


An Honor Dance, Dale Auger

Using International Law to Respond to VAIW and the MMIWG Crisis

May 4, 2022

Presented by the Indian Law Resource Center
Jana L. Walker and Christopher T. Foley, Attorneys

2022 National Week of Action for Missing and Murdered Indigenous Women and Girls



INDIAN LAW
RESOURCE CENTER

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Collaborating on a Strategy



National Congress of American Indians



Proubana 'O Na Waijine



NATIONAL INDIGENOUS WOMEN'S RESOURCE CENTER



AKNWRC



INDIAN LAW RESOURCE CENTER
CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS



COIAB



Native Women's Society of the Great Plains
"Reclaiming Our Sacredness"



NATIVE WOMEN'S ASSOCIATION OF CANADA
L'ASSOCIATION DES FEMMES AUTOCHTONES DU CANADA



MÉTIS NATIONAL COUNCIL

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Safe Women, Strong Nations



Working to end violence against Native women by:

- Raising awareness of violence against Native women as a human rights issue.
- Providing legal advice on restoring tribal criminal authority and preserving tribal civil authority.
- Helping increase tribal capacity to prevent violence and punish offenders.

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Extreme Levels of Violence

- More than 4 in 5 American Indian and Alaska Native women have experienced violence in their lifetimes, including:
 - 56.1% who have experienced sexual violence;
 - 55.5% who have experienced physical violence by an intimate partner and 90% of these victims report being victimized by a non-Indian perpetrator over whom tribes lack full criminal authority;
 - 48.8% who have experienced stalking; and
 - 66.4% who have experienced psychological aggression by an intimate partner.*
- 96 percent of female victims of violence have experienced sexual violence by a non-Indian perpetrator at least once in their lifetime.**

Sources: National Institute of Justice Research Report (May 2016) and Violence Against Women Act 2022, Section 801(a) of Title VIII.

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Disproportionate Levels of Violence

- "American Indians and Alaska Natives are 2.5 times as likely to experience violent crimes; and at least 2 times more likely to experience rape or sexual assault crimes" compared to other women in the United States. (VAWA 2022, Sec. 801(a) of Title VIII)
- Alaska Native women are overrepresented in the domestic violence victim population by 250% and compared to other tribal populations suffer the highest rates of domestic and sexual violence. (VAWA 2022, Sec. 811, Subtitle B of Title VIII)
- "Native Hawaiians experience a disproportionately high rate of human trafficking, with 64 percent of human trafficking victims in the State of Hawai'i identifying as at least part Native Hawaiian." (VAWA 2022)
- Indigenous women have a murder rate 10 times the national average in some areas of the United States. (VAWA 2022, Sec. 801(a) of Title VIII)
- Indigenous children have rates of exposure to violence higher than any other group of children in the United States and experience post-traumatic stress disorder at rates triple that of the general population.



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Missing and Murdered

MMIW exists on the far end of this spectrum of gender based violence.

**TWITTER STORM!
#MMIWACTIONNOW**

May 5, 2022 | 10 a.m. MDT

Take a stand against the crisis of missing and murdered Indigenous women!
Support MMIW surviving families!
Enough is enough!



National Day for Murdered and Missing Indigenous Women

**Wear Red on
May 5th:**

In some tribal communities, American Indian women face murder rates more than 10 times the national average.

#MMIWG #MMIW



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Jurisdictional Maze of Injustice



Diane Millich, Southern Ute Tribe of Colorado, sharing her story of surviving domestic violence, at the signing of the Violence Against Women Reauthorization Act (March 7, 2013). Photo by National Congress of American Indians.

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VAWA 2013



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VAWA 2022

- On March 15, 2022, President Biden signed the VAWA 2022 Reauthorization into law.
- Key improvements in the law include: expanding VAWA 2013 Special Domestic Violence Criminal Jurisdiction (SDVCJ) to cover additional crimes including assault of Tribal justice personnel, child violence, sexual violence, sex trafficking, stalking, and obstruction of justice, and renaming it as Special Tribal Criminal Jurisdiction (STCJ).
- Clarification that the tribes in Maine are eligible to exercise SDVCJ.
- Establishment of a pilot project for Alaska allowing up to 30 Alaska tribes to exercise SDVCJ.

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Violence Against Native Women is a Human Rights Crisis

- Women are entitled to a basic set of human rights, including the right to be free of violence and discrimination.
- Countries are obligated to comply with human rights standards and to adopt measures to protect people from human rights abuses by private individuals.
- U.S. failure to respond to extreme rates of violence against Native women is a human rights violation.

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Using International Advocacy to Restore Safety to Native Women

- Raise global awareness.
- Educate U.S. about its international human rights obligations to Native women.
- Provide new arguments for law reform.
- Complement grassroots efforts with top-down pressure by shaming the U.S. in the international arena.



United Nations Headquarters (Geneva, Switzerland)
Global – 193 Member Countries

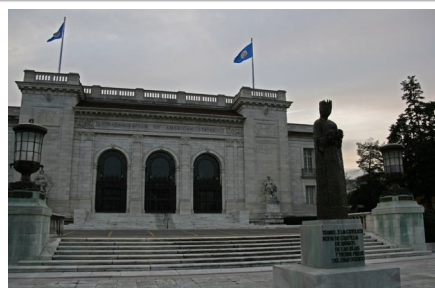


Organization of American States
(Main Building, Washington D.C.)
Regional – 35 Member Countries in the Americas

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Organization of American States

- A regional inter-governmental organization
- Adopts human rights standards, such as the American Declaration on the Rights of Indigenous Peoples
- Responds to human rights violations through the Inter-American Commission on Human Rights
- Advocacy: thematic hearings; precautionary measures; petitions and complaints; special reports; and site visits.



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American Declaration on the Rights of Indigenous Peoples



On June 15, 2016, after nearly 30 years of advocacy and negotiation, the Organization of American States (OAS) adopted the American Declaration on the Rights of Indigenous Peoples. The OAS is a regional intergovernmental organization of 35 member countries of the Americas, including the United States.

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American Declaration on the Rights of Indigenous Peoples

Article VII. Gender equality

1. Indigenous women have the right to the recognition, protection, and enjoyment of all human rights and fundamental freedoms provided for in international law, free from discrimination of any kind.
2. States recognize that violence against indigenous peoples and individuals, particularly women, hinders or nullifies the enjoyment of all human rights and fundamental freedoms.
3. States shall adopt, in conjunction with indigenous peoples, the necessary measures to prevent and eradicate all forms of violence and discrimination, particularly against indigenous women and children.

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UN Declaration on the Rights of Indigenous Peoples



- In 1977, more than 100 Indian delegates went to Geneva to demand recognition of their individual and collective rights.
- For the first time, indigenous peoples were permitted to participate in the drafting and debate.
- For the next 30 years, indigenous representatives from around the world would attend meetings in Geneva.

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Indigenous Women's Rights

- UN Declaration Article 22
 - 1: Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
 - 2: States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
- UN Declaration Art. 44: All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

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Indigenous Peoples' Rights

- UN Declaration Art. 3: Indigenous peoples have the right to self-determination by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. (See Am. Decl. Art. I).
- UN Declaration Art. 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions. (See Am. Decl. Art. XXI -XXIII).
- UN Declaration Art. 26(2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. (See Am. Decl. Art XXV).

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UN Commission on the Status of Women



- A functional commission of the Economic and Social Council dedicated to the promotion of gender equality and empowerment of women, made up of 45 member states
- Acts to review implementation of Beijing Declaration and accelerate progress and promote women's enjoyment of their rights



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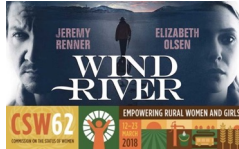
UN Commission on the Status of Women Parallel Events



Together We Are Stronger: Indigenous Women's Movements to End Violence Against American Indian, Alaska Native, and Aboriginal Women (March 2016)



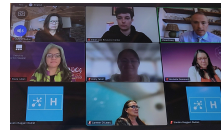
Ending Violence Against Indigenous Women as a Step Towards Empowerment (March 2017)



Empowering Rural Women and Girls (March 2018)



Violations of Indigenous Women's Rights: Brazil, Guatemala, and the United States (March 2021)



Climate Change and Indigenous Women's Rights: Brazil, Guatemala, and the United States (March 2022)

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UN Permanent Forum on Indigenous Issues

- Advisory body to the UN Economic and Social Council that discusses indigenous peoples' issues, including human rights, that is composed of 16 independent experts.
- Meets annually for 10 days in the spring at UN Headquarters in New York.
- Also holds expert group meetings on topics like violence against indigenous women and girls (January 2012).
- Provides opportunities to participate by oral statement and by organizing side events.



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UN Human Rights Council

Advocacy by Native nations and indigenous women's organizations at the Council include:

- Participation in Annual Full-Day Discussion on Women's Human Rights (June session) and Annual Half-Day Discussion on Indigenous Peoples Rights (September session)
- Work to strengthen and improve Annual resolutions on violence against women, including indigenous women and girls and on the rights of indigenous peoples
- Delivery of oral and written statements and meeting with UN staff, experts, and states

Tami Truett Jerue, ED AKNWRC (UN Statement September 2021)



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UN Special Rapporteur on the Rights of Indigenous Peoples

- An individual, independent human rights expert appointed by the the UN Human Rights Council
- Gathers information, promotes good practices, makes country visits and issues reports, offers recommendations to states and the Human Rights Council
- Addresses specific allegations of rights violations through communications with governments and others.



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UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

- A subsidiary body of the UN Human Rights Council composed of seven independent experts from around the world, with due consideration for experts of indigenous origin and gender balance, EMRIP serves as the implementing and monitoring body of the UN Declaration.
- Provides the Council with expertise and advice on Indigenous Peoples' rights.
- Conducts studies to advance Indigenous Peoples rights, including by suggesting measures that States and others can adopt at the level of law and policies



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Independent Expert Mechanisms on Discrimination and Violence Against Women (EDVAW)

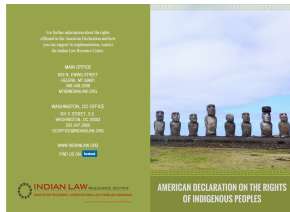
EDVAW Platform is an initiative led by the UN Special Rapporteur on violence against women to develop strong cooperation and synergies among UN and regional mechanisms on violence and discrimination against women. Members include:

- UN Special Rapporteur on violence against women
- UN Committee on the Elimination of Discrimination against Women
- UN Working Group on the issue of discrimination against women and girls
- Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention
- Group of Experts on Action against Violence against Women and Domestic violence
- African Commission on Human and Peoples' Rights Special Rapporteur on the Rights of Women in Africa
- Inter-American Commission on Human Rights Rapporteur on the Rights of Women

Objective of EDVAW is to improve implementation of the existing international legal and policy framework on violence against women.

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www.indianlaw.org



- **UN Declaration:**
http://www.indianlaw.org/sites/default/files/Declarations_Booklet_2012_LRSpreads.pdf
- **American Declaration:**
<http://indianlaw.org/adrip/resource-american-declaration-rights-indigenous-peoples>

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For More Information



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<https://www.niwrc.org/restoration-magazine>

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