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Follow-up and implementation of the Vienna Declaration and Programme of Action

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, A Condition to Achieving Integration of a Gender Perspective

Violence against women is a pervasive human rights violation and a form of discrimination.¹ Violence against women significantly impairs and even “precludes the realization of all other human rights.”²

International experts and bodies, including this Council, recognize that indigenous women often suffer multiple forms of discrimination and higher rates of violence and murder because of their gender and because they are indigenous and members of indigenous peoples and communities.³ Indigenous women also are more vulnerable to violence including human trafficking.⁴ Eliminating violence against indigenous women is an indispensable and essential condition, without which gender balance cannot be achieved.

Many international human rights instruments affirm the equal rights of women and men, including the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination against Women.

Article 44 of the UN Declaration on the Rights of Indigenous Peoples affirms that all rights and freedoms recognized in the Declaration are equally guaranteed to indigenous women and men. The Declaration sets international standards for the treatment of all indigenous women and children, directing states to pay particular attention to the rights and special needs of indigenous women and children in its implementation, and calling on states, in conjunction with indigenous peoples, to take measures to protect indigenous women and children against all forms of violence and discrimination. These international standards are crucial because violence against indigenous women and girls is a global pandemic for which no part of the world has immunity.

In the United States, violence against indigenous women has reached unprecedented levels on tribal lands and in Alaska Native villages. More than 4 in 5 American Indian and Alaska Native women have experienced violence, and more than 1 in 2 have experienced sexual violence.⁵ Alaska Native women continue to suffer the highest rate of forcible sexual assault with “reported rates of domestic violence up to 10 times higher than in the rest of the United States.”⁶ The fact that American Indian and Alaska Native women are more likely to experience violence and sexual violence by an interracial perpetrator⁷ is very significant because, under United States law, tribes cannot exercise full criminal jurisdiction over non-Indians despite the fact that over 96% of Native women who experience sexual violence report

¹ 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.

² *Violence against women – Joint Press Release by UN and IACHR Rapporteurs*. Trinidad (28 April 2015). <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15939&LangID=E> .

³ A/HRC/RES/26/15 (11 July 2014), 2.

⁴ 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).

⁵ 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.

⁶ *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).

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. 2-3 (May 2016), U.S. Dept. of Justice, Office of Justice Programs.

that they have been victimized by a non-Indian.⁸ Though data is scant, the number of missing and murdered American Indian and Alaska Native women and the lack of a diligent and adequate federal response is extremely alarming to indigenous women, tribal governments, and communities. On some reservations, indigenous women are murdered at more than ten times the national average.⁹

The situation of indigenous women and girls elsewhere can be even worse.

Council Resolution 6/30 reaffirms the need to fully implement human rights law in order to protect the human rights of women girls and to integrate a gender perspective in all activities of the United Nations, including conferences and their outcome documents and follow-up.¹⁰

The Council can help meet this need by carrying out decisions of the Outcome Document of the 2014 World Conference on Indigenous Peoples, which includes commitments by the UN and member states “to support the empowerment of indigenous women” and to intensify their efforts “to prevent and eliminate violence and discrimination . . . by strengthening legal, policy and institutional frameworks.”¹¹

The Outcome Document invites the Human Rights Council to develop an implementing body for the Declaration,¹² work that is underway and the need for which has been emphasized in recent reports of special mandate holders.¹³ It is very important that this implementing body pay particular attention to the rights of indigenous women and children to ensure their full protection against all forms of violence and discrimination. This body also could address gaps in the implementation of the Declaration and provide the necessary expertise to address violence against indigenous women.

The Outcome Document also invites the Council to “consider examining the causes and consequences of violence against indigenous women and girls, in consultation with the Special Rapporteur on the rights of indigenous peoples and other special procedures mandate holders.”¹⁴ The Council responded by deciding to hold a half-day panel discussion on the issue of violence against indigenous women and girls during this 33rd Session,¹⁵ and to review the Expert Mechanism on the Rights of Indigenous Peoples’ mandate to more effectively promote respect for the Declaration by assisting states to monitor and improve the achievement of the ends of the Declaration.¹⁶

To achieve the ends of the Declaration and the further integration of a gender perspective, 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;

⁸ *Id.* A handful of tribes are currently exercising limited criminal jurisdiction over certain non-Indians that commit domestic violence or dating violence against Indian women on tribal lands or violate protection orders. See Violence Against Women Reauthorization Act of 2013, § 904.

⁹ 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>.

¹⁰ A/HRC/RES/6/30, ¶ 7 (December 14, 2007).

¹¹ G.A. Res. 69/2, U.N. Doc. A/RES/69/2, ¶¶ 17, 18 (Sept. 25, 2014).

¹² *Id.* at ¶¶ 28, 31, 40.

¹³ The Special Rapporteur on the rights of indigenous peoples has highlighted significant gaps in monitoring and implementing the rights of indigenous peoples, especially the rights of indigenous women and girls. A/HRC/30/41 (June 8, 2015). 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. A/HRC/29/27 (June 10, 2015).

¹⁴ G.A. Res. 69/2, U.N. Doc. A/RES/69/2, ¶ 19 (Sept. 25, 2014).

¹⁵ A/HRC/RES/30/4 (Oct. 1, 2015).

¹⁶ A/HRC/RES/30/11 (Oct. 1, 2015).

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 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
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 and girls is a serious barrier to achieving gender parity and precludes realization of all other human rights. We urge the Council to support these recommendations and to prioritize them in its annual program of work.

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.