

The Asia Pacific Forum on Women, Law and Development (APWLD)<sup>1</sup> is pleased to submit its comments on the draft CEDAW General Recommendation No 35 on the gender related dimensions of Disaster Risk Reduction in a Changing Climate.

## General remarks

APWLD welcomes the initiative of the CEDAW Committee to develop a General Recommendation. We were heartened by the half-day of discussion on “gender-related dimensions of disaster risk reduction and **climate change**” organised by the CEDAW Committee on the 29<sup>th</sup> February 2016, with the objective of providing guidance to States parties to the Convention on the measures they should adopt to ensure full compliance with their obligations to respect, protect and fulfil women’s human rights **in the context of disaster and climate change**. The submission APWLD made in relation to that discussion remains valid and we request that this submission be read in conjunction with the first as well as a separate submission to this process made with the Global Initiative for Economic, Social and Cultural Rights and the Landesa Center for Women’s Land Rights, which expands on the importance of land tenure rights in the context of climate change and disasters.

Given the grave threat climate change poses to women’s human rights and the speed with which climate-related violations are increasing, we hold deep reservations about the reduction of scope, limiting the recommendation to disaster risk reduction within the context of climate change. We urge the committee to return to the original theme, allowing the general recommendation to address the myriad ways climate change impacts on women’s human rights.

## Key Concerns

1. A general recommendation is an important opportunity to elaborate on State obligations and provide implementation guidance. Elaborating a general recommendation takes time and there will not be another opportunity to address States’ obligations in the context of climate change for several years. Given both the urgency of addressing climate change and the rapid pace at which violations are occurring as a result, it is now the time to boldly re-affirm the legal obligations of States in the context of climate change to protect women’s human rights as guaranteed in the CEDAW Convention.
2. A reductive focus appears to have resulted in the exclusion of states’ obligations to mitigate against human rights violations by taking urgent action to reduce and eliminate greenhouse gas emissions (GHG). The draft general recommendation includes the objective to detail “*the obligations of States parties and other stakeholders under the Convention to take effective measures to anticipate and respond to the new hazards and disaster risks that have emerged as a result of climate change*”<sup>2</sup>. If the CEDAW Committee is genuine in its willingness to address women’s rights in the context of climate-induced natural disasters, it cannot ignore

---

<sup>1</sup> APWLD is Asia Pacific’s leading feminist, membership driven network. Our 200 members represent organisations and groups of diverse women from 27 countries in the region. We use capacity development, research, advocacy and activism to claim and strengthen women’s human rights.

<sup>2</sup> CEDAW, ‘Draft General Recommendation No. 35 on the Gender-related dimensions of Disaster Risk Reduction in a Changing Climate,’ UN Doc. CEDAW/C/GC/35 (11 October 2016), at para. 10.

climate change as the root causes of those disasters, and has to address all forms of climate related policy – mitigation, adaptation and response to slow onset as well as disasters.

## Analysis of missed elements

### 1) Systemic approach to climate change and its causes

Attempts to address the impacts of climate change without addressing its structural causes are necessarily flawed: global warming occurs at such a pace that in many cases, it's not possible to adapt to its impacts. In those cases, violations of human women's rights are gross. Without addressing the root causes and structures underlying climate change, which are the same structures that cause—and indeed rely on—gender inequality and a disregard for women's human rights, climate-related violations will deepen and increase. We therefore urge the Committee to provide guidelines regarding the obligations of states to address climate change drivers: development based on the endless search for profit, consumption and exploitation of natural resources, and women. Climate change will force change. It opens space to reconceptualise and frame new economies, new societies, new relationships. It provides an opening to imagine a 'Feminist, Fossil Fuel Free Future'. As States have legal obligations to both mitigate climate change and address its impacts in ways that are sustainable and that respect human rights as well as advance gender equality, we see climate change as a compelling opportunity to alter existing economic and social systems that cause both climate change and gender inequality.

The general recommendation should therefore highlight the necessity to urgently transition from our current economic system in just and equitable ways. We suggest that the concept of '**just transitions**' - a concept elaborated by the International Labour Organisation and incorporated into the Paris Agreement, be addressed by the Committee and guidance provided to states on how to ensure 'just transitions' are planned through the lens of CEDAW. This approach would challenge the gendered-division of labour, which places women in often low waged, insecure and informal subsistence and service industries, through redistributing and promoting decent work for both paid and unpaid care, domestic and community work.

The draft general recommendation recognises States' obligations in that regard<sup>3</sup>, and we encourage the Committee to promote the concept of just and equitable transition, insisting of the necessity to include a gender perspective to realise women's rights to work as protected in Article 11 CEDAW. Climate change adaptation and disaster response increases demands for unpaid and exploitative work, primarily for women. The Committee should encourage States to plan transition from their economy that both address climate change causes and realise women's human rights.

### 2) States' obligations to mitigate climate change

*"International law recognises that each State is legally responsible for the deleterious transborder effects that human activities in its territory have on other States"*<sup>4</sup>. States have legal obligations to reduce their GHG emissions because of the transboundary impacts of climate change on human rights, whose enjoyment for

<sup>3</sup> Ibid., at para. 25, in particular (c).

<sup>4</sup> Oslo Principles on Global Climate Change Obligations, 2015, p. 2, <http://globaljustice.macmillan.yale.edu/sites/default/files/files/OsloPrinciples.pdf>

women without discrimination is the *raison d'être* of the CEDAW Convention. Climate change magnifies and exacerbates pre-existing gender discrimination, which contravenes Articles 1, 2 and 3.

Further, the legal obligations of States to mitigate climate change are common but differentiated, as stated by the cornerstone principle of the UNFCCC. The Common But Differentiated Responsibility (CBDR) principle draws from the international principle of solidarity. It is a fundamental principle of international human rights law at the core purpose of the United Nations.<sup>5</sup> This means that States historically responsible for climate change have both the obligation to mitigate their GHG emissions, but also to support developing countries with the means to mitigate and adapt to climate change, through the provision of Finance, Technology Transfer and Capacity Building.

We therefore urge the Committee to recognise the legal obligations of States to mitigate climate change as a fundamental threat of the enjoyment of all rights protected by the CEDAW Committee, while highlighting that these obligations are differentiated.

### 3) Specific references to women particularly vulnerable to climate change

The effects of climate change are felt most acutely by those segments of the population that are already in vulnerable situations<sup>6</sup>, and women are frequently more vulnerable due to pre-intersecting discrimination and gendered roles. As recognised in the draft General Recommendation, intersectional forms of discrimination are exacerbated in the context of disasters and climate change, the Committee mentioning explicitly women living in poverty, women with disabilities and older women<sup>7</sup>. The recommendation should draw greater attention to the particular dire situation faced by **Indigenous women** and consequently the specific attention required to protect their rights, including their right to **Free Prior and Informed Consent (FPIC)**. Indigenous communities have particular ties with the environment and heavily rely on natural resources for their survival and transmission of their culture. Indigenous women are often stewards of remaining eco-systems, preserving 80% of the world's remaining biodiversity<sup>8</sup>. Though having historically contributed the least to greenhouse gas emissions, indigenous peoples' rights are particularly violated by climate change, whether its impacts or by global mechanisms that seek to mitigate it<sup>9</sup>. We urge the Committee to recognise indigenous' women's particular vulnerability to climate change as well as their unique position to contribute in shaping climate change solutions.

Further, 2015 has been a record year in the killing of human rights defenders, 40% of the victims being indigenous peoples. Conflicts over the protection of natural resources were the primary cause of killing as

<sup>5</sup> See Human Rights Council, Final paper on human rights and international solidarity, 16 August 2012, A/HRC/21/66, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-66\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-66_en.pdf).

<sup>6</sup> Human Rights Council, 30 June 2015, A/HRC/29/L.21, [http://ap.ohchr.org/documents/E/HRC/d\\_res\\_dec/A\\_HRC\\_29\\_L21.docx](http://ap.ohchr.org/documents/E/HRC/d_res_dec/A_HRC_29_L21.docx).

<sup>7</sup> CEDAW, 'Draft General Recommendation No. 35 on the Gender-related dimensions of Disaster Risk Reduction in a Changing Climate,' UN Doc. CEDAW/C/GC/35 (11 October 2016), at para. 2.

<sup>8</sup> The right to development requires States' action, 2 December 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20973&LangID=E#sthash.KxL3QDqz.dpuf>.

<sup>9</sup> We refer here to market-based mechanisms that have in repeated instances violated indigenous peoples rights, or to other large-scale energy projects, such as hydropowers or geothermal power plants, that have lead to displacement of indigenous communities and violations of other of their rights, including their FPIC.

exemplified by the assassination last year of the indigenous environmental activist Berta Caceres.<sup>10</sup> In this context, and given that women human rights defenders are subject to gender-specific threats, we urge the Committee to recognise those specific threats **indigenous and women's human rights defenders** face when trying to defend the integrity of our climate and environment and recall States' obligations to ensure their security, as outlined in the UN General Assembly resolution voted in 2015<sup>11</sup>.

#### 4) Conflicts

Conflict has not been mentioned in this general recommendation, yet it is often an outcome closely related to climate change and disaster, and that gravely impede the realisation of women's human rights. The CEDAW Committee itself has already recognised the gendered impacts of conflicts in its 30<sup>th</sup> General Recommendation<sup>12</sup>.

Climate change exposes women to increased risks of violence, trafficking and conflict. In the last sixty years, at least 40% of all intrastate conflicts have had a link to natural resources and the environment.<sup>13</sup> During conflict, the enforcement of all rights guaranteed in the CEDAW convention are threatened while gender-based violence increases, often significantly. We therefore reiterate our call to the Committee to further develop the links between climate change and conflicts and to further elaborate the obligations of States Parties in the context of climate change-induced conflict.

#### Language to be edited

In addition to the missing elements enounced above, we would like to draw the Committee's attention to two sections of the general recommendation that, in the current phrasing, are deeply inadequate to uphold women's rights as guaranteed in the CEDAW Convention:

##### 1) Chapter V, Section C "Resources and Cooperation"

While we share the Committee's concern that inadequate funds are currently allocated to address gender inequality causes as well as gender-sensitive adaptation and disaster risks reduction actions, we extend this observation to the deeply inadequate allocation of funds to address climate change's structural causes and its impacts. In 2015, just over \$10 billion was committed to the Green Climate Fund, and the global military expenditure for the same year accounted for \$1.6 trillion<sup>14</sup>.

States have the international obligation to mobilise resources for the realisation of human rights. In the context of climate change it means that States should mobilise financial resources domestically to combat climate

<sup>10</sup> Global Witness, *On Dangerous Ground*, June 20 2016, <https://www.globalwitness.org/en/press-releases/2015-sees-unprecedented-killings-environmental-activists/>

<sup>11</sup> Human Rights Council, A/C.3/70/L.46/Rev.1, 18 November 2015, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/C.3/70/L.46/Rev.1](http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/70/L.46/Rev.1)

<sup>12</sup> CEDAW Committee, General Recommendation No. 30, *Women in Conflict Prevention, Conflict and Post-Conflict Situations*, paragraph 2.

<sup>13</sup> Radhika Coomaraswamy, *Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of UN Security Council Resolution 1325*, 2015.

<sup>14</sup> Data from the Stockholm International Peace Research Institute (SIPRI).

change and advance gender equality, as pointed out by the Committee. However, the obligation of mobilising financial resources internationally according to the principle of CBDR is missing. In that regard, the committee should stress the necessity for developed countries to respect the international principle of solidarity by adequately contributing to the Green Climate Fund - at least meeting their commitment to provide 100 billion by 2020 - through methods of revenue raising that ameliorate rather than have a discriminatory impact on women. (Examples include fund raising from harmful practices such as speculative finance or military expenditure which both deepen gender inequalities, rather than by diverting state revenue from public goods).

APWLD has produced evidence that women's local movements are imperative to both build climate resilience and advance gender equality<sup>15</sup>. "*Systematically addressing persistent gender gaps in the response to climate change is one of the most effective mechanisms for building climate resilience and reducing emissions.*"<sup>16</sup> We therefore encourage the Committee to call on climate funds to adopt affirmative measures to fund local women's democratic movements as well as fund their initiatives for adaptation through the allocation of targeted funds.

## 2) Chapter V, Section D "Business Actors and Extra-Territorial Obligations"

The current phrasing of this section is problematic in an apparent endorsement from the Committee of the private sector's role in providing climate solutions, in particular through Public Private Partnerships. This claim is not well founded. Instead the private sector is the main contributor to climate change: scientific studies have found that only 90 oil, coal and gas companies are responsible for almost two thirds of the GHG released since the beginning of the industrial age<sup>17</sup>. Further, transnational corporations have long records in contributing to women's rights violations.

The role of the Committee should not be to create further opportunities for the private sector to drive unsustainable, extractivist models of developments but to stress States' obligations to regulate private sectors activities, in particular in regards to GHG emissions. Consequently, we suggest deleting the paragraphs 39 and 40 of the draft General Recommendation. In addition, while the current draft does mention the obligations of States to "*regulate the activities of non-State actors within their jurisdiction, including when they operate extraterritorially*"<sup>18</sup>, we think that this language should be strengthened to specifically include GHG emissions.

In addressing the necessity to regulate transnational corporations and other businesses, the committee should make linkages to the Human Rights Council's efforts to elaborate a binding treaty to regulate

<sup>15</sup> See for instance, APWLD, (2015), *Women Warming Up! Building Resilient, Grassroots Feminist Movements for Climate Justice in Asia Pacific*, <http://apwld.org/wp-content/uploads/2015/03/Climate-change-Natural-disasters-Conflict.pdf>

<sup>16</sup> UN Women, Expert Group Meeting, Recommendations for COP 21, [http://www.unwomen.org/-/media/headquarters/attachments/sections/how%20we%20work/intergovsupport/egmreport\\_bonn\\_final\\_25-november-2015.pdf?vs=2255](http://www.unwomen.org/-/media/headquarters/attachments/sections/how%20we%20work/intergovsupport/egmreport_bonn_final_25-november-2015.pdf?vs=2255)

<sup>17</sup> Heed, Richard. 'Tracing anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers, 1854–2010' *Climatic Change* January 2014, Volume 122, Issue 1, pp 229–241 <http://link.springer.com/article/10.1007/s10584-013-0986-y>

<sup>18</sup> CEDAW, 'Draft General Recommendation No. 35 on the Gender-related dimensions of Disaster Risk Reduction in a Changing Climate,' UN Doc. CEDAW/C/GC/35 (11 October 2016), at para. 41.

transnational corporations reflected in UN Resolution 26/9<sup>19</sup>. The Committee should refer to the importance of including the human rights violations that occur as a result of climate change in the scope of the legally binding instrument regarding transnational corporate activities.

### 3) Reference to 'stakeholders'

The committee should avoid using any language that obscures the role of duty bearers and rights holders. The use of the term 'stakeholders'<sup>20</sup> implicitly suggest citizens, corporations and states have equal interest and obligations in ameliorating the impacts of climate change. Instead it must be made clear that states are the primary duty bearers and have a duty to regulate corporations and other actors that cause human rights violations. People are rights bearers and corporations are not. The language of 'stakeholders' has crept into UN processes as a vehicle for normalising the presence of corporations as self regulators and also as a method of cementing pernicious decisions that create an erroneous set of 'investor rights' that can be advanced at the expense of human rights.

---

<sup>19</sup> UN Human Rights Council, Resolution 26/9, *Elaboration of an internationally legally binding instrument on transnational corporations and other business enterprises with respect to human rights*, A/HRC/26/L.22/Rev.1, 26 June 2014

<sup>20</sup> The current draft of the General Recommendation has several mentions of the term 'stakeholders'. See for instance CEDAW, 'Draft General Recommendation No. 35 on the Gender-related dimensions of Disaster Risk Reduction in a Changing Climate,' UN Doc. CEDAW/C/GC/35 (11 October 2016), at para. 10.