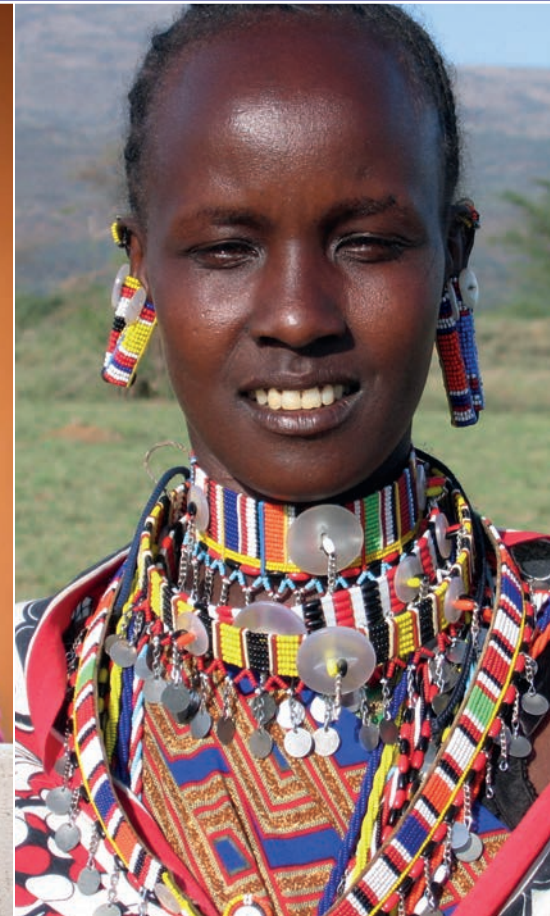




Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women



A call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America



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May 2013

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Cover Images

Local symbol: traditional embroidery made in the department of Sololá, in the highlands of Guatemala, home to descendants of the Mayan culture

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Acknowledgements

Advisory Panel

This research was initiated and executed under the guidance of an inter-agency technical panel consisting of staff from five United Nations entities. They were: the United Nations Children's Fund (UNICEF) (Beatrice Duncan, Clara Sommarin, Nicola Brandt and Anne Daher Aden); the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) (Claudia Briones); the United Nations Population Fund (UNFPA) (Alfonso Barragues and Sonia Martinelli-Heckadon); the International Labour Organization (ILO) (Albert Barume); and the Office of the Special Representative of the Secretary-General on Violence against Children (Cecilia Anicama).

Supervision and Technical Direction

The process was managed by the Human Rights Unit of the Gender and Rights Section of UNICEF's Programme Division (Beatrice Duncan with support from Nicola Brandt) in partnership with the Child Protection and Adolescent Development and Participation sections. Emily Krasnor, a consultant working with the Gender and Rights Section, provided invaluable support.

High-Level Support

The team benefitted tremendously from the professional experience, commitment and support of Marta Santos Pais, the Special Representative of the United Nations Secretary-General on Violence against Children, and from the wisdom of the United Nations Permanent Forum on Indigenous Issues (UNPFII) under the leadership of its immediate past chairman, Grand Chief Edward John, and the International Indigenous Women's Forum under the leadership of its Executive Director Otilia Lux de Coti. Special thanks are extended to Chandra Roy-Henriksen, Arturo Requesens and Mirian Masaquiza of the UNPFII Secretariat for facilitating this much-needed partnership with the Forum.

Peer Reviews

The team is highly appreciative of the insights and fresh perspectives availed by two internationally renowned experts in the field of gender-based violence, namely Rashida Manjoo, the United Nations Special Rapporteur on violence against women, its causes and consequences, and Blanca Blanco, the Country Director of Trocaire Guatemala.

Technical Reviews

We thank colleagues who commented on various drafts of the report. They were: UNICEF (Guatemala: Ivan Yerovi, Magda Medina, Justo Solorzano and Christian Skoog; Americas and the Caribbean Regional Office: Enrique Delamonica and Victoria Colamarco; Kenya: Brendan Ross; West and Central Africa Regional Office: Joachim Theis; East Asia and the Pacific Regional Office: Diane Swales and Amalee McCoy; the Philippines: Sarah Norton-Staal; India: Kanchan Dyuti Maiti; New York: Cody Donahue and Gabriel Vockel) and Claudia Cappa and Nicole Petrowski of the UNICEF Statistics and Monitoring Section who extended timely statistical support; UN Women (Guatemala: Teresa Zapeta; the Philippines: Aida Jean Manipon); UNFPA (Regional Office for Latin America and the Caribbean: Ana Elena Badilla and Vicky Camacho; Asia and the Pacific Regional Office: Anne Harmer; Guatemala: Leonor Calderón and Ana Luisa Rivas; the Republic of Congo: David Lawson; the Philippines: Ugo Daniels; Bolivia: Jaime Nadal and Mónica Yaksic; Colombia: Tania Patriota and Esmeralda Ruiz; Ecuador: Jorge Parra; Mexico: Alfonso Sandoval and Maria Jose Gomez; New York: Azza Karam and Upala Devi); and the Office of the Special Representative of the Secretary-General on Violence against Children (Joost Kooijmans).

Leadership

The report's lead consultant and former chairperson of the UNPFII, Victoria Tauli-Corpuz, provided remarkable leadership and guidance in setting the frame of the research.

Research Team

We extend particular appreciation to the research team: Naomi Kipuri (Africa, Kenya and Latin America); Rebeca Rios-Kohn and Leah Enkiwe-Abayao (Asia Pacific); Emily Krasnor, Jerry Bangcawayan, Ana Diaz, Tala Aurora, Salinas Ramos and Arvin Manuel Villalon (the Philippines); and Aracely Martinez and Cecilia Umul (Guatemala). In Guatemala, Alejandra Colom of the Population Council provided crucial assistance.

A pool of research assistants provided much-appreciated support in the development process of this report: Jessica Thomas, Julie DeLuca, Sonia Dias, Dinah Adiko, Alice Wu, Victoria Mattiuzzo, Young Won Kim, Alexis Newton and Olivia Rosen.

Editorial Team

The team thanks Beatrice Duncan, Nicola Brandt, Scott Fontaine, Claudia Briones and Young Won Kim.

Senior-Level Support

Senior-level support and guidance from various agencies ensured the successful completion of this report. UNICEF: Anju Malhotra, Judith Diers, Susana Sottoli and Christian Salazar provided critical support. The support and assistance received from Richard Morgan and Rina Gill at the inception stage are highly appreciated. For the passion and energy from UN Women: Riet Groenen; UNFPA: Aminata Touré, as well as from Luis Mora and Abubakar Dungus; ILO: Jane Hodges and Raphael Crowe.

Administrative Support

Kassech Alley, Kathy Dang and Bahula Boring of UNICEF provided much-needed administrative support.

Production and Distribution

Design by Kavita Graphics
Printed by GSB DIGITAL

Foreword

The United Nations Declaration on the Rights of Indigenous Peoples includes Article 22, which ensures that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination. At the time of negotiating this provision, the drafters knew that the contexts in which many indigenous women and girls live place them at risk of violence.

Even before the adoption of the declaration in 2007, the United Nations Permanent Forum on Indigenous Issues (UNPFII) had at its Fifth Session in 2006 recommended to United Nations organizations and States to provide comprehensive reports on violence against indigenous women and girls, particularly sexual violence and violence in settings of armed conflict.

This study responds to that call. It finds that violence against these groups must be understood within the broader contexts of indigenous peoples' historic and continuing marginalization and discrimination, violations of their collective and individual rights, displacement, extreme poverty and often-limited access to culturally appropriate basic services and justice – a finding that is consistent with the views of the UNPFII and the International Indigenous Women's Forum.

However, in all societies there are practices to keep, practices to change and practices to reconsider. While indigenous peoples continue to value and perpetuate their culture and way of life, we should not be exempt from this type of reflection. We hope this report will trigger change so that indigenous communities – women, men, girls and boys – can play their role in guaranteeing a life free from violence and discrimination for indigenous girls, adolescents and young women.

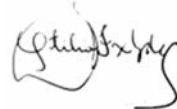
As the study exposes gaps in research and data collection in regard to violence against these groups, it is the collective responsibility of States, indigenous

peoples, civil society organizations and United Nations agencies, funds, programmes and special mandate holders to further examine and assess their real experiences in order to effectively focus interventions and strengthen protective factors that work to prevent and reduce the likelihood of violence.

To truly realize the rights of indigenous girls, adolescents and young women, there must be a positive and cooperative environment for their promotion and protection. It is our hope that this study will catalyse action so that together we will not only declare that violence is unacceptable but also make its prevention and elimination a living reality.



Grand Chief Edward John,
*Chairperson United Nations
Permanent Forum on Indigenous Issues*



Otilia Lux de Coti
*Executive Director, International
Indigenous Women's Forum*

Special Message

Freedom from violence is a fundamental right of children that each country has committed to uphold. Indeed, the Convention on the Rights of the Child, its three Optional Protocols, and the Convention on the Elimination of All Forms of Discrimination against Women, widely ratified by countries in all regions, provide a sound normative foundation to prevent and address all forms of violence against indigenous girls and boys. Other international human rights standards, such as the ILO's Indigenous and Tribal Peoples Convention No. 169 and Child Labour Conventions Nos. 138 and 182, and the United Nations Declaration on the Rights of Indigenous Peoples complement this important international framework for the protection of the rights of indigenous children.

Guided by these international instruments, the United Nations Permanent Forum on Indigenous Issues and other United Nations human rights mechanisms, including the Special Rapporteur on the rights of indigenous peoples, the Special Rapporteur on violence against women, its causes and consequences, and my own mandate as Special Representative of the United Nations Secretary-General on Violence against Children, act as global advocates for the protection of indigenous children from violence, whichever its manifestations may be and wherever these incidents may occur.

The emergence of a strong normative framework for the protection of the rights of indigenous children opens avenues for a rich process of national implementation for achieving steady progress. Yet, as the present study reveals, the challenges faced by indigenous girls, adolescents and young women remain serious and widespread. Due to gender inequality and the traditional status of women in and outside of indigenous communities, they continue to face neglect, sexual abuse and exploitation, human trafficking, forced and bonded labour, other slave-like practices and harmful practices.

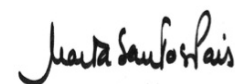
Violence contributes to trauma, low self-esteem, poor health and poor school performance, and is often associated with the high incidence of depression, alcohol

and drug abuse, self-harm and suicide. It prevents young people from developing to their full potential, from participating as equal and active members in society, and from playing a leading role in the transmission of ancestral knowledge, culture, identity and language on an equal footing with their male counterparts as noted in this study.

This situation is however not inevitable as it can in fact be effectively prevented. As I have highlighted in my own reports, one fundamental component of national efforts for violence prevention and for the effective protection of children, including indigenous girls and adolescents, is the enactment of legislation that explicitly prohibits all forms of violence in all contexts, supported by safe and child-sensitive counselling, reporting and complaint mechanisms that children can access when incidents of violence occur. Recognizing the special needs of indigenous girls and boys, mechanisms must not only be child-sensitive, but also culturally-sensitive in order to take ethnicity and cultural diversity into account, and prevent any form of

discrimination and prejudice. This is a priority concern underscored by the United Nations Secretary-General's Study on violence against children, and is also a constant request children convey.

This new report, *Breaking the silence on violence against indigenous girls, adolescents and young women: a call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America*, is a thoughtful contribution to the global agenda to prevent and eliminate violence against indigenous girls, adolescents and young women. It offers valuable insights, positive experiences and comprehensive recommendations, including a set of guiding principles to accelerate progress and inspire further debate and innovative action to protect girls and women from violence in all its forms and in all contexts where incidents may occur. I am confident that the report will serve as an inspiring reference for consolidating sustainable achievements and building a world where the rights of indigenous children are effectively safeguarded and protection from violence is a reality for all.



Marta Santos Pais,
Special Representative of the United Nations Secretary-General on Violence against Children

Preface

This study offers a unique opportunity to rally behind the UNiTE to End Violence against Women Campaign of the United Nations Secretary-General and to remain steadfast to the recommendations of his two 2006 global studies on violence against children and violence against women.

This results bring into sharp focus the pervasive nature of violence and its nexus with other human rights concerns, such as the right to be protected from discrimination, justice, education and health, including sexual and reproductive health. It furthermore underscores the inextricable association between the vulnerability to violence suffered by indigenous girls, adolescents and young women and the broader contexts of historical and continuing marginalization and discrimination of many indigenous peoples.

It has long been recognized and recently reinforced in the United Nations General Assembly Resolution detailing the Quadrennial Comprehensive Policy Review (2012) that gender equality is a fundamental element in the achievement of sustained and inclusive economic growth, poverty eradication and sustainable development. Advancing the rights of girls, adolescents and young

women is therefore pivotal to achieving these objectives.

In this respect, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the United Nations Declaration on the Rights of Indigenous Peoples cannot be meaningfully implemented unless efforts are strengthened to guarantee that indigenous girls, adolescents and young women enjoy the full realization of their rights and are free from violence and the culture of impunity around which it revolves. As a first step, limitations and challenges posed by the lack of comprehensive data disaggregated by age, sex, location and ethnic status must be urgently addressed as a means to tackling the invisibility of the hardships endured by these groups.

By creating awareness of the severity and unique characteristics of the contexts

within which violence against indigenous girls, adolescents and young women take place, this study aims to provide its target audience (governments, indigenous communities, civil society organizations, bilateral organizations and the United Nations system, including United Nations funds, programmes, special procedures and mechanisms and regional commissions) with a useful tool for designing sustainable and appropriate interventions to prevent and respond to violence.

Looking ahead, it is critical that the findings and recommendations of this study are integrated into discussions and outcomes of on-going global agenda-setting processes, including the 2014 World Conference on Indigenous Peoples, the International Conference on Population and Development Beyond 2014 review process and the Post-2015 Development Agenda.



I. Purpose and objectives

This study is in response to a call made by the United Nations Permanent Forum on Indigenous Issues (UNPFII) to United Nations agencies to contribute to the state of knowledge on violence against indigenous girls, female adolescents and young women (referred more briefly to as 'indigenous girls and women'). It builds on the United Nations Secretary-General's study on violence against children, his in-depth study on all forms of violence against women and his report on the status of implementation of the Convention on the Rights of the Child (CRC), with a focus on the rights of indigenous children. It also draws upon the International Indigenous Women's Forum's companion report to his in-depth study on violence against women, *Mairin Iwanka Raya*.¹ The Secretary-General's three reports reaffirm the UNPFII's concerns of the urgent need to improve data collection and information systems for informing policy and programming, and tracking progress towards the goals of preventing and punishing violence.

Given data limitations, the study is not intended to be exhaustive, conclusive or comprehensive. Instead, it aims to be illustrative of documented evidence revolving around three main areas of investigation, namely:

- (1) The interface between the historical, political, economic, social and cultural contexts of indigenous peoples, including the structural, underlying causes and risk factors associated with violence against indigenous girls and women;
- (2) The different manifestations of violence documented against these groups in different settings, with an emphasis on domestic, community and health (including sexual and reproductive health) in the regions under study; and
- (3) On-going national level initiatives in the fields of prevention, protection and response to violence and the challenges associated with their implementation.

The study represents the first attempt at providing a broad overview of the existing evidence on violence against

indigenous girls and women and reflects an urgent desire by the initiating partners to contribute to the accelerated implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the CRC, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and other relevant instruments.

II. Scope, methods, sources, opportunities and limitations

The study was undertaken through a systematic desk review of quantitative and qualitative sources spanning between 2000 and 2013 to reflect the period from when a substantial number of relevant studies and surveys were initiated.

Country reports of Demographic and Health Surveys (DHS), Multiple Indicator Cluster Surveys (MICS) and Child Labour Surveys (CLS) undertaken through the ILO/International Programme on the Elimination of Child Labour (IPEC) Statistical Information and Monitoring Programme on Child

Labour (SIMPOC) were used to assess and collate information on various forms of violence affecting indigenous girls and women.² Qualitative sources included the information databases of the UNPFII, the United Nations Secretary-General's UNiTE to End Violence against Women Campaign, United Nations agencies, academic institutions, reports of Member States and civil society organizations to treaty bodies (in particular the Committee on the Rights of the Child (CRC Committee), the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) and their concluding observations and recommendations) and the Universal Periodic Review (UPR), reports of United Nations special procedures and mechanisms, ILO supervisory bodies, and regional and national human rights institutions.

As the findings of the study will be used to inform policy, planning and implementation at country level, it was necessary to ensure that the geographical focus reflects a blend of low- and middle-income contexts pertinent to the development objectives of the United Nations partners involved in this study.

This decision was strengthened by a review of national Millennium Development Goals reports undertaken by the UNPFII on countries based in Africa, Latin America and Asia Pacific regions that highlight significant gaps in data on the development concerns and priorities of indigenous peoples.³

Regional perspectives were balanced with country perspectives on some specific forms of violence for in-depth study. The selection was based on the criteria of availability of information on a specific form of violence and evidence of on-going initiatives to address that specific form of violence in three countries. On that basis, Kenya was selected as a case study in the Africa region given available evidence on the prevalence of female genital mutilation/cutting (FGM/C) among indigenous communities and promising legislative developments in this field. For Latin America, Guatemala was selected for the study to benefit from its widely documented experience as a post-conflict country and on-going legislative and institutional reforms aimed at addressing issues such as femicide and sexual violence among indigenous women and girls. Finally, the Philippines

represents the Asia Pacific in terms of the involvement of girls and adolescents in armed conflict in the predominantly indigenous area of Mindanao and accompanying initiatives to address this situation.

The study adopts United Nations standard definitions and concepts. It is for example, informed by the prevailing view within the international community that no formal definition of indigenous peoples is necessary and is underpinned by the fundamental subjective criterion of self-identification and the objective characteristics of 1) distinct social, cultural and economic conditions, and 2) descent from populations which originally inhabited the country prior to colonization.⁴

For guidance on referencing people who identify themselves as indigenous, the study relies on the UNPFII's *State of the World's Indigenous Peoples* (2009), the International Working Group for Indigenous Affairs' annual publication *The Indigenous World* and Minority Rights Group International's *World Directory of Minorities and Indigenous Peoples*.

The study encountered some limitations as well as opportunities: As the selection of DHS modules and reporting on the outcomes by ethnicity are at the discretion of governments concerned, the study could not benefit from the richness of what such data potentially affords. Furthermore, MICS and DHS are designed for assessing the prevalence of some forms of violence (e.g., FGM/C and child marriage) and not others (e.g., human trafficking). Additionally, although the ethnic background of respondents or household head is taken into account in both surveys, the scattered nature and small sizes of indigenous populations in some countries do not allow for significant sampling.



Conversely, significant sampling is possible in countries where indigenous peoples are concentrated in specific geographical areas given that the majority of DHS and MICS collect and report on data by location in addition to other characteristics such as sex and age. Such demographic advantages exist in the case of Bolivia (Plurinational State of), India, Kenya and the Philippines from where DHS data (2008, 2005-2006, 2008-2009 and 2008, respectively) progressively capture information pertaining to indigenous peoples by location. To a more limited extent, similar observations may also be made with respect to the MICS of the Lao People's Democratic Republic (2006) and Viet Nam (2011). The review also found that the additional step taken by India, Kenya and Viet Nam to specifically disaggregate some if not all of their survey findings by ethnicity enhances specificity in analysing the situation of indigenous populations in those countries.

As far as qualitative sources are concerned, the review found these to be patchy and scattered, spanning across a number of categories such as those which deal with violence against women and children in general, in which are some references to indigenous girls and young women.

III. Key findings

1. Manifestations of violence globally

Violence against women and girls is a pervasive violation of human rights that persists in every country in the world and cuts across all socio-economic groups. Having its roots in historical and structural inequality in power relations between males and females, it is characterized by the use and abuse of power and control in public and private spheres, and is intrinsically linked to

gender stereotypes that underlie and perpetuate such violence, as well as other factors that can increase women's and girls' vulnerability to such violence.⁵

Its dimensions include physical, sexual and psychological/emotional violence in the family and community, as well as such violence perpetrated or condoned by the State. Specific forms and manifestations include domestic violence, child marriage, forced pregnancy, honour crimes, FGM/C, femicide, non-partner sexual violence and exploitation, sexual harassment, trafficking and violence in conflict situations.⁶

Although efforts are being harnessed to address the situation, more remains to be done. In the case of FGM/C, for instance, prevalence in the 29 countries in Africa and the Middle East where the practice is concentrated, has declined from an estimated 53 per cent of women aged 45-49 being cut to an average of 36 per cent of adolescents and young women aged 15-19 being cut, but this is still a significant proportion of the young generation going through FGM/C.⁷ Similarly, despite near-universal commitments to end child marriage, one third of all girls in developing countries (excluding China) are likely to be married before age 18, and one out of nine will be married before they reach age 15 years. Most of these girls are poor, less-educated and live in rural areas.⁸

Over 67 million women aged 20-24 years old in 2010 had been married as girls. Half were in Asia, and one fifth in Africa. In the next decade, 14.2 million girls below the age of 18 will be married every year, and this is expected to rise to an average of 15.1 million girls a year from 2021 if present trends continue.⁹ Furthermore, girls, adolescents and young women are at risk of HIV/AIDS when unable to negotiate safe sex, especially in situations of child marriage

and sexual violence.¹⁰ Worldwide, one third of all new HIV cases involve young people aged 15-24, and adolescent girls are at far greater risk of contracting HIV than boys.¹¹

The hidden and clandestine nature of some forms of violence manifest place some girls and adolescents beyond detection and available protective mechanisms. Twenty-seven per cent of all victims of human trafficking detected globally are children; of these child victims, two thirds are girls.¹² While the gender and age profile of victims varies by region, the number of girls who were trafficked and detected increased from 2007 to 2010, during which time they accounted for 15-20 per cent of the total number of victims.¹³ Of the estimated 15.5 million children worldwide engaged in domestic work – considered the largest category of child labour – the majority are girls who are easily isolated and have little protection or social support, thus making them vulnerable to physical and sexual assault when performing work within the household.¹⁴

Acceptance of these forms of violence and others, along with the corresponding lack of accountability and impunity, reflect discriminatory norms that reinforce a lower status accorded to girls and women in society, particularly when the majority of cases go unreported and consequently remain concealed and unaddressed.

2. The context of indigenous girls, adolescents and young women

Violence against indigenous girls and women cannot be separated from the wider contexts of discrimination and exclusion to which indigenous peoples as a whole are often exposed in social, economic, cultural and political life.¹⁵ Challenges – such as land dispossession, conflict, insecurity, displacement, low

rates of birth registration, limited access to culturally appropriate education and health services (including sexual and reproductive health), the lack of access to justice and other essential services, including social services – create conditions affecting their development, human security and the exercise of their human rights. Indigenous girls and women are also at risk of violence in communities where intra-communal and inter-communal conflicts have arisen, as well as in those communities that conform to deeply-rooted patriarchal systems and practices that relegate women and girls to subordinate roles and positions in society.¹⁶

3. Manifestations of violence against indigenous girls, adolescents and young women documented to date: Examples from Africa, Asia Pacific and Latin America

While there is a growing body of evidence on the magnitude, nature and consequences of gender-based violence globally, knowledge of its extent among specific groups such as those of indigenous background is limited and tends to vary considerably by issue and region. By relying on existing literature, the study presents illustrations of manifestations of violence which have been documented to date against the groups in the regions under study and to this extent focuses on four areas of violence, namely: (1) domestic violence; (2) harmful practices; (3) economic exploitation, sexual abuse and sexual exploitation; (4) and gender-based violence in situations of armed violence, insecurity and communal conflicts.

Domestic violence

Findings from the DHS of Bolivia (Plurinational State of) (2008) and India (2005-2006) point to a mix of results in reference to some specific forms of

violence against indigenous girls and women including how their prevalence rates compare with the rest of the population.

For example, the Plurinational State of Bolivia is a country where an estimated 62 per cent of the population is indigenous; its departments of Chuquisaca, Cochabamba, La Paz, Potosí and Oruro have the highest concentration of indigenous peoples.¹⁷ DHS data show that Potosi records the highest prevalence of ever-married girls and women aged 15-49 reporting physical or sexual violence by a current or former partner (29 per cent) compared to the national average of 24 per cent. In relation to psychological violence by a current or former partner, however, Chuquisaca records the same prevalence as the national average (38 per cent) and is lower than Santa Cruz, a more cosmopolitan department which records a prevalence rate of 41 per cent.¹⁸

In India, the proportion of the population belonging to Scheduled Tribes is high in all north-eastern states where households belonging to Scheduled Tribes comprise the majority in Mizoram (95 per cent), Nagaland (89 per cent), Meghalaya (86 per cent) and Arunachal Pradesh (64 per cent). The DHS of India finds that 47 per cent of ever-married girls and women aged 15-49 belonging to Scheduled Tribes have experienced emotional, physical or sexual violence committed by their husband, compared to 40 per cent of the total population.¹⁹ Furthermore, 16 per cent of ever-married girls and women aged 15-49 identified as Scheduled Tribes report that their husband has displayed three or more 'control behaviours', compared to 12 per cent of the total population.²⁰ Furthermore the predominantly indigenous state of Arunachal Pradesh has the highest percentage of ever-married girls and women aged 15-49 who have ever

experienced different forms of spousal violence: physical or sexual (39 per cent) violence and emotional, physical or sexual (43 per cent) violence and ranks higher than the experience of girls and women of the same age in the total population – at 37 per cent and 40 per cent, respectively.²¹

Harmful practices

In plural legal systems, the simultaneous existence and operation of national legislation, customary and/or religious laws often lead to tensions and complications in the implementation of the rights of women and girls.²² This situation is particularly evident in attempts to eliminate harmful practices, which often persist because of traditional norms. Harmful practices prevail in many countries around the world, ranging from lesser-known practices such as nutritional taboos to the more commonly known practices of FGM/C, child marriage and prenatal sex selection.²³ In this research, the area found to be most extensively documented in relation to the study groups was child marriage and to a lesser extent FGM/C, both of which have other violence-related and attendant reproductive health consequences.

The Global Campaign to Stop Violence against Women finds that child marriage in the indigenous-dominated Autonomous Region of Muslim Mindanao (ARMM) of the Philippines is largely influenced by Article 16 of the Muslim Code, which sets the minimum age of marriage of both males and females at 15 years and also confers powers on sharia district courts to sanction the marriage of a girl who has attained puberty.²⁴ A total of 593 respondents from five provinces in ARMM who were younger than 18 at marriage when surveyed by Nisa Ul-Haqq Fi Bangsamoro showed that 83 per cent were aged 15-17, while 17 per cent were



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aged 9-14. The ages of the respondents' husbands ranged between 11-59 years, and 57 per cent were between 17 and 21 at the time of marriage.²⁵

The ARMM also has the lowest median age at first marriage and the lowest median age at first sexual intercourse (both 19 years) among women aged 25-29, compared to 22 and 21 years respectively for the country's general population.²⁶ Other related reproductive health data on ARMM include the region having the:

- *Lowest* percentage of girls and women aged 15-49 receiving antenatal care from a skilled provider (47 per cent), compared to 91 per cent of the total population;
- *Highest* likelihood of women aged 20-49 delivering their babies at home (85 per cent, compared to 56 per cent of the total population) and less likely in a health facility (15 per cent, compared to 44 per cent of the total population); and the
- *Lowest* median duration of schooling (4 years for women and 3 years for men, compared to 7 and 6 years, respectively, for the total population)

based on *de facto* household population.²⁷

The CRC Committee expressed concern at the continued practice of child marriage among indigenous girls in the Lao People's Democratic Republic. It found that the country's lack of an effective statistical database to monitor the Family Act of 1990 – the legislation that prohibits child marriage – impedes the law's implementation.²⁸

In Kenya, where early marriage and FGM/C are intertwined, the latter practice remains far more prevalent among the Somali (98 per cent), the Kisii (96 per cent) and the Maasai (73 per cent) indigenous populations than among other groups, although previous and current DHS data (1998, 2003 and 2008-2009) show a steady decline of national prevalence (38 per cent, 32 per cent and 27 per cent respectively).²⁹

Economic exploitation, sexual abuse and sexual exploitation

The review finds limited references to indigenous girls and women in the expanding research on the various

dimensions of economic exploitation, sexual abuse and sexual exploitation which are issues of concern in the three regions. Within the broad array of literature, the study finds that disaggregation by both sex and ethnicity are rare and references to indigenous girls and adolescents in particular, are made to sectors which engage young people in bonded labour, forced labour, domestic labour and human trafficking in which they are also at risk of being sold.

Despite a steady overall decline in child labour in Latin America, it remains a serious concern among indigenous peoples.³⁰ The Bolivia National Statistics Institute and ILO/IPEC finds that participation rates of male and female indigenous children and adolescents in hazardous employment is more pronounced compared to their non-indigenous counterparts in both urban and rural areas. Based on figures for the age group of between 5-17 years it suggests that 29 per cent of male and 24 per cent of female children and adolescents of indigenous background in urban areas are in these forms of employment, compared with 16 per cent and 14 per cent of their non-indigenous peers, respectively.

At rural level, although the rates for both indigenous and non-indigenous groups increase sharply (82 per cent of males and 79 per cent of females in respect of those of indigenous background and 54 per cent and 46 per cent for those who are non-indigenous), those for the former remain significantly higher.

Furthermore, in all cases, the data shows that the participation rate of indigenous girls and adolescents is consistently higher than that of non-indigenous males, non-indigenous females and in some instances, exceeds that of indigenous boys and adolescents.³¹ (Table 1 - overleaf)

In Guatemala, an estimated 65 per cent of domestic workers are indigenous girls and adolescents belong to impoverished families who often send their young female members to towns and cities, where they work an average of 14 hours per day and are often at the risk of physical and psychological abuse and sexual harassment by employers and their family members, a situation worsened by the lack of commensurate remuneration and social security.³²

Similar situations pertain in Namibia, where the Working Group on Indigenous Populations/Communities of the African Commission on Human and Peoples' Rights learned of sexual abuse of indigenous girls in domestic work settings for which there had been police inaction even after the incidents had been reported.³³ Recruitment for domestic labour of San girls and adolescents by non-San families in Namibia is disguised as adoption, in some cases leading to trafficking to other parts of the country.³⁴

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

General insecurity facing a country or community may serve as a potential risk factor for violence, as it is often symptomatic of a breakdown of the rule of law and the systems established to prevent and respond to violence.

A 2012 Expert Group meeting of the United Nations Special Rapporteur on violence against women, its causes and

Table 1: Participation of children and adolescents in economic activities (%)

Area/Age group	Boys			Girls			National
	Non-indigenous	Indigenous	Total	Non-indigenous	Indigenous	Total	
BOLIVIA							28
Urban	16	29	18	14	24	16	17
Ages 5-13	10	20	12	9	17	11	11
5-8	4	11	5	4	9	5	5
9-11	13	16	14	11	20	13	13
12-13	20	40	23	19	21	20	21
Ages 14-17	32	41	34	25	35	28	31
14-15	27	33	28	23	37	27	28
16-17	37	47	40	28	33	29	34
Rural	54	82	67	46	79	62	65
Ages 5-13	46	78	61	42	75	58	60
5-8	30	64	44	30	63	44	44
9-11	61	86	74	55	81	68	71
12-13	70	88	80	50	86	70	76
Ages 14-17	74	93	83	59	90	75	79
14-15	81	96	89	58	85	71	80
16-17	69	89	78	60	94	79	79

Source: Organización Internacional del Trabajo, Instituto Nacional de Estadística de Bolivia. *Magnitud y Características del Trabajo Infantil en Bolivia – Informe nacional*, La Paz, 2010, p. 95. Table 6.1.

consequences found that gender-motivated killings or femicides emerging from the contexts of insecurity in Latin America was particularly critical for indigenous women and girls.³⁵ Indigenous women and girls have been victims of gender-based violence in conflicts such as those of Colombia, Guatemala, Mexico, Nicaragua and Peru.³⁶ The Rapporteur on the rights of women of the Inter-American Commission on Human Rights notes that the situation of indigenous women and girls is particularly critical in the context of armed conflict, given that they are already exposed to multiple forms of discrimination on the basis of race, age ethnicity and sex in their family, community and wider social settings.³⁷ During a visit to Colombia, the Rapporteur received complaints about the use of indigenous women and girls as ‘spoils of war’ by armed actors and verified that they had often been victims of sexual violence perpetrated by these groups. She further received reports that armed groups occupying indigenous lands “had kidnapped indigenous women, collectively used them sexually, and abandoned them with impunity,” while young girls were also forced to perform domestic duties.³⁸

Primarily as a result of public and private entities’ expropriation of lands – and the ensuing resistance from indigenous communities – over the past decade, many countries in the Asia Pacific region such as Fiji, India, Myanmar, Nepal, the Philippines, Thailand and Timor-Leste have witnessed increased armed conflict, political instability and militarization, leading to insecure environments for indigenous women and girls as a whole.³⁹ The United Nations Special Rapporteur on the rights of indigenous peoples specifically documents evidence of numerous cases of gang-rape, sexual enslavement and killing of tribal women and girls involving parties to conflicts in a number of countries and was

concerned that these acts had not been investigated and prosecuted.⁴⁰

Situations of inter-communal and intra-communal conflicts involving indigenous communities in Africa appear much more documented in contrast to other forms of conflict. Such conflicts have been common among and between the Pokot, Turkana, Marakwet and Samburu of Kenya over issues such as diminishing water resources for animal grazing and worsening climatic conditions, leading to competing access for land.⁴¹ Cross-border conflicts have also erupted between pastoralist communities located along border lands linking Kenya (Turkana and Pokot), South Sudan (Topsa) and Uganda (Karimojong).⁴² Another source notes long standing and prevalent inter-clan and inter-ethnic conflicts between the Gurgura and Issa clans located in the Erer district of Ethiopia’s Somali region for the same afore-mentioned reasons and resulting in similar consequences for women and girls.⁴³

Identical contexts and situations have emerged among the Tuareg, Bororo, Wodaabe and the Toubou pastoralists of Niger; the Basarwa of Botswana; the Bagyéli of Cameroon; the Twa of

Burundi, Rwanda and Uganda; and the Twa, Bongo and Mbendjele of the Republic of Congo.⁴⁴ Previously dealt with through traditional dispute mechanisms, such conflicts have assumed fatal dimensions for men, women and children, particularly within the context of the proliferation of accessible small arms, high-powered and other assorted assault rifles in some of these areas.⁴⁵

4. What are the gaps in knowledge?

Critical gaps in research identified in this study potentially serve to shape a future research agenda. The study elicits more in-depth appreciation of two major areas, namely: 1) the full extent to which indigenous women and girls are affected by the different forms of violence identified in this research (i.e., domestic violence, harmful practices, economic exploitation, sexual abuse and sexual exploitation, and gender-based violence in situations of armed violence, insecurity and communal conflicts) and others documented in the United Nations Secretary-General’s studies on violence against women and violence



against children. Additionally, attention should be paid to different forms of intersecting inequalities as reflected in the experiences of indigenous girls and women with disabilities and those located in rural areas. The research should be undertaken from the perspective of different settings (e.g., domestic, education, employment, care and justice institutions and the community at large); and 2) effective strategies for preventing and responding to violence against indigenous girls and women, including documenting lessons learned and assessing the impact of existing legal, policy and institutional reforms. A research agenda must furthermore take into account identified gaps in data by region. For example, data on the situation of indigenous communities in Africa is commonly lacking, suggesting a need for technical assistance to address the paucity of data in that region.

5. On-going national level interventions to address violence against indigenous girls and young women and the challenges in implementation

The study presents an overview of on-going prevention, protection and response efforts to address violence against indigenous girls and women. They include selected constitutional, legislative and institutional reforms, to strengthen the protective environment for indigenous girls and women, as well as efforts to prevent and respond to such violence. While some of these efforts appear promising, gaps such as those relating to limited capacities of implementing agencies to fulfil their mandates persist. In particular, there has been limited success in addressing obstacles related to factors such as language barriers, lack of confidentiality in procedures for reporting of abuse, geographic remoteness of indigenous

territories, patriarchal and discriminatory attitudes of service providers, law enforcement and judicial personnel, the culture of impunity and limited awareness of the rights of indigenous peoples in general and women and girls in particular. The study establishes that interventions needed to address violence against indigenous girls and women cannot be separated from broader initiatives with respect to women and girls in general, and that efforts are needed to ensure that the interests and rights of indigenous girls and women are taken into consideration when implementing such broader violence prevention and response strategies.

6. Proposed actions moving forward

The study concludes with a set of 6 principles and 10 recommendations that complement and reinforce those of national, regional and global human rights systems, the UNPFII and the Fifty-seventh Session of the Commission on the Status of Women of 2013, which was held on theme ‘Elimination and prevention of all forms of violence against women and girls.’

The proposed recommendations of this study are to be adapted to suit specific country and regional contexts. They call for (1) enhancing efforts at data collection and analysis to address the ‘statistical silence’ around violence against indigenous girls and women by ensuring that data from national household surveys such as DHS, MICS and CLS are fully analysed and reported by ethnicity. A research agenda must take into account the prominent gaps in data on specific issues by region and in particular the extremely thin information

on indigenous girls and women in the Africa region; (2) addressing the structural, underlying and risk factors that lead to violence against these groups. These factors include poverty, exclusion and limited access to quality services such as education, health (including reproductive health), justice services, social welfare services, birth registration, the elimination of *de facto* and *de jure* discrimination and discriminatory attitudes towards indigenous peoples in general, patriarchal and stereotyped notions of the inferior status of indigenous girls and women in both indigenous and non-indigenous settings, and gaps in customary, religious and statutory laws related to the minimum age of marriage; (3) tackling impunity and the lack of redress and enforcement through strengthening of laws, and promoting values and practices of indigenous communities which serve as positive protective factors against violence; (4) improving social welfare services and complaints and reporting mechanisms such as helplines by ensuring that they are accessible, appropriately resourced, and age, gender and culturally appropriate; (5) increasing resource allocation, capacities and coordination in policy implementation among agencies responsible for promoting and protecting the rights of indigenous girls and women; and (6) making visible and integrating the study findings into on-going global processes such as the 2014 World Conference on Indigenous Peoples, the International Conference on Population and Development Beyond 2014 review process and the Post-2015 Development Agenda.

Section I

Background

1.1 Introduction

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted in 2007 marked a watershed in the history of indigenous peoples. It called for actions to address the common experiences of discrimination and exclusion faced by the estimated 370 million indigenous peoples across 90 countries.⁴⁶ In particular, Article 22 of the UNDRIP calls on States “to take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.”

To this effect, the United Nations Permanent Forum on Indigenous Issues (UNPFII) held its annual International Expert Group meeting in 2012 on the theme of ‘Combating violence against indigenous women and girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples.’⁴⁷ The meeting sought to address the deficit in quantitative and qualitative information on the nature, causes and extent of violence against indigenous women and girls as well as its impact on the full realization of their rights.

In support of this effort, and in response to a recommendation of the Forum at its Fifth session in 2006 (Box 1.1), the United Nations Children’s Fund (UNICEF), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Population Fund (UNFPA), the International Labour Organization (ILO) and the Office of the Special Representative of the Secretary-General on Violence against Children agreed to support a literature review of existing information on violence against indigenous girls, female adolescents and young women (referred more briefly to as ‘indigenous girls and women’) as a basis for future in-depth research.

Box: 1.1 UNPFII Fifth Session recommendation to United Nations agencies

“The Permanent Forum recommends that appropriate United Nations organizations, including the United Nations Development Fund for Women (UNIFEM)⁴⁸ and the United Nations Children’s Fund (UNICEF), as well as States, take immediate action to review and monitor the situation of indigenous women and provide comprehensive reports on violence against indigenous women and girls, particularly sexual violence and violence in the context of armed conflict. Indigenous women must be full participants in this process.”

Source: Report of the Fifth Session (15-26 May 2006)

By focusing on these groups, the study makes an important contribution to the existing state of knowledge on violence against women and girls as a whole. It furthermore presents a timely opportunity to inform on-going development and human rights agenda settings such as the 2014 World Conference on Indigenous Peoples, the International Conference on Population

and Development (ICPD) Beyond 2014 review process and the Post-2015 Development Agenda, all of which place issues of inequality, discrimination and exclusion at the core of their objectives.⁴⁹

1.2 Research objectives

This study represents the first attempt at consolidating existing evidence on violence against indigenous girls and women. It reflects an urgent desire by the United Nations partner agencies involved to contribute to the accelerated implementation of the UNDRIP, the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and other relevant instruments.

It complements broader initiatives of the UNPFII and related organizations on issues affecting indigenous peoples. It also builds on the United Nations Secretary-General's study on violence against children, his in-depth study on all forms of violence against women and the studies' follow-up processes (particularly as conducted by the Special Representative of the Secretary-General on Violence against Children and the Fifty-first and Fifty-seventh sessions of the Commission on the Status of Women), as well as his report on the status of the CRC, with a focus on the rights of indigenous children.⁵⁰ It is further informed by the International Indigenous Women's Forum's *Mairin Iwanka Raya*, a companion report to the Secretary-General's in-depth study on all forms of violence against women.⁵¹

These three reports of the Secretary-General reaffirm the concerns of the UNPFII of the urgent need to improve data collection and information systems in order to identify vulnerable subgroups, inform policy and programming, and track progress

towards the goals of *condemning*, *preventing* and *punishing* violence. Given the paucity of data, the study is not intended to be exhaustive, conclusive or comprehensive but rather illustrative of documented evidence revolving around three main areas of investigation, namely:

- (1) The interface between the historical, political, economic, social and cultural contexts of indigenous peoples, including the structural, underlying causes and risk factors associated with violence against indigenous girls and women;
- (2) The different manifestations of violence documented against these groups in different settings, with an emphasis on domestic, community and health (including sexual and reproductive health) in the regions under study; and
- (3) On-going national level initiatives in the fields of prevention, protection and response to violence and the challenges associated with their implementation.

1.3 Methods, sources, scope, opportunities and limitations

The study was undertaken through a systematic desk review of quantitative and qualitative sources spanning between 2000 and 2013 to reflect the period from when a substantial number of relevant studies and surveys were initiated.

Country reports of Demographic and Health Surveys (DHS), Multiple Indicator Cluster Surveys (MICS) and Child Labour Surveys (CLS) undertaken through the ILO/IPEC Statistical Information and Monitoring Programme on Child Labour (SIMPOC) were used to assess and collate information on various forms of violence affecting indigenous girls and women.⁵² MICS and DHS estimate the proportion of women who were first married by 15 and

18 years, respectively. They also collect data on attitudes towards wife-beating, the prevalence of child labour, female genital mutilation/cutting (FGM/C) and the percentage of children aged 0-5 whose births have been registered. The DHS module on domestic violence collects data on physical, sexual and emotional violence among girls and women aged 15-49, while MICS in addition collects data on child disciplinary practices. With variations in scope by country, child labour SIMPOC surveys are used to monitor different aspects of the worst forms of child labour as defined by ILO Convention 182.

Qualitative sources included the information databases of the UNPFII, the United Nations Secretary-General's UNiTE to End Violence against Women Campaign, United Nations agencies, academic institutions, reports of Member States and civil society organizations to treaty bodies (in particular the Committee on the Rights of the Child (CRC Committee), the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) and their concluding observations and recommendations), the Universal Periodic Review (UPR), reports of United Nations special procedures and mechanisms, ILO supervisory bodies, and regional and national human rights institutions.

As the findings of the study will be used to inform policy, planning and implementation at country level, it was necessary to ensure that the geographical focus reflects a blend of low- and middle-income contexts pertinent to the development objectives of the United Nations partners involved in this study. This decision was strengthened by a review of national Millennium Development Goals reports undertaken by the UNPFII on countries based in Africa, Latin America and Asia Pacific



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regions that highlight significant gaps in data on the development concerns and priorities of indigenous peoples.⁵³ A preliminary review of the literature on violence against indigenous women and girls also undertaken prior to this research found that most countries in these regions (with the exception of Australia and New Zealand in the Pacific) are under-researched in comparison with Europe and North America, where data on indigenous women and girls tend to be comparatively available.

Regional perspectives were balanced with country perspectives on some specific forms of violence for in-depth study. Two criteria were used to select one country per region for in-depth study on one specific form of violence: the availability of information that captures a specific form of violence against either one or more of the groups under study and evidence of on-going initiatives to address that specific form of violence. On that basis, Kenya was selected as a case study in the Africa region given available evidence on the prevalence of FGM/C among indigenous communities and promising legislative developments in

this field. For Latin America, Guatemala was selected to highlight its widely documented experience as a post-conflict country and on-going legislative and institutional reforms aimed at addressing issues such as femicide and sexual violence among indigenous women and girls. Finally, for the Asia Pacific region, the Philippines was studied to gain insights into the experiences of the involvement of girls in situations of armed conflict in the predominantly indigenous area of Mindanao.

The study adopts relevant United Nations standard definitions and basic concepts. It is grounded in the prevailing view within the international community that no formal definition of indigenous peoples is necessary. It is therefore underpinned by the fundamental subjective criterion of self-identification and the objective characteristics of 1) distinct social, cultural and economic conditions, and 2) descent from populations which originally inhabited the country prior to colonization.⁵⁴

To this extent, it also takes into account the perspectives of the three global bodies that have been established to

advance the cause of indigenous peoples: the UNPFII, the Expert Mechanism on the Rights of Indigenous People and the United Nations Special Rapporteur on the rights of indigenous peoples. It also draws on regional bodies such as the Working Group of Experts on Indigenous Communities/Populations of the African Commission on Human and Peoples' Rights (ACHPR) and the Inter-American System of Human Rights. For guidance on referencing people who have identified themselves as indigenous, the study relies on the 2009 UNPFII Publication *State of the World's Indigenous Peoples*, the International Working Group for Indigenous Affairs' annual publication *The Indigenous World* and Minority Rights Group International's *World Directory of Minorities and Indigenous Peoples*.

The study encountered some limitations as well as opportunities: As the selection of DHS modules and reporting on the outcomes by ethnicity are at the discretion of the governments concerned, the study could not benefit from the richness of what such data potentially affords. Furthermore, MICS and DHS are designed for assessing the prevalence of some forms of violence (e.g., FGM/C and child marriage) and not others (e.g., human trafficking). Additionally, although the ethnic background of respondents or household head is taken into account in both surveys, the scattered nature and small sizes of indigenous populations in some countries do not allow for significant sampling.

Conversely, significant sampling is possible in countries where indigenous peoples are concentrated in specific geographical areas given that the majority of DHS and MICS collect and report on data by location in addition to other characteristics such as sex and age. Such demographic advantages exist in the case of Bolivia (Plurinational State of), India,



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Kenya and the Philippines from where DHS data (2008, 2005-2006, 2008-2009 and 2008, respectively) progressively capture information pertaining to indigenous peoples by location. To a more limited extent, similar observations may also be made with respect to the MICS of the Lao People's Democratic Republic (2006) and Viet Nam (2011). The review also found that the additional step taken by India, Kenya and Viet Nam to specifically disaggregate some if not all of their survey findings by ethnicity enhances specificity in analysing the situation of indigenous populations in those countries.

As far as qualitative sources are concerned, these tended to be patchy and scattered, spanning across the following categories of issues from which data was extracted: violence against all populations in general; violence against women in general, with some references to girls and young women; violence against indigenous women in general, with some references to indigenous girls and young women; the status of indigenous girls and adolescents with some references to violence; violence against children in

general, with some references to indigenous children, including girls; and general information on socio-economic indicators and overall situations of insecurity in some regions and countries.

1.4 Structure of the report

The report consists of the following additional six sections:

Section II – Global perspectives and contexts. This section places violence against indigenous girls and women within the overall context of the universality of violence, sets out the conceptual framework of the study and highlights relevant international and regional human rights instruments, mandates and mechanisms referenced in the study.

Section III – The contexts of indigenous peoples and the interface between structural and underlying causes and risk factors for violence against indigenous girls and women. This section examines how these underlying causes and risk factors for

violence e.g., gender inequality and discrimination; poverty, exclusion and limited access to services; impact of stigma and discrimination on access to and quality of services, lack of legal recognition and identity and dispossession from ancestral lands lead to the risk of violence.

Section IV – Manifestations of violence against indigenous girls and women. This section highlights documented forms of violence against indigenous girls and women in the three regions under study.

Section V – Case studies from Kenya, the Philippines and Guatemala. This section presents specific case studies from three countries on one particular form of violence and the accompanying reforms of governments to address them.

Section VI – Overview of on-going national level initiatives of relevance to address violence against indigenous girls and women and the challenges of implementation. This section outlines on-going national level prevention, protection and response efforts targeted at addressing violence and the challenges of implementation.

Section VII – Conclusion and recommendations with guiding principles. This section sets out the conclusion followed by six principles and ten recommendations to guide the way forward in accelerating efforts towards addressing violence against indigenous girls and women.

Section II

Global perspectives and contexts

2.1 Violence against women and girls: a working definition and manifestations

Violence against women and girls is a pervasive violation of human rights that persists in every country in the world and cuts across all socio-economic groups.

This study's frame of reference is the United Nations Declaration on the Elimination of Violence against Women, which defines violence against women as "any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of acts such as coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and perpetrated by State or private persons."⁵⁵ Its dimensions include physical, sexual and psychological/emotional violence occurring in the family and the general community or such violence perpetrated or condoned by the State. Their forms and manifestations include domestic violence, child marriage, forced pregnancy, honour crimes, FGM/C, femicide, non-partner sexual violence and exploitation, sexual harassment (in the workplace, other institutions and in public spaces), trafficking and violence in conflict situations.⁵⁶

Although efforts are being harnessed to address the situation, more remains to be done. In the case of FGM/C, for instance, prevalence in the 29 countries in Africa and the Middle East where the practice is concentrated, has declined from an estimated 53 per cent of women aged 45-49 being cut to an average 36 per cent of adolescents and young women aged 15-19 being cut, but this is still a significant proportion of the young generation going through FGM/C.⁵⁷ Similarly, despite near-universal commitments to end child marriage,

one third of all girls in developing countries (excluding China) are likely to be married before age 18, and one out of nine will be married before they reach age 15 years. Most of these girls are poor, less-educated and live in rural areas.⁵⁸

Over 67 million women aged 20-24 years old in 2010 had been married as girls. Half were in Asia, and one fifth in Africa. In the next decade, 14.2 million girls below the age of 18 will be married every year, and this is expected to rise to an average of 15.1 million girls a year from 2021 if present trends continue.⁵⁹ Furthermore, girls, adolescents and young women are at risk of HIV/AIDS when unable to negotiate safe sex, especially in situations of child marriage and sexual violence.⁶⁰ Worldwide, one third of all new HIV cases involve young people aged 15-24, and adolescent girls are at far greater risk of contracting HIV than boys.⁶¹

Through DHS data, there is also evidence pointing to persistent forms of violence against girls and women aged 15-49 years, as well as deeply rooted perceptions among both males and females of the appropriateness of specific forms of violence like wife-beating. Domestic violence is one of the most common forms of violence against women and girls, and women who married at younger ages are more likely to believe that it is sometimes acceptable for a husband to beat his wife.⁶²

The hidden and clandestine forms in which some types of violence manifest

place some girls and adolescents beyond detection and available protective mechanisms. Children account for 27 per cent of human trafficking victims detected globally; of these child victims, two thirds are girls.⁶³ While the gender and age profile of victims varies by region, the share of girls as a proportion of female victims of trafficking globally increased from 2007 to 2010.⁶⁴ Of the estimated 15.5 million children worldwide engaged in domestic work – considered the largest category of child labour – the majority are girls who are easily isolated and have little protection or social support, thus making them vulnerable to physical and sexual assault when performing work within the household.⁶⁵

Acceptance of these forms of violence against girls and women and the corresponding lack of accountability and impunity reflect discriminatory norms that reinforce a lower status of girls and women in society, particularly when the majority of cases go unreported and consequently remain ‘hidden’ and unaddressed.

2.2 Why focus on indigenous girls, adolescents and young women?

A society benefits when its younger generation reaches its full potential.⁶⁶ However, the majority of indigenous girls, adolescents and young women lack the opportunities, protections and services that are required to ensure their empowerment and safe transition into adulthood.⁶⁷

Deprivations disproportionately concentrated among indigenous populations are often exacerbated for indigenous girls and women due to societal attitudes and gendered stereotyped roles and responsibilities that lead to marginalization, inaccessibility to resources and multiple forms of

discrimination based on age, sex, ethnicity and other inter-related factors that consequently increase their vulnerability to gender-based violence.

Violence may prevent indigenous girls and women from realizing their potential, knowing and exercising their rights, participating as equal and active members of society and carrying on the transmission of knowledge, cultures, identities and languages of their ancestors on an equal footing with their male counterparts. Addressing violence against the younger generation of indigenous females is therefore central to the fulfilment of their human rights and the self-determination of indigenous communities.

The growing body of knowledge on the incidence, prevalence and consequences of violence against women and girls provides compelling evidence of its systematic and widespread nature. However, critical gaps in both qualitative and quantitative sources of information by ethnicity, sex and age impede a comprehensive understanding of the experiences of indigenous girls and women and the interplay of multiple risk factors that increase their risk of exposure to violence.

2.3 Understanding the contexts of violence against indigenous girls, adolescents and young women: the ecological model

The United Nations Special Rapporteur on violence against women, its causes and consequences finds that violence can be understood from the perspective of “multiple concentric circles, each intersecting with the other.” These circles include individual, interpersonal, underlying and structural factors that promote violence.⁶⁸

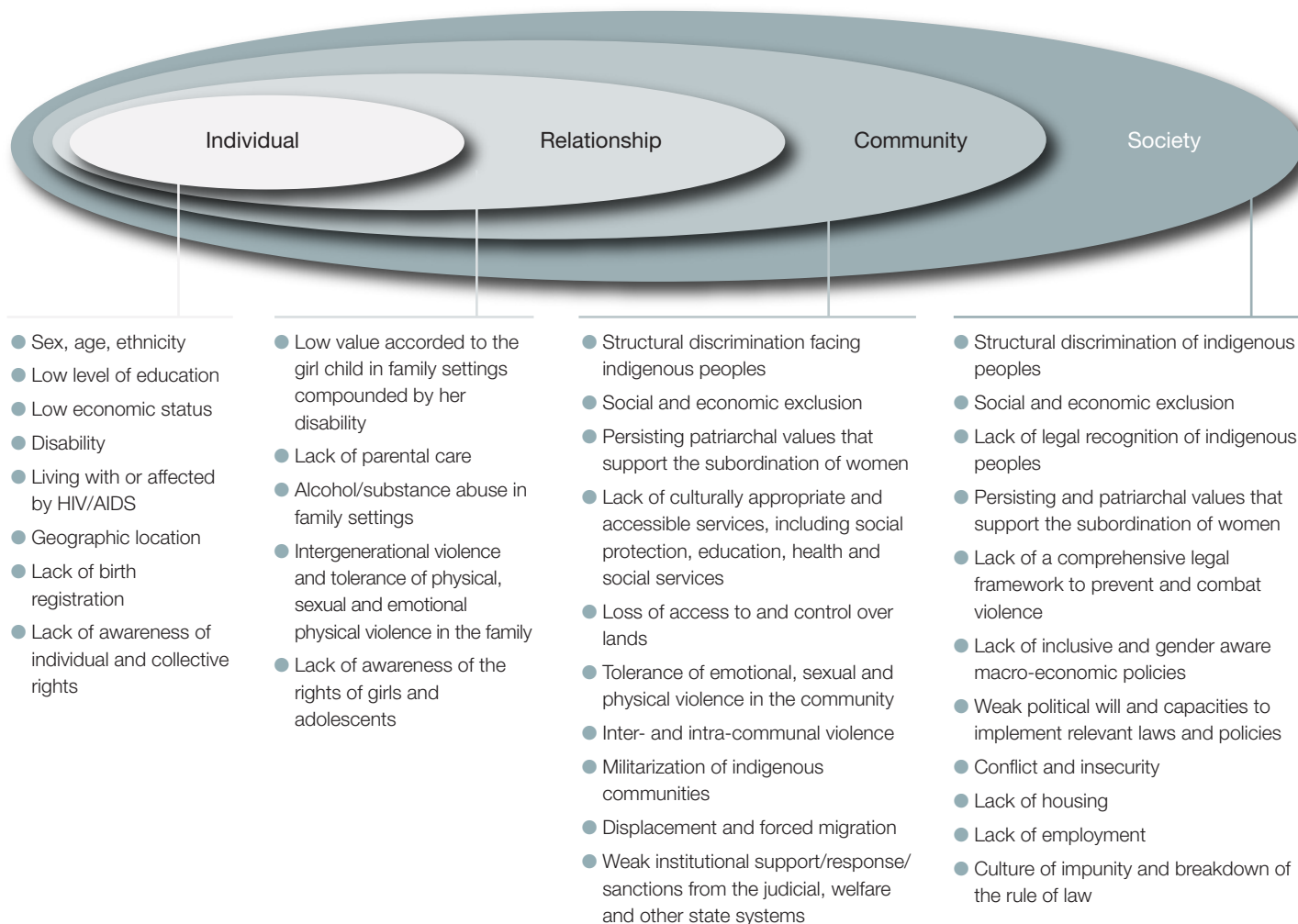
This analysis is best captured by the ecological model used by a range of organizations as a conceptual framework to support an understanding of the multi-faceted nature of violence and the complex interplay of risk factors that increase its likelihood. Among other things, the model explains that risk factors for violence are rooted in (1) biological, economic, social and demographic characteristics including capacities to respond to violence; (2) relationships, such as friends and family relations; (3) community contexts, such as those in which social relationships and networks occur; and (4) wider societal factors, particularly at the level of national decision-making processes, such as macro-economic planning, legislation and policy.⁶⁹

Figure 2.3, overleaf, presents a broad scope of the structural, underlying causes and risk factors for violence against indigenous girls and women using the four-cluster ecological model, on the basis of which full details of some of these factors are further elaborated upon in Section III of the report.

It illustrates how a combination of variables creates complex layers of disadvantage for indigenous girls and young women that not only contribute to underlying causes of violence but also potentially mitigate the protective factors that prevent or reduce the likelihood of its occurrence. The complex interplay and accumulation of risk factors at all levels must be addressed if indigenous girls and women are to be free from all forms of violence and discrimination.

The elements contained in the ecological model are informed by the Secretary-General’s studies on violence against children and violence against women, which point out that while the pervasiveness of violence against women and girls are rooted in gender inequality and discrimination, its combination with

Figure 2.3: Using the ecological model to explain risk factors for violence against indigenous girls, adolescents and young women



Individual level: Biological, personal history and demographic characteristics of the individual.

Relationship level: Proximal social relationships, usually between intimate partners and within families.

Community level: The community context in which social relationships occur, including peer groups, schools, workplaces, neighbourhoods, government institutions, public service provision and existing social norms.

Societal level: Larger societal factors that create an acceptable climate for violence and reduce inhibitions against violence.

Sources: adapted from World Health Organization, *World Report on Violence and Health*, 2002; *Together for Girls: We Can End Sexual Violence, Technical Action Framework*, 2011, p.5 and Heise, L., *Violence Against Women: An Integrated framework*, 1998.

other forms of subordination and exclusion such as colonialism and adverse post-colonial policies potentially result in consequences that are far-reaching.⁷⁰

Children of ethnic minority or indigenous background face increased risk of violence due to “a confluence of factors” that are associated with the social exclusion of these groups, such as high rates of substance abuse and alcoholism,

poverty, lack of housing and unemployment.⁷¹ Severity and frequency of violence intensifies with stigma and discrimination, as in instances of verbal and emotional abuse towards indigenous children from teachers and peers in some school settings.⁷²

Some of these concerns were reiterated by male and female indigenous children and adolescents during the South

American meeting for the 2011 follow-up to the Secretary-General’s study organized by the Special Representative of the Secretary-General on Violence against Children. In their outcome manifesto, they identified the multiple linkages between inequalities and violence that influence their lives and called for the full respect and recognition of the individual and collective rights of indigenous peoples (Box 2.3).

Box 2.3: Voices of indigenous children and adolescents on the meaning of violence

“For us, structural violence means the contamination of the environment and of people by major agro-business proprietors. This contamination affects the health and lives of children and adolescents and their families (peasants and indigenous people) who are forced to leave their communities and migrate to the cities.

For many years the culture, customs, territories and ways of life of the indigenous peoples of the continent have been subjugated, and we believe that this is a form of cultural, physical and symbolic violence against the children and adolescents of the indigenous peoples.

We recommend that ... types of violence, including structural and symbolic violence, are investigated, to create public policies that can reverse this situation

We demand that (...)

4. Culture, customs, traditions and dances and the restitution of the territories seized from the indigenous peoples of the Americas are respected, to guarantee development and decent living conditions for children and adolescents of this sector.”

Source: Special Representative of the Secretary-General on Violence against Children

The CRC Committee also finds that birth registration – as a human right and vital component for the protection of all children – is foundational to determining age, parentage and citizenship and is therefore a bulwark against exclusion in

society, including exclusion from basic services.⁷³ Low levels of birth registration among indigenous children, together with an absence of legal recognition of indigenous peoples in some countries, however, may contribute to challenges in accessing services, including health, education, justice and social services that are relevant for prevention and response to violence.⁷⁴

It is also important to understand how indigenous peoples view their relationship to their ancestral lands when looking at the contexts and risk factors for violence against indigenous girls and women. Besides being a factor of production, land is considered a source of livelihood, medicine, intellectual property, food security and spiritual well-being by many indigenous communities. Thus any attempt at deprivation of this resource without free, prior and informed consent, as well as adequate compensation, results in the deterioration of capacities to survive and of resilience to protect from insecurity and exploitation.⁷⁵

Within the context of insecurity and armed conflict, it has also been found that indigenous women and girls are specifically targeted for sexual violence based upon their ethnicity.⁷⁶ As discussed in detail in Section IV, a substantial number of indigenous peoples live in conflict and post-conflict settings including situations of armed violence such as those of Bangladesh, Colombia, Guatemala, India, Myanmar, Peru, the Philippines, the Mekong Delta and the countries of the Congo Basin and Great Lakes, among others. Reports on these conflicts convey disturbing accounts of violence committed against indigenous girls and women as manifested in acts such as rape, sexual slavery, forced sterilization, abduction, massacre and forced recruitment as tools of war.⁷⁷

Protections afforded against discrimination, violence and risk factors

identified above are guaranteed under a number of global and regional instruments discussed in the next sub-section.

2.4 International human rights standards, mechanisms and commitments

The right of indigenous girls, adolescents and young women to live a life free of violence and discrimination is inviolable. Enshrined in the international human rights framework, these rights extend to protection from all forms of violence as well as the risk factors (e.g., discrimination, poverty and lack of birth registration) that contribute to their increased vulnerability to such situations.

Discrimination on the basis of sex, age and ethnicity is prohibited in a vast array of instruments such as the International Covenants on (a) Civil and Political Rights (ICCPR); (b) Economic, Social and Cultural Rights; and the Conventions (a) on the Elimination of Racial Discrimination (CERD); (b) the Protection of the Rights of Migrant Workers and Members of their Families, (c) the Rights of the Child; (d) on the Elimination of All Forms of Discrimination against Women; (e) and on the Rights of Persons with Disabilities (CRPD). While these instruments prohibit discrimination generally, the CEDAW and CRC set out more specifically to protect and promote women’s and children’s rights.⁷⁸

Inextricably linking the rights of indigenous peoples and women’s rights, CEDAW defines the right of women to be free from all forms of discrimination and sets out core principles to protect this right. Although it does not explicitly mention violence against women and girls, General Recommendations 12 and 19 clarified that the Convention extends to protecting women and girls from violence and makes detailed

recommendations to States parties to this effect. The United Nations Declaration on the Elimination of Violence against Women which acknowledges the special vulnerability of girls and women of minority and indigenous background is also supported by the recent General Assembly resolution on intensifying global efforts to combat FGM/C.⁷⁹

The CRC, the most comprehensive human rights treaty designed for the promotion and protection of children's rights, is the only instrument to explicitly guarantee the rights of indigenous children. In Article 30, it notes that "in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her language." This provision was central to the discussions and debates leading to General Assembly's 2012 omnibus resolution on the promotion and protection of the rights of children. It specifically calls upon governments to take appropriate actions to protect indigenous children from physical and/or mental violence, injury, abuse and exploitation, recognizing the particular vulnerability of girls.⁸⁰

States and international organizations have repeatedly recognized a child's right to be protected from all forms of violence, exploitation and abuse. These are reflected in Articles 19, 32 and 34 of the CRC and reinforced by the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflict. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children – which supplements the United Nations

Convention against Transnational Organized Crime (Palermo Protocol) – also recognizes this right.

Furthermore, ILO Conventions 138, 182 and 189 protect children from work which has a negative impact upon their ability to reach their full potential. Convention 138 specifically calls for minimum age standard setting for employment at levels which are suited to the physical and mental development of young persons, whereas Convention 182 sets out categories of actions and activities which protect them from the worst forms of child labour. Convention 189 on decent work for domestic workers also ensures effective protection of domestic workers against all forms of abuse, harassment and violence.

The collective rights of indigenous peoples are specifically protected under the Indigenous and Tribal Peoples Convention (ILO Convention 169), the UNDRIP and Article 27 of the ICCPR.

While international human rights standards and principles, including those contained in CEDAW and the CRC, are indeed applicable in times of conflict, the United Nations Security Council has adopted a number of resolutions on women, peace and security, sexual violence in armed conflict and children affected by armed conflict. These resolutions are built upon the acknowledgement – first set out in Security Council Resolution 1325 (2000) and subsequently by Resolutions 1820 (2008), 1888 (2009), 1889 (2009) and 1960 (2010) – that conflict has a disproportionate impact on women and girls, hence the need for their participation in peace and security processes. Similarly, relevant Security Council resolutions on children affected by armed conflict, particularly resolutions 1612 (2005) 1882 (2009) and 1998 (2011), request States to develop time-bound national action plans on the elimination of the six grave violations of children's

rights (Box 2.4) in situations of armed conflict. Resolution 1612 in particular establishes a monitoring and reporting mechanism on these grave violations against children and provides for the systematic collation of accurate, timely and objective information on grave violations committed against children in such circumstances to foster accountability and compliance of parties to conflicts with international child protection standards.

Box 2.4: Six grave violations against children during armed conflict

The Six Grave Violations against Children during Armed Conflict cover: killing or maiming of children; recruitment or use of children by armed forces/groups; rape and other forms of sexual violence against children; abduction of children; attacks against schools or hospitals; and the denial of humanitarian access to children.

Source: United Nations Security Council. *Update Report. Children in Armed Conflict, 2008, p. 3*

The Human Rights Council established the UPR in 2006 as a State-driven peer review mechanism to provide opportunities to Member States to account for actions which they have taken to fulfil their human rights obligations. The first cycle (2008-2011) reviewed all 193 United Nations Member States and is currently being repeated in a second cycle (2012-2016). The process has been instrumental in highlighting and making recommendations for addressing the human rights concerns of indigenous peoples to a number of governments.

Furthermore, the communication procedures of six human rights treaty

bodies (CEDAW, ICCPR, CERD, CRPD, the Convention against Torture and the Convention for the Protection of All Persons from Enforced Disappearance) offer opportunities for individuals or groups to submit complaints to the relevant bodies to facilitate redress of violations of their rights when domestic paths for remedies have been exhausted. In 2011, the Third Optional Protocol to the CRC was adopted by the General Assembly to allow individual or groups of children to submit complaints regarding specific violations of their rights under the Convention and its first two Optional Protocols. Once it enters into force after ratification by ten Member States (Article 19(1)), it will be the only complaint mechanism covering all the rights of children and is expected to significantly ensure that those whose rights have been violated are provided with appropriate alternative remedies.

These global frameworks are complemented by global platforms,



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programmes of action and agendas such as those of the ICPD Programme of Action, the Beijing Platform for Action (including follow-up actions based on periodic reviews and the Beijing Declaration of Indigenous Women); the outcomes of the Fifty-seventh Session of the Commission on the Status of Women (which also took into consideration the second Declaration of Indigenous Women made at the session); the follow-up process to the Secretary-General's study on violence against children as conducted by his Special Representative on Violence against Children; and his campaign to achieve universal ratification and implementation of the Optional Protocols to the CRC; the Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents; and the Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016.

2.4.1 Regional frameworks

The States of Africa, Latin America and Asia Pacific have also made important strides in translating their international commitments into regional frameworks that reflect their special contexts.

Among the most pertinent are the African Charter on the Rights and Welfare of the Child (ACRWC); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; the African Youth Charter; the Resolution of the ACHPR on the Protection of Indigenous Women and Girls from all Forms of Violence;⁸¹ the American Convention on Human Rights; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; and the Declaration on the Commitments for Children of the Association of Southeast Asian Nations (ASEAN).

Institutional mandates and mechanisms have also been established in each of the three regions to operationalize these regional human rights frameworks. In Africa, they include the Special Rapporteur on the rights of women in Africa, the African Committee of Experts on the Rights and Welfare of the Child (to monitor State compliance with the ACRWC), the African Committee of Experts on Indigenous Populations/Communities of the ACHPR and the African Peer Review Mechanism of the New Partnership for Africa's Development. In Latin America, institutional mandates and mechanisms include the Inter-American Commission on Human Rights (IACHR); the Inter-American Court of Human Rights; the Inter-American Commission on Human Rights Rapporteurs on the rights of indigenous peoples, the rights of women and the rights of children; and finally for Asia the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children.

All the above international and regional standards, mandates and mechanisms are foundational tools for addressing violence against indigenous girls and women and therefore serve as useful entry points for advocacy, legal and policy reforms as well as monitoring progress.

Section III

The contexts of indigenous peoples and the interface between structural and underlying causes and risk factors for violence against indigenous girls, adolescents and young women: illustrations from Africa, Asia Pacific and Latin America

3.1 Introduction

This section describes how the social, economic, cultural and political contexts of indigenous peoples contribute to the structural, underlying causes and risk factors for violence against indigenous girls and women as presented in the ecological model.

3.2 Indigenous peoples of Africa, Asia Pacific and Latin America

As noted earlier, the study is grounded in the prevailing view within the international community that no formal definition of indigenous peoples is necessary and is therefore underpinned by the fundamental subjective criterion of self-identification and objective characteristics. Basic background information on the peoples who broadly identify themselves as indigenous is needed for understanding the experiences of violence among indigenous girls and women.

Eighty per cent of the world's people who identify themselves as indigenous are based in Asia (mainly China, South Asia and Southeast Asia), with populations ranging from about 8 per cent in China and India and 10 per cent in Viet Nam to 37 per cent in Nepal.⁸² While estimated numbers for those located in the Pacific are yet to be established, they mainly inhabit the four sub-regions of Oceania (Polynesia, Melanesia and Micronesia, as well as Australia and New Zealand).⁸³

Latin America is home to an estimated 50 million indigenous peoples spanning 642 indigenous groups, with the majority located in Bolivia (Plurinational State of), Ecuador, Guatemala, Mexico, and Peru.⁸⁴ In Africa, indigenous peoples are predominantly hunter-gatherers, pastoralists and agro-pastoralists scattered

over an estimated 35 countries on the continent, according to the African Commission's Working Group of Experts on Indigenous Populations/Communities.⁸⁵

3.3 Structural and underlying causes and risk factors for violence

3.3.1 Introduction

Specific attention to risk factors for violence is essential because when they accumulate and overlap – as they often do in the case of indigenous girls and women – they not only contribute to underlying causes of violence against indigenous girls and young women but may also mitigate the protective factors that typically prevent or reduce the likelihood of its occurrence.⁸⁶ Within this context, the sub-sections are divided into six overarching concerns found in the literature: (1) gender inequality and discrimination; (2) customary and statutory standards on the minimum age of marriage; (3) poverty, exclusion and limited access to services; (4) the impact of stigma and discrimination on access to and quality of services; (5) the lack of legal recognition and identity; and (6) dispossession from ancestral lands.

3.3.2 Gender inequality and discrimination

Violence against women and girls is a pervasive violation of human rights that persists in every country in the world and

cuts across all socio-economic groups. Having its roots in historical and structural inequality in power relations between males and females, it is characterized by the use and abuse of power and control in public and private spheres, and is intrinsically linked to gender stereotypes that underlie and perpetuate such violence, as well as other factors that can increase women's and girls' vulnerability to such violence.⁸⁷ Through the life cycle, the choices and full potential of girls and adolescents are dictated by gendered expectations and divisions of labour defined by society. These factors negatively impact on their chances of having a full course of education, deciding whom to marry and when to have children among others.

Gender inequality and discrimination are therefore the root cause and consequence of violence because they perpetuate and manifest in various forms of violations such as child marriage, prenatal sex selection, son preference, FGM/C and inheritance-related practices such as patrilineal inheritance regimes and widowhood rites.

3.3.3 Customary and statutory standards on the minimum age of marriage

The CRC and CEDAW Committees have frequently recommended 18 years as the minimum age of marriage for both sexes without exception.⁸⁸ The CEDAW Committee particularly urges States to set this same minimum age of marriage for women and men, in line with Article 1 of the CRC and Article 16 of CEDAW supported by its General Recommendation 21 on equality in marriage and family relations.

This is in accord with the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1964), which stipulates that only "men and women of full age" have the right to

marry. Though this Convention pre-dates many of the international and regional treaties discussed in Section II, its violation has for many years been the rule rather than the exception in many countries. In the case of Africa, the ACRWC and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa specifically require States parties to stipulate the minimum age of marriage for females at 18 years (Box 3.3.3).

Box: 3.3.3: Provisions on child marriage and betrothals in the ACRWC

Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

Source: Article 21 (2)

Within the context of customary law, studies of indigenous peoples of West and Central Africa find that the typical age of marriage for girls and adolescents range between 12 and 16 years in some communities.⁸⁹ In indigenous communities of the Republic of Congo, early transition to adulthood among children confers on them the right to choose in matters of marriage, reproduction and alcohol use, often to the detriment of their survival and development.⁹⁰

Although customary law is usually subject to statutory laws in a number of countries,⁹¹ protections to women and girls are further eroded when the latter also specifically dictate lower ages of marriage for females. In the Democratic Republic of the Congo, the statutory

minimum age of marriage for girls is 15 years.⁹² And even though Indonesia's minimum age requirement is 16, there are reports that up to 11 per cent of currently married women entered into marriage before the age of 16, while 22 per cent did so before the age of 18.⁹³ In Thailand, the minimum age stipulation is 17 with an exception that it could be lowered to 13 if sexual abuse is proven.⁹⁴

In Colombia, Guatemala and Nicaragua marriage is permitted at 14 years with parental consent,⁹⁵ while the law in El Salvador fixes the minimum age requirement at 18 years and allows adolescents as young as 14 years to be married if they have reached puberty, become pregnant or have a child.⁹⁶

As the essence is not just to fulfil a minimum age requirement, the CEDAW Committee recommended that a discrepancy be addressed in Vietnamese law that requires men to be at least 20 years and women to be at least 18 years to marry.⁹⁷ Persistent challenges facing countries in undertaking law reforms in this area may also be appreciated from the CRC Committee's handing down the same recommendation to the Plurinational State of Bolivia regarding the continued low and differential legal ages for marriage set for female (14 years) and male (16 years) adolescents in its jurisdiction on two occasions (1998 and 2009).⁹⁸

3.3.4 Poverty, exclusion and limited access to services

While recognising that violence is caused by a complex interplay of several factors, the Fifty-seventh session of the CSW recognizes that women and girls are at increased risk of violence due to poverty, lack of empowerment and marginalization resulting from exclusion from social and economic policies and the benefits of education and sustainable development.⁹⁹

When poverty is discussed as a correlate or risk factor for violence, it is indicative of inaccessibility (e.g., financial and geographical) to resources and services. Basic services and those related to violence prevention and response often become inaccessible or compromised in quality. The contexts in which such deprivations potentially impact on the protection of indigenous girls and women from violence can be appreciated from the following selected illustrations:

- *Education* is the key to combatting illiteracy, a condition which acts as a barrier to awareness of rights and institutions which have been established to protect and enforce them. Education is both a preventive and protective factor against violence and other harmful practices as it either delays or stops such occurrences. It is therefore a fundamental tool of empowerment and a vehicle through which girls realize their full potential.
- Accessing *health services* is also important for ensuring that indigenous girls, adolescents and young women receive prevention, protection and response services such as comprehensive information on family planning and HIV/AIDS prevention, clinical evaluation, HIV diagnostic testing and counselling and post exposure prophylaxis (Box 3.3.4).
- When communities lack *water* or sources are contaminated or dry up, girls are required to walk longer distances in search of clean water, exposing them to potential violence and resulting in less time spent in school.
- *Reporting, complaints and counselling mechanisms* are core components of a robust, functioning system to protect girls and women from violence and furthermore support rehabilitation and reintegration efforts. A complaints system can include formal

and informal mechanisms which can address and prevent further acts of violence. The absence of these services result in a culture of fear and impunity and a cycle of violence, impacting adversely on efforts to prevent further acts of violence and securing a safe environment for society as a whole.

Geographical isolation is also a major hindrance to access to and delivery of services for many indigenous communities.¹⁰⁰ This tends to be associated with the high concentration of services in urban areas due to limited and ineffective decentralized systems. Such inequalities contribute to significant disparities in access to services in a number of countries.¹⁰¹ For example, studies show that an estimated 50 per cent of indigenous peoples in Latin

America live in rural, remote and hard-to-reach areas where basic services and infrastructure are limited.¹⁰²

Although general declines in poverty rates are evident across both indigenous and non-indigenous populations of Latin America, change has been marginal among indigenous peoples, resulting in their continued over-representation among the poor.¹⁰³ Poor children of indigenous and Afro-descendant background in Latin America experience rates of poverty that surpass those of other groups by about 20 percentage points.¹⁰⁴

Recent analysis with available data demonstrates a consistent gap in extreme poverty rates between indigenous and non-indigenous peoples in the Plurinational State of Bolivia between

Box: 3.3.4: The importance of reproductive and sexual health

The need for increased access to reproductive health services for indigenous adolescents cannot be underestimated. Annually, nearly 16 million adolescent girls between ages 15 and 19 give birth and contribute to 11 per cent of all births worldwide, with the highest proportion of adolescent births in sub-Saharan Africa, Latin America and the Caribbean. While these adolescent girls make up a high proportion of annual births, they are more vulnerable to experiencing complications during pregnancy and childbirth. Each year, an estimated 50,000 adolescent girls die as a result of such complications.

The Office of the High Commissioner for Human Rights finds that in Guatemala, 38,645 adolescent pregnancies were registered between January and August 2012. Of this number 1,865 were girls under 14 years and 60 per cent were indigenous. The majority were of poor backgrounds and had also dropped out of school.

In Bangladesh and Viet Nam, comprehensive knowledge of HIV transmission among girls and women aged 15–49 years tends to be lowest among Scheduled Tribes and ethnic minorities, respectively. In Bangladesh, 29 per cent of the former had comprehensive knowledge, compared to 55 of the national total. In Viet Nam, the rates were 29 per cent of ethnic minorities, compared to 47 per cent of the Kinh/Hoa.

Sources: UNICEF. *Progress for Children: A Report Card on Adolescents*. 2012, pp. 19, 24; Report of the United Nations High Commissioner for Human Rights on the activities of her office in Guatemala, 2012, para. 59; Viet Nam Multiple Indicator Cluster Survey 2011, p. 193; Bangladesh Multi Cluster Indicator Survey, 2006 p. 114.

1996 and 2009. While latter years showed a slight decline in poverty for both indigenous and non-indigenous populations, for those of indigenous background, the gap on inequality remained above the national average.¹⁰⁵

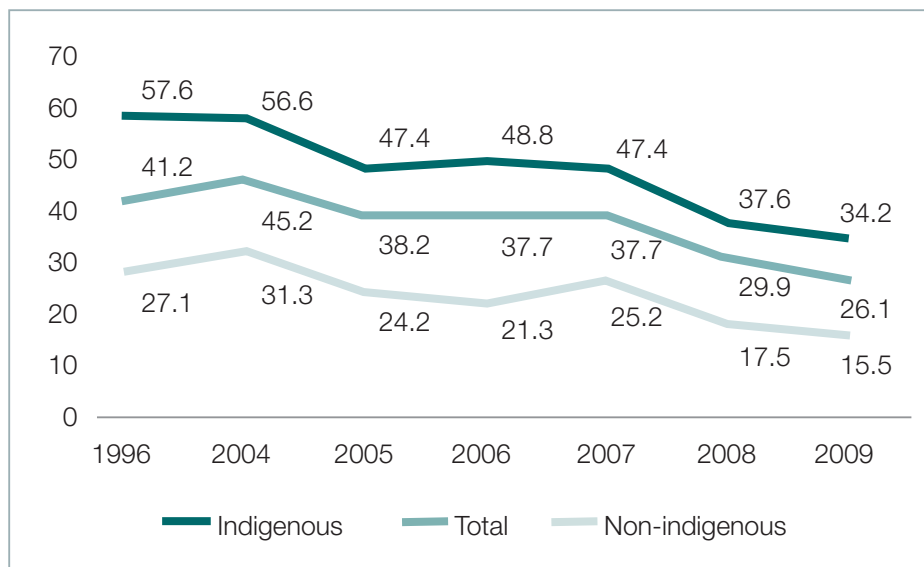
Similarly in Guatemala, when declines in poverty were evident among both indigenous and non-indigenous populations from 1989 to 2000 and

both non-indigenous and indigenous rates declined, by 2006 the gap between indigenous peoples and the rest of the population remained constant. (Figures 3.3.4 and 3.3.4.1)¹⁰⁶

In 7 countries of Latin America – Bolivia (Plurinational State of), Brazil, Chile, Ecuador, Guatemala, Nicaragua and Paraguay – an estimated 36 per cent of

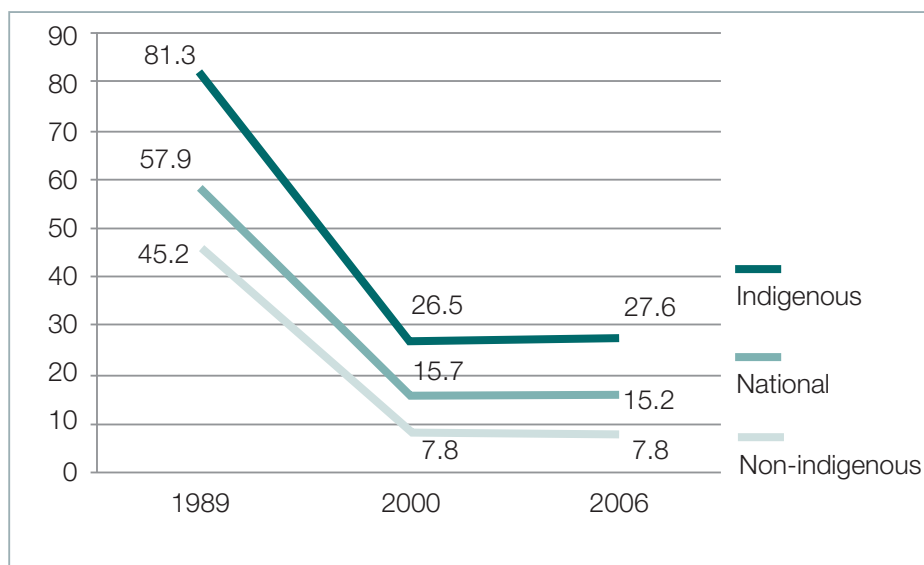
the population of indigenous and Afro-descendant populations 18 years or younger lack adequate access to safe water, compared to 22 per cent of the rest of the population.¹⁰⁷ Poverty is considered “the most consistent indicator of educational disadvantage” in Guatemala, where school enrolment, retention and transition rates are lower among indigenous girls and adolescents compared to non-indigenous females and indigenous and non-indigenous males (Figure 3.3.4.2).¹⁰⁸

Figure 3.3.4: Trends in extreme poverty, Plurinational State of Bolivia



Source: Unidad de Análisis de Políticas Sociales y Económicas and Comité Interinstitucional de las Metas de Desarrollo del Milenio, *Sixth progress report Millennium Development Goals in Bolivia*, 2010, Pp. 33-35.

Figure 3.3.4.1: Trends in extreme poverty, Guatemala



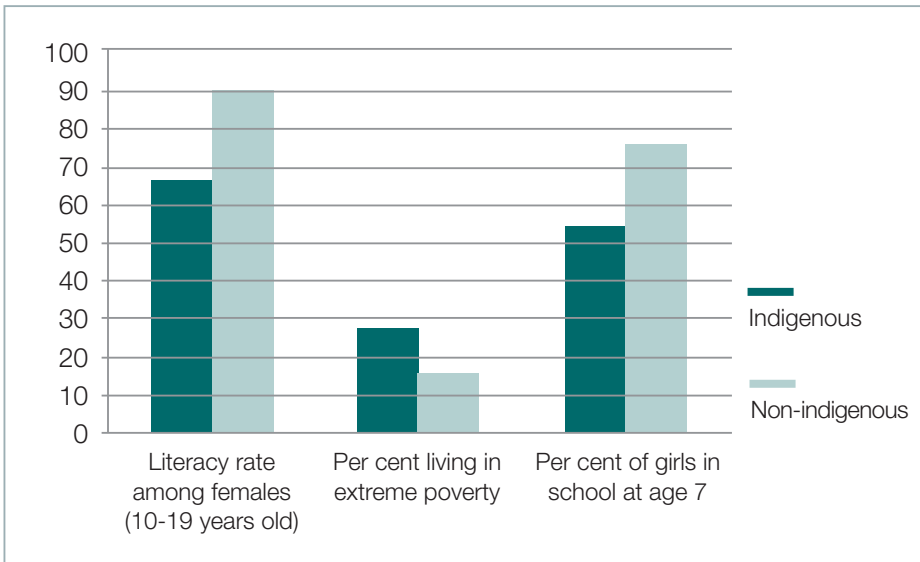
Source: World Bank, *Guatemala Poverty Assessment*, 2009, pg. viii.

While recent findings point to rapidly declining poverty rates among indigenous peoples, in the Asia Pacific region, disparities between indigenous and non-indigenous peoples persist in some countries.¹⁰⁹

Government of India estimates in 2012, for instance, demonstrate that while poverty declined from 37 per cent in 2004-2005 to 30 per cent in 2009-2010, the decline occurred at a much slower pace for Scheduled Tribes, who exhibit the highest level of poverty in rural areas (47 per cent) than all classes (34 per cent). In urban areas, the rate is equally high: 30 per cent for Scheduled Tribes and 21 per cent for all classes. Similarly, poverty rates increased during this period in all three states where the Scheduled Tribe population exceeds 80 per cent: Meghalaya (16 per cent to 17 per cent), Mizoram (15 per cent to 21 per cent) and Nagaland (9 per cent to 21 per cent).¹¹⁰ Comparable findings further show that although similar economic growth rates have been experienced across all ethnic groups in Viet Nam, those of ethnic minority background are actually falling behind in terms of absolute consumption levels, ethnic minorities have a lower probability of escaping poverty than the Kinh/Hoa ethnic majority.¹¹¹

Viet Nam’s 2011 MICS further shows that while an estimated 96 per cent of

Figure 3.3.4.2: Inequalities between indigenous and non-indigenous populations in Guatemala



Sources: Literacy rate data (2006): Hallman, K., Peracca, S., Catino, J., Ruiz, M.J. Indigenous Girls in Guatemala: Poverty and Location. In Center for Global Development Maureen Lewis & Marlaine Lockheed, eds. *Exclusion, Gender and Education: Case Studies from the Developing World*. 2007, p. 146. Per cent living in extreme poverty (2006): *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health (A/HRC/17/25/Add.2)*, 2011, para 37. See also SEGEPLAN, *Objetivos de Desarrollo del Milenio: Informe de Avances, Guatemala*, 2010, p. 25. Per cent of girls in school at age 7 (2000): ENCOVI 2000 referenced in Hallman, K., Peracca, S., Catino, J., Ruiz, M.J. Indigenous Girls in Guatemala: Poverty and Location. In Center for Global Development Maureen Lewis & Marlaine Lockheed, eds. *Exclusion, Gender and Education: Case Studies from the Developing World*. 2007, p. 149.

girls and young women aged 15–24 years are literate, the percentage of literate young women in ethnic minority households is 82 per cent and the number in Kinh/Hoa households is 99 per cent.¹¹² In the Lao People’s Democratic Republic, indigenous girls and adolescents spend the least time in school per day (2.1 hours, compared to 3.1 hours for their indigenous male counterparts) and for the poor, this is further reduced to 1.8 hours.¹¹³ In India, despite the tremendous strides made in the education sector as a whole, females from Scheduled Tribes face a ‘triple disadvantage’ of tribe, gender and place of residence. Girls and adolescents of this group attain an average of 4 years of schooling, compared to 7 years among non-Scheduled Tribes and the situation tends to worsen by rural locality.¹¹⁴

3.3.5 The impact of stigma and discrimination on access to and quality of services

While poverty may deprive indigenous peoples of the means to access basic services, stigma and discrimination exacerbates exclusion and creates further barriers to their utilization.

The CRC Committee repeatedly expresses concern about the disparities in access to basic services and their poor quality.¹¹⁵ It finds for instance, that *de facto* discrimination has been a significant driver of the persisting low access to social services for children located in indigenous provinces (e.g., Ratanakiri and Mondulakiri) of Cambodia as well as Batwa children of Uganda.¹¹⁶ Similarly in Nepal, disparities in access to services according to caste and tribe are more pronounced compared to disparities based on wealth and sex.¹¹⁷

UNESCO finds that discrimination and a lack of access to bilingual education place indigenous children at a



disadvantage within educational settings where, children from low-caste and tribal households score at far lower levels when their background is publicly announced, compared to when it is kept confidential.¹¹⁸ Similarly, an ILO rapid assessment of indigenous children in the Papua Province of Indonesia determined that 40 per cent of the 495 children surveyed (221 girls and 274 boys) were affected by discriminatory attitudes such as stereotyping, verbal abuse and subjective grading, attitudes which have a negative impact on enrolment, retention and learning achievement.¹¹⁹

The landmark review of the situation of indigenous peoples of Africa undertaken by the African Commission's Working Group of Experts on Indigenous Populations/Communities found that extreme forms of discrimination was a critical impediment to their participation and advancement in society.¹²⁰ During its country missions to Namibia, South Africa, the United Republic of Tanzania and Uganda, the Working Group found that large numbers of indigenous children, including girls, had dropped out of school due to discriminatory attitudes and verbal abuse from teachers and students.¹²¹ Similar concerns are found in some health settings in Africa where the *Lancet* notes that "... poor health in the general population is widely recognized, but the consistently lower health position and social status of indigenous peoples are rarely noted." In this context, it finds that the Central African Pygmy peoples and the San of southern Africa face severe discriminatory attitudes from health workers in ways that impede on both access and quality to health services.¹²²

Similarly, during his visit to Guatemala, the United Nations Special Rapporteur on the right to health found that the marginalization of rural indigenous women is "reflected in many indicators relating to reproductive health, such as

contraceptive uptake and access to skilled birth attendants." He reports that indigenous women are affected by their perceived excessive fecundity among non-indigenous medical professionals.¹²³ These discriminatory tendencies, together with the unavailability of culturally appropriate and accessible services often discourage indigenous women and girls from accessing health care services.

3.3.6 Lack of legal recognition and identity

The absence of legal recognition of indigenous peoples in some countries (e.g., Botswana, Burkina Faso, Morocco, Rwanda, the United Republic of Tanzania and Uganda) accounts for their invisibility in national statistics and challenges in accessing protective and social services.¹²⁴

This is exacerbated by low levels of birth registration. The lack of proof of identity and age render girls and adolescents in particular, vulnerable to forms of violence such as trafficking, sexual exploitation and other child protection concerns.¹²⁵

In the Latin America region, indigenous and Afro-descendant children form the majority of the 10 per cent of all children below the age of 5 who have not been registered at birth.¹²⁶ Bottlenecks to timely registration in the region include the requirements of parents to submit their own birth certificates and a denial of the right of the child to be registered under an indigenous name.¹²⁷ Factors inhibiting birth registration of indigenous children in some countries of West and Central Africa (e.g., the Congo and Gabon) include lack of awareness among parents of its importance, delayed naming of children, long distance to registration centres and high costs compounded by unclear information concerning official birth registration fees

and the prevalence of corruption.¹²⁸ In Kenya, while 60 per cent of children under the age of 5 years are registered with a civil authority nationally, only 48 per cent of children of that age range are registered in the largely pastoral North Eastern Province due to factors such as insecurity in these areas and limited access to civil registration services.¹²⁹

Lack of legal identity and statelessness are interlinked in the Asia Pacific region, where these issues are found to increase the risk of violence and abuse. In Thailand, the estimated 2 million 'stateless' people include approximately 600,000 people of indigenous and minority backgrounds; many are children who do not possess birth certificates and are consequently denied access to services such as healthcare and education.¹³⁰ Without identification cards or Thai citizenship, the CRC Committee expressed concern that "many indigenous and minority children are at increased risk of abuse and exploitation."¹³¹

In Myanmar and Viet Nam, disparities in birth registration are more evident in relation to ethnicity than to sex in which differentials are not noticeable. In Viet Nam, the birth registration rate of both boys and girls under 5 years is approximately 95 per cent.¹³² When disaggregated by ethnicity, however, 97 per cent of the majority Kinh/Hoa children are registered compared to 85 per cent of ethnic minority children.¹³³ In Myanmar, the average rate for both males and females (73 per cent) is greater than in states with high indigenous populations (e.g., Chin, 24 per cent; Shan North, 52 per cent; and Rakhine, 59 per cent).¹³⁴ The Government of the Philippines also finds that the majority of the 2.7 million unregistered children in its country are Muslim indigenous children living in the Autonomous Region in Muslim Mindanao (ARMM), Eastern Visayas, Central Mindanao, Western Mindanao

and Southern Mindanao.¹³⁵ Though efforts have targeted registration of indigenous children, the challenge of reaching them with birth registration services as well as other prevention, protection and response services persists.¹³⁶

Not all indigenous communities are affected by low rates of birth registration: Important lessons may be learned from the experience of the predominantly indigenous north-eastern state of Mizoram in India where DHS data from 2005-2006 suggests that this state has a rate of 93 per cent, compared to the total population of 41 per cent.¹³⁷ Also for potential learning, in Myanmar, indigenous populated states of Mon, Shan East and Shan South also record

rates of 89 per cent, 95 per cent and 79 per cent respectively, compared to the national average of 72 per cent.¹³⁸

3.3.7 Dispossession from ancestral lands

Infrastructural development is a fundamental necessity for the fulfilment of economic, social and cultural rights, as well as civil and political rights of all citizens. However, when such developments take place on the ancestral lands of indigenous peoples without their “free, prior and informed consent” and adequate compensation the consequences lead to an erosion of these rights. In such situations, the protective environments afforded by both families and communities generally break down

due to displacement, loss of livelihoods, forced migration and relocation, all of which serve as risk factors for violence against indigenous girls and women. This can be appreciated from some documented experiences of indigenous communities.

According to the 2002-2007 Five-Year Plan of the National Commission on Scheduled Castes and Scheduled Tribes of India, 8.54 million members of the Scheduled Tribe population were displaced from their traditional lands as a result of development projects in the states of Andhra Pradesh, Bihar, Gujarat, Maharashtra, Madhya Pradesh, Orissa and Rajasthan. Of this number, only 25 per cent were resettled. The Commission found that the displacement led to



“loss of assets, unemployment, debt bondage and destitution.”¹³⁹ The Special Rapporteur on the rights of indigenous peoples also found that the Sardar Sarovar Dam and Power Project, a multi-year, multipurpose project affecting areas in the states of Gujarat, Madhya Pradesh, Maharashtra and Rajasthan resulted in the relocation of 320,000 indigenous people and affected the livelihood of thousands of others.¹⁴⁰

Similar situations are noted in Malaysia where the Bakun Dam resulted in the forced displacement of 15 indigenous communities due to clear-cutting of 80,000 hectares of the rainforest and in the Lao People’s Democratic Republic, where the construction of the Nam Theun 2 Dam in Khammouane Province led to the displacement of more than 6,000 indigenous peoples.¹⁴¹ In the Lao People’s Democratic Republic, Thailand and Viet Nam, efforts to relocate communities affected by such development projects have often resulted in community disintegration due to lack of economic and subsistence support and

tensions between other indigenous and non-indigenous communities over limited landed resources.¹⁴²

Experiences of loss of access to and control over lands also threaten the survival and existence of hunter-gatherers, pastoralists and agro-pastoralists in Africa. Developments such as logging, commercial agriculture, mining and wildlife conservation place their traditional rights of tenure in jeopardy.¹⁴³ In addition, Minority Rights Group International finds that displacement has sometimes resulted in the relocation of internally displaced peoples to camps where women and girls face risks to their security and well-being due to lack of safe spaces in these environments.¹⁴⁴

Section IV

Manifestations of violence against indigenous girls, adolescents and young women: examples from Africa, Asia Pacific and Latin America

4.1 Introduction

While there is a growing body of evidence on the magnitude, nature and consequences of gender-based violence globally, knowledge of its extent among the groups being studied is limited and tends to vary widely by issue and region. Existing literature provides illustrations of manifestations of violence in four areas, namely: (1) domestic violence; (2) harmful practices; (3) economic exploitation, sexual abuse and sexual exploitation; (4) and gender-based violence in situations of armed violence, insecurity and communal conflicts.

4.2 Violence against indigenous girls, adolescents and young women: what has been documented to date?

4.2.1 Domestic violence

Domestic violence – which the United Nations General Assembly defines as “any form of violence that occurs within the private sphere, generally between individuals who are related through blood or intimacy” – is one of the most common and least visible manifestations of violence against women and girls—assuming many different dimensions, including physical, psychological and sexual violence.¹⁴⁵

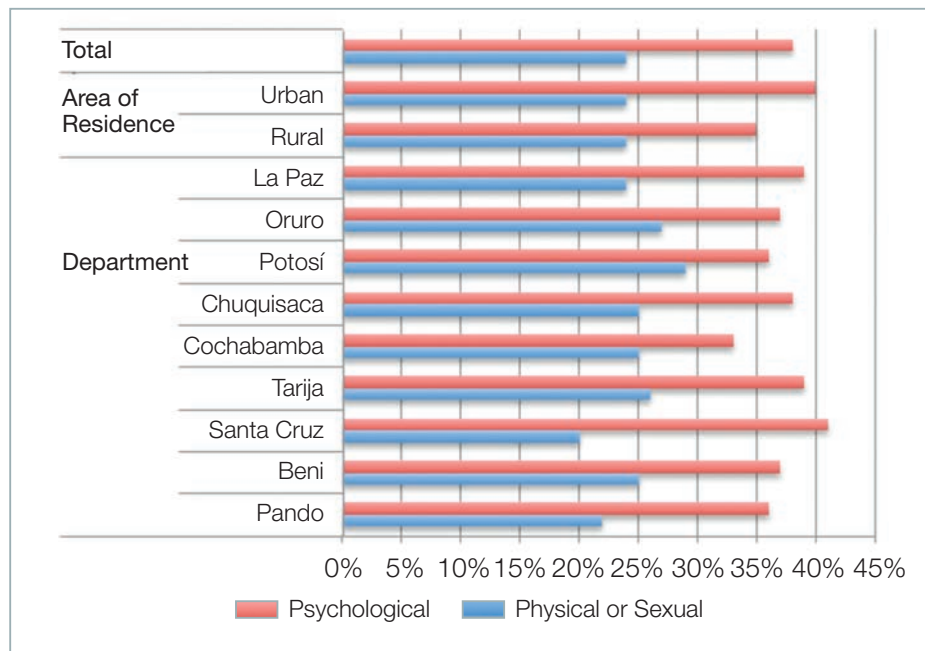
Findings from the DHS of Bolivia (Plurinational State of) (2008), India (2005-2006), and the Philippines (2008) point to a mix of results in reference to some specific forms of violence against indigenous adolescents and women and how their prevalence rates compare with the rest of the population.

For example, 62 per cent of the Bolivian population is indigenous, and the country’s departments of Chuquisaca, Cochabamba, La Paz, Potosí and Oruro have its highest concentration of indigenous peoples.¹⁴⁶ DHS data show that Potosi records the highest prevalence

of ever-married girls and women aged 15-49 reporting physical or sexual violence by a current or former partner (29 per cent) compared to the national average of 24 per cent. In relation to psychological violence by a current or former partner however, Chuquisaca records the same prevalence (38 per cent) as the national average and is lower than Santa Cruz, a more cosmopolitan department which records a prevalence rate of 41 per cent (see Figure 4.2.1 overleaf for further details).¹⁴⁷

In India, the proportion of the population belonging to Scheduled Tribes is high in all north-eastern states except Assam and Tripura. Households belonging to Scheduled Tribes comprise the majority in Mizoram (95 per cent), Nagaland (89 per cent), Meghalaya (86 per cent) and Arunachal Pradesh (64 per cent). One fifth or more of households belong to Scheduled Tribes in Manipur (34 per cent), Chhattisgarh (32 per cent), Jharkhand (26 per cent), Orissa (22 per cent), Sikkim (21 per cent) and Madhya Pradesh (20 per cent).¹⁴⁸ The 2005-2006 DHS of India finds that 47 per cent of ever-married girls and women aged 15-49 belonging to Scheduled Tribes have experienced emotional, physical, or sexual violence committed by their husband, compared to 40 per cent of the total population.¹⁴⁹ In addition, 16 per cent of ever-married girls and women aged 15-49 who belong

Figure 4.2.1: Percentage of ever-married women who have been inflicted by violence by their current or former spouse (%)



Source: Bolivia: Encuesta Nacional de Demografía y Salud 2008, p. 235

to a Scheduled Tribe report that their husband has displayed three or more 'control behaviours', compared to 12 per cent of the total population.¹⁵⁰ Furthermore the predominantly indigenous state of Arunachal Pradesh has the highest percentage of ever-married girls and women aged 15-49 who have ever experienced different forms of spousal violence: physical or sexual (39 per cent) violence and emotional, physical or sexual (43 per cent) violence and ranks higher than the experience of girls and women of the same age in the total population—at 37 per cent and 40 per cent, respectively.¹⁵¹

Similarly, the DHS of the Philippines determines prevalence rates of specific forms of domestic violence according to regions which have largely homogeneous characteristics, such as the ethnic origin of inhabitants, dialect spoken, and agricultural produce. The National Commission on Indigenous Peoples (NCIP) estimates that 61 per cent of indigenous peoples live in Mindanao,

which consists of six administrative regions (the Autonomous Region of Muslim Mindanao, Caraga, Davao, Northern Mindanao, SOCCSKSARGEN and Zamboanga peninsula).¹⁵² The remaining 33 per cent are accounted for in Luzon, which holds eight administrative regions: Bicol, Cagayan Valley, CALABARZON, Central Luzon, Cordillera Administrative Region, Ilocos, MIMAROPA and the National Capital Region. The Visayas group holds 6 per cent and 3 administrative regions (Western Visayas, Central Visayas, and Eastern Visayas). The Mindanao region (with the exception of ARMM) and Cordillera Administrative Region generally report higher percentages of ever-married girls and women aged 15-49 whose husbands have ever exhibited selected types of controlling behaviours, by background characteristics, compared to the total population (Table 4.2.1).

This finding is particularly important as among the overall population, older women are generally less likely than

younger women to report most of the controlling behaviours by their husbands.¹⁵³ This is demonstrated in the fact that 45 per cent of adolescents and young women aged 15-19 and 35 per cent of young women aged 20-24 indicate that their husbands have ever exhibited jealousy and anger when they talk to persons of the opposite sex.¹⁵⁴

4.2.2 Harmful practices

In plural legal systems, the simultaneous existence and operation of national legislation, customary and/or religious laws often lead to tensions and complications in the implementation of the rights of women and girls as established in international and regional human rights treaties.¹⁵⁵ This situation is particularly evident in a number of countries where harmful practices have been outlawed but continue to persist due to the continuing influence of traditional norms.

The Special Representative of the Secretary-General on Violence against Children finds that "the list of harmful practices worldwide is long and ranges from lesser-known practices such as breast ironing, forced feeding and nutritional taboos, and the use of children in witchcraft rituals, to the more commonly known practices of FGM/C, forced and child marriage, honour killings, acid attacks, son preference, female infanticide as well as virginity testing."¹⁵⁶ Nevertheless evidence gathered for this research shows that existing data in this area in relation to indigenous girls and women is limited mainly to child marriage and isolated examples of FGM/C and son preference.

The previous section noted that the lack of consistency between both statutory and customary laws with international standards on the minimum age of marriage compromise protections that should be afforded to indigenous girls

Table 4.2.1: Percentage of ever-married girls and women aged 15-49 whose husbands have ever exhibited selected types of controlling behaviours by background characteristics (round estimates)

State	Is jealous or angry if she talks to other men	Frequently accuses her of being unfaithful	Insists on knowing where she is at all times	Displays 3 or more of the specific behaviours
Cordillera Administrative Region	20	12	14	9
Zamboanga Peninsula	36	12	28	10
Northern Mindanao	32	16	16	13
Davao	30	15	17	13
SOCCKSARGEN	42	16	34	13
Caraga	38	23	24	17
ARMM	28	8	29	8
Total population	30	13	18	10

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

and adolescence against child marriage. In Viet Nam, the 8 per cent of adolescents aged 15–19 years who are currently married or are in a union nationally increases with lower levels of education and by localities populated by ethnic minority groups. Hence 27 per cent of adolescents aged 15–19 years with no education are currently married or in a union, compared with only 1 per cent of their peers with tertiary education. In the Northern Midland and Mountain regions the percentage of currently married 15-19-year-old adolescents is the highest, standing at 17 and 11 per cent, respectively.¹⁵⁷ Similarly, while nationally, 12 per cent of women in the age group 20–49 were married by the age of 18, among those located in Northern Midland and Mountain areas, the prevalence rate was 19 per cent.¹⁵⁸

In Myanmar, where 7 per cent of adolescents aged 15-19 are married nationally, the highest rates are found among the Shan indigenous group. Twenty-two (22) per cent or one in every five females is found in the largely indigenous populated areas of Shan

(East), followed by Shan (North) and Shan (South) at 14 per cent and 11 per cent, respectively.¹⁵⁹ In the Lao People’s Democratic Republic where child marriage has been prohibited by law, the CRC Committee expressed concern about the continued practice of child marriage among indigenous girls. It found that the country’s lack of an effective statistical database to monitor the Family Act of 1990 – the legislation that prohibits child marriage –, impedes the law’s implementation.¹⁶⁰

The Global Campaign to Stop Violence against Women finds that child marriage in the indigenous-dominated Autonomous Region of Muslim Mindanao (ARMM) of the Philippines is largely influenced by Article 16 of the Muslim Code, which sets the minimum age of marriage of both males and females at 15 years and also confers powers on sharia district courts to sanction the marriage of a girl who has attained puberty.¹⁶¹ A total of 593 respondents from five provinces in ARMM who were younger than 18 at marriage when surveyed by Nisa Ul-Haqq

Fi Bangsamoro showed that 83 per cent were aged 15-17, while 17 per cent were aged 9-14. The ages of the respondents’ husbands ranged between 11-59 years, and 57 per cent were between 17 and 21 at the time of marriage.¹⁶² The ARMM also has the lowest median age at first marriage and the lowest median age at first sexual intercourse (both 19 years) among women aged 25-29, compared to 22 and 21 years respectively for the country’s general population.¹⁶³ Other related reproductive health data on ARMM include the region having the:

- *Lowest* percentage of girls and women aged 15-49 receiving antenatal care from a skilled provider (47 per cent), compared to 91 per cent of the total population;
- *Highest* likelihood of women aged 20-49 delivering their babies at home (85 per cent, compared to 56 per cent of the total population) and less likely in a health facility (15 per cent, compared to 44 per cent of the total population); and
- *Lowest* median duration of schooling (4 years for women and 3 years for

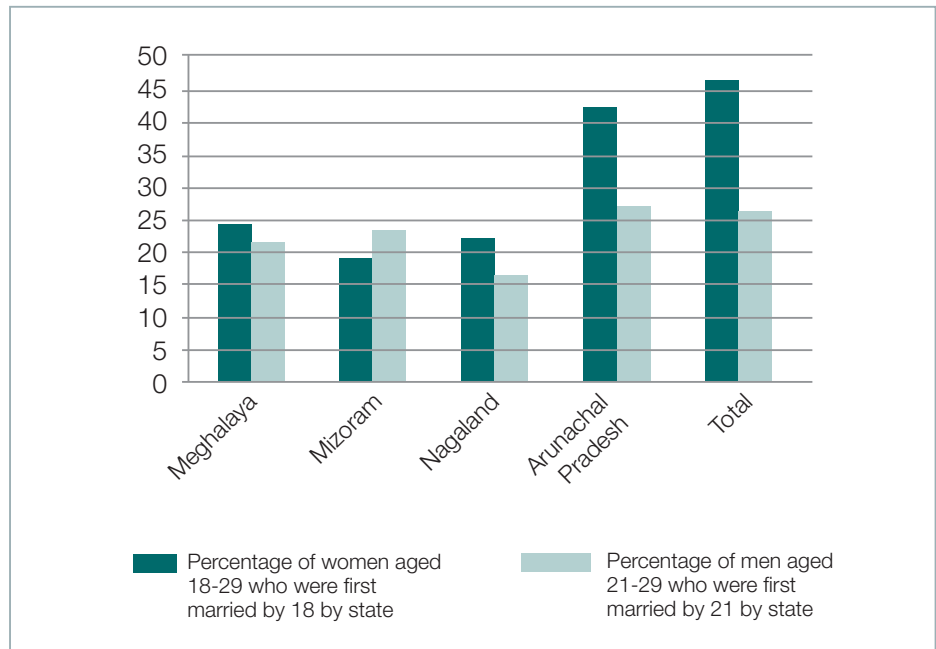
men compared to 7 and 6 years, respectively, for the total population) based on *de facto* household population.¹⁶⁴

While the DHS of India demonstrates that the median age at first marriage for Scheduled Tribe young women aged 20-24 is 17 years compared to 18 years for the total population, disaggregation by sex shows disparities between males and females based on the legal age of marriage of the country (Figure 4.2.2).¹⁶⁵

Like the ARMM, there is a strong association with low median age at first marriage and other reproductive concerns among the Scheduled Tribes in India. For example, the percentage of Scheduled Tribe adolescents and young women aged 15-24 and 18-24 who had sexual intercourse before 15 and 18 years, are 14 per cent and 50 per cent, respectively. This contrasts with the total population of 10 per cent and 40 per cent for the same age groups on the one hand and for Scheduled Tribal men: 4 per cent and 19 per cent on the other. The data also shows that Scheduled Tribe girls and young women aged 15-24 are less likely (10 per cent) to have used a condom at the last higher-risk intercourse than to Tribal males (22 per cent) and compared to the total population of females (22 per cent) and males (26 per cent) of the same age group.¹⁶⁶

In the absence of quantitative sources, qualitative studies on child marriage and betrothals of indigenous women and girls in West and Central parts of Africa show that girls as young as 13 or 14 are able to enter into marriage. In some countries, such as Gabon, girls as young as 4 years old are 'promised' and sent to the families of their future husbands to be educated according to their customs and values.¹⁶⁷ Oral testimonies of adolescents and young women who had been abducted and coerced into marriage by men who were unwilling or unable to pay the bride

Figure 4.2.2: Percentage of women aged 18-29 and men aged 21-29 who were married by legal age for marriage in India (18 for women and 21 for men)



Note: Legal age for marriage is 21 for men and 18 for women as set by the Child Marriage Restraint Act of 1978. The four states shown are those with the highest population of Scheduled Tribes out of the 29 states covered by DHS. Source: *National Family Health Survey (NFHS-3), 2005-06: India: Volume I* p 167.

price are also documented for countries in the Great Lakes region.¹⁶⁸

Commonplace are harmful myths about specific forms of violence (e.g., wife-beating and rape), many of which blame women and girls for such crimes committed against them.¹⁶⁹ In the Democratic Republic of the Congo, there is a prevailing myth that sex with Pygmy women, imbued with mythical qualities, can cure illness (including HIV).¹⁷⁰ Studies on the Great Lakes region similarly document prevailing myths that associate a cure of backaches with sexual relations with Batwa and Twa women.¹⁷¹ In Namibia, San women are believed to be “generally sexually available and, when assaulted, do not ‘feel’ raped.”¹⁷² Such myths not only perpetuate violence but also justify its occurrence and negate possibilities for seeking justice.

While Section 2.1 notes the continued high prevalence of FGM/C in some parts

of Africa and the Middle East, only Kenya has to date collected detailed information on the extent to which the practice affects indigenous groups (see Section V). The Economic Commission for Latin America and the Caribbean (ECLAC), finds that the practice is not common in the Latin America, region. Nevertheless, rare cases have been detected and documented among the Embera people of Colombia for more than 70 years through ethnographic records. In 2009, the Health Ministry of Colombia drew public attention to the problem following the deaths of three young girls from complications. (see Section VI).¹⁷³

As part of its DHS (2005-06), the Government of India undertook a “Fertility and Fertility Preferences” module to collect data on the mean ideal number of sons, daughters, and children of either sex for both males and females aged 15-49. The indicators cover the percentage of those who want more sons

than daughters; the percentage who want more daughters than sons; the percentage who want at least one son; and the percentage who want at least one daughter by background characteristics. While son preference is a shared practice among men and women in the country as a whole, prevalence rates for son preference are generally higher among those of Scheduled Tribes, including in those states where they are located (Table 4.2.2). These results point to the continued low status accorded to girls in society and can be used as an indication as to how household resources are shared between boys and girls and the impact this potentially has on girls' access to basic services such as education.

4.2.3 Economic exploitation, sexual abuse and sexual exploitation

The review finds limited references to indigenous girls and women in the expanding research on the various dimensions of economic exploitation, sexual abuse and sexual exploitation which are issues of concern in the three regions. Within the broad array of literature, the study finds that disaggregation by both sex and ethnicity are rare and references to indigenous girls and women are made to sectors which engage young people in bonded labour, forced labour, domestic labour, human trafficking in which they are also at risk of being sold.

For example, child labour is documented to be common among the Scheduled Tribes of India and indigenous peoples in western Nepal. In the latter, the Tamang account for 58 per cent of child labourers in the carpet sector, while the Magar represent 51 per cent of those working in coal mines. A 2003 ILO/IPEC baseline survey undertaken in Nepal among male and female short and long route child porters found that the majority of the more than 5,000 respondents

Table 4.2.2: Percentage of sex preference by sex (15-49) and states where indigenous populations are located*

Sex/states	% who want more sons than daughters	% who want more daughters than sons
Scheduled Tribe females	29	4
Total female population	22	3
Scheduled Tribe males	27	3
Total male population	20	2
By State		
Arunachal Pradesh	28	5
Chhattisgarh	33	4
Madhya Pradesh	31	2
Jharkhand	28	2
Orissa	24	2
Manipur	29	4
Meghalaya	12	17
Mizoram	29	23
Nagaland	21	10
Sikkim	16	6
Total population	22	3

Source: National Family Health Survey (NFHS-3), 2005-06: India: Volume I pp 103-106; *Based on round figures

interviewed comprised of ethnic groups who identify themselves as indigenous (e.g., Tamang, Rai and Tharuin). It found that the maximum weight carried by female short-route porters was as high as 50 kilograms while for long distance routes it ranged between 20 and 30 kilograms, often doing so for over a period of one or more hours.¹⁷⁴

Additional studies undertaken by the ILO in the Papua Province of Indonesia found that indigenous children and adolescents are more likely to be involved in child labour than their non-indigenous

peers.¹⁷⁵ Factors contributing to this situation include high levels of poverty, inadequate awareness and knowledge of the impact of child labour among indigenous peoples and limited access to education opportunities.¹⁷⁶ Similarly in Viet Nam, while more girls are involved in child labour compared to boys nationally (11 per cent versus 9 per cent), substantial differences emerge by ethnicity. In the Northern Midland and Mountain areas, 16 per cent of children aged 5-14 years are involved in child labour activities, compared with 4 per cent in the Red River Delta. This

percentage is also three times higher among ethnic minority children (24 per cent) compared to Kinh/Hoa children (7 per cent) aged 5–14 years.¹⁷⁷

Countries of the Asia Pacific serve as one or a combination of origin, transit or destination points for child trafficking. Indigenous girls and young women throughout the Mekong region (commonly known as hill tribes), are found to be especially vulnerable to trafficking for sexual exploitation.¹⁷⁸ The sale of indigenous girls for purposes of trafficking as well as debt bondage has been documented in Cambodia, China, Indonesia, Myanmar, Taiwan Province of China and Thailand.¹⁷⁹ Girls aged 12–16 years from hill tribes in Thailand’s north and north-east, for example, make up most of the victims of internal trafficking, particularly for sexual exploitation.¹⁸⁰ Victims are usually lured by the promise of a better life but are soon forgotten due to the social stigma attached to victims of trafficking.¹⁸¹

While trafficking affects many castes and ethnic groups in Nepal, an assessment undertaken by the ILO found that those most at risk are members of the hill ethnic groups and lower castes.¹⁸² It finds that the scope of contemporary trafficking among indigenous girls may be traced to the historical relationship marked by social and economic exploitation as well as political exclusion between Hindu castes of Kathmandu and indigenous Tamang communities in surrounding areas.¹⁸³ Among girls who are victims of trafficking, 28 per cent are Tamang.¹⁸⁴ Additionally, roughly 70 per cent of persons trafficked from Nepal to India on an annual basis are girls under the age of 16 from ethnic minority groups such as Tamang, Gurung, Magar, and Sherpa, located in remote hill villages or impoverished border communities.¹⁸⁵

ILO/IPEC finds that the steady decline in child labour in Latin America is not

reflected among indigenous communities and therefore remains a serious concern.¹⁸⁶ Forced labour in the region is closely linked to patterns of inequality and discrimination, especially against indigenous peoples.¹⁸⁷ The country mission of the UNPFII to the Plurinational State of Bolivia in 2009 found evidence of sexual abuse of Guarani girls while serving in homes of landowners (see Box 4.2.3).¹⁸⁸ In that same year, the CRC Committee expressed concern that the abuse of Guarani girls of the same country was increasing due to the absence of data to monitor prosecutions and convictions for such crimes.¹⁸⁹

Box 4.2.3: Testimonies of Bolivian community members to the UNPFII country mission

“The owners come and say they are taking our children to the city to be educated, but when they come back they don’t know anything. Many girls are sexually abused and when they become pregnant by the owner, they send them back to the community. Some never return.”

“Everyone knows that the owner’s sons have their first sex with Guarani girls.”

Source: UNPFII Mission Report, 2009: 19

The Bolivia National Statistics Institute and ILO/IPEC finds that participation rates of males and female indigenous children and adolescents in hazardous employment is more pronounced compared to their non-indigenous counterparts in both urban and rural areas. Based on figures for the age group of between 5–17 years it suggests that 29 per cent of male and 24 per cent of female children and adolescents of indigenous background in urban areas

are in these forms of employment, compared with 16 per cent and 14 per cent of their non-indigenous peers, respectively. At rural level, although the rates for both indigenous and non-indigenous groups increase sharply (82 per cent of males and 79 per cent of females in respect of those of indigenous background and 54 per cent and 46 per cent for those who are non-indigenous), those for the former remain significantly higher. Furthermore, in all cases, the data shows that the participation rate of indigenous girls and adolescents is consistently higher than that of non-indigenous males, non-indigenous females and in some instances, exceeds that of indigenous boys and adolescents. Table 4.2.4)¹⁹⁰

In Ecuador, the results of a rapid assessment undertaken by ILO of girl child labour in agriculture, domestic service and sexual exploitation, covering both indigenous and non-indigenous areas reveal the difficulty in identifying violations of the rights of girls and adolescents due to the practice of employer-employee non-contractual, property-style labour relations which allows the former to “adopt” one or more of the latter’s children and assume responsibilities for raising them.¹⁹¹ Girls typically work in such household settings between the ages of 6 and 12 years old, and like others in such settings are at risk of diverse forms of abuse.¹⁹²

In Guatemala, an estimated 65 per cent of domestic workers are indigenous girls and adolescents. Impoverished families often send their young female members for employment as domestic labourers in towns and cities, where they work an average of 14 hours per day and are often at the risk of physical abuse, psychological abuse and sexual harassment by employers and their family members, a situation worsened by the lack of commensurate remuneration and social security.¹⁹³

Table 4.2.4: Participation of children and adolescents in economic activities (%)

Area/Age group	Boys			Girls			National
	Non-indigenous	Indigenous	Total	Non-indigenous	Indigenous	Total	
BOLIVIA							28
Urban	16	29	18	14	24	16	17
Ages 5-13	10	20	12	9	17	11	11
5-8	4	11	5	4	9	5	5
9-11	13	16	14	11	20	13	13
12-13	20	40	23	19	21	20	21
Ages 14-17	32	41	34	25	35	28	31
14-15	27	33	28	23	37	27	28
16-17	37	47	40	28	33	29	34
Rural	54	82	67	46	79	62	65
Ages 5-13	46	78	61	42	75	58	60
5-8	30	64	44	30	63	44	44
9-11	61	86	74	55	81	68	71
12-13	70	88	80	50	86	70	76
Ages 14-17	74	93	83	59	90	75	79
14-15	81	96	89	58	85	71	80
16-17	69	89	78	60	94	79	79

Source: Organización Internacional del Trabajo, Instituto Nacional de Estadística de Bolivia. *Magnitud y Características del Trabajo Infantil en Bolivia – Informe nacional*, La Paz, 2010, p. 95. Table 6.1.

During his 2010 visit to the Republic of Congo, the Special Rapporteur on the rights of indigenous peoples expressed concern about the inequitable social arrangements between the Bantu majority and indigenous peoples. Such arrangements are relationships of domination and exploitation, in many instances amounting to forms of serfdom or involuntary servitude, noting that “Bantu ‘masters’ may control a number of indigenous people, seeing themselves as ‘owning’ the members of particular indigenous families from birth, and

consequently having the right to the labour and loyalty of those indigenous people.”¹⁹⁴ Situations of debt-bondage between indigenous and non-indigenous populations have also emerged which have resulted in the male and female children of the former working long hours on the farms of masters of their parents for low or no remuneration.¹⁹⁵ Similarly, the shadow report of the United Organisation for Batwa Development in Uganda (UOBDU) to the CEDAW Committee details under-payment, forced labour, sexual and physical abuse of Batwa

women and girls when working on the lands of dominant groups in Uganda.¹⁹⁶

Similar situations pertain in Namibia, where the Working Group on Indigenous Populations/Communities of the African Commission on Human and Peoples’ Rights learned of sexual abuse of indigenous girls in domestic work settings for which there had been police inaction even after the incidents had been reported. Recruitment for domestic labour of San girls and adolescents by non-San families in Namibia is

sometimes disguised as adoption, often leading to trafficking to other parts of the country.¹⁹⁸

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

General insecurity facing a country or community may serve as a potential risk factor for violence, as it is often symptomatic of a breakdown of the rule of law and the systems established to prevent and respond to violence.

This contributes to the loss of protections afforded to boys and girls who tend to get caught in the web of adult conflicts. UNICEF finds that the use of children in armed conflict is widespread.¹⁹⁹ Boys and girls are forcibly recruited into combat as young as 7 years old and are assigned responsibilities which reflect societal values on gender roles. While boys are more directly involved in combat, girls serve as spies, medics, cooks, gardeners, launderers and cleaners for combatants and are at risk of abuse by both adults and children alike.²⁰⁰ In 2012, the Special Representative of the Secretary-General for Children and Armed conflict reported of several grave violations including sexual violence, abduction and torture against girls in as many as 22 countries including indigenous populated countries of Central African Republic, Colombia, India, Myanmar, Nepal, and the Philippines.²⁰¹

There are also implications for the wider society. Latin America suffers from the highest rate of armed violence in the world, accounting for 42 per cent of homicides globally. This is accentuated by drug trafficking, youth violence, gangs and the increasing availability of small arms and light weapons.²⁰² A 2012 Expert Group Meeting of the United Nations Special Rapporteur on violence

against women, its causes and consequences found that gender-motivated killings emerging from such contexts of insecurity in the Latin America region was particularly critical for indigenous women and girls.²⁰³

Indigenous women and girls have been victims of gender-based violence in conflicts in countries such as Colombia, Guatemala, Mexico, Nicaragua and Peru.²⁰⁴ The Rapporteur on the rights of women of the IACHR notes that the situation of indigenous women and girls is particularly critical in the context of armed conflict, given that they are victims of multiple forms of discrimination on the basis of race, age, ethnicity and gender.²⁰⁵ During a visit to Colombia, the Rapporteur received complaints about the use of indigenous women and girls as ‘spoils of war’ by armed actors and verified that they had often been victims of sexual violence perpetrated by these groups. She also found that armed groups occupying indigenous lands “had kidnapped indigenous women, collectively used them sexually and abandoned them with impunity,” while young girls were forced to perform domestic duties. (Box 4.2.4)²⁰⁶

Conflicts over ancestral lands have also been a significant factor of insecurity among indigenous peoples in Latin America. In 2012, the Agrarian Affairs Secretariat of Guatemala registered 1,293 cases of land conflicts involving 1,059,873 people, of whom 81 per cent were indigenous and 66 per cent were concentrated in the Alta Verapaz, Huehuetenango, Petén and Quiché departments. In the same year the Office of the High Commissioner for Human Rights (OHCHR)-Guatemala monitored 39 social conflicts linked to land, extractive and/or monoculture projects, environmental threats and labour issues.²⁰⁷

Section 3.3.5 noted the adverse consequences on indigenous

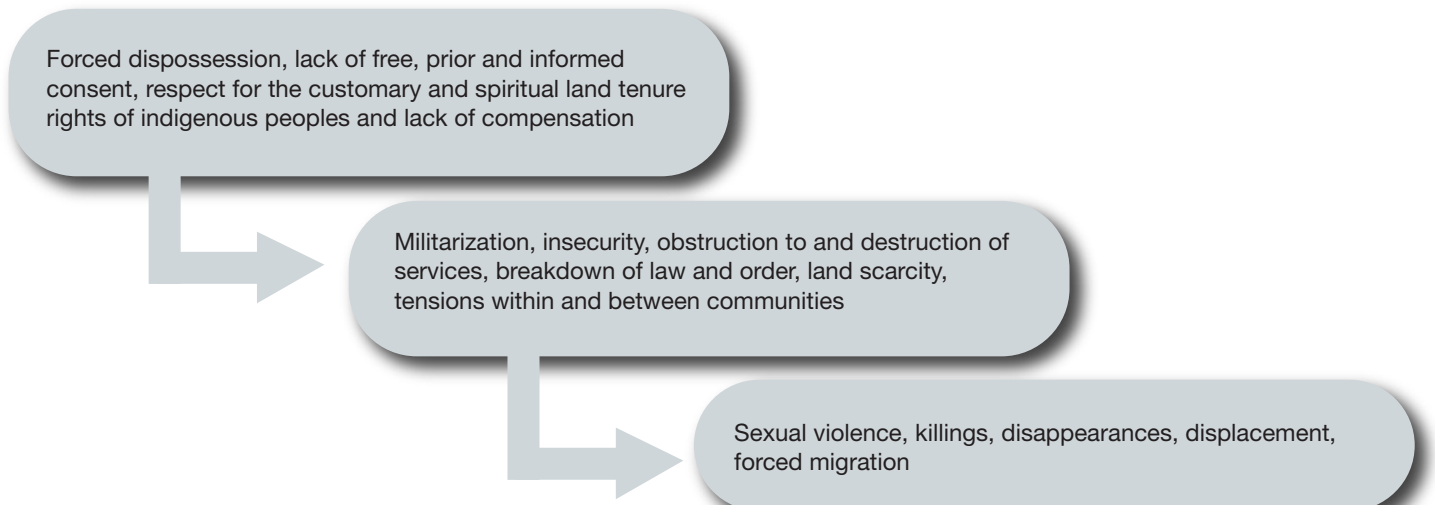
Box: 4.2.4: The impact of forced displacement on girls and adolescents

Another very worrying situation is that of the forced displacement of indigenous communities in Colombia, Guatemala, Mexico and Peru and the conflicts which cause them, leading to an exponential increase in levels of physical and sexual violence, mostly against adolescent girls and girl children. Such displacements bring about family and community disintegration, which have harmful consequences in terms of access to health services, education and housing, and for the well-being of children and adolescents.

Source: United Nations Economic Commission for Latin America and the Caribbean, No more! The right of women to live a life free of violence in Latin America and the Caribbean, 2009, p. 66

communities when infrastructural developments take place on the ancestral lands of indigenous peoples without their ‘free, prior and informed consent’ and adequate compensation. When such processes are undertaken with the use of force due to resistance from such communities, the risk of violence against girls, adolescents and young women increases. The Women, Law and Development Asia Pacific Forum in 2008 on ending violence against indigenous women – held in consultation with the United Nations Special Rapporteur on violence against women, its causes and consequences and the United Nations Special Rapporteur on the rights of indigenous peoples – assessed that forced dispossession from ancestral lands leads to a number of actions and consequences which potentially results in violence against women and girls as demonstrated in Figure 4.2.4.

Figure 4.2.4: Forced dispossession from ancestral lands as a risk factor for violence



Source: Asia Pacific Forum on Women, Law and Development, 'Defending the Rights of Indigenous Women in Asia Pacific Towards an Inclusive and Violence-free Future', summary report, APWLD, New Delhi, 15-16 October 2008, p. 29

Primarily as a result of the expropriation of lands by both public and private entities leading to such resistance from indigenous communities over the last decade, many indigenous communities in countries of the Asia Pacific region such as Fiji, India, Myanmar, Nepal, Thailand and Timor-Leste continue to witness increased armed conflict, political instability and militarization. In a number of these countries (e.g., Fiji, Myanmar, Papua New Guinea and the Philippines), research finds that rape is used as a tool of war by armed groups to terrorize indigenous communities.²⁰⁸ The United Nations Special Rapporteur on the rights of indigenous peoples specifically documents evidence of numerous cases of gang-rape, sexual enslavement and killing of tribal women and girls in a number of countries and was concerned that these acts had not been investigated and prosecuted. (Box 4.2.3.1)

Box 4.2.3.1: Accounts of gender-based violence in conflict

Gender-based violence has been recurrently used in the armed conflict in Myanmar, where numerous cases of gang-rape, sexual enslavement and killing of tribal women by members of the military have been reported. Although some of these cases have been well documented, the military has routinely failed to investigate these abuses. In the Chittagong Hill Tracts in Bangladesh, many cases of rape of Jumma girls and women by settlers backed by the military have been denounced, but in many cases the investigation of these cases is hampered by inaction on the part of the military and even of health professionals. In the Philippines, the militarization of many indigenous areas has also resulted in the sexual abuse of women of local indigenous communities.

Source: *Special Rapporteur on the rights of indigenous peoples, Report on Asia, 2007. E/C.19/2007/CRP.11. para 44*

In Africa, on which information is most scarce, Twa women and girls of the Great Lakes region have been and continue to be victims of war due to the on-going conflict in the Democratic Republic of the Congo and the absence of justice and remedies for those who were affected by conflicts in Burundi and Rwanda.²⁰⁹

Situations of inter-communal and intra-communal conflicts involving indigenous communities in Africa appear much more documented. Such conflicts have been common among and between the Pokot, Turkana, Marakwet and Samburu of Kenya over issues such as diminishing water resources for animal grazing and worsening climatic conditions leading to competing access for land.²¹⁰ Cross-border conflicts have also erupted between pastoralist communities located along borderlands linking Kenya (Turkana and Pokot), south Sudan (Topsa) and Uganda (Karimojong).²¹¹ Another source notes long standing and prevalent inter-clan and inter-ethnic conflicts between the Gurgura and Issa clans of the Erer district of the Somali region of Ethiopia for the same aforementioned reasons and resulting in

similar consequences for women and girls.²¹² Identical contexts and situations have also emerged among the Tuareg, Bororo, Wodaabe and the Toubou pastoralists of Niger; the Basarwa of Botswana; the Bagyéli of Cameroon; the Twa of Burundi, Rwanda and Uganda; and the Twa, Bongo and Mbendjele of the Congo.²¹³ Previously dealt with through traditional dispute mechanisms, such conflicts have assumed fatal dimensions for men, women and children, particularly within the context of the proliferation of accessible small arms, high-powered and other assault rifles in some of these areas.²¹⁴

In Mindanao of the Philippines, clan violence, locally known as *rido*, is also

noted to have impacts and risks that are comparable to armed groups as they often evolve into ethnic conflict and sometimes large-scale military interventions that carry security risks for women and girls.²¹⁵ A recent humanitarian mission of the Basulta Core Group found that women and girls of families involved are at high risk of being kidnapped or taken hostage and often subsequently subjected to rape and other forms of sexual violence in order to dishonour their families.²¹⁶ Furthermore, the Office for the Coordination of Humanitarian Affairs finds that 50 *rido*-related incidents in 2011 resulted in the displacement of an estimated 10,000 people, compared to 45 incidents that resulted in 6,000 displaced in 2010.²¹⁷



Section V

Case studies from Kenya, the Philippines and Guatemala

5.1 Introduction

To provide more in-depth illustrations of specific forms of violence already discussed, this section highlights one form of violence that is substantially well documented in Kenya, Guatemala and the Philippines and remedial actions being taken to address these concerns. The sub-sections which follow shed detailed light on harmful practices (FGM/C, child marriage and ‘beading’) affecting indigenous girls and adolescents in Kenya; violence against indigenous girls and young women in the post-conflict era of Guatemala; and the involvement of girls and adolescents in armed conflict in the Philippines.

5.2 Kenya: Harmful practices affecting girls and adolescents

Kenya is located in East Africa along the Equator with a population of approximately 38.6 million people. Fifty-one per cent are females and 44 per cent are 15 years or younger.²¹⁸ The country is comprised of more than 43 different communities of diverse socio-cultural traditions, norms and practices.²¹⁹ Indigenous peoples in Kenya include pastoralist communities such as the Endorois, Borana, Gabra, Maasai, Pokot, Samburu, Turkana and Somali and hunter-gatherer communities whose livelihoods remain connected to the forest, such as the Awer (Boni), Ogiek, Sengwer and Yaaku.²²⁰

While data on violence against indigenous girls and women is generally limited, Kenya’s previous and current DHS serve as opportunities for understanding the current situation of FGM/C and early marriage among indigenous girls and adolescents.

It is important to point out that while FGM/C is significantly associated with ethnicity, not all ethnic groups who identify themselves as indigenous in Kenya are documented to engage in the practice. DHS data from 1998, 2003

and 2008-2009 respectively show a decline in the national prevalence of girls and women aged 15-49 years who have undergone FGM/C in the country (38 per cent by 1998, 32 per cent by 2003 and 27 per cent by 2008-2009 respectively).²²¹ The most current data demonstrates a higher prevalence of the practice among rural groups (31 per cent) than urban groups (17 per cent) and with regard to ethnicity, FGM/C is far more prevalent among the Somali (98 per cent), the Kisii (96 per cent), and the Maasai (73 per cent) and least common among the Luo and Luhya women.²²² Coupled with this, the percentage of women who have undergone FGM/C declines steadily as wealth quintile increases.²²³

There is also a strong association between education levels and those affected by the practice: Fifty-four per cent of women with no education report that they have undergone FGM/C, compared with only 19 per cent of those with at least some secondary education.²²⁴ The fact that data on districts inhabited by Maasai, Rendille and Samburu indigenous communities reveal high illiteracy levels suggests that large proportions have either left or never attended school (Table 5.2). Despite Kenya’s adoption of a policy on free primary education in 2003, the CRC Committee expressed

concern about low enrolment rates of girls belonging to remote pastoralist communities, largely due to cultural practices like child marriage, FGM/C and underlying and structural causes such as poverty and the absence of education opportunities that are adapted to suit pastoralist life.²²⁵

FGM/C and child marriage are intertwined practices as the former typically signals a transition to womanhood. Kenya's State party reports to the CRC and CEDAW Committees note that the latter remains a common practice due to customary laws that allow the marriage of girls as early as 12 years old, particularly after certain rites of passage such as FGM/C have taken place.²²⁶ The DHS of Kenya also finds that, "marriage is generally associated with fertility because it is correlated with exposure to risk of conception. The duration of exposure to the risk of pregnancy depends primarily on the age at which women first marry. Women, who marry earlier, on average, have their first child earlier and give birth to more children, contributing to higher fertility rates."²²⁷

Although the proportion of women marrying by age 15 declines with age, (from over 10 per cent among women aged 45-49 years old to less than 2 per cent among girls and women aged 15-19), those located in three predominantly indigenous provinces (North Eastern, Rift Valley and Coast) as well as two predominantly non-indigenous provinces (Nyanza and Western) generally enter into marriage earlier than women in Nairobi, Central and Eastern Provinces. The difference in median age at marriage between North Eastern and Nairobi provinces is six years (18 and 24 years, respectively).²²⁸ The same data also shows that girls and women aged 15-49 with no or low education, those who are the poorest, and those who live in the North Eastern Province are most likely to live in a

Table 5.2: Literacy levels of males and females 15-49 years in selected districts

District	Literacy levels (%) 2008/09	
	Males	Females
Samburu*	12.8	12.2
Marsabit*	4.9	3.4
Narok*	32.3	23.1
Kiambu**	84.3	73.8
Nyeri**	78.7	73.3

Source: Kenya National Bureau of Statistics, Statistics obtained for the period 2008-2009

*Predominantly indigenous **predominantly non-indigenous

polygynous marriage. Western, Nyanza, Rift Valley and Coast Provinces have proportions of women in polygynous marriages ranging between 15 and 23 per cent.²²⁹

Further research is needed to determine the prevalence of the lesser-known but harmful practice of 'beading' found among the Samburu people involving the 'engagement' of girls as young as 9 years by male relatives (*morans*).²³⁰ The practice is limited to sexual relations and is not intended to lead to marriage since the would-be proposer and the girl are of blood relations. After the moran endows her with beads to signal his interest, the girl's mother builds a hut for the couple to consummate and sustain the relationship. Given that it is not a marriage, pregnancy resulting from the process of beading is not permitted. Contraceptive use, however, is not allowed to prevent pregnancy, leading to unsafe abortions and the birth of children who are considered outcasts.²³¹

Opportunities are nevertheless presented by Kenya's elaborate and on-going legislative reform initiatives to address harmful practices. The Children's Act (Act 8) of 2001 proscribes discrimination on the basis of factors such as sex, tribe and location; guarantees access to social

services such as education and health and affords protection from FGM/C, early marriage or "other cultural rites, customs or traditional practices that are likely to negatively affect the child's life, health, social welfare, dignity and physical or psychological development." These provisions are supported by the 2010 National Policy on the Abandonment of FGM/C and the recently enacted Prohibition of Female Genital Mutilation Act (No. 32) of 2011. The latter criminalizes FGM/C and establishes the Anti-Female Genital Mutilation Board to facilitate the implementation of the law.

Furthermore, Kenyan courts are harnessing judicial precedence to challenge customary practices which impede the advancement of women and girls. Although unrelated to FGM/C and early marriage, the Maasai case of the *Matter of the Estate of Lorionka Ole Ntutu (deceased)* ruled in favour of Maasai women and girls, holding that they have equal rights as brothers to inherit the estate of their fathers. This ruling serves to demonstrate that a progressive judicial system can set the stage for reversing practices which are harmful and discriminatory against women and girls.²³²

5.3 Guatemala: Violence against indigenous girls, adolescents and young women in a post-conflict era

Guatemala is in a period of social, economic and political transition after over three decades of armed conflict. By 2011, it had an estimated population of 14.6 million and a high youth bulge (Table 5.3).²³³ Official records suggest that 40 per cent of the population is indigenous, although this is contested by indigenous peoples who contend that more than 60 per cent of Guatemala’s inhabitants are indigenous. Indigenous ethnic groups include the Achi’, Akateco, Awakateco, Chalchiteco, Ch’orti’, Chuj, Itz’a’, Ixil, Jacalteco, Kaqchikel, K’iche’, Mam, Mopan, Poqomam, Poqomchi’, Q’anjob’al, Q’eqchi’, Sakapulteco, Sipakapense, Tektiteko, Tz’utujil, Uspanteko, Xinka and Garífuna.²³⁴

Administratively, the country is divided into 22 departments (including the capital, Guatemala) of which four departments have indigenous populations of more than 75 per cent (Alta Verapaz, Qyiche’, Sololá and Totonicapán), five have indigenous populations above 50 per cent (Baja Verapaz, Chimaltenango, Huehuetenango, Quetzaltenango and Suchitepéquez); six have indigenous populations of between 25 to 50 per cent

(Chiquimula, Jalapa, Petén, Retalhuleu, Sacatepéquez and San Marcos) and another six of up to 25 per cent (El Progreso, Escuintla, Izabal, Jutiapa, Santa Rosa and Zacapa).²³⁵

In its first cycle report to the UPR, the Government of Guatemala observed that “some of the most sensitive problems faced by the State of Guatemala are related to the task of ensuring that human rights are guaranteed, respected, defended and protected.”²³⁶ Persisting violence and impunity referred to in the government’s statement is traced to the 36 years of armed conflict during which indigenous women and girls were victims of various forms of violence.²³⁷ The Commission for Historical Clarification finds that 88 per cent of those affected were Mayan women and girls who were systematically targeted for gender-based violence, particularly femicide (two girls killed for every one boy) and rape as part of the counter-insurgency strategy.²³⁸

Therefore, while most indigenous girls and young women were born following the conflict, they continue to live its legacy.²³⁹ A general climate of impunity and new forms of violence such as organized crime and criminal gangs serve to perpetuate a tolerance of violence which discourage victims from seeking protection and redress.²⁴⁰ Article 200 of the Penal Code, then in place by the end of the conflict, granted immunity to perpetrators of sexual

violence and kidnapping of women and girls over 12 years old as long as the perpetrator subsequently married the victim.²⁴¹ In 2009 the law was repealed to provide for the penalization of sexual intercourse with a child younger than 14 years, thus reflecting only a minor improvement in the law.

Recent data show that indigenous girls, adolescents and women feel unsafe and live in fear of violence. A 2011 National Survey of Living Conditions, which included two departments with high indigenous populations (Totonicapán and Chimaltenango) and the department of Guatemala, reveals that females are less likely than males to view their communities as safe due to factors such as gang culture and high rates of kidnapping and murders. The survey also showed that both male and female youth view domestic violence as a matter of serious concern and regard their limited access to education, employment and information as underlying causes of violence. (Figures 5.3 and 5.3.1 - both overleaf)

In 2011, 705 of femicide alone were reported to the Presidential Commission on Femicide.²⁴² Bodies of victims were found to show signs of mutilation and sexual violence and were dumped in public areas, to promote fear and insecurity within communities.²⁴³ Still, by 2012 the OHCHR found that only 150 sentences were issued out of 424 cases of gender-based violence filed by women and girls.²⁴⁴

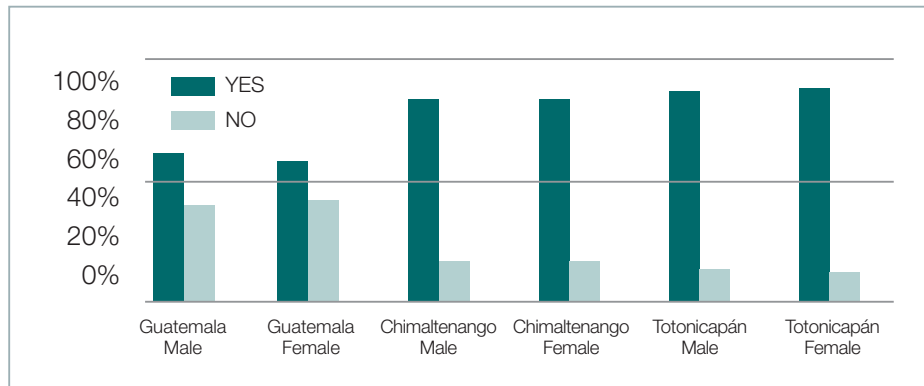
The Commission for Historical Clarification and the United Nations Special Rapporteur on the rights of indigenous peoples suggest that inequitable social, economic and political relations deeply rooted in the colonial and post-colonial state structure and policies continue to have an enormous influence on the existing culture of violence and impunity. Consistent with the ecological model, they observe the following four levels of discrimination in Guatemala:²⁴⁵

Table 5.3: Demographic profile of Guatemala by indigenous background, age (15-49 years) and sex

Population group (%)	Males	Females	Total
Indigenous	39.3	39.2	39.2
0-6 years	18.4	16.1	17.2
13-17 years	12.8	12.2	12.5
15-24 years	20.7	21.1	20.9

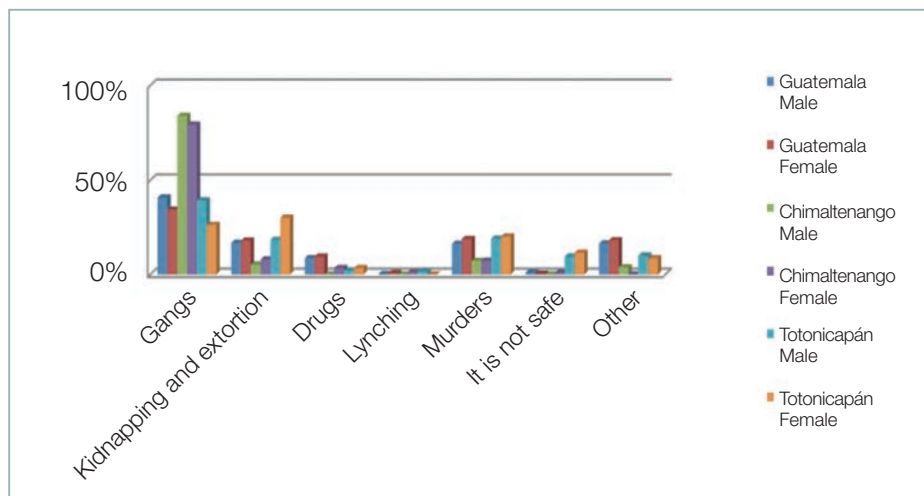
Source: INE, ENCOVI 2011 adjusted PNUD

Figure 5.3: Is your community safe?
Guatemala, Chimaltenango and Totonicapán perceptions



Source: Encuesta Nacional de Condiciones de Vida (ENCOVI), 2011. www.ine.gov.gt

Figure 5.3.1: Reasons for insecurity inside the communities:
Guatemala, Chimaltenango and Totonicapán perceptions.



Source: Encuesta Nacional de Condiciones de Vida (ENCOVI), 2011. www.ine.gov.gt

1. *Legal discrimination:* Delays in legal matters and the absence of laws to secure the full enjoyment by the indigenous peoples of all their human rights;
2. *Interpersonal discrimination:* Attitudes of rejection and exclusion of indigenous peoples in ways affecting girls and women, especially when they wear traditional indigenous clothing in public spaces;
3. *Institutional discrimination:* Bias against indigenous peoples in the distribution of public expenditure and collective goods such as educational and health facilities, the

- administration of justice, public and private investment, basic infrastructure and other services; and
4. *Structural discrimination:* Exclusion from access to the economic, political and institutional resources needed in order to live on an equal footing with the remainder of the population.

These profound challenges affect the ability of indigenous girls and women to live free of discrimination and violence. Among other initiatives (see Section VI), Guatemala’s 1996 Peace Agreement provides a useful framework for addressing issues of discrimination,

impunity and lack of access to justice. Its comprehensive agreement on human rights commits to ending *de facto* and *de jure* discrimination, strengthening national human rights institutions and the promotion of fundamental human rights including multiple forms of discrimination facing women and girls.²⁴⁶ A Tribunal of Conscience established in 2010 by a group of civil society organizations and other interest groups, has contributed to raising awareness on the persistent nature of femicide against indigenous girls and young women following the civil war.²⁴⁷

In more recent times, steps have been taken by the government to undertake reforms which address questions of impunity and limited access to justice by indigenous women and girls. They include accession to the Rome Statute of the International Criminal Court, the enactment of the Act on Femicide and Other Forms of Violence against Women and the Act against Sexual Violence, Exploitation and Trafficking in Persons.²⁴⁸ These have been coupled with the launch of constitutional proposals for the restructuring of the justice and security systems, human rights institutions such as the Office of the Human Rights Ombudsman, improved co-ordination between enforcement agencies and the creation of specialized tribunals against femicide in the departments of Guatemala, Chiquimula, Quetzaltenango, Huehuetenango and Alta Verapaz.²⁴⁹

5.4 The Philippines: Girls and adolescents associated with armed forces and armed groups in Mindanao

The Philippines is an archipelago made up of three major island groups: Luzon, forming the bulk of the northern islands and the location of the capital region; the Visayas group, situated in the central part of the country and; Mindanao, comprising the southern group. The country is divided into 17 regions (already described in Section 4.2.1) made up of decentralized provinces, followed by municipalities and barangays, the latter defined as the smallest units of local government.²⁵⁰ The population of indigenous peoples comprises between 10 to 15 per cent of the total population or about 11.3 million people from 110 ethno linguistic groups in more than 50 of the country's 81 provinces. Of the country's estimated 12 million indigenous peoples, approximately 5.1 million are 18 years or younger.²⁵¹

Many indigenous peoples in the Muslim-majority areas of central and south-western Mindanao live against a backdrop of conflict and violence that affect children and young people's lives and increased insecurity in places they should consider safe. While women and girls in the region are negatively impacted by both localized and larger scale conflicts, this sub-section focuses on the latter. These instances of violence have emerged from concerns related to



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the centralization of power, increasing number of Christian settlers, and logging and mining activities. Conflicts have involved the Moro National Liberation Front (MNLF), the Moro Islamic Liberation Front (MILF), the Bangsamoro Islamic Freedom Movement (BIFM), the Abu Sayyaf Group (a breakaway faction of the MILF), the New People's Army and the Armed Forces of the Philippines among others.²⁵²

The Special Representative of the Secretary-General on Children in Armed Conflict found an increase in the recorded number of cases of recruitment and use of children by armed groups in 2011 (54 children) compared with 2010 (24 children).²⁵³ For that year, the

country task forces on monitoring and reporting documented 26 incidents involving 33 male and 21 females between the ages of 10 and 18 years (Table 5.4).

Many of these incidents occurred in indigenous areas, including two schools especially built for the Manobo tribe of Mindanao: the Alternative Learning Center for Agriculture and Livelihood Development and the Tribal Filipino Program of Surigao del Sur.²⁵⁴ Maiming and killings are also linked to continued explosions, shootings, explosive remnants of war and improvised explosive device attacks. In 2011, 44 incidents of killing and maiming of children were reported. Twenty-six children (16 boys and 10 girls) were reportedly killed, and

Table 5.4: Reports of grave violations against children in armed conflict (2012) by sex

Sex	Verified recruitment and use of children by armed forces and armed groups	Killing and maiming of children (between ages 10 and 17)	Abductions (between ages 4 and 17)	Rape and other sexual violence
Boys	33	37	12	N/A
Girls	21	30	8	N/A

Source: United Nations General Assembly, *Children and Armed Conflict: Report of the Secretary-General*, 26 April 2012, A/66/782–S/2012/261

41 children (21 boys and 20 girls) were maimed.²⁵⁵ In the same year, 12 boys and 8 girls aged between 4 and 17 were victims of abduction; some assuming a pattern of kidnap-for-ransom to finance armed groups.²⁵⁶

Previous reports of human rights violations against women and children in the Philippines in settings characterized by militarization included cases of rape, sexual harassment and situations of girls being forced to serve as ‘comfort women’ in military camps.²⁵⁷ A specific case in 2008 involved the gang rape and subsequent settlement of two indigenous girls, aged 13 and 14 years by soldiers, while on their way to school in the village of Malapatan in the Sarangani Province of Mindanao.²⁵⁸

These findings are largely consistent with a 2002 assessment conducted by the ILO of 85 children (including 20 per cent girls) associated with armed groups in central and western Mindanao.²⁵⁹ The study indicated that on average, children were initiated into soldiering duties between 11 and 14 years of age.²⁶⁰ The “pull” to join the armed rebel group was primarily voluntary although encouragement by family members, rebel, and community leaders or a felt obligation to perform jihad were also important factors.

According to the ILO assessment, most children associated with armed forces or armed groups in the region come from the Maguindanaon and Iranun indigenous groups. Within these communities, girls are socialized from a young age to undertake domestic chores and other nurturing tasks such as para-

medical work or food preparation, while boys are assigned “traditional soldiering roles” such as foot patrolling, guarding, protecting camps and radio and communications.²⁶¹ Nevertheless, the same source notes that girls are also given military training and taught the basics of handling guns – from short arms to more powerful weapons, including firearms like the AK-47 or M-16.²⁶²

In 2009, UNICEF signed an action plan with MILF with respect to the recruitment and use of children in the Mindanao armed conflict. In addition to an affirmation of the policy of non-recruitment of children, the central commitment of the agreement focused on the release and reintegration of enlisted children.²⁶³ In 2010, the Australian Agency for International Development entered into a two-year funding agreement with UNICEF to promote and implement a family tracing and reunification education programme for children who had been registered under the action plan.²⁶⁴ A recently completed evaluation of this component has pointed to the need for the project to pay closer attention to the needs of girls, as the vast majority of beneficiaries of the project were boys.²⁶⁵

In addition to the monitoring and reporting mechanism obligation established by Security Council Resolution 1612, the Philippines has enacted the Special Protection of Children against Abuse, Exploitation and Discrimination Act (Republic Act No. 7610 of 1992), which punishes the recruitment of children (including punishing children themselves), facilitates agreements with armed groups to enhance the protection of children affected by armed conflict and creates a monitoring, reporting and response system for grave child rights violations in situations of armed conflict.²⁶⁶ The CRC Committee observed gaps in implementation of these measures and consequently, has called for enhancing the data collection system on children in armed conflict through improvements in capacities of agencies such as the Council for the Welfare of Children and the Presidential Human Rights Committee.²⁶⁷ The government has also initiated steps through a draft bill to review Act 7610 to ensure that children are not prosecuted for having been recruited or used in hostilities.²⁶⁸

Section VI Overview of on-going national-level initiatives of relevance to address violence against indigenous girls, adolescents and young women and the challenges of implementation

6.1 Introduction

A discussion of interventions to address violence against indigenous girls and women cannot be disconnected from broader interventions taking place. Prevention, protection, and response measures addressing violence against indigenous girls and young women may be broadly classified into those which are targeted at (a) women and children more broadly; (b) indigenous communities and (c) indigenous girls, adolescents and young women specifically.

The effectiveness and challenges of implementing these measures – particularly in relation to their impact on indigenous girls and women – are difficult to assess in the absence of evaluations. Small-scale reviews of such initiatives however demonstrate that they are beset by severe human and financial resource gaps, poor coordination and lack of effectiveness due to persistent patriarchal views of females and an insufficient amount of political will to bring promising initiatives to scale.²⁶⁹

6.2 General progress

At the national level, countries continue to undertake legal, policy and institutional reforms to strengthen the protection of girls and women from different forms of violence. In the past decade, many countries have enacted legislation designed to protect women and children – including those of indigenous background – from violence and exploitation. For example, more than 80 per cent of countries have full or partial legal prohibition on violence against children, and more than 90 per cent have prohibited sexual exploitation of children (including prostitution) and instituted legal measures to prohibit the sale or trafficking in children.²⁷⁰ Moreover, 33 countries have prohibited corporal punishment of children in all settings, such as the home, schools and penal institutions.²⁷¹

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

6.2.1 Legal reforms and protections

Some countries enhance protections for indigenous girls and women through explicit constitutional references to indigenous peoples and violence. The scope and character of such provisions vary when viewed from the experiences of some countries such as Bolivia (Plurinational State of), Guatemala, Kenya, Nepal and the Philippines, which contain relevant provisions for addressing the rights of indigenous peoples, gender equality and violence against women and girls.

The 2010 Constitution of Kenya, for instance, progressively abolishes customary laws and upholds the principle of non-discrimination, guarantees protection from violence whether “from private or public sources,” and proscribes slavery and forced labour.²⁷² Indigenous communities are also identified on the basis of marginalization, geographic isolation and their occupations as hunter-gatherers and pastoralists.²⁷³

The 2009 Plurinational Constitution of Bolivia is built upon its recognition of the country’s indigenous peoples and peasants and their right to self-determination and non-discrimination. Article 15 specifically guarantees its citizens, especially women and girls, a life free from all forms of violence: psychological, physical and sexual. It also condemns serfdom, trafficking, gender-related violence and inter-generational violence.²⁷⁴ Similarly, the Nepalese constitutional provisions includes the

Comprehensive Peace Accord concluded between the Government of Nepal and the Communist Party of Nepal (Maoist) and prohibits all forms of gender-based violence, exploitation of women and children and addresses discrimination based on language, gender and culture among others.²⁷⁵

Despite countries such as Bolivia (Plurinational State of), Nepal and the Philippines passing specific laws on the protection of indigenous peoples prior to the coming into being of the UNDRIP, many of their provisions are consistent with the declaration’s letter and spirit. The Indigenous Peoples Rights Act (No 8371, 1997) of the Philippines established the National Commission on Indigenous Peoples (NCIP) as the government agency responsible for the formulation and implementation of policies and programmes for indigenous peoples, with special attention to protection from bonded labour, forms of

debt servitude and sexual harassment.²⁷⁶ Yet still the post-UNDRIP Congo law of 2011 on the promotion and protection of indigenous peoples’ rights officially acknowledges indigenous peoples on the basis of self-identification and extreme vulnerability. It prohibits any form of discrimination against indigenous peoples, protects their land rights and includes provisions to protect women and girls from all forms violence, exploitation and abuse.²⁷⁷

6.2.2 Challenges in implementation

While these legal interventions represent significant steps forward in the protection of indigenous peoples, concerns have been expressed about their effectiveness due to limited implementation.²⁷⁸ The United Nations Special Rapporteur on the right to health, for example, found that Guatemala’s constitutional guarantees on the right to health were not being realized for indigenous peoples due to factors such as the over-concentration of health services in urban areas, insufficient funding, substantial language barriers and the lack of a comprehensive policy or national implementation plan for the health care of indigenous peoples.²⁷⁹

Reinforcing the importance of land in the holistic development of indigenous children, the CRC Committee has been concerned at the lack of implementation of Cambodia’s Law on Expropriation (2010) and the Circular on Temporary Settlements (2010), which the Committee cited as resulting in land dispossession and displacement of indigenous families and their children.²⁸⁰

The effectiveness of laws protecting women and girls against femicide in Latin America has been undermined by uncertainties surrounding its definition and scope, weak application, a culture of impunity and lack of due diligence on



the part of the State.²⁸¹ Furthermore, a recent comprehensive review of legislation affecting children and adolescents in the region points to the lack of full compliance with the principles, provisions of relevant conventions and the inadequate knowledge base pertaining to violence and exploitation.²⁸²

As a case in point, the CRC Committee found inconsistencies in references to the protection of women and girls against violence in the Plurinational State of Bolivia's national and indigenous customary law, as well as its international treaty obligations.²⁸³ For example, gaps are noticeable in Law 1674 on Family or Domestic Violence and Law 2033 on the Protection of Victims of Sexual Violence, which promotes reconciliation in the name of family honour and places less emphasis on prosecution.²⁸⁴

6.3 Institutional frameworks

As the primary duty bearer of obligations contained under global and regional instruments and national laws, the State and its institutions are responsible for ensuring that indigenous peoples' rights are fulfilled, respected and protected, including from all forms of violence.

Guatemala has invested in an elaborate institutional framework that specifically aims to ensure this in relation to indigenous women and girls. These institutions include the Presidential Secretariat for Women; the National Commission for the Prevention of Domestic Violence; the National Commission for Children and Young Persons; the National Commission for Migrants; the Office of the Ombudsman for Indigenous Women; Defensoria de la Mujer Indígena (DEMI); and the Guatemalan Fund for Indigenous Development.²⁸⁵ Within the framework of institutional reforms, in 2007 DEMI was

relocated from the Presidential Human Rights Commission to the office of the Presidency of the Republic, resulting in an increase in its budgetary allocation by more than 100 per cent between 2004 and 2007 and an expansion of its services to areas with large indigenous populations.²⁸⁷ Additionally, as part of its training activities, DEMI is running a diploma course on the rights and citizenship of indigenous women in 12 regional branches. It includes a module on human rights more broadly and women's rights more specifically and provides information on available support mechanisms and complaints procedures.²⁸⁹

Guatemala's feedback session to the first cycle UPR Working Group (2008) and a visit by the United Nations High Commissioner for Human Rights in 2012 highlighted that inadequate financial and human resources and capacities, limited co-ordination between agencies and the lack of political leverage posed challenges to the discharge of these mandates.²⁸⁸

In Kenya, the creation of the Anti-Female Genital Mutilation Board to facilitate the implementation of the Prohibition of Female Genital Mutilation Act (No. 32) of 2011 presents a unique opportunity to reflect the views of indigenous communities in the design and implementation of anti-FGM/C interventions. The board's effectiveness is also dependent upon that of other national institutions with broader mandates for the promotion of gender equality and human rights. In recent times, the CEDAW Committee observed that insufficient human and financial resources allocated to the Kenya national machinery for the advancement of women was hindering the effective discharge of its mandate, including co-ordination efforts between different institutions.²⁸⁹ It was equally concerned that the restructuring of the National

Human Rights and Equality Commission into two separate commissions – a Human Rights Commission and a Gender Equality and Development Commission – would result in an overlap of mandates.²⁹⁰

In the Philippines, the Magna Carta of Women (Republic Act No. 9710 of 2009) provides for the establishment of violence against women's desks in every barangay to ensure that violence against women cases are fully addressed in a gender-responsive manner." As of December 2011 however, only 27,705 out of the 42,025 barangays (or 66 per cent) had done so.²⁹¹ Tight budgets and the lack of systematic training of police officers, social workers, prosecutors and other governmental personnel are cited as reasons for gaps in enforcement of the law in poor and hard-to-reach barangays.²⁹²

Through the National Statistical Coordination Board, the Government of the Philippines is also promoting the generation of statistics on violence against women and children and in this connection it has produced a number of related resources such as (1) a glossary of concepts to promote a common understanding and interpretation of statistics on the issues; (2) a statistical handbook containing data on the prevalence of violence against women and children; (3) a statistical methodology to generate statistics; (4) and an assessment of existing administrative reporting systems, which provides a basis for integrating efforts among concerned agencies to ensure the generation of data on a regular basis.²⁹³ While these steps have proved useful in the analysis of data by ethnicity, sex, age and location, particularly in relation to the Philippines DHS, its wider impact remains to be seen across other aspects of data collection, particularly at the level of administrative data (e.g., police and social welfare) and other household surveys.

6.4 Efforts to prevent violence

6.4.1 Introduction

Violence prevention requires the changing of attitudes, challenging stereotypes and building the capacities of communities to appreciate the adverse consequences of violence against women and girls. It also requires women and girls to be empowered socially, economically and politically to overcome their subordinate position in society.²⁹⁴ Prevention strategies are broad and can include advocacy and community mobilization, working with men and boys, using media and information technology, life skills training, enhancing access to birth registration, formal education and capacity-building interventions many of which have extended to indigenous communities.²⁹⁵

Although the role of the media cannot be under-estimated in prevention initiatives, a number of DHS data point to the limited access that indigenous women generally have to this opportunity. For example, Scheduled Tribe Indian females and males aged 15-49 are the least likely to be regularly exposed to the media. Fifty-seven per cent of women and 38 per cent of men fall within this

category, compared to 35 per cent and 18 per cent of the total population of women and men, respectively.²⁹⁶ In the Philippines, ARMM and CAR have the lowest percentage of girls and women aged 15-49 who are exposed to three types of media (newspapers, television and radio) on a weekly basis (7 per cent and 17 per cent, respectively), compared to 24 per cent of the total population.²⁹⁷ Such limited access to the media potentially hamper efforts at reaching out to indigenous communities on issues affecting the rights of girls, adolescents and young women and needs to be addressed as an integral part of violence prevention.

6.4.2 Examples of prevention interventions

Community mobilization efforts to eliminate FGM/C among the Embera people of Colombia serve as an example of preventive action. The process has involved community ‘dialogue and reflections’ around the origins, meaning and consequences of the practice, sustained through the involvement of men, boys, local authorities, the media and culturally appropriate messages which promote understanding, rather than condemnation of the need to eliminate the practice.²⁹⁸

Grassroots efforts at keeping girls in school are gaining visibility in Kenya. The Maasai Girls Education Fund awards scholarships to Maasai girls and engages in community sensitization on the dangers of harmful practices such as child marriage and FGM/C.²⁹⁹ Similarly the *Tasaru Ntomonok* (meaning ‘rescue the women’ in the local Maa language) initiative, based in the southern Rift Valley was formed with the support of UNFPA to provide a ‘safe house’ for girls seeking refuge from FGM/C and child marriage and seeks long-term solutions by reconciling girls with their families.³⁰⁰

In Guatemala, decentralized scholarship schemes have been put in place by the government in support of rural indigenous girls and others in similar situations with the aim of increasing their primary school retention and pass rates as seen from Table 6.4.2 which demonstrates an average of just under 90 per cent coverage in five departments.

The *Abriendo Oportunidades* based in Guatemala and initiated by the Population Council in partnership with UNFPA is established on an empowerment model which encompasses peer-education, the creation of safe spaces, and networking within reach of seven Mayan ethnic groups (Kiche’, Kaqchikel, Tz’utuhil, Mam, Q’eqchi’, Poqomchi’ and Chorti). It has to date engaged more than 40 rural communities in six geographic regions of Guatemala and supported more than 3,500 indigenous girls aged 8–18.³⁰¹ The program’s approach is achieving transformative and sustainable change through these growing social support networks and the commitment by beneficiaries to serve as models to other girls and adolescents in their communities.³⁰²

With previous support from the United Nations Trust Fund to End Violence against Women, the *Centro de Promoción*

Table 6.4.2: Scholarships awarded by the rural girls scholarship programme

Department	Population (7-12 years)	Enrolled (7-12 years)	Net Coverage Rate (%)
Alta Verapaz	166,284	125,944	76
Huehuetenango	173,320	150,992	87
Quiche	142,578	125,125	88
Peten	83,696	78,406	94
San Marcos	156,518	153,079	98
Total	722,396	633,546	89

Source: Ministry of Education August 2007 and CEDAW/C/GUA/7, Table 40

de la Mujer Gregoria Apaza based in the Plurinational State of Bolivia, engaged in legal awareness and life skills development targeted at adolescents and young women to decrease the incidence of violence. Specific efforts to target male adolescents and youth in the process resulted in more inclusive and sustainable results due to opportunities to take into account the perspectives of both males and females. Between 2002 and 2005 – the years the organization was supported by the Trust Fund – the intervention had reached an estimated 2,000 adolescents and youth of whom 30 per cent were males.³⁰³

The Asia Indigenous Peoples Pact Foundation has received support from the United Nations Trust Fund to End Violence against Women for the period 2009-2013, to build a pool of committed local indigenous women leaders in at least 60 communities in India, Nepal and the Philippines. The aim was to have indigenous female leaders engaged in advocacy and community mobilization to reform local legislation and customary law to pave the way for ending violence and transformation of the dowry system. Some of the strategies used included networking and alliance building with traditional leaders, faith-based leaders and other influential community members to ensure the project's success and sustainability.³⁰⁴

With the aim of increasing birth registration coverage in indigenous communities in Peru, UNICEF is also supporting the government and local communities to address the practice of denying indigenous names by the civil registry. In 2002 the government agreed to designate indigenous civil servants in several communities in the northern Amazon forest to register children with the goal of addressing this issue. UNICEF has furthermore created a network of civil registries for indigenous

people in the most remote parts of Peru's Loreto region.³⁰⁵

6.5 Efforts to protect and support women and girls who have experienced violence

6.5.1 Introduction

To ensure that women and girls who are victims of violence are granted adequate protection and justice, it is critical that systems are put into place to facilitate reporting to the formal criminal justice system and other reporting mechanisms.³⁰⁶

However, evidence from the Philippines and India show that the tendency to report or seek help in situations of violence is less in communities with a high percentage of indigenous peoples. In the case of the Philippines, the ARMM scores lowest in terms of girls and women aged 15-49 who seek help to stop violence (5 per cent), compared to the national total of 18 per cent.³⁰⁷ Similarly, Scheduled Tribe girls and women of the same age group are among those least likely to seek such help in India.³⁰⁸ This is corroborated by 59 per cent of Scheduled Tribe girls and women aged 15-49 who agree that a husband is justified in hitting or beating his wife for specific reasons, compared to 54 per cent of the total population.³⁰⁹ These experiences demonstrate the importance of ensuring that reporting and complaints mechanisms, such as helplines, are well publicized and made easily accessible to indigenous girls and women in their own languages and communities. But nevertheless, appropriate support should be forthcoming to victims of violence, regardless of whether or not they are unable to or prevented from reporting it.³¹⁰

The sub-sections which follow outline the various forms of response measures in place for victims of violence and the accompanying challenges and gaps.

6.5.2 Access to justice and legal services

ECLAC uses the term 'institutional violence' to describe situations in which victims are denied the protection of the State due to the "blanket of impunity."³¹¹ In Section 4.2.4, the point was made that the term *femicide* evolved from the persistent and regular killings of women and girls in this broader context of insecurity in the Latin America region. It is complemented by a corollary term, *feminicidio*, which connotes a culture of impunity rooted in the lack of due diligence to address the structural barriers to justice and due process.³¹² The experiences in countries such as Bolivia (Plurinational State of), Colombia, Guatemala and Mexico demonstrate that language and economic barriers, geographic remoteness of indigenous territories, patriarchal and discriminatory attitudes of law enforcement and justice officials, together with insufficient knowledge of existing applicable legislation, are among the factors that reinforce a system of indifference and discourage victims from pursuing cases.³¹³

The Rapporteur on the rights of women of the IACHR finds that the response of the justice system to cases involving violence in the Americas is "deficient and hardly on par with the severity and incidence of the problem."³¹⁵ She highlights gaps, irregularities and deficiencies in investigation, prosecution, trial and punishment of such cases, attributing them to the failure of due diligence and due process and acknowledges that obstacles are even more challenging for indigenous women.³¹⁶ The IACHR finds that although the Code of Criminal Procedure (Law No. 1970, 1999) of the Plurinational State of Bolivia provides special guarantees to indigenous peoples when accessing the judicial system, its effectiveness tends to be challenged by

the lack of training of enforcement officials and the absence of translators.³¹⁷

Some Latin American countries are nevertheless demonstrating support for justice reforms. A recent review of multi-sectoral services and responses for women and girls indicated that the Government of Mexico works with justice professionals to improve access to justice for indigenous women, including the certification of interpreters in indigenous languages and the establishment of specialized centres and mobile services. Similarly, the Government of Argentina's free legal advice service extends to indigenous women and other vulnerable groups in remote areas through mobile outreach services, while the Government of Paraguay has established four regional

centres to respond to violence against women.³¹⁸

In Namibia, implementation of the Combating of Domestic Violence Act (2003) is hampered by concerns among indigenous women that reporting incidents to the police would result in police violence against their San husbands who also encounter discrimination in the security and justice sectors due to their ethnic background.³¹⁹ During its mission to Gabon, the Working Group on Indigenous Populations/Communities of the ACHPR found that indigenous women and girls who had been sexually abused were not accessing the justice system due to the lack of awareness of their rights, cumbersome legal procedures, the cost of accessing justice

and the fear of prejudice and bias.³²⁰ Forty-seven per cent of 95 Batwa women and girls interviewed in a 2010 Minority Rights Group International survey similarly indicated that setbacks such as cumbersome reporting procedures within the justice system, corruption and limited geographical access to police stations prevented them from reporting violence.³²¹ An additional 29 per cent were concerned about being guaranteed confidentiality when reporting incidents of violence.³²² Recent findings also indicate that access to justice and police protection for indigenous peoples in the Republic of Congo, is often circumvented, particularly when the offender belongs to the dominant non-indigenous group.³²³



Similar concerns have emerged with respect to access to justice to children affected by armed conflict in the Philippines where the prevailing climate of impunity, insecurity, corruption and lack of accountability and the absence of witness protection have led to lack of trust in the security and justice systems.³²⁴

6.5.3 Care and support

Studies show that efforts at addressing child trafficking in the Asia Pacific tend to be ineffective and unsustainable due to fragmented approaches that are not tailored to suit the needs of specific groups of children, such as those who are indigenous.³²⁵ Moreover, a desk review undertaken on sexual violence in the much broader geographical area of Latin America and the Caribbean points to barriers such as the lack of basic infrastructure; discriminatory, patriarchal attitudes of service providers; the lack of privacy and confidentiality; insufficient personnel; and bureaucracy.³²⁶

The illustrative examples below show a combination of documented government-led and community based intersectoral and intercultural models in support of victims of violence.

In Guatemala, the enactment of the new femicide law and the creation of specialized tribunals to prosecute such cases in a number of mainly indigenous populated departments have resulted in the institution of a comprehensive care system in place for victims of violence. The system provides multi-sectoral personalized care to survivors through a combined team of psychologists, social workers and doctors. Assistance also extends to legal proceedings to avoid re-victimization and the identification of protection measures that need to be taken in particular cases.³²⁷ This is supported by a new protocol for implementing the anti-femicide law in



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addition to a full-time 24-hour service unit of the Public Prosecution Service.³²⁸ In Kenya, a group of Samburu women activists established a women-run village in the 1990s in support of victims of violence. Called Umoja, which means 'unity' in Swahili, it serves as a place for victims who have been forced to leave their communities because of being considered to have brought 'shame' on their families. As part of their anti-violence strategies, the initiative draws substantially on human rights awareness and systems of resource sharing to promote economic independence and combating pressures to submit to FGM/C and child marriage.³²⁹

As part of a United Nations Joint Programme to prevent gender violence in indigenous communities in Mexico, UNICEF is building the capacity of local actors to develop and implement inter-institutional protocols against gender-based violence and other forms of violence against children and adolescents. These efforts in 10 municipalities with large indigenous populations in the states of Chiapas and Oaxaca, have involved the innovation of promoting dialogue

between formal judicial authorities and traditional indigenous authorities in the domain of gender violence. The programme aims to support victims, their families and communities to report cases of violence, and to seek legal redress, psychosocial support, and related services such as education.³³⁰

UNFPA finds that responses to gender-based violence are also effective when care and support services for victims are integrated into a broader package of culturally-sensitive reproductive health services. Between 2008 and 2011, strategic partnerships forged in Bolivia (Plurinational State of), Ecuador, Guatemala, Honduras and Peru with various agencies achieved legal, policy and administrative reforms in the areas of on intercultural reproductive health including violence-related services for indigenous women and adolescents.³³¹

The Jambi Huasi Health Clinic based in Otavalo, Ecuador, and supported by UNFPA serves to provide health- and violence-related interventions in ways which are culturally responsive to the needs and experiences of indigenous

women and adolescents.³³² Many of the lessons learned from the clinic have been used to establish culturally acceptable or intercultural health models in the Andean region (Box 6.5.3).

Similarly, in Mexico, a model programme supported by UN Women in collaboration with the Government of Mexico and women's networks has succeeded in integrating sexual and reproductive health services with violence prevention and response services through the establishment of Indigenous Women's Houses. These houses are coordinated by

indigenous women and seek to provide culturally sensitive practical and psychological assistance, through counselling services, legal assistance, referrals and support to indigenous women and girls who have been affected by violence. As a result of a successful pilot phase, the initiative was acknowledged as a best practice by the UNPFII. To date, 19 Indigenous Women's Houses have been established in the states of Baja California, Nuevo León, Sonora, Querétaro, Estado de México, Yucatán, Chiapas, Oaxaca, Guerrero, Puebla, Veracruz and Michoacán.³³³

Box 6.5.3: Providing culturally sensitive health services through the Jambi Huasi Health Clinic

The Jambi Huasi Health Clinic was founded on a national strategy to address the health needs of the poorest, underserved communities. Designed to improve the quality and scope of reproductive health care provided to Quechua speaking communities, the services encompass provision of reproductive health education and information to women, men and adolescents, and a referral system for gender-based violence and obstetric complications. Jambi Huasi, which means 'health house', provides both modern and traditional medical treatment, as well as family planning advice and services. The traditional healers draw from a 'pharmacy' of more than 3,600 native plants used for medicinal purposes, and the programme draws on staff and volunteers who are also indigenous. This unique combination of services contributes to its wide utilization. Although originally designed to serve some 4,000 people a year, the number has increased to an average of 1,000 per month to date. The strategic value of utilizing the skills and external confidence of female doctors of indigenous descent trained in Western medicine and yet having a strong identity and bearing a legacy of cosmovision has been identified as source of the projects success.

Source: Inter-Agency Network on Women and Gender Equality Task Force on Indigenous Women. Indigenous Women and the United Nations System. Good Practices and Lessons Learned. 2006, pp. 55-57

Section VII

Conclusion and recommendations with guiding principles

7.1 Conclusion

This study sought to generate a deeper understanding of the magnitude, nature and context of violence experienced by indigenous girls, adolescents and young women through illustrative examples from Africa, Asia Pacific and Latin America. Undertaken through a desk review, it aimed to determine the interface between the contexts in which indigenous girls and women live and the structural, underlying causes and risk factors associated with violence against these groups. It also sought to identify particular forms of violence that have been documented, examples of on-going, national-level prevention, protection and response measures and their identified challenges.

The findings underscore that the trajectory of violence for the study groups is traced to the multiple and intersecting forms of discrimination that confront them. Vulnerability to violence is not only heightened by risk factors at the individual, family, community and wider societal levels but also in the overall economic, legal, social, political and cultural contexts in which indigenous peoples live.

Looking into the future, it is vital to recognize the critical role that indigenous girls, adolescents and young women themselves have played in these achievements: They have challenged oppressive social and cultural norms. Infact the complex web of past and present circumstances has not prevented them from engaging in their communities, countries and globally as change agents in the pursuit of justice. (Box 7.1 - overleaf)

The study identifies some deficits in knowledge on violence faced by indigenous girls and women. Though limited, data already accumulated highlights the need for action to be taken. Recommendations to this study are informed by other recommendations already in place and continue to be set by relevant bodies, mechanisms and

procedures of national, regional and global human rights systems.

This study further takes account of measures that were recommended for eliminating violence against indigenous women and girls at the 2012 International Expert Group Meeting of the UNPFII and those of the Fifty-seventh Session of the Commission on the Status of Women. To this extent, the principles and recommendations proposed are complementary to these efforts and aim to strengthen and facilitate their implementation. Realizing change for indigenous girls and young women and ensuring their right to live free from violence will require coordinated efforts of governments, United Nations agencies, funds and programmes, civil society, indigenous peoples, communities and families.

7.2 Principles

Six principles of action and 10 recommendations are proposed to guide the way forward in accelerating efforts towards ending violence against indigenous girls, adolescents and young women and should be taken into account in the design and implementation of all interventions aimed at preventing and

Box 7.1: Voices and views of indigenous girls heard by the CEDAW Committee

Civil society organizations often produce shadow or alternative reports and submit them to human rights treaty bodies, as well as the Universal Periodic Review, with information evaluating how a State party has fulfilled the substantive rights outlined in the treaties. Even though treaty bodies increasingly take into account the perspectives of indigenous peoples, submission of shadow reports highlighting the perspectives and experiences of women and girls may encourage the inclusion of this information into their constructive dialogues held with States and their recommendations issued at the conclusion of the sessions.

Batwa girls from Nyakabande in Kisoro who participated in the preparation of the United Organisation for Batwa Development in Uganda 2010 alternate report to CEDAW recommended that gender-based violence prevention programmes should be accompanied by economic empowerment opportunities for girls, adolescents and young women as a means of breaking the cycle of male dependency. This recommendation was taken into consideration by the CEDAW Committee during its session with the Government of Uganda and, as a result, this recommendation formed part of the final set of concluding observations. The CEDAW Committee noted “with concern the particularly marginalized situation of the Batwa women” and urged the “State Party to continue to intensify the implementation of gender-sensitive poverty reduction and development programmes in rural and urban areas and to pay particular attention to the Batwa women in the development of such programmes.”

Sources: United Organisation for Batwa Development in Uganda and Forest Peoples Program, ‘Batwa Women in Uganda: Disproportionate human rights violations’, UOBDU/FPP, 2010, p. 12; and Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations to Uganda (C/UGA/CO/7), 2010, paras 39 and 40.

responding to violence against indigenous girls and women. They are:

1. *Accountability:* Violence against girls, adolescents and young women is unacceptable. The State, civil society, indigenous peoples and families have a shared responsibility in ensuring that indigenous girls and women are protected from its diverse forms and that violence is not sustained by a culture which condones it.
2. *Equality and non-discrimination:* All indigenous girls, adolescents and young women will be treated equally regardless of their age, sex, ethnicity, disability, location and other factors, and full recognition will be given to

their status as rights holders alongside other male and female groups.

3. *Gender equality:* Addressing violence against indigenous girls and women from a rights perspective requires that gender inequality be taken into account as a root cause. This means that the rights and freedoms of women and girls will be respected, promoted and protected and that all interventions will be designed and implemented with this understanding.
4. *Respect the collective and individual rights of indigenous peoples:* The collective and individual rights of indigenous peoples – including their right to self-determination, ancestral

land and natural resources – will be respected.

5. *Participation and empowerment:* The recognition of indigenous girls and women as agents of change and their participation on a regular and systematic basis will underpin the process of planning and designing interventions.
6. *The integration of inter-cultural perspectives:* All interventions will demonstrate and practice respect for cultural diversity, dialogue and consensus building, including efforts to adapt interventions where necessary and appropriate to suit the cultural perspectives of indigenous peoples.

7.3 Recommendations

Intended to be adaptable to regional and country contexts, the recommendations are grouped into four broad areas of concern identified in the report: 1) research, monitoring and reporting; 2) prevention; 3) the provision of age, gender and culturally appropriate comprehensive services; and 4) enhancing capacities, co-ordination and co-operation.

7.3.1 Research, monitoring and reporting

1. *Opportunistic data collection, analysis, reporting and monitoring.* The study finds that the limited analysis and reporting of data on violence by sex, age and ethnicity in addition to the absence of information systems capable of monitoring violence inhibits an adequate analysis of the causes of such violence and the identification of possible prevention, protection and response measures. Opportunities are however presented with DHS, MICS, CLS and other national household surveys to analyse data by these variables and to explore possibilities for increasing sample sizes of areas populated by indigenous peoples,

drawing on lessons from countries such as Bolivia (Plurinational State of), India, Kenya, the Lao People’s Democratic Republic, the Philippines and Viet Nam. Nevertheless, given that household surveys are only one method of data collection, it is equally important to promote and support data collection efforts through other means, such as administrative records, qualitative studies and ad-hoc surveys.

2. Address existing gaps in knowledge.

Critical gaps in research identified in this study potentially serve to shape a future research agenda. The study elicits more in-depth appreciation of two major areas, namely: 1) the full extent to which indigenous women and girls are affected by the different forms of violence identified in this research (i.e., domestic violence, harmful practices, economic exploitation, sexual abuse and sexual exploitation, and gender-based violence in situations of armed violence, insecurity and communal conflicts) and others documented in the United Nations Secretary-General’s studies on violence against women and violence against children. Additionally, attention should be paid to different forms of intersecting inequalities as reflected in the experiences of indigenous girls and women with disabilities and those located in rural areas. The research should be undertaken from the perspective of different settings (e.g., domestic, education, employment, care and justice institutions and the community at large); and 2) effective strategies for preventing and responding to violence against indigenous girls and women, including documenting lessons learned and assessing the impact of existing legal, policy and institutional reforms. A research agenda must furthermore take into account identified gaps in data by region. For example, data on the situation of indigenous communities in Africa is commonly lacking, suggesting a need for technical



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assistance to address the paucity of data in that region.

3. Integrate issues affecting indigenous girls and young women into the procedures of national, regional and global human rights monitoring and reporting systems. It is critical that international, regional and national human rights mechanisms including special procedures of the Human Rights Council, ACHPR and IACHPR continuously monitor and report on violence perpetrated against indigenous girls and women. The treaty body system and UPR should also continue to use the opportunities of issuing recommendations to State parties and general comments (such as the forthcoming recommendation on access to justice of the CEDAW Committee) to address violence against these groups.

7.3.2 Invest in prevention

4. Tackle discrimination and gender inequality. Forming part of measures to

address the systemic and structural root causes of violence, this should include taking steps to embark upon rigorous law reforms to align national and customary laws with international standards and to establish legal guarantees on the prohibition of violence; eliminate *de facto* and *de jure* discrimination against indigenous peoples; reverse patriarchal tendencies and other stereotypes which are at the root of discrimination and gender inequality and; revitalize positive cultural values that protect from violence. To effectively address violence, it is also critical to intensify community action and mobilization through legal awareness, increased access of indigenous communities to the media, and the active engagement of men, and boys including community elders’ in changing harmful attitudes and norms.

5. Conflict prevention and participatory development are critical to prevention. Increased efforts should be made to put mechanisms in place for peaceful

dialogue between indigenous communities and their respective governments over land allocations that are needed for developmental purposes. The principle of ‘free, prior and informed consent’, the allocation of adequate and appropriate compensation to affected families, and the full participation of women and girls must be enforced. Furthermore, in cases where communities are requested to relocate to new areas as a result of such development projects, adequate steps must be taken to ensure that family livelihoods are not compromised and that all security risks such as tensions over land distribution and sharing of other resources with other indigenous and non-indigenous communities do not place women and girls at risk of violence, abuse and exploitation.

7.3.3 Provide age, gender and culturally appropriate comprehensive services

6. Ensure that indigenous girls and young women access quality support services. Women and girls who have experienced violence, exploitation or abuse have the right to access the necessary support services for their full physical and psychological recovery and social reintegration. The provision of such services should be part of a broader multi-sectoral strategy that seeks to improve the holistic development of indigenous girls and women through access to birth registration, quality education, health (including sexual and reproductive health), social welfare services and complaints, and reporting mechanisms such as helplines. Such services should take into account the range of barriers to accessibility (e.g., geographical, language, financial and attitudes of service providers).

7. Promote access to justice and end the culture of impunity. Undertaking reforms in the justice sector for promoting access

to justice and redress support systems is needed to enhance the ability of victims to seek redress, compensation and protection from violence. A package of reforms which includes legal aid, witness protection, interpretation of proceedings and procedures in appropriate languages should be pursued. Concrete efforts should also be made to ensure that the culture of impunity is addressed and that opportunities to effectively access remedies are enhanced.

7.3.4 Enhance capacities, coordination and co-operation

8. Enhancing the capacities of implementing institutions. Governments must allocate adequate human and financial resources to the implementation of legal and policy reforms, action plans and strategies to ensure that institutions across relevant sectors such as justice, health, education and social welfare possess the relevant capacity to effectively implement reforms in a coordinated manner.

9. Engage in partnerships to share knowledge and scale-up good practices. Governments, civil society organizations and the United Nations system should partner with indigenous communities to systematically document existing anti-violence strategies including those which have been nurtured in indigenous communities over the years. Platforms should also be created for knowledge sharing through avenues such as south-south and triangular co-operation.

10. Integrate findings and recommendations of this study into discussions, debates and outcomes of ongoing global agenda setting frameworks

and their follow-up processes. These include: The International Conference on Population and Development Beyond 2014 review process, the World Conference on Indigenous Peoples to be held in September 2014, processes related to the Post-2015 Development Agenda and specific agenda-setting frameworks in relation to violence against children and women. Governments, civil society organizations and the United Nations system should also advocate for these outcomes to be integrated into national policy and decision-making at all levels.

7.4 Way forward

While some information on violence against indigenous girls, adolescents and young women is available, existing gaps in knowledge must be filled for its full extent to be known. This study underpins the peculiarities of the experiences of these groups who possess both collective and individual rights under various treaties and declarations. The UNDRIP triggers a need for more focused research to begin in parallel with improvements and scaling-up of ongoing initiatives on the basis of the knowledge that already exists. Looking forward, addressing discrimination and engaging with indigenous girls and women to design and implement accessible prevention, protection and response initiatives geared towards ending the unacceptable cycle of violence and impunity is an imperative for all countries.

Working definitions

The study was guided by a number of contextual definitions: (a) that of the *child* as contained in article 1 of the CRC: “[e]very human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier”; (b) definition of *adolescent*: any person between the ages of 10-19 years³³⁴ (c) United Nations definition of youth is: any person between the ages of 15-24 years.³³⁵ The African Youth Charter of the African Union stipulates this as between 15-35 years based on Africa’s context and development realities.³³⁶ (d) the definition of *violence against children* provided for by article 19 of the CRC “all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse,” in addition to (e) the definition of violence against children provided for in United Nations Secretary-General’s study on violence against children (2006): the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child’s health, survival, development or dignity; (f) the *worst forms of child labour* as defined by ILO Convention 182 comprising all forms of slavery or

practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; sexual exploitation of children in prostitution, pornography and pornographic performances; exploitation of a child for illicit activities; and work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (g) and the definition of *violence against women* as provided for by the United Nations Declaration on the Elimination of Violence against Women “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.” It encompasses physical, sexual and psychological violence occurring in the family, general community and perpetrated or condoned by the State, wherever it occurs; (h) *risk factors* are situations which increase the likelihood of someone becoming a victim and/or perpetrator of violence;³³⁷ and (i) *protective factors* are those which buffer against the risk of becoming a victim and/or perpetrator of intimate partner and sexual violence.³³⁸

Acronyms

ACHPR	African Commission on Human and Peoples' Rights	MDG	Millennium Development Goal
ACRWC	African Charter on the Rights and Welfare of the Child	MICS	Multiple Indicator Cluster Surveys
ARMM	Autonomous Region of Muslim Mindanao	MILF	Moro Islamic Liberation Front
ASEAN	Association of Southeast Asian Nations	MNLF	Moro National Liberation Front
CAR	Cordillera Administrative Region	MRG	Minority Rights Group International
CEDAW	Convention on the Elimination of All forms of Discrimination against Women	NCIP	National Commission on Indigenous Peoples
CRC	Convention on the Rights of the Child	NGO	Non-governmental organization
CRPD	Convention on the Rights of Persons with Disabilities	NPA	New People's Army
CLS	Child Labour Surveys	OHCHR	Office of the High Commissioner for Human Rights
DEMI	Defensoria de la Mujer Indigena	UNAIDS	Joint United Nations Programme on HIV/AIDS
DHS	Demographic and Health Survey	UNDP	United Nations Development Programme
ECLAC	Economic Commission for Latin America and the Caribbean	UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
FGM/C	Female Genital Mutilation/Cutting	UNESCO	United Nations Educational, Scientific and Cultural Organization
ICPD	International Conference on Population and Development	UNFPA	United Nations Population Fund
ICCPR	International Covenant on Civil and Political Rights	UNICEF	United Nations Children's Fund
IACHR	Inter-American Commission on Human Rights	UNODC	United Nations Office on Drugs and Crime
ILO	International Labour Organisation	UNPFII	United Nations Permanent Forum on Indigenous Issues
ILO-EAST	International Labour Organization Education and Skills Training	UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
INE	Instituto Nacional de Estadística de la República de Guatemala	UOBDU	United Organisation for Batwa Development in Uganda
IPEC	International Programme on the Elimination of Child Labour	UPR	Universal Periodic Review
IWGIA	International Working Group for Indigenous Affairs	WHO	World Health Organization

Notes

- 1 United Nations General Assembly, *United Nations Secretary-General's Study on Violence Against Children*, United Nations, New York, 2006; United Nations General Assembly, *In-depth Study on all forms of Violence against Women: Report of the Secretary-General*, United Nations, New York, 2006; International Indigenous Women's Forum, *Mairin Iwanka Raya: Indigenous women stand against violence – a companion report to the United Nations Secretary-General's in-depth study on all forms of violence against women*, 2006. Status of the Convention on the Rights of the Child, Report of the Secretary-General, 2012. A/67/225.
- 2 International Labour Organization, 'Surveys', <www.ilo.org/ipec/ChildlabourstatisticsSIMPOC/Questionnairesurveysandreports/lang--en/index.htm>, accessed 12 May 2013; Childinfo, <www.childinfo.org>, accessed 12 May 2013; Measure DHS, <www.measuredhs.com>, accessed 12 May 2013.
- 3 United Nations, *State of the World's Indigenous Peoples*, New York, 2009, p. 40.
- 4 International Labour Organization, *Indigenous and Tribal Peoples Convention*, Convention 169, ILO, Geneva, 1989, Article 1 sub-sections 1 and 2; *United Nations Development Group, Guidelines on Indigenous Peoples' Issues*, 2008.
- 5 United Nations Economic and Social Council, Fifty-seventh Session of the Commission on the Status of Women. *The Elimination and Prevention of all forms of Violence against Women and Girls*, 2013, para. 10.
- 6 United Nations Declaration on the Elimination of Violence Against Women (Article 2).
- 7 United Nations Population Fund, 'Fewer Girls Threatened by Female Genital Mutilation', UNFPA, press release, 6 February 2013; United Nations Children's Fund, Statistical Overview on Global Trends on FGM/C (forthcoming), UNICEF, June 2013.
- 8 United Nations Population Fund. *Marrying Too Young: Ending Child Marriage*, UNFPA, New York, 2012, p. 6.
- 9 *Ibid.*
- 10 Joint United Nations Programme on HIV/AIDS, *Report on the Global AIDS Epidemic*, UNAIDS, Geneva, 2012, p. 70.
- 11 United Nations Children's Fund, *State of the World's Children 2011: Adolescence. an age of opportunity*, New York, 2011, pp. 3, 24.
- 12 United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, UNODC, Vienna, 2012, pp. 7, 10.
- 13 *Ibid.*, pp. 25-26.
- 14 International Programme on the Elimination of Child Labour, *Give Girls a Chance: Tackling child labour, a key to the future*, ILO/IPEC, Geneva, 2012, p. 10; Brown, Gordon, *Child Labor & Educational Disadvantage: breaking the link, building opportunity*, United Nations, London, 2012.
- 15 Kaber, Naila, *Can the MDGs Provide a Pathway to Social Justice? The challenge of intersecting inequalities*, UNDP, New York, 2010; United Nations, *State of the World's Indigenous Peoples*, New York, 2009; Hall, Gillette H. and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Development*, Cambridge University Press, New York, 2012.
- 16 International Indigenous Women's Forum, *Mairin Iwanka Raya: Indigenous women stand against violence – a companion report to the United Nations Secretary-General's Study on Violence Against Women*, FIMI/IWF, New York, 2006, p. 22; Sylvain, Renee, *At the Intersections: San women and the rights of indigenous peoples in Africa*, *International Journal of Human Rights*, vol. 15, no. 1, January 2011, p. 89-110. The latter points to the need to resolve tensions between collective and individual rights when the rights of women intersect.
- 17 International Labour Organization, 'Bolivia', <ilo.org/indigenous/Activitiesbyregion/LatinAmerica/Bolivia/lang--en/index.htm>, accessed 14 May 2013.
- 18 *Bolivia: Encuesta Nacional de Demografía y Salud 2008*, p. 235.
- 19 International Institute for Population Sciences and Macro International, *National Family Health Survey (NFHS-3), 2005–06: India: Volume I*, IIPS, Mumbai, 2007, p. 510.
- 20 *Ibid.*, p. 506.
- 21 *Ibid.*, p. 519.
- 22 United Nations Children's Fund, *Protecting the World's Children: Impact of the Convention on the Rights of the Child in diverse legal systems*, Cambridge University Press, 2007.
- 23 United Nations Special Representative of the Secretary-General on Violence against Children, *Protecting children from harmful practices in plural legal systems*, New York, 2012, p. 9.
- 24 The Global Campaign to Stop Violence against Women in the Name of Culture. *Philippines: Early Marriage of Muslim Girls-Risks*, 2010.
- 25 Nisa Ul-Haqq Fi Bangsamoro. *Determinants and Impact of Early Marriage on Moro Women*, 2009.
- 26 National Statistics Office, *Philippines National Demographic and Health Survey 2008*, pp. 73-75
- 27 *Ibid.* pp. 12, 13, 106, 112.
- 28 United Nations Committee on the Rights of the Child. *Concluding Observations: Lao People's Democratic Republic*, 2011, paras. 55-56.
- 29 Kenya National Bureau of Statistics, *Kenya Demographic and Health Survey 2008-2009*, pp. 246, 265. It must, however, be noted that the 1998 findings, as presented in the report are not fully comparable with the findings from the 2003 and 2008-2009 reports, as the sample in 1998 did not include the regions with the Somali population where FGM/C is most common. In this sense, the prevalence was likely to be higher in 1998. Also see Feed the Minds, *Female Genital Mutilation Practices in Kenya: The Role of Alternative Rites of Passage: A Case Study of Kisii and Kuria Districts*, London, 2011, p. 4.
- 30 International Programme on the Elimination of Child Labour, *IPEC action against child labour 2010-2011: Progress and future priorities*, Geneva, 2012, p 4.
- 31 Organización Internacional del Trabajo, Instituto Nacional de Estadística de Bolivia. *Magnitud y Características del Trabajo Infantil en Bolivia – Informe nacional*, La Paz, 2010, p. 95.

- 32 United Nations Committee on the Elimination of All Forms of Discrimination against Women, *Seventh periodic report of States parties Guatemala*, para. 404; Human Rights Watch, *Swept Under the Rug: Abuses against domestic workers around the world*, New York, vol. 18, no. 7, July 2006, p. 34.; Inter-American Commission on Human Rights, *The Status of Children*, para 350. <http://www.cidh.org/countryrep/Guatemala2003eng/Chapter-VI.htm>
- 33 African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs, *Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Namibia*, Copenhagen, 2005, p. 99.
- 34 Sylvain, Renee, *At the Intersections: San women and the rights of indigenous peoples in Africa*, International Journal of Human Rights, vol. 15, no. 1, January 2011, pp. 89-110.
- 35 Manjoo, Reshida, *Report on the Expert Group Meeting on Gender-Motivated Killings of Women*, 16 May 2012.
- 36 Bastick, Megan, Karin Grimm, Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*, Geneva Centre for Democratic Control of Armed Forces, Geneva, 2007, pp. 72-84; Leiby, Michele, *Wartime Sexual Violence in Guatemala and Peru*, International Studies Quarterly, 2009 vol, 53, pp. 445-468.
- 37 Organization of American States Inter-American Commission on Human Rights, *Access to Justice: For women victims of violence in the Americas*, OAS, Washington, 2007, p. 5.
- 38 Organization of American States Inter-American Commission on Human Rights, 'Violence and Discrimination Against Women in the Armed Conflict in Colombia,' <www.cidh.org/countryrep/colombia/mujeres06eng/IV.htm>, accessed 13 May 2013.
- 39 Asia Pacific Forum on Women, Law and Development, 'Defending the Rights of Indigenous Women in Asia Pacific Towards an Inclusive and Violence-free Future,' summary report, APWLD, New Delhi, 15-16 October 2008, p. 29.
- 40 Special Rapporteur on the rights of indigenous peoples, Report on Asia, United Nations Human Rights Council, 2007, para. 44.
- 41 Pkalya, Ruto, Mohamud Adan, Isabella Masinde, *Indigenous Democracy: Traditional conflict resolution mechanisms – Pokot, Turkana, Samburu and Marakwet*, Intermediate Technology Development Group-Eastern Africa, 2004.
- 42 Leff, Jonah, 'Pastoralists at War: Violence and security in the Kenya-Sudan-Uganda border region', *International Journal of Conflict and Violence*, vol. 3 (2), 2009, pp. 188-203.
- 43 Bamlaku, Tadesse, 'Women in Conflict and indigenous conflict resolution among the Issa and Gurgura clans of Somali in Eastern Ethiopia,' African Journals Online, <www.ajol.info/index.php/ajcr/article/viewFile/59308/47606>, accessed 13 May 2013.
- 44 For example, the Centre for Environment and Development, Réseau Recherches Actions Concertées Pygmées (RACOPY), and Forest Peoples Programme (FPP), *Indigenous Peoples rights in Cameroon*, ACHPR, May 2010, p. 25; African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs, *Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Namibia*, Copenhagen, 2005, pp. 118-119.
- 45 Pkalya, Ruto, Mohamud Adan, Isabella Masinde, *Indigenous Democracy: Traditional conflict resolution mechanisms – Pokot, Turkana, Samburu and Marakwet*, Intermediate Technology Development Group-Eastern Africa, 2004, p. 35; Omosa, Eileen, *The Impact of Water Conflicts on Pastoral Livelihoods, The case of Wajir District in Kenya*, International Institute for Sustainable Development, 2005.
- 46 United Nations, *State of the World's Indigenous Peoples*, New York, 2009.
- 47 United Nations Economic and Social Council, *Combating Violence Against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples, Report of the International Expert Group Meeting*, ECOSOC, 2012.
- 48 UNIFEM is presently designated the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women).
- 49 It is important to note that the preliminary findings of the research were shared at the 2012 International Expert Group Meeting of the Permanent Forum, the Eleventh Session of the Permanent Forum (2012) as well as at a High Level Panel Discussion organized by UN Women and the Office of the United Nations Secretary-General's Campaign UNITE to End Violence against Women during the Fifty-seventh Session of the Commission on the Status of Women on 8 March 2013.
- 50 United Nations General Assembly, *United Nations Secretary-General's Study on Violence against Children*, United Nations, New York, 2006; United Nations General Assembly, *In-depth Study on all forms of Violence against Women: Report of the Secretary-General*, United Nations, New York, 6 July 2006; Status of the Convention on the Rights of the Child, Report of the Secretary-General, 2012. A/67/225.
- 51 *Ibid* and United Nations General Assembly, *Report of the Secretary-General on the status of the Convention on the Rights of the Child, with a Focus on Indigenous Children*, 2012.
- 52 International Labour Organization, 'Surveys', <www.ilo.org/ipecc/ChildlabourstatisticsSIMP/OC/Questionnairesurveysandreports/lang-en/index.htm>, accessed 12 May 2013; Childinfo, <www.childinfo.org>, accessed 12 May 2013; Measure DHS, <www.measuredhs.com>, accessed 12 May 2013.
- 53 United Nations, *State of the World's Indigenous Peoples*, New York, 2009, p. 40.
- 54 International Labour Organization, *Indigenous and Tribal Peoples Convention*, Convention 169, ILO, Geneva, 1989, Article 1 sub-sections 1 and 2; United Nations Development Group, *Guidelines on Indigenous Peoples' Issues*, 2008.
- 55 United Nations General Assembly, Declaration on the Elimination of Violence against Women, 1993.
- 56 *Ibid*. Article 2.
- 57 United Nations Population Fund, 'Fewer Girls Threatened by Female Genital Mutilation', UNFPA, press release, 6 February 2013; United Nations Children's Fund, Statistical Overview on Global Trends on FGM/C (forthcoming), UNICEF, June 2013.
- 58 United Nations Population Fund, *Marrying Too Young: Ending Child Marriage*, UNFPA, New York, 2012, p. 6.
- 59 *Ibid*.
- 60 Joint United Nations Programme on HIV/AIDS, *Report on the Global AIDS Epidemic*, UNAIDS, Geneva, 2012, p. 70.
- 61 United Nations Children's Fund, *State of the World's Children 2011: Adolescence. an age of opportunity*, New York. 2011, pp. 3, 24.
- 62 United Nations Children's Fund. *Early Marriage, A Harmful Traditional Practice: A statistical exploration*, UNICEF, New York, 2005, p. 22.
- 63 United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, UNODC, Vienna, 2012, p. 7.
- 64 *Ibid.*, pp. 25-26.
- 65 International Programme on the Elimination of Child Labour, *Give Girls a Chance: Tackling child labour, a key to the future*, ILO/IPEC, Geneva, 2012, p. 10; Brown, Gordon, *Child Labor & Educational Disadvantage: breaking the link, building opportunity*, United Nations, London, 2012.
- 66 United Nations Children's Fund, *State of the World's Children 2011: Adolescence. an age of opportunity*, New York. 2011; Pan-American Health Organization, *Empowerment of Adolescent Girls: A key process for achieving the Millennium Development Goals*, PAHO, Washington., 2010; Bruce, Judith, *Violence Against Adolescent Girls: A Fundamental Challenge to Meaningful Equality*, Population Council, 2011.
- 67 United Nations, *State of the World's Indigenous Peoples*, New York, 2009, pp. 170-171.
- 68 Manjoo, Rashida, Statement at Fifty-seventh Session of the Commission on the Status of Women, New York, 4 March 2013, p. 2.
- 69 World Health Organization, *World Report on Violence and Health: Summary*, Geneva, 2001, pp. 9-12.
- 70 United Nations General Assembly, *In-depth Study on all forms of Violence against Women: Report of the Secretary-General*, United Nations, New York, 2006, paras. 69-71.
- 71 Pinheiro, Paulo Sérgio, *World Report on Violence against Children*, New York, 2006, p. 72.
- 72 *Ibid.*, pp. 114-118; Special Representative of the Secretary-General on Violence against Children, *Tackling Violence in Schools: a global perspective bridging the gap between standards and practice*, New York, 2012, p. 14.
- 73 United Nations Committee on the Rights of the Child, Indigenous Children and their Rights under the Convention, General Comment No. 11, 2009, paras. 41-45.
- 74 International Work Group for Indigenous Affairs, *The Indigenous World 2011*, IWGIA, Copenhagen, 2011.
- 75 United Nations, *State of the World's Indigenous Peoples*, New York, 2009, pp. 22-119; Minority Rights Group International. *State of the World's Minorities and Indigenous Peoples*, London, 2012.
- 76 Bastick, Megan, Karin Grimm, Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*, Geneva Centre for Democratic Control of Armed Forces, Geneva, 2007, p. 13.
- 77 *Ibid.*, pp. 19, 96.
- 78 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>
- 79 United Nations. Declaration on the Elimination of Violence against Women, 1993, preamble and United

- Nations. *Intensifying global efforts for the elimination of female genital mutilation*, 2012. A/C.3/67/L.21.
- 80 United Nations General Assembly, Resolution on the Rights of the Child, 21 November 2012, A/67/453, para. 42.
- 81 Forest Peoples Programme, 'Resolutions of the African Commission on Human and Peoples' Rights relevant to the rights of indigenous women in Africa', <www.forestpeoples.org/sites/fpp/files/publication/2011/08/english.pdf>, accessed 12 May 2013.
- 82 Kabeer, Naila, *Can the MDGs Provide a Pathway to Social Justice? The challenge of intersecting inequalities*, UNDP, New York, 2010, p. 15; According to the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, descriptions of indigenous peoples of Asia vary interchangeably across countries between 'tribal' or 'tribal people', 'hill tribes', 'scheduled tribes', 'natives', 'ethnic minorities' and 'minority nationalities'.
- 83 International Work Group for Indigenous Affairs. *The Pacific*. IGWIA, Denmark, 2000.
- 84 United Nations Economic Commission for Latin America and the Caribbean, *Social Panorama of Latin America 2006*, United Nations, 2007, pp.160-161. It is necessary to note that figures relate to the whole of the Latin America and the Caribbean region, whereas this research is focused on Latin America.
- 85 African Commission on Human and Peoples Rights and International Work Group for Indigenous Affairs, *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities*, Banjul, Gambia, 2005.
- 86 United Nations General Assembly, *In-depth Study on all forms of Violence against Women: Report of the Secretary-General*, United Nations, New York, 2006, para. 100.
- 87 United Nations Economic and Social Council, Fifty-seventh Session of the Commission on the Status of Women. *The Elimination and Prevention of all forms of Violence against Women and Girls*, 2013, para. 10.
- 88 United Nations, *Report of the Secretary-General: Forced Marriage of the Girl Child*, 2007, para. 16. For specific examples, see Concluding Observations of the Committee on the Elimination of Discrimination against Women–Indonesia, CEDAW, 2007 paras. 18–19; Concluding observations of the Committee on the Elimination of Discrimination against Women–Panama, CEDAW, 2010, paras. 50-51; Concluding comments of the Committee on the Elimination of Discrimination against Women–Peru, CEDAW, 2007, paras. 34 -35; Concluding Observations of the Committee on the Rights of the Child–Uganda, CRC, 2005, paras. 28-29; and El Salvador, CRC, 2010, paras. 24-25.
- 89 United Nations Children's Fund, *Analyse de situation sous-régionale sur la problématique des « peuples autochtones » en Afrique centrale*, 2009, p. 51; United Nations Children's Fund, *Socio Cultural and Legal Institutions (forth-coming)*, p. 45.
- 90 United Nations Children's Fund, *Socio Cultural and Legal Institutions*, p. 45.
- 91 For example, Devasish, Raja, *Traditional Customary Laws and Indigenous Peoples in Asia*, Minority Rights Group International, London, 2005 and International Labour Organization, *Overview Report of the Research Project on the Constitutional and Legislative Protection of the Rights of Indigenous Peoples in 24 African Countries*, 2009.
- 92 United Nations Committee on the Rights of the Child, *State Party Report: Democratic Republic of the Congo*, CRC, 2009, para. 26.
- 93 United Nations Committee on the Elimination of Discrimination Against Women, *Concluding Comments of the Committee on the Elimination of Discrimination against Women: Indonesia*, 2007, para. 18; United Nations Committee on the Elimination of Discrimination Against Women, *Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All forms of Discrimination against Women*; United Nations Committee on the Elimination of Discrimination Against Women, *Seventh periodic report of States parties: Indonesia*, 2011, pp. 128-129; United Nations Population Fund, *Marrying Too Young: Ending Child Marriage*, UNFPA, New York, 2012, p. 27.
- 94 United Nations Committee on the Rights of the Child, *State Party Report: Thailand*, CRC, 2012, paras. 31-32.
- 95 United Nations Committee on Economic, Social and Cultural Rights, Consideration of reports submitted by States parties under Articles 16 and 17 of the Covenant, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Colombia, ECOSOC, 2010, para. 18; United Nations. Committee on the Elimination of Discrimination Against Women, Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All forms of Discrimination against Women, Seventh periodic report of States parties: Guatemala, CEDAW, 2008, para. 84; United Nations. Committee on the Elimination of Discrimination Against Women, Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All forms of Discrimination against Women, Seventh periodic report of States parties: Nicaragua, CEDAW, 2005, para. 205.
- 96 United Nations Committee on the Rights of the Child, *State Party Report: El Salvador*, CRC, 2003, para. 19.
- 97 United Nations Committee on the Elimination of all Forms of Discrimination Against Women, *Concluding Comments of the Committee on the Elimination of Discrimination against Women: Viet Nam*, CEDAW, 2007, paras. 26-27.
- 98 United Nation Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Bolivia, CRC, 1998, para. 16 and Consideration of reports submitted by states parties under article 44 of the convention, Fourth periodic reports of States parties due in 2007, Bolivia, CRC, 2009, paras. 23-24.
- 99 United Nations Economic and Social Council, Fifty-seventh Session of the Commission on the Status of Women, *The Elimination and Prevention of all forms of Violence against Women and Girls*, para. 21.
- 100 United Nations Children's Fund. *Country Programme Document 2011-2015, Indonesia*, 2011; International Labour Organization. *Child Labour and Education in Papuan Communities*, policy brief, Jakarta, July 2011; United Nations Educational, Scientific and Cultural Organization. *Global Monitoring Report on Education for All*, Oxford University Press, 2010.
- 101 Ndege, Peter O, *Colonialism and its Legacies in Kenya*, lecture, Eldoret, Kenya, 2009; United Nations Human Rights Council, *Mission to Guatemala, Report of the Special Rapporteur on the right of everyone to enjoyment of the highest standard attainable standard of physical and mental health*, 2010, paras. 13 and 56.
- 102 Busso, Matías, Martín Cicowiez, Leonardo Gasparini, *Ethnicity and the Millennium Development Goals in Latin America and the Caribbean*, UNDP, Colombia, 2005.
- 103 International Food Policy Research Institute, *World's Most Deprived: Characteristics and Causes of Extreme Poverty and Hunger*, Washington, IFPRI, 2008.
- 104 United Nations Children's Fund, Economic Commission for Latin America and the Caribbean, *Pobreza infantil en America Latina y el Caribe*, 2010, p. 46.
- 106 Hall, Gillette and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Human Development in Latin America*, Cambridge University Press, New York, 2012, pp. 344-358.
- 107 United Nations Children's Fund, Economic Commission for Latin America and the Caribbean, *The Right of Children and Adolescents to a Healthy Environment: A Diagnosis from Latin America and the Caribbean*, July 2007, p. 12.
- 108 Hallman, Kelly, Sara Peracca, Jennifer Catino, Marta Julia Ruiz, *Multiple Disadvantages of Mayan Females: The effects of gender, ethnicity, poverty, and residence on education in Guatemala*, Research Working Paper No. 211, Population Council, New York, 2006, p. 13.
- 109 Hall, Gillette and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Human Development in Latin America*, Cambridge University Press, New York, 2012, pp. 344-358.
- 110 Government of India Planning Commission, 'Census 2001', <www.censusindia.gov.in/default.aspx>, accessed 13 May 2013; Press Note on Poverty Estimates, 2009-10. March 2012; Das, M.B and Mehta, S.K. *Poverty and Social Exclusion in India Overview*, issue brief, World Bank, Washington, 2011, p. 1. Also see Das M.B., G. Hall, S. Kapoor, D. Nikitin, *India: Scheduled Tribes*, in Hall, Gillette and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Human Development in Latin America*, Cambridge University Press, New York, 2012.
- 111 Dang, Hai-Anh, *A Widening Poverty Gap for Ethnic Minorities*, in Hall, Gillette and Harry Anthony Patrinos, *Indigenous Peoples, Poverty and Human Development in Latin America*, Cambridge University Press, New York, 2012.
- 112 General Statistical Office of Viet Nam, *Viet Nam Multiple Indicator Cluster Survey 2011, Final Report*, 2011, Hanoi, Viet Nam, p. 156.
- 113 King, Elizabeth M., Dominique van de Walle, *Laos: Ethnolinguistic Diversity and Disadvantage*, in Hall, Gillette and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Human Development in Latin America*, Cambridge University Press, New York, 2012.
- 114 Das M.B., G. Hall, S. Kapoor, D. Nikitin, *India: Scheduled Tribes*, in Hall, Gillette and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Human Development in Latin America*, Cambridge University Press, New York, 2012, pp. 233-234.
- 115 United Nations Convention on the Rights of the Child,

- Indigenous Children and their Rights under the Convention*, General Comment 11, 12 February 2009, paras. 5 and 23-29.
- 116 United Nations Committee on the Rights of the Child. Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cambodia, para. 65 (b); United Nations Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations: Uganda, para. 30.
- 117 Nepal Ministry of Education and Sports and United Nations Educational, Scientific and Cultural Organization, *Education for All Mid-Decade Assessment: National Report*, Kathmandu, Nepal, 2007.
- 118 United Nations Educational, Scientific and Cultural Organization, *Global Monitoring Report on Education for All 2010*, Oxford University Press, France, 2010, p. 10.
- 119 International Labour Organization-Education and Skills Training for Youth Employment in Indonesia, *Rapid Assessment Survey of Child Labour Among Indigenous Peoples in Papua*, Jakarta, ILO-EAST, 2009.
- 120 African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs, *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities: Submitted in accordance with the Resolution of the Rights of Indigenous Populations/Communities in Africa*, Adopted by the African Commission on Human and Peoples Rights at its Twenty-eighth Ordinary Session, Banjul, Gambia, 2005.
- 121 For all mission reports, see: <http://www.achpr.org/mechanisms/indigenous-populations/>
- 122 Ohenjo, Nyang'ori, et al., *Health of Indigenous People in Africa*. *The Lancet*, 367, 9526. 10-16 June 2006, pp. 1937-1946; Jackson, Dorothy, *Twa women, Twa rights in the Great Lakes region of Africa*, London, Minority Rights Group International, 2003.
- 123 United Nations Human Rights Council, *Mission to Guatemala, Report of the Special Rapporteur on the right of everyone to enjoyment of the highest standard attainable standard of physical and mental health*, 2010, para. 56.
- 124 International Work Group for Indigenous Affairs, *The Indigenous World*, Copenhagen, 2011 and *State of the World's Indigenous Peoples*.
- 125 Plan Internacional and United Nations Children's Fund, *Sistematización de las experiencias sobre derecho a la identidad y registro de nacimiento de niños y niñas indígenas en Bolivia, Ecuador, Guatemala y Panamá*, 2009, pp. 119-120.
- 126 Perrault, Nadine and Begoña Arellano, 'A Rights-Based Approach to Birth Registration in Latin America and the Caribbean', *Challenges*, ECLAC/UNICEF, 2011, pp. 4-6.
- 127 *Ibid.* P. 7.
- 128 United Nations Children's Fund, United Nations Population Fund and United Nations Development Programme, *Socio Cultural and Legal Institutions of Indigenous Peoples of the Republic of Congo and their Impact on the rights of Children and Women (forthcoming)*, 2013, pp. 56-60. It cites under the table price ranges in some communities as follows: 1,000 CFA (US\$20) in the town of Zanaga, 2,000 CFA (US\$4) in Ngo and 5,000 CFA (US\$10) in Pokola. Also see Wodon, Quentin, Prosper Backiny-Yetna, Arbi Ben-Achour, *Indigenous Peoples in Central Africa: The case of the Pygmies*. Hall, Gillette and Harry Anthony Patrinos, eds., *Indigenous Peoples, Poverty and Human Development in Latin America*, Cambridge University Press, New York, 2012, which notes the implications of lack of birth registration on citizenship and access to services.
- 129 Kenya National Bureau of Statistics, *Kenya Demographic and Health Survey 2008-2009*, p. 27.
- 130 United Nations Children's Fund, *Reversing the Trend: Child Trafficking in East and Southeast Asia*, Bangkok, 2009, p. 53.
- 131 United Nations Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention Concluding Observations: Thailand, 17 March 2006, paras. 31-32.
- 132 General Statistics Office of Viet Nam, *Viet Nam Multiple Indicator Cluster Survey 2011, Final Report*, 2011, p. 170.
- 133 *Ibid.*
- 134 *Myanmar Multiple Indicator Cluster Survey 2009-2010*, p. 112.
- 135 United Nations Committee on the Rights of the Child. Consideration of Reports Submitted by States parties under article 44 of the Convention. Concluding Observations, Philippines, 2009, para. 101.
- 136 United Nations Committee on the Rights of the Child. *Report of the Philippines to the Committee on the Rights of the Child on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, First Periodic Report (2003-2007)*, December 2011, para. 71.
- 137 International Institute for Population Sciences and Macro International. *National Family Health Survey (NFHS-3), 2005-06: India: Volume I*. Mumbai, 2007, p. 47.
- 138 *Myanmar Multiple Indicator Cluster Survey 2009-2010*, p. 112.
- 139 United Nations Human Rights Council. Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen, General considerations on the situation of human rights and fundamental freedoms of indigenous peoples in Asia, para. 24.
- 140 *Ibid.* para. 24.
- 141 *Ibid.* para. 26.
- 142 *Ibid.* paras. 27-28.
- 143 United Nations, *State of the World's Indigenous Peoples*, New York, 2009, pp. 34-35.
- 144 Minority Rights Group International, *State of the World Minorities and Indigenous Peoples*, 2012, p. 53.
- 145 United Nations. General Assembly Resolution on the Elimination of Domestic Violence against Women, 19 February 2004, para. 1.
- 146 International Labour Organization, 'Bolivia', <ilo.org/indigenous/Activitiesbyregion/LatinAmerica/Bolivia/lang--en/index.htm>, accessed 14 May 2013.
- 147 *Ibid.*
- 148 Government of India, Census 2001, <www.censusindia.gov.in/default.aspx>, accessed 13 May 2013.
- 149 International Institute for Population Sciences and Macro International, *National Family Health Survey (NFHS-3), 2005-06: India: Volume I*, IIPS, Mumbai, 2007, p. 510.
- 150 *Ibid.*, p. 506.
- 151 *Ibid.*, p. 519.
- 152 National Commission on Indigenous Peoples: <http://www.ncip.gov.ph/indigenous-peoples-of-the-philippines.html>
- 153 National Statistics Office, *Philippines National Demographic and Health Survey 2008: Key findings*, p. 211.
- 154 National Statistics Office, *Philippines National Demographic and Health Survey 2008*, p. 211.
- 155 United Nations Children's Fund, *Protecting the World's Children: Impact of the Convention on the Rights of the Child in diverse legal systems*, UNICEF, Cambridge University Press, 2007.
- 156 Special Representative of the United Nations Secretary-General on Violence against Children, *Protecting children from harmful practices in plural legal systems with special emphasis on Africa*, New York, 2012, p. 9.
- 157 General Statistics Office of Viet Nam, *Viet Nam Multiple Indicator Cluster Survey 2011, Final Report*, 2011, p. 179.
- 158 *Ibid.*
- 159 See International Work Group for Indigenous Affairs, *The Indigenous World*, Denmark, 2012, p. 325 for a full description of indigenous peoples in Myanmar. The data on child marriage is taken from the Myanmar *Multiple Indicator Cluster Survey 2009 - 2010*, p. 50.
- 160 United Nations Committee on the Rights of the Child. *Concluding Observations: Lao People's Democratic Republic*, 2011, paras. 55-56.
- 161 The Global Campaign to Stop Violence against Women in the Name of Culture. *Philippines: Early Marriage of Muslim Girls-Risks*, 2010.
- 162 Nisa Ul-Haq Fi Bangsamoro. *Determinants and Impact of Early Marriage on Moro Women*, 2009.
- 163 National Statistics Office, *Philippines National Demographic and Health Survey 2008*, pp. 73-75
- 164 *Ibid.* pp. 12, 13, 75, 105, 112, 212. The information on the duration of schooling relates to "Percent distribution of the de facto female household population age six and over by highest level of schooling attended or completed and median years completed, according to background characteristics."
- 165 International Institute for Population Sciences and Macro International, *National Family Health Survey (NFHS-3), 2005-06: India: Volume I*, IIPS, Mumbai, 2007, p. 165.
- 166 *Ibid.*, pp 368-374.
- 167 United Nations Children's Fund, *Analyse de situation sous-régionale sur la problématique des « peuples autochtones » en Afrique centrale*, 2009, p. 51.
- 168 *Ibid.*, p. 11; United Nations Children's Fund, *Socio Cultural and Legal Institutions*, p. 36; Jackson, Dorothy, *Twa women, Twa rights in the Great Lakes region of Africa*, London, Minority Rights Group International, 2003, p. 11.
- 169 Myths justifying violence against women and girls are common in both indigenous and non-indigenous contexts. For example "rape myths" are perpetuated in different societies in Latin America and the Caribbean, see Contreras, Juan Manuel, et al., *Sexual violence in Latin America and the Caribbean: A desk review*,

- Sexual Violence Research Initiative, 2010, p. 41.
- 170 Overview Report of the Research Project on the Constitutional and Legislative Protection of the Rights of Indigenous Peoples in 24 African Countries, p. 134.
- 171 Ramsay, K. *Uncounted: the hidden lives of Batwa women*. Minority Rights Group International, 2010, p. 2; Jackson, Dorothy, *Twa women, Twa rights in the Great Lakes region of Africa*, London, Minority Rights Group International, 2003, p.13.
- 172 Sylvain, Renee, *At the Intersections: San women and the rights of indigenous peoples in Africa*, International Journal of Human Rights, vol. 15, no. 1, January 2011, p. 99.
- 173 United Nations Population Fund, *Project Embera-wera: An experience of cultural change to eradicate female genital mutilation in Colombia*, UNFPA, 2011.
- 174 International Programme on the Elimination of Child Labour, *Child Porters in Nepal: A Report on the 2002 Baseline Survey*. Compiled by Catala, R.F. and Catala, T., 2003, p. 42.
- 175 Larsen, Peter, *Indigenous and tribal children: assessing child labour and education challenges*, Geneva, 2003; International Labour Organization, *Child Labour and Education in Papuan Communities*, policy brief, July 2011, Jakarta, 2011.
- 176 International Labour Organization, *Child Labour and Education in Papuan Communities*, policy brief, July 2011, Jakarta, 2011., pp. 2-4.
- 177 General Statistical Office, *Viet Nam Multiple Indicator Cluster Survey 2011, Final Report, 2011*, Ha Noi, Viet Nam. pp 172-173. It must be noted that this data was not available by sex.
- 178 Larsen, Peter, *Indigenous and tribal children: assessing child labour and education challenges*, Geneva, 2003; International Labour Organization, pp. 1, 28.
- 179 *Ibid.*
- 180 United Nations Children's Fund, *Children on the Edge. Protecting children from sexual exploitation and trafficking*, UNICEF, Bangkok, 2002, p.36.
- 181 *Ibid.* p. 23, 28.
- 182 Kumar KC, Bal, Govind Subedi Yogendra Bahadur Gurung, Keshab Prasad Adhikari, *Investigating the Worst Forms of Child Labour No. 2: Nepal Trafficking in Girls with Special Reference to Prostitution – A rapid assessment*, ILO/IPEC, Geneva, 2001.
- 183 *Ibid.*
- 184 Gurung, Yogendra Bahadur. *Nature, Extent, and Forms of Child Labor in Nepal*, Population of Nepal Population Journal. Vol. 11, no.10, 2007, pp. 12-13.
- 185 Kumar KC, Bal, Govind Subedi Yogendra Bahadur Gurung, Keshab Prasad Adhikari, *Nepal Trafficking in Girls with Special Reference to Prostitution: A Rapid Assessment*, ILO/IPEC, Geneva, 2001, p. 17.
- 186 International Labour Organisation and International Programme on the Elimination of Child Labour, *IPEC action against child labour 2010-2011: Progress and future priorities*, ILO/IPEC, Geneva, Switzerland, 2010, p. 4.
- 187 International Labour Organization, *The Cost of Coercion: Regional Perspectives*, 2009, p. 1.
- 188 United Nations Permanent Forum on Indigenous Issues. *Mission Report to Bolivia*, UNPFII, 2009, p. 20.
- 189 United Nations Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, Concluding Observations: The Plurinational State of Bolivia, paras. 73-77.
- 190 Organización Internacional del Trabajo, Instituto Nacional de Estadística de Bolivia. Magnitud y Características del Trabajo Infantil en Bolivia – Informe nacional 2010, La Paz, p. 76.
- 191 International Labour Organisation, *Girl child labour in agriculture, domestic work and sexual exploitation Rapid assessments on the cases of the Philippines, Ghana and Ecuador*, ILO, Geneva, Switzerland, 2004, p. 162.
- 192 *Ibid.*
- 193 Organization of American States Inter-American Commission on Human Rights, 'Chapter VI: The status of children', www.cidh.org/countryrep/Guatemala2003eng/Chapter-VI.htm, para. 350. accessed 14 May 2013.
- 194 United Nations Human Rights Council, *Report of the Special Rapporteur on the rights of indigenous peoples: The situation of indigenous peoples in the Republic of the Congo*, 2011, para. 16.
- 195 United Nations Children's Fund, *Socio Cultural and Legal Institutions*, p. 67.
- 196 United Organisation for Batwa Development in Uganda and Forest Peoples Program, *Batwa Women in Uganda: Disproportionate human rights violations*, UOBDU/FPP, 2010, p. 12.
- 198 African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs, *Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Namibia*, Copenhagen, 2005, p. 99.
- 199 United Nations Children's Fund, *Adult Wars, Child Soldiers. Voices of Children Involved in Armed Conflict in the East Asia and Pacific Region*, Bangkok, 2002, p. 8.
- 200 *Ibid.* pp. 19, 45-46, 74
- 201 United Nations Security Council. *Children and armed conflict*. 26 April 2012.
- 202 World Bank. *Crime and Violence in Central America: A Development Challenge*, Washington, 2011, pp. 11, 18; United Nations Children's Fund, *The Impact of Small Arms on Children and Adolescents in Central America and the Caribbean: A Case Study of El Salvador, Guatemala, Jamaica and Trinidad and Tobago*, UNICEF TACRO, Panama City, 2007.
- 203 Manjoo, Rashida, Report on the Expert Group Meeting on Gender-Motivated Killings of Women. 16 May 2012.
- 204 Bastick, Megan, Karin Grimm, Rahel Kunz, Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector, Geneva Centre for Democratic Control of Armed Forces, Geneva, 2007, pp. 72-84. Also see Leiby, Michele, *Wartime Sexual Violence in Guatemala and Peru*. International Studies Quarterly, 2009 vol. 53, pp. 445-468.
- 205 Organization of American States, Inter-American Commission on Human Rights, *Access to Justice: For Women of Victims of Violence in the Americas*, Washington, 2007, p. 5.
- 206 Organization of American States, Inter-American Commission on Human Rights, 'Violence and Discrimination Against Women in the Armed Conflict in Colombia', www.cidh.org/countryrep/colombia_mujeres06eng/IV.htm, accessed 13 May 2013.
- 207 United Nations Human Rights Council, Annual Report of the OHCHR, OHCHR, 2012, para. 14.
- 208 *Ibid.*
- 209 Jackson, Dorothy, *Twa women, Twa rights in the Great Lakes region of Africa*, London, Minority Rights Group International, 2003, pp. 5 and 15.
- 210 Pkalya, Ruto, Mohamud Adan, Isabella Masinde, *Indigenous Democracy: Traditional conflict resolution mechanisms – Pokot, Turkana, Samburu and Marakwet*, Intermediate Technology Development Group-Eastern Africa, 2004.
- 211 Leff, Jonah, 'Pastoralists at War: Violence and security in the Kenya-Sudan-Uganda border region', *International Journal of Conflict and Violence*, vol. 3 (2), 2009, pp. 188-203.
- 212 Bamlaku, Tadesse, 'Women in Conflict and indigenous conflict resolution among the Issa and Gurgura clans of Somali in Eastern Ethiopia,' African Journals Online, <www.ajol.info/index.php/ajcr/article/viewFile/59308/47606>, accessed 13 May 2013.
- 213 Example: Centre for Environment and Development, Réseau Recherches Actions Concertées Pygmées, Forest Peoples Programme, *Indigenous Peoples rights in Cameroon*. ACHPR, May 2010, p. 25; ACHPR and IWGIA, *Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Namibia*, ACHPR and IWGIA, Copenhagen, 2008, pp. 118-119.
- 214 Pkalya, Ruto, Mohamud Adan, Isabella Masinde, *Indigenous Democracy: Traditional conflict resolution mechanisms – Pokot, Turkana, Samburu and Marakwet*, Intermediate Technology Development Group-Eastern Africa, 2004, p. 35. Also see Omosa, Eileen, *The Impact of Water Conflicts on Pastoral Livelihoods, The case of Wajir District in Kenya*, International Institute for Sustainable Development, 2005.
- 215 Dwyer, Leslie, and Rufa Cagoco-Guiani, *Gender and Conflict in Mindanao*, The Asia Foundation, 2010, p. 7.
- 216 BASULTA Core Group. Report on the Preliminary Mission to Zamboanga City, Core Group on the Humanitarian Needs Assessment to the ARMM Island Provinces. 17-18 March 2011, p. 3.
- 217 United Nations. *Philippines (Mindanao)*. Humanitarian Action Plan. 2012, p. 1.
- 218 Republic of Kenya, *2009 Population & Housing Census Results*, 2009.
- 219 United Nations Committee on the Rights of the Child. *Second Periodic Reports of States Parties*, Kenya, CRC, 2006, p. 11.
- 220 United Nations Human Rights Council and Stavenhagen, Rodolfo, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people*, 2006, para. 10.
- 221 Kenya National Bureau of Statistics, *Kenya Demographic and Health Survey 2008-2009*, p. 264. It must, however, be noted that the 1998 findings, as presented in the report are not fully comparable with the findings from the 2003 and 2008-2009 reports, as the sample in 1998 did not include the regions with the Somali population where FGM/C is most common. In this sense, the prevalence was likely to be higher in 1998. Also see Feed the Minds, *Female Genital Mutilation Practices in Kenya: The Role of Alternative Rites of Passage: A Case Study of Kisii and Kuria Districts*, London, 2011, p. 4.
- 222 Kenya National Bureau of Statistics, *Kenya*

- Demographic and Health Survey 2008-2009, p. 265.
- 223 *Ibid.*
- 224 *Ibid.*
- 225 United Nations Committee on the Rights of the Child. *Second Periodic Reports of States Parties, Kenya*, para. 2007, pp. 13, 69, 80.
- 226 *Ibid.*, and United Nations Committee on the Elimination of Discrimination against Women: *Seventh Periodic Report of States Parties, Kenya*, para. 259, 416.
- 227 Kenya National Bureau of Statistics, *Kenya Demographic and Health Survey 2008-2009*, p. 79.
- 228 *Ibid.*, pp. 83, 84.
- 229 *Ibid.*, p. 81.
- 230 International Work Group for Indigenous Affairs and Samburu Women for Education & Environment Development Organization, 'Beads of Bondage,' *The Samburu Girl Child Magazine*, Nanyuki, Kenya, 2012, p. 2.
- 231 *Ibid.*, pp. 3-4.
- 232 United Nations Convention on the Elimination of All Forms of Discrimination against Women, Kenya, 2009 paras. 24, 79.
- 233 Informe Nacional de Desarrollo Humano, *Informe Nacional de Desarrollo Humano 2011/2012: Guatemala, ¿un país de oportunidades para la juventud?*, PNUD, 2012, p. 234.
- 234 International Work Group for Indigenous Affairs. 'Guatemala,' *The Indigenous World*, Copenhagen 2012.
- 235 This excludes the Department of Guatemala. See Informe Nacional de Desarrollo Humano, *Guatemala: hacia un Estado para el desarrollo humano 2009/2010*, PNUD, Guatemala, 2010.
- 236 United Nations Human Rights Council. National Report Submitted in Accordance with Paragraph 15(a) of the Annex to the Human Rights Council Resolution 5/1. Guatemala. 8 April 2008. Para. 62.
- 237 Blanco, Blanca and Lorna Hayes, 'The Hidden Challenge to Development: Gender-Based Violence in Guatemala,' *Trocaire Development Review*. Dublin, 2007, pp. 47-64.
- 238 Guatemalan Commission for Historical Clarification, *Report of the Commission of Historical Clarification*, 1999, paras. 87 and 91; United Nations, *Report of the Special Rapporteur on violence against women, its causes and consequences*, 2012 paras. 63, 66 and 68; Blanco, Blanca and Lorna Hayes, 'The Hidden Challenge to Development: Gender-Based Violence in Guatemala,' *Trocaire Development Review*. Dublin, 2007, pp. 47-64.
- 239 Blanco, Blanca and Lorna Hayes, 'The Hidden Challenge to Development: Gender-Based Violence in Guatemala,' *Trocaire Development Review*. Dublin, 2007, pp. 47-64.
- 240 Blanco, Blanca and Lorna Hayes, 'The Hidden Challenge to Development: Gender-Based Violence in Guatemala,' *Trocaire Development Review*. Dublin, 2007, p. 50.
- 241 Amnesty International, *Guatemala: No protection, no justice: killings of women in Guatemala*, London, 2005, p. 24.
- 242 Organization of American States, *IACHR Hails Progress Against Impunity in Guatemala*, press release, 12 March 2012.
- 243 Blanco, Blanca and Lorna Hayes, 'The Hidden Challenge to Development: Gender-Based Violence in Guatemala,' *Trocaire Development Review*. Dublin, 2007, p. 52.
- 244 *Ibid.*, para. 56.
- 245 United Nations Economic and Social Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, submitted in accordance with Commission resolution 2001/57*, 2004, paras. 16-20.
- 246 See the United Nations, *The Guatemala Peace Accords*, 1998.
- 247 Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2012: Events of 2011. Focus on Land Rights and Natural Resources*, pp. 55-61; Bastick, Megan, Karin Grimm, Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*, Geneva Centre for Democratic Control of Armed Forces, Geneva, 2007, p. 192.
- 248 Decreto Número 22-2008 del Congreso de la República de Guatemala and Decreto Número 9-2009 del Congreso de la República de Guatemala. For more details on these reforms see Government of Guatemala, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/2*. Report of the Working Group on the Universal Periodic Review Fourteenth Session. 7 August 2012, para. 14.
- 249 United Nations High Commissioner for Human Rights. *Report of the United Nations High Commissioner for Human Rights on the activities of her office in Guatemala*, 2013. .
- 250 National Statistics Office, *Philippines National Demographic and Health Survey 2008: Key findings*, p. 9.
- 251 *Ibid.*
- 252 World Bank. 'The Mindanao Conflict in the Philippines: Roots, Costs, and Potential Peace Dividend,' *Social Development Papers. Conflict Prevention and Reconstruction*. Paper No. 24/ February 2005; United Nations Security Council. *Children and armed conflict*. 26 April 2012.
- 253 United Nations Security Council. *Children and armed conflict*. 26 April 2012, para. 147. Note that the statistical increase may also relate to the improved functionality of the country task force on monitoring and reporting of grave violations of child rights in armed conflict and the verification processes, including human resources and data-sharing mechanisms, as opposed to an actual increase in violations.
- 254 Alternative Law Groups, Ateneo Human Rights Center, Environmental Legal Assistance Center, Inc., Indigenous Peoples Rights Monitor, 'Joint Submission on the Human Rights Situation of Indigenous Peoples (IPs) in the Philippines', <lib.ohchr.org/HRBodies/UPR/Documents/session13/PH/JS7_UPR_IND_S13_2012_JointSubmission7_E.pdf>, accessed 13 May 2013.
- 255 United Nations Security Council, *Children and armed conflict*, . 26 April 2012, para. 149.
- 256 *Ibid.*, para. 152.
- 257 United Nations Economic and Social Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people*, 2004, para. 50.
- 258 *Defending the Rights of Indigenous Women in Asia Pacific Towards an Inclusive and Violence-free Future*, 2008, p. 69.
- 259 International Programme on the Elimination of Child Labour. *Investigating the Worst Forms of Child Labour No. 21. Child Soldiers in Central and Western Mindanao: A Rapid Assessment*, Geneva, 2002.
- 260 *Ibid.* pp. Executive Summary XIV, 16.
- 261 *Ibid.*, p. 46.
- 262 *Ibid.* pp.67-70, Timonera, Bobby, 'The Warrior is a Girl Child,' *Philippine Human Rights Forum*, July-December 1999.
- 263 The Moro Islamic Liberation Front and the United Nations in the Philippines, Action Plan Between the Moro Islamic Liberation Front (MILF) and the United Nations in the Philippines Regarding The Issue of Recruitment and the Use of Child soldiers in the Armed conflict in Mindanao, 2010.
- 264 *Ibid.* pp.67-70, Timonera, Bobby, 'The Warrior is a Girl Child,' *Philippine Human Rights Forum*, July-December 1999.
- 265 *Ibid.*, p. 21.
- 266 United Nations Committee on the Rights of the Child, Report of the Republic of the Philippines under article 8(1) of the Optional Protocol to the Convention on the Rights of the child on the Involvement of Children in Armed Conflict, paras. 12-15 and Written reply of the Philippines to the list of issues concerning information related to the consideration of the initial report of the Philippines, 17 December 2012, paras. 8, 11, 40, 62, 67.
- 267 United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under article 44 of the Convention, Philippines, 2009, paras. 13 and 23.
- 268 Republic of the Philippines, *Report of the Philippines to the Committee on the Rights of the Child on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, First Periodic Report (2003-2007)*, 2011, para. 80.
- 269 For example: Contreras, Juan Manuel, *et al., Sexual violence in Latin America and the Caribbean: A desk review*, Sexual Violence Research Initiative, 2010; Population Council, 'Sexual and Gender-Based Violence in Africa', literature review, 2008.
- 270 Annual Report of the Special Representative of the Secretary-General on Violence against Children to the Human Rights Council, A/HRC/22/55 of 4 January 2013, paragraphs 64 – 72.
- 271 Global Initiative to End all Corporal Punishment of Children http://www.endcorporalpunishment.org/pages/progress/prohib_states.html, Accessed 17 May 2013.
- 272 Republic of Kenya, The Constitution of Kenya, 2010, Sections 26 and 30.
- 273 *Ibid.*, Section 260.
- 274 Republic of Bolivia, The Constitution of the Republic of Bolivia, 2009, Section 15.
- 275 Federal Democratic Republic of Nepal, Interim Constitution of Nepal, 2007, Articles 22, 29, 34, 147, 166.
- 276 Cited as Republic Act No. 8371, Section 23.
- 277 Republic of Congo, Law n°5-2011 on the promotion and protection of indigenous peoples, sections 7-10.
- 278 Effectiveness in this context is used to mean evidence of fulfillment of provisions of a law, the objective of an initiative or the mandate of an institution (see General Comment No. 5 of the CRC Committee, General

- Measures of Implementation of the CRC, 2003).
- 279 United Nations Human Rights Council. *Mission to Guatemala, Report of the Special Rapporteur on the right of every one to the highest attainable standard of physical and mental health*, paras. 13, 17.
- 280 United Nations Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention. Concluding Observations: Cambodia. CRC/C/KHM/CO/2, para. 61.
- 281 Manjoo, Rashida, *Report of the Special Rapporteur on violence against women, its causes and consequences: Summary report on the expert group meeting on gender-motivated killings of women*, United Nations Human Rights Council, para. 3.
- 282 United Nations Children's Fund Latin America and the Caribbean Regional Office, *Application of a Human Rights Based Approach and a Gender Mainstreaming Strategy to Programming for Work with Adolescents in Latin America and the Caribbean*, Panama City, 2012, pp. 38-39.
- 283 United Nations Committee on the Rights of the Child. Consideration of reports submitted by States parties under article 44 of the Convention. Concluding Observations: The Plurinational State of Bolivia, paras. 7-8.
- 284 United Nations Committee on the Elimination of all forms of Discrimination against Women, Concluding Observations and Recommendations: Bolivia, 2008, para. 24.
- 285 Government of Guatemala, Universal Periodic Review Report, 2008; United Nations Human Rights Council, Compilation Prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 – Guatemala, OCHCR, 2008, para. 3.
- 286 United Nations Committee on the Elimination of Discrimination against Women, *UN Committee on the Elimination of Discrimination against Women: Combined Seventh Periodic Report of States Party, Guatemala*, 2009, para. 114.
- 287 Government of Guatemala, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*, report of the Working Group on the Universal Periodic Review Fourteenth Session, 7 August 2012, para. 45.
- 288 *Ibid.*, paras. 6, 11, 13, 14, 15, 16, 51, 54.
- 289 United Nations Committee on the Elimination of Discrimination against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women–Kenya, 5 April 2011, CEDAW, 2011, para. 15.
- 290 *Ibid.*
- 291 IRIN, 'Philippines: Steep rise in gender-based violence', 30 May, 2012, <www.irinnews.org/report/95549/PHILIPPINES-Steep-rise-in-gender-based-violence>, accessed 12 May 2013.
- 292 Guanzon, Rowena V., *Laws on Violence against Women in the Philippines*, United Nations Expert Group Meeting on Good Practices in Legislation on Violence against Women, 2008.
- 293 United Nations Committee on the Elimination of all Forms of Discrimination against Women, *Combined fifth and sixth periodic reports of States parties*, Philippines, 2004, paras. 19, 20, 22, 25.
- 294 United Nations General Assembly, *In-depth Study on all forms of Violence against Women: Report of the Secretary-General*, United Nations, New York, 2006, para. 337.
- 295 *Ibid.*, paras. 339-351.
- 296 International Institute for Population Sciences and Macro International, *National Family Health Survey (NFHS-3), 2005–06: India: Volume I*, IIPS, Mumbai, 2007, pp. 65-66.
- 297 National Statistics Office, *Philippines National Demographic and Health Survey 2008: Key findings*, p. 30.
- 298 Proyecto/Project Embera-Wera, *Una experiencia de cambio cultural para la eliminación de la ablación genital femenina en Colombia- America Latina*, pp. 23, 29, 35.
- 299 Maasai Girls Education Fund, 'What We Do', <www.maasagirlseducation.org/what-we-do>, accessed 13 May 2013.
- 300 United Nations Population Fund, *Kenya: Creating a Safe Haven, and a Better Future, for Maasai Girls Escaping Violence*, UNFPA, 2005.
- 301 Population Council, *Equipping Mayan girls to improve their lives*, Brief No. 5, updated March 2011, p. 2.
- 302 *Ibid.*
- 303 Inter-Agency Network on Women and Gender Equality Task Force on Indigenous Women, *Indigenous Women and the United Nations System: Good practices and lessons learned*, 2006, pp. 58-61.
- 304 UN Women, 'Trust Fund Grantees', <www.unifem.org/gender_issues/violence_against_women/trust_fund_grantees.html>, accessed 13 May 2013.
- 305 United Nations Children's Fund, 'Birth registration for indigenous children in Peru's Amazonian region: A civil registrar documents 200 births in his community', UNICEF, 9 August 2010.
- 306 Special Representative of the Secretary-General on Violence against Children and the Special Rapporteur on the sale of Children, child prostitution and child pornography, *Safe and child-sensitive counselling, complaint and reporting mechanisms to address violence against children*, United Nations, New York, 2012, pp. 9, 18-20, 28; United Nations Human Rights Council, Annual report of the Special Representative of the Secretary-General on Violence against Children, United Nations, 4 January 2013.
- 307 National Statistics Office, *Philippines National Demographic and Health Survey 2008: Key findings*, p. 223.
- 308 International Institute for Population Sciences and Macro International, *National Family Health Survey (NFHS-3), 2005–06: India: Volume I*, IIPS, Mumbai, 2007, p. 522
- 309 *Ibid.*, p. 476.
- 310 Special Representative of the Secretary-General on Violence against Children and the Special Rapporteur on the sale of Children, child prostitution and child pornography, *Safe and child-sensitive counselling, complaint and reporting mechanisms to address violence against children*, United Nations, New York, 2012, p. 3; United Nations Human Rights Council, Annual report of the Special Representative of the Secretary-General on Violence against Children, United Nations, 4 January 2013, para. 3.
- 311 United Nations Economic Commission for Latin America and the Caribbean, *No more! The right of women to live a life free of violence in Latin America and the Caribbean*, 2009, p. 29.
- 312 Blanco, Blanca and Lorna Hayes, 'The Hidden Challenge to Development: Gender-Based Violence in Guatemala.' *Trocaire Development Review*. Dublin, 2007, p. 54.
- 313 Manjoo, Rashida, *United Nations Report of the Special Rapporteur on violence against women, its causes and consequences, Report on the expert group meeting on gender-motivated killings of women*. 2012, para. 19.
- 315 Organization of American States, Inter-American Commission on Human Rights, *Access to Justice: For Women of Victims of Violence in the Americas*, Washington, 2007, para. 123.
- 316 *Ibid.*, paras. 7, 21, 123, 195, 199.
- 317 Organization of American States Inter-American Commission on Human Rights, Access to Justice and Social Inclusion: The road towards strengthening democracy in Bolivia, OAS, ch. 4, para. 284.
- 318 United Nations Economic and Social Council, *Multisectoral services and responses for women and girls subjected to violence*, December 2012, paras. 39-41.
- 319 Sylvain, Renee, *At the Intersections: San women and the rights of indigenous peoples in Africa*, International Journal of Human Rights, vol. 15, no. 1, January 2011, p. 102.
- 320 African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs, *Mission of the African Committee of Experts on Indigenous Communities/Populations to the Republic of Gabon*, 2007, p. 30.
- 321 Minority Rights Group International, *Uncounted: the hidden lives of Batwa women*, 2010, p. 12.
- 322 *Ibid.*
- 323 United Nations Children's Fund, *Socio Cultural and Legal Institutions of Indigenous Peoples of the Republic of Congo and their Impact on the rights of Children and Women*, p. 45.
- 324 United Nations Children's Fund, Universal Periodic Review of the Human Rights Council, Philippines, 2011, pp. 2, 5-6.
- 325 United Nations Children's Fund, *Reversing the Trend: Child Trafficking in East and Southeast Asia*, Bangkok, 2009, p.10.
- 326 Contreras, Juan Manuel, *et al.*, *Sexual violence in Latin America and the Caribbean: A desk review*, Sexual Violence Research Initiative, 2010, p. 9.
- 327 United Nations Human Rights Council, Guatemala: National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 2012 (2nd cycle), para. 52.
- 328 *Ibid.*
- 329 International Indigenous Women's Forum, *Mairin Iwanka Raya: Indigenous women stand against violence – a companion report to the United Nations Secretary-General's in-depth study on all forms of violence against women*, 2006, pp. 45-46.
- 330 UNICEF. *Case Study on Narrowing the Gaps for Equity - Mexico Cross-cutting social innovations for the fulfilment of indigenous children's and adolescents' rights*, October 2011, p. 4
- 331 United Nations Population Fund, Agencia Española de Cooperación Internacional para el Desarrollo, Family Care International. *Estandares Basicos para. Servicios de Salud Materna con Pertinencia Cultural, Mujer Indigena: Salud y Derechos*, 2012.

- 332 United Nations Population Fund, *Panama: Bolsas Semáforo – a strategy and tool to prevent maternal deaths in the Comarca Ngöbe-Buglé*, in Promoting Equality, Recognizing Diversity: Case Stories in Intercultural Sexual and Reproductive Health among Indigenous Peoples, 2012.
- 333 UN Women. Inventory of United Nations system activities to prevent and eliminate violence against women, 2013, p. 56.
- 334 United Nations Children's Fund, *State of the World's Children 2011: Adolescence. an age of opportunity*, New York. 2011, p. 24.
- 335 United Nations Secretary-General, *Implementation of the World Programme of Action for Youth to the Year 2000 and Beyond, Report of the Secretary-General*, United Nations, 2001.
- 336 African Union Commission, *African Youth Charter*, 2006. In dealing with the African context, the study uses 15-35 years as the frame of reference.
- 337 World Health Organization, *Preventing Intimate Partner Violence and Sexual Violence against Women: Taking action and generating evidence*, WHO, 2010, p. 18.
- 338 *Ibid.*



Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women

A call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America

About the research

Addressing disparities in development outcomes of marginalized and excluded groups such as those of indigenous background is central to all sustainable development efforts. This study represents the first attempt at consolidating existing evidence on violence against indigenous girls, adolescents and young women and is based on a recommendation of the United Nations Permanent Forum on Indigenous Issues to United Nations agencies to address gaps in knowledge on the magnitude, nature and context of violence against these groups. It is in step with similar recommendations arising out of the United Nations Secretary-General's 2006 studies on violence against children and violence against women respectively.

Using illustrations from Africa, Asia Pacific and Latin America, the study reaffirms the universality of violence across all socio-economic groups and cultures but finds that violence is heightened for indigenous girls, adolescents and young women when their communities' broader contexts – such as colonial domination, continued discrimination, limited access to social services, dispossession from ancestral lands, militarization and inter-communal conflicts – intersect with personal circumstances such as age, sex, ethnicity and by patriarchal value systems of indigenous and wider societies.

This study finds that the types of violence which have been documented with respect to indigenous girls and young women are embedded in a

narrow space of evidence which, though widening through a number of qualitative and quantitative sources remains insufficient.

Notwithstanding the noticeable gaps in information, the report aims to spur a call to action to governments, United Nations agencies and special mandate holders, indigenous communities, and women's and children's rights organizations to work collaboratively to end the impunity of violence. It also aims to tackle issues such as the structural, underlying causes and risk factors that lead to violence while paying close attention to deficits in information and strengthening of the capacities of government institutions and civil society organizations in preventing and responding to violence.

