



Violence and its Impact on Indigenous Women and Girls of Diverse and Ancestral SOGIESC

Submission to the UN Special Rapporteur on violence against women, its causes and consequences

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Executive summary

The present submission focuses on the intersectional forms of violence experienced by indigenous women girls and persons with diverse and ancestral sexual orientations, gender identities, gender expressions and sex characteristics (SOGIESC) in different regions. It overviews the context of violence and its impact on the lives of many indigenous women and girls belonging to these groups, including lack of disaggregated data and practices of violence exercised on them while accessing certain services, such as gender-affirming care, health treatments, and justice mechanisms.

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I. Contextual background: Indigenous gender categories beyond women/men

The women/men binary enshrined in international human rights law reflects the Western understanding of gender. This approach ignores, however, more nuanced and diverse gender categories of indigenous cultures. Historically, certain indigenous communities have incorporated gender roles moving beyond the male-female or homosexual-heterosexual binaries.¹ With some exceptions, individuals who embody cultural gender-variant roles and sexual identities are integrated into their communities and occupy respected social and ceremonial roles.² Examples are the Two-Spirits³ in North America, the Bonjus⁴ in Europe, the Muxes⁵ in Mexico, the Hijras⁶ in South Asia, the Takatāpui⁷ in Aotearoa/New Zealand and the Sistergirls⁸ from the First Nation Cultures in Australia.

Academic researchers have attempted to categorize indigenous peoples who live with more fluid gender and sexual expressions by creating concepts such as 'third gender' or 'women-men' and 'men-women.' However, these attempts have been deficient in portraying the broad and complex diversity of identities within these communities and tend to encapsulate them into a Western perspective, where constructs of gender still maintain their link to biological characteristics.⁹ From an indigenous cultural perspective, the understanding of gender is often more related to roles and responsibilities performed by the person than to their gender expression or sex characteristics. Thus, recognizing the identities that each of these groups had embraced by themselves is crucial to avoid the limited Western view and provide them a space for self-determination. For this reason, in this contribution, references to indigenous women, girls and persons with diverse and ancestral SOGIESC and other acronyms such as '2SLBTIQ+ women and girls'¹⁰ cover not only individuals that identify as women but also those with other cultural and gender-variant identities that might not identify as women per se but that face similar, if not the same, systemic challenges and issues due to their gender roles and responsibilities within their communities.

In this regard, the UN Independent expert on sexual orientation and gender identity recommended states to pay attention to ancestral and indigenous systems of classification of identities and data when developing and implementing any measures aimed at social inclusion¹¹. This recommendation should be extended to state measures aimed at ending gender-based violence against women to ensure that indigenous women and persons with other identities are fully protected from intersectional forms of violence based on SOGIESC and indigenous status.

II. Discrimination and violence against indigenous women and girls with diverse and ancestral SOGIESC: Cases and examples

Indigenous women and girls face systemic challenges that prevent them from the full enjoyment of their human rights, such as multiple forms of discrimination, lack of access to health care, education, income, and ancestral lands. Moreover, indigenous women are often subjected to several forms of violence, including sexual- and gender-based violence (SGBV)¹², forced sterilization¹³, and other harmful practices. These challenges are even more complex for women and girls with ancestral and diverse SOGIESC. For instance, these groups can experience obstacles and violence due to their SOGIESC within their communities; however, depending on the indigenous population and region, women and girls with ancestral and diverse SOGIESC may be accepted and even praised by their own indigenous communities while facing violence from state actors or non-state actors outside of the community. Such violence may be perpetrated by states via their policies, laws and the general social perception on both indigenous and LGBTIQ+ identities.

- In the **United States**, violence against 2SLBTIQ+ women is widespread. According to the National Congress of American Indians, four in five Native women have experienced violence in their lifetime. Indigenous women in this region face murder rates more than ten times those of the national average. Femicide is the third leading cause of death for indigenous girls and women aged 10-24 and the fifth leading cause for indigenous women between 25-34. These circumstances also couple with a rising trend in violence against LGBTQ+ individuals.¹⁴ In 2020, at least 31 trans people were murdered in the country, and most of them were indigenous women and trans women of color.¹⁵
- Similarly, according to **Canada's** National Inquiry into Missing and Murdered Indigenous Women and Girls, violence against 2SLGBTIQ+ people are one of the main issues provoked by racism and colonialism. Their 2019's report highlighted the social and economic marginalization, sexual exploitation, and institutional barriers, particularly suffered by women and 2SLGBTIQ+ people from the Inuit, Métis communities, and Canada's First Nations.¹⁶ Moreover, 2SLBTIQ+ Indigenous women (86%) are more likely to experience intimate partner violence in their lifetime compared with non-2SLBTIQ+ indigenous women (59%).¹⁷
- In **Colombia**, the community of indigenous trans women of Santuario Risaralda has been working for years to achieve legal recognition by the Colombian State. The community is comprised mainly of indigenous trans women of the Embera, Embera Chamí, and Embera Katío ethnic groups, all of whom were forced to leave their communities of origin due to discrimination and violence based on their gender identity and expression. The Colombian State has failed to guarantee that women in the community can live free from violence, protecting itself from its international obligations with the excuse of having implemented already special protections for indigenous communities via a particular jurisdiction for indigenous peoples.¹⁸
- Likewise, in **Mexico**, many trans women belonging to different indigenous groups are forced to leave their home communities due to the extreme violence against LGBTQ+ people in the country, alongside discrimination lived due to their ethnicity. Cases of torture, stoning, and ultimately killings against LGBTQ+ indigenous women are continuously reported in the country. However, authorities often label those cases as crimes of passion or relate them to drug trafficking, and therefore they do not further investigate them as cases of femicide.¹⁹ Moreover, in recent years, there have been homicides in which the victims have been muxe persons, homicides that can no longer be classified as crimes related to other circumstances. These are clearly hate crimes, as the victims have been found beaten and tortured, according to patterns of hatred towards SOGIESC that are well-known by the police authorities.²⁰
- **Bolivia** is a country where 42% of its population identifies as an indigenous nation, with the Aymara culture in second place after the Quechua. However, the human rights violations inflicted in the form of social sanctions to expressions of love between LGBTQ+ indigenous women²¹ can occur from violence to permanent exile, land dispossession, forced marriages, corrective rapes, and hate crimes. Furthermore, indigenous adolescents are kidnapped by older men, raped, and forced

to live together in this system of violence after an arrangement of exchange for land or animals for the benefit of their families.²²

- According to a study conducted in **India**, 52% of respondents identifying as Hijras had experienced sexual or psychological violence, and 36% had experiences physical violence perpetrated by partners, police or clients.²³
- Sistergirls in **Australia** have reported considerable experiences of violence. Many of them have spoken about the abuse that they and their close relatives, such as siblings and parents, are subjected to by other family members, on the basis of being a sistergirl. Such experiences demonstrate the importance of acknowledging the diversity across indigenous groups, and thus the different responses that women and girls with diverse and ancestral SOGIESC may receive from their families and communities²⁴

III. Lack of disaggregated data on indigenous women with diverse and ancestral SOGIESC and lack of effective mechanisms to protect them from violence.

A prominent issue for indigenous women with diverse and ancestral SOGIESC is the lack of data concerning their population statistics and disaggregated information on the particular context of these groups.

- In **Canada**, social stigma and inadequate data collection methods have contributed to this issue. For instance, in cases of violence, judicial procedures frequently identify the victim's gender based on their biological sex instead of their gender identity. These circumstances have contributed to the invisibility of 2SLGBTIQ+ indigenous women and have negatively impacted governmental support for services and resources.²⁵
- In **Northern Europe**, there is lack of actual data concerning Sami communities²⁶ and LGBTI+ issues. For instance, a paradigmatic case of violence and sexual abuse against Sami women is the Norwegian Tysfjord case²⁷, in which stigma, discrimination, and authority's omissions perpetuated this situation over decades (From the 1950s to 2017). However, there has been little or no focus on LBTIQ+ Sami women as gendered or sexual violence victims. This has led to the inexistence of registries and statistics.²⁸
- Accessibility to specific services such as health treatments, legal support, or gender-affirming care is frequently hampered for indigenous women and girls of diverse and ancestral SOGIESC. For example, in **Australia**, Sistergirls and other Torres Strait Islanders experience more risks for poor physical health, violence and social-emotional wellbeing. Within this country, LGBTQ+ individuals experience heightened suicidality rates, serious assaults, homelessness, and psychological distress. These increased health risks are the outcomes of discrimination, marginalization, racism, transphobia, and homophobia. In particular, LGBTQI+ indigenous youth reported feeling isolated from health services, and support and service in remote areas are also scarce.²⁹

- It is a well-established fact that indigenous women in general are still subjected to forced sterilization and other harmful practices against their sexual and reproductive rights. For instance, forced or coerced sterilization of indigenous women in **Canada** has been documented from the 1800s to the present. As of February 2019, a lawyer leading a class action lawsuit in Saskatchewan had received over 100 disclosures from women that they had been sterilized without providing free, full, and informed consent.³⁰ All but one of these women were indigenous. However, due to the lack of comprehensive disaggregated data we do not know to what extent this practice affect indigenous women with diverse and ancestral SOGIESC.

IV. Recommendations

- We invite the Special Rapporteur to consider the distinct life experiences of indigenous women and girls with diverse and ancestral SOGIESC and to address the structural violence and discrimination deeply embedded in histories of patriarchy, colonization, conquest, and marginalization across the globe. Moreover, the definition of “women and persons with diverse and ancestral SOGIESC” should be nuanced in the context of each indigenous group and shall not be imposed through Western perspectives.
- States should pay attention to ancestral and indigenous systems of classification of identities and data, including those beyond Western women/men binary, when developing and implementing any measures aimed at ending gender-based violence.
- States should endorse the appliance of an ethnic approach in laws and policies that address the rights of women with diverse SOGIESC and apply sexual and gender diversity approaches in policies and laws aimed at indigenous communities.
- States should implement data collection methods on indigenous women and girls with diverse and ancestral SOGIESC experiencing violence and institutional discrimination, particularly in health, labor, justice, and political systems.
- States shall stop practices of forced sterilization against indigenous women and girls, including those with diverse and ancestral SOGIESC, and implement policies and social strategies to ensure their sexual and reproductive rights.

¹ Examples of indigenous groups that move away from the gendered and sexual binary are the Non-binary and “third gender” people that held important social and spiritual positions in many cultures: the Isangoma of the Zulu for instance; or the Babaylan of the Philippines. See: Chitando, Ezra, 2017 and Mateveke, Pauline “Africanizing the discourse on homosexuality: challenges and prospects” *Critical African Studies*, 9:1: 124-140. <https://doi.org/10.1080/21681392.2017.1285243>

² Walters, K.L, et al., 2006, “My Spirit in My Heart”: Identity Experiences and Challenges Among American Indian Two-Spirit, *Journal of Lesbian Studies*, 10:1-2, 125-149, https://doi.org/10.1300/J155v10n01_07

³ An umbrella term that involves all gender and sexual variance among people of Indigenous North American descent: including lesbian, gay, bisexual, transgender and/or queer identities. For more information see Ristock, J., et al., 2019,

Impacts of colonization on Indigenous Two-Spirit/ LGBTQ Canadians' experiences of migration, mobility and relationship violence, *Sexualities* 2019, Vol. 22(5–6) 767–784. <https://doi.org/10.1177/1363460716681474>

⁴ Bonju is a word in north-Sami that is directly translated from the Norwegian word for queer, skeiv. The term bonju is coined by queer Sami in the Sami language, and not by outsiders, and is therefore based on queer indigenous conditions. For more information, see Løvdal, A. (2015) *The silence in Sápmi - and the queer Sami breaking it*. Master Thesis. UiT The Arctic University of Norway. <https://hdl.handle.net/10037/7063>

⁵ Muxes are biological males who also manifest feminine identities in their dress and attire, but they are not transgender or consider themselves women. They both self-identify and are generally recognized and accepted as a third gender, rather than as men or women, adopting characteristics of each gender. For more information, see Mirandé, A., 2016, *Hombre Mujeres: an Indigenous Third Gender, Men and Masculinities*, Vol. 19(4) 384–409 <https://doi.org/10.1177/1097184X15602746>

⁶ Traditionally, hijras are male-bodied feminine-identified people who sacrifice, although not always, their male genitals in return for spiritual power to bless and curse the newlywed and the newborn. A wide range of terminology, ranging from transsexual to transvestite and intersex, is used in South Asian and international popular media to describe the hijra. For more information see Hossain, A., 2016, *The paradox of recognition: hijra, third gender and sexual rights in Bangladesh*, *Culture, Health & Sexuality*, 2017 Vol. 19, No. 12, 1418–1431 <https://doi.org/10.1080/13691058.2017.1317831>

⁷ The term takatāpui is used to describe queer persons from the Maori culture in New Zealand. The word takatāpui originates in the indigenous *te Reo Maori* language, which originally means “intimate friendship”, but it has come to take on a new meaning in the recent 20–25 years, and is now recognized as the word for “intimate relationship with same sex”. It has been reclaimed to embrace all Māori who identify with diverse genders, sexualities and sex characteristics such as whakawāhine, tangata ira tāne, lesbian, gay, bisexual, trans, intersex, non-binary and queer. For more information see *The silence in Sápmi - and the queer Sami breaking it*. Master Thesis. UiT The Arctic University of Norway. <https://hdl.handle.net/10037/7063> and Kerekere, E. Takatāpui: Part of the Whānau. Available on <https://mentalhealth.org.nz/resources/resource/takatapui-part-of-the-whanau>

⁸ Sistergirls and Brotherboys are terms used to describe trans and gender diverse people in some Aboriginal or Torres Strait Islander communities. For more information, see Riggs D.W. & Toone K, 2017, *Indigenous Sistergirls' Experiences of Family and Community*, *Australian Social Work*, 70:2, 229–240 <https://doi.org/10.1080/0312407X.2016.1165267>.

⁹ Walters, K.L, et al., 2006, fn 2.

¹⁰ 2SLGBTIQ+ refers to two-spirit, lesbian, gay, bisexual, trans, intersex, queer, and other identities. However, when a source of information uses another acronym for these groups or for referring to a specific composition of populations, we use the abbreviations employed on those sources. E.g. LGBT (lesbian, gay, bisexual and trans), LGBTI (lesbian, gay, bisexual, trans and intersex), LGBT+ (lesbian, gay, bisexual, trans and other), LGBTQ (lesbian, gay, bisexual, trans and queer), LGBTIQ (lesbian, gay, bisexual, trans, intersex and queer), LGBTIQ+ (lesbian, gay, bisexual, trans, intersex, queer and other), LBTQ (lesbian, bisexual, trans and queer), 2SLBTQI+ (Two-Spirit, lesbian, bisexual, trans, queer, intersex and other).

¹¹ A/74/181, para 97.

¹² UN Office of the Special Adviser on Gender Issues and Advancement of Women and the Secretariat of the UN Permanent Forum on Indigenous Issues, 2010, Briefing Note No 1. *Gender and Indigenous People's Human Rights*. Available on: https://www.un.org/esa/socdev/unpfii/documents/BriefingNote1_GREY.pdf

¹³ See <https://ijrcenter.org/2019/07/18/un-special-rapporteurs-highlight-forced-sterilization-of-indigenous-women-in-canada/>

¹⁴ See <https://www.mprnews.org/story/2019/05/11/native-american-women-lgbtq-march-end-violence>

¹⁵ See <https://www.advocate.com/crime/2020/10/10/saving-indigenous-trans-women>

¹⁶ For more information see: *Reclaiming Power and Place: The final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. Volume 1b, 2019, <https://www.mmiwg-ffada.ca/final-report/>

¹⁷ See <https://www.msvu.ca/ending-violence-against-indigenous-women-girls-and-2slgbtqia-people/>

¹⁸ Information shared by the leaders of the Trans women communities of the Embera, Embera Chamí and Embera Katío ethnic groups in Santuario, Risaralda.

¹⁹ See <https://www.nbcnews.com/news/latino/-are-invisible-discrimination-risks-abound-indigenous-lgbtq-mexico-rcna982>

²⁰ Marinella Miano Borruso. *Entre lo local y lo global. Los muxes en el siglo XXI*. XIV Encuentro de Latinoamericanistas Españoles: congreso internacional, Sep 2010, Santiago de Compostela, España. pp.2447–2464.

²¹ Feminist and researcher María Galindo explains that a word in the Aymara language that is close to what is known today as lesbian could be kakcha, which "defines as 'nefarious sin', the relationship between woman and woman. Similarly, researchers Eveline Sigl and David Mendoza Salazar explain that in Quechua communities the word qharimacho is used, which also refers to the "masculinized woman, tomboy, suspected of being a lesbian".

²² Information shared by Manodiversa, Bolivia. See <https://manodiversabo.org/>

²³ Deepak Sartaj et al, 'Mental Illness and Related Vulnerabilities in the Hijra Community: A Cross-Sectional Study from India' (2021) 67 Intl J Soc Psychiatry 290.

²⁴ Damien W. Riggs & Kate Toone (2017) Indigenous Sistergirls' Experiences of Family and Community, Australian Social Work, 70:2, 229-240, DOI:10.1080/0312407X.2016.1165267

²⁵ Ibid. Reclaiming Power and Place, 2019, <https://www.mmiwg-ffada.ca/final-report/>

²⁶ The Sami people live in four countries: Norway, Sweden, Finland, and Russia. The total population in these four countries is estimated at approx. 80,000, of whom around half live in Norway. For more information see <https://nordnorge.com/en/tema/the-sami-are-the-indigenous-people-of-the-north/>

²⁷ See <https://www.bbc.com/news/stories-43478396>

²⁸ For instance, in Norway there is no official registers for ethnicity, as registering ethnicity in any official registers is illegal. However, this is not entirely uncontroversial, since it is possible to ask questions about ethnicity in specific cases such as doing research, but there is little information on how big is the Sámi population, or what is their situation in terms of income, educational level, and health, among others. Information shared by Garmeres organization. See <https://www.facebook.com/garmeres>

²⁹ See <https://www.mja.com.au/journal/2020/213/5/time-inclusive-care-aboriginal-and-torres-strait-islander-lgbtq-young-people-now>

³⁰ Amnesty International. [Canada's submission to United Nations Committee on the Elimination of Discrimination against Women. 76th pre-sessional working group. 11-15 November 2019.](#)