Written Submission

On

The Situation of Indigenous Girls and Women with Disabilities

To

The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) on
GR on Indigenous Women and Girls
79th Session, Geneva, 18th June 2021

Submitted By
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Endorsed By:
Abbreviations:

AIWN  Asian Indigenous Women’s Network
CBR  Community Based Rehabilitation
CCPR  Covenant on Civil and Political Rights
CEDAW  Committee on the Elimination of Discrimination Against Women
CEDR  Committee on the Elimination of Racial Discrimination
CO  Concluding Observation
CRC  Convention on the Rights of the Child
CECR  Covenant on Economic, Social and Cultural Rights
CRC  Convention on the Rights of Persons with Disabilities
CSOs  Civil Society Organizations
CwDs  Children with Disabilities
FGD  Focus Group Discussion
FPIC  Free Prior and Informed Consent
GoN  Government of Nepal
GR  General Recommendation
IASG  Inter-Agency Support Group
ILO 169  International Labor Organization No. 169
INWOLAG  Indigenous Women’s Legal Awareness Group
IPs  Indigenous Peoples
IPOs  Indigenous Peoples Organization
IPwDs  Indigenous Persons with Disabilities
IW  Indigenous Women
IWGwDs  Indigenous Women, Girls with Disabilities
ICWDS  Indigenous Children with Disabilities
MoWCSW  Ministry of Women Children and Social Welfare
NDC  National Dalit Commission
NFDIN  National Foundation for the Development of Indigenous Nationalities
NHRC  National Human Rights Commission
NIIDWAN  National Indigenous Disabled Women Association Nepal
NIWF  National Indigenous Women Federation
NLSS  National Living Standard Survey
NWC  National Women Commission
OHCHR  Office of the United Nations High Commissioner for Human Rights
OPDs  Organizations of Person with Disabilities
PwDs  Persons with Disabilities
TYP  Three Year Plan
SDG  Sustainable Development Goal
SR  Special Rapporteur
SRHR  Sexual Reproductive Health Right
SRH  Sexual Reproductive Health
UNCRPD  United Nations Convention on the Rights of Person with Disabilities
UNDRIP  United Nations Declaration on the Rights of Indigenous Peoples
UNPFII  United Nations Permanent Forum on Indigenous Peoples
WASH  Water, Sanitation and Hygiene
WFP  World Food Program
WwDs  Women with Disabilities
1. Introduction:
We, welcome this historic initiative of the CEDAW Committee’s to develop a General Recommendation (GR) on the rights of Indigenous Women (IW) and Girls. In response to the Committee’s call for contributions, this submission has been prepared with a wider consultation with different indigenous and disability organizations /networks at national, regional and global level.

The objective of the submission of this report is to highlight the distinct challenges, forms of discrimination and human rights violations experienced by Indigenous Women and Girls with Disabilities (IWGwDs) specifically in Nepal and globally. As a heterogenous groups, IWGwDs are grappling with multiple identities of gender, sexuality, age, disability, ethnicity and their intersections in our daily lives. IWGwDs are important part of society yet we are invisible “we are everywhere but in fact we are nowhere”. Therefore, we call on the CEDAW Committee to include and document IWGwDs to ensure that we address, equality, nondiscrimination, and recognition of our multiple and intersectional identities in this GR for IWGwDs.

The recommendations have been prepared based on secondary and primary research data collected by National Indigenous Disabled Women Association Nepal (NIDWAN) from August 2020 to June 2021 with its member organizations from the local, provincial and national consultations and virtual discussions at national and global levels. It also includes telephone interviews, formal and informal discussions via websites, social media and statements and engagements with experts, stakeholders, IPOs, OPDs and CSOs.

Nepal is a diverse and rich country in terms of language, culture, religion, biodiversity and socio-cultural aspects. Women comprise more than 50% of the population, Indigenous Peoples (IPs) comprise 35.81% with 126 castes and ethnic groups speaking more than 123 languages and 90% of these languages are spoken by IPs. People with Disabilities (PwDs) are 1.94% of the population categorized into 10 types of impairments. The overall discourse of disability is a clandestine issue and invisible socially and it is predominantly dominated by able bodied notions. The disabled body accentuates individuals because to have a disability is to live everyday with stigma, stereotypes, presumptions associated with our bodies. This stigma often causes downward mobility and lack of economic opportunities we experience prejudice, segregation, shame, hatred and humiliation projected by the non-disabled world which has been co-opted and assimilated in indigenous world views. The majority of the minds are shaped by the challenges of disabled body, commonly depending on notions of universalism and individual rights and lack collective cosmovision, collective identities and cultural sensitivity of IPs.
IWGwDS have faced a history of injustice and structural violence and triple discriminations, statelessness and colonization due to the denial of right to self-determination, dispossession of lands, territories and resources, and loss of identity due to state-led processes of assimilation. In Nepal, we have been influenced by state-led process of Hinduization and Sanskritization based on patriarchy and discriminates against women and girls and treats all women, as second-class citizens and indigenous women as third class citizens.⁶

2. Situation of Indigenous Women with Disabilities (IWwDs)
Studies show that IPs experience higher rates of disability globally when compared to the general population.⁷ IWwDs have a distinct identity as women, indigenous women, woman with disability and with multiple other identities that overlap, intersect, aggravate, and generate compounding forms of discrimination, social exclusion and marginalization. This rooted discrimination impacts IWGwDs in their lifetime of an individual and across generations, that perpetuates a cycle of disadvantages and violations of the rights of IWGwDs situating in the lowest hierarchy in society. Indigenous girls and women with disabilities have remained invisible within the women rights, disability rights, indigenous discussion and within state mechanisms.⁸ Most often we are left in our own constituencies so our issues are unheard and we remain voiceless despite the fact that IWGwDs comprise more than 70000⁹ persons in Nepal and 28 million¹⁰ globally.

Despite our large in numbers, IWGwDs are not organized or engaged in institutional and state level mechanisms because our indigenous customary institutions have been lost for some communities and we are not accustomed with present state led structures. We are also ddisproportionately impacted by overt human right violations from state and non-state actors who often don’t provide access to IWGwDs in public sphere spaces. IWGwDs often are not aware of their rights or have the literacy or resources to access these spaces. We often live in a vulnerable and risky place as the result of climate change and displacement of IPs. Assimilated and co-opted by the dominant group culture, educational systems and policies and laws, IWGwDs are in a stateless position because of single linear monolithic policy. Furthermore, the charity and medical models of disability are still prevalent in Nepali society and as such we we lack recognition and respect till today.

2.1 Access to basic services:
Reports reflect that 81% IPwDs and IWGwDs have poorer access to public facilities than other non-indigenous PwDs.¹¹

⁹ See www.nidwan.org.np, NIDWAN, 2020, Disability Issues to Climate Change: From Policy to Grassroots Practices, Policy Brief
IWGwDs live in extreme poverty and face discriminatory behavior which obstructs their full enjoyment of their social, economic and cultural rights. IPwDs face multifaceted encounters such as barriers to participate in political, social and cultural activities, due to their position both as IPs and as PwDs. IWGwDs do not have access to own ancestral land and resources including limited access to food sovereignty and suffer from forced evictions, including environmental degradation.\(^{12}\) A study highlights that nearly 45% of both indigenous women and men with a disabilities’ monthly income is under 5000 NPR or USD 42.00 with 80% IWWDs possessing no land and 1.1% relying on forest products despite facing significant barriers to accessing the forest. Only 64% IPwDs have received disability card in Nepal that provides them to receive state social protection services. Furthermore, 75% IWWDs and 69% indigenous men with disabilities use coping strategies like reducing meals or compromising on culturally food by mixing grains or adding more water in order to cope with hunger and starvation.\(^{13}\)

### 2.2 Intersectional, indirect and structural discriminations

IWGwDs face marginalization and discrimination due to their multiple and intersecting identities that combine and intensify in a unique and disadvantaged status which is little understood, realized and documented.\(^{14}\) Prevailing ethnic stereotypes (e.g., seen as ignorant, illiterate, powerless, indifferent, incapable, noncredible, noncontributors) as well as structural factors (e.g., power persisting in state led mechanism and institution, no representation and access to state resources, lack of familiarity with state bodies and no respect of IPs customary and traditional institution and practices), IW are not defined as legal entities\(^{15}\) equal to other women.

We are culturally, religiously, linguistically, structurally shaped, dominated and internally colonized by dominant ‘non-indigenous groups’ and face historical, indirect and structural discrimination which are not part of policy discussion. Our realities are often unseen, unheard, unreported by the state and the dominant groups narratives are defined in laws and policies that remain predominant in the society. In addition, there is minimal understanding of the interplay between the three identities and its intersections among local CSOs who see the issues as separate. As a result, many IPwDs have little understanding of their rights, entitlements which was observed several times in discussion.\(^{16}\)

### 2.3 Lack of meaningful participation and representation

During a meeting with the former UN SR on PwDs Ms. Catalina Devandas and the UN SR on IPs, Ms. Vicky Tauli Corpuz in the 2016 *Expert Group Meeting on Indigenous Peoples with Disabilities* in 2016 discussed the invisibility and exclusion of IWWDs. They highlighted that groups of IPs and WwDs are often not included in the mainstream work on disability rights and OPDs are not generally responsive enough to the needs or indigenous PwDs or their cultural settings. It is important for OPDs to learn about how they can promote the rights of IWGwDs in a way that is respectful

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\(^{14}\) Ibid, NIDWAN et al, 2018 CRPD Report

\(^{15}\) Ibid, NIFW et al., 2021 CEDAW Report

\(^{16}\) Ibid, WFP 2021 Report
and meaningfully integrate UNDRIP and to address the needs of IWGwDs, and the UNCRPD from an IPs’ perspective. Similarly, the 12th session of UNPFII study highlights IPwDs are largely invisible in the work of the various United Nations entities that address the rights and situation of IPwDs. Similarly, Nepal national data shows that the highest participation of women’s representation is 53% in the Ministry of Women Children and Senior Citizens followed by 12% IW and no participation of IWwDs. The 2015 Constitution of Nepal treats women as a homogenous group which fails to integrate IW and IWwDs. The CRPD Concluding Observations of the UNCRPD 2018 make 8-10 references to IPwDs and the state obligation to protect and promote their rights however no initiatives have been implemented so far. In the same vein, although, the 2017 Disability Act and The Disability Regulation of 2020 which is progressive and in line with CRPD fails to make reference to IPwDs and IWGwDs and to include and mainstream their issues. This was the result of consultation of IWGwDs who were not part of process when the state policies and programs for PwDs and IPs were drafted.

2.4 Forms of violence and abuse

The violence faced by IW is framed by predominant ideologies of gender-based violence that often do not include ethnic and collective based violence. Studies shows that 80% of WwDs are rendered more vulnerable to violence and they are four times more likely than other women to suffer sexual violence for their part more than 33% IW are raped during their lifetime. Most of the violence occurred to WwDs are linked with the gender and severity of their disability (like psychosocial, intellectual, deaf, blind). In the case of IWGwDs the rate of violence is higher and the underlying causes are based on socioeconomic status, education, ethnicity, awareness, geographical and rural setting, access and linkages, historical oppression and domination. This is reproduced in countless ways in social, cultural, economic daily lives leading to dysfunction, increased rates of abuse, harassment, violence and forced sterilization, all this often goes unreported and undocumented.

A study in Nepal highlights 85.16 % face differences types of violence that is different than those faced by Indigenous women and non-indigenous women. For example, 92.26% IWGwDs stated that the violence faced by them is different from WwDs. The study reveals the following reasons: 69% IWGwDs lack education, 68% IWGwDs lack awareness, 64% IWGwDs multiple identities and socioeconomic status, 51% IWGwDs types of disability, 51% said lack of concrete laws on IWwDs, 50% said they lack legal remedies, and 43.23% highlighted racism, prejudice and power prevails. Moreover, 95.19% IW and IWGwDs highlighted that violence has increased during the COVID 19 that is related with land, territories and others.

19 Ibid AWIN, 2016
21 Ibid, NIDWAN, et. al CRPD Report, 2018
22 Ibid, UN Women Fact Sheet 2021
Ethnic discrimination is wide ranging although mostly occurs in invisible forms. IW and IWGwDs are treated according to associated ethnic stereotypes, such as open, uneducated, exotic, decorative, unaware, sexual objects, and instrumentalized as income earners for their families, consuming traditional food and liquors, associated with entertainment with songs, dance, speaking in straight, uncivilized, improper language which are practiced and behaved in different forms. With these traits and with disability as an added factor, IW and IWGwDs are exposed to higher risk of unsafe environments and of abuse, exploitation, violence rape, and murder which occur both private and public spheres.

2.5 Impacts of climate change, disaster and access to sexual and reproductive health and rights

IWGwDs, being in the frontline, experience disproportionate adverse impacts of climate change. Our right to life, food, basic needs, medicines, WASH, hygiene and accessibility needs are violated. Forced internal migration without free prior and informed consent remain crucial issue which often get missed during disaster, emergency and in normal situation. The data collected during COVID-19 states that 61.67% IPWDs required food, 26.56% IWGwDs mentioned issues with accessing SRH and WASH aspects, 8.54% IPWDs focused on regular medicines and challenges faced by IW and IWGwDs.

Similarly, IW and IWGwDs experience significant worse maternal health outcomes than others. Many IW and IWGwDs die in early age due to early pregnancy and childbirth more often than other women and face barriers to accessing medical treatment care. Many women die giving birth due to direct and indirect discrimination, related to various social, economic, political, cultural, and geographical factors. The sexual and reproductive health rights (SRHR) of IWGwDs are often violated in many forms through sexual violence, forced contraception, and sexual and reproductive stigma early marriage, pregnancy and child birth. Moreover, girls and IWGwDs are particularly at risk of involuntary sterilization by their family members having and medical professionals without prior informed consent.

2.6 Access to justice:

IWGwDs face discrimination on multiple grounds, which deepens their disadvantaged situation when accessing justice. Access to justice has remained a significant issue for IW and IWGwDs because we have received justice only in a few cases. Very few cases of rape, abuse and murder of IW are processed in the judicial system because survivors are at risk of threat, torture, indifference, or inaction, this often leading to nonreporting of cases or enabling the situation of forced marriage or other compromising situations.

Furthermore, the justice system is complicated and inaccessible to IWGwDs owing to its complexity and barriers including physical, environmental, communication and information and administration barriers. Likewise, time frames

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24 Shared by IWwDs to Dr Ganga Lal Tuladhar, DRRM expert, Speaker in Post Pandemic Situation and Strategies for policy intervention for marginalized groups in 10th NIDWAN Discussion Series, 1st August 2020
27 CEDAW Shadow Report Preparation in province 4 and 6 with indigenous women with disabilities discussion in 2018.
and negligence from government officials based on ethnicity play crucial role for lack of access to justice. For example, an indigenous woman with disability from Nepal shared in 2016: “One of the armed persons during the 12-year armed conflict in the country raped my daughter [indigenous woman with a mental disability], and she gave birth to a baby boy who is 10 years old now. We neither got justice nor identified the crook to punish, because of multiple hurdles such as: my daughter’s disability, economic condition, ethnicity and access. I didn’t have access to services and procedures for justice. Years have passed; however, I am waiting for justice. I feel my daughter is in fact raped every time”. Language, judicial process, paper work, access to institutions (organizations /peoples /power /network), time frame, negligence from government officials based on ethnicity play crucial role for lack of access to justice.

2.7 Disproportionate impact of Covid-19

Covid has impacted IPWDS and IWwDs differently as their needs are different based on their multiple identities and social categories. As a result, many have been left without access to vital information during the pandemic. The impact is adverse and acute relating the right to life, livelihoods, physical and mental health and protection from violence. The study entitled “Interim impact Assessment of Covid-19 to Underrepresented Peoples with Disabilities in Nepal” conducted by NIDWAN indicates that 80.51% IPwDs stated that covid has affected them although 55.44% IPwDs did not receive any form of Covid relief from local governments. When asked why they did not receive relief 41.42% IPwDs stated that they did not know about relief distribution, 30.54% didn’t have access to distribution points and 12.55% stated inaccessibility. Similarly, 57.38% IPwDs reflected the need of food and 17.83% highlighted need of cash for house rental. The same study also showed that 60.74% IPWDs themselves and 72.8% families if IPWDs lost their livelihood and job. Out of the 305 respondents, 78.05% IPwDs stated that they experienced increased psychological stress, 20.66% couldn’t afford regular medicines, 8.75% had family disputes, and only 40.61% did receive the social security allowances provided by the government during Covid-19. In addition, in order to survive during the Covid crisis created by Covid-19, 33.63% IPwDs had to use their deposited savings for food, 28.27%IPwDs had taken loan and 13.39% were forced to sell their livestock during the lockdown. In addition, 27.0% IPwDs felt increased levels of fear during the Covid-19 pandemic, 20.58% felt increased levels of stress, 17.98.% felt increased levels of restlessness, and 12.42% couldn’t sleep properly. Despite this, only 19.49% received psychosocial counselling in the capital. Among those interviewed, 91.13% IPWDs responded that they had experienced social and economic impacts of Covid and only 47.86% IPwDs can rejoin their job only if support systems are provided in the post Covid. The.

2.8 Respect for diversity, collectivity and cosmovision of indigenous women with disabilities

IWGwDs are a very diverse group of girls, youth, elderly, women with disabilities, and LGBTQ+ communities. We all have historically been at the forefront of Indigenous struggles advocating for our rights, demanding recognition, and participation in spaces where decisions are made and impact our lives. We have played a role as protectors, custodians

28 Ibid, NIDWAN Violence Report 2021
of cultural values passing down knowledge and cultural traditions to our future generations, and as agents of change in our communities. As guarantors of our people’s survival, our diverse cultures, language, values, and systems are intertwined with our collective cosmovision, the rights towards nature, and as ancestral guardians of Mother Earth. Systemic racism, colonialism, poverty, inequalities and discriminations are the root causes of violations against the collective and individual rights of IWGwDs. As IWGwDs, the individual and collective rights get overlapped and separated related with our identities. We believe and affirm that our diversity, indigenous knowledge, wisdom, oral history, practical experience, and the collective way of life is the beauty and uniqueness of what defines us and which needs to be respected and promoted in a holistic and comprehensive manner.  

2.9. State action Recommendations to ensure the full inclusion of IWGwDs

1. Include intersectional, intercultural, gender, and disability perspectives through human rights framework that provides an intersectional and comprehensive framework to address the types of issues that impact the lives of girls IW, and IWGwDs.

2. Integrate the historical, structural, systematic discrimination and collective violence that IWGwDs experience in line with UNDRIP to ensure the collective dimensions of the rights of IW and IWGwDs their right to Free, Prior and Informed Consent and right to self determination are upheld and recognized by the Member States in national policies and framework.

3. Link and bridge the individual and collective rights with (UNCRPD and UNDRIP) of girls and IWGwDs to address the unique and intersectional discrimination they face by realizing and respecting the rights of IWGwDs at all levels and affirm Indigenous knowledge, wisdom, and the collective way of life.

4. Define and provide the context of the unique experiences that girls, IW and IWGwDs face and the legal measures and remedies to address those unique experiences, with their collective cosmovision, the rights of Nature, and ancestral guardians of Mother Earth.

5. Ensure effective mechanisms that are accessible and available in Indigenous and sign languages and safe enabling environments to address the violence that IWG and IWGwDs face as a result of racism, ableism, imperialism, dominant group dominancy and power hegemony and create strong justice, complaint and punishment mechanism.

6. Ensure the full, effective, and meaningful participation of girls, IW and IWGwDs at the private, public, national, and local levels and within own constituencies by realizing and respecting the value of ‘nothing about us without us’

7. Demand Member States provide accurate disaggregated data by indigenous identity, sexuality, gender, race, ethnicity, age, and disability to visibilize IWG and IWGwDs.

8. Outline the social, cultural and public life of IWGwDs and the specific issues they face in the GR of CEDAW which is to address their increased vulnerability due to climate change, pandemics, and other emergencies.

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9. Recommend Member States to work with customer leaders address the discrimination and stigma IWGwDs face and implement effective short and long-term remedies to address the increased vulnerability in consultation with IWGwDs at the local and national levels.

Organizations who supported this report are as follows:

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