

Submission

Special Rapporteur on human rights and the environment “Women, Girls and the Right to a Clean, Healthy and Sustainable Environment”

The exclusion of half of society from effectively helping to shape policies, including those which respond to climate and environmental harms, means that those policies are likely to be less responsive to the specific damage being caused; less effective in protecting communities; and may even deepen the harm being done.

Michelle Bachelet, High Commissioner for Human Rights

Submitted by: Akar Foundation (Indonesia), the Federation of Native Communities of Ucayali and Tributaries, the Federation of Indigenous Kechwa Peoples of Bajo Huallaga San Martín, the Federation of Indigenous Kechua Chazuta Amazonian Peoples, and the Forest Peoples Programme, with additional contributions and evidence from contributors to the [Local Biodiversity Outlooks](#).

Introduction

We are pleased to submit this information in support of the work of the UN Special Rapporteur on human rights and the environment. Herein we provide information on the situations and concerns of indigenous women and girls in particular, in relation to their right to a clean, healthy, and sustainable environment and the multiple rights to which that right relates, and which it supports.

This submission highlights the reciprocal links indigenous women and girls have with their lands and territories that allow them to realise their rights, and the ways in which the realisation of their foundational collective rights contributes to sustaining clean and healthy environments.¹ The health of peoples’ traditional territories is inherent to their capacity for cultural continuity, knowledge, spirituality, collective self-determination, governance, and more – the rights enshrined in the UN Declaration on the Rights of Indigenous Peoples and in other international legal instruments cited here. Recognizing these linkages is particularly important for indigenous women and girls, who face multiple and intersecting forms of discrimination on the basis of their identities as members of indigenous peoples, and as woman, as well as often on class, racial, and other lines.

This submission focusses on questions 1 and 2, providing examples, testimonies, and case studies as an evidence base for the responses given. Where testimony has been provided orally, citations are given to the date, time and people concerned, and the original interviews are kept on file with the submitting organisations.

¹ A note on ‘indigenous peoples’ and ‘local communities’: this submission includes evidence from both indigenous peoples *and* local communities, but these two categories should not be conflated. Where known, or where specific reference is made to a particular group, the appropriate category (i.e. ‘indigenous peoples’ or ‘local communities’) has been applied. ‘Local communities’ is used to refer to groups of people (other than indigenous peoples) who maintain a close and traditional dependence on their lands and resources. The term may refer to both communities of individuals who hold rights only on an individual basis, as well as communities who hold rights both individually and collectively (such as some Afro-descendant peoples or communities, some traditional African communities, and others).

Question 1:

How are the climate, pollution, and biodiversity crises adversely impacting women and girls? What are the principal barriers facing these rightsholders' realization of the right to a clean, healthy and sustainable environment?

The climate, pollution and biodiversity crises adversely impact women and girls in specific ways, with disproportionate impacts experienced by women and girls within indigenous peoples and local communities.² Inequalities in access, control and ownership of land and natural resources, as well as socio-cultural barriers to economic opportunities for women, can mean that indigenous women are more dependent on local access to nature and bear disproportionate burdens arising from climate change, pollution, and biodiversity loss.

Pollution negatively impacts women's and girls' health

The health impacts – in particular, reproductive health impacts – of pollution on indigenous women and girls are clear in mounting research, including impacts on infertility³, high rates of miscarriages and cancers⁴, developmental delays⁵ and decreased lactation⁶, amongst others.

Indigenous women have not been silent on these issues in their communities. In 2010, the International Indigenous Women's Environmental and Reproductive Health Symposium noted that pollution in their communities “[violates] the right to health and reproductive justice of Indigenous Peoples, and [affects] the lives, health and development of our unborn and young children” and that “Indigenous Peoples, and in particular women and children, are suffering the detrimental, devastating, multi-generational and deadly impacts of environmental toxins and contaminants that were unheard of in our communities prior to industrialization.”⁷

The experience of Wapichan women in Guyana underscores this. The South Rupununi District Council (which mainly represents the Wapichan people of Guyana) has been monitoring local waterways since 2013 in response to unlawful gold mining on the Marudi Mountain. Their sampling has found that “local women in one village have mercury contamination above the recommended WHO safety limits.”⁸

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- ² 2009, UN Women. *Fact Sheet: Women, Gender Equality and Climate Change*. Available at: https://www.un.org/womenwatch/feature/climate_change/downloads/Women_and_Climate_Change_Factsheet.pdf. 2021, UN Environment Programme. *Human Rights and Biodiversity: Key Messages*. Available at: <https://www.unep.org/resources/report/human-rights-and-biodiversity-key-messages>. 2012, Andrea Carmen and Viola Waghiiyi. *Indigenous Women and Environmental Violence: A Rights-based approach addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations*. Available at: https://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiiyi.pdf
- ³ 2021, Jessica L Liddell and Sarah G Kington. “‘Something Was Attacking Them and Their Reproductive Organs’: Environmental Reproductive Justice in an Indigenous Tribe in the United States Gulf Coast.” *Int J Environ Res Public Health*. Available at: <https://pubmed.ncbi.nlm.nih.gov/33466865/>
- ⁴ 2017, Johnnye Lewis, Joseph Hoover and Debra MacKenzie. ‘Mining and Environmental Health Disparities in Native American Communities.’ *Current Environmental Health Reports*. Available at: <https://link.springer.com/article/10.1007/s40572-017-0140-5>
- ⁵ Agency for Toxic Substances and Disease Registry. *Navajo Birth Cohort Study*. Available at: https://www.atsdr.cdc.gov/sites/navajo_birth_cohort_study/
- ⁶ 2012, Andrea Carmen and Viola Waghiiyi. *Indigenous Women and Environmental Violence: A Rights-based approach addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations*. Available at: https://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiiyi.pdf
- ⁷ 2010, International Indigenous Women's Environmental and Reproductive Health Symposium. *Declaration For Health, Life and Defense Of Our Lands, Rights and Future Generations*. Available at: <https://www.iitc.org/wp-content/uploads/Declaration-for-the-Health-Life-and-Defense-of-our-Lands-Rights-and-Future-Generations-July-1st-2010-Alamo-California.pdf>
- ⁸ Wapichan Monitoring Programme, Guyana. Available at: <https://localbiodiversityoutlooks.net/wapichan-monitoring-programme-guyana/>

Indigenous women's existing vulnerabilities are exacerbated by environmental degradation

Resource scarcity within and between communities can and too often does result in increases in gender-based violence.⁹ In northern Peru *"there are cases of logging and coca¹⁰, as well as other monocultures, in which forest soils are damaged, there is insecurity and women live in constant fear of being violated, because the forests are no longer their forests, where they used to carry out their activities, and where they no longer walk safely"*¹¹. Interviews with Kechwa women leaders about the impacts of incursions on their lands are similar: *"where the papayeros¹² enter, where the palm trees are, or where there are illegal activities, such as coca, we know that there are people who take advantage of girls and women. That is why now the mothers do not want to send their daughters alone, they cannot walk freely in the territory, there is fear of abuse and killings."*¹³

The complicity of the State, or of local elites, in these abuses stands out: *"There are personal interests on the part of some authorities in communities, many times they only want to have their businesses at the expense of our communal territories, and only they want to have the money... and in these cases it is seen to be related to violence against women."*¹⁴ Kechwa women leaders identify the underlying cause as a lack of clear, secured land rights: *"One of the problems is illegal cultivation, the lack of protection of the territory, and those who work in this, because when the women want to go fishing, they have to move further away. And this is a problem because women are more threatened. We have problems with territorial limits."*¹⁵

Food insecurity disproportionately affects women and girls

Indigenous women and girls, and women and girls in local communities are more likely to experience food insecurity.¹⁶ Moving away from traditional growing practices and instead towards growing crops to sell disrupts cultures of food sharing; for example, a Shipibo-Konibo leader of the Federation of Native Communities of Ucayali and its tributaries noted that, *"there used to be sharing of food, in celebrations where we all shared what was left from fishing and from the farm, but not anymore because people prefer to sell. And they prefer to sell because they no longer have the resources to survive. So there is no longer that celebration where everything is shared."*¹⁷

In their work, Akar Foundation (Indonesia) have additionally found that, as communities' territories have been turned into commercial agricultural lands, *"food needs are no longer available in forest areas, but markets, which offer synthetic and instant industrial food products that cause a phenomenon we call the Hidden Hunger or malnutrition, experienced by many women and children, especially toddlers."*¹⁸

⁹ 2021, Szilvia Csevár. 'Voices in the Background: Environmental Degradation and Climate Change as Driving Forces of Violence Against Indigenous Women.' *Global Studies Quarterly*. Available at: <https://doi.org/10.1093/isagsq/ksab018>

¹⁰ Logging and coca production are activities for which the forest needs to be deforested.

¹¹ Shipibo-Konibo women leader of the Federation of Native Communities of Ucayali and Tributaries, October 2022, on file with the submitting organisations

¹² 'Papayeros' are people, usually foreigners, working in papaya monocultures.

¹³ A Kichwa woman leader of the Federation of Indigenous Kechwa Peoples of Bajo Huallaga San Martín, October 2022, on file with the submitting organisations

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ 2021, Valarie Blue Bird Jernigan et. al. Food Sovereignty Indicators for Indigenous Community Capacity Building and Health. *Frontiers in Sustainable Food Systems*. Available at: <https://www.frontiersin.org/articles/10.3389/fsufs.2021.704750>

¹⁷ Shipibo-Konibo women leaders of the Federation of Native Communities of Ucayali and Tributaries, October 2022, on file with the submitting organisations

¹⁸ Pramasty ayu Koesdinar, Programme Coordinator at Akar Foundation, personal communication, October 2022, on file with submitting organisations

Environmental degradation negatively impacts on the preservation and sharing of the traditional knowledge and cultural practices

Climate change and biodiversity loss often reduces the number of important species used by women and girls for traditional cultural practices, in turn threatening the preservation of traditional knowledge.¹⁹ A Maasai medicine woman from Paran women's group Ololulung, Narok, Kenya, explains how biodiversity loss affected her: "*Indigenous women are keepers of our natural resources. As a medicine woman I have to go far away to look for medicinal plants; we do not even have a forest anymore near us.*"²⁰

In Peru the same impacts are felt and described: "*we are losing our pots, our clay pots, our traditional medicine, we are losing our ancestral food, as well as our stories and legends, but now with the territorial dispossession, how do we pass them on to our children? Now all we do is ask [our husbands] to go to the pharmacy, but when there is no money, what do we do?*"²¹

And in Indonesia, Akar Foundation (Indonesia) shared from their work in Bengkulu Province, Sumatra Island, observing that "*the exclusion of women's roles and positions in their forests occurs due to the current agricultural system which tends to be market-oriented and inclusive policies towards industry, not to the interests of women or indigenous peoples. What they do to the forest is no longer caring for socio-cultural, spiritual and subsistence relations, but accumulation to meet market demand. This slowly diminishes the identity of the community itself as an entity that is tied to its land or forest.*"²²

Violation of the right to enjoy one's culture

Violation of the right to a safe, healthy, and sustainable environment for indigenous women and girls is a violation of their rights enjoy their culture and to participate in its transmission to future generations. Indigenous peoples' right to enjoy their culture is enshrined in, *inter alia*, Article 11 of the U.N. Declaration on the Rights of Indigenous Peoples (UNDRIP), Article 27 of the International Covenant on Civil and Political Rights, and Article 15(1)(a) of the International Covenant on Economic, Social, and Cultural Rights. This right to culture is recognised as inextricably intertwined with indigenous peoples' relationships with their environment.²³

Potential negative impacts of environmentally focused policy choices

¹⁹ 2008, Nancy J. Turner and Katherine L. Turner. "Where our women used to get the food": cumulative effects and loss of ethnobotanical knowledge and practice; case study from coastal British Columbia.' *Botany*. Available at: <https://doi.org/10.1139/B07-020>

²⁰ 2020, Forest Peoples Programme, International Indigenous Forum on Biodiversity, Indigenous Women's Biodiversity Network, Centres of Distinction on Indigenous and Local Knowledge and Secretariat of the Convention on Biological Diversity. *Local Biodiversity Outlooks 2: The contributions of indigenous peoples and local communities to the implementation of the Strategic Plan for Biodiversity 2011–2020 and to renewing nature and cultures. A complement to the fifth edition of Global Biodiversity Outlook*. Available at: <https://lbo2.localbiodiversityoutlooks.net/>

²¹ A Kichwa leader of the Federation of Indigenous Kechua Chazuta Amazonian Peoples, October 2022, on file with the submitting organisations

²² Pramasty ayu Koesdinar, Programme Coordinator at Akar Foundation, personal communication, October 2022, on file with submitting organisations

²³ [Human Rights Council General Comment No. 23 – Article 27 \(Rights of Minorities\)](#), paragraph 3.2 : "At the same time, one or other aspect of the rights of individuals protected under that article - for example, to enjoy a particular culture - may consist in a way of life which is closely associated with territory and use of its resources. This may particularly be true of members of indigenous communities constituting a minority."; [Mayagna \(Sumo\) Awas Tingni Community v. Nicaragua](#), Inter-American Court of Human Rights, paragraph 149 : "For indigenous communities, relations to the land are...a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations."; [Torres Strait Islanders v Australia](#), Human Rights Committee, paragraph 8.13 - "The Committee further recalls that article 27 of the Covenant, interpreted in the light of the United Nations Declaration on the Rights of Indigenous Peoples, enshrines the inalienable right of indigenous peoples to enjoy the territories and natural resources that they have traditionally used for their subsistence and cultural identity." (citing to *Käkkäljärvi et al. v. Finland*).

Efforts by States to protect and defend clean, healthy and sustainable environments must not come at the expense of the well-being of women and girls belonging to indigenous and local communities. Exclusionary conservation practices take a gendered toll on communities living in or near conservation areas, for example, as a Sengwer elder noted in the People-to-People Declaration at Laboot, “women are both the backbone of our communities and are at the forefront of our land struggle. When evictions happen, they are the ones staying behind with our families facing and challenging Kenya Forest Service and refusing to give up our land.”²⁴ As Indigenous Peoples’ Rights International has documented in numerous cases in Africa and Asia, women living near conservation areas are often subjected to sexual abuse from park guards, and during evictions.²⁵ Additionally, conservation policymakers’ lack of understanding about indigenous and local women’s and girl’s resource use patterns means that Protected Areas or other exclusionary models of conservation can have a disproportionate impact on their access to resources.²⁶

Question 2:

What are the specific obligations of States and responsibilities of businesses in terms of adopting a gender-responsive approach to protecting (for States) and respecting (for businesses) women’s and girls’ rights to a clean, healthy and sustainable environment?

The realization of the right to a clean, healthy environment is necessary for indigenous peoples’ enjoyment of their other human rights, including the right to culture²⁷, the right to their lands and natural resources,²⁸ and the right to self-determination.²⁹ Given the gender-specific consequences of environmental degradation as experienced by indigenous women,³⁰ States must adopt gender-responsive approaches to protect and respect indigenous women’s and girls’ rights to a clean, healthy environment. The basis for this obligation lies in UNDRIP³¹, which requires States to

²⁴ 2022, East Africa Assemblies. *People-to-People Declaration at Laboot: Indigenous Peoples of East Africa Declaration on ‘Conservation.’* Available at: <https://drive.google.com/file/d/1UQ7MYpS7ggz2IU4XtqD4ZA16bgHztYQ/view>

²⁵ 2021, Indigenous Peoples Rights International. *Redefining protected areas: A study on the criminalization of and human rights violations against Indigenous Peoples in conservation.* Available at: <https://www.iprights.org/index.php/en/component/content/article/global-report-redefining-protected-areas-a-study-on-the-criminalization-of-and-human-rights-violations-against-indigenous-peoples-in-conservation?catid=9&Itemid=102>

²⁶ 2005, Elisabeth Kjørboe et. al. *Integrating Indigenous and Gender Aspects in Natural Resource Management Guidelines for Practitioners.* Available at: https://www.iwgia.org/images/publications/0579_Guidelines_for_Practitioners.pdf. 2011, Tebtebba Foundation. *Indigenous Women, Climate Change and Forests.* Available at: <https://www.tebtebba.org/index.php/resources-menu/publications-menu/books/90-indigenous-women-climate-change-and-forests>

²⁷ [Committee on Economic, Social, and Cultural Rights \(CESCR\) General Comment 21 – Right of everyone to take part in cultural life](#), paragraph 36: “Indigenous peoples’ cultural values and rights associated with their ancestral lands and their relationship with nature should be regarded with respect and protected, in order to prevent the degradation of their particular way of life, including their means of subsistence, the loss of their natural resources and, ultimately, their cultural identity.” See also [Yaku Perez v. Ecuador, Committee on the Elimination of Racial Discrimination](#), paragraph 4.4, noting that Ecuador’s Constitution recognizes and guarantees to indigenous peoples their collective rights to freely maintain, develop, and strength their identity, sense of belonging, ancestral traditions, and forms of social organization.

²⁸ [Torres Strait Islanders v Australia](#), Human Rights Committee, paragraph 8.13 - “The Committee further recalls that article 27 of the Covenant, interpreted in the light of the United Nations Declaration on the Rights of Indigenous Peoples, enshrines the inalienable right of indigenous peoples to enjoy the territories and natural resources that they have traditionally used for their subsistence and cultural identity.” (citing to [Käkkäläjärvi et al. v. Finland](#)).

²⁹ [Kaliña and Lokono Peoples v. Suriname](#), Inter-American Commission on Human Rights, paragraph 36: “In a very real sense, the Kaliña’s and Lokono’s notion of their own freedom as peoples depends on their ability to continue their traditional uses of their lands, territories and natural resources.”

³⁰ [CEDAW Draft General Recommendation No. 39 on the rights of indigenous women and girls](#), paragraph 13: “Environmental harm, biodiversity loss, and ecological degradation have a particularly detrimental impact on indigenous women and girls.” See also Human Rights Council’s Resolution 48/13 “Recognizing also that...the consequences [of environmental damage] are felt most acutely by segments of the population that are already in vulnerable situations, including indigenous peoples...and women and girls.”

³¹ UNDRIP available at: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

account for the needs of indigenous women when acting to improve the economic and social conditions of indigenous peoples (Art. 21(2)). Additionally, Art. 44 guarantees all the rights recognized in the Declaration equally to indigenous men and women. Thus, States must take special measures to address the deficiencies in indigenous women and girls' enjoyment of their right to a clean, healthy environment.

Securing full and effective participation and free, prior and informed consent

Environmental crises – including food insecurity, which disproportionately affects women and girls – negatively impacts women's capacity to participate in decision-making processes³², which is crucial for women to enjoy their right to a clean, healthy environment.³³ Article 19 of UNDRIP obliges States to obtain the free, prior and informed consent of indigenous peoples prior to adopting and implementing laws or policies that may affect them. More specifically, Art. 10 requires that indigenous peoples give their free, prior and informed consent to relocation from their lands, an issue often linked to conservation and development actions. Art. 29 explicitly establishes the right of indigenous peoples to the protection of the environment.

In its draft General Recommendation on the rights of indigenous women and girls, the Committee on the Elimination of Discrimination Against Women (CEDAW) specifically addresses the right to a safe, healthy and sustainable environment and identifies participation as central to securing this right, calling on States to.³⁴ It also calls for States to “require the free, prior and informed consent of indigenous peoples, including women, before authorizing economic and development projects on their lands, territories, and using their natural resources”.³⁵

Akar Foundation in Indonesia also argue for more inclusive policymaking: *“The main obstacle faced by women in realizing their rights is the unavailability of inclusive policies that prioritize the interests of women and other marginal groups. Social and juridical legitimacy is needed to strengthen and protect women's rights to their living space.”*³⁶

Securing freedom from violence and discrimination

UNDRIP Art. 22(2) obliges States to protect indigenous women against all forms of violence and discrimination. According to CEDAW's draft General Recommendation on the rights of indigenous women and girls, States' failures to protect indigenous women's right to a clean, healthy environment amounts to gender-based violence and discrimination as these failures lead to dispossession and displacement, food and water insecurity, health problems, and erosion of indigenous cultures due to the roles indigenous women play in their communities.³⁷

Securing collective land rights

³² 2022, Kate Sinclair et. al. 'Women's autonomy and food security: Connecting the dots from the perspective of Indigenous women in rural Colombia.' *SSM - Qualitative Research in Health*. Available at: <https://doi.org/10.1016/j.ssmqr.2022.100078>

³³ [CEDAW Draft General Recommendation No. 39 on the rights of indigenous women and girls](#), paragraph 78.

³⁴ [CEDAW Draft General Recommendation No. 39 on the rights of indigenous women and girls](#), paragraph 78.

³⁵ [CEDAW Draft General Recommendation No. 39 on the rights of indigenous women and girls](#), paragraph 71 (c). See also UNDRIP, Article 32 which recognizes the right of indigenous peoples to determine the development of their lands and resources and directs States to obtain their free, prior and informed consent in order to conduct development projects in their territories.

³⁶ Pramasty ayu Koesdinar, Programme Coordinator at Akar Foundation, personal communication, October 2022, on file with submitting organisations

³⁷ [CEDAW Draft General Recommendation No. 39 on the rights of indigenous women and girls](#), paragraphs 21-22, 67, 70, 74, 76 linking environmental degradation and exploitation of indigenous lands and resources, for example, to threats to indigenous cultures and survival, and considering this gender-based discrimination and violence based on the specific impacts on women and girls due to their roles in their communities, such as transmitters of cultural knowledge and securers of food and water.

In order to ensure that indigenous women and girls enjoy their right to a clean, healthy environment to the fullest extent, States must recognize and protect the collective land rights of indigenous women and girls. The communal nature of indigenous cultural life and communities' relations with their ancestral lands is critical for the survival and development of indigenous peoples.³⁸ Indigenous communities' abilities to maintain their collective relationships with their lands, which includes the ability to rely on the natural resources provided by a healthy environment, also directly affect the health of individuals and whole communities.³⁹

The results of secure tenure are clear. In Indonesia, securing collective tenure rights and access to a clean and healthy environment within the traditional territories for indigenous peoples in West Kalimantan has led to an increase in food security through an indigenous women-led initiative supported by Akar Foundation. In 2021, Akar Foundation supported Ade Harapan, a Rejang women's groups in the Tebat Pulau Village, Bengkulu Province, in building a food security system that revitalizes culturally rooted, diverse cropping patterns and traditional foods around the Community Forest Area. This initiative addressed the problem of food "scarcity" created by the marketization of local agriculture and dependence on store bought foods. At the heart of the initiative were food demonstration plots filled with varieties of local foods, alongside rigorous research, documentation, and community workshops led by women.

³⁸ [CESCR General Comment 21](#), paragraph 36: The communal dimension of indigenous peoples' cultural life is "indispensable to their existence, well-being and full development, and includes the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired." See also [CESCR Draft General Comment 26 on land and economic, social and cultural rights](#), paragraph 20; [Centre for Minority Rights Development \(Kenya\) and Minority Rights Group \(on behalf of Endorois Welfare Council\) v. Kenya](#), African Commission on Human and Peoples Rights, emphasizing that ancestral land was crucial for the cultural survival of indigenous pastoralist and hunter-gatherer communities.

³⁹ [Yakye Axa Indigenous Community v. Paraguay](#), Inter-American Court of Human Rights, paragraphs 166-167