**Submission to the Committee on the Elimination of Discrimination against Women**

**On the General Discussion on the Rights of Indigenous Women and Girls**

June 24 2021

Prepared by the Secretariat of the Convention on Biological Diversity

The Secretariat of the Convention on Biological Diversity (CBD) welcomes the opportunity to contribute to the development of a general recommendation under CEDAW on the rights of indigenous women and girls. This initiative is very well aligned with the work and focus of the CBD concerning indigenous peoples and local communities’ traditional knowledge for conservation and sustainable use of biodiversity. The CBD further recognizes the important role of women in the conservation and sustainable use of biodiversity, and the fair and equitable sharing of benefits derived from genetic resources.

The consultations on this general recommendation come at an important time under the Convention, as negotiations are underway for the development of the post-2020 global biodiversity framework, which is intended to set the course for global efforts to halt biodiversity loss for the next decade and those to come. Among the documents being prepared alongside this framework is the post-2020 gender plan of action, the draft version of which identifies the need for special provisions and targeted actions to address the needs, interests and priorities of indigenous and rural women and girls. The draft plan, as with the post-2020 framework, draws on relevant international commitments in its framing, to support efforts to maximize synergies in line with the achievement of global goals related to sustainable development. Measures put forward under CEDAW to strengthen the rights of indigenous women and girls in ways that are particularly relevant to biodiversity provide an opportunity to contribute to advancing the biodiversity agenda and to the achievement of shared objectives.

In preparation for this submission, the CBD Secretariat held a meeting with representatives of indigenous women’s groups who are active in discussions related to biodiversity, including the Indigenous Women’s Biodiversity Network, Red de Mujeres Indígenas sobre Biodiversidad de América Latina y el Caribe (RMIB-LAC), and Fondo para el Desarrollo de los Pueblos Indígenas de América Latina y El Caribe (FILAC) to consult on their views and priorities related to themes to be considered under the General Day of Discussion[[1]](#footnote-2). The Secretariat has prepared this submission taking into account the issues put forward by these representatives.

The Secretariat would like to highlight a number of issues of particular importance in respect to biodiversity, which relate to the themes of the general discussion. Regarding the theme of equality and non-discrimination with a focus on indigenous women and girls and intersecting forms of discrimination, key issues include the protection of traditional knowledge of indigenous women and girls, as well as the adequate recognition of the rights of indigenous women and girls, particularly with attention to the COVID-19 pandemic. Issues of collective rights of indigenous peoples and land rights of indigenous women are also notable in this context. Regarding effective participation, consultation and consent of indigenous women and girls in political and public life, key issues include the full and effective participation of indigenous women at all levels of decision making related to biodiversity, resource and environmental management, as well as other contexts. The availability and accessibility of sufficient data and statistics specifically related to indigenous women and girls are highlighted as an issue of importance in consideration of both themes.

Equality and non-discrimination with a focus on indigenous women and girls and intersecting forms of discrimination

*Protection of traditional knowledge of indigenous women and girls*

The CBD is a framework treaty that establishes obligations, rights and principles for the international governance of biodiversity. Article 1 of the Convention spells out its three objectives: “the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources”. The Convention incorporates equitable development, including economic and non-economic benefits from the utilization of biodiversity components, along with conservation of biodiversity. Furthermore, the Convention recognizes the contribution of indigenous peoples and local communities, particularly the role of indigenous women, in all of the three objectives.

As the biodiversity crisis reaches unprecedented levels of biodiversity loss, there is a growing appreciation of the value of traditional knowledge for the conservation and restoration of biodiversity. The Convention, in its Article 8(j), establishes that “each contracting Party shall, as far as possible and as appropriate: (i) subject to national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and (ii) promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and (iii) encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices.”

In 1998, the fourth meeting of the Conference of Parties to the Convention (COP 4) decided to establish an ad hoc Open-Ended Inter-sessional Working Group to address the application of Article 8(j) and related provisions (Working Group on Art. 8j) with the mandate to work on traditional knowledge matters. Since its establishment, Working Group on Art. 8j developed several voluntary guidelines as minimum standards to achieve the rights of indigenous peoples and local communities, including:

* The Tkarihwaié:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities[[2]](#footnote-3) provides a general principle of safeguarding collective and individual ownership balance of traditional knowledge. It also requires that methodologies should take into account the vital role that indigenous and local community women play in the conservation and sustainable use of biological diversity, affirming the need for the full and effective participation of women at all levels of policy-making and implementation for biological diversity conservation.
* The Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity[[3]](#footnote-4) describes secret and/or sacred, and gender specific traditional knowledge. In repatriation cases, this particular kind of traditional knowledge should be accessed by culturally appropriate persons, and advice can be provided about this from the receiving communities. For instance, it may be culturally appropriate that women’s knowledge is only accessible to women.
* The Mo’otz kuxtal voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge[[4]](#footnote-5) sets general principles, procedural and relevant considerations related to access to traditional knowledge and fair and equitable sharing of benefits. These guidelines do not apply to traditional knowledge associated with genetic resources covered under the Nagoya Protocol.

Regarding sustainable use of biodiversity, Article 10(c) of the Convention establishes that Parties protect and encourage customary use of biological resources according to traditional cultural practices that are compatible with conservation or sustainable use requirements of indigenous peoples and local communities. The Convention also adopted the Global Plan of Action on the Customary Sustainable Use of Biological Diversity[[5]](#footnote-6) , which aims to promote a just implementation of Article 10(c), ensuring the full and effective participation of indigenous and local communities, particularly women and youth, in all activities under the Plan.

The Working Group on Article 8(j), at its eleventh meeting, recommended possible draft elements of the new Programme of Work on Article 8(j) and other provisions of the Convention related to indigenous peoples and local communities includes, as a suggested activity, the development of voluntary guidelines to promote and strengthen community-based initiatives that support and contribute to the implementation of Article 10(c) and enhance customary sustainable use of biological diversity, and conservation and restoration.

The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (Nagoya Protocol) represents a significant accomplishment to expand the effective implementation of one of the three core objectives of the Convention: the fair and equitable sharing of benefits arising from the utilization of genetic resources. Indigenous peoples and local communities were active participants throughout the negotiations.

The Nagoya Protocol builds on the access and benefit-sharing provisions of the Convention, including Article 8(j). The Preamble provides a context for the interpretation of the text of the Protocol, which contains specific references to the vital role that women play in access and benefit-sharing, Article 8(j), the interrelationship between genetic resources and traditional knowledge, and their inseparable nature, the diversity of circumstances in which traditional knowledge is owned or held, and the identification of the rightful holders of traditional knowledge.

The Nagoya Protocol sets out a series of provisions for Parties to the Protocol[[6]](#footnote-7) to take, including to ensure that traditional knowledge associated with genetic resources held by indigenous peoples and local communities is accessed with the prior and informed consent or approval and involvement of these communities, and that mutually agreed terms have been established (Article 7 - Access to traditional knowledge associated with genetic resources).

This obligation is accompanied by related provisions, including under Article 6 on Access to Genetic Resources, Article 10 on the Global Multilateral Benefit-Sharing Mechanism and Article 11 on Transboundary Cooperation, among others. Under Article 12, on Traditional Knowledge associated with Genetic Resources, the Protocol establishes that Parties take into consideration indigenous peoples and local communities’ customary law, community protocols and procedures, with respect to traditional knowledge associated with genetic resources. Parties are also required to support, as appropriate, the development by indigenous peoples and local communities, including women within these communities, of: (a) Community protocols in relation to access to traditional knowledge associated with genetic resources and the fair and equitable sharing of benefits arising out of the utilization of such knowledge; (b) Minimum requirements for mutually agreed terms to secure the fair and equitable sharing of benefits arising from the utilization of traditional knowledge associated with genetic resources; and (c) Model contractual clauses for benefit-sharing arising from the utilization of traditional knowledge associated with genetic resources.

The Nagoya Protocol also includes several other provisions explicitly related to indigenous women; including the need for special measures to increase the capacity of indigenous peoples and local communities with an emphasis on enhancing the capacity of women within those communities in relation to access to genetic resources and/or traditional knowledge associated with genetic resources (Article 22 – Capacity). Under Article 25 on the Financial Mechanism and Resources, the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, are required to take into account capacity needs and priorities of indigenous peoples and local communities, including women within these communities. These provisions point to the value of traditional knowledge and the need for dedicated measures to support indigenous women in particular in access to benefits, related capacity development and financial resources.

In Nagoya, Japan, the tenth meeting of the COP (2010) adopted a revised and updated Strategic Plan for Biodiversity, including the Aichi Biodiversity Targets, for the 2011-2020 period, including Target 18 on traditional knowledge[[7]](#footnote-8). The implementation of the Strategic Plan appraises that not all aspects of the target will be met. A comparison between the fifth national reports[[8]](#footnote-9) and sixth national reports, submitted by 26 March 2020, shows an increase from 27 per cent to 59 per cent in reporting on the collective actions of indigenous peoples and local communities through the national reports. However, only 10 per cent of the sixth national reports mention the engagement of indigenous peoples and local communities in developing National Biodiversity Strategies and Action Plans[[9]](#footnote-10).

Despite the formal recognition of indigenous peoples and local communities to identify the rightful holders of their traditional knowledge, under the Convention and the Nagoya Protocol, there remains a challenge to ensure control, respect, preservation, maintenance and development of their knowledge, innovation and practices.

The role of indigenous women is fundamental for the maintenance and recreation of traditional knowledge. Therefore, there is a need to include local mechanisms within the community protocols in relation to access to traditional knowledge and fair and equitable sharing of benefits arising out of the utilization of such knowledge, which are accessible by indigenous women and serve to protect their contributions to traditional knowledge, as mandated by Article 12 (3) of the Nagoya Protocol. These mechanisms are central when addressing gender-specific knowledge, which is exclusively stewarded, held and maintain by indigenous women.

Another area is the development and access pertaining to intellectual property rights and tools, complementary to the Convention and the Nagoya Protocol framework on traditional knowledge.

*Adequate recognition of the rights of indigenous women and girls*

Adequate recognition of the rights of indigenous women and girls remains a barrier to their ability to contribute to and benefit from efforts to conserve and sustainably use biodiversity, and to fairly and equitably share in the benefits derived from genetic resources. The draft outline of a post-2020 gender plan of action for the CBD[[10]](#footnote-11) includes an objective to increase women’s access to ownership and control over land, waters and biological resources, including by identifying and removing gender-related barriers. This is closely aligned with Sustainable Development Goal target 5.a, which aims to undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

Available data on the impacts of the pandemic shows a starkly higher level of negative impact on women, compounding the burdens of caregiving, insecure employment, and heightened risk of gender-based violence. Indigenous women and girls, already facing greater issues of marginalization as compared to other groups are most likely affected by the impacts of COVID in significant and detrimental ways.

*Land rights*

Indigenous peoples’ lands play a fundamental role to protect biodiversity and ecological services. The IPBES Global Assessment indicates that biodiversity declines less rapidly in indigenous peoples’ traditional lands and waters and local communities. The impacts of biodiversity loss on their lands affects the transmission of traditional knowledge, and the potential for sharing benefits arising from the use of this knowledge, and the ability to conserve and sustainably manage biodiversity. These negative impacts disproportionately affect indigenous women and girls.

The relationship between indigenous women and their land is even more tied to their roles in transmitting traditional knowledge, particularly the gender-specific knowledge they hold. Indigenous peoples’ customary laws can negatively impact indigenous women and girls when they limit the ownership and control of indigenous women. Maintaining a balance between the collective and individual rights of indigenous peoples, including indigenous women and girls, is fundamental to recognising and enhancing indigenous women’s role in their communities, including in resource and environmental management.

Effective participation, consultation and consent of indigenous women and girls in political and public life

*Full, effective participation of indigenous women at all levels of decision-making related to biodiversity, resource and environmental management.*

The preamble of the CBD recognizes the vital role of women in the conservation and sustainable use of biodiversity, and affirms the need for the full participation of women at all levels of policy making and implementation for biodiversity conservation. This is also echoed under the preamble of the Nagoya Protocol. This need is similarly recognized under the Beijing Platform for Action, K.1 para 254 (d) “Establish strategies and mechanisms to increase the proportion of women, particularly at grass-roots levels, involved as decision-makers, planners, managers, scientists and technical advisers and as beneficiaries in the design, development and implementation of policies and programmes for natural resource management and environmental protection and conservation”, and under UNEP resolution UNEP/EA.4/L.21, Promoting gender equality and the human rights and empowerment of women and girls in environmental governance.

The [draft outline of a post-2020 gender plan of action](https://www.cbd.int/doc/c/18ec/c0c5/b920a490c542402e5c002c9f/sbi-03-04-add2-rev1-en.pdf) proposes, as one of three expected outcomes, that biodiversity policy, planning and programming decisions address equally the perspectives, interests and needs of all genders, in particular women and girls. Associated draft objectives include to i) increase and strengthen the meaningful, informed and effective participation and leadership of women at all levels of decision-making related to biodiversity; ii) enhance the meaningful, informed and effective participation and leadership of women in processes of the Convention, including through the engagement of women’s groups and women delegates; and iii) integrate gender equality, intergenerational equity and human rights considerations into national biodiversity strategies and action plans (NBSAPs) and their implementation, budgeting, monitoring and reporting. These proposed objectives attempt to address the critical areas in which participation of women and girls, and in particular indigenous women and girls, need to be prioritized. As the principal mechanism for the implementation of the Convention at the national level, the development/revision, implementation, monitoring and reporting on NBSAPs provide a central basis for advancing and ensuring the full and effective participation of indigenous women at all levels of decision-making related to biodiversity, resource and environmental management.

The CBD has established mechanisms for the full and effective participation of indigenous peoples and local communities at the international level. The main entry point to address indigenous peoples and local communities’ demands and aspirations within the CBD has been through the Open-Ended Working Group on Article 8(j) and Related Provisions of the Convention. The Working Group on Article 8(j) has established several mechanisms to ensure participation of indigenous peoples and local communities, including the nomination of an indigenous co-chair to assist the Chairperson of the Working Group on Article 8 (j), and co-chairs for sub-working groups and contact groups.

A fundamental principle of the programme of work for Article 8(j) has been the full and effective participation of women of indigenous and local communities in all activities of the programme of work[[11]](#footnote-12). At the CBD meetings, representatives of indigenous peoples and local communities register themselves under the “indigenous peoples and local communties” category. In 2004, the CBD established a Voluntary Fund to facilitate the participation of indigenous peoples and local communities in all relevant meetings held under the CBD ([decision VII/16 G, paragraph 10)](https://www.cbd.int/doc/decisions/cop-07/cop-07-dec-16-en.pdf). This remains the only fund among the Multilateral Environmental Agreements intended explicitly for indigenous peoples and local community participation in UN meetings, and includes a selection criterion for gender balance, recognizing the special role of indigenous and local community women in knowledge, innovations and practices. Other selection criteria include considerations of different ages, recognizing the important role of Elders in the intergenerational transfer of knowledge, innovations and practices of indigenous and local communities, and youth’s role.

*Availability and accessibility of sufficient data and statistics specifically related to indigenous women and girls*

Adequate data related to the gender-differentiated impacts of biodiversity loss is lacking, and particularly so for indigenous women and girls. Such data is critical to guide policy processes at local to international levels, to ensure that needs of indigenous women and girls can be met and opportunities maximized to further their contributions to biodiversity conservation and sustainable use and related processes. The Indigenous Women’s Biodiversity Network has been working to address this issue, by engaging with youth, particularly young women, to carry out training in data collection at the local level, to help bridge gaps in data while also promoting engagement and awareness of biodiversity and environmental issues at an early stage.

The recently released technical review on the state of Indigenous Peoples’ and Local Communities’ lands and territories[[12]](#footnote-13) points to the importance of participatory mapping to ensure that lands under indigenous and local community governance can be documented regardless of the legal status of these lands and the lack of consistent global data, among other complicating factors. The review highlights the importance of coordination and collaboration among a range of entities (science, government and civil society), including indigenous peoples and local communities, women and youth to support the provision of reliable, robust and consistent data to underpin decision-making.

1. Virtual meeting was held on 9 June 2021 [↑](#footnote-ref-2)
2. COP 10 (2010) Decision X/42, available at: <https://www.cbd.int/traditional/code/ethicalconduct-brochure-en.pdf> [↑](#footnote-ref-3)
3. COP 14 (2018) Decision 14/12, available at: <https://www.cbd.int/doc/decisions/cop-14/cop-14-dec-12-en.pdf> [↑](#footnote-ref-4)
4. COP 13 (2016) Decision XIII/18, , available at: https://www.cbd.int/doc/publications/8j-cbd-mootz-kuxtal-en.pdf [↑](#footnote-ref-5)
5. COP 12 (2014) Decision XII/12 B, annex, <https://www.cbd.int/doc/publications/cbd-csu-en.pdf> [↑](#footnote-ref-6)
6. The Convention also adopted the [Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of Their Utilization](https://www.cbd.int/doc/publications/cbd-bonn-gdls-en.pdf), relavant for Convention on Biological Diveristy Parties who did not ratified the Nagoya Protocol. [↑](#footnote-ref-7)
7. Strategic Plan for Biodiversity 2011-2020, Aichi Biodiversity Target 18: By 2020, the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the Convention with the full and effective participation of indigenous and local communities, at all relevant levels. [↑](#footnote-ref-8)
8. Art 26 of the CBD request Parties to submit National Reports on the measures taken to implement the CBD. [↑](#footnote-ref-9)
9. Art 6 (a) Parties should develop [↑](#footnote-ref-10)
10. <https://www.cbd.int/doc/c/18ec/c0c5/b920a490c542402e5c002c9f/sbi-03-04-add2-rev1-en.pdf> [↑](#footnote-ref-11)
11. COP 5 [Decision V/16](https://www.cbd.int/decision/cop/?id=7158) [↑](#footnote-ref-12)
12. WWF[1], UNEP-WCMC[2], SGP/ICCA-GSI[3], LM[4], TNC [5], CI[6], WCS[7], EP[8], ILC-S[9], CM[10], IUCN[11] The State of Indigenous Peoples’ and Local Communities’ Lands and Territories: A technical review of the state of Indigenous Peoples’ and Local Communities’ lands, their contributions to global biodiversity conservation and ecosystem services, the pressures they face, and recommendations for actions Gland, Switzerland (2021) [↑](#footnote-ref-13)