

Access to justice in the promotion and protection of the rights of indigenous peoples in the context of violence against women

Chairperson,

Earlier this year, a study called “Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women: *A call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America*” was produced jointly by UNICEF, UN Women, UNFPA, ILO and the Office of the Special Representative of the Secretary-General on Violence against Children.

Based on illustrations from Africa, Asia, and Latin America, the study finds that the experience of violence is heightened among females of indigenous backgrounds yet the tendency to report or seek help in situations of violence is far less in indigenous communities. The study calls for a concerted effort to address not only the causes of violence but also to improve the availability of, and access to, culturally appropriate prevention, protection and response services – including access to justice.

Barriers to access to justice

Barriers to access to justice are numerous and varied. Indigenous women and girls suffer ‘institutional violence’, meaning they are often denied the protection of the State. The Rapporteur on the Rights of Women of the Inter American Commission on Human Rights has highlighted gaps, irregularities and deficiencies in the investigation, prosecution, trial and punishment of cases of violence and acknowledges that these obstacles are even more challenging for indigenous women. There is a culture of impunity rooted in the lack of due diligence in addressing the structural barriers to justice and lack of due process in cases of violence against women.

Language and economic barriers, geographic remoteness of indigenous territories, patriarchal and discriminatory attitudes of law enforcement and justice officials, together with insufficient knowledge of existing applicable legislation, are among the

factors that reinforce a system of indifference and discourage victims from pursuing cases.

Further barriers to access to justice include low levels of birth registration among indigenous children, together with an absence of legal recognition of indigenous peoples in some countries. In certain cases, cultural norms prevent women from seeking justice. In India, for example, 59 per cent of Scheduled Tribe girls and women aged 15-49 agree that a husband is justified in hitting or beating his wife for specific reasons.

Programmes and good practices

To ensure that indigenous women and girls who are victims of violence are granted adequate protection and justice, it is critical that reporting systems are put into place. Complaints mechanisms, such as helplines, should be well publicized and made easily accessible to indigenous girls and women in their own languages and communities.

Many examples of good practice can be found in Latin America. For instance, in Guatemala, the enactment of the new femicide law and the creation of specialized tribunals to prosecute such cases in a number of mainly indigenous populated departments have resulted in the institution of a comprehensive care system in place for victims of violence. The system provides multi-sectoral personalized care to survivors through a combined team of psychologists, social workers and doctors. Assistance also extends to legal proceedings to avoid re-victimization and the identification of protection measures that need to be taken in particular cases. It is supported by a new protocol for implementing the anti-femicide law in addition to a full-time 24-hour service unit of the Public Prosecution Service.

Other countries have taken positive steps towards ensuring adequate access to justice for indigenous women and girls but still face obstacles. For example, the lack of training of enforcement officials, the absence of translators and a lack of trust in the police and justice systems.

Recommendations

The study showcases how limited access to justice perpetuates a vicious cycle of impunity for those who promote violence against indigenous girls and young women.

We need to ensure that no victim of violence is denied justice and the study puts forward several recommendations to this effect:

Firstly, gaps in existing knowledge must be addressed from the perspective of different settings, including justice institutions. The impact of existing legal, policy and institutional reforms needs to be assessed.

Secondly, the culture of impunity must be brought to an end by undertaking reforms in the justice sector to enhance the ability of victims to seek redress, compensation and protection from violence. A package of reforms which includes legal aid, witness protection, interpretation of proceedings and procedures in appropriate languages should be pursued.

Thirdly, governments must allocate adequate human and financial resources to the implementation of legal and policy reforms, action plans and strategies to ensure that judicial institutions possess the relevant capacity to implement reforms in an effective and coordinated manner.

Thank you