



International Indian Treaty Council
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RE: Call for inputs – Report on Violence Against Indigenous Women and Girls



--Participants at the 3rd International Indigenous Women's Symposium on Environmental and Reproductive Health: Advancing Research and Assessing Impacts of Environmental Violence on Indigenous Women and Girls, April 14-18, 2018, New York City, organized by the International Indigenous Women's Forum (FIMI), the International Indian Treaty Council (IITC), the Columbia University Institute for the Study of Human Rights and Fondo para el Desarrollo de los Pueblos Indígenas del América Latina y el Caribe (FILAC)

*Working for the Rights and Recognition of Indigenous Peoples
Trabajando por el reconocimiento y los derechos de los Pueblos Indígenas*

I. Environmental Violence

During the Expert Group Meeting (EGM) of the UN Permanent Forum on Indigenous Issues (UNPFII) in January 2012 on “Combatting Violence Against Indigenous Women and Girls,” the International Indian Treaty Council, in conjunction with the Native Village of Savoonga in Alaska, presented a paper titled “Indigenous Women and Environmental Violence: A rights-Based Approach Addressing Impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations.”¹ This was the first time that the term “environmental violence” was presented at a UN forum to describe a pervasive form of human rights violation caused by the deliberate exposure by states and corporations of women and girls to environmental contaminants that are well-known and well-documented to cause illnesses, reproductive system cancers, disabilities, birth defects, untold suffering and death.

Environmental Violence was identified and defined in the “Declaration for Health, Life and Defense of our Lands, Rights and Future Generations” adopted by consensus by 52 Indigenous women and girls ages 14 to 92 from five regions at the 2nd International Indigenous Women’s Symposium on Environmental and Reproductive Health held in April 2012 in Chickaloon Village, Alaska.

“Environmental contaminants causing disease, birth defects and death are deliberately released into the environment because they are toxic to living things (i.e. pesticides), or as a result of industrial or military processes that are judged by States and corporations to pose an “acceptable risk” and “allowable harm.” States and corporations deny “provable” impacts despite the clear evidence that they cause a range of serious health and reproductive impacts which disproportionately affect Indigenous women and children. This constitutes “environmental violence” by States and corporations and must be identified as such by Indigenous Peoples and human rights bodies.”

Indigenous Peoples, and in particular women and children, are suffering the detrimental, devastating, multi- generational and deadly impacts of environmental toxins and contaminants that were unheard of in our communities prior to industrialization, including:

- Contamination of mothers’ breast milk at 4 to 12 times the levels found in the mother’s body tissue in some Indigenous communities;
- Elevated levels of contaminants such as POPs and heavy metals in infant cord blood; Disproportionate levels of reproductive system cancers of the breasts, ovaries, uterus, prostate and testicles, including in young people;
- Increasing numbers of miscarriages and stillbirths, and;

¹ This paper can be downloaded in its entirety from the UNPFII website under documents submitted for the Expert Group Meeting via http://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiyi.pdf

- High levels of sterility and infertility in contaminated communities.”

The disproportionate impacts of environmental contamination on Indigenous Peoples and communities of color are the basis of the now well-accepted concept “environmental racism”. The concept of “gender-based environmental violence” is not yet as common although we have seen much more growth in the past few years.

II. Sexual Violence: Impacts from Extractive Industries and Energy Development

Another example of the export of human rights violations constituting environmental violence is sexual violence, abuse, and trafficking associated with the presence of extractive industries, in particular mining and oil corporations, in Indigenous communities around the world. In 2014, the Council on Hemispheric Affairs reported that Canadian mining companies accounted for 50–70% of mining in Latin America, in many cases through subsidiary companies.² On April 2, 2016, *The New York Times* reported that 11 Mayan Q'eqchi' women from Lote Ocho, Guatemala, filed a case in Canadian court charging the Toronto-based mining company Hudbay Mineral with negligence for a 2007 gang rape committed during a forced eviction in which its local subsidiary's security guards took part.

The acceptance of this case in Canadian court marked an advance in terms of access to remedy for Indigenous women victimized by the actions of Canadian-owned mining interests, although anecdotal evidence suggests this type of violence is both widespread and under reported. For example, on April 4, 2015, *The Sydney Morning Herald* reported that eleven women and girls who were raped, gang-raped or violently molested in the Papua New Guinea Highlands have reached an out-of-court settlement with Canadian mining company Barrick Gold, having refused to accept the "insulting" compensation paid to 120 fellow victims. The Porgera community says security guards and mobile police at the mine have raped more than 200 women and girls over the past two decades.

In addition, growing concern is being expressed, including at United Nations bodies including the UN Permanent Forum on Indigenous Issues in its thematic dialogue in 2016 on “Conflict, Peace and Resolution,” regarding the targeting of Indigenous human rights defenders around the world. Many Indigenous community members being targeted for criminalization and violence are organizing in opposition to imposed development causing a range of human rights violations being carried out on Indigenous lands without their free, prior and informed consent.

During this discussion at the UNPFII, the IITC presented a statement focused on the increasing number of reports of death threats, intimidation, criminalization, imprisonment and outright killings of Indigenous human rights defenders in many states around the world. IITC stated that “the repression carried out in response to legitimate human rights activism of Indigenous Peoples

² Garcia, Mercedes. “Canadian Mining: Still Controversial in Central America The Case of Honduras,” *The Council on Hemispheric Affairs* (May 2016). <http://www.coha.org/canadian-mining-still-controversial-in-central-america-the-case-of-honduras/>

opposing, in particular, resource extraction and imposed development carried out on their lands without their free, prior and informed consent, only contributes to and perpetuates these conflicts.”³ IITC also highlighted the many reports of sexual violence, including gang rapes carried out on a regular basis against Indigenous women and girls, in the context of such conflicts.

IITC shares the profound concern, sadness and outrage expressed by many Indigenous Peoples, the UN Special Rapporteur on the Rights of Indigenous Peoples and members of the UNPFII during the UNPFII sessions regarding the Indigenous human rights activists who have been recent targets of assassinations in areas of conflict. This notably included the killing of Berta Cáceres and other member of her organization, COPINH, in Honduras in 2016 in response to their opposition to the construction of the Agua Zara hydroelectric dam. IITC noted in the session that this assassination was carried out even after the Inter-American Commission on Human Rights and the UN Special Rapporteur on the Rights of Indigenous Peoples called attention to the death threats against Berta and other members of her organization and called upon Honduras to ensure her safety along with others under similar threats in that country.

Additionally, highlighting continued cross-border violations by Enbridge Natural Gas and Distribution Company, a member of Imperial Oil headquartered in Canada. This company continues to criminalize and target Indigenous Peoples in both the United States and Canada.

Private security actors that pipeline operators hire use war-like tactics to keep tabs on Indigenous Peoples. Internal communications refer to anti-pipeline water protectors as "jihadist fighters." ⁴. One document stated, "aggressive intelligence preparation of the battlefield and active coordination between intelligence and security elements are now proven method of defeating pipeline insurgencies⁵." It has been proven that there was an infiltrator from a private security firm into Indigenous protesters. Chat logs have been released and Indigenous protesters were referred to as "muj." "Muj," which is shorthand for "mujahedeen" which translates to a Muslim religious fighter. The chat included many racist remarks regarding Indigenous women and refer to "drunk Indians" and named the chat "Operation Maca Root 3" which is a supplement known for increasing libido and fertility in men. The infiltrator asked women in the camps about their experienced sexual violence pretending to be a journalist focusing on sexual violence and MMIW. The infiltrator spent a night with an Indigenous woman and stated he was "making little martyrs."⁶

Enbridge has created a fund specifically for victims of sex trafficking and sexual violence victims that occur by Enbridge employees. Although it isn't officially called a "rape fund,"

³ http://cdn6.iitc.org/wp-content/uploads/UNPFII-2016-Item-5-Interactive-Dialogue-Indigenous-Peoples-Conflict-Peace-and-Resolution.-May-17-2016_web.pdf

⁴ <https://theintercept.com/2017/05/27/leaked-documents-reveal-security-firms-counterterrorism-tactics-at-standing-rock-to-defeat-pipeline-insurgencies/>

⁵ <https://theintercept.com/2017/05/27/leaked-documents-reveal-security-firms-counterterrorism-tactics-at-standing-rock-to-defeat-pipeline-insurgencies/>.

⁶ <https://theintercept.com/2020/11/15/standing-rock-tigerswan-infiltrator-documents/>

advocates and those following the human rights violations commonly recognize this as a "rape fund" because that's essentially what its purpose is – to quietly pay off victims of rape and sexual assault at the hands of their staff. Enbridge also has a "public safety fund" that gives funds to "cover certain costs associated with policing pipeline protests as well as anti-human trafficking efforts in the areas surrounding the construction and campgrounds where pipeline workers stay."⁷ For example, the Violence Intervention Project in Thief River Falls requested \$250 for hotel rooms "for at least two women who say they were assaulted by pipeline workers."⁸ Local shelters and violence intervenors are having a difficult time providing shelter for all those affected by sexual violence because instances of violence have drastically increased with the presence of man camps and workers also "book up [all the] local rooms."⁹

III. Environmental Toxics and Violence Against Women, Girls and Future Generations

The severe and ongoing harm caused by environmental toxics to Indigenous women, girls, unborn generations and Indigenous Peoples as a whole, requires immediate attention. These toxics include pesticides and other Persistent Organic Pollutants, as well as chemicals produced by extractive industries (coal, oil, tar sands etc.), military installations and weapons testing, waste dumping and incineration, industrial processes, all phases of uranium mining, milling and waste storage.

In this regard, IITC would like to highlight an issue that has been flagged by over 350 organizations, in 63 countries representing hundreds of thousands of farmers, fisherfolk, agricultural workers and other communities, as well as human rights, faith-based, environmental and economic justice institutions. In 2020, UN Food and Agriculture Organization (FAO) and CropLife International renewed and strengthened a partnership to “work together and find new ways to transform agri-food systems and promote rural development through on the ground investment and innovation”, as outlined in a press release by UN FAO.

CropLife is a global trade association representing the interests of companies that produce and promote pesticides, including highly hazardous pesticides (HHPs). According to the letter, HHPs “are responsible for a wide range of devastating health harms to farmers, agricultural workers and rural families around the world,” and these chemicals have “decimated pollinator populations and are wreaking havoc on biodiversity and fragile ecosystems” as well.

For over 20 years the IITC, representing Indigenous Peoples from the Arctic, North, Central and South America, the Caribbean and the Pacific, has called the attention of various UN bodies, including FAO, to the devastating intergenerational health impacts of highly toxic pesticides, including many that have been banned for domestic use by the exporting countries.

⁷ <https://truthout.org/articles/exploiting-more-than-the-land-sex-violence-linked-to-enbridge-line-3-pipeline/>.

⁸ <https://truthout.org/articles/exploiting-more-than-the-land-sex-violence-linked-to-enbridge-line-3-pipeline/>

⁹ <https://truthout.org/articles/exploiting-more-than-the-land-sex-violence-linked-to-enbridge-line-3-pipeline/>

The production, use, dumping, and general proliferation of environmental toxics adverse effect the collective and individual rights of Indigenous Peoples, and Indigenous women and children specifically, to free prior and informed consent, health, well-being, culture, development, food and subsistence, life and security of person. The lack of accountability by corporations and States is resulting in devastating health impacts that continue to release environmental toxics into the environment. Of more than 80,000 chemicals in commerce, more than 85% of these chemicals have never been assessed for possible effects on human health in general, let alone their specific impacts on Indigenous women as a uniquely vulnerable group.

States and industry knowingly permit, produce, release, store, transport, export and dump hazardous chemicals that impair the endocrine and immune systems, adversely affect neurodevelopment and reproduction, and cause disease including all forms of cancer with few consequences. This is an egregious example of impunity. Unlike infectious diseases, environmental contaminants that cause disease and death are either deliberately released into the environment specifically because they are toxic to living things (i.e. pesticides), or they are a result of manufacturing from industrial or military processes that are judged by States and corporations to pose an “acceptable risk” as compared to their purported economic or military “benefits” to society as a whole. States and corporations deny “provable” impacts despite the clear evidence that these environmental toxics cause a range of serious, well documented health impacts, including harm to reproduction, health and fetal development which disproportionately affect Indigenous women.

Indigenous Peoples live in some of the most remote areas in the world: the deserts, mountains, forests and Arctic tundra. Indigenous families subsist off the land and waters through farming, herding, hunting, fishing and gathering for their main food supplies. Many of these regions are heavily exposed to toxic contaminants as a result of mining and extractive industries as well as industrial agriculture and “green revolution” programs which rely heavily on the use of toxic pesticides. Many chemicals are also transported atmospherically and through ocean currents, and heavily contaminate Indigenous lands and foods far from the points of production and use.

Indigenous women play a key role in farming, food gathering and preparation. They are also cultural practitioners, healers, teachers and knowledge holders who have a central role in the transmission of language and culture to younger generations. Indigenous women have a central role in food gathering and preparation and in a range of traditional cultural practices inextricably linked to the natural environment. These everyday practices increase their exposure and makes them particularly vulnerable to absorbing environmental contaminants, which are increasingly affecting their health, livelihoods and reproductive capacities.

The particular health effects of toxic contaminants on Indigenous women are well documented and are further affirmed through a range of testimonies from the communities most affected, some of which have been included in the footnoted paper titled “*Indigenous Women and Environmental Violence: A Rights-based approach addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations*”.

Multiple studies confirm that alarmingly high levels of toxics are found in Indigenous women’s breast milk, placental cord blood, blood serum and body fat. Devastating impacts on maternal

health include sterility, reproductive system cancers, decreased lactation and the inability to produce healthy children. Research also demonstrates the link between chemical exposures and intellectual and neurological development of children, impacting their ability to retain and pass on culture, ceremonies, stories, language, songs -- a primary concern of Indigenous women.

IV. Calls to Action by Indigenous Women

From 19-20 January 2019, a first of its kind, Indigenous-led Expert Group (EGM) meeting was held at the Centro Cultural de España in Mexico City to provide information to the (now former) United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Mr. Baskut Tuncak.

The EGM, hosted by the International Indian Treaty Council (IITC) and the Center for the Autonomy and Development of Indigenous Peoples (CADPI, Nicaragua) with the Fund for Development of Indigenous Peoples of Latin American and the Caribbean (FILAC), provided the opportunity for representatives from 5 regions to present testimonies and community-based studies to contribute to the Special Rapporteur's current Human Rights Legal Review of the United Nations Chemical Conventions focusing on the impacts on Indigenous Peoples.

During the two-day meeting, Indigenous community-based experts and scientists shared examples of the human rights and health impacts caused by the application of banned and highly toxic pesticides, extractive industries such as gold mining using mercury, toxic waste incineration and other activities carried out in Indigenous Peoples' lands and territories without their free prior and informed consent. Representatives of the United Nations Permanent Forum on Indigenous issues, the UN Committee on the Rights of the Child, the UN Food and Agriculture Organization and the UN Committee on Food Security Civil Society and indigenous Peoples Mechanism also presented at the EGM. The Mexican government's National Institute of Indigenous Peoples provided an official welcome statement to inaugurate the EGM and participated for both days.

Indigenous experts shared testimonies and studies confirming the devastating health impacts of toxic contamination in their communities including birth defects, infant mortality, reproductive impairment and cancers. Many identified these impacts as "environmental violence" resulting in extreme suffering and many deaths, especially among infants and small children. They affirmed that Indigenous women and girls are particularly affected because of the well-known impacts of environmental toxics on women's bodies and reproductive health.

The disproportionate impacts on disabled persons in Indigenous communities was also presented. Indigenous presenters insisted that drastic and immediate change was required on the local national and international levels so that the use and storage of hazardous substances could not take place in their lands without their free prior and informed consent as affirmed in Article 29 of the UN Declaration on the Rights of Indigenous Peoples. They called for effective clean-up of contaminated areas, remedies for those whose lives and human rights have been affected, corporate and government responsibility to provide redress and remedy to those who have been harmed, restoration of traditional food systems and non-toxic agricultural methods, programs to

address extreme poverty and the development of safe, economically viable livelihoods in Indigenous communities that are not harmful to their health or the environment.

The UN Permanent Forum on Indigenous Issues (UNPFII) recommended that this legal review be carried out in 2014 and again in 2016 with the assistance of the UN Special Rapporteur on Human Rights and Toxics to address the disconnect between the UN chemicals conventions, in particular the Rotterdam Convention which permits the international import and export of banned pesticides and other toxic chemicals, and UN Human Rights norms and Standards including the UN Declaration on the Rights of Indigenous Peoples, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities.

In April 2018, the Special Rapporteur shared some of his preliminary observations at the UNPFII's 17th session "...Indigenous peoples such as the Yaqui have suffered grave adverse impacts on their health and dignity from of the ongoing use of highly hazardous pesticides. These pesticides are often imported from countries that have banned their use domestically because of uncontrollable and unreasonable risks." In this statement he also observed that regarding the import, export and use of toxic substances impacting Indigenous communities "there is no recognition of the right to free, prior and informed consent of indigenous peoples."

"This legal review by the Special Rapporteur on Human Rights and Toxics is very important to the UNPFII and to Indigenous Peoples around the world" said Tarcila Rivera Zea, Quechua from Peru, who participated in the EGM as an expert member of the UNPFII from Latin America and the Caribbean, focusing on issues impacting Indigenous women, children and youth. Rivera Zea affirmed at the EGM that "it is time for UN mechanisms and processes to move from recommendations to implementations" and to find "new ways forward that effectively respect international legal norms and standards protecting the rights of women, children and Indigenous Peoples". She also called upon States to take responsibility to respect the rights of Indigenous Peoples and the public health of everyone by halting the production, import and export and use of substances known to be deadly to human health and children's development, whether they are produced by industrial agriculture, mining, oil drilling, fracking or other forms of unsustainable production."

The outcomes of the Special Rapporteur's legal review were presented at the 18th session of the UNPFII in April and at the 74th session of the UN General Assembly in 2019. However, no additional recognition or actions have been taken in this regard.

V. Signs of Progress in the International Arena

The causes, effects and proposed solutions to environmental violence described in this paper have begun to be noted by UN fora, including in groundbreaking recommendations of UN Treaty Bodies.

In its 2007 and 2012 reviews of Canada and its 2008 and 2014 reviews of the United States, the Committee on the Elimination of Racial Discrimination recommended that these States Parties take measures to prevent human rights violations against Indigenous Peoples in other countries which occur as a result of activities by corporations licensed by the States Parties. For example,

in February 2008, CERD called upon the US to take appropriate legislative and administrative measures to prevent transnationals it registers “from negatively impacting on the enjoyment of rights of indigenous peoples in territories outside the United States.”¹⁰

These recommendations regarding state responsibility for corporate violations were made by the CERD as a result of information presented by IITC regarding the activities of Canadian Mining Companies in the United States, Mexico and Guatemala, as well as the impacts in Rio Yaqui of the U.S. export to Mexico of banned pesticides by U.S. corporations such as Monsanto.

In addition, the disconnect between the UN Chemical Conventions, in particular the Rotterdam Convention which permits countries to import and export banned pesticides, and international human rights standards, has been presented at several UN bodies. The need for action to address this was included in the UNPFII’s report of its 13th session (May 2014):

16. Considering their impact on the sexual health and reproductive rights of indigenous peoples, the Permanent Forum calls...for a legal review of United Nations chemical conventions, in particular the Rotterdam Convention, to ensure that they are in conformity with international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of Persons with Disabilities.

Finally, as a result of the submission by IITC in conjunction with Yaqui communities and a number of Indigenous organizations in Mexico to the 2015 review of Mexico by the UN Committee on the Rights of the Child, the CRC recognized “environmental health” as a right protected under Article 24 of the Convention on the Rights of the Child. In addition, the CRC recommended that Mexico, as an importer of pesticides that have been banned for use in the U.S. and other countries:

(a) Assess the impact of air, water, soil and electromagnetic pollution on children and maternal health as a basis to design a well-resourced strategy at federal, state and local levels, in consultation with all communities and especially indigenous peoples, to remedy the situation and drastically decrease the exposure to pollutants;

(b) Prohibit the import and use of any pesticides or chemicals that have been banned or restricted for use in exporting countries;

(c) Further examine and adapt its legislative framework to ensure the legal accountability of business enterprises involved in activities having a negative impact on the environment, in the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights.

These and other signs of progress to hold states and corporations accountable for the causes of environmental violence, as well as continued activities and advocacy by impacted Indigenous Peoples, provide increased access to remedies for victims and create a basis for greater

¹⁰ CERD/C/USA/CO/6, para. 30

understanding and recognition of these under-recognized and under-reported human rights violations.

VI. Recommendations:

In conclusion, IITC strongly recommends that the Special Rapporteur urges States and UN Bodies to recognize it is crucial that Environmental Violence is seen on the same level as physical violence against women and girls.