indigenous women go largely unaddressed.

4. **Limited Capacity for Collective Action:** Many Indigenous women's organizations struggle with insufficient resources and capacity for large-scale advocacy efforts. This limitation hinders their ability to challenge patriarchal systems and advocate policy changes in line with CEDAW GR 39.
5. **Resistance to Implementing GR 39:** Many governments are reluctant to adopt or fully implement GR 39, as it challenges entrenched gender norms, patriarchal structures, and power dynamics. Resistance from powerful societal groups further hinders the adoption of policies that would protect the rights of Indigenous women.

Key Recommendations Aligned with CEDAW GR 39 Articles:

In line with the provisions of CEDAW GR 39, NIWA's position are outlined as follows:

I. Access to Justice and Plural Legal Systems

- Governments must enhance access to justice for Indigenous women by integrating plural legal systems that recognize both traditional and state legal frameworks.
- Ensure Indigenous women's organizations are empowered to engage in legal processes, advocating for their rights through accessible legal frameworks.
- Raise awareness of CEDAW GR 39 to promote the meaningful inclusion of Indigenous women in legal systems that respect their rights and cultural practices.

II. Obligations of States Parties Regarding the Rights of Indigenous Women and Girls

- States must recognize and address the unique needs and rights of Indigenous women and girls by incorporating them into national policy and legal frameworks.
- Allocate sufficient resources to implement CEDAW GR 39, ensuring the protection and recognition of Indigenous women's rights in national legislation.
- Strengthen the CEDAW reporting process by encouraging states to include the perspectives and lived experiences of Indigenous women in their national reports.

III. Prevention of and Protection from Gender-Based Violence A (GBV) Against Indigenous Women and Girls

- Advocate for the adoption and enforcement of stronger laws and policies to prevent GBV and establish protection mechanisms tailored to the needs of Indigenous women and girls.
- Increase funding for culturally sensitive programs that support survivors of GBV, prioritizing the specific needs of Indigenous women.
- Establish safe spaces for Indigenous women survivors of GBV and provide holistic recovery and justice services to promote their healing and empowerment.

IV. Right to Effective Participation in Political and Public Life

- Ensure Indigenous women's inclusion in decision-making processes at all levels of government and promote their active participation in public life.
- Support capacity-building initiatives for Indigenous women leaders to strengthen their engagement in political processes and their ability to advocate for their communities.
- Promote Indigenous women's involvement in policy dialogues on CEDAW GR 39 and other international agreements, including the Sustainable Development Goals (SDGs).

V. Right to Education

- Guarantee equal access to quality education for Indigenous women and girls, addressing barriers such as language, cultural relevance, and economic constraints.
- Develop culturally appropriate educational curricula that respect Indigenous knowledge systems and promote gender equality.
- Fund programs to increase the enrollment and retention of Indigenous girls in education, with particular focus on secondary and higher education.

VI. Right to Work

- Promote policies that ensure Indigenous women's access to formal and informal employment opportunities, fair wages, and equal labor rights.
- Support programs that provide Indigenous women with skills and training to enhance their economic independence and self-sufficiency.
- Encourage employers to adopt inclusive workplace policies that address the unique needs and circumstances of Indigenous women workers.

VII. Right to Health

- Ensure that healthcare services are accessible, affordable, and culturally appropriate for Indigenous women and girls, addressing their specific health needs.
- Promote access to sexual and reproductive health services, including maternal health, family planning, and mental health support, in Indigenous communities.
- Provide support for Indigenous women's health rights through capacity-building initiatives for healthcare providers in remote or Indigenous-populated areas.

VIII. Right to Culture

- Protect Indigenous women's right to preserve and practice their cultural heritage, languages, and traditions.
- Foster collaboration between governments and Indigenous communities to ensure cultural rights are respected and integrated into national policies.
- Support Indigenous women's leadership in cultural preservation initiatives, particularly through educational and community-building programs.

IX. Rights to Land, Territories, and Natural Resources

- Strengthen Indigenous women's land and property rights, ensuring they are fully recognized in legal frameworks and protected from exploitation.
- Support initiatives that empower Indigenous women to be active participants in the management and sustainable use of their lands, territories, and natural resources.
- Advocate for policies that ensure the protection of Indigenous lands from land grabs and environmental degradation, particularly by state or corporate interests.

X. Rights to Food, Water, and Seeds

- Ensure Indigenous women's rights to access food, water, and seeds are safeguarded, particularly in the context of climate change and environmental pressures.
- Support the recognition of Indigenous women's roles in agriculture and the protection of traditional agricultural practices that sustain their communities.
- Promote policies that enable Indigenous women to secure their food sovereignty and ensure their access to clean water resources.



XI. Right to a Clean, Healthy, and Sustainable Environment

- Advocate for policies that address environmental degradation and its disproportionate impact on Indigenous women, particularly in relation to extractive industries.
- Increase funding for climate change adaptation programs that specifically target Indigenous women's needs and leadership in environmental protection.
- Support Indigenous women's participation in environmental decision-making processes and ensure they are included in national and international dialogues on climate justice.

NIWA Calls Upon Government Agencies, Indigenous Women Organizations and Networks, and Funders to Ensure Effective Implementation of CEDAW GR 39 as Follows:

For Government Agencies:

- 1. Increase Budget Allocation for Indigenous Women**
Allocate sufficient resources to Indigenous women's issues, particularly in poverty reduction programs, education, economic development and healthcare, ensuring they have equal access to essential services.
- 2. Establish Safe Spaces for Indigenous Women Survivors of GBV**
Create and fund safe spaces that support survivors of gender-based violence (GBV), providing protection and support services.
- 3. Integrate GR 39 into National Policies and Legal Frameworks**
Ensure that policies and laws are aligned with CEDAW GR 39, promoting the recognition and protection of Indigenous women's rights in political, legal, and cultural contexts.
- 4. Promote Education and Employment Opportunities**
Increase access to quality education and employment for Indigenous women, ensuring these opportunities are in line with their cultural needs and rights.
- 5. Facilitate National Dialogues on GR 39**
Encourage inter-governmental discussions on GR 39 and its implementation, ensuring that Indigenous women's voices are heard and their concerns are addressed in policy-making processes.
- 6. Implement and Monitor GR 39 at the State Level**
Take action to adopt GR 39 within state-level policies, ensuring that all government agencies are held accountable for its implementation.
- 7. Ensure Inclusion of Indigenous Women in Decision-Making**
Guarantee that Indigenous women are included in political, social, and economic decision-making processes, providing platforms for their voices to be heard in government dialogues.
- 8. Revise Existing Laws to Favor Indigenous Women**
Review and amend laws to align with CEDAW rights and GR 39, ensuring that Indigenous women are granted fair and equal rights under national and international law.
- 9. Pass Indigenous Peoples Laws Based on GR 39**
Governments should pass comprehensive Indigenous Peoples' laws that incorporate GR 39, ensuring that Indigenous women's human rights and CEDAW rights are upheld, particularly in countries like Indonesia and the Philippines.

For Indigenous Women Organizations (IWOs) and Networks:

1. **Raise Awareness and Build Capacity on GR 39**

Strengthen the understanding of GR 39 among Indigenous women's organizations, networks, and communities, building their capacity to advocate for the rights outlined in the recommendation.

2. **Advocate for Inclusive CEDAW Processes**

Engage actively in CEDAW processes to ensure Indigenous women's voices are represented and that their unique challenges are addressed within the broader human rights agenda.

3. **Strengthen Linkages with UN Agencies and International Stakeholders**

Build relationships with UN agencies and other international stakeholders to elevate Indigenous women's rights on the global stage, advocating for policies that reflect their needs and concerns.

4. **Engage in Advocacy Campaigns and Collective Actions**

Foster collective action, integrating campaigns on key issues like GBV, education, and health-care, while ensuring an intersectional approach that addresses multiple dimensions of Indigenous women's rights.

5. **Support Capacity Building for Indigenous Women on Thematic Issues**

Provide training and capacity-building initiatives to equip Indigenous women with the skills, knowledge, and resources needed to advocate for their rights and engage in decision-making processes effectively.

6. **Promote Data Collection and Evidence-Based Advocacy**

Advocate for consistent and reliable data collection on Indigenous women's issues, using this data as a tool for evidence-based advocacy in policy discussions.

7. **Develop Campaigns on GBV and Human Rights**

Integrate GBV-focused campaigns into key UN observances and international events, such as Human Rights Day and CEDAW Day, to raise awareness and generate action on this critical issue.

For Funders:

1. **Ensure Dedicated Funding for Indigenous Women's Initiatives**

Designate specific funds to support Indigenous women's programs, including education, healthcare, and capacity building, ensuring that their needs are adequately addressed.

2. **Increase Funding for GBV Programs and Survivors' Support**

Allocate dedicated resources to support programs that provide direct assistance to Indigenous women survivors of GBV, ensuring they have access to critical services and protection.

3. **Support the CEDAW Reporting Mechanism**

Fund initiatives that contribute to CEDAW reporting processes, ensuring accountability in the implementation of GR 39 and facilitating transparency and progress in addressing Indigenous women's rights.

4. **Fund Programs Supporting GR 39 Implementation**

Provide financial support for programs focused on implementing CEDAW GR 39, enabling organizations to build capacity, advocate effectively, and support policy change.

For Further Information

Network of Indigenous Women in Asia (NIWA)

Secretariat Office:

Indigenous Women Programme

Asia Indigenous Peoples Pact

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



Collaborated With

