

VULNERABILITY OF INDIGENOUS WOMEN BEING EXPOSED TO VIOLENCE

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Abstract

The indigenous peoples are unrecognized, being deprived of modern developments, alienated from their land, called a hindrance to development and encroacher in their own land are victimize to different types of violence across the world. In this process of violation against indigenous peoples, women and girls are considered the most vulnerable. In this backdrop this article studied the indigenous women and girls being exposed to violence and victimization. And on the this aspect the collective rights of the indigenous peoples, economic, social and cultural rights, civil and political rights and multiple forms of violence had been highlight and studied.

Keywords: Indigenous, Women, and Violence

I. Introduction

In over 70 countries, it is estimated that more than 370 million indigenous peoples are living worldwide,² the Asia-Pacific region seemed to constitute majority of them. Approximately 50% of the populations of indigenous peoples are made up by indigenous women.³ These indigenous peoples are largely diverse groups, common among them is their strong attachment to their land, natural resources and territories, having their own respective spiritual and cultural meaning and importance as they form the bases of their respective communities to survive, continue and existence of their identity. The United Nations General Assembly adopted the United Nation Declaration of the Rights of Indigenous Peoples (UNDRIP), in recognizing of indigenous peoples as distinct with inherent rights.⁴ This declaration provides as an international and human

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² Brigitte Feiring, *Indigenous Peoples' Rights to Lands, Territories, and Resources*, International land Coalition.

³ <http://www.ifad.org/english/indigenous/> last visited 15/5/2016.

⁴ Adopted in 2007.

right framework for recognition and protection of their rights. Despite the growing international recognition of indigenous peoples and their collective right to lands, territories and resources, the majority of Asian governments continue to ignore the existence of indigenous peoples by claiming that the whole population within their states is indigenous.⁵ Hence non recognition of their rights as indigenous made indigenous women more vulnerable to repression in the wider society, and they continue to experience multiple forms of discrimination by the state and even within their communities and families. Being excluded in decision making processes, deprived of education, health facilities, employment opportunities, lack of control over their property and lands and resources and many others are situation where the indigenous women's right are being violated.

II. Methodology

The approached to this study involved both doctrinal and non doctrinal form of research. The discussion made with experts and indigenous peoples helped to contribute in this research paper.

III. Collective Rights

The collective rights of the indigenous people called the inalienable rights of the indigenous peoples are under the human rights jurisprudence and this section highlighted the violation of collective rights of indigenous women.

Land Rights

In spite of many protection and provision in international human rights an indigenous person suffers from pathetic protection of their land and property rights, they are exposed to risk, exploitation, exploration and displacement. Indigenous peoples hold their land as per their customary laws, they hardly hold modern title of their land and often because of development project they are displaced without any compensation. In a development project the government

⁵ Briefing Paper, *The Rights of Indigenous Women to their Lands, Territories and Resources in Asia*, Published by Asia Indigenous people Pact, Thailand, 2015.

allows indigenous peoples land to sell, lease without free prior informed consent. Moreover tourism has been encouraged in their land along with many development projects. This type of development caused forceful displacement of indigenous peoples, armed conflict, ecological degradation and migration. Treating the communal land into commodity and personal property of the indigenous peoples leads to an assault to their culture and their land. In almost all indigenous communities land appropriation is not gender neutral and the rights of the women on land have been denied. Where indigenous communities are governed by male members, the loss of land will likewise undermine women's status and the role she played in her family and community. More over when the indigenous women are widow, they experience barriers to inheriting and holding land. The effect of this violation against indigenous women have a direct effect on lose of traditional livelihoods, such as zoom cultivation, gathering, agricultural production. While in the compensation and job following land acquisition tends to benefit the male member of the family than to women. In this process of land loss, excluding women from such benefits creates vulnerability and abuses. The common abuses against women during such displacement are trafficking, sexual violence, child labor, begging, migration, ill health and many others though women are conceive as the guardian and protector of environment.

Self-determination

Self-determination is defined as both a choice to determine status, as well as the right to have autonomy over economy, social and cultural development. Self-determination is a right to itself and it has been conceptualized as a precondition for the fulfillment of other rights. The rights of indigenous women and girls can be examined from the unique historical experience of their respective communities. The self-determination rights itself has been conceptualized as a precondition for the fulfillment of other rights. The non recognition of customary rights and governance system have failed to develop frameworks that allow indigenous peoples appropriate level of self governance and practices of autonomy over their land and natural resources. These violations are highly detrimental to the advancement of the rights of indigenous women and girls in a number of ways. Indigenous women are therefore curtailed of their right to self-determination by both violations against their collective rights, as members of indigenous communities, and violations against their individual rights, as sub-collectives within those communities.

II. Economic, Social and Cultural Rights

These sections highlighted the economic, social and cultural violence against indigenous women.

Right to Education

Compared to non indigenous the indigenous women have low levels of education and literacy rate. The indigenous women being uneducated is itself violation of right to education. Lack of education facilities is often because of geographical location and political marginalization of indigenous peoples. Even though when education is available it is not in accordance to the needs of the native in many of the places across the world they are thought with the dominant society language than their mother tongue. This inability to express with their mother tongue undermines their culture and identity. Often they are exposed to racism and discrimination and the infrastructure available to them is not sufficient either teaching staff would be insufficient or poor quality of material for teaching and buildings.⁶ Many indigenous communities prefer to set up their own schools, ensuring their traditional knowledge with their cultural values. In many of places because of the remoteness of location and fund the indigenous peoples initiate their own education system. And in many of the places where the school are set up are often occupied by the military forces with conflict around and many a time are shut down. Therefore because of all this problem indigenous peoples lack gaps in educational compared to non indigenous peoples. This gap of education between indigenous and non indigenous are reflected in the proportion of those attending post-secondary education institutions.⁷

Cultural Rights

The states unwillingness to promote the culture of indigenous peoples by not promoting the use of their language, not celebrating their culture, lack of respect has a direct cross-cutting effect on the rights of indigenous women and children. One of the recent issues is that without free prior

⁶ UNDP, Human Development Report 2014, Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010; and United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA), International Labour Organization (ILO) and Office of the Special Representative of the Secretary-General on Violence against Children, *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*, May 2013.

⁷ Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010.

informed consent from the indigenous peoples their cultures have been made as a cultural heritage and commoditization of their culture. And their territories has been declared as World Heritage Sites with people benefiting are the companies and foreigners, national and tour agencies where indigenous peoples often end up themselves as laborers and manual workers, where prostitution is encourage and involving trafficking of girls and women across borders.

Right to Health

The indigenous peoples health include both physical and mental health, there is inequalities of health between indigenous and non indigenous peoples. Indigenous peoples experience disproportionately high levels of maternal and infant mortality, malnutrition, cardiovascular illnesses, HIV/AIDS and other infectious diseases, such as malaria and tuberculosis; Suicide rates of indigenous peoples, particularly among youth, are considerably higher in many countries.⁸ The reason for this poor health is deeply connected with drug abuses, alcoholism and poor nutrition. And the increase in this risk has been associated with historical colonization which resulted them in the destruction of their social, economic cultural and political institution. There is lack of health facilities and often no clear integration mechanisms for health care personnel, communities, traditional healers, policy makers and government officials. Women in indigenous communities see to the wellbeing of their families and communities and they are often affected by the suffering of her family members. The female role as child bearer made vulnerable to specific health difficulties. And often feel low level of health within their communities. Forced sterilization of indigenous women, assimilation causes many health problem to indigenous women.

Poverty

In the world's population indigenous peoples accounts for 5 per cent, representing 15 percent of those living in poverty. As many as 33 per cent of all the people living in extreme poverty globally are from indigenous communities.⁹ This level of poverty is itself a violation of indigenous peoples' right to development, along with economic and social rights to an adequate

⁸Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010.

⁹ United Nations Development Programme (UNDP), *Sustaining human progress: reducing vulnerabilities and building resistance*, Human Development Report 2014, p. 3.

standard of living, food, water, housing, education and health. Poverty of indigenous peoples is deeply interrelated with self-determination and land. The deprivation of self-determination in relation to control over natural resources and development is the fundamental factor of poverty in communities among the indigenous peoples. Unemployment among indigenous peoples have a serious problem connected with poverty experienced, they represented disproportionately the world's unemployment. Indigenous women being exposed to multiple form of discrimination, socioeconomic situation, ethnic origin, age, gender, and many others makes them highly vulnerable to poverty. They are directly affected by unemployment, abuses in work place with wage related discrimination.

Right to Food

It is determined that indigenous peoples experienced significant food insecurity, hence they are being denied from right to food. Food and Agricultural Organization of United Nations had identified loss of land, culture and insecurity to land, territories and natural resources have been a key drivers for food insecurity. Like any other violation right to food directly affect women and also have disproportionate impact on indigenous women because of the roles as food and water providers, managers of resources and caregivers.¹⁰ The industrial developer and business persons set up industrial food production in indigenous people land for their own benefit where the traditional livelihoods, agriculture, hunting, gathering and pastoralist ensured food security for them are endangered leading to destruction of their land and livelihood of indigenous women.

III. Civil and Political Rights

These sections highlighted the violence done to indigenous women relating to their civil and political rights.

Criminal Justice and Indigenous Women

Though there is lack of research and data report on the indigenous women and criminal justice. But however as seen in the country of Australia in 2010, 30 per cent of imprisoned are women

¹⁰ Food and Agricultural Organization of United Nations.

were reported to be indigenous.¹¹ And between 2000 and 2010, in Australia, the imprisonment rate for women increased by 60 per cent, compared to 35 per cent for men.¹² This show that indigenous women are accused of crime, failure to research and proper presentation towards their accusation is itself a violation of their human rights.

Participation in Public and Political Life

Indigenous women are often excluded from both decision making process whether local, national political process. Indigenous power structures and self-governance agreements tend to be patriarchal and exclude the involvement and participation of women .The provision relating to exercising their right to equal participation has been enshrined in many of international laws and even at the states but however this have been violated and hardly implemented.

Right to remedy

The historical abuses of indigenous communities contribute to the vulnerability of indigenous women and especially when the government itself fail to recognized and provide remedy to them. In many of the countries indigenous women are marginalized in both their communities and national justice systems. They are deprived of justice system because of their range of cultural and linguistic factor at the national judicial. And more over the justice system in most of the indigenous communities seemed to be male dominated and hardly have any space for allowing the women to participate and raise their voice. The justice system called the informal or customary differs from one indigenous community to other, many a times they may fail to offer right justice and may not be gender sensitive. For example in India the indigenous communities called the Tiperasa or Borok belonging to the state of Tripura hardly have a strong customary justice system, women are confused whether to go to the formal justice system or informal justice system. Often when the formal Court receives cases from the indigenous community it announced that Hindu law cannot govern the tribal and hence it does not have any jurisdiction to try the tribal cases. Therefore, the indigenous women in Tripura are denied of justice both in the formal and informal justice system.

¹¹ Creative Spirits/Jens Korff, *Aboriginal prison rates*, 8 June 2015.

¹² Ibid.

Racism and racially motivated discrimination

Indigenous women faced persistent and multifaceted forms of racism and racial discrimination.¹³ In all fields and sectors indigenous people suffered racial discrimination, some of the common fields are like the educational sector, employment sector and public places, where such racism towards them leads to different kinds of abuses against them.

IV. Multiple Forms of Violence

In the above discussed sections is the structured form of violence against indigenous women and girls it have its interlinked and mutually reinforce with other forms of violence, as would be discuss below in this section.

Violence in the Context of Conflict

Indigenous women and girls being vulnerable have been the victim of conflict situation. The conflict may arise because of different ethnic group clash, business actors, and also involve government. The Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights stated 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. That again shows the impact that intersecting forms of inequality and discrimination can have on indigenous women.¹⁴

Violence in the Name of Tradition

The culture-based identity can be used to justify violence against the women in the name of traditional practices and/or values.¹⁵ Child marriage, female mutilations are some of the examples of common harmful traditional practices against women. The child marriage is not only a form of violation but also violation of the child's right to education, health, family life and

¹³ Committee on the Elimination of Racial Discrimination.

¹⁴ Mairin Iwanka Raya, *Indigenous women stand against violence* ; UN-Women and others, *Breaking the silence*.

¹⁵ The Special Rapporteur on violence against women, A/HRC/4/34.

right to life. However these traditional practiced of child marriages are practiced in some of the indigenous communities.¹⁶

Sexual Violence

The sexual violence and harassment may be a form of rape perpetrated by individual, group, cross border rape, while working as a domestic worker and type of violence perpetrated toward indigenous communities than to non indigenous communities. This variety form of sexual violence reflected to some extent the different experiences across the world to indigenous peoples, reflecting the multidimensional ways to indigenous women being vulnerable to violence.

Gender Based Killing

The Special Rapporteur on violence against women defined as direct or indirect gender-motivated killings, which takes place in the family, in communities and sometimes which are perpetrated or condoned by state through act and/or omission.¹⁷ These has a great impact on indigenous women as a result of their social, cultural, economic and political marginalization, it can be in variety of form such as missing women, displacement due to acquisition of land, conflict related, murder within communities, retaliation for defending their human rights.

Domestic Violence

The women from indigenous communities are more likely to be victim of domestic violence than non indigenous communities. The domestic violence has great consequences in mental health problems and other health issues, along with problems creating difficulties in providing care to children. More over their consequences of this problem would increase owing to lack of justice system and services and also because of their economic and cultural systems.

Trafficking

The indigenous women and girls are often exposed to trafficking, which can lead to multiple human rights violation like sexual violence, severe economic and sexual violence. Many a times

¹⁶ Human Rights Watch, section on child marriage, available at www.hrw.org/topic/womensrights/child-marriage.

¹⁷ 2012 report, A/HRC/20/16.

the indigenous women because of denial of self-determination, armed conflict, being alienated from their own land for development projects, migrates from their native home to urban are very much vulnerable to trafficking.¹⁸

V. Conclusion

As stated in any form of disaster women are the most vulnerable and same as in indigenous communities women and girls are no excuse to such vulnerability and have been victimization of much violence. Their collective rights, Civil and political life, Economic, social and cultural rights and other multiple forms of violation are the common issues of violation against indigenous women across the world. Though in some of the countries there have been some initiative taken by the international, national, local and even within their communities for the upliftment of indigenous women and girls but it seemed that nothing have been done so far, in fact the violence against them have been increasing.

¹⁸ Victoria Tauli Corpuz, *Report of the Special Rapporteur on the rights of indigenous peoples*, Human Rights Council Thirtieth session, Agenda item 3, A/HRC/30/41.