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**CLADEM**

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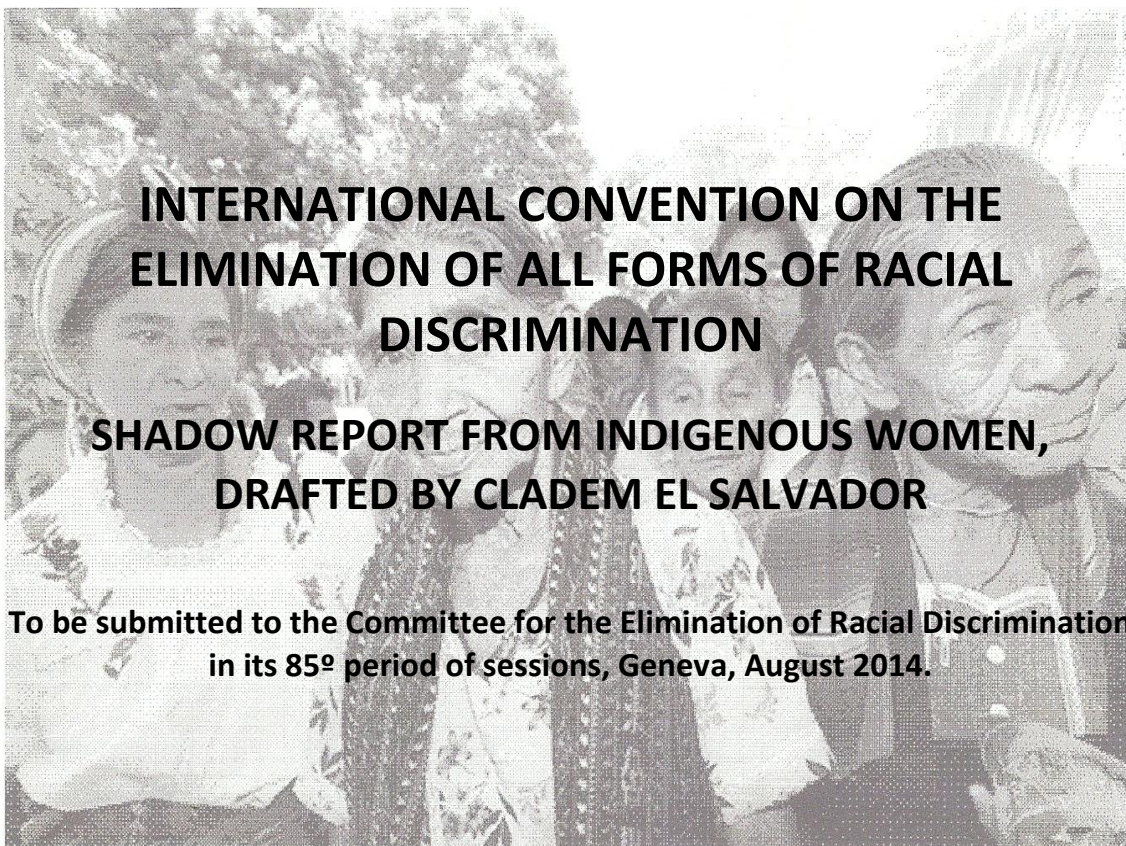
**CLADEM**

Programa de Monitoreo

**INTERNATIONAL CONVENTION ON THE  
ELIMINATION OF ALL FORMS OF RACIAL  
DISCRIMINATION**

**SHADOW REPORT FROM INDIGENOUS WOMEN,  
DRAFTED BY CLADEM EL SALVADOR**

To be submitted to the Committee for the Elimination of Racial Discrimination  
in its 85<sup>o</sup> period of sessions, Geneva, August 2014.



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## INTRODUCTION

CLADEM El Salvador submits its first shadow report before the Committee for the Elimination of Racial Discrimination in the 85<sup>o</sup> period of sessions, according to the General Recommendation 25, *“The dimensions of racial discrimination related to gender”*.

This document aims to publicize the progress and outstanding omissions that the Salvadoran State has in the implementation of the CERD Convention from the perspective of human rights of indigenous women, in two specific areas: health and education.

The methodology for the preparation of this report, included consultation and validation workshops with women from various parts of the country; mainly the towns of Izalco, Nahuizalco, Santo Domingo, Juayua, Paraiso de Osorio, Suchitoto, Panchimalco, San Salvador, Santo Tomas, Ayutuxtepeque.

The report is the product of the collective efforts of organizations and women in the context of respect and cooperation, who have built this critical view of compliance with the CERD Convention in El Salvador.

## 1. NATIONAL CONTEXT

Current situation of indigenous peoples in El Salvador, is marked by the historical denial and violence towards this sector of the population; generating the loss of their identity and full capacity to exercise their rights. In addition, there is an extreme condition of poverty and marginalization that characterize the most disadvantaged sectors of the country<sup>1</sup>.

Those who identify themselves or are identified as indigenous, generally live in rural areas, where economic conditions are worse in relation to urban areas. In 2011, the General Directorate of Statistics and Census of El Salvador (DIGESTYC) indicated that the level of rural poverty was 50.2% compared to 40.6% nationally. For 2012, the same source observed that in urban areas, poverty was 29.9% in contrast to rural areas, with 43.3%<sup>2</sup>.

In the field of socio-economic indicators, the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, has expressed concern about the lack of disaggregated data to account for the economic and social situation of indigenous peoples in El Salvador. Particularly, he said, ***“The existing statistical data and information submitted to the Special Rapporteur indicate a situation of marginalization of indigenous peoples in comparison with the rest of the population (emphasis added)”***<sup>3</sup>.

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<sup>1</sup> Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013, Summary, page 1.

<sup>2</sup> DIGESTYC. *Survey of Houses of Multiple Purposes 2012*. Page 22. Consult document in: <http://www.digestyc.gob.sv/index.php/temas/des/ehpm/publicaciones-ehpm.html>

<sup>3</sup> Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013, para. 42.

For example, with regard to social security, a report of the World Bank in 2003 with various Salvadoran institutions, noted that at the time, only 3.2% of indigenous had social insurance, while 17% of Salvadorans in general already had this benefit<sup>4</sup>. In the same document, they explained that 61% of heads of household were engaged in agriculture; 18% is recognized as housewives, 6% are laborers; 2.8% are artisans; and other crafts consists of motorcyclists, porters, sugarcane cutters, etc...<sup>5</sup>. It should be clarified that this information is the most updated at this time.

During his visit to El Salvador, the Special Rapporteur was informed about the situation in the village of El Amayito, in the canton of Azacualpa, Panchimalco Municipality, where indigenous people live in houses with plastic roof in miserable conditions. He also received information on six cantons in southern Panchimalco lacking drinking water, because the water of the area is sent to residential colonies of the capital, San Salvador. In these cantons, people have to walk more than two miles and wait in long lines to get water<sup>6</sup>.

In the specific case of indigenous women, the double discrimination they face is reflected among other situations, in the enjoyment of their right to work. For example, many companies are reluctant to hire them because of their place of origin, physical appearance, age, and educational level.

In addition, the jobs that indigenous women are engaged in their communities are mostly related to agriculture activities, domestic work, sales in the informal sector and making crafts.

Source: Inputs from indigenous women participants in the consultation process for the preparation of CERD Shadow Report organized by CLADEM EL Salvador, May 2<sup>nd</sup>, 2014.

### **Situation of Indigenous Women in El Salvador**

The situation of indigenous women is especially critical. The subordination of women to men is a common feature of the living conditions of all peoples, including indigenous. Indigenous and non-indigenous women, face the responsibility of being seen as mothers, wives, educators, and counselors on health, education and other aspects.

They begin to live their "responsibilities" from a very early age; as girls, they not only prepare food but also carry water, firewood and assist in raising their brothers/sisters. They are responsible for the health, nutrition, and care of the family; they do not have any kind of social provision and often, are subjected to violence and humiliation.

<sup>4</sup> World Bank. *Perfil de los Pueblos Indígenas en El Salvador*, 2003, page 38. The document can be seen in: [http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/09/30/000020953\\_20110930140204/Rendered/PDF/647480PUB0Portugese00PUBLICO.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/09/30/000020953_20110930140204/Rendered/PDF/647480PUB0Portugese00PUBLICO.pdf)

<sup>5</sup> World Bank, Ministry of Education, CONCULTURA and Indigenous Peoples from El Salvador. *Perfil de los Pueblos Indígenas en El Salvador*, 2003, page 30.

<sup>6</sup> Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013, para. 13.

They start their sex lives very early by joining or marrying a man. It is believed that more than half do so before age 19.

Many of these women not only run the household by the lack of companion, but work to keep the family burden that usually exceeds the national average of five children, reaching up to twelve and more. The indigenous woman lives far from the social, economic, and political development of the country especially.

Source: *Consejo Coordinador Nacional Indígena Salvadoreño (CCNIS). Pueblos Indígenas, Salud y Calidad de Vida en El Salvador, 1999, page 16.*

Another aspect that has been observed by the CERD Committee, which is related to the historical debt by the Salvadoran State, is the remarkable difference in the figures for the ethnic composition of the country, derived from the results of the VI Population and Housing Census carried out in 2007<sup>7</sup>. At that time it was established, that of all the 5'744,113 people in El Salvador, only 13,310 were counted as belonging to indigenous peoples, according to the following data:

Indigenous Population	Men	Women	TOTAL
Nahua Pipil	1,704	1,835	3,539
Lencas	959	1,053	2,012
Kakawira (Cacaopera)	2,038	2,127	4,165
Otro	1,700	1,894	3,594
<b>TOTAL</b>	<b>6,401</b>	<b>6,909</b>	<b>13,310</b>

Source: Authors' calculations based on data from the V Census of Population, 2007.

The 2007 census has been criticized for significantly underestimate the indigenous population in El Salvador and distort the breakdown of indigenous groups. The quantity and quality of the questions asked by the census are often cited as contributing factors to their inaccuracy<sup>8</sup>. The question in the census form that defined the belonging to an indigenous people was determined by skin color of the people and not by its self-definition<sup>9</sup>.

The official figures, which concluded that 0.2% of the population is indigenous, are contrasted with research indicating that, of the 14 departments, 13 have communities that have a clear indigenous ancestry where ancient customs and traditions can be identified. The presence of ethnic groups clearly identified as indigenous in El Salvador requires a change in government policies towards minorities<sup>10</sup>.

<sup>7</sup> Committee for the Elimination of Racial Discrimination. Final Observations to the State of El Salvador, 77<sup>th</sup> Period of sessions, para. 12.

<sup>8</sup> Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013, para. 6.

<sup>9</sup> Procuraduría para la Defensa de los Derechos Humanos. *Informe Situacional sobre los Derechos de los Pueblos Indígenas en El Salvador*, January 2012, page 40.

<sup>10</sup> Bunicef and Funproeib Andes. *Atlas sociolingüístico de pueblos indígenas en América Latina*. Cochabamba, 2009. Page 789.

It will be up in 2017, when the category of indigenous and Afro-descendants will join the census questionnaire<sup>11</sup>.

The geographical distribution of indigenous peoples in the country is as follows:



Source: Ministry of Education of El Salvador

The indigenous population in El Salvador is located in the following departments nationwide<sup>12</sup>:

- Nahua Pipil: Ahuachapán, Sonsonate, Santa Ana, La Libertad, San Salvador, Cuscatlán, La Paz, Chalatenango and San Vicente.
- Lencas: Usulután, San Miguel, Morazán and La Unión.
- Kakawira (Cacaopera): Morazán and at the north of La Unión.

In contrast to the data identified in the late 90s, specifically for 1999, the Secretary for Indigenous Affairs of the Government of El Salvador<sup>13</sup>, approximately estimated 500,000 to 600,000 persons belonging to indigenous peoples<sup>14</sup>. Eight years later, the quantitative difference is significant.

<sup>11</sup> Centro Latinoamericano y Caribeño de Demografía (CELADE)-División de Población y División de Asuntos de Género de la CEPAL. *Mujeres indígenas en América Latina: dinámicas demográficas y sociales en el marco de los derechos humanos*, October 2013, page 23.

<sup>12</sup> OHCHR (Office of the High Commissioner for Human Rights). *Diagnóstico sobre la situación de los derechos humanos de los pueblos indígenas en América Central, Tomo I, El Salvador*, 2011, page 143.

<sup>13</sup> Currently is the Dirección Nacional de Pueblos Indígenas y Diversidad Cultural de la Secretaría de Cultura de El Salvador.

<sup>14</sup> Consejo Coordinador Nacional Indígena Salvadoreño (CCNIS). *Pueblos Indígenas, Salud y Calidad de Vida en El Salvador*, 1999, page 21.

Regarding language, the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, acknowledged that most of the indigenous languages from El Salvador are extinct, and only about 200 persons still speak the most historically spoken language, Nahuat<sup>15</sup>. During his visit, he had knowledge of the "Nahuat or Pipil Language Revitalization Program of El Salvador". This Program includes a project in the municipality of Santo Domingo de Guzmán, Department of Sonsonate, which trains 4 Nahuatl or Pipil speaking women who take care of 20 children aged 3-5 years as part of the "Cuna Nahuat" project<sup>16</sup>.

According to the State Report (CERD/C/SLV/CO/16-17, para. 178), May 02, 2012, the Educational Support for Indigenous Affairs Commission, which was created in 2006 by Agreement N° 15-0280 of the Executive Body of the Branch of Education, was revitalized. At that time, the Salvadoran government reported that the Commission is taking steps to include as members not only technical professionals of the Secretary of Culture of the Presidency and the Ministry of Education, but a representative of each indigenous people identified: Kakawira, Lenca and Náhuat.

During the consultation process for the preparation of CERD Shadow Report organized by CLADEM EL SALVADOR, indigenous women participants said that they know that the Commission exists, but that the mentioned indigenous peoples are not participating and also it has never worked.

Regarding the "Cuna Náhuat" Project, they mentioned that women who are teaching classes to children of 4-6 years are Nahuat speakers. They are not trained.

Source: Inputs from indigenous women participants in the validation process of CERD Shadow Report organized by CLADEM EL Salvador, June 27<sup>th</sup>, 2014.

## **RECOMMENDATIONS:**

- Incorporate in the next population census, the recommendations made by the CERD Committee in relation to improving the census methodology, in close cooperation with the United Nations, the indigenous peoples and Afro-descendants, in order to reflect the ethnic complexity of Salvadoran society, taking into account the principle of self-identification.
- Develop a system that will provide sufficient statistical data disaggregated by sex, to account for the social and economic situation of indigenous women and men; in order to develop public policies that respond to identified problems.
- Design and implement programs for indigenous women, in areas such as work, health and education, taking into account their specific needs, prior consultation.

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<sup>15</sup> Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013, para. 59

<sup>16</sup> Ibid, para. 60.

## 2. ADOPTION OF LEGISLATIVE, ADMINISTRATIVE, AND OTHER MEASURES

The Constitution of the Republic makes no express mention of indigenous peoples; neither in secondary legislation are rules of specific recognition of the rights of indigenous peoples. Some provisions are related to the recognition of indigenous languages and culture, Article 62 provides that indigenous languages as part of the cultural heritage that must be respected, preserved, and disseminated.

On June 12, 2014, the Legislative Assembly of El Salvador ratified the amendment to article 63 of the Constitution of the Republic<sup>17</sup>, which was approved in April 2012 by the legislature 2009-2012. Through that legislative decree, constitutional recognition to indigenous peoples is granted. The subsection incorporated into the legislation provides that

*"El Salvador recognizes indigenous peoples and adopts policies to maintain and develop their ethnic and cultural identity, world view, values, and spirituality"*

While the legislative measure is an improvement that exceeds the historical denial that indigenous peoples have had in El Salvador. It also responds to repeated observations that the CERD Committee has made in this area. Granting legal recognition to indigenous peoples in their legislation in accordance with Article 2 of the Convention<sup>18</sup>, the original proposal for constitutional reform, varied substantially in content.

Initially it was proposed to add a chapter on Social Rights in Title II of the Constitution of the Republic, called "RIGHTS AND FUNDAMENTAL GUARANTIES OF THE PERSON". There were four provisions included in the proposal related to the recognition of El Salvador as a multicultural and multi-ethnic State, the promotion and fulfillment of both individual rights and economic, social, and cultural rights; as well as rights and access to justice, multicultural education, and repairs, among other faculties<sup>19</sup>. None of these rights was incorporated in the mentioned constitutional reform.

At the local level, regulations have also been created with the aim of recognizing the rights of indigenous peoples. The municipalities of Izalco and Nahuizalco (located in the western part of the country) have Municipal Ordinances on the Rights of Indigenous Communities. Nahuizalco Ordinance was enacted October 24, 2010<sup>20</sup> and that of Izalco, on April 11, 2012<sup>21</sup>.

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<sup>17</sup> Legislative Decree N° 707 of June 12, 2014. The reform can be consulted in: <http://www.asamblea.gob.sv/comisiones-legislativas/permanentes/comision-de-legislacion-y-puntos-constitucionales/legislatura-2012-2015/decretos/2014/06-junio/dec0707-leg-120614-pueblos-indigenas/?searchterm=PUEBLOS%20INDIGENAS>

<sup>18</sup> CERD Committee. *Final observations of the Committee for the Elimination of Racial Discrimination. September 14, 2010.* Paragraph 14.

<sup>19</sup> Proposal of reform project to the constitution of the Republic for the Recognition of Indigenous Peoples of El Salvador. Pages 12 and 13. The document can be consulted in: <http://cultura.presidencia.gob.sv/novedades/descargas/reforma-constitucional-que-reconoce-a-pueblos->

<sup>20</sup> Nahizalco Municipal Council, Decree 1. Published in the Official newspaper N° 126, Vol. N° 392 of July 6, 2011. The document can be consulted in: <http://cultura.presidencia.gob.sv/novedades/descargas/documentos-sobre-pueblos-indigenas.html>

<sup>21</sup> Izalco Municipal Council, Decree 2. Published in the Official newspaper N° 75, Vol. N° 395 of July 6, 2011. The document can be consulted in: <http://cultura.presidencia.gob.sv/novedades/descargas/documentos-sobre-pueblos-indigenas.html>



Both standards recognize indigenous peoples as "first settlers" of the territory<sup>22</sup>. The two ordinances are intended to "promote the comprehensive development in economic, social, cultural, and effective participation of indigenous communities" in the respective municipalities, including "the protection and preservation of their own culture, their land, and territory, especially of renewable and nonrenewable resources (...)"<sup>23</sup>.

It also establishes specific rights for indigenous women. For example, they state, "(...) The Municipality will promote local public policies to guarantee individual and social rights of indigenous women, especially regarding their sexual and reproductive rights in accordance with their worldview of life and preservation of health"<sup>24</sup>.

### 3. INDIGENOUS WOMEN'S RIGHTS

**It states that in particular, indigenous women have the right to:**

- ✓ Be protected by their families, communities and local government,
- ✓ That their work is recognized both at home and outside it; that women must decide about their working commitment sharing tasks,
- ✓ Not be physically, sexually or psychologically abused,
- ✓ Be informed of methods to decide the number of children they want to have,
- ✓ Choose their partner freely and without pressure or decide not to have one;
- ✓ Actively participate with voice and vote; and to be heard in the various community or government instances,
- ✓ Access to public resources for productive projects,
- ✓ Receive health, education and training services,
- ✓ A decent life,
- ✓ Share responsibilities and satisfactions with their partners on an equal footing,
- ✓ To be effectively recognized in their capacity of human manifestation of our Mother Earth regardless of the physical differences between men and women.

Source: Article 22 of the Municipal Ordinance on Rights of Indigenous Communities settled in the Municipality of Nahuizalco, and 21 of the respective Izalco's Ordinance.

It particularly recognizes midwives indigenous women, establishing that they are entitled to exercise their job and that the ways of performing their jobs as midwives regarding the use of medicines, as well as procedures and other cultural elements of their exercise must be respected<sup>25</sup>.

Indigenous women from the municipalities of Izalco and Nahuizalco, said they are aware of the Municipal Ordinance on Rights of Indigenous Communities, but noted that they unknown if there are other programs that make effective the Ordinance.

<sup>22</sup> Article 3 common to the two ordinances.

<sup>23</sup> Article 1 common to the two ordinances.

<sup>24</sup> Article 21 of the Municipal Ordinance on Rights of Indigenous Communities settled in the Municipality of Nahizalco and Article 20 of Izalco Ordinance.

<sup>25</sup> Article 23 of the Municipal Ordinance on Rights of the Indigenous Communities settled in Nahizalco Municipality and Article 22 of Izalco Ordinance.

They explained that for the development of such legislation indigenous peoples were not consulted. The drafting was done by the Municipality and the Culture Secretariat of the Presidency's National Indigenous Peoples and Cultural Diversity.

Source: Inputs from indigenous women participants in the validation process of CERD Shadow Report organized by CLADEM EL Salvador, June 27<sup>th</sup>, 2014.

The CERD Committee has urged the Salvadoran State to take all necessary legislative measures to ratify Convention N° 169 on Indigenous and Tribal Peoples in Independent Countries<sup>26</sup>. Similarly, the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, on his visit to El Salvador; reported that the Ministry of Labor and Social Welfare has conducted a legal analysis of the Convention and has determined that its adoption would be feasible as it does not contravene any existing law. The ratification is now under study in the Legislature<sup>27</sup>.

He recommended that ratifying the Convention would help to strengthen the legal foundation on which other reforms can be built, and would help to ensure the permanence of these reforms<sup>28</sup>.

Within these pending reforms, there is the incorporation of the definition of "racial discrimination" in the national law<sup>29</sup> as well as the express prohibition of "racial segregation" according to Article 3 of CERD Convention<sup>30</sup>.

El Salvador is a party to various Covenants, including the International Covenant on Economic, Social and Cultural Rights, which recognizes that all persons are subjects of rights, regardless of race or social status; in 2000, signed the Millennium Declaration at the United Nations, which Goals express the interests of the signatory countries to promote social inclusion, human development. "This framework provides the basis to educational efforts seeking cultural relevance, attention to historically excluded peoples and cultures, particularly indigenous peoples.

In September 2007, El Salvador, like other countries, has ratified the United Nations Declaration on the Rights of Indigenous Peoples, pledging to support their development and to respect and revitalize their practices, visions, rituals, ancestral knowledge, etc."<sup>31</sup>.

## RECOMMENDATIONS:

- Ratify the ILO Convention N° 169 concerning Indigenous and Tribal Peoples in Independent Countries.
- Incorporate into national law, the definition of "racial discrimination" in accordance with article 1 of the CERD Convention.

<sup>26</sup> CERD Committee. *Final observations of the Committee for the Elimination of Racial Discrimination*. Sept. 14, 2010. Para 15.

<sup>27</sup> Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013, para. 17.

<sup>28</sup> Ibid, para 69.

<sup>29</sup> CERD Committee. *Final observations of the Committee for the Elimination of Racial Discrimination*. Sept. 14, 2010. Para 13.

<sup>30</sup> Ibid, para 16.

<sup>31</sup> Ministry of Education. *Evaluación Social y Plan para los Pueblos Indígenas*. Proyecto Mejoramiento de la Calidad Educativa en El Salvador. 2011.

- Disseminate the contents of the Municipal Ordinance on Rights of Indigenous Communities in the Municipality of Nahuizalco as well as the Municipal Ordinance on the Rights of Izalco's Indigenous Community; with the aim that indigenous women know their rights and can enforce them.
- Encourage the creation of new Municipal Ordinances on the Rights of Indigenous Communities, with participation of women of different communities.

#### **4. RIGHT TO PUBLIC HEALTH, HEALTH CARE, SOCIAL SECURITY AND SOCIAL SERVICES. Article 5**

##### **CONTEXT**

*"The living and health conditions" of indigenous peoples, deserve a specific approach and a greater respect for the traditions and cultural values, as well as a commendable effort to reach a rapprochement of the modern health systems for these communities*<sup>32</sup>.

Article 25 of the 169 Convention states that health services shall, to the extent possible, be community-based. These services shall be planned and administered in co-operation with the peoples concerned and should take into account their economic, geographic, social, and cultural conditions as well as their traditional preventive care, healing practices and medicines.

The location of indigenous peoples in rural areas is an aggravation that negatively affects their health conditions. In the rural setting, the overcrowding and high levels of pollution of rivers and water prevail, plus cohabitation with domestic animals. Indigenous peoples insist that many of the diseases they suffer "are the product of state failure, which does not take into account ecosystems, customs, needs, worldviews and the harmony between the human-spirit and nature"<sup>33</sup>.

It should be noted that the Special Rapporteur on the Rights of Indigenous Peoples, in the report of his visit to El Salvador, in 2012, recommended the Government to continue improving the health services for disadvantaged and rural populations so that differences and cultural practices are respected. In particular, "[the State] should devote more efforts to the incorporation in the State health services practices and traditional knowledge of indigenous peoples"<sup>34</sup>.

An Intercultural Health Plan is being developed; the program has the potential to improve the access of indigenous peoples to health in ways that reflect their cultures and practices. However, the women who were consulted for this report, who came from different indigenous peoples, expressed that they have not yet seen the benefits

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<sup>32</sup> Consejo Coordinador Nacional Indígena Salvadoreño (CCNIS). CONCULTURA. OPS. Pueblos Indígenas, Salud y Condiciones de vida en El Salvador. El Salvador, 1999.

<sup>33</sup> Javier Rodríguez Oconitrillo. El Salvador. Diagnóstico sobre la situación de los derechos humanos de los pueblos indígenas en América Central. Vol. I. 2011.

<sup>34</sup> United Nations General Assembly. Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013. The situation of indigenous peoples in El Salvador. A/HRC/24/41/Add.2

of this program and therefore there is a lot of work to do to develop and implement the plan widely.

## **A. WOMEN'S HEALTH**

According to a Pan American Health Organization study in 2007, indigenous women are mostly affected by lack of access to health. Of the total indigenous women heads of households, only 2% were using a family planning method. The fertility rate was 3.5 children per woman. Indigenous women of childbearing age accounted for 20.8% of the total population. Of all indigenous women of childbearing age, only 0.5% was using family planning methods. The estimated infant mortality rate was 42.5 per 1,000 live births. Likewise, 73% of children had been vaccinated and 27% had complete vaccination coverage. 91.6% of the population received water from river, springs or wells. Garbage is piled near the home by 30% of cases, away from housing in 20.9%, and were buried or burned in 40.8%. 37.2% of families defecated outdoors, 59.7% owned latrine and 3.1% toilet with runoff<sup>35</sup>.

The Ministry of Health has recognized that "for cultural reasons, indigenous peoples have not yet been adequately benefited from health care services". In this regard, indigenous peoples expressed the Special Rapporteur concerns about the lack of incorporation of medicinal knowledge and practices, including those related to midwifery in health care.

This knowledge and practices continue in some rural areas and have important functions for both access and quality health care provided. However, these practices continue to be threatened as they are displaced by practices of Western medicine<sup>36</sup>.

## **B. VIOLENCE AGAINST WOMEN**

Another important aspect observed by the Rapporteur was violence against indigenous women, having recommended to the Government to redouble efforts to combat the problem. The fight against violence against women and girls in the indigenous context should be carried out comprehensively, and cannot be treated in isolation from the set of rights granted to indigenous peoples in general.

Indigenous women of El Salvador are developing all efforts to eradicate violence, having joined the Cuscatán Network of Indigenous Women. Through a statement issued on November 27 last year, they stated that "there are different forms of structural violence precisely because of the triple condition of exclusion: being Indian, being poor, and being a woman"<sup>37</sup>.

In 2013, in El Salvador the meeting of Women Ministers and High Level Authorities responsible for public policies in favor of the rights and empowerment of women in

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<sup>35</sup> OP. Salud en las Américas. Perfil de País. El Salvador. OPS. S.f. 2007.

<sup>36</sup> United Nations General Assembly. Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 25<sup>th</sup>, 2013. The situation of indigenous peoples in El Salvador. A/HRC/24/41/Add.2.

<sup>37</sup> CHIRAPAQ Centro de Culturas Indígenas del Perú. Serie: Indígenas en Acción / 12 VIOLENCIAS Y MUJERES INDÍGENAS, Paper prepared for the CSW57, March 2013.

Latin America and the Caribbean took place. They DECLARED the need to "ensure access to services for all women at all stages of their lives, living in rural or marginalized areas or to those who face various forms of discrimination, such as disabilities, living with a chronic illness, including HIV/AIDS, indigenous women, Afro-descendant women migrants". "Take effective measures and actions from services and multi-sectorial responses to prevent, treat women who face violence, victims, and survivors, and to eliminate the effects of gender-based violence against women, within an intercultural framework, with a comprehensive approach to life cycle, and based on a rights approach on a non-discriminatory basis"<sup>38</sup>.

Indigenous women, besides suffering assaults and rape, become victims again when they have to face judicial systems that ignore their language and customs.

*"I was going to give birth to my first child, it was June 7, 2007, I was 3 months pregnant, I started a bleeding, I went to the health center, a woman doctor examined me and told me it was normal, she did not give me any medicine and sent me out. Eight days later, at 2:00 am, I got out of bed because I had a great pain; I had a bleeding stronger than the former one. I went back to the Panchimalco Health Unit, I consulted with a doctor who was on duty at FOSALUD, examined me and sent me a reference to Saldaña Hospital, I got very serious, the nurse who attended me treated me "a little bad" when she gave me the directions. I was in a bed where I suffered a lot watching how I was losing my first child".\**

\* Indigenous woman from Panchimalco

## RECOMMENDATIONS

- The formal health system must take into account the following factors: Ecosystems, customs, cultural knowledge, and health, cultural needs and overall, worldviews of indigenous peoples that are based on the harmony between man-spirit-nature.
- Implement care programs for indigenous women victims of violence, within an intercultural framework.
- Evaluate the results of the Intercultural Health Plan on access to health of indigenous peoples, based upon respect for their culture and practices.

## 5. RIGHT TO EDUCATION AND TRAINING. Article 5 and 7

### A. LEGAL FRAMEWORK

The Constitution of the Republic provides for the right to education in Article 53 as an inherent right of the human person. Article 56 states that "all citizens of the Republic have the right and duty to receive nursery and primary education to enable them to perform as useful citizens."

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<sup>38</sup> Declaración de San Salvador, El Salvador, February 11<sup>th</sup>, 2013.

Article 62 recognizes that the official language of El Salvador is Spanish and must ensure its conservation and teaching. It also recognizes that the indigenous languages spoken in the country are part of the cultural heritage and shall be preserved, disseminated and respected.

In this regard, the 169 Convention provides in Article 28 that “measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned”.

## ***B PROJECTS AND PROGRAMS***

In 2006, the Government established within the Ministry of Education, the Educational Support for Indigenous Affairs Commission, which has the function of "promoting a practice of coordinated work with instances of the [Ministry of Education] that makes possible the design and development of intercultural educational opportunities with and for indigenous peoples”.

Regarding the loss of indigenous languages. The Committee on the Elimination of Racial Discrimination has expressed concern to the State for the loss of indigenous languages, which are "not given the importance they deserve, as the total release of 47,940 students enrolled in educational institutions in 2009, 22,483 belonged to indigenous peoples, but not all of them can study in their own language.

Regarding the intercultural bilingual education. The Committee notes the Nahuatl-Pipil language revitalization program of El Salvador, but is concerned about the other indigenous languages (Article 7). The Committee recommended that programs for the revitalization of the Nahuatl-Pipil’s indigenous language be extended to other indigenous languages. It requests the State party to provide updated information on new initiatives of this kind, besides Thematic Houses, and programs, specially regarding the Lenca, the Kakawira (Cacaopera), the Maya and other indigenous language of El Salvador. The Committee also recommended the ratification of the UNESCO Convention against Discrimination in Education, 1960<sup>39</sup>.

Among the activities of the Educational Support for Indigenous Affairs Commission identified for the period 2012-2013, are the elaboration of educational materials, teachers training in indigenous traditions, the training of indigenous teachers and improvement of the facilities for intercultural education. In this regard, women from diverse indigenous communities who were consulted for the development of this report stated that they have no knowledge of printed educational materials, nor have been involved in its preparation; they gave the same answers with regard to education and training, insisting that they are not aware that this is being performed.

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<sup>39</sup> United Nations. Committee on the Elimination of Racial Discrimination. Concluding observations. CERD/C/SLV/CO/14-15. Geneva, 2010. Par. 21.

Despite these regulations, schools with differentiated, intercultural, and bilingual education programs are scarce, even in areas with an identifiable indigenous population<sup>40</sup>.

Successful programs, such as instruction in indigenous languages, seem to be implemented in a very limited scale and a curriculum that really incorporates traditions and knowledge does not exist yet.

There is a project called Cuna Nahuatl, which seeks to create a linguistic nursery for children between three and five years old in Santo Domingo de Guzman, where most of the Pipil community of the country is located. In this project, the elderly women of Santo Domingo are working as caregivers in the centers to promote language learning.

Salvadorans, both men and women, living in rural areas, especially those who identify themselves as indigenous, also suffer from lower levels of education compared to the rest of the population. In 2011, 29,044 students in the country were reported as belonging to indigenous people, most of who are in the towns of Izalco (8,248) and Nahuizalco (8,880), in the department of Sonsonate.

The available data on the level of school attendance in these areas are worrisome. For example, in Izalco 19% of children between 7 and 15 years old do not attend school. From these, approximately 42% indicated that they do not attend for financial reasons. Moreover, in Izalco 54% of youth between 16 to 18 years old do not attend school, 41% of them for economic reasons<sup>41</sup>.

### **C SCHOOLING GRADE**

According to the study conducted by the Ministry of Education and the World Bank in 2003 to evaluate the degree of education of the indigenous population on a sample with indigenous population it turned out that: 58% had some level of schooling; of these, 68% had completed the first cycle, 25.4% had completed the second and 6.6% had completed the third cycle. Also among the heads of families, schooling in terms of years was as follows: 1 to 3 years, 27.1%; of 4-6 years, 18.5%; of 7-9 years, 7.2%; 10 to 13 years, 4.2%; 14 to 16 years, 1.1%; and 41.9% in any year of schooling.

School attendance for the population of 6 years and over in %

ETHNICITY	CURRENTLY ATTEND	NOT ATTEND BUT ATTENDED	NEVER ATTENDED
Indigenous	29,4	44.1	26.4
Non-Indigenous	30,7	51.6	17.7

Source: Census 2007

<sup>40</sup> Ministerio de Educación, "Evaluación social y Plan para los Pueblos Indígenas. Proyecto de Mejoramiento de la Calidad Educativa en El Salvador" (October 6<sup>th</sup>, 2011), page 15.

<sup>41</sup> United Nations General Assembly. Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. June 23, 2013.

The comparison of inequalities between indigenous and non-indigenous peoples gave the following results: the national average illiteracy in people between 10 and 65 years of age was 21.5%, while for indigenous peoples was 35.24% -according to UNICEF- and 40.5% -according to PAHO.

## ***D BARRIERS TO ACCESS TO EDUCATION OF INDIGENOUS WOMEN AND CONSEQUENCES***

An issue of particular concern is the greater dropout of women compared to men, due to insufficient stimulation of the parents to daughters to finish school, giving priority to men<sup>42</sup>.

The limited access of girls and women to education is another factor that hinders equal access to the labor market for indigenous women. It is not uncommon to assume that the sexual division of labor negatively affects the academic education of girls, since within these communities is considered that to perform housework properly and being a good wife is not necessary to study and they tend to prioritize educating boys above girls and adolescents<sup>43</sup>.

To vindicate the rights of indigenous women, it is necessary to promote sex-disaggregated data charting the actual living conditions of these women, who are among the population groups largely excluded because of their status and position of gender, class, and ethnicity. In order that indigenous women can be treated as true humans is essential to respect their right to exist, to study and work on equal terms with other women and men in society<sup>44</sup>.

*"In Santo Domingo de Guzmán, Department of Sonsonate, in the Educational Complex there is discrimination against the Nahuatl language because they are not allowed to express themselves in the language that children from 4 to 7 years old have learned in the Cuna Nahuatl.*

*Teachers are the first to discriminate, then other students "\*.*

\* Indigenous woman from Santo Domingo

## ***RECOMMENDATIONS***

- The government should increase efforts and resources to reduce the disparity between the rates of educational achievement in urban and rural areas. Provide indigenous children the same opportunities and resources to achieve higher levels of education that exist in urban areas. Also, ensure access, educational programs

<sup>42</sup> Diagnóstico sobre la situación de los derechos humanos de los Pueblos Indígenas de América Central. El Salvador. Javier Rodríguez Ocanitrillo. May, 2011.

<sup>43</sup> Género y Economía. Desigualdades de género en el mercado de trabajo. La situación socioeconómica de las mujeres indígenas salvadoreñas. 2009.

<sup>44</sup> Ibid.



that are culturally appropriate and reflect the character of the indigenous communities they serve.

- It is imperative to make greater efforts to address the concerns of indigenous peoples over their desire to have access to an education that reflects and strengthens indigenous identity.
- To reiterate the observation of the Special Rapporteur that the Ministry of Education must collaborate with indigenous peoples in a more coordinated way, in order to implement educational reforms.
- To reiterate the recommendation that the CERD Committee made in 2010, based on the ratification of the UNESCO Convention Against Discrimination in Education of 1960.
- To safeguard, rescue, and contribute to the conservation of the remaining cultures in the country, it is required the promotion of a comprehensive and innovative education that not only gives information, but also forms renews, attitudes that is not just contemplative, but allows action and promotes awareness in people of the reality of their time and their environment. An education that respects their religions and customs.



#### **PARTICIPATING ORGANIZATIONS**

- Asociación de Desarrollo Comunal de Mujeres Indígenas de Izalco (ADESCOMIZ)
- Asociación para la Recuperación de la Cultura Autóctona de El Salvador (ARCAS)
- Asociación Comunal Flor Amarilla (ASCOLFA)
- Asociación Cultural Ecológica Indígena Salvadoreña (ACEIS)
- Asociación de Desarrollo Comunal Indígena Nahuat (ADESCOIN)
- Movimiento Unido de Pueblos Originarios de Cuxcatan y Chapanastique (MUPOCH)
- Cerro del Sol (TEPEC – TUNAL)
- Consejo Coordinador Nacional Indígena Salvadoreño (CCNIS)
- Fundación Tribu Raíces de Cuzcatlan (FUNTRAC)
- Asociación de Desarrollo Cantón La Unión (ADECU)
- Comunidad Indígena Cantón Zacaes (CICZA)