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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.

[24 May 2016]

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

Eliminating Violence Against Indigenous Women

Violence against women remains widespread and pervasive¹ despite human rights treaties that affirm women's rights to safety and freedom from discrimination.² Council Resolution 29/14 recognizes that violence against women is a human rights violation so serious that it "impairs or even nullifies their enjoyment of all human rights and fundamental freedoms."³

Yet, the situation is even more dire for indigenous women who often suffer multiple forms of discrimination that can increase their vulnerability to all forms of violence,⁴ including human trafficking.⁵ Violence against indigenous women is endemic throughout the world.

For example, in the United States, violence against indigenous women has reached epidemic levels on tribal lands and in Alaska Native villages. A new report by the United States Department of Justice 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.⁶ American Indian and Alaska Native women are significantly more likely to experience violence and sexual violence by an interracial perpetrator.⁷ Though data is scant, indigenous women and communities are alarmed at the number of missing and murdered American Indian and Alaska Native women.

Alaska Native women suffer the highest rates of forcible sexual assault in the United States. In 2013, the Indian Law and Order Commission's Report to the President and Congress of the United States found that in some Alaska Native villages, women report 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.⁸

American Indian and Alaska Native children also face an extremely dangerous situation. They endure rates of exposure to violence higher than any other group of children and "experience post-

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

² UN General Assembly, Report of the Secretary General, *In-depth Study on All Forms of Violence Against Women*, U.N. Doc. A/61/122/Add.1 (2006), at ¶ 243. *See also* Convention on the Elimination of All Forms of Discrimination against Women, Declaration on the Elimination of Violence against Women, and Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).

³ A/HRC/RES/29/14 (22 July 2015), 2.

⁴ 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 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. 2-3 (May 2016) U.S. Dept. of Justice, Office of Justice Programs, available at: <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

⁷ *Id.*

⁸ *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).

traumatic stress disorder at the same rate as veterans returning from Iraq and Afghanistan and triple the rate of the general population.”⁹

These extreme rates of violence against indigenous women and their children are largely due to the United States’ discriminatory legal system that limits the authority of Indian and Alaska Native nations to protect them, and that fails to respond adequately 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 services¹⁰ and are less protected from violence than other women because they are indigenous, members of indigenous communities, and are assaulted on tribal or Alaska Native lands.

The United States has taken steps forward to improve its laws by enacting the Tribal Law and Order Act of 2010 to enhance tribal sentencing authority, and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) to restore limited tribal criminal authority over certain non-Indian defendants committing violence against Native women. These reforms also promote the collective rights of self-determination and self-government affirmed in the United Nations Declaration on the Rights of Indigenous Peoples. Yet, significant barriers remain, including but not limited to inadequate and inequitable funding for tribal justice systems and victim services, and continuing limits on tribes’ criminal jurisdiction that gravely affect safety and justice for indigenous women and children on tribal and Alaska Native lands. Perhaps most egregious, all but one of the 229 Alaska Native tribes are prevented from exercising the restored criminal jurisdiction over non-Indians available to all other tribes simply because of the way United States law classifies their land.¹¹ Because of this unfair legal definition, Alaska Native women are denied equal protection under the law and treated differently than other women, including other indigenous women.

Council Resolution 6/30 recognizes the need for a comprehensive approach to protect the human rights of women in all aspects of the United Nations’ work, including this Council and its various mechanisms, and stresses the need to integrate women’s human rights into UN activities, including conferences like the World Conference on Indigenous Peoples and their outcome documents.

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 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

⁹ *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).

¹⁰ 49.0% of Native women needing services for injuries were unable to get them. See 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. 2-3 (May 2016) U.S. Dept. of Justice, Office of Justice Programs.

¹¹ As enacted, VAWA 2013 excluded all but one of Alaska’s 229 tribes from certain protections under the Act. Although this exclusion was repealed in 2014, the “Indian country” clauses in § 904 of the law still work to prevent Alaska tribes from exercising restored criminal jurisdiction.

efforts “to prevent and eliminate violence and discrimination . . . by strengthening legal, policy and institutional frameworks.”¹²

The Outcome Document also invites the Human Rights Council to develop an implementing body for the Declaration, work that is already underway,¹³ and to consider examining the causes and consequences of violence against indigenous women and girls. The Outcome Document invited action by the Human Rights Council, which has since decided to hold a half-day panel on the issue of violence against indigenous women and girls in September 2016.¹⁴

In order to honor more fully the commitments in the Outcome Document and to realize the rights in the UN Declaration, we recommend that the Council:

1. To ensure usable outcomes from the Council’s half-day panel on violence against indigenous women and girls, request that the Office of the High Commissioner for Human Rights present to the Council a written report on the discussion with recommendations for concrete measures to address violence against indigenous women and girls;
2. Urge the Secretary-General to issue a separate report with concrete recommendations for action to prevent and eliminate violence against indigenous women and girls, with a view toward enhancing the Council’s existing special procedures to respond to this cross-cutting issue, including by requesting of relevant special procedures regular joint reports; and
3. Request the Secretary-General to convene a high-level panel on intensifying efforts, in collaboration with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous women and girls, when the United Nations hosts its high-level event to mark the tenth anniversary of the adoption of the UN Declaration in 2017.

Violence against indigenous women is a human rights violation and a global outrage. We urge the Council to support these recommendations and to prioritize them in its annual program of work.

Alaska Native Women’s Resource Center, Clan Star, Inc., National Indigenous Women’s Resource Center, and Strong Hearted Native Women’s Coalition, Inc. NGO(s) without consultative status, also share the views expressed in this statement.

¹² A/RES/69/2, ¶¶ 17, 18 (Sept. 25, 2014).

¹³ *Id.* at ¶¶ 28, 31, 40.

¹⁴ A/HRC/RES/30/4 (Oct. 1, 2015).