


An Honor Dance, Dale Auger

Using International Law to Respond to the MMIWG Crisis

April 30, 2021

Presented by the Indian Law Resource Center
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2021 National Week of Action for Missing and Murdered Indigenous Women and Girls



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Collaborating on a Strategy



National Congress of American Indians

NIWRC
National Indigenous Women's Resource Center
National Resource Center to Enhance Safety of Native Women and their Children

AKNWRC

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

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

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

INTERNATIONAL MAYAN ASSOCIATION

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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.*

*National Institute of Justice Research Report (May 2016).

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Disproportionate Levels of Violence

- Indigenous women are 2.5 times more likely to be sexually assaulted or raped and more than twice as likely to be stalked than other women in the United States.
- Alaska Native women suffer the highest rate of forcible sexual assault and have reported rates of domestic violence up to 10 times higher than in the rest of the United States.
- Indigenous women have a murder rate 10 times the national average on some reservations.
- 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.
- MMIWG exists on the far end of this spectrum of gender based violence.



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Missing and Murdered

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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A portrait of a young woman with long dark hair, looking slightly to the side. The background is dark with some foliage.

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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 2021?



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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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Inter-American Commission on Human Rights

- Autonomous body of the Organization of American States created to promote and protect human rights in the Americas.
- Examines complaints concerning violations of protected human rights.
- Advocacy: thematic hearings; precautionary measures; petitions and complaints; special reports; and site visits.

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A Landmark Decision by the Inter-American Commission

Jessica (Gonzales) Lenahan at the Inter-American Commission on Human Rights (2007).

From Columbia Law School Human Rights Clinic website.



- In 2011, the Commission found the United States violated its obligations under international human rights law by failing to use due diligence and reasonable measures to protect Jessica and her daughters from violence by her estranged husband.
- In 2014, the Commission held a thematic hearing to follow up on its recommendations. Both the Commission and Ms. Lenahan agreed that the United States had made little progress in implementing the recommendations.

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Thematic Hearings on Violence Against Native Women in the U.S.



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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.
- 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.
- 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.

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UN Commission on the Status of Women

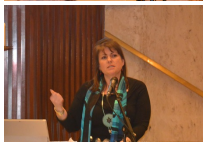


- A functional commission of the Economic and Social Council dedicated to the promotion of gender equality and empowerment of women, made up of 45 member states
- Acts to review implementation of Beijing Declaration and accelerate progress and promote women's enjoyment of their rights



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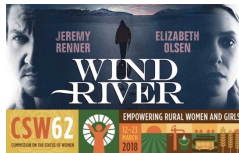
UN Commission on the Status of Women Parallel Events



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)

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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



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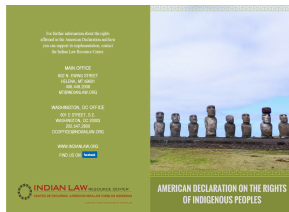
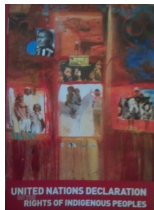
UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

- 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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- **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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