**Comments to the Draft Recommendation No. 39 on Indigenous Women and Girls**

**Romina Quezada[[1]](#footnote-1)**

**Background**

The comments in this document are based on three general observations:

1.I agree on paragraph 4 of the Draft Recommendation No. 39 on Indigenous Women and Girls –hereafter referred to as the Draft– in that the approach to formulate and implement the rights of Indigenous girls and women should be intersectional, intercultural, and multidisciplinary.

2.I recognize the usefulness of data to support arguments and guide policies relevant to the rights of Indigenous girls and women. I therefore make suggestions in this regard that take into account Indigenous girls and women’s sociocultural contexts –the national, the local, and the community contexts.

3.I suggest considering the CEDAW framework that appears in General Recommendation No. 28, and that monitors equality, for its inclusion in the Draft.[[2]](#footnote-2) The CEDAW framework distinguishes between de jure equality, de facto equality, and results equality, distinction by which it is possible to monitor and evaluate equality and equity. However, international documents have opted for including the concept of equity within equality, which has led to misinterpretations of what is sex and gender equality.[[3]](#footnote-3) While equality usually relates to all genders accessing the same opportunities, equity refers to ensuring that certain individuals or collectives actually benefit from having access to those same opportunities.[[4]](#footnote-4) The merging of equity within equality at the international level has obscured the purpose and proper implementation of equity at the national level, but CEDAW’s General Recommendation No. 28 does allow for the tracking of equity. I therefore base my recommendations on this framework, emphasizing and urging States parties and related stakeholders to implement those distinctions in the data collection, monitoring, and decision making on the rights of Indigenous girls and women.

**Comments to the Draft**

The following comments start with a number indicating the paragraph to which the comment refers.

4. The incorporation of the CEDAW framework cited in the background section to the Draft complements intersectionality, interculturality and multidisciplinarity. It makes use of the Committee’s existing guidelines and provides a more robust recommendation to ensure Indigenous girls and women’s rights.

10. States parties and stakeholders must find ways to ensure the participation of Indigenous women from within the State apparatus as well, and not only within Indigenous communities. This procedure legitimizes decision making and is in line with CEDAW’s de facto equality.

In the same paragraph, data collection systems must be designed with and validated by Indigenous girls and women in each community. This aspect ensures that the indicators and data created take into account and reflect the cultural specificities of each Indigenous community when it comes to the concept of gender and gender roles. This idea is reflected in para. 32 of the Draft, but it must be implemented in every data collection process.[[5]](#footnote-5)

17. States parties must guarantee that the self-determination of Indigenous girls and women does not result in discriminatory or violent reactions that may hinder their possibilities for educational and professional growth, nor their social or political participation.

18. Gender equality must be defined and monitored according to the CEDAW’s framework cited in the background section of this document.

20. Physical appearance and accent when speaking could be added to the list of reasons for discrimination.

28 (a). Data collection and disaggregation must be culturally appropriate to the Indigenous girls and women of each community. This point relates to para. 28 (i) to ensure Indigenous girls and women’s participation in the design of data collection instruments related to them. An example of effective participation may be that suggested in para. 38, related to judiciary systems.

46 & 47 (a). The reference in para. 46 to effective legal frameworks for Indigenous girls and women may be specified in para. 47 (a) according the CEDAW’s framework cited in the background section of this document. The need for an effective legal framework permeates the intersectional nature of the Draft.

49. The paragraph should mention the long distances that Indigenous girls and women must travel, sometimes alone, to access any form of participation. This information is in line with para. 22 of the Draft.

50. The effective representation of those women who stand an opportunity to be elected during election campaigns relates to the effective implementation of the CEDAW framework cited in the background section of this document. Rightly specified, this situation is not always an issue of gender parity, but of equity based on the assets of an Indigenous woman candidate.

52 (a). The CEDAW framework cited in the background section of this document may be useful to help monitor the referred procedures.

52 (e). The training of public servants in Indigenous girls and women’s rights is fundamental to promoting their effective participation in public life. An example of this suggestion is made explicit in para. 60, related to health.

54 (b). Such information procedures should be translated into as many Indigenous languages spoken in a given country as possible.

56. Paragraph 56 should add another item that ensures the access and training in the use of digital learning tools by Indigenous girls and women. In line with paras. 68 (e), 78, and 80 (e), the COVID-19 pandemic revealed the inapplicability of digital learning in many Indigenous communities. This situation is against education as a human right.[[6]](#footnote-6) This argument is in line with para. 75 (d), and meets the provision of quality education stated in 56 (b).

56 (b). Education should be provided in or close to the communities where Indigenous girls and women live to protect their ways of life and ensure that long distances do not interfere with their choice or right to access education. Further, States parties must ensure that education in Indigenous communities is as reputable as that of other regions and cities, to make sure that Indigenous girls and women stand a possibility to access higher levels of education and be admitted to prestigious universities. Ensuring this aspect of education also enhances Indigenous girls and women’s probabilities to access a good job, contributing in this way to their growth, as well as that of their community and their country. This argument is in line with para. 57.

56 (f). Stakeholders must organize training programs on Indigenous girls and women’s rights at all administrative and educational levels.

56 (g). Para. 56 should be monitored according to the CEDAW framework cited in the background section of this document to ensure not only de jure equality, but also de facto and results equality.

58 (a). Equity, mentioned in this paragraph, should be made explicit in monitoring and implementation frameworks. This argument applies specifically to paras. 58 (a) i. and 58 (a) vi., and is in line with paras. 56 (b) and 56 (f) in the context of high rank positions in universities, but its applicability is intersectional.

78 (b). Participation should be implemented and monitored according to the CEDAW framework cited in the background section of this document.

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2. CEDAW, “General Recommendation No. 28 on the core obligation of States parties under article 2 of the Convention on the Elimination of all forms of Discrimination Against Women” (CEDAW, 2010). [↑](#footnote-ref-2)
3. UN Women Training Centre, “Equity.” Gender Equality Glossary, accessed January 23, 2022, [Gender Equality Glossary (unwomen.org)](https://trainingcentre.unwomen.org/mod/glossary/view.php?id=36&mode=search&hook=equity&fullsearch=1) [↑](#footnote-ref-3)
4. For a more developed explanation of the argument, see Regina Cortina and Romina Quezada, “La igualdad de género en la investigación de alto rango en la Universidad Nacional Autónoma de México: una lente feminista,” *Revista de Educación Superior del Sur Global - RESUR*, no. 13 (2021): <https://doi.org/10.25087/resur13a1> [↑](#footnote-ref-4)
5. For an example of data validated by Indigenous girls and women, see the Indigenous Navigator, [www.indigenousnavigator.org](http://www.indigenousnavigator.org) [↑](#footnote-ref-5)
6. UNESCO, “What you need to know about the right to education”, November 26, 2020, [What you need to know about the right to education (unesco.org)](https://en.unesco.org/news/what-you-need-know-about-right-education) [↑](#footnote-ref-6)