

**Statement submitted by Indian Law Resource Center, National Congress of American Indians,  
and Native American Rights Fund, non-governmental organizations  
in consultative status with the Economic and Social Council<sup>1</sup>**

**Commission on the Status of Women, Sixtieth session, 2016**

**Violence against indigenous women and girls.**

American Indian and Alaska Native women and girls are 2.5 times more likely to be sexually assaulted or raped than other women in the United States. One in three will be raped in her lifetime; three in five will be physically assaulted. Native women and youth are particularly vulnerable to human trafficking and to impacts from the extractive industry. On some reservations, the murder rate is ten times the national average. The Indian Law and Order Commission's 2013 Report to the President and Congress of the United States found the situation even more severe for Alaska Native women in rural villages, noting that these "[w]omen have reported 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."

This extreme level of violence against indigenous women and girls is not unique to the United States. It is a global scourge, an epidemic, and it demands immediate, sustained actions from states and the United Nations to restore safety to indigenous women and girls and to prevent and respond to such egregious human rights violations.

This Commission, in its 2013 Agreed Conclusions noted that "violence against women and girls persists in every country" and is "a form of discrimination that seriously violates and impairs or nullifies the enjoyment by women and girls of all human rights and fundamental freedoms." (E/2013/27- E/CN.6/2013/11 Para. 10). This Commission specifically recognized that "indigenous women often suffer multiple forms of discrimination and poverty which increase their vulnerability to all forms of violence" (Para. 27). It recommended that states "ensure women's and girls' unimpeded access to justice" and "just and effective remedies" and urged states to "end impunity by ensuring accountability and punishing perpetrators of the most serious crimes against women and girls." (Recommendations f and n).

The disproportionately high rates of violence against American Indian and Alaska Native women are largely due to an unworkable, discriminatory legal system that severely limits the authority of Indian and Alaska nations to protect indigenous women and girls from violence, and persistently fails to respond adequately to acts of violence against Native women and children. Together, these factors create a situation where American Indian and Alaska Native women are denied access to justice and to 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.

Indian tribes, Native woman, and their advocates have successfully worked for important reforms in United States law in recent years. These reforms promote the collective rights of self-determination and self-government recognized in the United Nations Declaration on the Rights of Indigenous Peoples. The United States has improved its laws by enacting legislation such as the Tribal Law and Order Act of 2010 to enhance tribal sentencing authority, and tribal provisions in the Violence Against Women Reauthorization Act of 2013 that restore limited criminal authority over certain non-Indians that commit domestic violence, dating violence, or violate protection orders within the tribe's jurisdiction.

But many significant barriers remain. Indian nations must meet stringent requirements to use the new laws and this, coupled with the lack of sufficient funding for implementation, may delay, deter, or even prevent tribes from proceeding at all. Even where tribes do exercise the new jurisdiction, it is limited. Tribes are generally still unable to prosecute many non-Indians who rape, murder, stalk, or traffic American Indian and Alaska Native women. Strangers may also still enter reservations and commit violent crimes against Indian women with impunity.

Among the most egregious legal barriers still existing in the United States is the one impacting Alaska Native tribes and Alaska Native women. All but one of the 229 tribes in Alaska are prevented from exercising the restored

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<sup>1</sup> UN Document E/CN.6/2016/NGO/125.

criminal jurisdiction over non-Indians available to nearly all other tribes simply 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.

### **Combating violence by implementing decisions of the World Conference on Indigenous Peoples.**

The Declaration on the Rights of Indigenous Peoples calls on states, in conjunction with indigenous peoples, to take measures to protect indigenous women and children against all forms of violence and discrimination. Restoring safety to indigenous women is inextricably tied to upholding all the rights affirmed in the Declaration, including the rights to self-determination and self-government. This work will require the sustained efforts of the United Nations, of states, and of indigenous nations, women, and communities.

The Outcome Document of the 2014 World Conference on Indigenous Peoples reaffirms United Nations Member states' commitment to promote and advance the rights of indigenous peoples and uphold the principles of the Declaration (A/Res/69/2). To achieve this objective and further implementation of the Declaration, states committed in the Outcome Document to intensify their efforts to end violence against indigenous women and girls and they called on the Human Rights Council and the Commission to act as well.

The Outcome Document invites actions by the Secretary-General to develop a System-wide Action Plan to achieve the ends of the Declaration and by the Human Rights Council to develop an implementing body for the Declaration. It is important that these actions pay particular attention to the rights of indigenous women and children in order to ensure their full protection against all forms of violence and discrimination. Recent reports by special mandate holders call attention to the need for an implementing and monitoring body. The 2015 annual report of the Special Rapporteur on the rights of indigenous peoples highlights significant gaps in monitoring and implementing the rights of indigenous peoples, especially indigenous women and girls. The Special Rapporteur on violence against women has called for the adoption of a binding instrument on violence against women and girls to provide for international scrutiny and accountability. The implementing body for the Declaration could address such gaps in implementation and also serve as an important complementary body with the expertise to address violence against indigenous women and girls.

The Outcome Document calls on the Commission on the Status of Women to consider the issue of the empowerment of indigenous women at a future session, and both the Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples support such consideration in the immediate future. When this Commission does so, we urge full and effective participation of indigenous women and indigenous governments in these discussions, and the development of concrete recommendations or agreed conclusions to address existing legal barriers, empower indigenous women, build the capacity of indigenous juridical systems, and provide reliable access to justice and meaningful remedies within their local indigenous governments.

On June 24, 2014, 35 states made a joint-statement to the Human Rights Council observing that “indigenous peoples themselves may well be in the best position to combat violence against indigenous women and girls . . . . They are closer and better able to address the issue when provided with tools and the legal capability to stop the violence.” The Special Rapporteur on the rights of indigenous peoples recently recommended that states “ensure clarity with regard to the relationship between indigenous, national and local jurisdictions in relation to violence against women; and ensure that the justice process is accessible and sensitive to the needs of indigenous women.” (Para. 79(e)).

Too often violence against indigenous women goes unprosecuted, offenders go unpunished, and victims' human rights are violated with impunity due to legal and other barriers and unfair restrictions on indigenous self-government.

We respectfully urge the Commission to consider the issue of the empowerment of indigenous women on an accelerated basis. As recognized by many international experts, violence against indigenous women is a serious human rights violation — a violation so significant that it precludes their realization of all other human rights. Violence against indigenous women and girls is a worldwide crisis that cannot wait to be addressed. The time for serious consideration and treatment of the issue by the Commission and other bodies of the United Nations is now.

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