



The Asia Pacific Forum on Women Law and Development, the Global Initiative for Economic, Social and Cultural Rights, and the Landesa Center for Women's Land Rights welcome the opportunity to submit comments on the draft CEDAW General Recommendation No 35 on the gender related dimensions of Disaster Risk Reduction in a Changing Climate. In this submission, we provide some general feedback on key themes, as well as some specific textual changes which we feel would strengthen the current draft. This document is meant to supplement our earlier written submission to the CEDAW Committee on the occasion of its half-day general discussion on "gender-related dimensions of disaster risk reduction and climate change" (held 29 February 2016).

## 1. A Missed Opportunity on Climate Change

**The pivot within the draft General Recommendation away from clarifying State party obligations to address climate change itself, and towards 'Disaster Risk Reduction in a Changing Climate' is, we believe, a missed opportunity.** Given the nature of the threat that climate change poses to the livability of the planet, the General Recommendation should include much stronger language about the necessity of States parties to prevent further climate change by reducing greenhouse gases (GHG) emissions, highlighting the critical importance from a women's rights perspective. While climate change is a phenomenon which on its face appears to be gender-neutral, as the CEDAW Committee has highlighted "it is apparent that climate change does not affect women and men in the same way and has a gender-differentiated impact."<sup>1</sup>

The focus on Disaster Risk Reduction (DDR) should include a focus on prevention, but the language in the current draft is heavily weighted on how to best enable women to cope with the negative effects of climate change (i.e. response), and not on the urgent need of States parties to take action to prevent harm (i.e. reduce GHG emissions). For example, the draft makes no mention of fossil fuels, greenhouse gases, carbon sinks, or deforestation, and only a single passing reference to GHG emissions (and even here the emphasis is on limiting the impact of GHG emissions, not on limiting GHG emissions themselves).<sup>2</sup> While it highlights important climate agreements, such as the 2015 Paris Agreement on Climate Change and Sustainable Development Goals, it does not provide meaningful guidance on how in effect these should be "read together with the provisions of the CEDAW Convention."<sup>3</sup>

In the absence of having a strong position at the outset on preventing climate change itself, certain recommendations within the text take on a 'too little, too late' quality. For example, the draft includes recommendations such as the following:

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<sup>1</sup> Statement of the CEDAW Committee on Gender and Climate Change (2009).

<sup>2</sup> CEDAW, 'Draft General Recommendation No. 35 on the Gender-related dimensions of Disaster Risk Reduction in a Changing Climate,' UN Doc. CEDAW/C/GC/35 (11 October 2016), at para. 42 (a).

<sup>3</sup> Ibid., at para. 11.

- *The local traditional knowledge held by women in agricultural regions is particularly important ... as these women are well positioned to observe changes in the environment and to respond to these through different adaptive practices in crop selection, planting, harvesting and storage.*<sup>4</sup>
- *Article 15 of the CEDAW Convention guarantees women equality before the law, which is extremely important in situations of disasters in a changing climate, particularly when women, who often face barriers to accessing justice, wish to claim reparations to cover their losses and to enable them to recover and adapt to change.*<sup>5</sup>
- *States parties should ... [i]nvest in women's adaptability by identifying and supporting livelihoods that are resilient to disaster and climate change ....*<sup>6</sup>

While each of these statements is valid, in the context of the possible extreme effects of climate change, measures such as these will not be enough to improve or safeguard women's lives. The overly strong focus on climate response and resilience does not take into account that women's traditional knowledge will not help them in the face of ecosystem collapse; women's access to justice will not help them 'recover and adapt to change' if climate change makes the planet unfit for human habitation; and the hope of 'livelihoods that are resilient to disaster and climate change' may not be achievable in any real sense if natural resources are endangered. These recommendations are indeed important in the interim as women cope with the already evident effects of climate change; however they may well become irrelevant in the absence of concerted, effective and immediate measures to address climate change itself through the implementation of key international agreements. And that is the current frightening reality: as the 2016 UNEP emissions Gap report shows, the current countries' climate commitments will lead to a temperature increase of 2.9 to 3.4oC this century, far away from the temperature goals of 1.5 and 2C enshrined in the Paris agreement. This reality is not adequately acknowledged in the present draft.

**Therefore, we encourage the CEDAW Committee to raise its voice more strongly and to affirm that urgent action to combat climate change, reduce GHG emissions, and minimize its disruptions is integral to the successful implementation of the Convention on the Elimination of all Forms of Discrimination against Women.** It should be recognized that climate change induced/exacerbated disasters differ from other natural disasters because of the anthropogenic causes, and therefore State party obligations must be clarified with respect to disaster risk response, reduction *and prevention*.<sup>7</sup> State party obligations vis-s-vis climate change prevention can and should be seen as falling within the scope of the Convention because of the well-known and well documented gender unequal effects of climate change.

Currently, the draft states that the General Recommendation "focuses on the obligations of States parties and other stakeholders under the Convention to take effective measures to *anticipate and respond to the new hazards and disaster risks that have emerged as a result of climate change* and on the need to develop synergies between gender equality, disaster risk reduction, climate management and sustainable development efforts."<sup>8</sup> We believe that this language should be strengthened to provide a clearer focus on prevention of risks associated with climate change, which must necessarily include language about the need to reduce GHG emissions and comply with international agreements in this regard.

### ***Specific Language Suggestions***

***We suggest the following textual changes to the following paragraphs in the draft General Recommendation:***

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<sup>4</sup> Ibid., at para 27.

<sup>5</sup> Ibid., at para 31.

<sup>6</sup> Ibid., at para 38 (b).

<sup>7</sup> For an articulation of why climate change prevention is a legitimate obligation of States under international human rights law, please see: UN High Commissioner for Human Rights, *Burning Down the House*, available online at: <http://www.ohchr.org/EN/NewsEvents/Pages/BurningDowntheHouse.aspx>

<sup>8</sup> CEDAW, 'Draft General Recommendation No. 35 on the Gender-related dimensions of Disaster Risk Reduction in a Changing Climate,' UN Doc. CEDAW/C/GC/35 (11 October 2016), at para 27.

## II. Objective and scope

9. This General Recommendation will provide guidance to States parties on the implementation of their obligations under the Convention on the Elimination of All Forms of Discrimination against Women in the context of disaster risk reduction ~~in a changing climate and climate change~~. Urgent action to combat climate change, reduce GHG emissions, and minimize its disruptions is integral to the successful implementation of the Convention and to the realization of women's human rights. In their reporting to the Committee, States parties should address general obligations to tackle the root causes of climate change, including through the implementation of key international agreements (such as the 2015 Paris Agreement on Climate Change and Sustainable Development Goal No 13 on Climate Action); ensure substantive equality between women and men in all areas of life, as well as specific guarantees in relation to those Convention rights that may be particularly affected by climate-related disasters such as extreme weather events and slow-onset phenomena including droughts and sea level rise. The objective of the Recommendation is to underscore the urgency of preventing further climate change and to highlight the steps that need to be taken to achieve gender equality as a factor that will reinforce the resilience of individuals and communities in the context of unavoidable climate-related disasters. ...

10. The General Recommendation ~~does not cover the gender-related dimensions of climate change adaptation and mitigation in general~~. It focuses on the obligations of States parties and other ~~stakeholders~~ duty bearers<sup>9</sup> under the Convention in the context of climate change. This includes the obligations to mitigate, adapt and mobilise the resources needed to combat climate change as well as to take effective measures to prevent, anticipate and respond to the new hazards and disaster risks that have emerged as a result of climate change and on the need to develop synergies between gender equality, disaster risk reduction, climate management and sustainable development efforts. ...

### **2. Need to Strengthen language around Women's Land Rights in the Context of Climate Change and Disaster Risk Reduction**

Our original submission to the CEDAW Committee on the occasion of its half-day general discussion highlighted the importance of 1) addressing the multiple threats posed to women's land rights by climate change; (2) ensuring climate change strategies do not undermine women's land rights; (3) recognizing and incorporating the positive impacts of women's land rights into climate change mitigation and adaptation; and (4) promoting women's participation and leadership in tackling climate change. That submission highlighted how women's land rights are threatened directly by climate change through desertification, soil degradation, and increased contestation over and demand for arable land in many parts of the world. In addition, "land grabbing" for investment, large scale industrial agriculture, biofuel production, or as a result of market-based mechanisms further undercuts women's land rights. Indeed, a major impact of climate change is increased land-grabbing due to greater demand for energy<sup>10</sup> and to shrinking supplies of arable land. We observe with great concerns the ongoing trend allowing countries to keep emitting while offsetting emissions through untested and dangerous technology like carbon capture storage or by commercialising lands through market-based mechanisms that displace women dependent on subsistence farming. Those mechanisms fail to tackle the root causes of climate change by failing to address the over-consumption and entrenched political power of the world's richest 1%. While granting a 'right to pollute' to corporations headquartered in rich countries, these mechanisms provide opportunities for private profits, often causing direct rights violations and exacerbating inequalities between countries, between rich and poor and between men and women. Indigenous communities are particularly at risk, given that their territories are particularly rich in natural resources and protected from depletion thanks to their traditional indigenous knowledge on management of natural resources. Their Free Prior Informed Consent (FPIC) related to their land and territorial rights is often violated, particularly for women. The role of the Committee should not be to create further opportunities for the private sector to drive unsustainable, extractivist model of developments but to stress States' obligations to regulate private sectors activities, in particular in regards to GHG emissions.

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<sup>9</sup> To see why we oppose the use of the term 'stakeholders' here, please refer to APWLD submission on the draft CEDAW General Recommendation No 35 on the gender related dimensions of Disaster Risk Reduction in a Changing Climate.

<sup>10</sup> International Institute for Environment and Development, 'Land grabbing' in Africa: Biofuels are not off the hook,' 16 October 2013.

While the current draft does make several references to women's land rights, we believe that this language should be further strengthened in order to address and clarify these aspects. While there is an opportunity to strengthen mention of land rights throughout, our comments focus in particular on sections V.A. and VI. B. Specifically, we believe that in addition to food, water and sanitation, land should also be identified as a key element to ensuring women's right to an adequate standard of living. The importance of land is already implicitly acknowledged, as part of this section addresses women's role in agriculture and as small farmers.<sup>11</sup>

### *Specific Language Suggestions*

*We suggest the following textual changes to the following paragraphs in the draft General Recommendation:*

**Addition of new paragraph, following current paragraph 24 (under Section IV (A)) reading as follows:**

Laws and social norms impose barriers to women's rights to own, access, use and control land in more than half the world, entrenching women's insecure land tenure. Women's rights to land often derive from male family members, and women are typically excluded from weighty decisions on the use of the land and its proceeds. Women's tenuous rights to land are further weakened when disasters and displacement occur, as well as by projects based on market-based mechanisms, extinguishing access to services and compensation tied to land ownership or use. Even when women do share recognized rights to land with men in their household, state compensation and relief payments for damages caused by disaster, including for the costs of resettlement, often go to the head of household only, thus bypassing most women. Such payments in many cases do not incorporate compensation for important secondary use rights to land and natural resources that are critical to women. For slow-onset disasters caused by climate change, men are often the first to out-migrate from affected communities. Women who stay are faced with continued and/or increasing negative climate change impacts to their farmland and the crops they grow on it, but are often not bestowed socially or legally with the rights and authority necessary to tackle changing conditions. Securing women's land rights, thereby bestowing women with decision-making authority over how to use and manage the chief productive resource needed to provide for themselves and their children in rural disaster-affected areas, can help to unlock the community resiliency necessary to withstand and adapt to changing climatic circumstances. Without secure land rights, women risk losing access to forests and land critical for their nutrition and livelihood when those are set aside for conservation or designated as carbon sinks, without receiving any benefits in return.

**25(e):** Eliminate discriminatory laws and practices, including those related to the ownership, access, use, disposal, control, decision-making and governance, taking into account the specific impacts of market-based mechanisms projects, and inheritance of assets and resources such as property, ~~and~~ land and natural resources, ...

**34. State parties should,**

...

**(b) Develop disaggregated and gender-responsive indicators and monitoring mechanisms to enable State parties to establish baselines and measure progress in areas such as, climate change and women's land rights, disaster-related mortality amongst different age groups, gender related disaster risk reduction and women's participation in climate resilience and disaster risk initiatives as well as in political, economic and social institutions ...**

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## **VI. Thematic areas of concern/ B. Adequate standard of living**

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<sup>11</sup> CEDAW, 'Draft General Recommendation No. 35 on the Gender-related dimensions of Disaster Risk Reduction in a Changing Climate,' UN Doc. CEDAW/C/GC/35 (11 October 2016), at para. 49.

48. The impacts of climate change-related disasters are already being experienced in many areas in connection with decreased food security and more limited availability of land, water and other natural resources. There is evidence that the effects of food, land and water insecurity are not gender neutral and that it is women who are more likely to suffer from undernourishment and malnutrition in times of disaster and food scarcity. It has also been shown that women, who have the primary responsibility for growing and preparing food and collecting fuel and water in many societies, are disproportionately impacted by a lack of available and accessible water and fuel sources due to the additional burdens in terms of time, physical hardship, increased exposure to violence and stress that this climate-related resource scarcity may entail.

49. ... As a result of discriminatory laws and social norms, women have less access to secure land tenure and their farmlands tend to be of inferior quality and more prone to flooding or other climate-related events. Increasingly, women are also left with de facto responsibility for living and farming in drought-affected areas, as men often out-migrate first, but without the de jure and/or socially recognized authority over the land that would allow them to adapt to changing climate conditions. Women are also indirectly affected by the impacts climate-related events have on the price of foodstuffs.

...

50. Articles 12 and 14 of the CEDAW Convention – on health and on rural women – contain specific guarantees on nutrition and women’s equal participation in decision-making about food production and consumption. In addition, the core obligations of States as outlined in Article 2 of the CEDAW Convention, equality before the law guaranteed in Article 15 and the specific issue of equality within marriage and family relations in Article 16 are of central importance in addressing women’s equal rights to land and productive resources that are vital for ensuring food security and for sustainable livelihoods.

51. State parties should,

(a) **Promote Ensure women’s equal rights to food, land and natural resources, including water, and ensure that they have effective access to these, including within communities, and even during times of scarcity, and as part of compensation and benefits schemes for loss of access to or upkeep of land, forests and natural resources;**

(b) **Ensure the Free Prior Informed Consent of indigenous women in relation to their ancestral lands and territories;**

(c) **Ensure women’s meaningful participation in decision-making, governance, and dispute resolution related to access, use, control, and management of land and natural resources;**

(d) **Increase women’s resilience to disaster and climate change impacts by identifying and supporting livelihoods that are sustainable, empowering, and develop gender-responsive services, including extension services and other services to assist women farmers, that enable diverse groups of women to access and benefit from these livelihoods;**

(e) **Invest in public ~~and private~~ infrastructure and services, such as water and sanitation systems, that meet the needs of diverse groups of women, do not expose them to further risk and are resilient to potential hazards.**