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## Human Rights Council

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

## **Written statement\* submitted by Indian Law Resource Centre, a non-governmental organization 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.

[20 August 2021]

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\* Issued as received, in the language(s) of submission only.



## Violence Against Indigenous Women in the United States of America - A Human Rights Scourge Exacerbated by the COVID-19 Pandemic

The Indian Law Resource Centre submits this written statement to the Human Rights Council on violence against indigenous women in the United States of America, particularly Alaska Native women, a human rights scourge made worse by the COVID-19 pandemic.<sup>1</sup>

Indigenous women often suffer multiple, intersecting forms of discrimination and higher rates of violence than other women. They are battered, raped, murdered, and disappear at extraordinary rates because of their gender and because they are indigenous.<sup>2</sup>

Violence against American Indian and Alaska Native women and girls has reached extreme and unprecedented levels on tribal lands and in Alaska Native villages. A discriminatory legal system limits the collective rights of indigenous peoples to protect their women and children, and fails to prevent and respond to these crimes and violations of individual women's human rights. More than 4 in 5 indigenous women in the U.S. have experienced violence,<sup>3</sup> with Alaska Native women reporting assault rates 12 times higher than those in the rest of the country.<sup>4</sup> 90% of indigenous victims have reported sexual violence by a non-indigenous perpetrator over whom tribal governments lack full criminal jurisdiction.<sup>5</sup> The murder rate for American Indian women is ten times the national average on some reservations.<sup>6</sup>

Alaska Native women's daily situation is dire. One in two Alaska Native women will experience sexual or physical violence, and "an Alaska Native woman is sexually assaulted every 18 hours."<sup>7</sup> Missing and murdered indigenous women (MMIW) in the United States is an alarming crisis, with Alaska having one of the highest rates of MMIW. Many Alaska Native villages are in impoverished, remote areas that are not accessible by roads. At least 75 Alaska Native communities have no law enforcement presence.<sup>8</sup> In some parts of Alaska, the suicide rate for Alaska Natives is at least six times the national average and nearly four times the rate among the general U.S. population.<sup>9</sup>

The UN recognizes that indigenous peoples are particularly vulnerable to the global pandemic and that violence against women is growing.<sup>10</sup> Curfews, quarantines, and travel restrictions being used to slow the virus also restrict survivors of abuse from getting help, reaching shelters, and distancing themselves from abusers. In the United States, the pandemic has magnified historic, pervasive human rights abuses such as the extreme levels of violence experienced by American Indian and Alaska Native women and the crisis of MMIW. The pandemic has shined a floodlight on dangerous gaps in U.S. law and significant inequalities in safety, health, education, housing, life expectancy, and economics—inequalities that are

<sup>1</sup> The Indian Law Resource Centre is a non-profit organization providing legal assistance to indigenous peoples of the Americas to combat racism and oppression, to protect their lands and environment, to protect their cultures, to achieve sustainable economic development and genuine self-government, and to realize their other human rights.

<sup>2</sup> A/HRC/RES/26/15 (11 July 2014), 2.

<sup>3</sup> 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 (U.S. Dept. of Justice May 2016).

<sup>4</sup> 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).

<sup>5</sup> Rosay, André, PhD, *supra*.

<sup>6</sup> U.S. Government Accountability Office, Indian Country Criminal Justice: Departments of the Interior and Justice Should Strengthen Coordination to Support Tribal Courts, Report No. GAO-11-252, 5 (Feb. 2011).

<sup>7</sup> S. 1474, the Alaska Safe Families and Villages Act of 2013, § 2(a)(3), (4).

<sup>8</sup> A Roadmap for Making Native America Safer, Chapter Two – Reforming Justice for Alaska Natives, at 39 (November 2013).

<sup>9</sup> A Roadmap for Making Native America Safer, Chapter 2, Reforming Justice for Alaska Natives, at 43 (November 2013).

<sup>10</sup> Statement by Ms. Anne Nuorgam, Chair of the UN Permanent Forum on Indigenous Issues (April 2020).

rooted in the United States' failure to fulfill its trust obligations to tribes and to address their well-being for more than 200 years.<sup>11</sup>

The Covid-19 pandemic has left Alaska Native women with fewer options for safety than ever before. At the pandemic's start, Alaska's main rural air carrier abruptly shut down, along with some ferry services, leaving Alaska Native women with no dependable travel options out of their communities and making it nearly impossible to move an abuse survivor to a regional shelter or to ensure villages have adequate food, medicine, personal protective equipment, and other essential items. In rural Alaska, geographic isolation, limited and overcrowded housing, lack of medical/forensic services, lack of domestic violence shelters and sexual assault advocacy, limited law enforcement, and inconsistent prosecution of crimes are facts of life. But the pandemic has exacerbated this reality. Social distancing and quarantine requirements cut deeply into the availability of shelter beds, especially with less than 60 tribal domestic violence shelters existing in the country, only 4 of which are in Alaska. The risk of contracting or spreading COVID-19 make even leaving the house to visit or stay with relatives or friends a potentially deadly choice. Law enforcement response protocols that limit police exposure to coronavirus also leave these women with even less access to protection than ever before. In June 2020, five homicides occurred in small rural Alaska villages, but many say Covid-19 is not the cause of the deaths.<sup>12</sup> Rather, the pandemic made an already bad situation even worse.

The disproportionately high rates of violence against American Indian and Alaska Native women are largely due to a discriminatory legal system that severely limits the authority of Indian and Alaska nations to protect indigenous women from violence, and fails to respond adequately to these acts of violence. Indigenous women are denied access to justice and meaningful remedies, and are less protected from violence than other women because they are indigenous and are assaulted on tribal lands or within Alaska Native villages. They also are denied access to assistance ranging from shelters and housing to sexual assault advocacy and victim services to health and social services.

The pandemic also impacts the safety of indigenous women in the United States by impairing lawmakers from moving forward on critically-needed, life-saving national legislation such as the reauthorization of the Violence Against Women Act (VAWA). Efforts to fix dangerous gaps in VAWA have languished since 2018 when its last reauthorization expired. Among the most egregious legal barriers still existing is the one impacting Alaska Native women and tribes. Under VAWA, all but one of the 229 tribes in Alaska are prevented from exercising the restored criminal jurisdiction over non-Indians available to nearly all other tribes because of the way the United States classifies their land. Through this exclusion, United States law denies Alaska Native women equal protection under the law and treats them differently than other women, including other indigenous women. Additional legal barriers include insufficient funding for implementation of VAWA and limitations permitting strangers to enter reservations and commit crimes against indigenous women with impunity.

Other legislative actions are needed to address the crisis of MMIW, to ensure more equitable funding to Indian tribes to provide victim services, and to provide support to indigenous women's advocacy organizations.

To respond to ongoing violations of indigenous women's rights in the United States that are being exacerbated by the Covid-19 pandemic, we call upon the Council to:

1. Urge the United States to take all necessary measures to respect indigenous women's rights, including their right to live lives free of all forms of violence and discrimination;
2. Encourage a multi-faceted response, by all relevant Special Procedures and the Expert Mechanism on the Rights of Indigenous Peoples, including investigations and reports to the Human Rights Council, and country visits when feasible, to better understand and respond to violence against indigenous

<sup>11</sup> Broken Promises: Continuing Federal Funding Shortfall for Native Americans, U.S. Commission on Civil Rights Briefing Report (December 2018).

<sup>12</sup> Anchorage Daily News, "A 'blight' of domestic violence deaths strikes Alaska villages" (July 28, 2020).

women in the United States, including missing and murdered indigenous women, and the multiple, intersecting forms of discrimination experienced by indigenous women in the context of Covid-19; and

3. Encourage the Expert Mechanism on the Rights of Indigenous Peoples to give particular attention to the situation of indigenous women in the United States in the context of the Covid-19 pandemic, to monitor the country's pandemic response and national legislative reform measures to ensure they respect and protect indigenous women's rights, and to prepare a thematic or other official report with recommendations on violence against indigenous women in the United States, including but not limited to the dire situation of Alaska Native women and the crisis of missing and murdered indigenous women.

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The Alaska Native Women's Resource Center and National Indigenous Women's Resource Center, NGO(s) without consultative status, also share the views expressed in this statement.