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Statement submitted by Foro Internacional de Mujeres Indígenas (FIMI), International Work Group for Indigenous Affairs (IWGIA), non-governmental organizations in consultative status with the Economic and Social Council*

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* The present statement is issued without formal editing.

Statement

This written statement is submitted in response to the priority theme; "Ensuring and strengthening access to justice for all women and girls, including by promoting inclusive and equitable legal systems, eliminating discriminatory laws, policies, and practices, and addressing structural barriers".

Access to justice remains a critical issue for Indigenous women worldwide. Structural inequalities, discrimination, and the lack of culturally appropriate legal mechanisms often prevent Indigenous women from fully exercising their rights. Many face barriers such as language, geographic isolation, and limited knowledge of legal procedures, which are compounded by gender-based violence and the discrimination and marginalization of Indigenous Peoples. Ensuring meaningful access to justice for Indigenous women requires not only legal reforms but also the recognition of Indigenous governance systems, the inclusion of Indigenous women in decision-making processes, and the provision of resources that empower them to seek redress and protect their individual and collective rights.

Access to justice is a fundamental principle of the rule of law. Yet, for many Indigenous women this right remains out of reach. Indigenous women and girls, who represent approximately 2.5% of the global population, continue to be among the most disadvantaged. Their pursuit of justice is obstructed by deeply rooted and intersecting forms of discrimination.

The Committee on the Elimination of Discrimination Against Women (CEDAW) General Recommendation No. 39 (CEDAW/C/GC/39) (2022) affirms Indigenous women's rights to equality, dignity, and self-determination. Justice systems - both State and Indigenous - must be accessible, culturally appropriate, and aligned with international human rights standards. States must ensure timely remedies, accessible legal aid, and the meaningful participation of Indigenous women in justice leadership and decision-making. Special attention is needed for Indigenous women with disabilities, who face compounded challenges.

Despite global commitments, Indigenous women still face disproportionate levels of violence, while being denied the support needed to seek redress. Structural barriers such as institutional discrimination, gender-insensitive procedures, and the lack of culturally relevant legal services persist. For many, engaging with formal legal systems means confronting stigma, neglect, and inaccessible processes.

While the judiciary of the State is inaccessible, many Indigenous women turn towards Indigenous justice systems within their communities to seek justice. These are however often not recognized nor effectively ensuring their access to justice – especially when the perpetrators are from outside the community. Some Indigenous justice systems also require reform to be fully gender-inclusive and address harmful practices within their community.

To close these gaps, justice systems of the State as well as the Indigenous communities, must be transformed to reflect the lived realities of Indigenous women.

CEDAW has called for both Indigenous and non-Indigenous justice systems to align with international human rights standards, rather than imposing restrictive rules that limit Indigenous jurisdiction. Indigenous women must be central voices in these reforms.

In May 2025 Special Rapporteur on the independence of judges and lawyers Margaret Satterthwaite published the report "The right of Indigenous Peoples to maintain and develop justice systems" (A/HRC/59/52). Three primary challenges were highlighted:

1. Non-recognition of Indigenous Peoples and/or their justice systems.
2. Formal and informal limitations on the justice systems of Indigenous Peoples, despite formal recognition
3. The failure of States to adapt ordinary justice systems to the needs of Indigenous Peoples.

The Special Rapporteur calls upon states to: "...recognize Indigenous justice systems in constitutional or other legal provisions; ensure that decisions of those systems are respected; and refrain from criminalizing Indigenous authorities". The report advocates for enhanced coordination between Indigenous justice systems and ordinary legal systems and highlights the value of blended justice approaches.

International human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), affirms the right of Indigenous Peoples to maintain, strengthen, promote, and develop their own legal institutions and juridical systems (Article 5 and 34).

Despite these protections, customary legal systems are denied legal status in many countries. This undermines Indigenous Peoples' right to self-determination and disproportionately affects Indigenous women's access to justice. Indigenous justice systems are deeply rooted in culture and serve as effective mechanisms for governance, conflict resolution, and protection of rights. Evidence shows that where Indigenous law is freely practiced, crime rates are lower and conflict resolution is more effective. And it is an important part of upholding principles of autonomy and self-determination.

Although Indigenous Peoples have recognized rights to maintain/ develop their own legal systems, the status and treatment of these systems vary significantly across countries. In some states Indigenous Peoples' justice systems are denied recognition or are even criminalized. In other, Indigenous systems operate in a legal grey zone, where they are neither formally acknowledged nor suppressed, allowing limited de facto jurisdiction. Even where Indigenous justice systems are formally recognized, their authority is often restricted. These systems may be subordinated to state courts, deprived of resources, or confined to narrow jurisdictional boundaries. Such constraints undermine their ability to deliver justice effectively and equitably, as also noted by the Expert Mechanism on the Rights of Indigenous Peoples.

Indigenous Peoples have the right to promote and maintain their justice systems in line with international human rights standards. Any interference with Indigenous jurisdiction must be legally justified, non-discriminatory, and strictly necessary to protect their rights and freedoms.

However, many states impose excessive limitations that go beyond what human rights law permits and do not reflect the needs or realities of Indigenous communities. One serious consequence of this is a culture of impunity for perpetrators of sexual violence against Indigenous women. Non-Indigenous offenders often fall outside indigenous jurisdiction, while federal authorities frequently fail to prioritize these cases.

Indigenous Peoples continue to face systemic injustice within ordinary legal systems, which often perpetuate colonial structures. They are disproportionately affected by criminalization and punitive legal practices and face elevated risks of over-policing, arbitrary arrests, pretrial detention, incarceration, solitary confinement, and deaths in custody.

Indigenous cultural and religious practices are still criminalized. In conflict zones, Indigenous communities are often wrongly accused of collaborating with armed groups, further endangering their safety and rights.

Indigenous women and children are especially affected. Language barriers, lack of legal representation, and systemic bias hinder fair trials and access to justice. Legal professionals from non-Indigenous backgrounds often carry colonial attitudes and cultural biases, leading to further marginalization.

Law enforcement bias, inadequate investigations, and refusals to prosecute contribute to deep mistrust and underreporting. This is especially evident in cases involving extrajudicial killings, violence against Indigenous leaders, land dispossession, and gender-based violence.

The Special Rapporteur on the independence of judges and lawyers emphasizes that the right of Indigenous Peoples to maintain, strengthen, and develop their own legal institutions and juridical systems, does not exempt states from their obligation to provide equal access to justice within ordinary systems. Under the International Convention on the Elimination of All Forms of Racial Discrimination, states must actively dismantle discriminatory practices and ensure substantive equality in law and practice and ensure equality before courts and tribunals and guarantee procedural fairness, access to interpretation, legal representation, and legal aid.

It is pivotal to adapt civil justice systems to meet the needs of Indigenous women, girls, and persons with diverse SOGIESC.

We therefore recommend member states to:

1. Guarantee that Indigenous women and girls can fully access both Indigenous and non-Indigenous justice systems free from racial and gender-based discrimination, bias, harmful stereotypes and reprisals.
2. Ensure inclusion of Indigenous women in legal and policy decision-making processes and appointing them as justices and court personnel.
3. Ensure that justice systems are equipped with culturally competent professionals and accessible legal information.
4. Ensure that Indigenous women and girls have access to aid, particularly in cases involving gender-based violence.
5. Adapt state justice systems to be culturally relevant, accessible, and responsive to Indigenous peoples, including the specific needs of Indigenous women, girls, & persons of diverse SOGIESC.
6. Ensure access to legal education and information for all Indigenous women and girls on their rights and how to navigate justice systems.
7. Guarantee Indigenous women and girls the rights to a fair trial, equality before the law, and equal legal protection.
8. Recognize Indigenous justice systems in constitutional or other legal provisions as a core element of self-determination.
9. Ensure justice systems comply with international human rights standards
10. Ensure that decisions of Indigenous justice systems are respected.
11. Ensure enhanced coordination between Indigenous justice systems and non-indigenous justice systems
12. To dismantle discriminatory anti-Indigenous attitudes or practices among justice operators, such as judges, prosecutors and lawyers, as well as cultural competency training and skills.