

Indigenous Women: A Gender Perspective

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I. INTRODUCTION

The Earth

spring's daughter
daughter's spring
spring's little daughter

The Earth

My dear mother

(Nils-Aslak Valkeapää 1988: *The Sun, My Father, DAT, Kautokeino*)

Indigenous women are often described as the custodians of traditions and cultures. They bear the prime responsibility of ensuring the culture and traditions of their peoples are passed on to future generations, and are the most noticeable expressions of their peoples' distinct culture.

Yet, as in any society, indigenous women too share the same burden of institutionalized gender bias as their non-indigenous sisters, yet, they have a heavier load. Indigenous women are the most vulnerable among indigenous peoples, and face double discrimination - on the basis of their gender for being women and for their ethnicity for being indigenous. In some parts of the world, there is triple burden to bear as indigenous women are also poor.

Indigenous women do not see themselves as victims. Faced with discrimination and prejudice, indigenous women have been forced to develop skills and strategies for survival – for themselves, their peoples and their cultures. They have learnt to survive oppression and marginalization, discrimination and violence, without losing the wisdom and patience to build on and to share these experiences. Yet often their contribution to the struggle of indigenous peoples is not recognized or acknowledged.

This paper explores this issue, and draws on the experiences of Saami women and their sisters in different parts of the world in keeping their cultures alive and dynamic, and in transmitting this message to future generations as an integral element in the process of gaining greater recognition of the rights of indigenous peoples.

II. CONTEXTUAL FRAMEWORK

Indigenous women live in different countries all around the world, in differing circumstances. Their political, socio-economic and legal environments may vary and range from totalitarian states to parliamentarism, social protection to abject poverty, and civil law to common law, yet in many aspects, they share similar experiences and concerns. For instance, how to ensure their children have appropriate education, how to increase the role of women in decision-making processes and ensure their needs and concerns are taken into greater account.

The challenges and barriers may vary from country to country and even community to community, but indigenous women in developing countries such as Bangladesh and Peru face the same structural imbalance in gender equality as their sisters living in Canada and Norway. What unites indigenous women is their common struggle for greater recognition of their rights as indigenous peoples, and within this broader framework, the more specific focus of their rights as indigenous women:

In a similar way, in all parts of the world, women's voices, values, experiences and knowledge have not been given expression in those fora and contexts that are decisive for the development of society. Historically women have to a large degree found themselves barred from fora where important decisions were taken. Attention to this phenomenon has only been paid in the wake of the women's movement's work, which is relatively recent. There is furthermore an unequal division of power between the Saami peoples and the majority societies. The gender relations in Sápmi represent one aspect of these asymmetric power relations.¹

It has been argued that the indigenous peoples struggle for self-determination has not included gender issue to the extent necessary:

Apart from a few exceptions, indigenous peoples' struggles for self-determination have in most cases either totally bypassed gender considerations or de-prioritised them with a vague idea of somehow addressing them at some undefined future time. Consequently, the adoption, refinement and implementation of strategies and tactics to eliminate gender discrimination within their society and to combat external threats to the rights of their women have constantly been postponed on numerous grounds. The situation in the CHT is no exception. Although the self-determination struggle in the CHT over the past two decades has given much higher attention to the rights and needs of indigenous women than previously, the focus was nevertheless inadequate. This was what was felt by a female autonomy activist who disappeared and was never heard of again, allegedly a victim of state security forces. Things have not improved much since her sad disappearance half a decade ago. This woman was Kalpana Chakma, an indigenous college student from a small village community that was displaced by the Kaptai Dam in

¹ Jorunn Eikjok 2004: *Gender in Sápmi – Socio-Cultural Transformations and New Challenges*, in Indigenous Affairs: Indigenous Women 1-2/ 2004, International Work Group for Indigenous Affairs (IWGIA), Copenhagen, 2004.

1960, whose name has since become legendary in Bangladesh as a source of inspiration for all who believe in self-determination and human rights.²

The indigenous women's movement is an integral and inherent part of the indigenous peoples struggle. They have been part of the indigenous movement both at home and abroad since it began, but it is only recently that indigenous women have started to voice their need to be heard and for their priorities and concerns to be included in the indigenous agenda. Initially, it was difficult for indigenous women to speak out on gender issues, for fear of being labelled as "feminists". This perception still persists – to a lesser extent – and there is increasing acceptance that the struggle for women's rights is not a divisive issue in the indigenous movement. This is succinctly described by an indigenous activist from Latin America³:

...the presence of women has been such that their struggle cannot be divorced from that of the community or that of their peoples and brothers. "The struggle is not against our men folk but against the economic, political, social and cultural system imposed by neoliberalism"⁴...Through the experiences of indigenous women's groups, they have learned that the struggle must not be divided, and they have accepted that the demands for recognition of their peoples have to go hand in hand with their demands as indigenous women...at the II Continental Meeting of Indigenous Women (December 1997, Mexico), Blanca Chancoso commented:

We indigenous women have been involved in our organisations, communities, because we are a part of our peoples. We may not have been visible, but defending our rights and culture has been a part of our struggle⁵

III. FOCUS AREAS

Indigenous peoples all around the world face the same problems including but not limited to a denial of their rights as peoples, discrimination, land dispossession, violence and oppression. They are also often faced with assimilation and integration and forced into the mainstream dominant culture. Indigenous women face these problems too, as well as those which are specific to women.

As the problems vary depending on the situation and specific circumstances, so too do the responses and coping mechanisms. For instance, a pressing concern for an indigenous woman living in a developed country will not seem as cogent or immediate to an indigenous women in a developing country who struggles to feed her

² See, e.g., Guhathakurta, 1997.

³ Nellys Palomo Sánchez 2004: *Indigenous Women: The Emergence of a Revolutionary Collective Identity*, paper presented at a seminar on Indigenous Women and Gender Relations, 26-28 April 2004, Fredensborg, Denmark.

⁴ Interview with Rosalinda Santis, former president of the Jolom Mayaetik Cooperative, July 2000 in Nellys P. Sánchez 2004.

⁵ Kinal Antzetik, A.C. 1997: *Balance del movimiento de mujeres indígenas: desde Quito hasta México in Memoria II Encuentro Continental de Mujeres Indígenas de las Primeras Naciones de Abya Ayala*, Mexico, D.F. 1997 in Nellys. P. Sánchez 2004 *ibid.*.

family. Yet this does not mean that such concerns are any the less urgent or of lesser importance. The following is an overview of some areas where gender is a contributory factor:

3.1 DISCRIMINATION – FROM WITHIN AND WITHOUT

Indigenous peoples are often stigmatized and described in derogatory terms. This is even more so for the indigenous women who are generally the visible expressions of their cultures, with their colourful costumes and attire. This has often elicited verbal and sometimes physical harassment and abuse in extreme circumstances. This can happen anywhere and everywhere, and is a common problem indigenous women face in their daily lives. For instance, a Saami woman in a restaurant in Oslo, a Maya woman vendor on the streets of Guatemala City, a Chakma woman in a market place in Dhaka - all share the same experience of being ridiculed or harassed for being an indigenous woman. However, some indigenous peoples have turned this around and taken on derogatory terms as concepts of national unity and pride. For instance, the indigenous peoples in the Chittagong Hill Tracts have adopted the term Jummas, originating from their slash and burn/swidden cultivation, and used by the dominant people to deride and ridicule them, as a building block towards developing a collective identity as one people.⁶

The issue of discrimination on the basis of ethnicity is wide ranging and polemic, and has been the subject of two world conferences under the aegis of the United Nations. Discrimination per se becomes even more complex when the element of gender is added to the equation. However, the discrimination indigenous women face is often two-pronged, both from outside their society as well as from within.

[Indigenous women in] the Chittagong Hill Tracts...continue to face discrimination, both from the majority community, and from their own people. The customary personal laws and the land laws both discriminate against women. The situation is the same regarding representation of women in the leadership structures of the CHT, both in the traditional system and in the elected local and regional government bodies, especially in the former.⁷

The Saami have the same experience, as explained by Jorunn Eikjok, a Saami social-anthropologist:

In the 1970s and the beginning of the 80s Saami women were often used as symbols of the difference between the Saami and the Norwegian. It was alleged that, in contrast to women in the majority society, Saami women were strong and in possession of power. The Saami woman was used as an ethnic symbol; she was portrayed as the all-mother of the culture. This put pressure on us women because we experienced reality altogether differently. We felt

⁶ For more details see Willem van Schendel 1995: *The Invention of the "Jummas": State Formation and Ethnicity in Southeastern Bangladesh* in *Indigenous Peoples of Asia*, R.H. Barnes, Andrew Gray and Benedict Kingsbury (ed.), Association for Asian Studies, Inc., Monograph and Occasional Paper Series, No. 48, Michigan 1995.

⁷ Raja Devasish Roy 2004: *Challenges for Juridical Pluralism and Customary Laws of Indigenous Peoples: The Case of the Chittagong Hill Tracts, Bangladesh* in *Defending Diversity: Case Studies* The Saami Council, 2004.

ourselves to be doubly repressed, firstly by the patriarchal structures of our own community and secondly in relation to being indigenous and Saami.⁸

Historically, indigenous cultures have been more egalitarian in structure, with men and women working side by side and exercising an equal voice in decision-making as described below regarding the situation of Tamachek women:

Women are traditionally the guardians of culture and the guarantors of the community's unity and honour... Separate ownership of goods is the only matrimonial system recognized among the Touareg, although a number of common goods are allocated to household needs. It is quite clear that in all cases, even if the husband is formally the head of the household, decisions are taken jointly. In economic terms, the woman owns her own assets, and she enjoys these freely without anyone (father, brother or husband) questioning this.⁹

In another example, the traditional Twa society also includes elements of egalitarianism and Twa society is described as having several positive aspects for Twa women, with parents placing equal value on daughters and sons. Twa women functioned freely in the society and were not controlled by their male relatives including in their choice of marriage partners and divorce and separation. Women also manage their own, as well as in some cases, their spouses' earnings too. The division of labour between men and women is complementary, and women's contribution to the family's subsistence economy recognized. Within their communities, Twa women are outspoken and play a prominent role in decision-making.¹⁰ However, with the influence of the dominant "modernized" societies - which are generally more male-oriented - often hand in hand with harsh assimilation policies, indigenous societies too have felt the pressure to adopt a more gender-biased approach as described below:

In Saami society, men and women have, each in their own way, been bearers of culture, though women carried the greater share because they had the responsibility for raising the next generation. As the Saami became more strongly integrated into the majority society, the state decided that the rights to occupations should be tied to men. This was based on the European idea of the man as breadwinner and thus the person economically responsible for the family, despite the fact that agriculture had once been the responsibility of the women of Sápmi. Saami women in reindeer communities formerly held a relatively stronger position than women in the majority society because of their participation in reindeer breeding. A woman owned the reindeer that she brought with her into her marriage. The state's management and laws brushed aside the position Saami women traditionally had, effectively weakening their position in relation to men.¹¹

⁸ Ibid, Jorunn Eikjok 2004.

⁹ Saoudata Aboubacrine: *Tamachek Women in the 21st Century*, in Indigenous Affairs: Indigenous Women 1-2/2004, IWGIA at p. 29.

¹⁰ Dorothy Jackson: *We Want our Children to Know How to take their Future into their own Hands: Twa Women in the Great Lakes*, Indigenous Affairs: Indigenous Women 1-2/2004, IWGIA at p. 19.

¹¹ Ibid, Jorunn Eikjok 2004.

This experience of state legislation undermining indigenous women's rights is also described for the Maori in New Zealand. Prior to European settlement, Maori women could own land and had an equal voice in decision-making. However this was eroded with the arrival of European settlers and the imposition of a patriarchal western-based system which gave males/husbands the principal role in land transactions (Clause 86 of the Native Land Act 1873). This is condemned as "...a system which had as its sole objective to bring Maori land under an individualistic, patriarchal system."¹²

This highlights another aspect of gender bias, this time from within the community itself. With the exception of matriarchal societies, the majority of indigenous communities follow patrilineal lines along the male line, with women stepping in only in the absence of a male heir. This has significant impact on women's socio-economic and financial security and contributes to her vulnerability:

Indigenous women's dependence on men within the family and on the extended family has become strongly reinforced by the asymmetrical rules of inheritance. Discriminatory inheritance laws further hinder women's overall emancipation. The inheritance laws of most indigenous peoples, including the most numerous groups, tend to be discriminatory against women. The common trend of the indigenous peoples is that only sons inherit landed property. Generally women cannot claim paternal property as of right. The notable exceptions, to an extent, are the Marma people in the Chittagong Hill Tracts, Garo people in Modhupur and Khasias in greater Sylhet.¹³

In some indigenous communities it is contended that to adopt laws whereby women could inherit as of right, will facilitate outside ownership of indigenous lands. This is an internal issue for each community/peoples to discuss and address at their own time and at their own pace, and according to their needs and priorities. 'The resistance against such reform is based largely upon the assumption that lands belonging to the indigenous peoples would be lost due to marriage of indigenous women with non-indigenous men...Unfortunately, it is difficult to assess whether there is a reasonable basis behind the fear of loss of indigenous lands consequent upon such marriages. Based on an in depth research into this issue, it could be dealt with through land legislation without preventing women from inheriting land as of right.'¹⁴

Some discourse on this issue has already begun in some indigenous communities, as in the Chittagong Hill Tracts and here as in other areas, indigenous women have stressed the need to address this issue within the community, with the involvement and support of the men, and for the peoples themselves to explore ways to resolve any inequalities. This is endorsed by the experience of indigenous women in Peru who initiated awareness raising and leadership training for women:

¹² For more details, see Moana Sinclair: *Pakeha Land Legislation in Aotearoa: The Continuous Resistance by Maori Women* in *Indigenous Women: The Right to a Voice*, International Work Group for Indigenous Affairs (IWGIA) Document No. 88, Copenhagen 1998 at p. 104.

¹³ Dr. Sadeka Halim 2003: *Insecurity of Indigenous Women: A Case from the Chittagong Hill Tracts*, in *Ensure the Security of Indigenous Women: Solidarity*, Bangladesh Adivasi Forum (Indigenous Peoples Forum), August 2003, Dhaka.

¹⁴ For more details on this issue, see RD Roy 2004: p. 122

The involvement of male leaders in workshops that were intended to develop skills of women leaders has been very important. The Amazonian indigenous movement believes that a gender approach will not be created within institutional life if the awareness of male leaders is not also raised. In fact, following these workshops, the men's perceptions of indigenous women generally change. The effort to mobilise men and women to jointly organize gender equality workshops is highly productive...¹⁵

3.2 LAND AND NATURAL RESOURCES

A factor which has significant influence in all indigenous peoples' movements is the linkage between land and culture. The culture of indigenous peoples is based on their lands and territories, and there are spiritual dimensions to this relationship. This linkage was a decisive element in the *Kitok* case, which involves a Sami and his right to herd reindeer, decided by the UN Human Rights Committee in July 1988. This is the committee that oversees how the International Covenant on Civil and Political Rights is applied both in law and in practice, in ratifying countries, in this case, Sweden. Article 27 of the Covenant states:

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

In interpreting Article 27, the Human Rights Committee stated: 'The regulation of an economic activity is normally a matter for the State alone. However, where that activity is an essential element in the culture of an ethnic community, its application to an individual may fall under article 27.'¹⁶ In General Comment No. 23 (50)¹⁷, adopted in 1994, the Committee further elaborates as follows (para. 7):

With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include traditional activities as fishing or hunting and the right to live in reserves protected by law. The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them.

¹⁵ Teresita Anatazú López 2004: *Indigenous Amazonian Women: Knowing Their Rights*, paper presented at a seminar on "Indigenous Women and Gender Relations", organized by IWGIA, 26-28 April 2004 in Fredensborg, Denmark.

¹⁶ See Martin Scheinin: *The Right to Self-Determination Under the Covenant on Civil and Political Rights*, in *Operationalizing the Right of Indigenous Peoples to Self-Determination*, Pekka Aikio and Martin Scheinin, eds, Institute for Human Rights, Åbo Akademi University, Turku 2000. Also, Mattias Åhren: *Comparative Study on Indigenous Peoples Culture, Customs and Traditions and Customary Law – The Saami People's Perspective*, in *Defending Diversity: Case Studies*, The Saami Council, 2004.

¹⁷ For more details, see later in Chapter IV. International Developments.

The legal recognition of the linkage between culture and traditional activities is an important contribution towards greater acceptance of indigenous peoples' rights to their lands. Without their land, indigenous peoples cannot survive, and face cultural extinction. This is an imminent threat to many indigenous peoples who are undergoing a process of land dispossession, not to mention those who have already lost their lands through colonization, conquest and oppression. An issue which is not often addressed in an adequate manner is the question of the gender-specific dimensions of the linkage between decreasing ancestral lands and increasing marginalization of indigenous peoples. Indigenous women bear a great share of the burden land dispossession brings in its wake, as experienced in different parts of the world. For instance, in the Philippines: "The loss of livelihoods, the loss of lands leading to massive out-migration to the urban areas, and the consequent food security, are the direct impacts of globalization on agriculture and on those whose lives depend on agriculture...changes in the laws have far reaching effects on indigenous women. The majority of indigenous women are still owner-tillers mainly engaged in subsistence food production."¹⁸

In the same way, in the Chittagong Hill Tracts in south-eastern Bangladesh, which is home to eleven indigenous peoples including the Chakma, Marma, Tripura, Khyang, Khumi, Bawm, Lushai, Mro, Pankhwa and Taungchangya, the primary means of livelihood for the indigenous peoples is mainly subsistence-agriculture, complemented by hunting as a secondary occupation. Bangladesh's policies and development programmes in the CHT have been oriented towards identifying indigenous lands as state-owned, and effectively barring the indigenous peoples from using the lands and natural resources.¹⁹ The indigenous peoples have had their traditional activities curtailed and criminalized as a result, and in the process suffered increasing impoverishment and financial insecurity:

Researchers have pointed out that in developing countries it is women who are the most dependent on forests for their sustenance (Shiva, 1989:18). The traditional division of labour in forest-dependent societies has allocated hazardous tasks as well as those requiring physical strength to men, and work that requires sustained effort and endurance has been assigned to women. The division is strengthened with taboos and beliefs. Deforestation affects indigenous women more than indigenous men because women's primary responsibilities such as cooking fetching water and gathering firewood pose hardships when ecological degradation of forests occurs. This is equally true in the CHT.

...Indigenous women, through their traditional role as *de facto* managers of the rural household are involved virtually in the entire household and outside activities...usually women who have the most intricate knowledge about forest food items, their nutritional value and about herbal medicinal plants. The degradation of natural forests results not only in the extinction of many plants,

¹⁸ Victoria Tauli-Corpuz 1998: *Globalization and its Impact on Indigenous Women: The Philippine Case in Indigenous Women: The Right to a Voice*, IWGIA No. 88 at p. 206.

¹⁹ For more information see Rajkumari Chandra Roy 2000: *The Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh*, IWGIA, Copenhagen, and Raja Devasish Roy 2002: *Land and Forest Rights in the Chittagong Hill Tracts*, published as *Talking Points 4/02*, International Centre for Integrated Mountain Development (ICIMOD), Kathmandu, June 2002.

but the indigenous women's knowledge of their natural resources. Moreover, women have to bear the burden of fetching water and food items, which are farther and farther removed from their homes. Thus the impact of deforestation on indigenous women is not only upon their knowledge systems, economic well-being and health, but on their status in society.²⁰

There is a trend in some indigenous communities to perceive traditional activities such as hunting and gathering, fishing and grazing as the domain of indigenous men, with women taking up paid work in the formal sector in order to supplement the family income. Often this has become the only way the traditional livelihoods can survive, given the current pace of rapid land dispossession and environmental degradation indigenous peoples face, exacerbated by the pressures of globalization:

Women's position has traditionally been strong in both the Saami society in general and reindeer herding communities in particular. Women played a central role in the family structure including in organizing and managing the family economy, in raising and educating children and youth, producing the necessary clothing and household items. This traditionally strong position of women in reindeer herding communities has gradually deteriorated due to various factors:

- (i) The gradual shift from subsistence-based economy to a monetarized economy;
- (ii) Legislation which has indirectly marginalized women in the reindeer herding livelihood; and
- (iii) The general state policy related to reindeer herding in which the man has become the *de facto* head of the family reindeer herds.²¹

Other factors identified as contributing to this process are:²²

- 1) The construction of permanent settlements from the late 1950s to 1960s which resulted in the women becoming more sedentary and thereby partly leaving the nomadic life. This led to a diminution in the traditional role of women in the daily reindeer herding activities, and also contributed to the argument giving men an increasingly prominent role in reindeer herding;
- 2) The increasing motorization of reindeer herding from the 1960s onwards with snow scooters and off-road/trail motorbikes, which as a consequence created less demand for human resources in reindeer

²⁰ Raja Devasish Roy & Dr. Sadeka Halim 2002: *Valuing Village Commons in Forestry*, in *Indigenous Perspectives*, Vol. 5, No. 2 of December 2002, Tebtebba Foundation, Baguio City at p. 21.

²¹ John B. Henriksen 2001: *Reindriftskvinneres rettsstilling (Legal position of women in reindeer herding)* in *Nissonolbmot ja boazodoallu / Kvinner og reindrift*, Reindriftsadministrasjonen, Alta, Norway, September 2001.

²² Solveig Joks (2000). Tradisjonelle kunnskaper i bevegelse – om kontinuiteten i reindrifts praksiser. University of Tromsø, Norway.

herding, with women becoming gradually more and more redundant as workers in this traditional occupation;

- 3) Between 1970-80 a large number of public jobs were created, and many women left the reindeer herding to take up jobs in the public sector; and
- 4) Through the Reindeer Herding Act of 1978, a system of herding licenses was established by the state. The consequence was that the reindeer herds which had in the past been regarded as belonging to the family now became the herds of the license holder only. The license holder, with very few exceptions, were generally men. This led to the alienation of women from this traditional activity, with very few women holding licenses under their own names.

Although some processes are similar for both indigenous men and women, there are those which are gender-specific and indicate there are elements at play which influence processes of gender discrimination leading to inequalities:

Despite their socio-economic and political marginalization, indigenous women play a primary role in production, especially in the subsistence-oriented agricultural communities. The impact of globalization on indigenous women is far-reaching. Physical displacement from their ancestral territories and production base has led to economic and cultural dislocation. Globalization has come in the form of commercial plantation, logging, dam construction and other energy projects, among other things. With the loss of their land, indigenous women also lose control over the natural resources that have been their survival resources since birth. Globalization has also led to an increasing number of indigenous women being forced to migrate to cities in search of work - often under-paid, such as in beauty parlours and in factories.²³

Another example of gender differences in impact of specific laws and policies is related to the male-oriented licensing system in Norway mentioned earlier. This has another, more subtle dimension to its impact on Saami women's financial security:

The state pension is based on a system of 'pension points' which accrues depending on the earnings. In reindeer herding the family earnings are allocated to the license holder i.e. the husband, and although the women make a considerable contribution to the family income or earnings through their participation, directly or indirectly in reindeer herding, yet these are not recognized in relation to the pension point system. The men thus receive a higher pension than women, as women are normally left with the minimum state pension which is granted regardless of earnings. In many cases the women benefit from the husband's higher pension, however in the case of death of the husband or divorce, the women cannot benefit from the husband's higher pension.²⁴

²³ Dr. Sadeka Halim 2003: *Insecurity of Indigenous Women: A Case from the Chittagong Hill Tracts, Solidarity*, Bangladesh Adivasi Forum (Indigenous Peoples Forum), August 2003, Dhaka pp. 95-105.

²⁴ Ibid John B. Henriksen 2001: 49-50.

The end result is the same, with indigenous women having their role and position in the family and the community structure undermined to such extent that from being essential contributors to the family's economic and social well-being, a situation of dependency and vulnerability is imposed on them through globalization and consequential land dispossession:

‘The loss of land due to incursions by MNCs [multi-national corporations], government projects or settlers into indigenous territories is crucial in deciding the fate of indigenous women. Physical displacement from their ancestral territories and production base leads to economic and cultural dislocation. With the loss of their land, women also lose control over the natural resources that have been the source of their survival since birth. They are marginalized for their integral role in agricultural production... Aside from agriculture. Other means of subsistence livelihood are like-wise affected such as fishing, foraging, hunting, livestock raising and small handicrafts, all to the disadvantage of indigenous women. From being important productive forces, they are reduced to being dependent on their husbands or menfolk.’²⁵

These severe consequences on indigenous women cannot be measured only in economic terms. What must also be included in this assessment is how this also impacts her self-esteem and confidence and general well being, and how these in turn will affect her children, the family and the community as a whole.

3.3 POLITICAL REPRESENTATION

In many indigenous communities, women do not play a major role in political bodies, be they elected or traditional, a far cry from earlier times when women exercised a prominent role in decision-making. This is evident in those traditional structures – which have been mostly male-oriented, with some exceptions - but also in the more recent political institutions which have emerged in response to indigenous peoples demands for autonomy and self-government. The experience of the Saami Parliament in Norway, and the councils in the CHT will be used as examples in this regard:

The Saami Experience (Norway)

There are three parliaments for the Saami – in Finland, Norway and Sweden. The first Saami Parliament to be established was in Finland with first elections held in 1972 and the Parliament commencing work in 1973. The Saami Parliament/Sameting in Norway was established in 1989, followed by the Swedish Saami Parliament in 1993:

‘Although they do not have identical functions and tasks, they share the ability to freely and on their own initiative raise questions and issue statements on all questions within their sphere of activity... Formally, the Saami Parliaments have only an advisory status, but actually they play a central political role

²⁵ Jill K. Cariño 2000: *Piecing Together a Picture of Asian Indigenous Women*, in Indigenous Affairs: Indigenous Women, No. 3/2000, IWGIA, Copenhagen at p. 14.

within the national constitutional system in relation to Saami political questions.’²⁶

As a direct consequence of the well known Alta-Kautokeino Case – against the construction of a dam at Alta which would submerge Saami lands, the Norwegian Government appointed a Saami Rights Commission in 1980 to analyse the legal position of the Saami. The Saami Rights Commission presented its first recommendations, NOU 1984:18, which formed the basis for approval of the Saami Act of 12 June 1987. The Saami Act lays the basis for the establishment of the Saami Parliament in Norway.²⁷

The first elections to the Saami Parliament in Norway were held in 1989. There are 39 representatives at the Sameting, elected by and from among the Saamis on the electoral register in Norway from 13 constituencies. The Saami electoral roll has the following criteria for registration based on two elements – subjective and objective:

- (1) That they consider themselves to be Saami i.e. self-identification; and
- (2) Who has any of the following:
 - (i) Saami as a home language; or
 - (ii) Parent(s), grandparent(s) or great-grandparent(s) who has/have or has/have had Saami as a home language;
 - (iii) Is a child of a person who is or has been in the Saami electoral roll.²⁸

The following table depicts the number of Saami women at the Saami Parliament in Norway:

Table 1: Saami women at the Saami Parliament/Sametinget

<u>Election Year</u>	<u>No. of Women</u>	<u>Percentage of Total (39)</u>
1989	13	33 %
1993	12	30%
1997	10	25%
2001	7	18%

(Source: *Don't they want to - or don't they get to? A Study of the Low Number of Female Representatives at the Sameting in Norway*, by Torunn Pettersen, Sámi Instituhtta/Nordic Sami Institute, Kautokeino 2003.

²⁶ John B. Henriksen 1999: *Saami Parliamentary Cooperation: An Analysis*, Nordic Sámi Institute/IWGIA Document No. 93, Guovdageaidnu and Copenhagen 1999 at p. 29.

²⁷ Ibid at p. 36

²⁸ Sameloven (The Saami Act) in Norway, 12 June No. 56 1987, § 2-6.

It can be seen from the above table that there was a progressive decrease in the number of Saami women elected to the Saami Parliament in Norway, from 13 to seven in the course of four elections, which is a reduction from 33% to 18%.

This fall in the numbers of women representatives was a matter of concern for the Saami Parliament and it commissioned a study to analyse this problem. The aim of the study was to examine why active and socially engaged Saami women choose other arenas for influence than direct political channels in general, and the Saami Parliament/Sameting channel in particular. The research team, led by Torunn Pettersen in cooperation with Jorunn Eikjok and Aili Keskitalo, were able to find the following indicators:²⁹

- (i) official statistics that in some of the Sameting constituencies, women have a much higher level of education than men,³⁰
- (ii) statistics from the Saami University College showing that a distinct majority of the students are female; and
- (iii) the high number of women employees at the Sameting, including among the administrative leaders.

‘The question is if this situation can be interpreted as a kind of "gender equality paradox" (conf. Raaum 2001) - i.e. that the Sami society has a *low* percentage of women in its popularly elected body, when it at the same time is a *high* tendency to that Sami women occupy job positions which - to different degrees - demand formal competences...

But this particular study should *also* focus systematically upon a sort of "parallel, but opposite" phenomenon, namely that some of the Sami women who choose to give priority to the home environment, might have this as a *conscious (political) strategy* for taking care of and bringing forward Sami values. For example, this can be by working actively with taking care of social relations and networks - and/or by bringing forward competences in material or immaterial cultural expressions such as language skills, duodji (i.e. Sami crafts), cooking, joik-music and storytelling. The question here is: If [these] really are conscious strategies, can such choices of more traditional ways of living, more or less, be a way of *rejecting* (some) kinds of modern ("western") female roles and dominating values in the so-called "new" knowledge society - at least in the ways these roles and values are expressed in the media?

²⁹ Torunn Pettersen 2003: *Don't they want to - or don't they get to? A Study of the Low Number of Female Representatives at the Sameting in Norway*, Sámi Instituhtta/Nordic Sami Institute, Kautokeino 2003.

³⁰ On the other hand, it must be taken into consideration that it is well known that in some of the Sami areas, many men are occupied in the primary industries. These are industries where formal education traditionally not has been common or easily achieved. The men's relatively low formal competence/education level can therefore not be taken as an expression for that all of these men have low work/occupation competence (Torunn Pettersen 2003).

Jorunn Eikjok, who also collaborated on this research project, together with Torunn Pettersen, entitled: "Election, Representation and Equal Rights", describes this trend:

What we found was that if a woman was to stand a chance of getting elected to parliament, she would have to be placed at the top of her party's list to have the greatest chance of being elected...we proposed a change to the electoral rules. Another obstacle to being elected is that women, in addition to having jobs in the public sector, are rather committed to other work and especially caring for their families, which reduces the time available for commitment to politics. We proposed that the organisations should establish a long term recruitment strategy with the purpose of persuading women more women to become involved in politics. The lack of gender parity in elected Saami legislative bodies represents a dilemma for democracy and legitimacy.³¹

As a result of the study 'the Sameting has put gender equality on the agenda and has also formulated an aim for its work with this issue: "*Sami women and men shall have equal duties, rights and opportunities in every part of society*" (Sametinget 1999, my translation). To succeed in this work, it is necessary to have basic knowledge for action. Such basic knowledge can only be developed by giving conscious and broad priority to research about women's and men's conditions in different contexts in the modern Sami society. Not at least is it necessary to conduct research about choices and conditions that give basis for the *multiplicity* of ways that Sami women - and men! - form their lives in different parts of today's Sápmi.³²

However, there are positive elements. For instance, the vice-president of the Saami Parliaments in Norway is a woman – as too in Finland. Also, with reference to the large number of women in the secretariat of the Saami Parliament/ Sametinget in Norway, including in prominent positions, their influence and power in directing and managing the work of the parliament is considerable. In addition, with both the positions of director and deputy director currently held by Saami women there is persuasive evidence that women do play an active role in decision-making. A factor which may carry some weight and contribute to the reason why more Saami women chose to serve in the secretariat rather than running for and holding political posts, is that very few of the political positions are salaried posts, while the reverse is true for the secretariat. In addition, the majority of posts at the Saami Parliament secretariat require higher education, and since it appears that Saami women often have a comparative edge over their male peers in this regard, this is an important element in the asymmetrical gender balance between the Saami Parliament and its secretariat.

³¹ Ibid Jorunn Eikjok 2004: Gender in Sápmi.

³² Ibid Torunn Pettersen 2003: *Don't they want to - or don't they get to? A Study of the low Number of Female Representatives at the Sameting in Norway*, paper presented at "Gender and Power in the New Europe", the 5th European Feminist Research Conference August 20-24 2003, Lund University, Sweden.

The Chittagong Hill Tracts (Bangladesh)

A Peace Accord agreed in December 1997 between the Government of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti (PCJSS) to end twenty-five years of violent conflict which claimed hundreds of lives, is the basis for self-rule institutions in the CHT. These include (i) a Regional Council to coordinate and supervise all activities in the CHT; (ii) strengthens the power and authority of three Hill District Councils in the districts of the Chittagong Hill Tracts – Bandarban, Khagrachari and Rangamati. The hill district councils were first established in 1989; and (iii) a ministry for CHT affairs to coordinate CHT-related policies and programmes at the central level. The following is a brief overview of these three institutions with reference to the participation of women:

Representation of women at the CHT Peace Accord Institutions

<i>Councils</i>	<i>Membership</i>
<u>Regional Council</u>	22 members
Women (reserved seats)	Three
Current Status:	Interim Regional Council Selected members from the JSS Elections to be held
<u>Hill District Councils</u>	34 members each
Women (reserved seats)	Three each (3x3=9 in total)
Current Status:	five members, one woman (Bandarban) Selected by Government Elections to be held
<u>Ministry for CHT Affairs</u>	one minister in practice selected from among the three elected members of parliament from the CHT
Current status:	one deputy minister (Rangamati MP) (male)

Although there are problems regarding the implementation of the Accord, these three institutions are functioning, albeit nominally. It is apparent from the above table that the representation of women is limited with respect to the CHT institutions - with the exception of the three 'reserved' seats for women in the councils. It should be clarified that the allocation of designated 'reserved' seats for women³³ does not limit women from standing for any of the other seats. This possibility remains open, although given the male dominated political environment in the CHT, it remains to be seen to what extent this opportunity will be availed of by the indigenous women. In addition, at the Council secretariats and administrative offices, indigenous women are

³³ Reserved seats for women at the CHT councils is in line with the practice followed at the national parliament.

under-represented, and of the few who are employed there, none occupy high positions.

The low representation of women in political life in the CHT has been criticized and the need to strengthen women's participation in the political sphere raised. This situation is also reflected in the elections to the national parliament where the CHT has three seats for each of its districts. There have not been any women who has stood in the elections and/or gained a seat – although we have had women who have held the posts of MPs and advisers by direct appointment. The current post holders are all male.

An element which plays a role in the electoral process, and which has been resolved for the Saami, but not for the Jummas, is that of the criteria for inclusion on the electoral roll, given the large number of non-indigenous government-sponsored families who are currently residing in the CHT:

‘A major issue that emerged in these elections was the voters’ roll. The 2001 elections were conducted on the basis of a new voters’ roll prepared in May-June 2000, and this roll included a large number of settlers, security forces and other non-resident plainspeople. Previously, only the indigenous peoples and the plainspeople who were in the CHT on a permanent basis, i.e. a ‘permanent resident’...those Bengalis who had been residing in the CHT for a number of years, owned land there and generally lived in the hill districts at a specific address were ‘permanent residents’ and thus eligible to vote.³⁴ The effect of this demographic manipulation is significant, and will have major repercussions on the CHT in both political and socio-cultural aspects... This was a cause of contention between the PCJSS and the Government during the 2001 elections, and the PCJSS boycotted the election. The inclusion of the settlers, security forces and others on the voters’ roll is seen as an attempt to legalize the settlers and the armed forces in the area, and an effort to dilute the ethnic composition of the region.’³⁵

The lack of political representation of Jumma women has been a subject of some debate and discussion in the CHT:

Although many political leaders informally acknowledged the Hill women's important role during the insurgency; they never formally recognized this role. The masculinist perception in terms of recognizing indigenous women's role is further reflected to a certain extent in the composition of the interim RC (regional council) of the CHT; only 3 out of the 22 members are women and their impact on decision-making is not yet felt strongly. While in the case of the interim hill district councils, not one of the 6 members of each district council is a woman, barring the chairperson of the Bandarban Hill District Council (Halim, 2002).

³⁴ For more details on the 2001 elections, see *CHT Situation Report on the 8th Parliamentary Election*, Information and Publicity Department of the PCJSS, CHT Bangladesh, 15 September 2001.

³⁵ Chandra Roy 2004: *Indigenous Peoples and Elections*, in *Elections and Journalism*, International Reporter, Oslo (forthcoming).

Moreover, women are also severely under-represented in the traditional and largely hereditary institutions of the chiefs and sub-chiefs (raja, headman and karbari)...

Indigenous women are seldom consulted in political matters concerning the community, and far less involved in actual decision-making. Even women who have freed themselves from traditional restrictions at the family level are not yet in a position to either become headman or represent their people in the local power structure. Under the near-hereditary traditional power structure the “Headman” and “Karbari”(village head) is usually a man. Indigenous women are not allowed to hold positions of leadership at the village level and not even as circle chief (barring a few qualified exceptions), as these are usually passed down from father to son. Only in exceptional cases have indigenous women been able to reach such a position of power and authority.³⁶

These two case studies which indicate the low level of participation of indigenous women in the political institutions in Bangladesh and Norway, is somewhat ironic. Both these countries have had female prime ministers – Sheikh Hasina and Begum Khaleda Zia in Bangladesh (each for two terms with the latter currently in power) and Gro Harlem Brundtland in Norway. However, these two experiences are not unique. They are shared by other indigenous women in many countries around the world. As voiced by an indigenous activist from Peru:

We want to be listened to when we propose something good or have an opinion. We do not want our citizenship to be reduced to an electoral vote – we want to exercise our full rights as indigenous and Peruvian women. Our common dream as women, as Peruvians of all kinds, is that solidarity, equality and justice should cut across the gender barrier. The common dream of being respected, wanted, of being electors and elected...³⁷

3.4 EDUCATION

There is a difference in approach towards education for men and women, and in upbringing, which is instilled in us from early childhood:

According to Asta Balto (1986), it is characteristic of Saami society that children have a free and unrestrained upbringing and close contact with their parents' work. This applies to both sexes. At the same time, there is a difference between the skills boys and girls learn, the reason for which can be found in the division of labour between the sexes in Saami society. Certain skills are learned by boys, other skills by girls. As far as the girls are concerned, Balto states that “it is obvious that girls are taught to take their mothers' work, the work around the house” (1986:57)...Girls are tied to the house to a far greater extent than boys...That the division of labour is divided like this between the sexes within society is not very remarkable. Division of

³⁶ Dr. Sadeka Halim 2003: *Insecurity of Indigenous Women: A Case from the Chittagong Hill Tracts*, in *Solidarity*, Bangladesh Adivasi Forum (Indigenous Peoples Forum), August 2003, Dhaka.

³⁷ Tarcila Rivera Zea 2000: *Peruvian Women, Indigenous Women: different faces, same problems, same expectations*, in *Indigenous Affairs: Indigenous Women* 3/2000, IWGIA, Copenhagen.

labour by sex is universal... The problem only arises when the sexually determined division of labour no longer serves a particular function, when the roles into which boys and girls are being socialised are no longer viable.³⁸

The above division of labour is often also a factor in the reason why a larger number of girls than boys are illiterate, and for the higher drop-out rate for girls in all communities, including among the indigenous peoples. There is also the added perception of the principal occupational option for women being marriage and child-rearing, with all other skills and training being complementary to this prime focus. As explained by a Saami woman:

My brother was encouraged to study, since he was to become a provider. I was steered towards cooking and housework since I was to marry and have children, which I did at an early age.³⁹

This point of reference is echoed in many communities around the world, where male children are given preference over their female siblings. Many factors have a bearing on this issue, including the societal and financial pressures. As men are supposed to be the providers, and marry in, whereas women marry out – with the exception of matriarchal and matrilineal societies – it is thus believed to be more productive to concentrate on the male child. As a result there are larger numbers of illiterate women than men, and more girls than boys drop out of school.

This is the situation in many parts of Asia and Africa, including in the Chittagong Hill Tracts where there is a high drop out rate for children, although gender-segregated data is unavailable. One element for this problem is that the teaching is conducted in Bengali, and not in any of the different indigenous languages. Another factor is that in remote areas, children have to walk 3-4 miles to school each way. In addition, ‘although there are no formal estimations of unemployment of university graduates and other higher education-holders in the CHT, it is estimated to be several thousands, possibly up to 5000. The low demand for professional services is almost entirely in the public services, and would confirm that there is a real participation block for participation of CHT people in the wider society of Bangladesh. This is a most unhealthy situation which can in the medium and long run only be remedied by extra and well focused investment aiming to strengthen participation and connection.’⁴⁰

The situation is somewhat different for Greenland, where there is a significant increase in the numbers of Greenlandic women with higher education:

The limited number of educational opportunities in Greenland were long reserved for men. And yet the earliest vocational training of women started in the 1700s, firstly as birth attendants and later as proper midwives. As late as 1932, a further school for girls was established, and girls who graduated from there could subsequently be admitted to a type of teacher’s training college for

³⁸ Vigdis Stordahl 1990: *Why are they so few in Numbers? Women leaders in a sample of Saami institutions in Indigenous Women on the Move*, Document 66, IWGIA, Copenhagen, July 1990 at p. 61.

³⁹ Ibid, Stordahl 1990: 61.

⁴⁰ Source: Final Report, Volume-1, CHTRDP, ADB TA-3213-BAN, March-2000, Survey-99 and Statistical Book’ 98 and information Book published by District Administration, Rangamati.

preschool teachers. Otherwise, there were few educational opportunities for the women during that period. Criticism from the women's movements of these limited educational possibilities brought about changes in attitude as regards gender roles and, not least, the struggle for independence carried with it a new interest in education issues. New areas of education were established and whereas in the 1960s Greenlandic women graduating from secondary school were few and far between, they came out in droves during the 1970s and 80s. As mentioned above, Greenlandic women have, in recent times, put a high priority on education. Some authors conclude that women have even had an advantage over many men, who have long relied on traditional livelihoods as the basis of their identity. Nowadays, many hunters and fishermen supplement their income with waged work.⁴¹

The Saami experience is similar to that of the Greenlandic women:

Since the 1960s, in some of the countries inhabited by Saami, the so-called welfare state has made educational opportunities widely available. This has meant new prospects for Saami youth in comparison to those of their parents. In her book *Saami in the Modern World*, the Saami social-anthropologist Vigdis Stordahl points out that education creates new distinctions in Saami society, and a gulf exists between those who *have* received an education and those who *have not*...It is the women, young as well as mature, who primarily take advantage of the opportunity for education. At the Saami University College in Guovdageaidnu, 80% of the students are women. Many Saami communities lack educational facilities, and if they have them, those available often offer only a limited range of subjects, so many young people must leave the communities to get an education. In certain districts, twice as many girls as boys embark on a college or university-level education...Because the women are more likely to acquire an education, it follows that this in itself creates a new dividing line between the sexes.

However, this has an unprecedented consequence with the Saami women providing the necessary supplementary income by taking up jobs in the public sector, thereby enabling the men to continue their traditional Saami livelihoods of reindeer breeding, fishing and agriculture: 'In other words, the women contribute to the men being able to remain in traditional occupations. This phenomenon may be characterised as a modern barter relationship between women and men based on traditional gender roles.'⁴²

Contrary to the norm in some other indigenous communities, where girls are more likely to drop out of school for various reasons and factors, a newly published study - "Young in Sápmi" - by Saami psychiatrist Siv Kvernmo indicates that in general Saami youth, girls as well as boys, have more problems in school than Norwegian youth, with more Saami boys than girls dropping out of school (Eikjok 2004). This also contributes to the earlier mentioned data on the large number of highly educated Saami women.

⁴¹ Gitte Tróndheim 2004: *The Flexibility of Greenlandic Women*, in *Indigenous Affairs* 1-2/2004, IWGIA at p. 64.

⁴² Jorunn Eikjok 2004: Gender in Sápmi p. 56.

However, an important factor contributing to the high level of education in Greenland and Saami women (in Norway specifically) is that the indigenous peoples are active involved in devising and implementing the educational system applicable to their areas. They also both include indigenous language instruction. This has had significant results as apparent above in strengthening the capacity of indigenous women. These experiences could be shared with other indigenous peoples as a way towards increasing their educational capacities, and in a manner which is appropriate to their culture and circumstances.

3.5 VIOLENCE AGAINST WOMEN

There are many kinds of violent acts committed against women, including indigenous women such as domestic violence, female genital mutilation, sexual abuse, etc. Domestic violence is a problem in some indigenous communities – for instance, among the San in Namibia where ‘wife-battering was most often associated with drinking, and was usually “provoked” by a wife’s “disobedient” behaviour. San husbands are known to get physical if their wives resist their plans to quit their jobs and leave a farm. San women resist such moves because leaving a farm usually means a dramatic decline in their standard of living.’⁴³ In Greenland, in the 1980s, ‘the first crisis centre was established as a shelter for women and children who were the victims of violence.’⁴⁴ This experience is also shared by indigenous women in other communities.⁴⁵ Female genital mutilation is a major issue for instance in Kenya and indigenous women are increasingly calling for an alternative rite of passage.⁴⁶

This paper will address a specific aspect: indigenous women in conflict situations. The situation of the Chittagong Hill Tracts will be used as a reference point to highlight and draw attention to certain parallels shared with indigenous women in similar circumstances.

The Chittagong Hill Tracts has been a conflict zone for the past twenty-five years or more. This has its roots in the dissatisfaction and disaffection the indigenous peoples had with the continuing policy of colonization and oppression which began with the British but continued to the creation of Bangladesh in 1971 and beyond. The main factor to the indigenous peoples taking up an armed struggle in the mid-1970s was a response to the newly-created (and therefore fragile) nation-state of Bangladesh which proclaimed Bengali hegemony and domination as the guiding policy orientation.⁴⁷ ‘The political life of the Hill people of the CHT in the state of Bangladesh thus began with a feeling of indifference and to a certain extent apprehension. This was to turn

⁴³ See Renée Sylvain: *San Women Today: Inequality and Dependency in a post-foraging world*, Indigenous Affairs: Indigenous Women, No. 1-2/2004, IWGIA, Copenhagen at p. 11.

⁴⁴ Ibid Gitte Trøndheim 2004: 61.

⁴⁵ For instance, see Nasieku Tarayia 2004: *Legal Perspectives of Masai Culture, Customs and Traditions* in Defending Diversity: Case Studies, The Saami Council, 2004 at p. 178.

⁴⁶ See Naomi Kipuri 2004: *Female Genital Mutilation* in Indigenous Affairs: Indigenous Women, No. 1-2/2004, IWGIA, Copenhagen at p. 27 and Nasieku Tarayia 2004: *Legal Perspectives of Masai Culture, Customs and Traditions* in Defending Diversity: Case Studies, The Saami Council, 2004.

⁴⁶ Ibid Gitte Trøndheim 2004: 61.

⁴⁷ As reported in Amena Mohsin 1997: *The Politics of Nationalism: The Case of the Chittagong Hill Tracts, Bangladesh*, University Press Limited, Dhaka, there is no accurate figure of human casualties, and estimates range from 200,000 to three million people. For a detailed analysis of the genocide in 1971, see Chaudhuri (1983), Qauderi ed (1972).

into an acute sense of alienation as the state went ahead with its political project of creating a culturally homogenous population on the image of Bengalis, the dominant ethnic community in the state.⁴⁸ This was exacerbated by the government bringing in some 450,000 plainspeople from different parts of the country and settling them in the CHT. The indigenous peoples numbered approximately 600,000 and felt this to be an attempt at diluting the ethnic composition of the CHT and trying to make them a minority in their own lands. The settlers were provided with lands which belonged to the indigenous peoples. This was carried out together with a militarization policy with nearly one-third of the country's army stationed in the CHT. These three elements – assimilation, settlement and militarization had dire consequences for the indigenous peoples whose distinct identity, ancestral lands and freedom of movement were threatened, and their response was to take up an armed struggle.

In the 20 years or more of violent conflict which claimed hundreds of lives, the indigenous women were targeted for their ethnicity and gender, which centred on their central role as the transmitters of their culture to future generations. There are countless reports of rape, forced marriages and abductions of indigenous Jumma women. Although the Peace Accord of 1997 has paved the way for a return to normalcy in the Hill Tracts, with the military remaining a constant and continuous presence in the region, indigenous women do not feel secure, and there are continuing reports of rape and sexual violence, committed by the armed forces, and/or the settlers. For instance, in August 2003, in Mahalchari, in an attack by settlers a number of indigenous villages were set on fire, people injured and property damaged. Ten indigenous women were raped.⁴⁹

A research project on the issue of violence of indigenous women in the CHT analyses the use of rape as an instrument in the struggle for power:

...there is a cultural significance of raping 'enemy women' - especially women of a different race, religion or political affiliation. Rape committed during sectarian conflicts is aimed at mostly ethnic cleansing, for example, as was done in Bosnia... This further depicts the instrumental use of women in the struggle for power (Turshen, 2001: *ibid*). As pointed out by Enloe, ***militarized rape is a distinct act because it is perpetrated in a context of institutional policies and decisions. Militarized rape is directly related to the functions of a formal institution such as the state's national security or defense apparatus or as insurgency's military arm*** (Enloe, cited in Turshen, 2001: 59)... It has been reported that during the insurgency period many indigenous women of the CHT were raped (Guharthakurta, 2000; Malanes, 2000; Mohsin, 2002). As pointed out by Mohsin (2002), rape has been used as an instrument of war against the purity and authenticity of indigenous identity. Indigenous women were targeted because they were regarded as the biological bearers of their peoples and communities...

...Militarization, which still continues in the CHT, in the name of keeping peace in the region, is resulting in much misery of innocent people, both men

⁴⁸ Amena Mohsin 1997: 56.

⁴⁹ PCJSS Report: *An Account of Communal Attack in Mahalchari upon the indigenous Jumma people* by the Bengali settlers with full backing of the Army, September 2003, Rangamati.

and women. Before the end of organized warfare in the CHT, many instances of rape of indigenous women by security personnel were widely reported, if discreetly. The cessation of hostilities may have decreased the risk of such sexual offences, but women are still at risk. Although the 1997 Accord provides for the dismantling of military camps (except for some specified large garrisons), this provision is still to be implemented in substance by the Government of Bangladesh...Furthermore, state-sponsored Bengali immigration (1979-1984) not only led to the displacement of the hill people in the CHT but also created security problems for them, for both the men and the women...As in the case of security forces, instances of rape and violence against indigenous women by the state-sponsored Bengali settlers also took place during the insurgency period. However, such instances seem to have risen in the post-conflict period. This may be because the settlers, who were mostly confined in military-protected "cluster villages" before are now far more mobile because of the end of the guerrilla war.⁵⁰

The impact of armed conflict on women is significant and affects them in different ways. With many of the men engaged in the armed struggle, there is a shift in the traditional role of women and women have to take over as heads of their households. 'These women were in constant struggle, juggling between the household responsibilities and protecting themselves from the ongoing war. Those indigenous girls who were in schools had to drop [out for] a year or two. Village schools were especially affected as the military used many schoolhouses as camps (Guhathakurta, 2000).'⁵¹ There is no rehabilitation or counselling services provided for these victims of gender-based and sexual violence, who also face tremendous emotional and psychological trauma as a result of the assault. 'In the rare cases where the affected women do have courage to speak out and file complaints against military/para-military/police/para-police perpetrators, women may encounter further threats. More often, however, the perpetrators face no consequences and those who report the crimes are further harassed.'⁵² This issue has been raised by Amnesty and by the Special Rapporteur on Violence against Women; however no effective measures have been taken to bring those responsible to justice.

This situation is mirrored in other indigenous regions which underwent, and in some case are still undergoing conflict as in Burma, Guatemala, Nepal, Nagaland in India, Mexico, the Twa women in the Great Lakes region, and in many other countries. The role of women in such situations, including as peace makers and negotiators are often not adequately addressed. It is essential that this issue be given greater focus and addressed in a systematic manner so as to uphold the security and integrity of indigenous women.

⁵⁰ Source: *Violence against women in the CHT* (working title) by Dr. Sadeka Halim, Associate Professor Department of Sociology & Women's Studies, Advocates Susmita Chakma and Rajib Chakma, both practicing lawyers in Rangamati Bar, Chittagong Hill Tracts, commissioned by FFOWSIA, Freedom Foundation, Dhaka, Bangladesh to be published in a forthcoming publication by Freedom Foundation, 2004. Cited with the author's permission.

⁵¹ Ibid at 44.

⁵² Ibid Halim S, Chakma S & Chakma R 2004.

In his report to the Security Council on 16 October 2002 on Women, Peace and Security, the UN Secretary-General, Mr. Kofi Annan states as follows⁵³:

The Security Council, by paragraph 16 of its resolution 1325 (2000) of 31 October 2000, invited me to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution and to submit a report to the Council on the results of that study... Women and children are disproportionately targeted in contemporary armed conflicts and constitute the majority of all victims. Women and children also constitute the majority of the world's refugees and internally displaced persons... During conflict, women and girls are vulnerable to all forms of violence, in particular sexual violence and exploitation, including torture, rape, mass rape, forced pregnancy, sexual slavery, enforced prostitution and trafficking... In addition to the gender-based and sexual violence women and girls experience during armed conflict, the impact of armed conflict on their physical and mental health is incalculable, especially the consequences of violence. They face numerous health threats grounded in biological differences. The use of sexual violence as a strategic and tactical weapon of war places women and girls at increased threat of contracting sexually transmitted infections and HIV/AIDS. This is heightened by systematic gender-based discrimination, which reduces their potential to protect themselves from such infections... The differential impact of armed conflict and the specific vulnerabilities of women and girls can be seen in all phases of displacement, including initial displacement, flight, protection and assistance in refugee and displaced persons camps and resettlement and reintegration. Women encounter discrimination and human rights abuses, sexual violence and exploitation, including domestic violence, and are disadvantaged by laws, policies and programming that do not take their concerns into consideration.

IV. International Developments

There have been a number of international developments which are relevant to indigenous women. The following is an overview:

➤ Declarations and Programmes of Action

These declarations and resolutions are not legally binding, but exercise moral influence. Relevant ones include, but are not limited to the following:

- Agenda 21 and the Rio Declaration on Environment and Development 1992 – article 22 (indigenous peoples);
- The Vienna Declaration and Programme of Action of the World Conference on Human Rights, 1993 - article 18 (gender discrimination)

⁵³ Report of the Secretary General on Women, Peace and Security, 16 October 2002, UN Document No. S/2002/1154

including gender-based violence); articles 28-32 (indigenous peoples) and articles 36-44 (equal status and human rights of women);

- The Declaration on the Elimination of Violence against Women (1993);
- Platform for Action and the Beijing Declaration from the Fourth World Conference on Women 1995 including article 32 (indigenous women); article 36 (indigenous customary law); and article 44 (political participation).
- Beijing Declaration on Indigenous Women 1995;
- World Summit for Social Development, Copenhagen 1995;
- Johannesburg Declaration and World Summit on Sustainable Development 2001, article 25 (role of indigenous peoples in sustainable development);
- The Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban 2001 in particular articles 203-209 (indigenous peoples);
- Draft UN Declaration on the Rights of Indigenous Peoples, adopted by the Working Group on Indigenous Populations in 1993, and currently , under consideration at the Working Group of the Commission on Human Rights.

➤ **International Instruments**⁵⁴

The International Bill of Human Rights – the core human rights instrument – which consists of:

- The Universal Declaration of Human Rights (1948) – which exercises considerable moral authority, and has come to have the force of a universal standard on human rights obligations;
- The International Covenant on Economic, Social and Cultural Rights (1996). The application of this convention is monitored by the Committee on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights (1966) which is monitored by the Human Rights Committee. There are also two Optional Protocols to the Covenant - one allowing individual complaints to be filed by victims of violations and a second one to abolish the death penalty. Article 27 specifically addresses the rights of minorities, and has been used by indigenous persons. As mentioned earlier, the Committee has begun to take an interest in indigenous peoples and has a

⁵⁴ Adapted from John B. Henriksen and Chandra Roy 2001: Training Manual on Human Rights Standards and Policy Processes.

number of decisions on this issue.⁵⁵

These are supplemented by conventions on major issues:

- The Convention on the Rights of the Child (1989) which is monitored by the Committee on the Rights of the Child (CROC) - article 8 (identity) and article 30 which specifically addresses the right of indigenous children to culture, religion and language;
- The Committee on the Elimination of Racial Discrimination (CERD) 1965 which looks into the application of the International Convention on the Elimination of All Forms of Racial Discrimination. The CERD Committee has raised the issue of indigenous peoples including indigenous women during the course of its work,⁵⁶
- The Committee on Elimination of Discrimination Against Women (CEDAW) examines the implementation in law and practice of the Convention on the Elimination of All Forms of Discrimination Against Women, 1979. The Committee has 23 experts and is based in New York;
- The Committee against Torture (CAT) monitors the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted in 1984. Under article 22 of the Convention, *individuals* can submit communications on the merits of a case. Some forty states recognize this competence;

Governments that have ratified, i.e. signed on to these conventions, must submit periodic reports to the relevant committee where they provide information on measures taken in law and practice to implement the provisions of the treaty and to fulfil their obligations as required. These are avenues to raise the concerns of indigenous women under the specific theme.

- Convention on Bio-Diversity (Article 8j) 1994. This was a result of the UNCED process and includes a specific reference to indigenous peoples in article 8j.

➤ **General Comments of the Treaty Bodies relating to Indigenous Peoples**

The following are some general comments made by the treaty bodies which are relevant to indigenous peoples⁵⁷ and can also be used by indigenous women. They are also an important source of international legal practice and exercise great persuasive authority:

- General Recommendation No. 25: Gender related dimensions of racial discrimination, 20 March 2000 (A 55/18 annex V):

⁵⁵ See Martin Scheinin 2000 for more details.

⁵⁶ See web pages for details on specific situations at the UN Human Rights web-site at www.unhcr.org

⁵⁷ See UN document E/CN.4/Sub.2/AC.4/1998/5 of 10 June 1998

1. The Committee notes 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. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.

2. Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers. Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape; in some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.

3. Recognizing that some forms of racial discrimination have a unique and specific impact on women, the Committee will endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination. The Committee believes that its practices in this regard would benefit from developing, in conjunction with the States parties, a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights on grounds of race, colour, descent, or national or ethnic origin.

4. Accordingly, the Committee, when examining forms of racial discrimination, intends to enhance its efforts to integrate gender perspectives, incorporate gender analysis, and encourage the use of gender-inclusive language in its sessional working methods, including its review of reports submitted by States parties, concluding observations, early warning mechanisms and urgent action procedures, and general recommendations.

5. As part of the methodology for fully taking into account the gender-related dimensions of racial discrimination, 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.

6. Noting that reports submitted by States parties often do not contain specific or sufficient information on the implementation of the Convention with respect to women, States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. Data which have been categorized by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

- General Recommendation XXIII (51) on the rights of indigenous peoples (CERD), 18 August 1997 (A/52/18, annex V):

(Extracts)

3. The Committee is conscious of the fact that in many regions of the world indigenous peoples have been, and are still being, discriminated against, deprived of their human rights and fundamental freedoms and in particular that they have lost their land and resources to colonists, commercial companies and State enterprises. Consequently the preservation of their culture and their historical identity has been and still is jeopardized.

4. The Committee calls in particular upon States parties to:

(a) Recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation;

(b) Ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity;

(c) Provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;

(d) Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life, and that no decisions directly relating to their rights and interests are taken without their informed consent;

(e) Ensure that indigenous communities can exercise their rights to practice and revitalize their cultural traditions and customs, to preserve and to practice their languages.

5. The Committee especially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use

their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories."

- Extract of General Recommendation XXI (48) on the Right to Self-determination (CERD), 8 March 1996 (A/51/18, Annex VIII):

9. In respect of the self-determination of peoples two aspects have to be distinguished. The right to self-determination of peoples has an internal aspect, that is to say, the rights of all peoples to pursue freely their economic, social and cultural development without outside interference. In that respect there exists a link with the right of every citizen to take part in the conduct of public affairs at any level, as referred to in article 5 (c) of the International Convention on the Elimination of All Forms of Racial Discrimination. In consequence, Governments are to represent the whole population without distinction as to race, colour, descent or national or ethnic origin. The external aspect of self-determination implies that all peoples have the right to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation, domination and exploitation."

- General Recommendation VIII (38) concerning Self-Identification (CERD), adopted on 21 August 1990 (A/45/18, chap. VII)

...Having considered reports from States parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic group or groups,

Is of the opinion that such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.

- General Comment 23 (50) concerning ethnic, religious and linguistic minorities (Human Rights Committee), 6 April 1994 (A/49/40, annex V).

(Extracts)

3.2. The enjoyment of the rights to which article 27 relates does not prejudice the sovereignty and territorial integrity of a State party. At the same time, one or other aspect of the rights of individuals protected under that article - for example, to enjoy a particular culture - may consist in a way of life which is closely associated with territory and use of its resources.

This may particularly be true of members of indigenous communities constituting a minority.

7. With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them.”

9. The Committee concludes that article 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed towards ensuring the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole. Accordingly, the Committee observes that these rights must be protected as such and should not be confused with other personal rights conferred on one and all under the Covenant. States parties, therefore, have an obligation to ensure that the exercise of these rights is fully protected and they should indicate in their reports the measures they have adopted to this end.”

- Extract of General Comment 7 on the right to adequate housing: forced evictions (Committee on Economic, Social and Cultural Rights), 20 May 1997 (E/C.12/1997/4).

...Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved."

➤ **ILO standards**

The International Labour Organization (ILO) has adopted the only two international instruments which deal exclusively with indigenous peoples:

- Convention No. 107 on Indigenous and Tribal Populations, 1957
- Convention No. 169 on Indigenous and Tribal Peoples, 1989 - which revises Convention No. 107, and is the current instrument which is open for ratification.

These are the only two legally binding international instruments exclusively addressing the rights of indigenous peoples and are important tools for indigenous

women to use in advancing their rights. A number of countries are signatory to Convention No. 107 including Bangladesh, India and Pakistan; while the more up to date Convention No. 169 has been ratified by 17 countries to date including Brazil, Bolivia, Costa Rica, Colombia, Denmark, Ecuador, Fiji, Guatemala, Mexico, Norway and Peru, to mention a few.

In addition, the ILO also has a number of other conventions which are of relevance to indigenous women of which the Equal Remuneration Convention (No. 100) of 1951 which calls for equal pay for work of equal value and Convention No. 111 on Discrimination (Employment and Occupation) 1958 on equal access to work and education are important. Convention No. 111 has been used to focus attention on indigenous peoples and indigenous women where there are differences of treatment and of approach for instance in Australia with reference to the high unemployment rate for indigenous Aborigines.⁵⁸ Also of relevance is the Convention on Forced Labour and the Convention on the Worst Forms of Child Labour 1999 (No. 182).

➤ **Special Rapporteurs**

The UN also has the practice of appointing special rapporteurs for thematic issues which are of global interest, and for specific country situations. Some of the ones which are of relevance to indigenous women are:

Commission on Human Rights

- The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples;
- The Special rapporteur on Violence against Women, its causes and consequences.

There is also the Commission on the Status of Women and the UN Programme for Women (UNIFEM). Their work needs greater focus on indigenous women.

V. Concluding Remarks

This article has been prepared as a contribution to the UN Permanent Forum's Third Session of 2004 where the focus is Indigenous Women. It is impossible to include in one report the myriad of problems indigenous women face, or to describe how they have responded to these challenges. The aim is to stimulate discussion as a way of generating solutions to how to better protect the integrity and security of indigenous women. Only with their active involvement can there be any meaningful dialogue and cooperation on how best to meet the challenges of the 21st century.

⁵⁸ See Reports of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1 A), ILO, Geneva for details under specific country reports and under specific conventions. Also see Chandra Roy and Mike Kaye 2002: *The International Labour Organization: A Handbook for Minorities and Indigenous Peoples*, Anti-Slavery and Minority Rights Group, London 2002 at p. 12.

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