

VIOLENCE, CUSTOMARY LAW AND INDIGENOUS WOMEN'S RIGHTS IN ASIA



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Asia Indigenous Peoples Pact



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It is now widely recognized that the majority of the world's indigenous peoples live in Asia, and that Asia therefore also holds the world's most diverse indigenous population. Collated rough country-level estimates for South, Southeast and East Asia lead us to conclude that indigenous peoples may number as many as, or even more than, 260 million people. Comprised of hundreds of ethnic groups with their own distinct languages, cultures, social organizations and livelihood systems, Asia's indigenous peoples are harbouring a large share of the world's cultural diversity.

The particular religion, culture, livelihood system and social organization of a people affect the situation of women and men and their relationship to each other. This means that gender relations differ from one indigenous society to another. Society assigns particular roles, rights and responsibilities to men and women along with their relative status. In some indigenous societies in Asia, like among the Batek of Malaysia, the status of men and women is more or less equal. In other indigenous societies in Asia, like among the Hmong of Southwest China and adjacent countries, men are very dominant. In most indigenous societies in Asia the gender relations lie somewhere in-between these two poles.

There are however also factors within communities that affect the relationship between men and women, such as age, marital status (married, unmarried, widowed), political and economic status of their family (daughters of leaders or wealthy land owners etc.) or education and specific skills they possess (being a healer, traditional midwife). And a woman may experience changes in her status and gender relations during her lifetime, i.e. she may gain more respect and rights as a mother and the older she grows.



Often, the gender relations in indigenous societies has been somewhat idealized and inequalities have been overlooked. The Naga anthropologist Dolly Kikon, for example, criticizes the anthropological distortion of Naga society in this respect and reminds us what realities Naga women are facing:

“Every Naga woman has experienced humiliation and insults from the men on the basis of her womanhood. These men are not outsiders or strangers. They are their ‘respected’ uncles, cousins and in some cases their fathers and brothers who never fail to remind them about the predestined inferior roles that have already been slated out for them.” (Kikon 2002: 179)



Gender relations in Asian indigenous societies have undergone and continue to undergo changes, in response to external factors. Values and gender relations of the dominant mainstream society which indigenous peoples are forced to co-exist with can have a detrimental effect on the status and thus the overall situation of indigenous women. In India and Nepal, for example, some indigenous peoples have come to be strongly influenced by Hindu society in which women have a decidedly subordinate status. Adaptation to Hindu society may even go as far as the adoption of the practice of demanding a dowry, which carries with it the implication that baby girls become unwanted and unborn girls are often forcefully aborted. On the other hand, education raises awareness among indigenous women and offers access to jobs and positions which carry a higher status and thus the potential to change gender relations.

INDIGENOUS WOMEN IN ASIA: NO PARTICIPATION IN DECISION MAKING AND INCREASING EXPERIENCE OF VIOLENCE

The socio-cultural diversity of indigenous peoples and the often rapid changes they are currently undergoing make it difficult to provide a general picture of the situation of indigenous women in Asia. However, just as it is possible to point out a number of critical key issues indigenous peoples in Asia are generally confronted with, it is possible to identify similarities in the situations of indigenous women of this region.

Overall, the situation of indigenous women – not just in Asia – has been characterized as being one of double discrimination: indigenous women are discriminated against because they are indigenous and because they are women.

Belonging to an indigenous community means that women suffer from all the discrimination, exploitation, marginalization and human rights violations indigenous peoples are experiencing across the world. It is well known that above all the loss of lands and resources due to commercial logging, land-conversion for monoculture plantations, extractive industries, dams or protected areas is seriously impacting on the lives of indigenous peoples. Women in particular feel the impact of loss of land and access to resources, maybe even more than the men since they are more directly responsible for taking care of and bringing up their children. Often, dispossession goes hand in hand with violence by state armed forces, settlers or the security personnel of private companies. The occupation of indigenous peoples' land not only means forced eviction but murder and sexual harassment including rape of indigenous women.

In the Northeast region of India, for example, prolonged militarization and internecine and inter-community violence has resulted in economic hardships and poverty, and serious human rights violations. In Lao PDR, indigenous women who have been impacted adversely by development projects have been forced to become migrant workers (APWLD and MASUM, 2008:27). Loss of traditional livelihoods, displacement, conflict and increasing poverty have increased the vulnerability of indigenous women to various forms of violence. Consequently, in conflict areas like the Northeast of India or indigenous areas in Burma, trafficking of indigenous women and children for sexual exploitation and forced labour has become a major issue (IWCF and AIPP 2010). Furthermore, an increasing number of indigenous women is being encouraged to seek work in urban centers or overseas to sup-

port for their families. With their limited skills and knowledge of the realities of urban living, they frequently end up as abused domestic helpers, become victims of sexual abuse including rape, are forced into prostitution or to become mistresses of married men.

Indigenous women, however, are also facing discrimination and violence from within their own society. One of the root problems is that women are excluded from participation in decision-making, especially outside the domestic sphere. As women they are often stereotyped as being fit only for domestic work and are excluded from community affairs. Women are considered inferior to men and in many indigenous societies' politics and thus all public affairs are dominated by men, and women are not or only marginally involved in decision-making customary institutions like village or tribal councils. This continues to be the case where these institutions have been replaced by the state administrative systems, i.e. local government bodies. Even though women have the right to vote and formally have equal access to respectable positions, they do not participate actively and local governments are therefore often dominated by men.



The almost non-existent participation of indigenous women in decision-making within customary institutions and the related or corresponding state structures reproduces and reinforces the discrimination they are already experiencing.

Compared to their men, indigenous women also have less access to higher and often even basic education, basic health services and employment. Given the already difficult condition of indigenous communities in terms of basic social services, this is compounded by the traditional view of indigenous communities, as well as that of the wider society, that men are more deserving of education. Likewise, the specific reproductive health of indigenous women is also not given due consideration.

Sadly, as a result of their inferior status in their own society indigenous women are often exposed to violence exerted by their own men, or even by the whole community. Physical and psychological domestic violence are increasing in indigenous communities, partly as a result of loss of land and resources and increasing poverty, partly in the wake of cultural assimilation, i.e. the adoption of values which are even more discriminatory to women.

ADDRESSING THE PROBLEMS THROUGH EMPOWERING INDIGENOUS WOMEN IN TRADITIONAL CUSTOMARY INSTITUTIONS

Indigenous women across Asia have started to organize and educate themselves and their sisters in their communities to make them more aware of their rights as indigenous peoples and as women, to address the increasing violence they are experiencing, and to gain access to decision-making processes in their own communities. To support such initiatives, the Asia Indigenous Peoples Pact (AIPP) has launched the project "Empowering Indigenous Women in Traditional Customary Institutions" in cooperation with local indigenous women's organizations in Nepal, India and the Philippines. The three-year project received funding from the UN Trust Fund to End Violence Against Women, UN Women, and started in October 2010.

The project activities include community awareness-raising on the rights of women and violence against women (VAW), leadership capacity building of indigenous women, lobby and advocacy work with traditional institutions and local government units, and networking with different groups, NGOs

Empowering Indigenous Women in Traditional Customary Institutions	
Project Fact Sheet	
Project holder	Asia Indigenous Peoples Pact (AIPP)
Local partner organisations	Cordillera Women's Education Action Research Center (CWEARC) in the Philippines, the National Indigenous Women's Federation (NIWF) of Nepal, the Adivasi Women Network (AWN) and the Indigenous Women Forum of North East India (IWFNEI) in India
Geographic coverage	
India	In Manipur state, in 13 communities in the five hill districts Chandel, Churachandpur, Senapati, Tamenglong and Ukhrul. Each of the villages belongs to a different tribe. Thus the project involved the following 13 tribes: Anal, Lamkang, Maring, Mayon, Zou, Paite, Vaiphei, Tidim Chin, Mao, Poumai, Maram, Tangkhul and Zeliangrong In Jharkhand, in 13 communities in five districts: Khunti, Simdega, Latehar, Hazaribag and West Singhbhum. The communities belong to five Adivasi groups of Jharkhand: Munda, Kharia, Uraon, Santhal and Ho
Nepal	13 Magar and Tamang communities in Kavre and Rolpa districts of the hill region, and 13 communities belonging to the Dhanuk and Tharu indigenous peoples in Dhanusa and Dang Districts of the Terai region
Philippines	In the Mountain province of Cordillera region, 13 communities belonging to the Kankana'ey and Bontok from the two Municipalities Sagada and Bontoc On Mindanao island, 13 communities belonging to the B'laan people of the three Municipalities of Alabel, Kyahe and Tamayan in Saranggani Province
Project duration	October 2010 to December 2013



and other institutions. After one and a half years of implementation, the project has helped gain a number of important insights and it is already beginning to make strategic impacts to indigenous women at the grassroots level in the project area.

Know Your Rights: Awareness of National and International Law

All three project countries ratified the CEDAW and brought their national legal frameworks relating to women in line with CEDAW. There are specific provisions in their constitutions on the equality of men and women, non-discrimination based on gender, and recognition of the rights of women. These countries have also voted in favour of the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

There are special government bodies, national programmes and action plans on women. All countries involved in the project have a National Commission on Women. In the Philippines, for example, 5% of the budget of national agencies and local government units is allocated for gender and development, there is an Anti-Violence Against Women and Children law and the Philippine National Police (PNP) has created the women and children's protection desk handled by female personnel. In 2009 parliament passed Republic Act 9710, also known as Magna Carta on Women, that guarantees the protection of the rights of women. Nepal is currently re-drafting its Constitution under a democratic system of governance, and a significant number of indigenous women are part of the

Constituent Assembly. In India, the Ministry of Law has been tasked with harmonizing all laws and acts with international human rights principles and policies related to gender equality and gender justice. There are specific laws such as the Panchayati Act 1996 which ensures political rights to women, the Dowry Prohibition Act 1961, laws relating to violence against women include the Witch Hunting Prohibition Bill of 1999, Sexual Harassment of Women at Work Place (prevention, prohibition and redressal) Bill 2006 and the Protection of Women from Domestic Violence Act of 2005. In the state of Jharkhand, a recent Supreme Court decision on the tribal local council governance includes a provision that 50 % of tribal Council members shall be women.

In general, however, the awareness of women's rights and the respective national laws and international legal instruments among indigenous women involved in the six project areas is fairly low, though there are considerable differences between the areas. In the Cordillera region in the Philippines, women are more aware of laws and international legal instruments and thus also of CEDAW due to the work of the local government, indigenous NGOs and people's organisations, and particularly the regional and local women's organisations. In most communities involved in the project, seminars or workshops on women's rights or even on the national law on violence against women were conducted. In contrast, none of the indigenous women interviewed in Nepal knew what CEDAW was, and interviews with women in the 13 targeted villages in Manipur, Northeast India, also revealed that the

How Awareness-Raising on Women's Rights is Branded as Leftist Propaganda: The Experiences of Fidelisan Community in Sagada, Cordillera, Philippines

In previous years, the women of Fidelisan and even other members of the community have had various training courses in relation to women. In fact, the local peoples' organization ASUP has a women's committee. This committee is in charge of concerns and development issues for women. In the past, this committee has enjoyed the power to enforce customary law and thus promote unity of the tribe in relation to peace and order, or in relation to the extraction and utilization of natural resources. They have also enforced many regulations in relation to small-scale mining practices.

The ASUP has sponsored various seminars on women's issues such as basic women's orientation, human rights, food sovereignty and many livelihood projects in Fidelisan. However, times have changed: training and education activities for the women and community in relation to women have stopped. This is largely due to militarization of the area in the late 1980s up to the early 1990s. This has caused fear amongst the community as security forces and the government branded the training activities brainwashing on the part of the leftists or the New Peoples Army (NPA, a communist armed group). Because of numerous human rights violations against their members by the armed forces, many people chose not to be involved in development-oriented activities any more. Only a few of the women who have had such training in the past are now present there. Many do not actively voice their knowledge. This is for fear of being demonized as a member of the NPA or a communist.

Today it is the local government and government agencies that have taken over and are able to conduct seminars on women in the community. The municipal social welfare and development office have also done educational work on the Anti-VAW law in cooperation with the local police force. Workshops on reproductive rights of women were also undertaken with the rural health unit and the UNFPA.

women are not aware of their rights and have not even heard about UN Conventions like CEDAW.

The same applies more or less to the awareness of indigenous peoples' rights and international legal instruments like ILO Convention 169 or the UNDRIP. With the exception of the Cordillera region in the Philippines and, to a lesser extent, the two proj-

ect areas in Nepal, hardly any woman interviewed knew anything about the existence of these instruments and their significance.

Indigenous Women, Decision Making and Customary Law

Customary law and institutions still exist in all six project areas, but they differ with respect to their strength and thus relevance in the daily lives of people. In all areas, the customary governance institutions have been weakened through the imposition of the state's political-administrative system. In some cases, such as among the Naga people of Manipur, India, or some of the tribes in the Cordillera in the Philippines, the customary governance institutions exist parallel to the local government institutions. In others, like among other communities in the Cordillera, they have somewhat merged, while among the B'laan in Mindanao, Philippines, the local government body has largely replaced the customary governance institutions. Traditional leaders, however, still play an important role in conflict resolution there.

In the Philippines, the Indigenous Peoples Rights Act recognizes customary self-governance of indigenous communities and in Nepal, since the ratification of ILO Convention 169, customary law and institutions are supposed to be recognized by the state. The problem, however, is implementation. This is not only due to the lack of interest or prior-





The End of the Dap-ay among the Kankana'ey?

The dap-ay or the village council of elders used to be the key socio-political institution in most of the Kankana'ey communities of Sagada. The dap-ay is also the name of the place where the council of elders used to meet to discuss matters that affected the community. It is a simple stone dwelling, with a circular area in the outer area of the structure with a bonfire pit in the middle. It also has an enclosed portion, which is roofed but windowless and has a low opening but no door, where the men slept or rested.

Times have changed. The old men in the village lament that there are no longer younger men who sleep in the dap-ay or stay during ceremonies. They do not have anybody to pass their traditional knowledge on to. This is because many young men are now working in small-scale gold mining. Many young men spend their wages in the gambling dens or on drinking in the stores or bars in the nearby town centres.

The village elders say that the dap-ay is dying and along with it the values that the dap-ay teaches in relation to women. Many people do not listen to elders anymore. They listen to those who have the biggest investment in the small scale mining area. The young men absorb what they see on television or what they watch in Filipino and Western films. Many of these even contribute to the destruction of values and respect for women and girls. Some elders also say that it is religion that has caused the dap-ay to disintegrate. Christian priests have branded it as "paganism" and so a backward, even demonic, practice that has to be shunned.

ity on the part of the government but also because over the past decades these institutions have been severely weakened. In Nepal, the recent political changes and democratization process have created the space and incentive for indigenous communities to revitalize and improve their customary law and self-governance institutions. About two-thirds of the 105 women and men interviewed found that community efforts have been able to strengthen and improve the customary institutions. Many also acknowledged the supportive role of NGOs and CBOs.

Overall, the survey conducted in Nepal found that most people considered that the interaction and cooperation between the customary institutions

and the local government was lacking or insufficient. It was also pointed out that the two systems were often in conflict with each other.

In Jharkhand in India, the integration of customary governance and local government institutions appears to be more successful and most of the people interviewed during the survey were of the opinion that the local governance system is recognizing the traditional system.

Common among the customary governance institutions in all project areas is that they are fully dominated by men. In most indigenous communities included in the project, women have no access and therefore are not able to participate directly in

decision-making processes at the community level, like in the clan, village or tribal councils. Among the Tharu of Nepal (as with some other indigenous peoples there), women can theoretically assume the role of the village head, assistant village head, treasurer or any other customary official role. In reality, however, this only very rarely happens. As the researchers conducting the baseline survey among the Tharu concluded,

“Neither a woman herself becomes ready to lead the system nor would villagers, and above all men, trust any woman for the posts. It is so because women are not literate and empowered enough to lead this system. It is also so due to the influence of patriarchy.”

There are exceptions, even among indigenous societies in which leadership is reserved for men only. Under special circumstances women with outstanding leadership qualities have taken leading roles in the village, or have even been made village chiefs, like among the Maram Naga of Manipur. In Maram Namdi village, Queen Apei Hinga became the chief after her husband died and remained in this position for many years, until she died.

The situation changes to some extent when customary governance institutions are replaced by or merged with local government institutions of the state. In Jharkhand, for example, the Jharkhand Panchayati Raj Act (“village government act”) pro-

vides that 50% of the seats in the *gram sabha* (village council) have to be reserved for women. It is therefore surprising that 65 out of 164 men and women interviewed were of the opinion that there is no role of women in the customary system. 32 said that there is some role for women, but that this role was a minor, not a leading role.

On the other hand, in cases where local governance institutions of the state co-exist with customary institutions, the exclusive control of the latter by men may have an impact also on the former in the sense that there is de facto exclusion of women from access to official positions even though they have the de jure right to it. In the Kankana'ey community of Fidelisan, Sagada municipality in the Cordillera of the Philippines, women are formally not prevented from seeking political office. They can file their candidacies for any elected position. However, as most of the issues or affairs in the community are still dealt with in the *dap-ay*, women are automatically disqualified from assuming certain positions. There are female community council members (*barangay kagawad*), but it is generally agreed that in Fidelisan women cannot yet become the community council chair because they are not allowed to be present at the *dap-ay*.

Even though in all project areas there is a far-reaching exclusion of women from customary governance institutions, women are not completely excluded from all decision-making. Women have





a lot of influence in decision-making within the household, and in some cases at the clan level (like among the Magar in Nepal, and among some Naga tribes if there is an issue of special concern for women). Also, husbands are expected to take the opinion of their wives into consideration and represent it when they go to the meeting of the council of elders.

Everywhere, women are beginning to challenge male control of local politics and decision making. Regional and national-level indigenous women's organisations now exist in all countries. They are directly addressing women's rights issues. Community-level women's organisations have also been formed in all the project areas. These organisations provide women with a space for discussions among themselves and the opportunity to collectively address issues of particular concern to women. Often, local women's organisations are, or have started as small self-help groups that revolve around activities aimed at increasing income or strengthening livelihood security (micro-credit, marketing of farm and non-timber forest products etc.).

As young women get educated, as awareness of indigenous peoples' and women's rights and the respective national laws and international legal instruments increases, women start to challenge the status quo. Thus, where women's participation in customary and local government institutions is possible, like in the *gram sabha* among the Adivasi in Jharkhand, the participation of women in meetings that concerns their collective interest is on the rise.

A clear indicator for the increasing confidence and self-assertion of indigenous women in Jharkhand is that several men interviewed expressed their fear of losing their status and control if they allowed women to participate in customary institutions.

The awareness-raising and capacity-building activities of the project have further encouraged and strengthened women who aspire to play a more active role in customary or public institutions and take over more public responsibility in their society.

Given the fact that there is an imbalance of gender relations and an exclusion of women from customary decision-making in all communities involved in the project, it did not come as a surprise that the survey also revealed a certain gender bias in the customary laws of these communities. Common to all indigenous communities involved in the project is that there is a male bias in customary law on inheritance. This bias is weaker among the indigenous communities in the Philippines, stronger among the indigenous peoples of Nepal and the Adivasi of Jharkhand, and perhaps strongest among the indigenous peoples of Manipur in Northeast India.

Among the indigenous peoples of Manipur and Jharkhand, land is passed on almost exclusively along the male line. Customary law is usually more strictly applied to ancestral land (i.e. land that has been passed on over generations) than to land acquired by parents during their lifetime. Thus, in Tangkhul Naga communities of Manipur, for example, such land is often also passed on to daughters.



The Kankana'ey of Sagada municipality in the Cordillera of the Philippines usually pass inheritance on to children during their *dawak*, the traditional wedding. The youngest child, regardless of sex, receives the family house. What each of the couple inherits becomes conjugal property. If the couple separates, each of them gets their own inheritance back. However, men are given a larger share of what has been acquired jointly as they are considered "home givers" and often claim that most of the effort in the conjugal property acquisition is theirs.

In Nepal, women inherit movable property and some communities provide women with a kind of dowry when they get married. According to customary law, however, they usually do not inherit land. Among the 105 Tharu interviewed only 7 (0.6%) reported that they have given property to their daughters. Among the Magar it was 17 of 90 (18.8%).

Customary law among all the indigenous peoples included in the project does ensure that women have access to resources critical for their livelihood. However, since in all, except for the B'laan of Mindanao, postmarital residence is patrilocal, which means that after the wedding the woman moves to the community of the husband, women usually have access to land mainly through men: before marriage by virtue of being a daughter, after marriage by virtue of being a wife. Customary law also regulates the right of widows. Among the Adivasi of Jharkhand, for example, a widow retains the right to use the land of her husband as long as she lives. It is however not her property, but that of her sons or brothers-in-law.

Traditional values, customary law and violence against women

In all communities involved in the project, customary law provides women some protection. Among the Bontok, for instance, it provides for the protection of pregnant women by giving them deserved rest when they have recently given birth. Husbands are expected to do the heavy chores and relatives also help the family of women who have recently given birth in getting firewood and in working the fields.

The traditional values of the Bontok do not allow men to hurt women. Men who are physically violent to women are given low respect and are regarded as weak and cowards. Furthermore, there is a penalty imposed on violators, determined by elders in the *ator* or by relatives of both parties.

The flip-side of the coin of protection of women can be restrictions and control. In indigenous communities in Jharkhand that have come under heavy influence of mainstream Hindu values, women's mobility is severely restricted. They have to be accompanied by men whenever they go out of their house.

Unfortunately, rules protecting women against abuse often do not apply to married couples. Domestic violence is as prevalent in indigenous communities as in wider society; sometimes even more common than in non-indigenous communities. In Nepal, for example, the Year Book 2011 of WOREC Nepal reported that the highest number of cases of domestic violence is reported by the indigenous peoples of the hill region (23%), followed by the



non-indigenous Chhettri (17%), and the indigenous peoples of the Terai (16%).

The baseline survey conducted for the project found that domestic violence is among the most prevalent forms of violence in the communities covered by the project. It is often linked to high levels of alcohol consumption.

Physical as well as psychological domestic violence is very high among the Dhanuk community of Nepal. This could be attributed to the lower status of Dhanuk women have as compared to other indigenous peoples of Nepal, since they have come under strong Hindu influence. Like other indigenous groups living in close proximity to the dominant Hindu society the Dhanuk have adopted the dowry system. Therefore parents prefer to get their daughters married off at a young age, as dowries become more expensive when the girls get older. In Jharkhand, mainland India, the dowry system practiced by the wider Indian society has also become part of the customary practices of some indigenous communities. The dowry system as practiced in South Asian mainstream society often results in heavy debts for the bride's family. The burden of dowry is one of the reasons why sons are preferred. Furthermore, married women are often harassed by her in-laws over outstanding dowry payments and women are even murdered in order to get her out of the way so the man can marry again and get access to yet another dowry.

The baseline survey conducted among the project communities in Jharkhand revealed that an overwhelming majority of the people interviewed (138 of the 164 respondents, or 84%) did not believe

that women in their communities were protected from violence. 75 of the 164 respondents (46%) reported sexual, other physical and mental violence against women in their communities.

As elsewhere, the problem with domestic violence in indigenous communities is that it is commonly considered a private matter. Men often treat their wives as their "property", and as such feel they have the right to even abuse her, including having sexual intercourse without her consent. Other prevalent values and attitudes often make it even more difficulties to address domestic violence.

For instance, Kankana'ey women who experience violence by their husbands often protect their husbands out of an attitude of shame (*kababain*), in order not to spoil his, and therefore her, reputation. Separating from a violent husband is next to impossible since separation harms the reputation of the family. Furthermore, a woman who has separated (*nakisina*) is regarded as "infectious" or "contagious" (*makaalis*). Members of the community will not even accept food served by a *nakisina* during social occasions. She can participate but should not be visible.

Deep-rooted values in indigenous societies can also lead to ways of dealing with violence against women within communities that are difficult to understand and accept by outsiders. As is probably the case in all human societies, the indigenous communities involved in this project consider rape one of the worst crimes that can be committed. Among the Kankana'ey the *dap-ay* used to deal with rape cases. In many instances, the offender was given a punishment of community service in order to show

the community's disgust for his crime. Sometimes he was also banished from the community for a number of years. Yet in other cases, the strong sense of shame people feel when this happens often pushes relatives of the victim to try and hide such a crime. When both victim and perpetrator are single the elders often try to resolve a case of rape or sexual opportunism by suggesting that the two marry.

Interviews in Tharu and Magar communities in Nepal also revealed that in most cases of violence against women the perpetrator is a family member, followed by police and military personnel. Interestingly, the interviewers concluded that these family members are victimizing women without being aware that this is wrong. As elsewhere, domestic violence is considered a private affair, something almost "normal", and the researchers pointed out the urgent need for awareness-raising on the rights of women.

A form of violence against women of particular concern is witch-hunting. This refers to the belief of a large number of indigenous and non-indigenous rural communities in Nepal and India that some women are engaging in witchcraft in order to inflict pain, illness, misfortune and even death on certain members of the community. It is often the more

death or burning alive. The "witches" are often tortured or killed even by their own lineage members and the crime is committed with the full sanction of the community. Those who go against the decision may also be harassed and tortured. (Bosu Mullick 2000:23)

In Jharkhand, witch-hunting was reported from four out of the five districts included in the project (from Khunti, Hazaribag, Latehar and West Singhbhum; this does not mean that it is entirely absent in the fifth district Simdega). In Khunti, there were 161 'witch' killing within the last 10 years. In West Singhbhum there were 135 and in Hazaribag district 57 witch blaming cases within the last 10 years. In Jharkhand, witch-hunting is one of the worst forms of violence against women and the lack of education and awareness of the problem is considered one of the reasons why it is still so common.

Women as victims of armed conflicts and militarization

Armed conflicts and militarization are a serious problem and the cause of countless cases of violence against women in all six project areas. In the Philippines, the project communities lie in some of the most heavily militarized areas of the country. Heavy militarization is legitimized by the government as a



vulnerable women, like widows, who are likely to be accused of practising witchcraft. Women suspected of being witches are subjected to the worst forms of communal violence, which includes severe beating, torture or even murder through stoning to

necessary response to the Communist insurgency. Often, however, areas of particularly heavy militarization coincide with areas that are targeted by resource extraction, particularly mining, and where local resistance is strong. In India, the two project

areas are also among the most conflict-ridden areas of the country. Manipur state has probably the highest number of active armed groups in the country. And Jharkhand is one of the states where the Maoists have established control over most of the rural areas. Finally, indigenous peoples are among those who have suffered the most under the decade long armed conflict with the Maoists that ended in 2006.

Since indigenous peoples live in remote areas where armed insurgency groups are active they are generally affected more directly and thus suffer disproportionately from armed conflicts. For example, out of the 75 districts in Nepal, Bardiya, one of the main settlement areas of the Tharu, tops the list for disappearances. The OHCHR in Nepal has received more than 200 cases of disappearances from Bardiya. Of the total number of disappeared people in Bardiya, around 75% belong to the Tharu indigenous people, including several women. Nationwide data from Informal Sector Service Centre (INSEC) for Nepal in 2003 showed that 2/3 of those killed by security forces belonged to indigenous groups. Thousands of indigenous men and women were displaced from their ancestral land due to the conflict, were tortured and jailed, disappeared and women were raped. Many women suffered from these atrocities simply for being mothers, wives, daughters or other relatives of the underground Maoists. However, no detailed data on all this is available.

A strikingly different picture is given by survey in Rolpa district. Rolpa is one of the most conflicted-affected districts of Nepal and is also the district where the Maoist movement was announced. Very surprisingly, only very few people interviewed (3 out of 90 persons) think that the armed conflict victimized women in their communities. Qualitative information also does not show that the Magar

think conflict caused violence against women. Respondents in the survey and workshop participants said that the 15 years of political movement made them aware about equality. It educated them to fight for equal rights. They did not say they were badly affected by the political insurgency in the country, but rather referred to it as the struggle for equality.

Manipur is one of the states in Northeast India where the notorious Armed Forces Special Powers Act (AFSPA) is still in place. It was created in 1958 to suppress the Naga peoples' movement for self-determination and other armed groups. Since then, the region has been brought under virtual military rule. The AFSPA grants the military immunity to commit crimes against civilians – even to the extent of shoot to kill on mere suspicion of being an insurgent. Throughout Northeast India, thousands of civilians have been killed and almost none of the perpetrators have been tried in a court of law. Rape has become an institutionalized policy of the armed forces to psychologically subdue the resistance movements. Indigenous women have to bear the brunt of the protracted conflict situation, having to try and ensure the survival of their family: during the months-long curfews, recurrent army combing operations and other situations when men had to hide because of imminent dangers, it is the women who look after and continue to feed the family.

In the Philippines, the continuing militarization of indigenous communities in different parts of the country has resulted in the abuse of indigenous women including rape, sexual abuse or harassment, impregnation and abandonment of indigenous women by military personnel. The study conducted by the CWEARC in 2002 documented cases of 98 women and 119 children abandoned by soldiers between 1986 and 2001, in selected communities of Abra, Mountain Province and Kalinga where





there was prolonged military presence. These are cases of opportunism in which the military personnel abused their position to engage in relationships with women and then abandon them and the children. Abandoned indigenous women have ended up as single parents with the burden of raising their children on their own or relying on their already impoverished parents or relatives. Militarization of indigenous communities in the Philippines also includes the forced recruitment of paramilitary forces amongst the indigenous community members – including women. This has undermined community cohesion and trust amongst community members and resulted in more conflicts.

Structural violence

Violence to indigenous women in Asia is also linked to a number of structural injustices and problems in society, above all poverty. Poverty is often a result of, or is further aggravated by, loss of land and resources in the wake of imposed resource extraction, infrastructure or agro business projects in the interests of the state, local private companies and multinational corporations. With the loss of their land, forests and other resources, indigenous women also lose critical sources of income and they get marginalized further. At the same time indigenous men too lose their role as providers. As their self-esteem is undermined they unload their frustrations on their women, seek consolation in alcohol which again leads to an increase in domestic violence.

Direct results of poverty are forced labor migration, bonded labor, prostitution and trafficking of wom-

en. All these results of structural violence have been reported in the six project areas.

Bonded labor: the Kamlari in Nepal

Specific to Nepal, Kamaiya (male and female agricultural workers) and Kamlari (young female domestic servants) are forms of bonded labour in which servants are bound to specific individuals or families to pay off debts incurred by them or by their previous generations. Although deemed illegal, both forms of servitude exist in various parts of the country today and most of Kamlaria come from the Tharu community – the indigenous people from the southwest Nepal.

Prostitution, trafficking and labor migration

Rapidly decreasing agricultural lands, weakening of social cohesion and traditional systems of solidarity and cooperation, poverty, lack of proper education, increasing globalization and invasion of media among others have resulted in luring young ambitious and unsuspecting indigenous girls and youth to seek alternative means of survival in the dance bars and night clubs in the cities.

In Nepal, there are hundreds of dance bars and nightclubs in the capital city Kathmandu alone, and the business is rapidly spreading to the other cities of Nepal. Controlled by the local mafia who are well connected in the society, the bars and clubs form a vicious net for the unsuspecting victims who do not realize how difficult it is to get out once they are in it, and many of them are pushed into prostitution. A large percentage of women and girls working in this sector are from the indigenous groups. The

same situation is also found in India and the Philippines. A serious consequence of the engagement in prostitution by indigenous women is their vulnerability to acquire HIV/AIDS. While there is lack of data on cases of HIV/AIDS amongst indigenous women, there are clear indications that this is becoming a serious problem.

Nepal has a very serious problem with trafficking of indigenous women and girls. Exact numbers are lacking, but in 2009 the Nepal Government acknowledged that 5,000 to 12,000 girls between the age of 10 and 20 years were trafficked outside the country for the purpose of forced prostitution and in exploitative conditions. It is expected that a large percentage of those are indigenous women. An indicator for this is that of the 233 children rescued during 2006 -07, 217 were girls. Of these 78.5% were from indigenous groups, 12.5% were Dalit (Forum for Women, Law + Development 2011).

In northeast India, poverty and violence caused by prolonged militarization and inter-community conflicts, has also led to trafficking of indigenous girls and children for sexual exploitation and forced labor. Traffickers lure young girls into prostitution with false promises of employment opportunities. In recent years, increasing numbers of children as young as 7 years old are sent away by their parents to the big cities of India following the promise of free education. Many of these children end up as child laborers.



In all three countries, there are “man power agencies” with extensive and well organized networks that exploit indigenous women and girls for their help to get jobs as domestic workers in Gulf countries, Europe and other countries. They and their families often have to take heavy loans or sell





property to get such an employment. Many of them however suffer terribly at the hands of their employers, including from sexual harassment and physical abuse.

Addressing Violence Against Women and the Potential of Customary Law

There is little confidence among the women and men interviewed that state institutions are willing or able to address injustice done to women, in particular violence committed against them. In Nepal, for example, of the total of 105 Tharu respondents, only 1 believed that government institutions ensured justice for women who experienced violence, and among the 90 Magar respondents, only 3 believed so. Confidence in the government appears to be somewhat higher among the Dhanuk (27 of 90 respondents) but is again very low among the Tamang (2 of 105).

Conversely, there is more trust in the capability of customary institutions, like the community elders and community leaders, to address violence against women. Among the Tamang, 62 out of 105 respondents were convinced that traditional customary practices have better respect for the rights of women.

In Jharkhand, India, out of 164 respondents, only 14 knew of any government institution or NGO that provided support to women who were victims of violence. The survey also revealed that while a number of cases of violence against women were taken up by the village council and traditional village heads (reported by 31 of 164 people interviewed), or by family members (4 cases), by far most of the respondents declared not being aware of the problem (62) or did not have any information (58).

It is interesting that while among the Tamang there is little trust in government institutions with regards to violence against women, some of them also pointed out that there is now better respect for the rights of women and better participation of them due to 20 years' influence of the national legal system. Most of the Tharus (69 of 105 respondents) also believed that community efforts have been able to correct some of the negative aspects of customary institutions. 26 of them pointed out that NGOs and CBOs were a key factor in bringing about positive changes in the institutions.

To fully realize the potential of customary law and institutions for addressing violence against women is exactly what the project "Empowering Indigenous Women in Traditional Customary Institutions"



is all about. To that effect, it is trying to support existing positive trends of changes or to help initiate such changes.

This project tries to achieve this through a number of activities: community awareness-raising on the rights of women and violence against women, leadership capacity-building of indigenous women, lobbying and advocacy work with traditional institutions and local government units, and networking with different groups, NGOs and institutions. After

more than one year of project implementation, this initiative is already making strategic impacts to indigenous women in the communities involved.

Having been in the subordinate role for most of their lives, overburdened with work and expected roles, indigenous women participants of community seminars and training sessions expressed their deep appreciation and how unique an experience it was that at the centre of the discussion is women's rights; their own stories. They appreciated learn-





ing about the fundamental human rights, the various laws, policies and programmes that promote and protect women's rights, and discussing equality and discrimination in customary laws and traditional institutions. It was pointed out that, even though in most cases women have not been able to benefit or get justice from such laws yet, knowing them and using the justice system will help them prevent domestic violence and other forms of violence against women.

Women leadership training helped the trainees acquire skills like facilitation, advocacy, lobbying and networking, but also the use of very concrete tools like the writing of First Information Reports (FIRs) to file cases on domestic violence, kidnapping and other incidents. In the Philippines, the trainees also learned to write resolutions, petitions and the process of filing formal complaints on violence against women to the respective government agencies.

Through the lobbying and advocacy work done by indigenous women in the past, indigenous women are slowly being accepted into the all-male traditional decision-making bodies. Local government agencies in certain areas have also started to be more open to consulting indigenous women on projects or programmes that affect them. The project has helped strengthen this trend and has helped create space for indigenous women in male-dominated decision-making bodies, like among the Naga people in Manipur, and the Kharia and Munda in Jharkhand. Moreover, traditional leaders have been made more aware of and are given support and encouragement to perform better with regards to women's rights. In particular, they have been made aware of some of the negative aspects of the customary practices that violate women's rights.

Through community educational activities, seminars, mobilization, meetings and dialogues with

Empowerment Story 1:

Preventing Child Trafficking in Jharkhand

In Jharkhand, the project team members have established good cooperation with the district police office (in which there is a special women cell) and the trainees are making good use of it. For instance, in September 2011, a 15 year old girl from Helenpur in Simdega district was lured away for trafficking. On learning this, Puman Kullu along with others filed an FIR in the police station. She had learned how to do this during one of the project's inter-community training sessions on indigenous women's leadership. When hearing that the police were searching for the girl, the culprit brought back the girl and dropped her off near her house late at night.

In April 2012 a 13 year old girl from Khunti district was rescued from Delhi by two trainees of the project. Sapna Bhengra and Sarojani Purty has successfully applied their knowledge on FIR against a woman who sold the girl to pimps in Delhi.



Empowerment Story 2:

Women gain access to a key political institution

The United Naga Council (UNC) is the apex body of all Naga Tribes in Manipur state. Each tribe has its own tribal council, which elects a representative to the UNC. The UNC is one of the most important and powerful political organisation of the Nagas in Manipur. Until very recently, the UNC, just like the tribal councils and the village councils, has been exclusively a male domain.

In 2011 however, a precedent was created which hopefully paves the way for women's participation in this crucial decision-making body: The tribal council of the Maring tribe elected Marigold Keisha as their representative in the UNC. Marigold Keisha is one of the Naga women leaders of the Maring and a local staff of the project. She is now the Secretary of UNC's Social and Culture Department.

Not just for the Naga women but for all Nagas of Manipur this is a historic event. It is the result of the relentless awareness raising and advocacy activities by Naga women over the years, which has been strengthened further by the project.

relevant government agencies, NGOs and other civil-society organisations the project has been able to considerably increase the knowledge of community members, local politicians, and activists on existing laws and policies related to women's rights. In Jharkhand, women leaders are now conducting training in their respective villages on the role of women in the *gram sabha* and on the rights of women granted by the Jharkhand Panchayat Raj Act. It was found that many of them – including the *gram sabha* members themselves – were not aware of the powers and functions of the Panchayat system. Increased knowledge gave indigenous women the confidence to discuss critical women-related laws such as the Witch Hunting Prohibition Bill or the Domestic Violence Act during village meetings. As a direct result of the project an indigenous women's network has been formed in Jharkhand, with representatives from each ethnic





group involved the project. Such networks provide space for women to discuss critical issues concerning them and their rights.

Meetings and dialogues with community leaders, government officials, local politicians and NGOs have paved the way for better cooperation and coordination between indigenous women organizations and government officials. In the Philip-

pinas, the project has helped create a two-way flow of information on women-related issues that generates greater mutual understanding. The project's local partner organisation in Sagada municipality has learned about the existence of a Municipal Women Code and used it to put pressure on the Municipal Council to live up to its obligations in protecting women's rights.

Empowerment story 3:

Cooperating with local government on women's rights

In the Philippines, dialogues with the local government enabled a good relationship between the local project team and the Committee on Women of the Municipal Council of Sagada. This Committee consults regularly with the project team regarding women's rights and concerns. Through meetings and dialogues with influential leaders and government officials, indigenous women in the project areas were able to interact and garner the support from concerned government agencies and other resource persons and learned about various fund and projects. Local indigenous women organizations were thus able to access livelihood projects from the government. The ability of local indigenous women's organisations to interact with local government agencies and assert their rights is the direct result of the project's inter-community training of indigenous women on leadership, lobbying and advocacy.



Similarly, in Nepal, indigenous women made concrete demands during meetings with government officials for the allocation of funds for the specific needs of women in each budget calendar year. Through such kind of interactions, indigenous women were able to raise their issues and at the

same time gain more confidence to carry forward their advocacy, lobbying and networking activities with different government agencies, officials and NGOs.



Empowerment story 4:

Local women do their own advocacy work

In Nepal, the Dhanuk women for the first time, on their own, organized a meeting in Dhanusa district which was attended by high ranking local government officials, NGOs, local leaders from various political parties, civil society representatives and women activists from that district. For the Dhanuk women, who are seen as “backward” and face a high level of discrimination against women within the community, it was a big step to bring together those key players in a meeting and being able to interact with the officials and leaders to put forward their issues and for support. The local government officials and civil society representatives had made strong commitments to support the Dhanuk women in their effort to empower themselves and to end violence against women.



CONCLUSIONS AND RECOMMENDATIONS

Experiences gained during a little over a year of implementation allow us to conclude that this innovative initiative of local indigenous women's organizations in partnership with AIPP as a regional federation of indigenous peoples' organizations is demonstrating the critical and strategic contributions of sustained awareness-raising and capacity building, combined with lobby and advocacy work, in facilitating the empowerment of indigenous women at the grassroots level. These are all important to effectively address violence against women and the promotion and protection of the rights of indigenous women. However, much is yet to be done in the face of tremendous challenges. It is vital to sustain such initiatives and to complement these efforts with thorough empowerment of indigenous women at all levels through the support and assistance of various groups, organizations, agencies and institutions. Most critical is the proper implementation of existing international and national legal instruments in which States and UN agencies have a key role and responsibility. AIPP would therefore like to make the following recommendations:

For States to strengthen the legal framework for the recognition of the rights of women under CEDAW, the enforcement of related policies addressing violence against women through information and education campaigns and capacity-building of relevant government agencies and institutions i.e. judicial bodies, law enforcement agencies, women and service-related institutions. Further, to establish specialized bodies at the national and/or sub-national levels (where relevant) to specifically address the conditions of indigenous women with appropriate policies and programmes to be designed with the full and effective participation of indigenous women. National census and data-collection on socio-economic and wellbeing indicators should include data disaggregation in relation to indigenous peoples – and in relation to indigenous women.

For UN agencies to develop specific programmes that shall address the promotion and protection of the rights of indigenous women and issues related to violence against women, with the full and effective participation of indigenous women. This shall include but not be limited to a) focused research and studies on the situation of indigenous women and experiences, good practices and lessons learned on issues related to violence against women, b) empowering indigenous women through various forms of needed and appropriate capacity building activities, c) strengthening solidarity, cooperation and networking of indigenous women's organizations in the different regions through inter-learning exchanges among others, d) supporting preventative measures on violence against women, i.e. livelihood and education opportunities for indigenous women.

For States, UN agencies, funds and programmes to support the initiatives of indigenous women's organizations especially relating to capacity-building, organization-strengthening, networking, and advocacy at all levels; the establishment of indigenous women's federation and networks at the national level; services for victims of violence against women among indigenous women; support to travel and provision of a related budget for indigenous women's effective participation in regional and international processes, relevant conferences and workshops among others.



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ACRONYMS

AFSPA	Armed Forces Special Powers Act
AIPP	Asia Indigenous Peoples Pact Asia
APWLD	Asia Pacific Forum on Women, Law and Development
AWN	Adivasi Women's Network
CBO	Community-Based Organisation
CEDAW	Convention on Elimination of all forms of Discrimination against Women
CWEARC	Cordillera Women's Education Action Research Center
IWFNEI	Indigenous Women's Forum of Northeast India
NGO	Non-Governmental Organisation
NIWF	National Indigenous Women's Federation (Nepal)
OHCHR	Office of the High Commissioner on Human Rights
VAW	Violence Against Women





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