Violence and Indigenous Women
Document presented to the CSW57
March 2013
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March 2013
Series: Indigenous Women in Action / 12

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(Enlace Continental de Mujeres Indígenas de las Américas - ECMIA)

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General coordination: CHIRAPAQ team
Production: Inclusion and Equality Consultant (Consultora Inclusión y Equidad)
Graphic design and printing: www.gamagrafica.org
English translation: Jeremy Blanc

Cover photo:
A woman, with her child in her arms, confronts the eviction of the police in the Brazilian Amazon.

First edition
Lima, February 2013
Print run: 1000 copies
Publication of this document has been made possible thanks to:

This publication was made possible through the support of the Spanish Agency for International Development Cooperation - AECID and the Ford Foundation, and do not necessarily reflect the position of such organizations. The inclusion of their logos does not approve or endorse the views expressed in this document. Its content is sole responsibility of CHIRAPAQ and ECMIA.
At the Continental Network of Indigenous Women of the Americas - ECMIA - a variety of coordination processes and alliances have been developed to address the problem of violence in our continent; it is necessary to analyse the corresponding scenarios and the dilemmas with which they present us as peoples and societies.

According to the United Nations Permanent Forum on Indigenous Issues - at which indigenous women and CHIRAPAQ have made more than 100 recommendations to date - violence directed at indigenous women, girls, adolescents and youth is political, social, economic, spiritual, physical, sexual, psychological and related to the natural environment. It has multiple dimensions: interpersonal and structural, public and private, or government-related and non-government-related. Its analysis in public spaces should include as far as possible all these perceptions of violence; indeed, to underline this, in the Spanish text, the word for ‘violence’ is used in its plural form in this context.

To refer to violence in the singular conceals some types of of violence, differentiated, graduated, applied and committed in different ways at different intensities when dealing with an urban or rural woman or girl, or a young indigenous female; in the end, it all depends on whether one is identified as belonging to the officially recognized and established society or as belonging to what that society does not wish to be, with its refusal to acknowledge the presence, contributions and rights of indigenous peoples.

As a human-rights problem, violence affects the basic principle of the right to life, understood not only in the narrower sense of physical integrity, but also including access to all the possibilities of material and spiritual development which make it a healthy, creative and purposeful life. This is more evident among indigenous peoples, where women have always been at the forefront of the struggle to defend our territory and are the creators of the traditional knowledge of biodiversity, so that in the medium and long term, the different forms of violence against indigenous women profoundly affect the existence of peoples and of the diversity within our societies.
In view of this situation, the creation of programmes and public policies to address it in terms of the viewpoint and perception of indigenous women is still an enormous challenge. For this reason, by means of this document, we share our reflections, findings and proposals in order to unite our efforts and to highlight the difficulties experienced by indigenous women in our societies with regard to living, growing and developing to the full with dignity.

Violence and Indigenous Women summarizes a larger systematization document - bearing the same title - produced at the initiative of indigenous women who are members of ECMIA, and in which the existing information is complemented, extended and validated in workshops and forums held within the framework of the international event Indigenous Peoples Against Violence: Challenges and Strategies (Los Pueblos Indígenas Contra las Violencias: Desafíos y Estrategias) which took place in Lima, Peru, 19 to 23 November, 2012. Organized by ECMIA, the main conclusions were sent in a position paper to Ban Ki-moon, Secretary General of the United Nations, by means of the Resident Representative of the UN System in Lima.

This synthesis will be presented at the 57th meeting of the United Nations Commission on the Status of Women (CSW). We hope the synthesis, and indeed the complete document, which can be found on http://ecmia.org/, might encourage international bodies of the United Nations, government mechanisms, women’s organizations and networks, as well as organizations of indigenous peoples, to include and generate specific information and bring to light the multiple forms of violence against indigenous women; violence against women in general is addressed as much as violence against indigenous peoples. This effort was possible thanks to the cooperation and commitment of the indigenous women members of ECMIA, the support of AECID (the Spanish Agency for International Development Cooperation) the Ford Foundation, and technical support from the Inclusion and Equality Consultant (Consultora Inclusión y Equidad). We express our gratitude and acknowledgement to all and every one who made this study possible.

Tarcila Rivera Zea
CHIRAPAQ / ECMIA
1. The **nature** and **origin** of the problem regarding **indigenous peoples**

During the past five centuries, indigenous peoples have seen continual aggression directed at their own ways of life: on a material level, the destruction of their economic systems, of their methods of production and management of living organisms and their diversity; and on a spiritual level, attempts to eradicate their deep-rooted connection with Mother Earth and her component elements. One of the primary targets of this process are indigenous women, because they play the role of social coordinators and are the generators of life. This is the result of systematic situations that have created a structure of exclusion.

The pivotal ideology in these situations is racism, which can be seen in the variety of forms of discrimination meted out by states and different power-wielding entities, be they social, political or economic, and where indigenous peoples become the object and target of violent actions, being frequently treated as elements tending to upset the stability of societies.

In this way, the systematic denial of their individual or collective rights results in limited access to justice, the non-application of international treaties and conventions, or their adjustment or distorsion by the national legal systems, the lack of recognition or questioning of indigenous people’s systems of

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**NOTE:** Works referred to in the footnotes are in Spanish.

justice, health issues, world-view, interdependent relationship with Nature and so on; there are severe restrictions to their fair and equitable access to opportunities and participation in education, employment, economic development and political decision-making levels in general.

Faced with this situation, indigenous peoples have constantly striven to make themselves heard at local, national and international levels, setting up movements that demand the defence of their cultures, and recognition and guarantee of their individual and collective rights. In the Americas, there is a requirement for the legal recognition of the territories they have historically occupied, and also for their right to the use of the natural resources within those territories. Their claims include, too, those related to participation, political representation and autonomy.

Current talks and debates on indigenous peoples deal with concepts such as pluriculturalism, multiculturalism and interculturalism, which all refer to cultural diversity, but with different forms of conceptualization. It is necessary to distinguish these concepts in order to understand the reality of the lives of indigenous women, and in particular the sorts of violence to which they are subjected, with the aim of developing strategies to eradicate that violence.

Pluriculturalism refers to the recognition of the existence of different cultures and promotes coexistence among them. Cultural pluralism thus constitutes a political response to cultural diversity. Its application constitutes the basis for countering the invisibility of groups considered minorities, among them ethnic groups. Their legal recognition results, for example, in the protection of their culture, language, and customs, their styles of social organization, their systems of justice and progress made regarding their incorporation in social programmes and policies.

Multiculturalism refers to the simultaneous presence of a set of different cultures which share the same space, each bearing its own particular customs, religions, traditions, languages, nationalities, ethnicities and so on. Insofar as it does not go

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(2) Rivera Zea, Tarcila (2007). Racismo y discriminación con las hijas de la madre tierra. (Racism and Discrimination with regard to the Daughters of Mother Earth). Congreso de la República, Konrad Adenauer Stiftung. Lima, Peru.

beyond the recognition of existence, nor extends to interaction and influence, it fails to eschew racism and discrimination.

Interculturalism is aimed at the recognition of the differences that characterize different cultures, their interrelationships and breaking the barriers which separate them. In democratic societies, these differences involve the right to respect and acceptance; namely the right to non-discrimination and an ‘others as equal’ treatment.

However, interculturalism goes beyond acknowledgement since it seeks to achieve equality among people who share the same given space. It therefore represents a reciprocal situation where indigenous peoples and state influence each other mutually. It is a rebuilding process orientated towards ‘changing not only relationships but also structures, conditions and mechanisms of power that perpetuate a state of inequality, inferiorization, racialization, and discrimination, including the legal structures’ (Walsh, 2009).

The creation of new economic and social intercultural models needs, from an intercultural viewpoint, the political participation of the indigenous peoples regarding the distribution and design of social equity processes. It needs participation in order to rectify the economic exclusion conditions to which they have been subjected and the lack of cultural recognition in the development of indigenous peoples\(^{(4)}\).


NOTE: Works referred to in the footnotes are in Spanish.
In the Americas, there exists a long history of violence against indigenous women. The historical context goes back to the time of the invasion and subsequent colonization of the American continent; these events have left an impression which is still perceived in the lives of indigenous peoples, in particular in those of the womenfolk.

From the time of the invasion and colonization up to the present day, violence directed at indigenous peoples, while varying in degree and intensity, has been a continual phenomenon. It has found expression in the physical acts of elimination of their population, confiscating their lands, deportation, the destruction of their cultures and, in the case of indigenous women, the violation of their bodies. Sexual violence is one of the most permanent of the historical acts of violence against indigenous women, and has been practised by a variety of agents, as well as the state, while being persistently covered up and not punished.

Indigenous women, especially those who live in rural areas where inequality, exclusion and extreme poverty are the norm, are further subject to finding themselves amidst internal armed conflicts where, in many instances, they lose not only their belongings but also their families and their own lives.

Violence of all kinds at serious levels are a daily reality for thousands of the continent's indigenous women; such practices are intolerable for societies that claim they respect basic human rights.

Indigenous peoples and indigenous women have found within human rights a language, framework and legal structure for their petitions. However, regarding regulations and legal devices, indigenous peoples have proposed that the exercise of many individual rights of indigenous men and women is directly related to the effective recognition of the rights of their peoples.

The recognition of the collective rights of Indigenous Peoples to self-determination
and territoriality of their peoples, their rights to a political status, and to economic, social and cultural development do not exclude the expression of the specific demands of indigenous women. The point is that the non-recognition of their collective rights leads to the permanent risk of occurrence or aggravation of violence towards indigenous women, both within and without their respective communities.

The non-respect for human rights as well as the principles of recognition and interculturalism lead to, as one of many consequences, a deterioration of the social structures and cultural traditions of indigenous peoples. This has triggered the weakening or destruction of governability and their legal systems, diminishing in many cases their capacity to respond effectively to the problems arising from violence against women and girls in their communities (ONU, 2012)(5).

In her report for 2012, the United Nations Special Rapporteur in the field of cultural rights mentions how important it is for all and every one of the members of the community, or of specific groups, to participate and intervene in affairs related to cultural practices, traditions and that which concerns the determination of its identity. On the basis of this, women should be heard and not discriminated against. Also mentioned is the importance of realizing that the categories of gender, culture and rights intersect (Shaheed, 2012).

The exercise of systems of justice, however, poses several dilemmas. From an essentialist point of view, indigenous rules and regulations may be considered as though they were unchangeable with time. Therefore, part of the collective identity implies the maintenance of basic rules and practices that determine unequal functions and rights for each gender(6).

Seen in this perspective, when indigenous women challenge

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cultural rules and customs, it is viewed within their groups as treason, so they find themselves embroiled in permanent conflict between their cultural identity and their gender. Indigenous women are obtaining spaces, breaking barriers, and gradually winning not only recognition but also the exercise of their rights, thus opening a path towards equality; this does not mean they must forfeit their collective rights as indigenous peoples.

Equality and discrimination are two facets of the same principle. Gender equality in this sense implies an identical or differentiated treatment that results in a total absence of discrimination against women for being women, regarding their enjoyment and exercise of all their human rights(7).

The equality concept contributed by the ‘Convention on the elimination of all forms of discrimination against women’ is based on the idea that men and women are equally different. The definition does not state that women and men should be treated equally in order to eliminate discrimination. Thus, if both genders were given identical treatment and, as a result, women found themselves at a lower rank, this would be discrimination. What should be sought is equality of rights(8).

‘Systemic and structural discrimination refers to ways in which the legislation and regulations, as well as cultural or religious traditions, have established and maintained the disadvantages of women on the basis of stereotypes of a social nature’(9).

In general, indigenous women are in a disadvantageous situation when compared with indigenous men for at least the following reasons: in the majority of indigenous communities, women are expected to bear a very substantial workload regarding both number and duration of tasks; women are responsible for feeding and healthcare of all their family members and for collecting firewood, fetching water, feeding the animals and so on; furthermore, for many indigenous peoples women are agricultural producers, cattle-raisers and gatherers. Likewise, girls are obliged to work from a very early age looking after the animals, taking care of their younger siblings and performing domestic chores. In many cases they have only restricted

NOTE: Works referred to in the footnotes are in Spanish.

(7) Facio, A. (undated). Equality and/or Equity? Gender Area of the Regional UNDP Centre. Note for Equality Nº 1, Panama, Republic of Panama. (¿Igualdad y/o Equidad? Área de Género del Centro Regional del PNUD. Nota para la Igualdad Nº1, Panamá, República de Panamá).
(8) Ibid.
(9) Ibid.
access to education, or they attend school only sporadically. In rural communities, women are still commonly not allowed to take decisions without the permission of father or husband, even just for moving around. There is also a large gap between indigenous men and women when it comes to access to resources inside or outside their communities. In some indigenous groups, the women inherit less than the men and they have a smaller claim on land when communal lands are shared out among families\(^{(10)}\).

The international standards aim at avoiding restrictions on the cultural rights of women that, in the end, implies restrictions on the principles of non-discrimination and equality of human rights, with a view to preserving the cultural diversity.

It is important to emphasize that part of the ongoing debate on the interrelationship of the causal factors of violence to indigenous women, especially those of an interpersonal nature that find expression in the family, the couple and in groups within the community, is that this does not represent an ‘indigenous tradition’ but, rather, the assimilation of western cultural patterns. It is thus necessary to reestablish the fundamental balance between the ‘sexes’, putting into practice the principles of reciprocity and complement between men and women.

Furthermore, it is known that the systems of oppression that determine the condition of subordination of and discrimination against women - among other groups - are linked among themselves: ethnic, racial, classist, sexual, and heterosexual oppression are some of them.

For this reason, the intersectional approach is proposed as appropriate to address different forms of violence against women, since discrimination for reasons of sex, race/ethnicity, age, sexual orientation, and other factors, poverty included, interact to generate a continuum that includes different manifestations and types of violence.

Forms of violence against indigenous women should be analysed within the intersection of three areas: human rights; the rights of indigenous peoples; and women’s human rights.

3. Scope and expressions of violence against indigenous women

Violence against indigenous women is historical, structural, systemic and multidimensional. Numerous and serious acts of violence are committed against women by local authorities, security corps, military units, vigilance groups, paramilitary forces and armed brigades, as well as by men inside or outside their communities.

During the Forum, on analysing the multiple forms of violence against indigenous women, the leader members of ECMIA made a distinction between two levels, specifying for each of them some ways and areas in which violence is expressed towards indigenous women.

3.1 The state (external level)

a) Armed conflicts and militarization
The just claims of indigenous peoples are answered with repression by states, militarizing territories, imposing restrictions on freedom, applying torture, arbitrary imprisonment, conducting trials that ignore correct legal procedures, uprooting people, processes of deterritorialization, deportation and traumas, criminalization, racism and discrimination in social services.

Indigenous women experience rape, forced pregnancies and sexual mutilations aimed at putting an end to their biological capacity to produce the next generation and to destroy their social roles in creating, preserving and transmitting the indigenous identity to future generations.

Perú: During the period of political violence between 1980 and 2000, more than 2000 women were victims of sexual abuse and 850 were victims of other types of aggression (forced nudity, forced prostitution, and indecent touching) according to the report of the Consejo de Reparaciones (Reparation Council). To this day, these women have no access to health services or comprehensive health insurance. (Newspaper La Primera, Peru 3 December 2012).

Nicaragua y Honduras: On the frontier between these countries, government agents commit sexual violence against the Miskitas who move between both territories to work the land and/or grow medicinal plants (IIWF, 2006).
b) Migration and displacements
The abandonment of territories owing to economic necessity and armed conflicts leads to indigenous women's obtaining the most precarious employment and their experiencing discrimination and gender violence to a greater extent in migration situations. As they are forced to move to urban areas or cross frontiers in search of employment, there is an increased likelihood of their becoming victims of sexual trafficking, economic exploitation, impunity, the destruction of networks and the loss of social and cultural ties.

c) Extraction industries
Extraction industries located in the territories of indigenous peoples cause environmental pollution and the depredation of natural resources necessary for survival. The lack of regulation of multinational industries on the part of the states leads to depredation of the indigenous peoples' territories and to practices of work-related and sexual violence against women.

d) Harmful environmental practices
The degradation of agricultural plots, rivers, mountains, air, flora and fauna, among other natural resources, and the destruction of ancient heritage is a further form of violence. While it also affects men, its effect on women, for the roles they play in the family and community, is of greater magnitude. The conditions, often hostile, of their surroundings and daily life and activities, such as fetching firewood and water, fishing to feed the family, planting and other similar activities, further increase the impact made on indigenous women by the devastation of nature and property.

e) Criminalization of indigenous women
The presence of drug trafficking within indigenous communi-
ties involves women who become unwitting drug smugglers(14). They are then charged by the state, and the result is a term in prison without any chance of bail or release. In many cases, in the prisons, they come up against patriarchal sexist bosses given to discrimination. The same thing happens as a result of the use of medicinal herbs considered psychotropic and which are ingested as a part of their world-view.

f) Policies of exclusion and poverty

A further form of violence on the part of the state occurs frequently in rural areas where the people are indigenous and where, especially, the women, girls and boys suffer higher rates of poverty, have more unsatisfied needs and fewer opportunities for development. Aid and welfare policies do not take into account, in the case of women, their skills and knowledge. Likewise, in public health services, indigenous women have suffered mass sterilization, ill treatment, abuse and abandonment; moreover, these services are scarce, precarious, disperse and of limited accessibility to indigenous wo-

Mexico: The Survey on Health and Rights of Indigenous Women, 2008, carried out in 8 states, shows for present-day couples a greater prevalence of violence among the monolingual indigenous women (28.43%) and also that the severity of the violence is greater in this group.

Ecuador: The National Survey on Family Relations and Gender-related Violence against Women, 2011, shows that 6 out of every 10 women have experienced some kind of gender-related violence. The highest proportion is concentrated among the indigenous women at 59.3% and the Afro-Ecuadoreans with 55.3%.

Peru: 51% of the women in Lima that at some time have had a partner, and 69% of those in Cuzco, had suffered acts of physical or sexual violence at the hands of their partners. Regarding sexual violence, these figures were 23% for Lima and 47% for Cuzco. (WHO, 2003. In Mesecvi, 9th Meeting of the Expert Committee, November, 2012. (9° Reunión del Comité de Expertas/os, noviembre de 2012)).

Canada: There are about 600 thousand indigenous women, of which 48% are aged less than 25. They report 3 times as many cases of violence as non-indigenous women and are 5 times more likely to be murdered. During the past 30 years, 600 indigenous women have disappeared or been murdered; 115 cases of missing indigenous women are still unsolved (Joanna Ottereyes, Indígena Cree, Association of Indigenous Women, Québec (Asociación de Mujeres Indígenas de Quebec)).

Guatemala: 88% of women subject to rape and torture during the 20 years of civil war were indigenous, especially from the Maya communities. Almost 600 women were victims of murder in 2010 (Periodismo Humano: The Woman and Violence in Guatemala, 1 June, 2011 (Mujer y violencia en Guatemala 01/06/2011)).

Brazil: Information on sexual violence during 2011, specifically on cases of rape, shows that the majority of victims were in the under-12 age group, while the second-ranking group was of those aged 12 to 17. Most cases involve adult men who commit sexual violence against minors. (Committee of the NGO of the CSW for LAC, 2012).

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men, following the pattern of relationships of exclusion characteristic of society.
Thus, there are no specific public policies nor budgets for sustained actions that lead
to countering violence against indigenous women, girls and boys.

### 3.2 Violence within indigenous communities (internal level)

A viewpoint in debate is that discrimination and violence against indigenous women
originates in a patriarchal system, an ideology from the western world that has per-
meated the culture of indigenous peoples. In a de-colonizing context\(^{(12)}\), therefore,
the essence of the principles of complement, reciprocity and equal value of men and
women would be present, as in the pre-colonization phases. However, another view
suggests that these principles, at the present time, are more a tool in the struggle for
the recognition of their citizenship, and against discrimination and exclusion, than a
real pillar of their world-view, with expression in the organizational and social cus-
toms of the indigenous peoples.

In many indigenous communities, the women have access only to limited purcha-
sing power, and to lower levels of education. Women inherit less than men and their
access is restricted when communal lands are shared out among families.

Furthermore, in many communities it is ‘natural’ for women to play very traditional
roles, and with little social power. These inequalities are likewise expressed in sexual
practices, with a negative slant for the woman beginning with her sexual initiation,
where rape, incest and sexual abuse of adolescent girls by family members and
neighbours is a common practice which is covered up and silenced\(^{(13)}\).

Moreover, for indigenous women, interpersonal violence does not refer only to do-
metric violence or that which is committed by the partner; it may also refer to sexual
violence with a racial undertone, which is not usually reported, or is under-reported,
as a result of its becoming the norm and being condoned when directed against
indigenous women - be it within indigenous communities or in society in general\(^{(14)}\).

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\(^{(12)}\) Revaluation of indigenous cultures and peoples, effective exercise of the right to be different, to self-assertion and to protection.

\(^{(13)}\) OPS/AECID (2010). Sexual and reproductive health, and HIV in indigenous youth and adolescents in Bolivia, Ecuador, Guatemala,
Nicaragua and Peru. (Salud sexual y reproductiva y VIH de los jóvenes y adolescentes indígenas en Bolivia, Ecuador, Guatemala, Nicaragua y Perú.) In MESECVI, Second Report from the Hemisphere on the Implementation of the Belém de Pará Convention (Segundo Informe Hemisférico sobre la Implementación de la Convención de Belém do Pará) 2012.

\(^{(14)}\) Consejo Económico y Social, ECOSOC (2012). Combating violence against indigenous girls and women: article 22 of the United Nations’ Declaration on the rights of indigenous peoples. (Combatir la violencia contra las mujeres y las niñas indígenas: artículo 22 de la Declaración de las Naciones Unidas sobre los derechos de los pueblos indígenas.)
3.3 Violence against indigenous girls and adolescents

The factors, dealt with earlier, that trigger violence experienced by indigenous peoples and, specifically or in greater proportion, by women, raise situations that subject girls and adolescents to conditions of forced labour, prostitution or child trafficking.

Also identified are the contexts of uprooting, exclusion, individuation and risk present in urban environments, as well as discrimination at school (UNICEF/Guatemala, 2007) and situations of economic insecurity. These, within the framework of traditional cultural patterns regarding the relationship between the sexes, restrict the opportunities for learning and the development of skills for girls and adolescents, who find themselves retreating to private spaces, using public ones only rarely, and in conditions which do little to favour their development. However, it is in the family space where they suffer the major part of the violence, which is perpetrated by people from within their familiar surroundings (Faundez & Weinstein, 2012).
4. Public policies and the role of indigenous women’s organizations

The lack of information describing the situation of indigenous women, setting out their problems, locating their present-day context and making a multidimensional view possible, impedes the generation of new public policies and / or mechanisms that have a clear approach to where advances should be made in order to develop programmes that effectively ensure respect for the rights of indigenous women.

Indigenous women, as women in general, do not constitute an homogeneous group; they live a diversity of socio-cultural realities, all of them tinged with exclusion and poverty. This diversity is expressed also in the differential prevalence of violence and needs to be taken into account by those who take decisions on the subject of violence against women at national, federal / regional or municipal levels. This cultural-diversity and gender approach, including the enhancement of cultural treasures, values and knowledge of indigenous peoples and women, should be incorporated.

States should consider within their policies the need to compile statistics, and to give deeper consideration to diagnoses, proposals and the development of strategies which, starting from the work experience of the indigenous women’s organizations and networks, develop effective methodological alternatives for quantifying and eradicating violence against women in all its forms.

Preventive measures are considerably lacking in the modification of standards governing the relationship between men and women, be they norms such as submission and control, which are still in force, or in habits and customs perpetuated in institutions like churches, communications media and legal systems. These also affect communities where the ‘male-orientated’ hierarchy is maintained; this field presents serious challenges to the eradication of violence against women in general and against indigenous women in particular (CEPAL, 2009).
Situations in countries

- The National Coordinator of the Indigenous Women of Mexico (Coordinadora Nacional de Mujeres Indígenas de México) CONAMI (Pueblo Triqui, Oaxaca) reports that the National Women’s Institute (Instituto Nacional de las Mujeres) has neither Secretariat nor Commission of Indigenous Women. The National Commission for the Development of Indigenous Peoples (Comisión Nacional para el Desarrollo de los Pueblos Indígenas) brings together the Indigenous Women’s Housing Programme and the project-support programme for organizations among the civil society of indigenous and non-indigenous women that work with them. In the National Institute of Indigenous Languages (Instituto Nacional de Lenguas Indígenas) there is no work with indigenous women.

- The National Organization of Indigenous Women of Panama (CONAMUIP - Organización Nacional de Mujeres Indígenas de Panamá) (Pueblo Kuna) reports that the National Women’s Institute (Instituto Nacional de la Mujer) has formed the National Women’s Council (Consejo Nacional de la Mujer) where a plan of public policy on indigenous women is being drawn up by indigenous women; CONAMUIP is participating in this. For the past two years, work has been under way on the implementation of this plan and public policy made by indigenous women for indigenous women.

- The Wayuu Indigenous Women’s Network (Red de Mujeres Indígenas Wayuu) of the Wayuu People (Zulia state, in the Guajira Peninsula, Maracaibo, Venezuela) reports that the Wayuu Indigenous Women’s Network, the People’s Power Ministry for Women (Zulia headquarters) and the Municipal Women’s Institute (IMMUGUAJIRA) inform and create awareness among women on the topic of violence, explaining to them the procedure for its punishment. They keep a record of cases of violence and judges’ rulings (when the accusation is made to the corresponding authorities). The victim is accompanied so she may be orientated and seek professional assistance.

- The Atlantic-Coast Indigenous Women’s Association (Asociación de Mujeres Indígenas de la Costa Atlántica) AMICA (Bilwi de Karatá Community, Pueblo Miskito), Costa Caribe, Nicaragua, reports that they exert a constant presence in order to accompany and watch over women in the prevention of violence. They provide legal training in the Miskitu language. They also create awareness among the communal and religious authorities that violence is a public problem which demands the interaction of everyone in order to solve it.

- In Peru, from an analysis of the National Plan against Violence towards Women (Plan Nacional Contra la Violencia Hacia la Mujer) 2009 - 2015 of the Ministry of Women and Social Inclusion, CHIRAPAQ, the Centre for Indigenous Cultures of Peru (Centro de Culturas Indígenas del Perú) has established that “…it is orientated towards urban populations and to a lesser degree towards rural populations, among which are the indigenous peoples. Just one objective is considered, where it is sought to identify and promote the transformation of socio-cultural patterns that legitimize, tolerate and exacerbate violence against women … The actions are orientated towards investigation and awareness campaigns; there are no concrete actions to implement as a result of the studies of prevention, punishment and compensation”[15].

NOTE: Works referred to in the footnotes are in Spanish.

5. Systems of administration of justice

During the 1990s and starting with the approval of the ILO Convention No. 169 (1989), in several countries constitutional reforms were established (particularly in Andean countries) which acknowledge the pluricultural nature of state and nation. Also acknowledged are the rights of indigenous peoples as collective subjects with rights, and their right to apply their own methods of resolving conflicts within their territories is explicitly accepted. This implies important changes in traditional juridical doctrine.

Acknowledgement of the pluricultural nature of state and nation, in reference to the indigenous peoples, together with the extension of their rights and the recognition of indigenous or customary law, implies changes that must be applied at local, regional and national levels.

In this context, interlegality is understood as the constant interaction between the indigenous and state legal systems. It implies a position whereby intercultural dialogues are set up in which the legal systems may be mutually enriched and transformed, so as to enable changes to be made in social order as a whole and where indigenous societies have the possibility of defining the limits and range of their jurisdictions. This also means considering its links with the national society and the need to guarantee solutions to internal controversies and minoritized points of view (ECMIA, 2012).

The most outstanding aspect of indigenous legal systems (customary law and community justice) is their inherent link with the indigenous person as far as they “conform to his culture, use his own languages, are built on his own world-view and beliefs, are simple, quick, and have no economic cost to the parties; people do not need to move from their communities of origin and they maintain social equilibrium.” (IIHR, 2010).

Regarding the impediments to the protection and restitution of respect for women’s rights, especially the right to lives free of violence, it is pointed out that concrete and

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(16) Ecuador, Bolivia, Peru, Nicaragua, Guatemala.
acceptable answers are not always forthcoming because i) it is usually the men who make up the communal power structures (except in Guatemala); ii) violence against indigenous women is not considered a crime; iii) lack of credibility; iv) it is considered ‘bad form’ to accuse one’s own partner before the community; v) unlike the men, women have the right to speak but not to vote in community assemblies; vi) new perspectives on rights are not understood by the eminently masculine / patriarchal structure of the indigenous communities and / or vii) the indigenous authorities simply pass cases on to the state authorities for their attention(17).

A further problem is to be found in systems where measures include traditional conciliation, which is used to excuse the perpetrator of the crime. Paradoxically, conciliation continues to be applied in the official systems of many countries, despite the fact that international mechanisms such as that of the Belén do Pará Convention have emphasized that the application of these measures “has counterproductive effects in access to justice for women who are victims of violence”. The IACHR, too, has indicated that promoting conciliation on the supposition that the parties involved are able to negotiate on an even footing is erroneous. Then the Panamerican Health Organization (OPS) adds that the lack of balance of powers in the conciliation agreements increases the physical and emotional risk to women, since the agreements are not generally honoured by the aggressor (MESECVI, 2012).

However, in contexts outside the jurisdiction of the communal tribunals regarding certain crimes, including violent and sexual crimes against women, or those beyond their competence to judge, it has been noted that opposing and overlapping levels of criminal jurisdiction undermine the sovereignty of indigenous peoples and can represent an obstacle to women’s effective access to justice (ECOSOC, 2012).

Rather, in cases where traditional indigenous systems of justice and government acknowledge indigenous women’s rights on the basis of their own laws and traditions, their ability to enforce those laws and, in particular, to protect indigenous women and girls against all kinds of violence, should be respected and not undermined by the legal, criminal or state-law-enforcement systems, in accordance with Articles 3, 4 and 5 of the United Nations Declaration on the Rights of Indigenous Peoples.

With regard to state justice, it can be seen that in a large portion of the region there are serious deficiencies in the application of the national and international legal

(17) Ibid, page 19
frameworks for the eradication of violence against women in general and, even more so, in the specific case of indigenous women.

In general, it may be said that the search for justice and protection for indigenous women in this system suffers from a lack of coordination between the state system and the indigenous authorities: the non-application of the international frameworks to internal legislation;\(^{(18)}\) the requirement to travel outside their communities, having to leave their families, in order to appear at the courts; being dealt with in a language different from their own; inappropriate working hours, designed for urban areas; incomprehensible legal processes; discrimination for being indigenous and female; the high economic cost of written processes; means of proof, generally inaccessible to indigenous peoples (certificates, legal status; records); the length of the processes; the tendency to favour indigenous men over indigenous women; and the lack of suitability and effectiveness of the replies to the real family and cultural contexts of indigenous peoples are among the main factors (IIHR, 2010). However, there are practices which show that legal services that are aware of gender issues can satisfy women’s necessities as, for example, specialized tribunals, including mobile courts and those specialized in family and domestic violence.

It is thus still a challenge to move towards the materialization of a non-subordinate juridical plurality, where both legal systems converge and unite in favour of equality of rights and opportunities. This is why indigenous women use both state and community legal systems to achieve changes strategically in gender relations and in their situation of violence.

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\(^{(18)}\) The ILO Convention No. 169 “On Indigenous and Tribal Peoples in Independent Countries, the Convention on the Elimination of all Forms of Discrimination against Women, and the Inter-American Convention for Preventing, Punishing and Eradicating Violence against Women” (Sobre Pueblos Indígenas y Tribales en Países Independientes, la Convención sobre la Eliminación de todas las Formas de Discriminación contra la Mujer y la Convención Interamericana para Prevenir, Sancionar y Erradicar la Violencia contra la Mujer.) (CEDAW) (Belen do Pará).
6. Viewpoints and actions of indigenous women’s organizations (19)

“Indigenous women in the Americas have developed different strategies to build processes for the recovery of their rights and ownership of their lives. Lessons learned and paths trodden show that the situation will not change without the confluence of several factors, the main one being that the societies should be able to re-think amid their diversity and join forces to eradicate all forms of exclusion and violence” (20)

Discrimination, margination, violation and other abuses of their human rights is encouraging the reflection and action of indigenous women’s organizations. These organizations strive to shed light on this state of affairs and they demand actions by local and national governments, international mechanisms, mixed indigenous organizations, and their own community authorities, on the basis of constructing a political agenda at all these levels.

They link up with other organizations and institutions to receive and attend to women and girls who have been victims of violence; they accompany them and follow up the processing of their cases in the communal and ordinary legal systems, and in the social and health services; they implement training and communication campaigns which encompass men, young people, boys and girls, traditional authorities and indigenous organizations, in order to create awareness and prevent violence.

Guatemala: Since 1999, the Defence of Indigenous Women’s Rights (Defensoría de la Mujer Indígena) has been in existence; it is the only state organization in Latin America for the defence and protection of indigenous women in the face of any kind of discrimination or violation of their rights. It provides legal advice, social services and psychological support. It designs, coordinates and carries out educational programmes of training, dissemination and protection of indigenous women’s rights and proposes draft bills to the President of the Republic in order to protect those rights.

(19) It is recommended to read “Indigenous Women and Violence” (Mujeres Indígenas y Violencias”) produced by ECMIA. In section 7.4 there are testimonies on the application of indigenous legal systems in different countries as a compilation of good practices impelled by indigenous women’s organizations.

NOTE: Works referred to in the footnotes are in Spanish.

Even though indigenous women in the Americas experience the same kinds of discrimination and have demands and necessities in common, they should not be treated as an homogeneous category. It is important to point out that within the sector there are different subdivisions, which may be identified as ethnic or cultural, generational, geographical, civil or educational. These differences within the group of indigenous women lead to many differences in relationships with their male peers and non-indigenous women when it comes to access to resources and power spaces, their behaviour, and so on\(^{(21)}\).

These proposals look to types of “differentiated citizenship and an intercultural concept of human rights”, which should emerge from local experience, subsequently to be linked with universal and indivisible human rights. This debate is unfolding and indigenous women will sustain it with reference to that which is considered just, refers to violence, or deals with relevant laws and the customs or rules of each culture, and which these women need to change.

7. Recommendations

For international and cooperation bodies:
- To influence the fulfillment of international agreements on human rights in general and in particular for indigenous peoples and indigenous women and girls.
- To resize legally war crimes and violations of human rights against indigenous peoples, women, children and youth.
- To collaborate on the application of methodologies enabling the prevalence of violence against indigenous women, girls and adolescents to be determined.
- To strengthen the mechanisms and spaces that concern the condition of indigenous women, children and young people.
- To react to and investigate opportunely acts of harassment, threats and violations of human rights in indigenous communities, especially when committed against indigenous women, girls and adolescents.
- To promote their cooperation with the state, improve justice administration systems and train legal operatives in the gender approach, interculturality, violence against indigenous women and girls, and to press the state to apply and implement the international conventions and treaties on the rights of indigenous peoples and of indigenous women and girls.

- To support the development of strategies for the prevention and eradication of violence against indigenous women, girls and youth. The strategies shall have an intercultural approach and be designed and driven by the communities and organizations themselves.

- To promote the creation of an observatory on violence and murder perpetrated against indigenous women of the Americas.

**For states:**

- To respect and effectively apply the conventions, treaties and international legal instruments pertaining to human rights in general, the rights of indigenous peoples, and the rights of indigenous women and children.

- To make constant efforts to confront racism, modifying the contents of educational material, carrying out systematic actions of awareness-raising and appreciation of the diversity, and giving training to officials and decision-makers of the different powers of the state.

- To establish protocols and vigilance mechanisms on the development of megaprojects in (or close to) indigenous territories, as a measure of protection for indigenous women.

- To rectify urgently the subregister of the multiple forms of violence against indigenous women, as well as the lack of ethnicity variables (and separation by sex, age, ethnicity and race) in the surveys carried out in each country.

- To promote the incorporation of the gender, intercultural and rights perspectives in university courses for the training of state or common legal operatives.

- To gather information on the effects and consequences of trafficking indigenous women and girls and to apply specific programmes with an intercultural approach, with trained personnel and a sufficiently generous budget.

- To adopt urgent measures on violence against indigenous women in armed conflicts and in militarized zones: diagnosis; the application of protocol models for police practice in cases of disappearance of indigenous girls and women; protection of the victims of military violence when they make accusations; training, legal, psychological and financial counselling for indigenous women who are victims.

- To impel defence projects for indigenous women: specialized prosecutors, ombudsmen for indigenous women and observation systems for the compliance with agreements.

- To establish coordination between the state and community legal systems so they might facilitate access to legal processes, taking into account cultural, geographical and socio-economic characteristics relevant to the lives of indigenous women.
- To implement programmes for the training of legal and police personnel, where aspects of interculturality, gender and human rights are included.
- To encourage and support the customary and communal tribunals effectively to defend the rights of indigenous women and girls.
- To make sure there are translators and appointed indigenous women able to orientate and help female victims of sexual violence.
- To provide free legal services aimed at indigenous women particularly affected by poverty and to facilitate their access to courts for their protection and to a greater distribution of information on resources within the legal system and regarding their rights.
- To make legal advice available in the native language to facilitate access to justice in public ministries.
- To work particularly in the health and public services on the eradication of discrimination, racism and violence against indigenous at all levels and in all its forms.
- To monitor the initiatives of refuge houses for women and girls who have been victims of violence.
- To establish shelters for sexually abused women where psychological support, legal orientation and spiritual help are available, according to the world view of the indigenous women.
- To strengthen the presence of indigenous women and their organizations in the institutional spaces for the design, application and evaluation of policies, making effective their proactive and executive role. These spaces should be effective and permanent.

**For indigenous organizations:**
- To give support to the community initiatives of the indigenous women in combating violence against women, thus contributing to the generation of cultures free of violence.
- To establish within the indigenous legal system spaces for dialogue on women’s rights, and to develop attitudes and practices enabling the culture of violence to be eliminated.
- To study and propose measures for the exposure of violence against indigenous women and girls within communities and to contribute to its eradication.
- To contribute to strengthening the participation of women within the communal spaces, so that indigenous law might provide effective answers to violence against women.
- To incorporate in their working plans actions for strengthening leadership and women’s knowledge of their individual rights.
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CONTEMPORARY NETWORK OF INDIGENOUS WOMEN OF THE AMERICAS - ECMIA

WHO ARE WE?
The Continental Network of Indigenous Women of the Americas - ECMIA - is a network of women's and indigenous peoples' organizations. Within the three Americas, and for the past 20 years, we have been promoting exercise and empowerment with regard to individual and collective rights, in order to achieve full recognition and respect for the rights of women, youth, children and indigenous peoples.

We are working in Argentina, Belize, Bolivia, Brazil, Canada, Colombia, Costa Rica, Chile, Ecuador, El Salvador, French Guiana, Guatemala, Guyana, Honduras, México, Nicaragua, Panama, Paraguay, Peru, Surinam, United States of America, Uruguay, and Venezuela, a total of 23 countries in which we operate autonomously, independently and sustainably.

ORIGINS
We began to coordinate in 1993 with the collective efforts of women leaders in indigenous organizations which, since the 1980s, have been participating in the United Nations World Conferences on Women, Human Rights and Population.

Our immediate objective was the active participation in the Fourth World Conference on Women (Beijing 1995) for which purpose we held preparatory meetings in North, Central and South America. ECMIA was eventually constituted at the First Continental Meeting of Indigenous Women (Quito 1995) where proposals for Beijing 1995 were drafted. This was the first World Conference on Women whose platform for action acknowledged our situation as indigenous women, an acknowledgement we had previously achieved at the International Conference on Population and Development (Cairo 1994).

In the years that followed, assemblies and continental meetings enabled us to coordinate actions at the level of the three Americas and to consolidate ECMIA as an international network for the defence and promotion of the rights of indigenous women, youth and children. Proof of this is the participation of several female delegates in the proceedings of the United Nations Declaration on the Rights of Indigenous Peoples and in the United Nations Permanent Forum on Indigenous Issues.

WHAT WE WANT
Our mission is to link up organizations for indigenous women and youth and mixed organizations throughout the continent so they become noticeable, enabling them to exert influence
in decision-making processes for the defence and mastery of their rights, and to be guided by the world-views of indigenous peoples in a pluricultural continent.

We should like to achieve full recognition and respect for the rights of women, children, youth and indigenous peoples, especially those linked with the defence of their identity, territory, integrity, systems of living, free determination, recognition and respect on the part of our authorities, institutions and local, regional and national organizations. Furthermore, we wish to achieve the participation of indigenous women on an equal footing in all decision-making areas in the social, economic, political and cultural processes which take place within our societies, countries and regions.

**THEMATIC AGENDA**

The member organizations of ECMIA encourage the formation, investigation, and building of proposals and the exertion of political influence in the following areas:

- Non-violence and traditional systems of justice.
- Territory, natural environment, climatic change and food sovereignty.
- Training on international legal instruments.
- Intellectual property rights and biodiversity.
- Health and spirituality: sexual and reproductive health, prevention of adolescent pregnancy, maternal mortality, exerting influence on intercultural health policies.
- Political participation.
- Indigenous children and youth and intercultural education.
- Racism and discrimination.

**TRAINING AND POLITICAL PARTICIPATION**

ECMIA also offers its member organizations regular training programmes on the rights of indigenous women, youth and peoples; the aim is to strengthen their leadership abilities for effective participation in political and public decision-making areas. This process is carried out by means of workshops and seminars at regional or national level and through alliances with international institutions.

In this way, ECMIA seeks to reinforce the unity of the continent’s indigenous peoples, women and youth, and to exert influence in national, sub-regional and international public policies, promoting the compliance with laws, conventions, declarations and treaties for the recognition of individual and collective rights.

This training process is complemented by the insertion of leaders and organizations at international level, ECMIA functioning as a platform for mutual learning, the establishment of alliances, and the joint development of strategies to be implemented, at member-country level, in order to fulfil the demands and necessities of our peoples.
**ALLIANCES**

ECMIA also joins forces with other movements sharing a purpose in common, such as the women's and feminists' movement, the social movement, and other justice and equality groups. We are also founders of the International Indigenous Women's Forum (FIMI) and belong to the Association for Women's Rights in Development (AWID). Furthermore, we participate actively in the world's indigenous organizations which have a commitment to the defence of full rights.

In order to achieve its objectives, ECMIA builds relationships of cooperation and alliance with cooperation bodies, foundations and international NGOs that share the same objectives and have mutual respect as a basis.

**HOW WE ARE ORGANIZED**

Continental coordination: Tarcila Rivera Zea, Chirapaq - Centro de Culturas Indígenas del Perú

Regional coordination:

North-American coordination: FAQ (Canada), Pauuktuutit (Canada) and the Red Xicana Indígena (USA).
Mexican coordination: Coordinadora Nacional de Mujeres Indígenas de México.
South-American coordination: Consejo Nacional de la Mujer Indígena, Newen Mapu (Argentina).

Coordination and articulation through our regional coordination structures form a base on which to position the voice, rights, contributions and proposals of the indigenous women of all peoples, cultures, languages and generations, with regard to topics and strategic areas that involve us and are of interest to indigenous peoples.

At the Continental Meetings that we hold every three years in different places, the delegates from North, Central and South America get together to analyse advances we have made and challenges both at the level of the indigenous peoples' and women's movement and within their own countries, as well as to exchange experiences and to give continuity to our political proposals. Since 1995, we have held six meetings:

- First Meeting (Quito, 1995) “Donde se tejen sueños y se siembran realidades” Where dreams are woven and realities are sown.
• Third Meeting (Panama, 2000) “Por la Unidad y los Derechos de la Mujer Indígena” For unity and indigenous women’s rights.
• Fourth Meeting (Lima, 2004) “Sintiendo, pensando y haciendo el futuro” Feeling, thinking and making the future.
• Fifth Meeting (Québec, 2007) “Restablecer nuestro equilibrio” To get back our balance.
• Sixth Meeting (Morelos, 2011) “Por nuestro pasado, nuestro presente y nuestro futuro” For our past, our present and our future.

❖ SPACES FOR PARTICIPATION
The work of the indigenous women’s leaders at ECMIA has a multiplier and reflexive effect. From our point of view as indigenous people, we exert political influence as a continental block in spaces for representation and international decision-making.

We participate in the United Nations system dealing with topics referring to the rights of indigenous peoples, women, children and youth. We exert influence at the United Nations Permanent Forum on Indigenous Issues, and on the Expert Mechanism, by means of the presentation of coherent proposals.

Other relevant spaces are: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the CEPAL Regional Conference on Women in Latin America, the World Conferences on Women, those against racism, those on climate change, the World Summit on Sustainable Development and those for monitoring the Beijing Plan and the Cairo Plan.

❖ FOUNDING AND MEMBER ORGANIZATIONS

NORTH-AMERICAN REGION
Canada: Femmes Autochtones du Québec - FAQ, Pauktuutit
United States of America: Red Xicana Indígena

MEXICAN REGION
Mexico: Coordinadora Nacional de Mujeres Indígenas de México - CONAMI

CENTRAL-AMERICAN REGION
Belize: Toledo Maya Women’s Council
Costa Rica: Asociación IXACAVAA de Desarrollo e Información Indígena
El Salvador: Consejo Coordinador Nacional Indígena Salvadoreño - CCNIS
Guatemala: Coordinadora Nacional de Viudas de Guatemala - CONAVIGUA
Honduras: Confederación Nacional de Pueblos Autóctonos de Honduras - CONPAH, Coordinadora Nacional de Mujeres Indígenas y Negras de Honduras - CONAMINH
Nicaragua: Asociación de Mujeres Indígenas de la Costa Atlántica - AMICA
Panama: Organización Nacional de Mujeres Indígenas de Panamá - CONAMUIP, NISPUNDOR
SOUTH-AMERICAN REGION
Argentina: Consejo Nacional de Mujeres Indígenas - CONAMI, Newen Mapu
Bolivia: Confederación de Pueblos Indígenas de Bolivia - CIDOB, Confederación Nacional de Mujeres Campesinas Indígenas Originarias de Bolivia Bartolina Sisa - CNMCIOB - Bartolina Sisa, Confederación Nacional de Mujeres Indígenas de Bolivia - CNAMIB
Brazil: Consejo Nacional de la Mujer Indígena - CONAMI, Red GRUMIN de Mujeres Indígenas, Coordinadora de Organizaciones Indígenas de Amazonía Brasiler - COIAB
Colombia: Organización Nacional Indígena de Colombia - ONIC
Chile: Consejo de Todas las Tierras, Corporación de Mujeres Mapuche Aukiñko Zomo
Ecuador: Confederación de Nacionalidades Indígenas del Ecuador - CONAIE
Guyana: Amerindian Peoples' Association in Guyana
French Guiana: Federación de Organizaciones Indígenas de Guyana Francesa - FOAG
Paraguay: Organización del Pueblo Guaraní, Federación por la Autodeterminación de los Pueblos Indígenas - FAPI
Perú: CHIRAPAQ Centro de Culturas Indígenas del Perú, Organización Nacional de Mujeres Indígenas Andinas y Amazónicas del Perú - ONAMIAP
Surinam: Organización Indígena de Surinam - OIS
Uruguay: Consejo de la Nación Charrúa
Venezuela: Red de Mujeres Indígenas Wayuu, Consejo Nacional Indio de Venezuela - CONIVE

HOW CAN YOU PARTICIPATE?
ECMIA membership is for national organizations of indigenous women and youth, mixed indigenous national organizations, and regional indigenous organizations that work with commitment on issues pertaining to indigenous women and youth and their advancement.

You may contact the Continental Network of Indigenous Women of the Americas:

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