



International
Labour
Office

Indigenous women workers With case studies from Bangladesh, Nepal and the Americas

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Bureau for
Gender
Equality



WORKING PAPER

INDIGENOUS WOMEN WORKERS

With case studies from Bangladesh, Nepal and the Americas

ILO's International Labour Standards Department (PRO 169)

ILO Bureau for Gender Equality

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ILO Cataloguing in Publication Data

Vinding, Diana; Kampbel, Ellen Rose

Indigenous women workers: with case studies from Bangladesh, Nepal and the Americas/ Diana Vinding and Ellen-Rose Kampbel ; International Labour Office, ILO's International Labour Standards Department (PRO 169), ILO Bureau for Gender Equality. - Geneva: ILO, 2012
1 v. (Working paper)

ISBN: 9789221220633; 9789221220640 (web pdf)

International Labour Office; International Labour Standards Dept; International Labour Office; Bureau for Gender Equality

indigenous worker / women workers / equal employment opportunity / gender equality / sex discrimination / workers rights / labour migration / role of ILO / urban area / rural area / Bangladesh / Nepal / Latin America

14.08

Foreword

Indigenous women all over the world make an important contribution to their communities and to the world of work. However, they experience discrimination, not only on the ground of sex, but also because indigenous identity, ethnicity, colour and religion. This multiple discrimination is particularly evident as they enter and advance through the labour market. Over the past decades, the livelihood of indigenous women has undergone major changes as indigenous peoples have increasingly lost control over their ancestral lands, lands they traditionally occupy and natural resources. As a result, in order to supplement their household income and survive, an increasing number of indigenous women are entering the formal and informal labour market, as self-employed workers or wage earners.

Indigenous women have been active at the national and international levels to promote the rights of their peoples and draw attention to the specific issues and challenges that they face as indigenous women. They actively contributed to negotiations leading to the establishment of the Permanent Forum on Indigenous Issues in 1993, and subsequently to the adoption of the UN Declaration on the Rights of Indigenous Peoples in September 2007. They also ensured that a resolution on indigenous women was adopted at the 49th Session of the Commission of the Status of the Women (CSW) in March, 2005.

The International Labour Organization (ILO) is committed to eliminating discrimination in the world of work and to achieving Decent Work for all women and men, based on principles of equal treatment and equal opportunities and in pursuit of universal social justice. This paper draws on the expertise and experience of two specialized ILO teams - the Programme to Promote ILO Convention No. 169 (PRO169) based in the International Labour Standards Department and the ILO's Bureau for Gender Equality - with the aim of examining indigenous women's position in the workforce. The paper summarises the results of a number of case-studies undertaken in South America, Nepal and Bangladesh and makes some recommendations for how Decent Work can be advanced for indigenous women. It was developed with the support of the Government of Denmark.

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ACKNOWLEDGEMENTS

This working document is a joint undertaking of the ILO's Bureau for Gender Equality (GENDER) and the Programme to Promote ILO Convention No. 169 (PRO169) financed by the Danish International Development Agency (DANIDA). The report is based on three research studies carried out by Ms. Sadeka Halim of the University of Dhaka in Bangladesh, the Human Resource Development Centre (HURDEC) in Nepal, and Ms. Janina Fernández on the Americas. Ms. Diana Vinding, an ILO Consultant and an anthropologist, synthesised the three research studies and wrote the draft paper, which was then completed by Ms. Ellen-Rose Kampbel. Ms. Diana Hopkins provided editorial reviews. Mr. Geir Tonstol and Ms. Sumon Vangchuay of GENDER examined, researched, and incorporated comments and observations from ILO specialists and experts, while the final review was undertaken by Mr. Ned Lawton (GENDER) and Ms. Stefania Errico (PRO169/NORMES).

Guidance, support and feedback on different drafts came from Mr. Albert Barume, Ms. Brigitte Feiring, Ms. Francesca Thornberry and Ms. Morse Flores of PRO169. Special thanks go to Ms. Shauna Olney and Mr. Martin Oelz for their legal input and reviews, and to Ms. Sarah Webster, Ms. Siv Majaaland and others of ILO Offices in Dhaka, New Delhi and Kathmandu for their substantive remarks and advice.

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ACRONYMS

CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
CERD	UN Convention on the Elimination of All Forms of Racial Discrimination
CHT	Chittagong Hill Tracts, Bangladesh
CPN-M	Communist Party of Nepal-Maoist
EPZ	Export processing zone
HDI	Human Development Index
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
ITP	Indigenous and Tribal Peoples
MDGs	Millennium Development Goals
NEFIN	Nepalese Federation of Indigenous Nationalities
NFDIN	National Foundation for the Development of Indigenous Nationalities (Nepal)
NPAW	National Policy for the Advancement of Women (Bangladesh)
OHCHR	UN Office of the High Commissioner for Human Rights
PRSP	Poverty Reduction Strategy Papers
Rs	Rupees (Nepalese currency)
UN	United Nations
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNICEF	United Nations Children's Fund
UNPFII	United Nations Permanent Forum on Indigenous Issues
WHO	World Health Organization

INTRODUCTION

There are an estimated 370 million indigenous and tribal individuals around the world, representing some 5,000 distinct peoples, occupying every continent. While there is no accepted international legal definition, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (“ILO 169”) sets out a number of criteria. It provides that indigenous peoples include those who are descended from populations which inhabited the country or region at the time of conquest, colonisation or establishment of state boundaries and retain some or all of their own social, economic, cultural and political institutions. Self-identification as ‘indigenous’ is considered a fundamental criterion. Furthermore, most indigenous peoples:

- have strong links to their lands and territories;
- have distinct languages, knowledge systems and beliefs;
- form non-dominant sectors of society.¹

There is a widespread perception that indigenous women live in rural areas where they dedicate their time to a multitude of domestic work - taking care of their children, looking after the domestic animals, participating alongside their husband in the family’s subsistence activities, such as shifting cultivation, herding or hunter-gathering and making handicrafts. While this is true for some parts of the world, the overall picture is rapidly changing and is far more complex.

Today, indigenous women are increasingly entering the formal and informal labour market, as self-employed workers or wage earners. They take up casual wage labour near their homes, as day labourers or farm workers, or they engage in trading and small-scale commodity production. Local job opportunities for indigenous women are often limited however and for many women, migration to urban areas in search of employment remains the only alternative.

Urban migration has offered greater personal autonomy to some indigenous women, who are able to earn their own money and free themselves from the sometimes strict control of their families and communities, as well as from gender discrimination experienced in the access to and control over land and property.² However many indigenous women enter the urban labour force with little or no formal education and find themselves confronted with

¹ *Eliminating discrimination against Indigenous and Tribal peoples in employment and occupation – A guide to ILO Convention no. 111, Pro 169 and the Equality team*, International Labour Office, Geneva, 2007

² See Halim, Sadeka, *Case Study on Gender Related Challenges Among the Indigenous Peoples in Bangladesh. Gender Mainstreaming in the ILOs promotion of Rights and Poverty Reduction on Indigenous and Tribal Peoples with Special Reference to Provisions of C111*, Dhaka, 9 July 2007 (hereinafter: “Bangladesh Case Study”), pg. 9: “Entry to paid labor through garment and other industries has enabled many young, low-skilled/unskilled women with very little or no education to step outside their domestic lives and domains and to find some kind of independence.” See also Fernández, Janina, *Discriminación en el empleo y la ocupación de las mujeres indígenas en América Latina*. Consultoria realizada para la Organización Internacional del Trabajo, November 2007 (hereinafter: “Latin America Case Study”), referring to recent research which links the indigenous rural-urban migration to the difficulties of women to access land, credit and technology, among other factors.

many new challenges, including adjusting to the urban lifestyle and balancing a heavy workload with the responsibilities for their families as (often single) mothers.³ In addition they are often confronted with racist prejudice from members of the dominant, non-indigenous groups, including co-workers and employers. For example, indigenous women wearing their native dress are ridiculed and subject to verbal and sometimes physical harassment in public and in the workplace.

About this working paper

The ILO Bureau for Gender Equality and ILO's Programme to Promote Convention No. 169 on indigenous and tribal peoples (PRO169) commissioned three studies to provide a clearer understanding of existing gender and ethnic-based discrimination of indigenous women workers. Two of the studies were undertaken in the southern Asia region (Bangladesh and Nepal),⁴ while a third study was completed in the Americas, synthesizing available research on indigenous women in that region.⁵

This working paper should be seen in the context of ILO's concern for the need "to develop and apply a more 'intersectional' approach to gender analysis..."⁶ and to address "the absence of sufficient employment opportunities, inadequate social protection, the denial of rights at work and shortcomings in social dialogue..."⁷ that often characterizes the situation of indigenous women.

Through surveying the work situation of indigenous women and mapping the factors that determine their employment opportunities, the aim of is to provide recommendations for a practical and integrated approach to addressing indigenous peoples' collective rights and combating discrimination against indigenous women workers. This is done in the context of the following instruments:

- the Equal Remuneration Convention, 1951 (No. 100); hereafter ILO 100
- the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); hereafter ILO 111
- the Indigenous and Tribal Populations Convention, 1957 (No. 107); hereafter ILO 107
- the Indigenous and Tribal Peoples Convention, 1989 (No. 169); hereafter ILO 169; and

³ Bangladesh Case Study, pg. 9

⁴ Bangladesh Case Study *op cit* footnote 2 and: Human Resource Development Centre (HURDEC), *Case study on Gender-Related Challenges among the Indigenous People in Nepal*. Submitted to International Labour Organization Country Office, Lalitpur, October 29, 2007 (hereinafter: "Nepal Case Study");

⁵ Latin America Case study, *op cit* footnote 2; The term Latin America as used in this working paper refers to the countries of Central and South America including the non-Spanish/Portuguese speaking states (French-Guiana, Suriname, Guyana and Belize). Not included in the case study are the Caribbean islands, some of which have indigenous populations (e.g. Dominica, St. Vincent and the Grenadines and Trinidad and Tobago)

⁶ Chant, S. and Pedwell, C. Women, gender and the informal economy: An assessment of ILO research and suggested ways forward. International Labour Organization, Geneva, 2008, p. 8.

⁷ Decent work and inclusion of indigenous and tribal peoples, International Labour Organization-Kathmandu (ILO-KTM), Kathmandu, 2005

- UN Convention on the Elimination of all Forms of Discrimination against Women; hereafter CEDAW.⁸

It should be noted that the recently adopted ILO Convention No. 189 concerning Decent Work for Domestic Workers (June 2011) is not included in this analysis, but when in force and ratified, this will be an important source of rights for the millions of indigenous women around the world who are employed as domestic workers.

The case studies

Despite the fact that the indigenous women described in the three case studies live and work in very diverse contexts, their situation, and those of indigenous women in other parts of the world, proved to be remarkably similar in terms of employment opportunities and working conditions.⁹

The three reports have used different approaches and methodologies to document and analyse the situation of indigenous women. The report from Latin America has a regional perspective and covers 21 countries,¹⁰ with a special focus on 11 states (Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Paraguay and Venezuela). Using a wide selection of secondary data, the report compares the workplace status of indigenous women with that of indigenous men, and of indigenous women with non-indigenous indigenous women. In this regard it assesses discrimination on the basis of sex, and on the basis of indigenous identity, and notes gaps in various socio-economic indicators in relation to each.

The two other reports have a national perspective and draw on both primary and secondary data. The empirical data used for Bangladesh is based on visits to communities in the Chittagong Hill Tracts (CHT) and in the northern Plains region. This is supplemented by feedback from a workshop that was organized for indigenous women. The analysis is further complemented by two gender studies: one on national and customary laws, and the other on development programmes and policies, which describe the legal and policy frameworks that contribute to discrimination against indigenous women in Bangladesh.

⁸ The full text of all ILO Conventions and CEDAW mentioned in this paper are available at:

<http://www.ilo.org/ilolex/english/convdisp1.htm> and
<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

⁹ SeWaltja Tjutangku Palyapayi, Women in Adult and Vocational Education (WAVE) and Security4Women (Australia) (S4W), *Helping people to help themselves: a study of training issues for Aboriginal women and their remote communities in Central Australia prepared by Kate Lawrence*, St. Kilda, 2005 (http://www.security4women.com/HelpingPeopleToHelpThemselves_Waltjareport_July05.pdf, accessed 04.09.08); 'Indigenous women'. In: *Indigenous Affairs*, 2000, No. 3; Hitchcock, R.K. et al, 'Indigenous women in Botswana: changing gender roles in the face of dispossession and modernization', in: Hitchcock R.K., Vinding D., eds., *Indigenous peoples' rights in Southern Africa*. Copenhagen, International Work Group for Indigenous Affairs, 2004

¹⁰ Not included are the island states of the Caribbean (Cuba, the Dominican Republic, Haiti, Puerto Rico, and Trinidad and Tobago).

The report from Nepal focuses on 11 indigenous groups which were chosen from three pre-defined socio-economic categories: highly marginalized, marginalized and disadvantaged.¹¹ The study is based on field visits to various communities, a large number of individual interviews, and focus group discussions attended by indigenous women and members of relevant indigenous organizations, trade unions, and others.

All three reports concentrate on poor indigenous women and make visible the multiple forms of discrimination that indigenous women workers face:

- *Discrimination based on their indigenous identity*: This takes place when indigenous women and men are legally unable to own land in accordance with their beliefs, customs and traditions, or are restrained in the use of land that they have traditionally occupied. As the case studies point out, the loss of access to land and natural resources is a major contributor to urban migration of indigenous women, and leads to their further impoverishment and marginalization. Without access to land, indigenous women are also unable to continue their traditional occupations, including the production of handicrafts, which greatly impacts their social economic status.
- *Discrimination based on their sex*. This occurs, for example, when women (indigenous and non-indigenous) receive less payment than men for the same labour or for work of equal value, when women are discriminated against because of a real or perceived reproductive role, due to family responsibilities, or when gender norms and stereotypes that prevail within the indigenous communities prevent indigenous women from taking up paid labour outside the home.
- *Discrimination as 'indigenous women'*: this may occur when indigenous women earn less than men but are also paid less than non-indigenous women, or when indigenous women workers are preferred as factory workers because they are less likely to be members of trade unions or aware of their rights, as compared to indigenous men or non-indigenous women.

It should be stressed that indigenous women do not form a homogeneous category and their situations differ considerably within and between different communities and contexts. Albeit poverty is a common denominator for most indigenous women, the reality is more complex. There are indigenous women who are relatively prosperous, and although many indigenous women are illiterate, an increasing number are highly educated and work in academia, as doctors, lawyers or parliamentarians. Indigenous women have also distinguished themselves by taking a leading role in promoting indigenous peoples' rights internationally. Moreover, poverty indicators may not always be relevant for indigenous peoples who may themselves have different concepts of poverty: "For indigenous peoples,

¹¹ The Nepal Federation of Indigenous Nationalities (NEFIN) categorized indigenous communities in Nepal into five socio-economic categories: endangered, highly marginalized, marginalized, disadvantaged and advanced (see Case Study Nepal, pg. 2).

poverty may be expressed as a lack of political participation, or as a loss of territorial integrity and spiritual values.”¹²

The issue of disaggregated data

All three reports underscore the lack of basic and reliable statistics on indigenous peoples, making it difficult and sometimes impossible to correctly assess their number, situation, and the extent and nature of their problems. For example, national censuses often minimize the number of indigenous peoples by not using relevant criteria for identification¹³ and, in the case of the Latin American report, data has had to be compiled from different sources in order to complement the statistics provided by national institutes. In Nepal, the national census of 2001 only provided data on 43 indigenous nationalities, even though 59 indigenous groups were officially recognized in 1999.¹⁴ Some nationalities were grouped together and others were missed out for various reasons, including a lack of knowledge of groups living in remote areas. In countries where the concept of indigenous peoples is barely recognized, censuses often do not collect disaggregated data on indigenous peoples at all.

Reliable and significant data is even harder to find when it comes to indigenous women, as gender specific data may not be available, and data is seldom disaggregated by ethnicity. Most of the Bangladeshi data was drawn from field visits and from the author’s past research activities in areas inhabited by indigenous peoples. In Nepal, sector-wise sex-disaggregated information about employment and discrimination was almost non-existent.

It should be mentioned that certain figures may present an unduly positive impression: for example the rate of literacy, which in some cases can just mean the ability to read and write a name and address.¹⁵ Moreover, indigenous women’s rate of economic participation is usually underestimated. One reason for this is that women often do not make any distinction between “work”, “help” and “unremunerated work”, even when these activities differ from domestic responsibilities and sometimes generate an income. For example, indigenous women from the Atlantic Coast in Nicaragua indicated that they were unemployed and were seeking employment. However, further queries revealed that they

¹² Report of the Inter-Agency Support Group on Indigenous Issues, Technical Position Paper on the MDGs and Indigenous Peoples, E/C.19/2005/2, Annex III, para 7. See <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/237/10/PDF/N0523710.pdf?OpenElement>

¹³ Relevant criteria should be agreed on and jointly developed by indigenous peoples and self-designation as indigenous should be an important principle. See UN Permanent Forum on Indigenous Issues, Report of the Workshop on Data Collection and Disaggregation for Indigenous Peoples, (E/C.19/2004/2), pg. 10 (<http://www.un.org/esa/socdev/unpfii/en/data.html>)

¹⁴ It is expected that the current census of 2011 will provide data of all indigenous nationalities. See: *The Rights of Indigenous Women in Nepal. Shadow Report for the combined 4th and 5th Periodic Reports of Nepal CEDAW/c/NPL/4-5*, submitted by National Indigenous Women’s Federation (NIWF), Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) and Forest Peoples Programme (FPP), 30 June 2010, footnote 27 at pg. 11 (<http://www.forestpeoples.org/sites/fpp/files/publication/2011/06/fpp-niwf-22-june-final-1.pdf>)

¹⁵ *Indigenous peoples and the Millennium Development Goals: perspectives from communities in Bolivia, Cambodia, Cameroon, Guatemala and Nepal*, International Labour Organization, Geneva, 2006, p. 15.

raised animals and grew various crops for consumption and for sale, yet they did not perceive this as work, but as part of their family obligations.¹⁶

Structure of the report

The report consists of an introduction and four sections: *section 1* provides a general picture of the status of indigenous peoples and indigenous women in the three regions, and looks at the impact of the loss of access to their traditional lands and resources on indigenous women. *Section 2* focuses on the experiences of indigenous women workers, the types of employment and occupation they have, and their conditions of work, both in the rural and urban areas. *Section 3* discusses the international legal standards which relate to gender, labour and the rights of indigenous peoples. *Section 4* concludes the report and makes a number of recommendations.

¹⁶ Latin America Case Study, pg. 37

1. INDIGENOUS WOMEN WORKERS IN A CHANGING WORLD

Introduction

The countries addressed in the case studies differ in size, climate, terrain and population. They have all adopted a multi-party political system, but range from being democratic to semi-democratic and authoritarian. Several have, in the recent past, experienced violent internal armed conflicts,¹⁷ which have had devastating consequences for indigenous peoples. Social exclusion and lack of control over natural resources have been major causes of conflict between indigenous peoples and the state in the various countries studied.

In terms of economic development, ten out of the 15 Latin American countries (see table 1.1) belong to the category “very highly” and “highly developed countries”, while the other five are ranked as “medium developed countries”. Bangladesh and Nepal are ranked 129 and 138 respectively out of 169 countries on the Human Development Index (HDI), and are consequently defined as having “low development”.¹⁸ Some of the Latin American countries economies are based on extractive industries, while others, including until recently both Bangladesh and Nepal depend mainly on their agricultural sector.

¹⁷ In Latin America: Colombia (1960–), El Salvador (1980–1992), Guatemala (1960–1996), Nicaragua (1979–1990) and Peru (1980–1992); in Asia: Bangladesh (1977–1997) and Nepal (1996–2006).

¹⁸ Based on Human Development Report 2010, United Nations Development Programme, New York, 2010 (<http://hdr.undp.org/en/data/trends/>)

Table 1.1 Population, percentage of total indigenous population, HDI ranking (2010) and percentage of urban population, in selected Latin American countries, Bangladesh and Nepal.¹⁹

Country and date of census	Population (in millions)	Indigenous population (% of total)	HDI ranking (2010)	Urban population (% of total 2002)
Argentina (2001)	36.3	1.6	41	89.9
Bolivia (2001)	8.09	66.2	95	62.9
Brazil (2000)	169.8	0.4	73	82.4
Chile (2002)	15.1	4.6	45	86.6
Colombia (2005)	42.8	3.3	79	76.0
Costa Rica (2000)	3.8	1.7	62	60.1
Ecuador (2001)	12.1	6.8	77	61.3
Guatemala (2002)	11.2	39.5	116	45.9
Honduras (2001)	6.0	7.2	106	45.2
Mexico (2000)	97.0	7.9	56	75.2
Nicaragua (2005)	5.1	8.6	115	56.9
Panama (2000)	2.8	10.0	54	56.8
Paraguay (2002)	5.1	1.7	96	56.6
Peru	28.0	27.5	63	73.5
Venezuela (2001)	23.0	2.2	75	87.4
Bangladesh (1991)	141.8	1.13	129	23.9
Nepal (2001)	22.7	37.2	138	14.6

1.1 Latin America

There are some 400–650 different indigenous peoples in the region.²⁰ Estimates place the total indigenous population at between 40 and 50 million people – or approximately 7-9% of the estimated 572 million people living in Latin America.²¹ This percentage varies from country to country: in Bolivia, indigenous people constitute a clear majority of 66%; in Guatemala and Peru, the percentage of indigenous peoples stands at 40% and 28% respectively; while in other countries, such as Chile and Paraguay, the figure is well below 10%.²²

¹⁹ Sources: Data from national censuses (Latin America Case Study), Human Development Report 2010, United Nations Development Programme, New York, 2010 (<http://hdr.undp.org/en/data/trends/>) and World Bank estimates and Estudios Conferencia Permanente de Pueblos Indígenas del Perú, November 2003.

²⁰ The information in this section is derived from the Latin America Case Study, unless otherwise indicated.

²¹ World Bank, Latin America and Caribbean total population 2010 (www.worldbank.org)

²² Latin America Case Study; The tables in the Latin American report have been elaborated on the basis of national census data from Sistema Sociodemográfico de Poblaciones y Pueblos Indígenas (SISPI) (a project implemented by CELADE – the Latin American and Caribbean Demographic Centre of CEPAL), and in some case the World Bank. As noted previously, these figures should be viewed with caution as the registration of indigenous peoples for census purposes is often beset by methodological problems.

The indigenous peoples of Latin America live in both rural and urban areas. Two major ecological zones, the tropical lowlands and the Andean highlands, have traditionally determined the livelihoods of the indigenous peoples. In rural areas, a large variety of production methods are still to be found. In the lowlands of the Amazon basin, for instance, indigenous peoples live as semi-nomadic hunter-gatherers, shifting agriculturalists or livestock breeders. In the highlands, most indigenous peoples are small subsistence farmers and herders, sometimes combined with small-scale commercial cropping. Paraguay and Panama have the largest indigenous rural populations (90% and 81%, respectively, in 2000). In Chile and Bolivia, more than half of the indigenous population lives in urban areas, and rural-urban migration is growing fast.

Latin America's long history of European domination stigmatized the indigenous peoples by attributing to them a racial and subordinate identity as "Indians". This basic structural dichotomy of a dominant class of "white" and "ladino" Spanish-speaking (or Portuguese-speaking in the case of Brazil) Catholics, and a marginalized and discriminated indigenous population persists to this day.²³

However, Latin America is also one of the regions where most progress has been made in terms of recognizing indigenous peoples' rights. A strong and well-organized indigenous movement has been a key factor in this development, with the result that a majority of states with large indigenous populations, such as Bolivia, Colombia, Ecuador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru and Venezuela, have adopted constitutions that acknowledge the multi-ethnic, multi-cultural and multilingual nature of their societies. These countries also recognize the rights of indigenous peoples such as collective land rights, political autonomy and, in some countries, e.g. Bolivia and Colombia, parliamentary representation. Several states have launched land titling programmes and policies promoting bilingual and inter-cultural education. In some cases special laws and regulations have been adopted in acknowledgement of indigenous peoples' special needs and interests and a number of states recognize indigenous languages as official languages (e.g. Panama).

Indigenous women in Latin America

Although there is a great variety within the region, indigenous women are generally among the poorest of the poor; they are also more likely to be illiterate (see table 1.2) and to die of infectious disease. With regard to education in general, there has been some progress in school enrolment, attendance and completion, but the education of indigenous girls is lower than that of boys. Only two out of three indigenous girls complete primary school in urban areas, and in rural areas the gap is wider, with half or less than half completing their schooling. See table 1.3.²⁴

²³ To this indigenous population should be added a large minority of Afro-Americans who were brought as slaves from the African continent

²⁴ Latin America Case Study pg. 35-36.

Table 1.2 Illiteracy rates among indigenous and non-indigenous women (urban and rural areas), in selected Latin American countries.²⁵

Country	Urban		Rural	
	Indigenous	Non-indigenous	Indigenous	Non-indigenous
Bolivia (2001)	13.7	5.8	41.3	26.1
Brazil (2000)	16.0	10.2	50.3	26.7
Chile (2002)	6.0	3.3	21.0	10.5
Costa Rica (2000)	6.5	3.0	29.0	7.6
Ecuador (2001)	20.4	5.7	39.9	14.6
Guatemala (2002)	45.3	14.2	65-3	37.8
Honduras (2001)	11.9	10.1	35.6	29.7
Mexico (2000)	29.5	6.9	47.9	20.5
Panama (2000)	18.5	2.7	55.4	12.4
Paraguay (2002)	34.6	5.7	59.8	10.9
Venezuela (2001)	27.8	5.6	49.2	21.1

Table 1.3 Percentage of indigenous men and women that finish primary education by the age of 15–19 (urban and rural areas), in selected countries in Latin America.²⁶

Country	Men		Women	
	Urban	Rural	Urban	Rural
Bolivia (2001)	90.4	67.5	81.5	50.9
Brazil (2000)	84.0	43.1	87.3	39.4
Chile (2002)	94.5	88.6	95.7	89.9
Costa Rica (2000)	78.6	60.5	80.3	48.5
Ecuador (2001)	77.3	72.2	73.2	64.0
Guatemala (2002)	58.7	35.6	46.7	22.3
Honduras (2001)	76.3	40.6	80.4	45.2
Mexico (2000)	78.6	68.9	73.7	59.7
Panama (2000)	82.3	55.5	75.9	43.1
Paraguay (2002)	33.4	25.6	33.6	16.9
Venezuela (2001)	56.2	44.8	62.9	43.7

Indigenous women are more likely than men to speak only their mother tongues and be unable to communicate in Spanish or Portuguese. For example, in Bolivia, 43 percent of indigenous women speak only their native language, compared to 28 percent of the men.²⁷

²⁵ Latin America Case Study

²⁶ Latin America Case Study, Based on national census data

²⁷ Latin America Case Study, pg. 35

Racism, discrimination, mono-lingualism, low education and limited training opportunities are leading causes of exploitation of indigenous women. These conditions contribute to the overrepresentation of indigenous women in the informal economy and to poor working conditions in the formal economy, with long hours, harsh and unfair working conditions, low income and few guarantees to social protection such as pensions, the right to breastfeeding breaks or maternity protection.²⁸

While indigenous peoples have, for many years, enjoyed a high degree of organization at local, national and regional levels, indigenous women only began to demand that their issues become part of the agenda in the 1990s. As a result, indigenous women's concerns are increasingly being heard and various initiatives to improve their working conditions are being employed.²⁹

1.2 Bangladesh

Between 1947 and 1971, when it gained independence, Bangladesh was part of Pakistan. Prior to 1947, it had been under British rule for more than 200 years as part of British India. The majority of the Bangladeshi population are Bengali Muslims.

The indigenous peoples of Bangladesh are called Adivasi (meaning "first settler"). According to the 1991 census, they totalled some 1.2 million people (just over 1% of the total population of at that time). However, this census has been criticized by indigenous leaders for deliberately under-representing indigenous peoples. The 2001 census did not provide ethnically disaggregated data and the actual figures are thought to be much higher, and may indeed be as high as three million out of a now estimated population of 160 million (i.e. just under 2%).³⁰ The census to be held in 2011 will provide data on 27 indigenous groups (called "ethnic minority groups" by the government).³¹ However, there are approximately 45 different indigenous groups in Bangladesh. The largest concentration is found in the southeast, in the Chittagong Hill Tracts (CHT), home of 11 different groups with a total population of 500,000 (1991 census).

The three largest groups are the Chakma, the Marma and the Tripura. Traditionally dependent on swidden or "jum" cultivation, indigenous peoples of the CHT collectively refer to themselves as "Jumma". The other Adivasi groups are found in the Plains and hills in the north and northwest, near the border with India. They include, among many others, the Garo, the Khasi, the Santal and the Oraon. Several of these groups were traditionally nomadic forest dwellers. However, today, their livelihood is based more on agriculture

²⁸ Latin America Case Study, pg. 23

²⁹ One example mentioned is through the use of the modern communication technology to sell indigenous women's crafts via the internet and to provide education and training in Guatemala and Ecuador (Latin America Case Study, pg. 25.)

³⁰ <http://www.prb.org/Publications/PopulationBulletins/2010/worldpopulationhighlights2010.aspx>; See also 'Bangladesh'. In: *The Indigenous World 2011*, pg. 328, IWGIA, Copenhagen, 2011.

³¹ 'Bangladesh - Over 40 ethnic groups not individually recognized for census', in: Indigenous Portal, 26 February 2011. <http://www.indigenousportal.com/News/Bangladesh-Over-40-ethnic-groups-not-individually-recognised-for-census.html>

(mainly rice farming) and shifting cultivation, supplemented by hunting and livestock farming.

Following independence in 1971, State-sponsored migration resulted in the settlement of almost 400,000 Bengali Muslims in the CHT. Indigenous peoples took up arms to defend their rights. In 1997, a Peace Accord was concluded between the Government and the Jana Samhati Samiti, the political representatives of the hill tribes. However, at the time of writing, crucial provisions have not yet been implemented, including the resolution of land disputes, the rehabilitation of displaced people and demilitarization and the strengthening of the tribal administration.³²

The 1972 Constitution was amended in 2004. It guarantees among other rights, the right to work and equality of opportunity to all its citizens, and prohibits any form of discrimination on the grounds of religion, race, caste, sex or place of birth. The Constitution also ensures freedom of religion. In 2010, after the Bangladesh Supreme Court declared the amended Constitution illegal, a constitutional reform process was announced which has encouraged debate to recognize indigenous rights.³³ Bangladesh is a signatory to ILO 107 and since 2008 consultations have been ongoing regarding the ratification of ILO Convention 169.³⁴

Indigenous women of Bangladesh

In a patriarchal and male-dominated society, [indigenous women of the CHT] are a gender minority. In a Muslim-dominated country they are a religious minority. In a nationalist, Bengali-dominated society they are an ethnic minority. Within their own patriarchal community they face marginalization, exploitation, and increasingly, violence.³⁵

As some of the respondents interviewed for the case study put it, indigenous women face discrimination both from the mainstream and from within. For example, indigenous women are stigmatized and described in derogatory terms by the wider Bengali population when they wear their colourful traditional dress. The dress is not regarded as decent by the Bengali population and this elicits verbal and sometimes physical harassment and abuse. This seriously impacts on their freedom of movement – including opportunities to find work

³² *Report on the implementation of the CHT Accord*. Dhaka, Parbatya Chattagram Jana Samhati Samiti Publications, 2004. See also, *The Indigenous World 2011*, op cit, pg. 330.

³³ *The Indigenous World 2011*, op cit, pg. 328-329

³⁴ See, Kapaeeng Foundation, *Follow-Up Meeting Of Regional Consultation On ILO Conventions And Indigenous Peoples Issues In Bangladesh*, June 2011.

http://indigenouspeoplesissues.com/index.php?option=com_content&view=article&id=11136:bangladesh-follow-up-meeting-of-regional-consultation-on-ilo-conventions-and-indigenous-peoples-issues-in-bangladesh&catid=63:central-asia-indigenous-peoples&Itemid=85 [visited: 12 July 2011].

³⁵ Hana Shams Ahmed, *Multiple Forms of discrimination experienced by indigenous women from the Chittagong Hill Tracts (CHT) within the nationalist framework*. Paper presented at a consultation with the UN Special Rapporteur on Violence against Women, Kuala Lumpur, January 2011.

<http://hanashams.wordpress.com/2011/04/04/multiple-forms-of-discrimination-experienced-by-indigenous-women-from-chittagong-hill-tracts-cht-within-the-nationalist-framework/>

- and indigenous women are forced to change their dress and conform more to Bengali and Muslim dress-code.³⁶

Indigenous women in the CHT also suffer in gender-specific discrimination from the government-initiated migration programme which has moved hundreds of thousands of landless Bangladeshi settlers into the CHT and provided them with land grants. While indigenous women living in Bengali-majority communities outside of the CHT have long faced discrimination, today there are numerous reports of indigenous women being raped, sexually harassed and intimidated by Bengali men within the once secure areas of their homes.³⁷

Indigenous women also face discrimination 'from within'. At home, indigenous women are perceived as the primary caretakers. It is believed that girls should only be raised to become a wife and child bearer, although in reality women play a major role in the food production, particularly agriculture which includes shifting cultivation, fruit orchard, horticulture and wet rice cultivation.³⁸ However, this type of subsistence, not-market related activity is not viewed as work. Indigenous girls in the rural areas generally get married between 12 and 18 years old. And since education - particularly education that is not in the mother tongue - is considered irrelevant for girls, this also explains why a larger number of girls than boys are illiterate.³⁹ However, in 2010, a National Education Policy was approved by the Government which includes recommendations by indigenous peoples such as the introduction of mother-tongue-based education for indigenous children.⁴⁰ It is expected that this should increase the number of indigenous girls attending primary school.

1.3 Nepal

The Nepalese term for indigenous peoples is Adivasi Janajati.⁴¹ According to the 1991 census, the first to list social groups based on caste, ethnicity, religion and language, there were 8.4 million Adivasi Janajati, representing 37% of the total population (23 million at that time). However, indigenous peoples' organizations claim that the percentage is closer to 50%. The Hindu caste groups, including the dominant Hill Brahmin and Chhetri castes, represent approximately 31% of the population and the Dalit 14%. Nepali, the official language, is spoken by 58% of the population, including by some indigenous peoples. Tibeto-Burman languages (20%) are spoken in the hill region and Indo-Aryan languages

³⁶ Bangladesh Case Study, pg. 15

³⁷ Hana Shams Ahmed, Multiple forms of discrimination, 2011, op cit.

³⁸ Bangladesh case study pg. 19

³⁹ The adult literacy rate for indigenous people of the Chittagong Hill Tracts (CHT) is 42% for males and 20% for females. See Bangladesh case study pg. 13.

⁴⁰ 'Nepal'. In: *The Indigenous World 2010*, IWGIA, Copenhagen, 2011, pg. 330.

⁴¹ The National Foundation for Development of Indigenous Nationalities Act of 2002 defines Adivasi Janajati, as those ethnic groups or communities that "have their own mother tongue and traditional customs, distinct cultural identity, distinct social structure and written or oral history of their own". UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, *Report on the situation of indigenous peoples in Nepal*, A/HRC/12/34/Add.3, 2009, para 14.

http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add3_E.pdf

(20%) in the two Terai areas. Many of these indigenous languages do not have a script and several are endangered as a result of long-term linguistic discrimination.⁴²

Despite demands that the list be re-examined to avoid exclusion of legitimate indigenous peoples, to-date, only 59 indigenous identities are officially recognized.⁴³ They are based in four distinct geographical zones: the mountainous Himalayan belt; the hill region, including the valley of Kathmandu; a system of large valleys called the Inner Terai; and in the Plains region bordering India in the south and known as the Terai. They are extremely diverse in terms of socio-economic development and occupations, and include hunter-gatherers, nomadic herders and shifting cultivators as well as settled agriculturalists and urban dwellers

While the various indigenous peoples identify with specific ancestral places, many are dispersed all over the country. This is the result of dominant castes depriving indigenous peoples of their communal (*kipat*) lands and forcing them to seek their livelihood in other parts of the country (see also section 1.4 below).⁴⁴

In 2006, after a bloody internal conflict during which thousands were killed, and tens of thousands displaced, the Hindu monarchy was ousted. Nepal has since been undergoing a transition towards democracy.⁴⁵ The Peace Accord which ended the conflict included a commitment to develop a new constitution and to ratify ILO Convention 169. In 2007, an interim Constitution was adopted and in May 2008, the country became the Federal Democratic Republic of Nepal. In 2007, Nepal became the second country in Asia to ratify ILO 169 and in the same year also voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Following his visit to Nepal in 2006, the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples concluded that, while significant improvements had been made, and the commitment to improve things genuine, serious human rights concerns remained. Among others, the Special Rapporteur found that the Adivasi Janajati continue to suffer discriminatory treatment, and loss of their traditional lands. Most indigenous communities live in conditions of poverty that are double the national poverty level and that “adequate health care among indigenous communities is

⁴² Rapacha L-S., *Vanishing languages, vanishing knowledge of Nepal; Paper presented at the 3rd Asia Regional Conference on Indigenous Knowledge and Biodiversity*, Asia Indigenous Peoples Pact Foundation, Chiang Mai, 2007

⁴³ Raja Devasish Roy and John B. Henriksen, *Inclusion of Indigenous Peoples' Rights in the New Constitution of Nepal*, ILO internet publication, February 2010; http://www.ilo.org/indigenous/Resources/Publications/lang--en/docName--WCMS_123847/index.htm

⁴⁴ Today, the only *kipat* system legally intact in Nepal is found among the Limbu people, in the eastern part of the country

⁴⁵ *Workshop report on impact of armed conflict on women: gender perspective organised by Legal Aid and consultancy Center (LACC) 23-24 July 2004*, Legal Aid and Consultancy Center, Kathmandu, 2004 (<http://www.fesnepal.org/reports/2004>, accessed 26.03.08)

lacking, with indigenous women and children being especially vulnerable, as are opportunities for education.”⁴⁶

Indigenous women of Nepal

Because indigenous peoples are not considered part of the patriarchal cast system imposed by the Hindu monarchy, indigenous women enjoy a greater degree of freedom in Nepal. Compared to women from Indo-Aryan origins, indigenous women can move about more freely, can participate in cultural festivals and processions and choose a life partner themselves. They are also less affected by the dowry system and no restrictions are placed upon them during menstruation.⁴⁷

While Janajati women’s socio-economic status was considered to be higher than that of the Indo-Aryan women, over time, this has been inverted. This was mainly because Indo-Aryan women have benefited more from modern development due to their advantage over indigenous women with regard to language. Modern development also brought mass produced factory products which gradually replaced the village handicrafts made by Janajati women.⁴⁸

Access to education by Nepali women in general (indigenous and non-indigenous) is lower than men: in 2001 54% of men were literate, compared to 24% of women.⁴⁹ But the case study found that indigenous women scored far below the national averages.⁵⁰ For instance, the literacy rate among the Majhi (one of the groups that comprise the Inner Terai Janajati) the literacy rate among men is 39% and for women 16%. The main reason for this high disparity is that girls take up the household responsibilities at an early age (much earlier than boys).

A further reason is the language of instruction. Like their counterparts in Latin America and Bangladesh, indigenous women in Nepal are far less likely than indigenous men to speak the national language. This hampers them at school and eventually causes their early drop out. Without education and a working knowledge of the national language indigenous women are at a disadvantage in the workplace compared to both indigenous men and non-indigenous women.

1.4 Indigenous land loss and the impact on indigenous women’s work

The increasing demand for natural resources has deeply affected indigenous people’s lives. The loss of control over their lands and waters due to them being targeted for forestry, resource extraction, and conservation is having a particularly profound impact on indigenous women.

⁴⁶ UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, *Report on the situation of indigenous peoples in Nepal*, A/HRC/12/34/Add.3, 2009, para 26

⁴⁷ *Rights of Indigenous Women in Nepal; Shadow Report*, op cit, pg. 21 and Nepal Case Study, pg. 1

⁴⁸ Nepal case study, pg. 1

⁴⁹ *Rights of Indigenous Women in Nepal; Shadow Report*, op cit, pg. 23

⁵⁰ Nepal Case Study, pg. 6

Firstly, it is usually women who are responsible for providing water and firewood. Where rivers and creeks run dry or become polluted because of the impact of extractive industries, women have to walk longer distances and their daily tasks become heavier. This leaves less time for tending to their fields, going fishing, or making handicrafts or for wage labour. Secondly, the loss of indigenous lands and resources (for instance when tribal lands are designated as national parks) means that indigenous peoples also lose their traditional occupations (see box 1). Unable to access the raw materials because they are prohibited access to where these are found, they are forced to buy materials at the market, which raises their production costs significantly, or to switch economic activities completely.

Men also feel the effects of land loss and land degradation, but they often have more opportunities to migrate or – being marginally better educated - to seek wage labour.

Box 1. Loss of traditional lands and traditional occupations in Nepal

“The major issue for both Majhi and Bote is the non-recognition of their customary rights in the use of forests and rivers. . . . The traditional occupation of these communities is hunting, fishing, boating and collection of herbs, wild fruits and green vegetables from the forest. However, since the majority of Bote live in the buffer zone area, the National Park allows them to fish only in day time. Similarly, they are not allowed to collect fuel wood or any other forest products from the national park . . . thus the traditional skills of Bote women, i.e. making cane and bamboo products for market have been restricted due to park rule, depriving them from their rights for continuing their traditional earning activities” (Nepal Case Study, pg. 16).

“Lack of access to natural resources exacts a particularly heavy toll on those indigenous communities that rely on traditional hunting and gathering practices for subsistence. Pursuant to the 1993 Forest Act, indigenous peoples were displaced from their traditional forests, which were transferred primarily to non-indigenous community forest user groups. Communities that have traditionally relied on the forests but that were not in possession of titles, or lacked resources to compete with private contractors, have lost access to their traditional forest lands. Fishing in rivers and lakes, as well as access to water resources, are subject to a similar system of concessions, leaving communities that in many instances had access to these resources for their subsistence economies in a vulnerable position. Many Raji people, for instance, are deprived of their access to herbal medicine, honey-gathering and fishing. The Chepangs, who are traditionally hunter-gatherers and practice a nomadic way of life in the forests, are now under threat of eviction from their traditional lands.”⁵¹

⁵¹ UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, *Report on the situation of indigenous peoples in Nepal*, A/HRC/12/34/Add.3, 2009, para 32

Table 1.4 Inheritance systems among different indigenous groups in Bangladesh

Indigenous group	Who inherits property			Comments: whether customary laws are fully followed
	Wife	Son	Daughter	
Chakma	Widow	Yes	No	Not always
Marma	Widow, but if married a 2nd time, 4/6 goes to children of first husband	5/8 property	Yes, 3/8 property	Not always
Tripura	No	Yes	No, but movable property	Varies clan-to-clan
Mro	No	Yes	No	Father can “will” a portion to daughter
Tanchangya	No	Yes	No	Father can “will” a portion to daughter
Bawm	No	Youngest son gets most	No	Customs are changing
Lushai	No	Youngest son gets all	No	Youngest son responsible for caring for parents
Pankhu	No	Youngest son gets all	No	Customs are changing
Khyang	Widow gets small share	Yes	No	Customs are changing
Chak	No	Equally	No	Needy daughter may get small portion
Khumi	No	Youngest son gets biggest share	No	
Khasi	10%	10%	80%	
Orao	No	Yes	No	
Garos	Yes	No	Yes	Male member maintains property
Santal	No	Yes	No	

Source: Bangladesh Case Study, pg. 16.

Further complicating the situation of indigenous women in the face of the growing pressures on indigenous lands and resources is the fact that women rarely have rights to land and property independently of a male member of the household. Even where collective rights are recognized, the situation of women and their children becomes very insecure when men migrate permanently, as women often have no guaranteed rights to the land that has been allocated to the male head of household. The land that is used by the household may revert back to the agrarian union or to the community who holds collective

title. But there is no guarantee that the communal authorities will allocate land plots to women who are abandoned by their partners. Similarly, when their husbands die, communal land reverts back to the community, while sons usually inherit privately owned land, even when national legislation gives widows and daughters certain rights.⁵²

In Bangladesh, with a few exceptions, women are excluded from inheritance of property by the customary laws of indigenous groups (see table 1.4).

1.5 Urban Migration

Indigenous women's lives are undergoing profound changes. They traditionally played a crucial and resourceful role in their homes and in household production. This was the case in subsistence-oriented agricultural communities as well as in hunter-gatherer communities, where they were responsible for collecting a major part of the family's food. Indigenous women are often also the custodians of traditional knowledge and skills. However, social and economic development has increasingly forced them to search for alternative sources of income. When these could not be found near their villages, they have migrated to other parts of the country.

In Latin America, many indigenous women migrate to other rural areas where they can find seasonal work on traditional and commercial plantations. The "*maquilas*" (export processing zones or EPZ) attract many indigenous women workers. The majority however migrate to urban areas with a view to having more access to services, greater personal autonomy and more chances of finding a better-paid job. In fact, indigenous peoples have migrated to the cities for many years. Today, more than half of the indigenous population in Bolivia, Brazil, Chile, Venezuela and Argentina live in urban areas (table 1.5). The percentage of indigenous women often exceeds that of indigenous men. This is linked to various factors: the "push" factors include gender discrimination experienced in land distribution and inheritance and the limited power of women to change this situation and improve their living standards and their autonomy. Among the "pull" factors of the cities are the expectations of greater personal freedom. Moreover, it is easier for indigenous women to find employment as domestic workers, as hotel maids or in the *maquilas*.⁵³

In Bangladesh, worsening economic conditions, dispossession of resources, and political tension and security issues are the determining factors behind the growing migration of indigenous women to urban areas and EPZs. Among indigenous women, it is mostly Garo women who migrate to the cities in search of employment. They tend to work as domestic help and in beauty parlours. Indigenous women often do not get the same wage compared to their Bengali colleagues, although they perform the same work. The respondents from the workshop who work in the beauty parlours indicated that they rarely get leave during their indigenous and religious festivals, but are instead granted leave during the Muslim or Bengali festivals.⁵⁴

⁵² Latin America Case Study, pg. 41-42

⁵³ Latin America Case Study, pg 53

⁵⁴ Bangladesh Case Study, pg. 19

Table 1.5 Percentage of indigenous women living in rural and urban areas, in selected Latin American countries

Country	Urban	Rural	Total
Bolivia (2001)	55	45	100
Brazil (2000)	54	46	100
Costa Rica (2000)	22	78	100
Ecuador (2001)	17	83	100
Guatemala (2002)	32	68	100
Honduras (2001)	16	84	100
Mexico (2000)	36	64	100
Panama (2000)	18	82	100
Paraguay (2002)	9	91	100
Venezuela (2001)	58	42	100

Source: Based on data from national censuses (Latin America Case Study).

Many indigenous women work in the garment factories of Bangladesh. Approximately 3,000 indigenous women work in an EPZ near Dhaka, while some 10,000 indigenous women work in the EPZ near Chittagong. Interviews with staff of the EPZ revealed that management tend to prefer male and female Adivasi workers over Bengali workers, because they are not unionized and do not demand better wages or other benefits. As there is no presence of indigenous women workers as leaders or members in the trade unions, this may explain why such a large number of indigenous women work there.⁵⁵

In Nepal, the migration of indigenous women is a more recent phenomenon,⁵⁶ but is on the increase as living conditions in their communities worsen. Girls and women migrate, many with their families, to Kathmandu or to district towns in search of work, which is often seasonal.⁵⁷ Migration patterns tend to vary according to the indigenous nationalities. Among the Bhujel, for instance, cultural norms make it difficult for women to migrate, while the Rai are experiencing mass migration. About 13% of the Rai live in urban areas and 50% of these are women. Political instability across the country has also had an impact on migration patterns, with indigenous communities among the worst affected because of their location in some of the most prominent Maoist-controlled areas.

⁵⁵ Bangladesh Case Study, pg. 20

⁵⁶ Certain indigenous nationalities have a long tradition of men going abroad to become soldiers in the Indian and British Armies, and today indigenous men may migrate as far as the Gulf States and Malaysia to find employment. However, some indigenous men tend to migrate within Nepal both to rural and urban areas. With one exception – the Chepang – all the indigenous nationalities analysed in the Nepal report are highly dependent on the remittances from these migrants, which are sometimes quite substantial.

⁵⁷ The Nepal report even mentions a few cases where young women have migrated abroad to work in the service sector (as housemaids, caretakers). Indigenous female migration to other countries is a well known and a growing phenomenon also in Latin America and Bangladesh, but is not contemplated in these reports, nor is the issue of women trafficking and prostitution addressed.

As a result of migration, the number of female-headed households has increased dramatically. In rural areas, this is because many men have migrated and left their wives to sustain the family, while in urban areas, it is because many women have migrated alone and set up their own households. While this gives them greater autonomy, their role as the sole breadwinner in the family does not change their social status.

2. INDIGENOUS WOMEN WORKERS

Introduction

Where available, data shows that indigenous women have a much lower rate of economic participation than indigenous men. In Latin America their participation rate is sometimes four to six times lower (table 2.1),⁵⁸ thus making these gender inequalities more marked than in non-indigenous communities, albeit this varies from country to country. In Nepal, according to the 1991 census, 45% of all women aged 10 and above were listed as economically active, while the corresponding figure for men was 68%.⁵⁹

It should be stressed however, that women's economic participation tends to be under-registered in many parts of the world. The reasons for this under-registration are multiple: women often do not perceive taking care of livestock and growing basic crops as work, but rather as a part of their family obligations, even if some of the products are sold; and many women (both indigenous and non-indigenous) are concentrated in "invisible" areas of informal work, such as domestic work and piece-rate work in the household.⁶⁰

The case studies show that the vast majority of indigenous women work in agriculture (primary sector) and services (tertiary sector), while there are relatively few active in manufacturing and construction (secondary sector). Further, in traditional occupations, indigenous women perform highly skilled work which has been transmitted over generations. However once they enter the labour market, indigenous women are often engaged in low paid manual work or other work that requires little education or training and work that is considered unskilled. In rural areas, even when women work for a wage in agriculture or in the service sector, the majority does so without contracts, benefits or social protection. The jobs are usually only available for two to three months a year, which means that, for the rest of the year, the women have to find alternative income-generating activities in order to feed their families.⁶¹

In the urban areas, besides self-employment and unpaid family work, indigenous women generally perform domestic work, or work in small, unregistered and/or unregulated workplaces within the tertiary sector, such as beauty parlours and factories, working long hours in dangerous conditions. This type of informal employment makes indigenous women and girls particularly vulnerable to abuse, which can include child labour, forced labour, sexual exploitation and trafficking.⁶² Even when the women work in the formal economy,

⁵⁸ In Latin America, the level of participation is given for women above 15-years-old who work or look for work. In Nepal, the age is 10 years.

⁵⁹ Tuladhar J., *Factors affecting women entrepreneurship in small and cottage industries in Nepal: opportunities and constraints*. International Labour Organization and Swedish International Development Agency, Geneva, 1996

⁶⁰ Chant S. and Pedwell C., *Women, gender and the informal economy: An assessment of ILO research and suggested ways forward*. Geneva, International Labour Organization, 2008, p. 8

⁶¹ Nepal Case Study

⁶² In Nepal indigenous women and girls are disproportionately involved as victims of trafficking; almost 80% of the trafficked individuals in 2006-7 were indigenous women and girls. *Rights of Indigenous Women in Nepal*;

such as in factories and EPZs, this does not always mean that they have decent work, as labour laws are often not respected or enforced.

Table 2.1 Rates of economic participation of indigenous men and women aged 25 and over, in selected Latin American countries

Country	Men	Women
Bolivia (2001)	75.8	48.2
Brazil (2000)	74.0	46.1
Chile (2002)	67.6	33.1
Costa Rica (2000)	81.3	23.6
Ecuador (2001)	86.9	55.8
Guatemala (2002)	76.4	20.6
Honduras (2001)	83.7	17.7
Mexico (2000)	80.5	28.9
Panama (2000)	85.2	19.7
Paraguay (2002)	83.7	47.4
Venezuela (2001)	64.6	32.3

Source: Based on data from national censuses (Latin America Case Study).

2.1 Indigenous women's work in rural areas

Agriculture

In rural areas, the work of most indigenous women is concentrated in agriculture and livestock and related activities. In Latin America, the number of indigenous women involved in agricultural and related activities exceeds the number of non-indigenous women but is, in turn, surpassed by the number of indigenous men.

Indigenous women perform much of their agricultural activities as unpaid family members or as self-employed workers. In most Latin American countries, the number of self-employed women is twice (sometimes six times) higher than the number of female wage earners, the only exception being Chile where the percentage of wage earners is higher. Few indigenous women are business owners or employers.

The gender division among the Rai and the Sherpa in Nepal is such that it is predominantly women who perform agricultural tasks in shifting cultivation.⁶³ Indigenous women,

Shadow Report, op cit, para 57, referring to the Nepal state report to the Convention on the Elimination of Discrimination against Women

⁶³ These tasks include "hoeing, weeding, harvesting, selecting seeds for cultivation, applying manure to the fields, as well as processing (husking, winnowing and grinding). It is also predominantly women who milk animals and produce other animal products, cut grass and fodder for the livestock, carry food to the fields for communal working parties, cook, clean and wash clothes. Men assist when crops are threatened by wild animals or when women are ill." K.P. Aryal and E.E. Kerkhoff, *The right to practice shifting cultivation as a*

however, also undertake wage labour in agriculture, working as farm workers or day labourers. In Nepal, a large majority of indigenous women work as self-employed labourers on small family-run subsistence farms, but often supplement their income with paid agricultural jobs around the village. These jobs are usually only available for two to three months at a time. Where data is available, it seems that more indigenous women than indigenous men work as agricultural wage labourers. One of the reasons for this may be that agricultural jobs are paid less than other manual jobs.

Traditional occupations

Indigenous women are renowned for their handicrafts, which are an important part of their cultural identity and a major source of income for many women. In Latin America, handicrafts still play an important role in Guatemala, Honduras, Mexico and Venezuela. However, indigenous women are no longer able to collect or produce the raw materials themselves because of the pressures on the traditional territories and the loss of access to the natural resources. Women often have to buy the materials in the market, thus reducing their profits and downgrading their traditional skills.

In Bangladesh, the degradation of natural resources greatly affects indigenous women's subsistence needs. For the communities that depended on forest produce, it has meant a decrease in their earnings since the women can no longer get the raw materials to prepare medicines, or to make nets or *bidi* (cheap cigarettes).

In Nepal, many types of handicrafts are no longer made. This is due to their restricted access to forest produce and competition from cheap manufactured products (mostly from China or India).

Other work in rural areas

The loss of traditional occupations and the gradual loss of agricultural land and natural resources are major factors behind indigenous women's migration for work. Those who stay behind may find work either as self-employed or as wage earners in cottage industries (home-based sewing or other work), domestic services, or in trade and commerce. In Bangladesh for example, Khasi indigenous women have had to shift from their traditional occupations to wage labour in the farm and non-farm sectors or to self-employment by selling betel leaves and nuts. In Nepal, landless women may supplement their work as agricultural labourers with unskilled construction work by transporting sand, bricks and cement. The case-study also mentions instances where women have used remittance money from their migrant husbands to start up small businesses like retail shops or restaurants.⁶⁴

2.2 Indigenous women's work in urban areas

traditional occupation in Nepa;: A case study to apply ILO Conventions No. 111 (Employment and Occupation) and 169 (Indigenous and Tribal peoples), Kathmandu, International Labour Office, 2008 pg. 32

⁶⁴ Nepal Case Study

In urban areas, the majority of indigenous women find work within the tertiary (service) sector, the most rapidly expanding sector and the one that accounts for the highest levels of women's employment in many countries. In Latin America 90% of all new jobs in the 1990s arose in the tertiary sector and, by the end of the decade, it accounted for 55% of total employment.⁶⁵ As Weller points out, this sector is characterized by its heterogeneity and has: "on one hand generated good-quality employment for women, on the other hand it is also within the tertiary sector that we find most of the low-productivity, poorly paid and poor quality jobs because of the low entry barriers to certain activities, such as personal services and trade. Women account for a high proportion of this segment too. It is in that segment too where the majority of new jobs arose."⁶⁶ Furthermore, it is in this sector, typically made up of activities in the informal economy, where most indigenous women find what Weller calls "survival employment" as street vendors, garbage collectors, rag pickers, home-based workers and piece-rate workers, and in typical female jobs, such as housemaids and beauticians. Many are self-employed, others are casual wage earners and some collect a salary. Some are part-time or temporary workers. Most of them are self-employed traders and producers or casual and subcontracted workers. Relatively few are employers who hire paid workers.⁶⁷

In Latin America, urban indigenous women mainly work in the service sector and in commerce. More than 75% of indigenous women work in the tertiary sector, only 15% work in the secondary sector and around 5%–6% in the primary sector. They work as street vendors and in a very wide range of activities related to the informal economy. They also find paid work as housemaids (private), in hotels (chambermaids) and in the garment export industry. In Bolivia, for instance, 90% of the female labour force works in domestic services and 70% of them are indigenous. With the exception of Bolivia, Ecuador and Paraguay, the majority of indigenous women workers in Latin America are wage earners. However, there are twice as many indigenous women as indigenous men who are self-employed or unpaid family workers.

Although the informal economy is a predominant source of employment, indigenous women also find work within the formal economy, typically in the textile and handicraft industries and EPZs. Female factory workers interviewed in Kathmandu, Nepal, had originated from 10 different rural districts and had been employed in the factories for between five and 15 years.⁶⁸

2.4 Treatment of indigenous women in employment

⁶⁵ Weller, J., *Tertiary sector employment in Latin America: between modernity and survival*. CEPAL Review, 2004, No. 84, 154–174.

⁶⁶ Idem.

⁶⁷ Chen, MA. *Women in the informal sector: A global picture, the global movement*. SAIS Review, 2001, 21(1):72–81.

⁶⁸ Nepal Case Study

Coercive recruitment

Indigenous women (and men) are still falling victim to bonded labour. There are several examples from Bolivia of indigenous women being held in bonded labour with their husbands. Often working from 04:00 to 18:00, these women either receive no pay or a quarter of the daily salary of the men, supposedly to reflect the less arduous nature of the work they do. They are often beaten and subjected to other forms of punishment.⁶⁹ In Cotopaxi, Ecuador, the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (hereafter: UN Special Rapporteur IP) noted that there were large estates where the labourers live in conditions reminiscent of the worst periods of slavery, being paid US\$ 2–3 for a 20-hour workday.⁷⁰ In Guatemala, practices persist whereby indigenous workers are recruited and moved away to work in plantations for wages below the legal minimum and without social security coverage or respect for basic rules relating to pay, employment security or working conditions. This situation affects indigenous women and children especially severely.⁷¹

In Nepal, indigenous Tharu women have for centuries worked under debt bondage in the *Kamaiya* system,⁷² where they received one-tenth of the wage of their husbands and were often sexually abused. The system was abolished in 2000, but the rehabilitation process has not been entirely successful and difficulties in finding employment have meant that ex-Kamaiya women again perform unpaid household chores for local landlords.⁷³ The lack of skills, education and training to obtain other forms of employment in the labour market as well as an almost complete lack of land or assets in any form are the root causes of the practice.⁷⁴ Furthermore, hill ethnic groups are over-represented among commercial sex workers in Kathmandu.⁷⁵

Unequal pay

Wages for indigenous women workers are often under the legal minimum, and characterized by seasonal fluctuations and gender and ethnic differentials. The income generated by self-employed women in the service sector, in rural or urban areas, is rarely sufficient to ensure a decent living. As will be discussed in chapter 3, this is in breach of

⁶⁹ *Contemporary forms of slavery in Bolivia*, Anti-Slavery International, London, 2006 (<http://www.antislavery.org/homepage/resources/PDF/Contemporary>, accessed 20.3.08)

⁷⁰ Stavenhagen, R., *Mission to Ecuador. Addendum to Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people submitted in accordance with Commission resolution 2001/57*. New York, NY, United Nations, 2006 (A/HRC/4/32/Add.2).

⁷¹ *Idem*, p. 8.

⁷² The *Kamaiya* system is a long-term farm labour relationship between the *Kamaiya* (labourer) and the employer-landowner.

⁷³ *Nepal human development report 2004 – empowerment and poverty reduction*, Kathmandu, United Nations Development Programme, 2004, p. 57 (<http://www.undp.org.np/publication/html/nhdr2004>, accessed 17.08.08).

⁷⁴ *Rights of Indigenous Women in Nepal, Shadow Report*, *op cit*, para 54

⁷⁵ A series of IPEC-TBP Rapid Assessment sample surveys have indicated the extent of ITP vulnerability to child labour: among commercial sex workers, 47.1% belonged to hill ethnic groups (Gurung, Lama, Limbu Magar, Rai, Sherpa and Tamang).

several conventions that stipulate non-discrimination and equal remuneration for work of equal value.⁷⁶

In Latin America, indigenous women are often paid wages that are less than half those of non-indigenous women. In Chile, for instance, the average income of indigenous housemaids was 71% of that of non-indigenous housemaids. In Peru, the income difference between indigenous and non-indigenous women was 30% and 31% compared with indigenous men.⁷⁷

In Nepal, none of the women interviewed for the case study considered that they were receiving unequal pay.⁷⁸ In some cases, they were aware of men getting a higher wage, but they attributed this to the heavy work they had to perform, although “heavy work” was not defined. However, female agricultural labourers’ work involves heavy work, including digging, planting and transporting manure fertilizer, etc., while male labourers do the ploughing. The latter job is considered by the villagers to be “heavy work” and the rates for an eight-hour day, are therefore Rs 100 (1.24 USD) for men and Rs 60 (0.79 USD) for women. This is supported by an ILO study among the Rai and Sherpa which found that “gender discrimination is an issue, as men’s work is considered to be of greater value than women’s”.⁷⁹ The actual value of the work being undertaken by indigenous women is not being recognized or appropriately compensated.

In Bangladesh, whether indigenous women work in factories or in the service sector, they all work in low-wage jobs, are often underpaid compared to the wages of indigenous men and non-indigenous women, and have little employment security. An exception to this trend is Garo women who tend to work for foreigners.

Health hazards

Indigenous women often work in unhealthy environments, but few of them have access to medical or social assistance. Many indigenous women work long hours. In rural areas, their productive and reproductive work generally adds up to more than 17 hours a day. They work most days of the week and without leave. Much of this work is done in harsh climatic and topographic conditions, and many of the activities are physically taxing.

Indigenous women often work in very unsafe conditions. For example, in rural areas, women workers are often exposed to the unprotected use of pesticides and other harmful chemicals on commercial farms. In urban areas, they work in polluted and cramped workplaces, either in the streets or in open air market places, or inside in unsanitary and unventilated factories.

⁷⁶ ILO Convention No. 100 (Equal Remuneration Convention); ILO Convention No. 111; ILO Convention No. 107; ILO Convention No. 169; CEDAW.

⁷⁷ Latin America Case Study

⁷⁸ For the Nepal Case Study, indigenous women from 11 indigenous communities were interviewed.

⁷⁹ K.P. Aryal and E.E. Kerkhoff, *The right to practice shifting cultivation as a traditional occupation in Nepal, a case study to apply ILO Conventions No. 111 (Employment and Occupation) and 169 (Indigenous and Tribal peoples)*, Kathmandu, International Labour Office, 2008 pg. 32

In Nepal, the case studies reveal that women workers in carpet factories work 11-hour daily shifts. Most of them also work on Saturdays because they are paid according to a piece-rate system. They are employed for 6–8 months at a time and are usually rehired at the end of each period. Labour legislation requires that carpet factories provide accommodation for the indigenous women and their children on the factory premises. However, such accommodation is usually cramped and sanitary conditions are poor, resulting in frequent illness. The dust from the wool they use also affects their health and respiratory tract infections are common. There are no childcare facilities and women with small children have to keep them at their side while they work.

In Bangladesh, when women working in beauty parlours become ill for a few days, they do not receive full pay. Overtime and heavier workloads are not remunerated.

Lack of vocational training

The prospects for indigenous women seeking decent employment and occupation depend to a large extent on their educational attainment and any vocational training they might have had. Vocational training is, therefore, of special relevance to them. The ILO case studies clearly indicate that there is a great need for both literacy and vocational training. Sometimes, the legislation supporting such training exists but is not implemented. In Nepal, for instance, the Government has made provisions for vocational education, skill training and preference in employment opportunities for economically and socially excluded women, but they do not appear to be effectively implemented. It is apparently only at the level of non-governmental organizations (NGO) that some dispersed initiatives have been taken regarding literacy and vocational training.

Right of association

In most of the countries in question, the violation of trade union rights remains a concern and trade unions are generally not politically strong. Although there are important initiatives to unionize workers within the informal economy in other parts of the world,⁸⁰ this does not seem to be the case in the countries studied. In the formal economy, there are a few examples of organization within trade unions. Bolivia has a long tradition of labour struggles, and the interaction of male and female indigenous workers with ladino workers has resulted not only in claims for labour rights, but has also raised awareness about the legitimacy of labour rights and the Government's responsibility to ensure access to such rights.

In Nepal, 10% of indigenous women factory workers interviewed knew about workers' rights and equal employment opportunities for men and women. Some of them had joined a local trade union, which had informed them about work hazards and necessary health measures, and had supported them in getting pay increases. The trade union had also offered literacy classes and other activities on factory premises. However, trade unions in Nepal have only recently, if at all, begun to tackle the problems faced by Janajati workers.

⁸⁰ Self Employed Women's Association (SEWA), in India, is one example.

The national Janajati movement is considering forming a separate indigenous trade union, as they feel they are not properly represented in the ranks of existing national trade unions.

In Bangladesh, EPZ staff explained that they tend to prefer male and female Adivasi workers because, as mentioned above, they were not unionized or politically active and did not demand higher wages and other benefits. Despite the enactment of the recent EPZ Worker Association and Industrial Relations Act of 2004, serious allegations of violation of trade union rights in these zones persist.⁸¹

⁸¹ Sankaran K. *Labour laws in South Asia: the need for an inclusive approach, Discussion paper*, International Institute for Labour Studies, International Labour Organization, Geneva, 2007

3. INTERNATIONAL LEGAL FRAMEWORK

3.1 Conceptualizing indigenous women's individual and collective rights

As stated in the introduction, with this working paper, the ILO seeks to shed more light on how indigenous women's worker rights should be conceptualized in the framework of gender equality and indigenous collective rights. Some indigenous women have criticized feminist approaches which, in their view, “reduce women to individual, purely gendered subjects”⁸² and only conceive of women's rights as individual rights, thereby ignoring an important, essential part of the experience of indigenous women:

We maintain that the advancement of indigenous women's human rights is inextricably linked to the struggle to protect, respect and fulfil both the rights of our Peoples as a whole and our rights as women within our communities and at the national and international level.⁸³

An important point of departure should therefore be the recognition that indigenous women have both individual and collective rights. In the same vein that indigenous women have emphasized that “recognition of indigenous peoples' collective rights is key to combating violence against women”,⁸⁴ it should be recognized that protecting indigenous peoples' collective rights is integral to safeguarding the rights of indigenous women workers.

For example, as we have seen, as a direct result of a lack of respect of their collective land rights, and the resulting loss of access to and control over communal lands, indigenous women have been forced to seek employment either as farm workers in rural areas or in export processing zones, joining thousands of non-indigenous women who are unprotected by labour laws and are more vulnerable to violence at the workplace.

Furthermore, because indigenous peoples' collective rights to determine their own economic, social and cultural development are violated, indigenous women and men have been forced to give up their languages, cultural traditions and traditional knowledge, leading to the loss of their traditional occupations. Within this situation, indigenous women are often more vulnerable than indigenous men, because indigenous women have limited decision making power within their communities. This includes women's voices in shaping the right to self-determination of their peoples.

⁸² International Indigenous Women's Forum (FIMI), *Mairin iwanka raya: indigenous women stand against violence. A Companion Report to the United Nations Secretary-General's Study on Violence Against Women*, 2006, pg. 10. Available online: http://fimi-iiwf.org/es/files/doc/1284145657_vaiwreport06.pdf

⁸³ Declaration of the International Indigenous Women's Forum (FIMI Beijing+10), *Indigenous women beyond the 10-year review of the Beijing Declaration and Platform for Action*, 2005; Cited in FIMI 2006, pg. 9

⁸⁴ International Indigenous Women's Forum (FIMI), *Mairin iwanka raya: indigenous women stand against violence. A Companion Report to the United Nations Secretary-General's Study on Violence Against Women*, 2006, pg. 6. Available online: http://fimi-iiwf.org/es/files/doc/1284145657_vaiwreport06.pdf

In order to address the challenges faced by indigenous women workers, solutions must be found which are aimed at protecting both their individual rights as women and indigenous persons, as well as their collective rights as indigenous peoples.

3.2 International framework for the protection of indigenous women workers

Discrimination, both direct and indirect discrimination (see box 2), has been condemned throughout the history of the United Nations, but continues to shape the experiences of indigenous peoples – men and women - around the world. Article 2 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms that “Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity” (Art. 2). Furthermore, Article 3 of ILO 169 states that “Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples.”

Box 2 Direct and indirect discrimination

Direct discrimination refers to rules, policies or practices that exclude or disadvantage certain individuals because they belong to a particular group or because they have certain characteristics (such as indigenous origin, sex, religion, etc).

Indirect discrimination is often hidden, more subtle and therefore more difficult to identify. It occurs when apparently neutral measures (rules, policies or practices) have a disproportionately adverse impact on one particular group.

Well-intended measures may therefore also be discriminatory.

Source: *Eliminating discrimination against Indigenous and Tribal peoples in employment and occupation – A guide to ILO Convention no. 111, PRO169 and the Equality team*, International Labour Office, Geneva, 2007, Pg. 11.

The ILO carries a mandate to promote the rights of women indigenous workers from complementary perspectives:

- (i) The recognition of the rights of indigenous and tribal peoples (ILO Conventions No. 107 and No. 169), and
- (ii) Equality between all women and men in the world of work.⁸⁵

⁸⁵ Based on International Labour Conventions of particular relevance to gender equality, especially the four key equality Conventions: the Discrimination (Employment and Occupation) Convention, 1958 ([No. 111](#)),

ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Indigenous and Tribal Populations Convention, 1957 (No. 107)

ILO Conventions No. 107 and No. 169 concern the specific situation and needs of indigenous peoples. They cover a wide spectrum of issues, including land, health and education. However, the two Conventions differ fundamentally both in their approach towards indigenous peoples and in respect to gender awareness. Because of its integrationist orientation towards indigenous and tribal peoples, Convention 107 has been superseded in many countries by Convention 169, which is participatory and cooperative in its approach. The provisions in Convention No. 169 are also more detailed, especially as regards the active participation and involvement of indigenous and tribal peoples in all areas that affect their lives. With regard to gender, Convention No. 107 makes no mention of gender differences, whereas ILO Convention No. 169 specifically provides in Article 3 (1) that “the provisions of the Convention shall be applied without discrimination to male and female members of these peoples [ITPs]”, and in Article 20(3)(d) “that workers belonging to these peoples [shall] enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.”

UN Declaration on the Rights of Indigenous Peoples, 2007 (UNDRIP)

With the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 an important framework for the protection of indigenous rights has been established. Although it is non-binding, the declaration applies to all UN member states.

UNDRIP contains several provisions which emphasize that particular attention should be paid to the rights and special needs of indigenous women and that all rights guaranteed in the Declaration are equally guaranteed to indigenous men and women, namely:

Article 21

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 44

the Equal Remuneration Convention, 1951 ([No. 100](#)), the Workers with Family Responsibilities Convention, 1981 ([No. 156](#)) and the Maternity Protection Convention, 2000 ([No. 183](#))

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and Equal Remuneration Convention, 1951 (No. 100)

ILO Convention No. 111 is one of the eight fundamental ILO Conventions⁸⁶ and, at the time of writing, has 169 ratifications. Its purpose is to protect all persons, including indigenous peoples, against discrimination in employment and occupation. This includes those who have found employment and exercise an occupation, but also those who are preparing to work or seeking work.⁸⁷ The Convention covers all occupations and employment, including traditional occupations.

Under the Convention, discrimination occurs “when a distinction, exclusion or preference is made (“differential treatment”) on the basis of certain grounds such as race, colour, sex, religion, political opinion, national extraction or social origin (“prohibited grounds”), and such differential treatment has a negative effect on the enjoyment of equality of opportunity and treatment in employment and occupation.”⁸⁸

Another of the fundamental Conventions is the Equal Remuneration Convention, 1951 (No. 100), which aims at ensuring that all women and men receive equal remuneration for work of equal value. This Convention is particularly relevant in the context of indigenous women, as their skills often go unacknowledged and their work is regularly undervalued. Both Conventions Nos 100 and 111 apply to all workers in the public and private sectors and in the formal and informal economies.

The Conventions are discussed further below (section 3.3 “discrimination in employment and occupation”).

UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

CEDAW is aimed at eliminating discrimination against all women, including indigenous women. The Convention deals with a large spectrum of gender-related issues which are relevant to indigenous women, such as property rights, legal and economic rights as well as women’s special needs in relation to marriage, health and education. However, these are not addressed from an indigenous women’s perspective. Thus, some of CEDAW’s provisions may not be adequate in addressing the experiences of indigenous women when, for

⁸⁶ The eight fundamental Conventions are: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); and Worst Forms of Child Labour Convention, 1999 (No. 182).

⁸⁷ Eliminating discrimination against Indigenous and Tribal peoples in employment and occupation – A guide to ILO Convention No. 111; PRO169 and the Equality team, International Labour Office, Geneva, 2007, pg. 9

⁸⁸ Idem, pg. 10

instance, their traditional health systems are not taken into account by health posts, or when mother-tongue education is not provided.

Other UN instruments concerned with non-discrimination

In addition to the ILO and UN Conventions mentioned above, there are several other international conventions which address discrimination on the basis of race, ethnicity, indigenous origin and/or gender:

- International Convention on the Elimination of All Forms of Racial Discrimination, CERD (1965);
- The International Covenant on Economic, Social and Cultural Rights, ICESCR (1966);
- The International Covenant on Civil and Political Rights, ICCPR (1966)

As table 3.1 indicates, the majority of the countries in the survey have ratified ILO Conventions Nos. 100 (Equal Remuneration), and No. 169 (Indigenous and Tribal Peoples Convention). All of the countries being examined have ratified Convention No. 111 (Discrimination (Employment and Occupation), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention on the Elimination of All Forms of Racial Discrimination (CERD).

CERD recognises that “racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men.”⁸⁹ It consequently recommends that “the Committee will include in its sessional working methods an analysis of the relationship between gender and racial discrimination, by giving particular consideration to:

- (a) The form and manifestation of racial discrimination;
- (b) The circumstances in which racial discrimination occurs;
- (c) The consequences of racial discrimination; and
- (d) The availability and accessibility of remedies and complaint mechanisms for racial discrimination.⁹⁰

⁸⁹ *General Recommendation No. 25: Gender related dimensions of racial discrimination: 20/03/2000. Gen. Rec. No. 25. (General Comments), article 1*

⁹⁰ *Ibid.*, article 5

Table 3.1 International conventions: status of ratifications of selected countries in Latin America, Bangladesh and Nepal

Conventions (Year of creation) Entry into force	C100 (1951) 1953	C107 (1957) 1959	C111 (1958) 1960	CERD (1965) 1969	ICCPR (1966) 1976	ICESCR (1966) 1976	CEDAW (1979) 1981	C169 (1989) 1991
Argentina	-	–	1968	1968	1986	1986	1985	2000
Bolivia	-	–	1977	1970	1982	1977	1990	1991
Brazil	1957	–	1965	1968	1992	1965	1984	2002
Chile	1990	–	1971	1971	1976	1971	1989	2008
Colombia	1963	–	1969	1981	1976	1969	1982	1991
Costa Rica	1960	–	1962	1967	1976	1962	1986	1993
Ecuador	1957	–	1962	1966	1976	1962	1981	1998
Guatemala	1961	–	1960	1983	1982	1960	1982	1996
Honduras	1956	–	1960	2002	1997	1960	1983	1995
Mexico	1952	–	1961	1975	1981	1961	1981	1990
Nicaragua	1967	–	1967	1978	1980	1967	1981	2010
Panama	1958	1971	1966	1967	1977	1966	1981	–
Paraguay	1964	–	1967	2003	1992	1992	1987	1992
Peru	1960	–	1970	1971	1978	1970	1982	1994
Venezuela	1982	–	1971	1967	1978	1971	1983	2002
Bangladesh	1998	1982	1972	1979	2000	1972	1984	–
Nepal	1976	–	1974	1971	1991	1974	1991	2007

3.3 Discrimination in employment and occupation

Most of the international legal instruments referred to in the previous section make specific reference to the prohibition of discrimination in employment and occupation.⁹¹

ILO Convention No. 111 applies to all workers and, therefore, implicitly includes indigenous men and women workers. It provides protection in all aspects of employment and occupation (access to training, access to employment and particular occupations, terms and conditions of employment) both public and private.

The Convention is not limited to wage employment, but also ensures equality of opportunity and treatment in respect of self-employment; the right to equal access to particular

⁹¹ As the guide to ILO Convention no. 111 for indigenous and tribal peoples explains: ‘Employment’ refers to work performed under an employment relationship with an employer, while ‘Occupation’ means the trade, profession or type of work performed by an individual, irrespective of the branch of economic activity or the professional status of the worker”, *Eliminating discrimination against Indigenous and Tribal peoples in employment and occupation – A guide to ILO Convention No. 111*, PRO169 and the Equality team, International Labour Office, Geneva, 2007, pg. 13)

occupations (the trade, profession or type of work performed by an individual, irrespective of the branch of economic activity to which he or she belongs or his or her professional status, and includes traditional occupations). The right to equal access to particular occupations includes the right to freely choose one's occupation.

ILO Conventions No. 107 and No. 169 have a number of very similar provisions regarding "Recruitment and Conditions of Employment" (Part III in both conventions) and "Vocational Training, Handicrafts and Rural Industries (Part IV in both conventions). They specify that Governments,⁹² "shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers, in particular as regards..." admission to employment including skilled employment, measures for promotion and advancement and equal remuneration for work of equal value (Convention No. 169, Article 20(2); see also Convention No. 107, Article 15(1)); that measures shall be taken, in cooperation with the peoples concerned, to ensure effective protection of indigenous and tribal peoples with regard to recruitment and conditions of employment (Convention No. 169, Article 20(1) see also Convention No. 107, Article 15(1)), and to ensure that they enjoy equal opportunities in respect of vocational training (Convention No. 169, Article 21, Convention No. 107, Article 16).

All these Articles are inspired by the spirit of equality and non-discrimination as expressed in Convention No. 111, but take the situation and special needs of indigenous peoples as their point of departure. They are, therefore, more specific in their provisions regarding special measures to be taken, and areas to be addressed as, for instance, handicrafts and home industries:

- Convention No. 169, Article 20(1) (see also Convention No. 107, Article 15, provides for the adoption of special measures, in cooperation with the peoples concerned, to ensure the effective protection of indigenous people with regard to recruitment and conditions of employment;
- Convention No. 169, Article 22(2) and (3) (see also Convention No. 107, Article 17) stresses the need to ensure, with the participation of the peoples concerned, special training programmes and facilities that meet the special needs of indigenous and tribal peoples and are based on their social and cultural conditions and their practical needs;
- and Convention No. 169, Article 20(2) and Convention No. 107, Article 15(2), list particular areas where the Government is to do everything possible to prevent discrimination, including for with respect to equal remuneration for work of equal value, medical and social assistance, occupational safety and health, social security benefits, and the right of association, etc.;
- Convention No. 169, Article 23(1) (see also Convention No. 107, Article 18), addresses handicrafts, rural and community based industries are to be "recognized as important factors in the maintenance of their cultures and economic self-reliance

⁹² Convention no. 107 speaks about 'Members'

and development.” Governments, with the participation of the peoples concerned, are to ensure that these activities are strengthened and promoted.

Convention No. 169 is more detailed than Convention No. 107 and includes more specific areas to be addressed as well as provisions regarding indigenous and tribal peoples’ (ITP) right to be informed and consulted, to participate, and decide their own priorities. These provisions include⁹³:

- Article 20(3)(a): ITP workers, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, are to enjoy the protection afforded by national law and practice to other such workers in the same sectors and that they are fully informed of their rights under labour legislation and of the means of redress available to them;
- Article 20(3)(b): ITP workers are not to be subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances;
- Article 20(3)(c): ITP workers are not to be subjected to coercive recruitment systems, including bonded labour and other forms of debt servitude;
- Article 20(3)(d): ITP workers are to enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment;
- Article 22(3): ITPs shall progressively assume responsibility for the organization and operation of special training programmes, if they so decide;
- Article 23(1): “handicrafts rural and community-based industries and subsistence economy and traditional activities”, such as hunting, fishing, trapping and gathering, are to be recognized as important factors in the maintenance of ITPs’ cultures and economic self-reliance and development that must be recognized, strengthened and promoted, with the participation of these peoples.

The right to “enjoy fully all rights established under applicable international and domestic labour law...” is stipulated in Article 17(1) of UNDRIP. In Article 17(3), the Declaration further states that “indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.”

UNDRIP also recognizes the right of indigenous peoples to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities (Art. 20(1). Further, it is provided that:

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, *employment, vocational training and retraining*, housing, sanitation, health and social security.

⁹³ For the general provisions on consultation and participation see Convention No. 169, Articles 2, 6, 7 and 33

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Women worker's reproductive health

Indigenous women worker's needs which are specifically related to their reproductive health issues are taken up by CEDAW in Article 11.⁹⁴ In accordance with Article 11(2) of CEDAW, States Parties are obligated to take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

Rural Women Workers

Also relevant to indigenous women working in rural areas is Article 14 of CEDAW concerning the particular problems faced by rural women:

- 1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
- 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;

⁹⁴ ILO Maternity Protection Convention 2000 (No. 183) that supersedes Convention No. 103 of 1955 deals with the same issues. It has been ratified by 22 countries – Belize and Cuba are the only Latin American countries. Bolivia, Brazil, Chile, Ecuador, Guatemala and Venezuela, however, have ratified Convention No. 103. Bangladesh and Nepal have not ratified either of these two Conventions

- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Furthermore, CEDAW specifies measures to protect women workers from discrimination on the grounds of pregnancy, maternity leave and dismissal on the basis of marital status. It further stipulates that special protection be given to women during pregnancy.

Bonded Labour

As we have seen (para. 2.4.1), Indigenous women (and men) are still sometimes victims of what ILO Convention No. 169, Article 20, calls “coercive recruitment systems”, including bonded labour and other forms of debt servitude. Both Convention No. 169 and CEDAW, (Article 11(1)(c)), stipulate that governments should ensure the right to free choice of profession and employment. Moreover the Forced Labour Convention, 1930 (No. 29), ratified by 175 countries, prohibits labour practices of this kind for all workers..

Informal Employment

The majority of indigenous women are in informal and precarious work – casual, part-time, temporary or seasonal – without secure contracts, employment benefits, or social protection. In this regard, it should be stressed that ILO Convention No. 111, ILO Convention No. 169, Article 20, and CEDAW, Article 11, all indicate that governments should take appropriate measures to promote and ensure equal opportunities and treatment in employment for men and women. With special reference to “seasonal, casual and migrant workers in agricultural and other employment”, ILO Convention No. 169, Article 20 (3)(a), enjoins governments to ensure that they “enjoy the protection afforded by national laws and practice to other such workers in the same sectors...” Furthermore, ILO Conventions No. 107, No. 111 and No. 169 foresee special measures of protection and assistance to ensure non-discrimination in employment and occupation.

3.4 State Policies and Institutions

As will be discussed further below, most of the countries in question have ratified the ILO Conventions and CEDAW. They also have comprehensive labour legislation regulating

working conditions, and, in Latin America, there are some laws that recognize women workers' particular situation and needs.⁹⁵

In certain countries in Latin America, important progress has also been made in recognizing indigenous peoples' rights and gender equality at the constitutional and legal level, adopting, in some cases, specific laws to establish and protect their rights.

Most of the countries surveyed in the case studies have set up mechanisms for turning national and international provisions into concrete public policies, programmes, projects and actions. They have established ministries, departments or public institutions that are mandated to promote gender equality and to protect the rights of indigenous peoples. The three reports, however, clearly show that these institutions are often weak, under-budgeted, poorly staffed and dependent on the good will of their governments.

In Bolivia, Guatemala and Mexico, initiatives have been taken to defend the right of women to access land, health care, bilingual education, training and decent work. In Guatemala the *Defensoría de la Mujer Indígena* [Indigenous Woman's Ombudsman] was established in accordance with the 1996 Peace Accords that ended a 36 year civil war. In general however, more emphasis is given to themes related to reproduction and health (maternal and child health and HIV/AIDS,) rather than to issues such as access to land, credit, training and options for dignified work.

The Latin American case-studies conclude that what in fact exists is an institutional archipelago of initiatives that have produced neither a holistic strategic vision nor efficient tools to facilitate the formation of an intercultural and gender responsive perspective that is able to deal with the large deficits in terms of poverty, employment and equality that characterize the distribution of opportunities and the promotion of skills among indigenous women.

In Nepal, the National Foundation for the Development of Indigenous Nationalities (NFDIN) was created in 2002 as a semi-autonomous body with a mandate to reduce inequalities and protect and promote the culture of Nepal's indigenous nationalities. From the start, it was constrained by a low budget and lack of proper infrastructure. It has also been heavily criticized for clauses in its Constitution that discriminate against indigenous women and for not allowing indigenous representatives meaningful participation in its Governing Council.⁹⁶

Some of the provisions of ILO Convention No. 111 are reflected in Nepal's National Labour Policy, notably with respect to the provision of vocational and skill training, and preference

⁹⁵ Bastidas Aliaga, M., *Participación laboral y sindical de las mujeres en el Perú durante los noventa* [Labour and union participation of the women in Peru during the nineties], International Labour Organization Regional Office for Latin America and the Caribbean, Lima, 2001, pp. 66–69

⁹⁶ Bello, A., *Ciudadanía y derechos indígenas en América Latina, pueblos indígenas y afrodescendientes de América Latina y el Caribe: información sociodemográfica para políticas y programas*, Comisión Económica para América Latina y el Caribe (CEPAL), Santiago, 2006.

in employment opportunities for economically and socially excluded women. However none of these or other provisions have been enforced. Convention No. 169 was ratified in 2007, after extensive lobbying by indigenous activists, but its provisions have not yet been translated into specific policies.

In Bangladesh, the Ministry of Women's and Children's Affairs has been implementing the National Policy on the Advancement of Women (NPAW). Adopted in 1997, this policy reflected the goals of the women's movement and is in line with CEDAW. However in 2004, a change in Government brought about crucial changes in the NPAW. Provisions for equal opportunity or equal share in property or assets were dropped, and inheritance, property or assets, and land rights stricken from a list of prerequisites for women's economic empowerment. Furthermore, housing was discarded from the special mandatory provisions for institutions employing large numbers of women.

Bangladesh's labour legislation provides for safety, health, hygiene, extra work, work hours, leave, etc., including special provisions for women workers, but few of them are enforced and the implementation of ILO Convention No. 111 is far from satisfactory.

There are two public institutions for indigenous peoples in Bangladesh – one for the peoples of the Plains and one for those in the CHT. The Special Affairs Division under the Prime Minister's office is in charge of undertaking programmes for the welfare of indigenous peoples of the Plains, but these peoples have no say in the affairs of the Division. As part of the Peace Accord of 1997, a Ministry of Chittagong Hill Tracts Affairs headed by an indigenous person was created to supervise the CHT administration and to liaise with other ministries in the capital.

4. CONCLUSION AND RECOMMENDATIONS

Indigenous women are not a homogeneous group. They come from very diverse national, community and individual backgrounds. The national contexts in which they live differ in terms of economic development, political systems, religions and cultural traditions, as well as in terms of recognition of and respect for indigenous rights. However, indigenous women, wherever they live, share similar experiences of discrimination based on their ethnicity/race, and gender. At the time of writing, as an increasing number of indigenous women enter a labour market that, to a large extent, is characterized by globalization and informal economies, indigenous women worldwide find themselves exposed to similar situations and problems related to employment opportunities, conditions of work and treatment. It is, therefore, possible to draw some general conclusions and recommendations from the case studies that may be useful in informing future policies and programmes for indigenous women around the world.

4.1 Findings and conclusions

Over the past decades, the livelihood of indigenous women has undergone major changes. Indigenous peoples have increasingly lost control over their ancestral lands, lands they traditionally occupy and resources. This has a major impact on the lives of indigenous women who traditionally gather food and water and are involved in agricultural activities. As a result, in order to supplement their household income and survive, an increasing number of indigenous women are forced to take up income-generating work either at home or by migrating to urban areas. The work carried out by these women, as self-employed, unpaid family workers or wage-earners, is usually manual work in the agricultural and service sectors in the informal economy, often considered unskilled. This work – whether in rural or urban areas – is often unremunerated or undervalued and badly paid, precarious, lacks legal or social protection, and sometimes puts indigenous women's health and safety at risk.

Compared with non-indigenous women, indigenous women are often at a disadvantage in terms of employment opportunities and working conditions. They have little access to secure jobs and relatively few of them hold well-paid administrative or professional positions. They are also often paid less and have more taxing tasks than non-indigenous women doing similar work.

Indigenous women are also disadvantaged when compared with indigenous men. While they too suffer discrimination, indigenous men tend to have better paid work and they are often paid more than women doing the same type of job. In some cases, men have better employment opportunities because they are better educated and are, or are perceived to be, more mobile than women. The lack of employment opportunities in the rural areas means that seasonal or permanent migration has become a common feature in many indigenous communities around the world. However, in some societies, the women are not able to work outside their homes, not only because of their responsibilities as mothers, but

also for cultural reasons. Indigenous women also have less access to credit and resources to start their own businesses.

With the erosion of traditional social values and the onset of modern market economies, gender roles and stereotypes of the non-indigenous community have begun to infiltrate many indigenous societies. The gender relations and division of labour, which was more egalitarian among some indigenous groups, is becoming increasingly polarized. This will undoubtedly affect indigenous girls' and women's access to education, employment, income-earning options/capacity and social relations

Indigenous women's equality of opportunity and treatment in employment or occupation is impaired by the discrimination they face before and after entering the labour market. This discrimination manifests itself not only on the labour market, but also in their daily lives within their own indigenous societies and in their interaction with the society at large. It takes many forms – interpersonal, legal and institutional – and is found irrespective of whether they live in developed countries or in poor developing countries.⁹⁷

Discrimination has a number of negative effects and consequences. It impacts on indigenous women's psychological well being; it affects their pay, benefits, conditions of work and social security entitlements; it influences their legal and customary rights; and it affects their access to land and property, credit, health care and education. These are areas in which they are at a disadvantage compared to indigenous men and non-indigenous women and which have been widely recognized as key factors limiting their access to decent work.

The vast majority of indigenous women live in countries that have ratified ILO Convention No. 111 and CEDAW, and in several cases ILO Convention No. 169 or No. 107. Some of these countries have incorporated these international legal provisions into their national legislation. Nonetheless, implementation remains a challenge.

4.2 The implementation gap

The obvious gap between the provisions included in national and international legal frameworks and their implementation can be explained in many ways: insufficient resources for those institutions and bodies responsible for implementing the laws and monitoring their effectiveness; lack of political will at different levels of the state apparatus; lack of qualified staff with the requisite knowledge and understanding of issues related to indigenous peoples and gender equality and how to address them; and lack of sex-disaggregated data. These are all manifestations of what the former Special Rapporteur on indigenous peoples, Prof. Rodolfo Stavenhagen, has called "structural discrimination".

⁹⁷ In Canada, for instance, in 2006, Aboriginal people were three times as likely to live in a dwelling that needed major repairs; 35% of Aboriginal women aged 15–24 were employed versus 57% of non-Aboriginal women; 17% were unemployed versus a rate of 7% for non-Aboriginals. The median income of an Aboriginal woman was about CAD 5,000 lower than that of non-Aboriginals (<http://www.elizabethfry.ca/eweek08/pdf/aborig.pdf> accessed 15/05/2008)

Speaking about the situation in Guatemala, Stavenhagen writes:

Despite the proliferation of commissions, committees and ombudsmen, progress in dismantling ethnic and racial discrimination at the institutional level has been slow. Underlying this situation is the *structural* discrimination against the indigenous peoples, which is founded on historical mechanisms ... by means of which the indigenous peoples were excluded from access to the economic, political and institutional resources they needed in order to live on an equal footing with the remainder of the population. As long as there is no modification of the very foundation of the concentration and appropriation of the principal economic, political and symbolic resources of the country by the governing elites, which have succeeded in systematically excluding the indigenous people from nation-building, the latter will be unable to play a role as free and equal citizens.⁹⁸

Eradicating structural discrimination is a challenging and long-term endeavour that will require comprehensive and profound changes in existing power relations, predominant cultural hierarchies and intercultural/interpersonal relations.⁹⁹ A start can be made by addressing some of the root causes of discrimination that indigenous women face in their daily lives and in the labour market. This would best be done through a multifaceted approach, directed at different governmental levels, at different sectors of the population and involving many actors, including the ILO, government structures, trade unions, employers' associations, indigenous organizations and communities, and representatives from civil society, and ensuring in this process that the voice of indigenous women is heard. An integrated approach such as this has the potential to progressively ensure the achievement of equality of opportunity and treatment in employment and occupation, and thereby contribute to the construction of democratic nations that recognize ethnic and gender equity.¹⁰⁰

4.3 Recommendations

A number of recommendations addressing the root causes of indigenous women's disadvantaged position in their own societies and in the labour market are listed below. These recommendations have been grouped according to the institutions directly involved

⁹⁸ Stavenhagen, R., *Mission to Ecuador. Addendum to Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people submitted in accordance with Commission resolution 2001/57*. New York, NY, United Nations, 2006 (A/HRC/4/32/Add.2, para. 20)

⁹⁹ Bello A, *Ciudadanía y derechos indígenas en América Latina, pueblos indígenas y afrodescendientes de América Latina y el Caribe: información sociodemográfica para políticas y programas*. Comisión Económica para América Latina y el Caribe (CEPAL), Santiago, 2006

¹⁰⁰ Montañó S, Aranda V (eds), *Reformas constitucionales y equidad de género, informe final seminario internacional*, Bolivia, febrero 2005 [Constitutional reforms and equal opportunity, closing report international seminar, Bolivia, February 2005], Comisión Económica para América Latina y el Caribe (CEPAL), Santiago, 2006

with a particular issue. However, in many cases, acting on these recommendations will need to be coordinated.

GOVERNMENTS

Governments should recognize indigenous peoples' rights and consider ratifying ILO Convention No. 169. Particular attention should be paid to recognizing and protecting the rights of indigenous peoples to land and natural resources they traditionally occupy and use as this affects indigenous men and women's ability to engage in employment and occupation of their choice.

Indigenous women workers' rights should be mainstreamed in all relevant policies and recognized in all relevant legislation, following consultations with indigenous women.

Existing labour policies and legislation should be critically examined to ensure that indigenous peoples enjoy labour rights on an equal footing with rest of the population and special measures be adopted when appropriate/necessary, in cooperation with indigenous peoples. Special attention should be paid to identify and remedy any direct or indirect discrimination faced by indigenous women workers.

Development programmes and policies should pay particular attention to the specific role played by indigenous women in economic activities. Governments should formulate specific policies that can generate employment for indigenous women by promoting their production and marketing of handicrafts and art; and their intellectual property rights over creations and designs should be protected.

Public institutions dealing with indigenous affairs should be established and/or strengthened and should work in tandem with other government agencies to ensure that the workplace rights of indigenous women and men are respected. Effective participation of indigenous peoples in such institutions should be ensured, including indigenous women.

The office of the Ombudsman or equivalent office should ensure that indigenous and gender issues are a core part of its mandate.

Governments should address discrimination in employment grounded in indigenous origin and gender through information and awareness-raising campaigns, and training. All public printed materials such as schoolbooks, tourism brochures etc. should be screened and purged of stereotypes and racist and sexist content.

Governments should take a stand against all forms of violence against women workers, and pay attention to indigenous women workers in this regard.

Governments should, with the participation of indigenous organizations, develop and implement bilingual and inter-cultural education in order to bridge the education and

employment gap between indigenous and non-indigenous peoples. Governments should, in collaboration with indigenous organizations, organize teachers' training for young indigenous men and women, where necessary using affirmative action initiatives.

TRADE UNION ORGANIZATIONS

Trade unions should take an active part in advocating for indigenous peoples' rights. They should devote particular attention to the situation of indigenous women workers and advocate for non-discriminatory working conditions (maternity leave, childcare facilities, etc.) and measures for both men and women to better balance work and family responsibilities. They should also elaborate gender responsive information and training materials on indigenous peoples' rights and workers' rights.

EMPLOYERS' ORGANIZATIONS

Employers' organizations should sensitize their members to indigenous peoples' rights and the vulnerable situation faced, in particular, by indigenous women, actively recruit indigenous women employers as members, and promote the participation of indigenous women in entrepreneurship.

The ILO

The ILO should continue to promote the ratification of ILO Convention No. 169 and provide technical assistance to States to implement it effectively. It should continue to promote the UN Declaration on the Rights of Indigenous Peoples and advocate for the recognition of indigenous peoples' rights

Given the lack of statistical data on indigenous peoples, the ILO and its statistical department (STAT) should assist member States in developing culturally-sensitive and gender-sensitive and relevant methodologies, questionnaires and indicators to monitor the socio-economic and legal status of indigenous women and men workers.

The ILO should elaborate a practical guide on the gender implications of Convention No. 169, making reference to other relevant ILO Conventions.

In its reporting guidelines for member States, the ILO could consider adding a request to provide information on specific action that has been taken with respect to indigenous women and men workers.

The ILO should work with trade unions and employers' organizations to raise their awareness on indigenous peoples' rights and on the workplace rights of indigenous women, in particular those working in Export Processing Zones.

The ILO should produce information materials for indigenous women in local languages on their rights as workers, as well as on issues related to their reproductive health.

The ILO should work with labour inspectorates to ensure that their inspection methodologies are sensitive to indigenous women's workplace rights.

INDIGENOUS PEOPLE'S ORGANIZATIONS

Indigenous organizations should organize and implement information campaigns and training about indigenous peoples' rights and women's rights, in particular as they affect indigenous women's engagement in employment and occupation. They should foster dialogue among community members regarding indigenous laws, customs and traditions with a view to identifying and rethinking those which are discriminatory to indigenous women, such as inheritance rights, access to land and resources, early marriage, and women's reproductive rights.

Indigenous organizations should, together with the ILO, work to identify the situation of indigenous women workers and draw up proposals to improve their working conditions through actively monitoring their working conditions and denouncing any abuses to trade unions, employers' organizations and, if necessary, through those organizations to the ILO.

Indigenous organizations should promote school education (including mother tongue instruction up to at least the completion of primary level) for girl children among their members and promote adult literacy among indigenous women as a central aspect affecting access to the workplace.

Indigenous women's organizations should take account of the different challenges faced by rural and urban indigenous women workers and to work with employers' and worker's organizations in advocating for their workplace rights.

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The Programme to Promote ILO Convention No. 169 (PRO 169) aims at promoting the rights and improving the socio-economic situation of indigenous and tribal peoples, in compliance with the principles of ILO Convention No. 169. PRO 169 works on a wide range of thematic as well as regional and country-specific issues. It combines a flexible demand-driven approach, responding to emerging needs and opportunities at international, regional and national levels with longer-term strategic initiatives at regional and country-level.

The programme has developed a number of initiatives, addressing the information, training and capacity-building needs of several and very different target groups ranging from national governments and social partners to indigenous peoples. The strategy takes into account the different levels of intervention (community, local, and national, regional, international) as well as the diversity of target groups, which necessitates a diversity of entry points, modalities, tools and languages.

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ISBN 978-92-2-122063-3

