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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Ewiiapaayp Band of Kumeyaay Indians, National Congress of American Indians, Native American Rights Fund, non-governmental organizations in special consultative status, Indian Law Resource Centre, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Ending Violence Against Indigenous Women and Girls

Violence against women is widespread¹ and recognized as a human rights violation and form of discrimination² so serious that it “impairs or even nullifies their enjoyment of all human rights and fundamental freedoms.”³

The situation is even more dire for indigenous women "who are subject to multiple and intersecting forms of discrimination" that increases their vulnerability to all forms of violence,⁴ including human trafficking.⁵ Recently, this Council expressed alarm at the high level of impunity regarding violence against indigenous women and girls, including killings, and stressed "the urgent need to address violence and discrimination against them."⁶

Violence against indigenous women and girls exists throughout the world. In the United States, a new report finds that more than 4 in 5 American Indian and Alaska Native women have experienced violence and more than 1 in 2 have experienced sexual violence.⁷ American Indian and Alaska Native women are significantly more likely to experience violence and sexual violence by an interracial perpetrator⁸ over whom tribes lack full criminal authority. Almost half of these survivors required services as a result of what a perpetrator did, but of those, 38.2% were unable to obtain them.⁹ Alaska Native women suffer the highest rates of forcible sexual assault in the United States, rates of domestic violence up to 10 times higher than in the rest of the United States and physical assault victimization rates up to 12 times higher.¹⁰ American Indian and Alaska Native children also face an extremely dangerous situation, enduring rates of exposure to violence higher than any other group of children and experiencing post-traumatic stress disorder at rates triple that of the general population.¹¹

Though data is lacking, American Indian and Alaska Native women disappear and are murdered at higher rates. Within some tribal lands and communities, American Indian women have murder rates that are more than 10 times the national average.¹² Yet, the response of the justice system is inadequate and the harsh reality is that indigenous

¹ *Statement by Ms. Rashida Manjoo, Special Rapporteur on Violence against women, its causes and consequences*, 59th Session, Commission on the Status of Women (March 9, 2015).

² United Nations Division for the Advancement of Women, *Background Paper for the Expert Group Meeting on Good Practices in Legislation on Violence Against Women*, U.N. Doc. EGM/GPLVAW/2008/BP.01 (May 2008), 3; UN Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/1 (Feb. 12, 2013), 2.

³ A/HRC/RES/29/14 (22 July 2015), 2.

⁴ A/HRC/RES/32/19 (June 30, 2016), 3; A/HRC/RES/26/15 (11 July 2014), 2.

⁵ UN Economic and Social Council, Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/9 (Feb. 12, 2013).

⁶ A/HRC/RES/32/19 (June 30, 2016), 3.

⁷ Rosay, André, PhD, *National Institute of Justice Research Report: Violence Against Indian and Alaska Native Women and Men 2010 Findings from the National Intimate Partner and Sexual Violence Survey*, p. 43 and 44 (May 2016) U.S. Dept. of Justice, Office of Justice Programs, available at: <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

⁸ *Id.* at 46 (noting they are 2.8 times as likely to have experienced violence by an interracial perpetrator as White female victims (97% versus 35%)).

⁹ *Id.* at 47-48.

¹⁰ *A Roadmap for Making Native America Safer, A Report to the President and Congress of the United States*, Chapter 2, Reforming Justice for Alaska Natives, p. 41 (November 2013).

¹¹ *Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence: Ending Violence so Children Can Thrive*, Executive Summary at 6 (November 2014).

¹² Ronet Bachman et al., *Violence Against American Indian And Alaska Native Women And The Criminal Justice Response: What Is Known* 5 (2008), <https://www.ncjrs.gov/pdffiles1/nij/grants/223691.pdf>.

women—mothers, sisters, and daughters—disappear and little or nothing is done. There is a growing recognition that many of these women are trafficked, either domestically or abroad. Because reservations of some 56 Indian nations are located on or in close proximity to the United States' borders with Canada and Mexico, indigenous women can easily be trafficked over either border. Alaska Native women are close to Canada, Russia, and expanding international shipping routes.

These extreme rates of violence against indigenous women and the devastating impacts on their communities are largely rooted in a discriminatory legal system that limits the authority of Indian and Alaska Native nations to protect their women and children and then fails to respond adequately and appropriately to violence on tribal lands and within Alaska Native villages. As a result, American Indian and Alaska Native women are denied meaningful access to justice and services and are less protected from violence than other women because they are indigenous, are members of indigenous communities, and are assaulted on tribal or Alaska Native lands.

While the United States has taken steps to improve its laws, significant barriers remain. These include, but are not limited to inadequate and inequitable funding for tribal justice systems and victim services, inadequate response to missing and murdered indigenous women, and continuing limits on and challenges to tribes' criminal and civil jurisdiction that gravely affect or threaten safety and justice for indigenous women and children on tribal and Alaska Native lands.¹³ In many cases it is local, tribal courts that are in the best position to respond timely to crimes, to protect American Indian and Alaska Native women, and to end impunity and bring all perpetrators of violence against indigenous women and children to justice. After its 2015 mission to the United States, the UN Working Group on discrimination against women in law and practice recommended that tribes be empowered “to ensure justice in their communities through the exercise of full criminal jurisdiction within their lands.”¹⁴

The Declaration on the Rights of Indigenous Peoples is a significant affirmation of indigenous women's rights. The Declaration urges states to pay particular attention to the rights and special needs of indigenous women and children and directs states, in conjunction with indigenous peoples, to take measures to protect indigenous women and children against violence and discrimination. The 2014 Outcome Document of the World Conference on Indigenous Peoples includes commitments by the United Nations and states “to support the empowerment of indigenous women” and to intensify efforts “to prevent and eliminate violence and discrimination . . . by strengthening legal, policy and institutional frameworks.”¹⁵

While states have the duty to exercise due diligence to protect indigenous women and girls from violence, there are concrete measures the Council can take to support and further this work. To this end, we recommend that the Council:

1. Intensify efforts to eliminate violence against indigenous women and girls by regularly addressing this issue during its annual discussions on women's human rights and on integration of a gender perspective throughout the work of the Council and its mechanisms;
2. In developing the mandate for the Expert Mechanism on the Rights of Indigenous Peoples, specify that the body should pay particular attention to the rights and special needs of violence against indigenous women and children globally and monitor states' measures to ensure indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination;
3. Enhance the ability of relevant special procedures to respond to this cross-cutting issue by requesting regular, and perhaps joint, reports on violence against indigenous women; and

¹³ See, e.g., *Dollar General Corp. v. Mississippi Band of Choctaw Indians*, 579 U.S. ___ (2016).

¹⁴ *Report of the Working Group on the issue of discrimination against women in law and in practice, on its mission to the United States*, A/HRC/32/44/Add.2 (June 2016), Para. 91(xix).

¹⁵ *Id.* at ¶¶ 17, 18 (Sept. 25, 2014).

4. Request that the Secretary-General:
 - a. Issue a separate report on preventing and eliminating all forms of violence against indigenous women and girls with recommendations for future actions, and
 - b. Convene a high-level panel on intensifying efforts to prevent and eliminate all forms of violence and discrimination against indigenous women and girls, in collaboration with indigenous peoples, when the United Nations hosts its event to mark the tenth anniversary of the adoption of the UN Declaration in 2017.

Violence against indigenous women is a pervasive human rights violation requiring urgent and sustained attention from the United Nations and states. We urge the Council to support these recommendations and to continue its consideration of the issue as a matter of high priority in its annual program of work, including identification of measures aimed at eliminating violence against indigenous women and girls everywhere.

Alaska Native Women's Resource Center; Alliance of Tribal Coalitions to End Violence; California Association of Tribal Governments; Central Council of Tlingit Haida Indian Tribes of Alaska; Clan Star, Inc.; National Indigenous Women's Resource Center; Restoring Ancestral Winds, Inc.; Strong Hearted Native Women's Coalition, Inc.; and Washington State Native American Coalition Against Domestic Violence and Sexual Assault–WomenSpirit Coalition, NGO(s) without consultative status, also share the views expressed in this statement.