



General Assembly

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Human Rights Council

Thirty-second session

Agenda item 3

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

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.

[24 May 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Eliminating Violence Against Indigenous Women

Violence against women remains widespread and pervasive¹ despite human rights treaties that affirm women's rights to safety and freedom from discrimination.² Council Resolution 29/14 recognizes that violence against women is a human rights violation so serious that it "impairs or even nullifies their enjoyment of all human rights and fundamental freedoms."³

Yet, the situation is even more dire for indigenous women who often suffer multiple forms of discrimination that can increase their vulnerability to all forms of violence,⁴ including human trafficking.⁵ Violence against indigenous women is endemic throughout the world.

For example, in the United States, violence against indigenous women has reached epidemic levels on tribal lands and in Alaska Native villages. A new report by the United States Department of Justice finds that more than 4 in 5 American Indian and Alaska Native women have experienced violence and more than 1 in 2 have experienced sexual violence.⁶ American Indian and Alaska Native women are significantly more likely to experience violence and sexual violence by an interracial perpetrator.⁷ Though data is scant, indigenous women and communities are alarmed at the number of missing and murdered American Indian and Alaska Native women.

Alaska Native women suffer the highest rates of forcible sexual assault in the United States. In 2013, the Indian Law and Order Commission's Report to the President and Congress of the United States found that in some Alaska Native villages, women report 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.⁸

American Indian and Alaska Native children also face an extremely dangerous situation. They endure rates of exposure to violence higher than any other group of children and "experience post-

¹ *Statement by Ms. Rashida Manjoo, Special Rapporteur on Violence against women, its causes and consequences*, 59th Session, Commission on the Status of Women (9 March 2015).

² UN General Assembly, Report of the Secretary General, *In-depth Study on All Forms of Violence Against Women*, U.N. Doc. A/61/122/Add.1 (2006), at ¶ 243. *See also* Convention on the Elimination of All Forms of Discrimination against Women, Declaration on the Elimination of Violence against Women, and Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).

³ A/HRC/RES/29/14 (22 July 2015), 2.

⁴ A/HRC/RES/26/15 (11 July 2014), 2.

⁵ 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).

⁶ 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, available at: <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

⁷ *Id.*

⁸ *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).

traumatic stress disorder at the same rate as veterans returning from Iraq and Afghanistan and triple the rate of the general population.”⁹

These extreme rates of violence against indigenous women and their children are largely due to the United States’ discriminatory legal system that limits the authority of Indian and Alaska Native nations to protect them, and that fails to respond adequately to violence on tribal lands and within Alaska Native villages. As a result, American Indian and Alaska Native women are denied meaningful access to justice and services¹⁰ and are less protected from violence than other women because they are indigenous, members of indigenous communities, and are assaulted on tribal or Alaska Native lands.

The United States has taken steps forward to improve its laws by enacting the Tribal Law and Order Act of 2010 to enhance tribal sentencing authority, and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) to restore limited tribal criminal authority over certain non-Indian defendants committing violence against Native women. These reforms also promote the collective rights of self-determination and self-government affirmed in the United Nations Declaration on the Rights of Indigenous Peoples. Yet, significant barriers remain, including but not limited to inadequate and inequitable funding for tribal justice systems and victim services, and continuing limits on tribes’ criminal jurisdiction that gravely affect safety and justice for indigenous women and children on tribal and Alaska Native lands. Perhaps most egregious, all but one of the 229 Alaska Native tribes are prevented from exercising the restored criminal jurisdiction over non-Indians available to all other tribes simply because of the way United States law classifies their land.¹¹ Because of this unfair legal definition, Alaska Native women are denied equal protection under the law and treated differently than other women, including other indigenous women.

Council Resolution 6/30 recognizes the need for a comprehensive approach to protect the human rights of women in all aspects of the United Nations’ work, including this Council and its various mechanisms, and stresses the need to integrate women’s human rights into UN activities, including conferences like the World Conference on Indigenous Peoples and their outcome documents.

The Declaration on the Rights of Indigenous Peoples is a significant affirmation of indigenous women’s rights. The Declaration urges states to pay particular attention to the rights and special needs of indigenous women and children and directs states, in conjunction with indigenous peoples, to take measures to protect indigenous women and children against violence and discrimination. The Outcome Document of the World Conference on Indigenous Peoples includes commitments by the United Nations and states “to support the empowerment of indigenous women” and to intensify

⁹ *Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence: Ending Violence so Children Can Thrive*, Executive Summary at 6 (November 2014).

¹⁰ 49.0% of Native women needing services for injuries were unable to get them. See 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.

¹¹ As enacted, VAWA 2013 excluded all but one of Alaska’s 229 tribes from certain protections under the Act. Although this exclusion was repealed in 2014, the “Indian country” clauses in § 904 of the law still work to prevent Alaska tribes from exercising restored criminal jurisdiction.

efforts “to prevent and eliminate violence and discrimination . . . by strengthening legal, policy and institutional frameworks.”¹²

The Outcome Document also invites the Human Rights Council to develop an implementing body for the Declaration, work that is already underway,¹³ and to consider examining the causes and consequences of violence against indigenous women and girls. The Outcome Document invited action by the Human Rights Council, which has since decided to hold a half-day panel on the issue of violence against indigenous women and girls in September 2016.¹⁴

In order to honor more fully the commitments in the Outcome Document and to realize the rights in the UN Declaration, we recommend that the Council:

1. To ensure usable outcomes from the Council’s half-day panel on violence against indigenous women and girls, request that the Office of the High Commissioner for Human Rights present to the Council a written report on the discussion with recommendations for concrete measures to address violence against indigenous women and girls;
2. Urge the Secretary-General to issue a separate report with concrete recommendations for action to prevent and eliminate violence against indigenous women and girls, with a view toward enhancing the Council’s existing special procedures to respond to this cross-cutting issue, including by requesting of relevant special procedures regular joint reports; and
3. Request the Secretary-General to convene a high-level panel on intensifying efforts, in collaboration with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous women and girls, when the United Nations hosts its high-level event to mark the tenth anniversary of the adoption of the UN Declaration in 2017.

Violence against indigenous women is a human rights violation and a global outrage. We urge the Council to support these recommendations and to prioritize them in its annual program of work.

Alaska Native Women’s Resource Center, Clan Star, Inc., National Indigenous Women’s Resource Center, and Strong Hearted Native Women’s Coalition, Inc. NGO(s) without consultative status, also share the views expressed in this statement.

¹² A/RES/69/2, ¶¶ 17, 18 (Sept. 25, 2014).

¹³ *Id.* at ¶¶ 28, 31, 40.

¹⁴ A/HRC/RES/30/4 (Oct. 1, 2015).



General Assembly

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25 September 2014

Sixty-ninth session
Agenda item 65

Resolution adopted by the General Assembly on 22 September 2014

[without reference to a Main Committee (A/69/L.1)]

69/2. Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples

The General Assembly

Adopts the following outcome document:

Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples

1. We, the Heads of State and Government, ministers and representatives of Member States, reaffirming our solemn commitment to the purposes and principles of the Charter of the United Nations, in a spirit of cooperation with the indigenous peoples of the world, are assembled at United Nations Headquarters in New York on 22 and 23 September 2014, on the occasion of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, to reiterate the important and continuing role of the United Nations in promoting and protecting the rights of indigenous peoples.
2. We welcome the indigenous peoples' preparatory processes for the World Conference, including the Global Indigenous Preparatory Conference held in Alta, Norway, in June 2013. We take note of the outcome document of the Alta Conference¹ and other contributions made by indigenous peoples. We also welcome the inclusive preparatory process for the high-level plenary meeting, including the comprehensive engagement of the representatives of indigenous peoples.
3. We reaffirm our support for the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007,² and our commitments made in this respect to consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and

¹ A/67/994, annex.

² Resolution 61/295, annex.



implementing legislative or administrative measures that may affect them, in accordance with the applicable principles of the Declaration.

4. We reaffirm our solemn commitment to respect, promote and advance and in no way diminish the rights of indigenous peoples and to uphold the principles of the Declaration.

5. In addition to the Declaration, we recall the other major achievements of the past two decades in building an international framework for the advancement of the rights and aspirations of the world's indigenous peoples, including the establishment of the Permanent Forum on Indigenous Issues, the creation of the Expert Mechanism on the Rights of Indigenous Peoples and the establishment of the mandate of the Special Rapporteur on the rights of indigenous peoples. We commit ourselves to giving due consideration to recommendations and advice issued by those bodies in cooperation with indigenous peoples.

6. We encourage those States that have not yet ratified or acceded to the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169),³ to consider doing so. We recall the obligation of ratifying States under the Convention to develop coordinated and systematic action to protect the rights of indigenous peoples.

7. We commit ourselves to taking, in consultation and cooperation with indigenous peoples, appropriate measures at the national level, including legislative, policy and administrative measures, to achieve the ends of the Declaration and to promote awareness of it among all sectors of society, including members of legislatures, the judiciary and the civil service.

8. We commit ourselves to cooperating with indigenous peoples, through their own representative institutions, to develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the Declaration.

9. We commit ourselves to promoting and protecting the rights of indigenous persons with disabilities and to continuing to improve their social and economic conditions, including by developing targeted measures for the aforementioned action plans, strategies or measures, in collaboration with indigenous persons with disabilities. We also commit ourselves to ensuring that national legislative, policy and institutional structures relating to indigenous peoples are inclusive of indigenous persons with disabilities and contribute to the advancement of their rights.

10. We commit ourselves to working with indigenous peoples to disaggregate data, as appropriate, or conduct surveys and to utilizing holistic indicators of indigenous peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children and persons with disabilities.

11. We commit ourselves to ensuring equal access to high-quality education that recognizes the diversity of the cultures of indigenous peoples and to health, housing, water, sanitation and other economic and social programmes to improve well-being, including through initiatives, policies and the provision of resources. We intend to empower indigenous peoples to deliver such programmes as far as possible.

³ United Nations, *Treaty Series*, vol. 1650, No. 28383.

12. We recognize the importance of indigenous peoples' health practices and their traditional medicine and knowledge.
13. We commit ourselves to ensuring that indigenous individuals have equal access to the highest attainable standard of physical and mental health. We also commit ourselves to intensifying efforts to reduce rates of HIV and AIDS, malaria, tuberculosis and non-communicable diseases by focusing on prevention, including through appropriate programmes, policies and resources for indigenous individuals, and to ensure their access to sexual and reproductive health and reproductive rights in accordance with the Programme of Action of the International Conference on Population and Development,⁴ the Beijing Platform for Action⁵ and the outcome documents of their review conferences.
14. We commit ourselves to promoting the right of every indigenous child, in community with members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion or to use his or her own language.
15. We support the empowerment and capacity-building of indigenous youth, including their full and effective participation in decision-making processes in matters that affect them. We commit ourselves to developing, in consultation with indigenous peoples, policies, programmes and resources, where relevant, that target the well-being of indigenous youth, in particular in the areas of health, education, employment and the transmission of traditional knowledge, languages and practices, and to taking measures to promote awareness and understanding of their rights.
16. We acknowledge that indigenous peoples' justice institutions can play a positive role in providing access to justice and dispute resolution and contribute to harmonious relationships within indigenous peoples' communities and within society. We commit ourselves to coordinating and conducting dialogue with those institutions, where they exist.
17. We commit ourselves to supporting the empowerment of indigenous women and to formulating and implementing, in collaboration with indigenous peoples, in particular indigenous women and their organizations, policies and programmes designed to promote capacity-building and strengthen their leadership. We support measures that will ensure the full and effective participation of indigenous women in decision-making processes at all levels and in all areas and eliminate barriers to their participation in political, economic, social and cultural life.
18. We commit ourselves to intensifying our efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks.
19. We invite the Human Rights Council to consider examining the causes and consequences of violence against indigenous women and girls, in consultation with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the rights of indigenous peoples and other special procedures mandate holders within their respective mandates. We also invite the Commission

⁴ *Report of the International Conference on Population and Development, Cairo, 5–13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex.

⁵ *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex II.

on the Status of Women to consider the issue of the empowerment of indigenous women at a future session.

20. We recognize commitments made by States, with regard to the United Nations Declaration on the Rights of Indigenous Peoples, to consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources.

21. We also recognize commitments made by States, with regard to the Declaration, to establish at the national level, in conjunction with the indigenous peoples concerned, fair, independent, impartial, open and transparent processes to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining to lands, territories and resources.

22. We recognize that the traditional knowledge, innovations and practices of indigenous peoples and local communities make an important contribution to the conservation and sustainable use of biodiversity. We acknowledge the importance of the participation of indigenous peoples, wherever possible, in the benefits of their knowledge, innovations and practices.

23. We intend to work with indigenous peoples to address the impact or potential impact on them of major development projects, including those involving the activities of extractive industries, including with the aim of managing risks appropriately.

24. We recall the responsibility of transnational corporations and other business enterprises to respect all applicable laws and international principles, including the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework⁶ and to operate transparently and in a socially and environmentally responsible manner. In this regard, we commit ourselves to taking further steps, as appropriate, to prevent abuses of the rights of indigenous peoples.

25. We commit ourselves to developing, in conjunction with the indigenous peoples concerned, and where appropriate, policies, programmes and resources to support indigenous peoples’ occupations, traditional subsistence activities, economies, livelihoods, food security and nutrition.

26. We recognize the importance of the role that indigenous peoples can play in economic, social and environmental development through traditional sustainable agricultural practices, including traditional seed supply systems, and access to credit and other financial services, markets, secure land tenure, health care, social services, education, training, knowledge and appropriate and affordable technologies, including for irrigation and water harvesting and storage.

27. We affirm and recognize the importance of indigenous peoples’ religious and cultural sites and of providing access to and repatriation of their ceremonial objects and human remains in accordance with the ends of the Declaration. We commit ourselves to developing, in conjunction with the indigenous peoples concerned, fair, transparent and effective mechanisms for access to and repatriation of ceremonial objects and human remains at the national and international levels.

⁶ A/HRC/17/31, annex.

28. We invite the Human Rights Council, taking into account the views of indigenous peoples, to review the mandates of its existing mechanisms, in particular the Expert Mechanism on the Rights of Indigenous Peoples, during the sixty-ninth session of the General Assembly, with a view to modifying and improving the Expert Mechanism so that it can more effectively promote respect for the Declaration, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration.

29. We invite the human rights treaty bodies to consider the Declaration in accordance with their respective mandates. We encourage Member States to include, as appropriate, information on the situation of the rights of indigenous peoples, including measures taken to pursue the objectives of the Declaration, in reports to those bodies and during the universal periodic review process.

30. We welcome the increasingly important role of national and regional human rights institutions in contributing to the achievement of the ends of the Declaration. We encourage the private sector, civil society and academic institutions to take an active role in promoting and protecting the rights of indigenous peoples.

31. We request the Secretary-General, in consultation and cooperation with indigenous peoples, the Inter-Agency Support Group on Indigenous Peoples' Issues and Member States, to begin the development, within existing resources, of a system-wide action plan to ensure a coherent approach to achieving the ends of the Declaration and to report to the General Assembly at its seventieth session, through the Economic and Social Council, on progress made. We invite the Secretary-General to accord, by the end of the seventieth session of the Assembly, an existing senior official of the United Nations system, with access to the highest levels of decision-making within the system, responsibility for coordinating the action plan, raising awareness of the rights of indigenous peoples at the highest possible level and increasing the coherence of the activities of the system in this regard.

32. We invite United Nations agencies, funds and programmes, in addition to resident coordinators, where appropriate, to support the implementation, upon request, of national action plans, strategies or other measures to achieve the ends of the Declaration, in accordance with national priorities and United Nations Development Assistance Frameworks, where they exist, through better coordination and cooperation.

33. We commit ourselves to considering, at the seventieth session of the General Assembly, ways to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, including any specific proposals made by the Secretary-General in response to the request made in paragraph 40 below.

34. We encourage Governments to recognize the significant contribution of indigenous peoples to the promotion of sustainable development, in order to achieve a just balance among the economic, social and environmental needs of present and future generations, and the need to promote harmony with nature to protect our planet and its ecosystems, known as Mother Earth in a number of countries and regions.

35. We commit ourselves to respecting the contributions of indigenous peoples to ecosystem management and sustainable development, including knowledge acquired through experience in hunting, gathering, fishing, pastoralism and agriculture, as well as their sciences, technologies and cultures.

36. We confirm that indigenous peoples' knowledge and strategies to sustain their environment should be respected and taken into account when we develop national and international approaches to climate change mitigation and adaptation.

37. We note that indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In this regard, we commit ourselves to giving due consideration to all the rights of indigenous peoples in the elaboration of the post-2015 development agenda.

38. We invite Member States and actively encourage the private sector and other institutions to contribute to the United Nations Voluntary Fund for Indigenous Peoples, the Trust Fund on Indigenous Issues, the Indigenous Peoples Assistance Facility and the United Nations Indigenous Peoples' Partnership as a means of respecting and promoting the rights of indigenous peoples worldwide.

39. We request the Secretary-General to include relevant information on indigenous peoples in his final report on the achievement of the Millennium Development Goals.

40. We request the Secretary-General, in consultation with the Inter-Agency Support Group on Indigenous Peoples' Issues and Member States, taking into account the views expressed by indigenous peoples, to report to the General Assembly at its seventieth session on the implementation of the present outcome document, and to submit at the same session, through the Economic and Social Council, recommendations regarding how to use, modify and improve existing United Nations mechanisms to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, ways to enhance a coherent, system-wide approach to achieving the ends of the Declaration and specific proposals to enable the participation of indigenous peoples' representatives and institutions, building on the report of the Secretary-General on ways and means of promoting participation at the United Nations of indigenous peoples' representatives on the issues affecting them.⁷

*4th plenary meeting
22 September 2014*

⁷ A/HRC/21/24.

Indigenous Women’s Movements to End Violence Against American Indian, Alaska Native, and Aboriginal Women

March 22, 2016 at 4:30 – 6:00 p.m.

UN Church Center Chapel

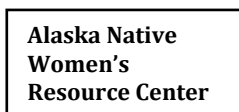
777 1st Ave. at E. 44th St.
New York City, NY



Together We Are Stronger

Indigenous women worldwide suffer from multiple forms of discrimination and violence, and murder, at rates far higher than other groups of women. Speakers from American Indian tribes, Alaska Native villages, and Canadian First Nations will share best practices indigenous women have used to organize and advocate for social changes and legal reforms to restore safety in their Native nations and communities. They also will share strategies to advance the rights of indigenous peoples and women affirmed in the UN Declaration on the Rights of Indigenous Peoples.

Join Us



Indigenous Women’s Movements to End Violence Against American Indian, Alaska Native, and Aboriginal Women

Program

Welcome

Panel Moderator: Jacqueline (Jax) Agtuca

Legal and Policy Consultant, National Indigenous Women’s Resource Center

Ending the Violence, Organizing for Safety

Seneca-Cayuga filmmaker Erica Tremblay and producer Kasia Chmielinski premiere their short documentary about the Native women’s movement in the United States.

Panel

Building the National Movement for Safety and Sovereignty in the United States

Terri Henry

Co-Chair National Congress of American Indians Task Force on Violence Against Women and Chair of the Indian Law Resource Center Board of Directors

Safety for Alaska Native Women

Tamra (Tami) Truett Jerue

Director Alaska Native Women’s Resource Center and Tribal Administrator and Director of Social Services for the Anvik Village Tribal Council

Movement for Justice and Accountability for Missing and Murdered Indigenous Women

Dawn Lavell-Harvard, Ph.D.

President Native Women’s Association of Canada



Biographies



Jacqueline (Jax) Agtuca, J.D., Cherokee, is a public policy consultant to the National Indigenous Women's Resource Center. Jacqueline has dedicated her legal career to enhancing protections for women in tribal, state, federal, and international arenas. She joined the USDOJ Violence Against Women Office, then served as Deputy Director of its Office of Tribal Justice, and also was the Public Policy Director of Clan Star, Inc., a tribal non-profit dedicated to strengthening the sovereignty of Indian tribes and safety of indigenous women. Jacqueline has engaged in international advocacy for the safety of Native women within the UN, including the universal periodic review of the U.S., the

Commission on the Status of Women, and World Conference on Indigenous Peoples. She participated in the Inter-American Commission on Human Rights' first thematic hearing on violence against American Indian women. Jacqueline is a policy advisor for the National Congress of American Indians Task Force on Violence Against Women and editor of the *Restoration of Native Sovereignty and Safety for Native Women* magazine. She authored *Sharing Our Stories of Survival* (2007) and *Safety for Native Women: VAWA and American Indian Tribes* (2014). In 2015, the American Bar Association awarded Jacqueline a *Vision 20/20 Award* for the important work accomplished by VAWA.



Dawn Lavell-Harvard, Ph.D., is a proud Anishinaabe woman from Wikwemikong First Nation of Manitoulin Island in northern Ontario. Following in the footsteps of her mother, Jeannette Corbiere-Lavell (former President of NWAC and acclaimed advocate for Indigenous women's rights), Lavell-Harvard was elected President of the Native Women's Association of Canada at their 41st Annual General Assembly on July 2015 in Montreal, QC. Lavell-Harvard holds a Doctorate in education, and was recognized as the first Indigenous Trudeau Scholar in 2003 through her examination of the experiences of the few Indigenous peoples who have successfully completed a post-secondary education – defining appropriate directions for educational restructuring in Canada. Following her initial election as Youth

Director in 1994, Lavell-Harvard worked tirelessly to advance the rights of Indigenous women and girls as the President of the Ontario Native Women's Association for over a decade. She later co-edited the original volume of *Until Our Hearts Are on the Ground: Aboriginal Mothering, Oppression, Resistance and Rebirth*, and co-authored the book *Mothers of the Nations*. Lavell-Harvard is a full-time mother to three young girls.



Terri Henry is Longhair Clan of the Eastern Band of Cherokee Indians and a resident of the Painttown Community of the Qualla Boundary. She is a founding member and Co-Chair of the National Congress of American Indians Task Force on Violence Against Women. In this capacity she worked tirelessly to build the national movement to re-authorize VAWA 2005 and 2013. Ms. Henry was elected to the Eastern Band of Cherokee Indians Tribal Council for three terms from 2009 to 2015 representing the Painttown Community. In 2013, Terri was elected by her Tribal Council peers to be the first Tribal Council Chairwoman. Terri played a leading role as a member of the USDOJ Violence Against Women Office to direct policies and

programs for over 250 American Indian Tribes and Alaska Native Villages. Through Terri's leadership, the first Native based federal programming to address violence against Native women became a reality. Programming under her direction recognized the sovereignty of Indian tribes and the principles of self-determination. Terri returned home to Cherokee, North Carolina to found the Qualla Women's Justice Alliance in 1999 and Clan Star, Inc. in 2001. Ms. Henry has also served her Tribe as the Director of Public Safety and as an Associate Justice of the Cherokee Supreme Court. Terri is the Chair of the Indian Law Resource Center Board of Directors.



Tamra (Tami) Truett Jerue lives in Anvik, Alaska, a small Athabascan community on the Yukon River. She is the mother of four children and the grandmother of four. She currently is the Director of the Alaska Native Women's Resource Center and works for the Anvik Tribal Council as the Tribal Administrator/Director of Social Services. Ms. Truett Jerue has worked in the field of Domestic Violence and Sexual Assault for the last 30 years in various capacities. Her education includes a Bachelor's Degree in Social Work, Community Psychology, and Secondary Education. She has been involved with many non-profit boards over the years and has worked most of her professional life in rural Alaska in many

capacities such as therapist, sexual assault counselor, teacher, tribal administrator, ICWA social worker, and trainer. Tami's many experiences and those of her family and friends with Domestic Violence and Sexual Assault have kept her passionate about helping to facilitate change at a community level, within systems, and in families to help survivors live a violence free life.

Co-sponsoring Organizations

Alaska Native Women's Resource Center

Organized in 2015, the **Alaska Native Women's Resource Center** (AKNWRC) is a tribal nonprofit organization dedicated to ending violence against women with Alaska's 229 tribes and allied organizations. AKNWRC board members are Alaska Native women raised in Alaska Native Villages and have 141 years of combined experience in tribal governments, nonprofit management, domestic violence, and sexual assault advocacy (both individual crisis and systems and grassroots social change advocacy at the local, statewide, regional, national and international levels), and other social service experience. AKNWRC's philosophy is that violence against women is rooted in the colonization of indigenous nations.



Founded in 1978 by American Indians, the **Indian Law Resource Center** (ILRC) is a nonprofit organization that provides 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. Its Safe Women, Strong Nation's project works with indigenous women's organizations and Native nations to end violence against indigenous women. ILRC is in consultative status with the UN Economic and Social Council. (www.indianlaw.org).



The **National Congress of American Indians** (NCAI) is the oldest and largest national organization of American Indian and Alaska Native tribal governments, and is dedicated to ending the epidemic of violence against American Indian and Alaska Native women. In 2003, NCAI created the NCAI Task Force on Violence Against Women to address and coordinate an organized response to national policy issues regarding violence against American Indian and Alaska Native women. NCAI is in consultative status with the UN Economic and Social Council. (www.ncai.org).



The **National Indigenous Women's Resource Center, Inc.** (NIWRC) is a nonprofit organization whose mission is to ensure the safety of Native women by protecting and preserving the inherent sovereign authority of American Indian and Alaska Native nations to respond to domestic violence and sexual assault. NIWRC's Board consists of Native women leaders from American Indian and Alaska Native nations across the United States. NIWRC is a national resource center for Indian nations providing technical assistance, policy development, training, materials, resource information, and the development of tribal strategies and responses to end the violence. In 2015, NIWRC launched the Violence Against Women Act (VAWA) Sovereignty Initiative to defend the constitutionality and functionality of all VAWA tribal provisions. (www.niwrc.org).



The **Native Women's Association of Canada** (NWAC) is founded on the collective goal to enhance, promote, and foster the social, economic, cultural and political well-being of First Nations and Métis women within First Nation, Métis and Canadian societies. NWAC is an aggregate of thirteen Native women's organizations from across Canada and was incorporated as a non-profit organization in 1974. Much like a "Grandmother's Lodge," we as aunts, mothers, sisters, brothers and relatives collectively recognize, respect, promote, defend and enhance our Native ancestral laws, spiritual beliefs, language and traditions given to us by the Creator. (<http://www.nwac.ca/>)

Supporting Organizations: Coalition to Stop Violence Against Native Women; Minnesota Indian Women's Sexual Assault Coalition; Montana Native Women's Coalition; Native Women's Coalition; Southwest Indigenous Women's Coalition; Strong Hearted Native Women's Coalition, Inc.; Uniting Three Fires Against Violence; and Wabanaki Women's Coalition



General Assembly

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Human Rights Council

Thirty-second session

Agenda item 3

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

**Albania, Andorra,* Angola,* Argentina,* Armenia,* Australia*, Austria,* Belgium,
Bosnia and Herzegovina,* Bulgaria,* Canada,* Chile,* Côte d'Ivoire, Croatia,*
Cyprus,* Czech Republic,* Denmark,* Ecuador, El Salvador, Estonia,* Finland,*
France, Georgia, Germany,* Ghana, Greece,* Haiti,* Honduras,* Hungary,*
Iceland,* Italy,* Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Mexico,
Monaco,* Mongolia, Montenegro,* Norway,* Panama, Peru,* Philippines, Portugal,
Republic of Korea, Republic of Moldova,* Romania,* Rwanda,* Senegal,* Serbia,*
Slovakia,* Slovenia, Spain,* Sweden,* Switzerland, Thailand,* the former Yugoslav
Republic of Macedonia, Tunisia,* Turkey,* Ukraine,* United Kingdom of Great
Britain and Northern Ireland, United States of America,* Uruguay:* draft resolution**

32/... Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and girls

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,

Recalling the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the International Convention on the Elimination of All Forms of Racial Discrimination,

Reaffirming the Vienna Declaration and Programme of Action, the Declaration on the Elimination of Violence against Women, the Beijing Declaration and Platform for Action and the Programme of Action of the International Conference on Population and Development, and the outcomes of their review conferences,

Welcoming the World Health Organization global plan of action to strengthen the role of the health system within a national multisectoral response to address interpersonal

* State not a member of the Human Rights Council.



violence, in particular against women and girls, and against children, building on existing work of the World Health Organization, in particular its call for the prevention and elimination of all forms of sexual and gender-based violence in public and private life,

Recalling all relevant resolutions of the Human Rights Council, the Commission on Human Rights, the General Assembly and the Security Council, including those on women, peace and security and on children in armed conflict, and the relevant resolutions and agreed conclusions of the Commission on the Status of Women, which affirmed that all forms of violence against women must be condemned and eliminated,

Recalling also the adoption by the General Assembly of the United Nations Declaration on the Rights of Indigenous Peoples in its resolution 61/295 of 13 September 2007, *Recalling further* Human Rights Council resolution 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with these resolutions and the annexes thereto,

Outraged by the persistence and pervasiveness of all forms of violence against women and girls worldwide, including intimate partner violence, and emphasizing that such violence is a violation, abuse or impairment of human rights and, as such, is completely unacceptable,

Welcoming the agreed conclusions adopted by the Commission on the Status of Women at its sixtieth session and of previous sessions, and its decision to consider the issue of the empowerment of indigenous women at a future session, and acknowledging its intention to make this issue a focus of its sixty-first session,

Welcoming also the commitment made by States to achieve gender equality and the empowerment of all women and girls in the 2030 Agenda for Sustainable Development¹ and the Addis Ababa Action Agenda,² in particular the commitment to eliminate all forms of violence against them,

Recognizing the importance of the United Nations Entity for Gender Equality and the Empowerment of Women and its role in leading, coordinating and promoting the accountability of the United Nations system in its work on gender equality and the empowerment of women and girls,

Recognizing also the important role of the Commission on the Status of Women in promoting gender equality and the empowerment of women, based on the full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session, and in promoting and monitoring gender mainstreaming within the United Nations system, and encourages the Commission to contribute to the follow-up to the 2030 Agenda for Sustainable Development in order to accelerate the realization of gender equality and the empowerment of women and girls,

Recalling the outcome document of the World Conference on Indigenous Peoples,³ in which States committed to intensifying efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks, and recalling the work of indigenous-specific United Nations mechanisms in addressing violence against women and girls,

¹ General Assembly resolution 70/1.

² General Assembly resolution 69/313, annex.

³ General Assembly resolution 69/2.

Acknowledging the important role played by regional conventions, instruments, declarations and initiatives to combat violence against women and girls, including indigenous women and girls,

Reiterating the need to intensify efforts at all levels to prevent and eliminate all forms of violence against women and girls, throughout the world, and stressing that women's economic, political and social empowerment is essential for preventing violence and addressing the underlying causes of violence against women and girls, including indigenous women and girls,

Recognizing that violence against indigenous women and girls cannot be separated from the wider context of discrimination and exclusion to which indigenous persons are often exposed in social, economic, cultural and political life, and deeply concerned about indications that indigenous women and girls are disproportionately affected by violence, including sexual violence, given the multiple and intersecting forms of discrimination to which they may be exposed,

Recognizing also the increased vulnerability of those who are subject to multiple and intersecting forms of discrimination, such as older women, indigenous women, migrant women and women with disabilities, and the particular risk of violence they face, and stressing the urgent need to address violence and discrimination against them,

Deeply concerned that all women and girls, including indigenous women and girls, face a heightened risk of sexual and gender-based violence during times of conflict and humanitarian crisis situations,

Recognizing that violence against women and girls is rooted in historical and structural inequality in power relations between women and men, and that all forms of violence against women and girls constitute a major impediment to their full, equal and effective participation in society, the economy and political decision-making,

Expressing concern at institutional and structural discrimination against women and girls, including indigenous women and girls, such as laws, policies, regulations, programmes, administrative procedures or structures, services and practices that directly or indirectly restrict access to institutions, property and landownership, health-care services, education, employment and access to credit, which negatively affect their empowerment and increase their vulnerability to violence,

Reaffirming as stated in the United Nations Declaration on the Rights of Indigenous Peoples that indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security,

Alarmed at the high level of impunity with regard to gender-based violence, including gender-related killings of women and girls, including indigenous women and girls, and recognizing the key role of the criminal justice system in preventing and ending impunity for such crimes,

Concerned that indigenous women and girls may be overrepresented in criminal justice systems and may be more marginalized, and thus experience more violence before, during and after the period of incarceration,

Recognizing that the absence of adequate gender statistics, including data disaggregated by, inter alia, sex, age and disability, and of specific data on the incidence of violence against women and girls, its context and its perpetrators impedes efforts to design specific intervention strategies to address both the causes and the consequences of violence

against women and girls, and to ensure coordinated and consolidated efforts to address gender data gaps,

Expressing concern at the low levels of birth registration among indigenous women and girls, and taking into consideration that registering a person's birth is a vital step towards the promotion and protection of all of his or her human rights, and that persons without birth registration may be more vulnerable to marginalization, exclusion, discrimination, violence, statelessness, exploitation and abuse,

Underscoring that the duty of States to exercise due diligence to provide protection to women and girls, including indigenous women and girls, who have been subjected to or are at risk of violence, includes using all appropriate means of a legal, political, administrative and social nature to provide access to justice, health care and support services that respond to their immediate needs, protect against further harm and continue to address the ongoing consequences of violence for women and girls, including indigenous women and girls, taking into consideration the impact of violence on their families and communities,

1. *Stresses* that "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women and girls of any age, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and notes the economic and social harm caused by such violence;

2. *Strongly condemns* all acts of violence against women and girls, including against indigenous women and girls, whether these acts are perpetrated by the State, private persons or non-State actors, and calls for the elimination of all forms of sexual and gender-based violence, including where perpetrated or condoned by the State, as described in the Declaration on the Elimination of Violence against Women;

3. *Underscores* that violence against women and girls, including indigenous women and girls, whether committed in the public or private sphere, is a matter of grave public concern and that States have the primary responsibility for protecting and promoting the human rights of women and girls, and in this respect strongly urges States to take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy full protection and guarantees against all forms of violence and discrimination in policy and in practice;

4. *Continues to express particular concern* at the systemic and structural discrimination and violence faced by women human rights defenders of all ages, including indigenous women and girl human rights defenders, and calls upon States to exercise due diligence in preventing violations and abuses against all human rights defenders, including through practical steps, to prevent threats, harassment and violence, and in combating impunity by ensuring that those responsible for violations and abuses, including gender-based violence and threats, committed by State or non-State actors, including online, are promptly brought to justice through impartial investigations;

5. *Expresses concern* that violence in the private sphere, including domestic violence, is the most prevalent and least visible form of violence against all women and girls, and that its consequences are long-lasting and profound, and affect many areas in the lives of victims and their communities;

6. *Recognizes* the critical role of women and girls, including indigenous women and girls, as agents of change, and in this regard urges States to engage and consult with indigenous women and girls as active and equal participants in the planning, design and implementation of legislation, policies and programmes;

7. *Calls upon* States to take effective action to prevent violence against women and girls, including indigenous women and girls, by:

(a) Developing, reviewing and strengthening inclusive policies, including by allocating adequate resources to address the historical, structural and underlying causes and risk factors of violence against women and girls, including indigenous women and girls, and ensuring that laws and policies are harmonized to address widespread violence against women and are in compliance with their international human rights obligations;

(b) Abolishing practices and legislation that discriminate against women and girls, including indigenous women and girls; eliminating prejudices, harmful practices, and gender stereotypes; and raising awareness of the unacceptability of violence against women and girls;

(c) Taking measures to empower women by, inter alia, strengthening their economic autonomy and ensuring their full and equal participation in society and in decision-making processes by adopting and implementing social and economic policies that guarantee women full and equal access to quality education, including comprehensive sexuality education, and training, and affordable and adequate public and social services, as well as full and equal access to financial resources and decent work, and full and equal rights to own and to have access to and control over land and other property, and guaranteeing women's and girls' inheritance rights;

(d) Removing gender bias and other forms of discrimination from the administration of justice, and enhancing the capacity of law enforcement officials to deal appropriately with all forms of violence against women and girls, including against indigenous women and girls, by providing systematic gender sensitivity training, as appropriate, for police and security forces, prosecutors, judges and lawyers, integrating gender considerations into security sector reform initiatives, developing protocols and guidelines, and enhancing or putting in place appropriate accountability measures for adjudicators;

(e) Engaging, educating, encouraging and supporting men and boys to take responsibility for their behaviour and to become active partners in the prevention and elimination of all forms of discrimination and violence against all women and girls, including indigenous women and girls, and to end the stigmatization of victims and survivors of violence by encouraging a change in attitudes, perceptions of masculinity, gender stereotypes and other norms and behaviour through the promotion of gender equality;

(f) Measuring the effectiveness of policies and programmes to prevent violence against women and girls, including by carrying out regular evaluation and monitoring, and ensuring that they do not put indigenous women and girls at any additional risk;

(g) Ensuring free birth registration, including free or low-fee late birth registration, and further identifying and removing physical, administrative, procedural and any other barriers that impede access to birth registration, particularly barriers faced by indigenous women and girls, ensuring adequate training, and increasing, as needed, the accessibility of birth registration facilities;

8. *Urges* States to condemn strongly and publicly all forms of violence against women and girls, including indigenous women and girls, and to refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination, including harmful practices, such as child, early and forced marriage and female genital mutilation;

9. *Also urges* States to ensure the promotion and protection of the human rights of all women and their sexual and reproductive health and reproductive rights, in

accordance with the Programme of Action of the International Conference on Population and Development, the Beijing Platform for Action and the outcome documents of their review conferences, including through the development and enforcement of policies and legal frameworks and the strengthening of health systems that make universally accessible and available quality, comprehensive sexual and reproductive health-care services, commodities, information and education, including, inter alia, safe and effective methods of modern contraception, emergency contraception, prevention programmes for adolescent pregnancy, maternal health care, such as skilled birth attendance and emergency obstetric care, which will reduce obstetric fistula and other complications of pregnancy and delivery, safe abortion where such services are permitted by national law, and prevention and treatment of reproductive tract infections, sexually transmitted infections, HIV and reproductive cancers, recognizing that human rights include the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free from coercion, discrimination and violence;

10. *Further urges* States to take effective measures in support of the right of indigenous peoples, without discrimination, to the improvement of their economic and social conditions, including in, inter alia, the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security, as referred to in the United Nations Declaration on the Rights of Indigenous Peoples;

11. *Encourages* States to adopt and strengthen sound policies, enforceable legislation and transformative actions for the promotion of gender equality and women's and girls' empowerment at all levels, including of indigenous women and girls, to promote their equal rights, access to and opportunities for participation and leadership in the economy, and to eliminate gender-based violence and discrimination in all its forms;

12. *Also encourages* States to improve the collection, harmonization and use of data disaggregated by sex, administrative data, including, where appropriate, from the police, the health sector and the judiciary, on incidents of all forms of violence against women and girls, including against indigenous women and girls, such as data on the relationship between the perpetrator and victim and geographic location, ensuring that confidentiality and ethical and safety considerations are taken into account in the process of data collection, and improving the effectiveness of the services and programmes provided and protecting the safety and security of the victim;

13. *Encourages* the media to examine the impact of gender-role stereotypes, including those perpetuated by commercial advertisements that foster gender-based violence and inequalities, to promote zero tolerance for such violence and to remove the stigma of being a victim and survivor of violence, thus creating an enabling and accessible environment where women and girls can easily report incidents of violence and make use of the services available, including protection and assistance programmes;

14. *Calls upon* States to take effective action to respond to violence against women and girls, including indigenous women and girls, and to protect all victims and survivors by:

(a) Taking practical and concrete steps to create an enabling environment where women and girls can easily report incidents of violence, including by providing law enforcement officials, health-care providers and other first responders with human rights training to ensure services that are responsive to trauma and free from discrimination;

(b) Adopting and funding policy reforms and programmes, and support education, in order to sensitize, train and strengthen the capacity of public officials and professionals, including the judiciary, the police and the military, as well as those working in the areas of education, health, social welfare, justice, defence and immigration; and holding public officials accountable for not complying with laws and regulations relating to

violence against women and girls, in order to prevent and respond to such violence in a gender-sensitive manner, to end impunity and to avoid the abuse of power leading to violence against women and the revictimization of victims and survivors;

(c) Establishing comprehensive, coordinated, interdisciplinary, accessible and sustained multisectoral services, programmes and responses at all levels, and with the support of all available technologies, for all victims and survivors of all forms of violence against women and girls based on their needs, that are adequately resourced and include effective and coordinated action by, as appropriate, the police and the justice sector, legal aid services, health-care services, including sexual and reproductive health, and medical, psychological and other counselling services, including specialist services as appropriate, State and independent women's shelters and counselling centres, 24-hour hotlines, social aid services, one-stop crisis centres, immigration services, child services, public housing services to provide low-threshold, easy-to-reach and safe assistance for women and children, as well as assistance, protection and support through access to long-term accommodation, educational, employment and economic opportunities, and to take steps to ensure the safety and security of health-care workers and service providers who assist and support victims and survivors of violence and, in cases of girl victims, to ensure that such services and responses take into account the best interests of the child;

(d) Adopting measures to raise the awareness of women and girls, including indigenous women and girls, and in particular those at known risk of sexual and gender-based violence, of their rights, the law and the protection and legal remedies it offers, including by disseminating information on the assistance available to women and families that have experienced violence, and ensuring that timely and appropriate information is available to all women and girls who have been subjected to violence, when possible in a language in which they can effectively communicate, and at all stages of the justice system;

(e) Ensuring women's and girls', including indigenous women's and girls', unimpeded access to justice, effective legal assistance and information regarding their human rights without discrimination so that they have access to just and effective remedies for the harm that they have experienced, including through the adoption of national legislation;

(f) Ensuring that remedies for women and girls subjected to violence, whether judicial, administrative, policy or other measures, are available, accessible, acceptable, age- and gender-sensitive and adequately address victims' needs, including by protecting confidentiality, preventing the stigmatization, revictimization or further harm to victims, allowing reasonable time for women subjected to violence to come forward to seek redress, ensuring reasonable evidentiary standards;

(g) Developing and implementing the establishment of rehabilitative services in order to encourage and bring changes in the attitudes and behaviour of perpetrators of violence against women and girls and to reduce the likelihood of reoffending, and to monitor and assess their impact and effect;

15. *Calls upon* States to consider ratifying or acceding to all relevant instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination and the optional protocols thereto, and to cooperate through regional conventions, instruments and initiatives to prevent and respond effectively to violence against women and girls;

16. *Welcomes* the mandate and the work of the Special Rapporteur on violence against women, its causes and consequences, and takes note of her report,⁴ in which she sets out the priorities of her mandate;

17. *Decides* to extend the mandate of the Special Rapporteur on violence against women, its causes and consequence, as set out by the Human Rights Council in its resolution 23/25 of 14 June 2013, for a period of three years;

18. *Encourages* the special procedures to consider the issue of multiple and intersecting forms of discrimination faced by women and girls, including indigenous women and girls, within their existing mandates, where applicable;

19. *Welcomes* the panel discussion on violence against women and girls, held during the annual full-day discussion on women's human rights at the thirty-second session of the Human Rights Council, and requests the Office of the United Nations High Commissioner for Human Rights to present a summary report on the discussion to the Council at its thirty-third session;

20. *Requests* the Special Rapporteur on violence against women, its causes and consequences to hold consultations or participate in the work, as appropriate, and by the invitation of the Commission on Crime Prevention and Criminal Justice of the United Nations Office on Drugs and Crime in order to accelerate the implementation of the goals of the Special Rapporteur on prevention of and response to violence against women;

21. *Encourages* regular consultations by the Special Rapporteur on violence against women, its causes and consequences, with, inter alia, the Commission on the Status of Women, the World Health Organization, the United Nations Entity for Gender Equality and the Empowerment of Women, the United Nations Population Fund and the Statistics Division of the United Nations on the issue of disaggregated data on violence against women and effective ways of advancing the elimination of violence against women;

22. *Decides* to continue its consideration of the issue of the elimination of all forms of violence against women and girls, its causes and consequences, as a matter of high priority, in conformity with its annual programme of work.

⁴ A/HRC/32/42 and Corr.1.

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

Report of the Working Group on the issue of discrimination against women in law and in practice, on its mission to the United States*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Working Group on its visit to the United States conducted from 30 November to 11 December 2015. This report describes the situation regarding gender equality and the human rights of women in the country and analyses achievements and challenges. It examines the legal, institutional and policy framework for promoting equality and the participation and empowerment of women in economic, social, political and public life, with particular attention to women victims of multiple forms of discrimination. The Working Group presents its recommendations for further progress in eliminating discrimination and promoting equality.

* Late submission.

**Report of the Working Group on the issue of discrimination
against women in law and in practice, on its mission to the
United States (30 November-11 December 2015)****

Contents

	<i>Page</i>
I. Introduction	3
A. The visit	3
B. Context.....	3
II. Legal, institutional and policy framework for women’s equality and human rights	4
A. Legal framework.....	4
B. Access to justice.....	8
C. Institutional framework and policies at the federal level.....	9
III. Participation of women in political and public life, in economic and social life and access to health	10
A. Participation in political life	10
B. Participation in economic and social life.....	11
C. Access to health care	15
IV. Gender based violence and women victims of multiple forms of discrimination.....	18
V. Conclusions and recommendations.....	20
A. Conclusions.....	20
B. Recommendations.....	21

** Circulated in the language of submission only.

I. Introduction

A. The visit

1. The Working Group visited the United States from 30 November to 11 December 2015 at the invitation of the Government. The Group met with various concerned stakeholders in Washington DC, Austin and Mc Allen (Texas), Montgomery and the Lowndes County (Alabama), Salem and Portland (Oregon). The experts wish to thank the federal and state authorities as well as civil society organisations for their assistance in the organization of this visit.

2. In Washington DC, the Group met with the Departments of State, Labour, Health and Human Services, Education, Justice, Homeland Security, Housing and Urban Development, the White House Council on Women and Girls, the White House Advisor on Violence Against Women, the Equal Employment Opportunity Commission and the Office of Personnel Management. The Group also met with members of Congress, a Judge of the DC Superior Court and a member of the National Association of Women Judges. In Austin, the Group met with the Commission for Women, the Speaker's Office, state trial judges and the Assistant City Manager Mayor's office in Mc Allen. In Montgomery, the Group met with the Lt. Governor, a Middle District Judge and a legislator. In Salem, the experts met with the Attorney General and the Office of Child Care. In Portland, they met with a District Judge, the Oregon Commission for Women and the Commissioner.

3. During its visit, the Working Group met with numerous NGOs, visited the Coffee Creek Penitentiary (Oregon), health centres, abortion clinics, child care centres and relief nurseries. The Group would like to express its sincere gratitude for the exceptional level of cooperation and support extended by civil society during the visit.

B. Context

4. The visit of the Working Group took place, at a moment when the political rhetoric of some of the candidates for the Presidency in the upcoming elections has included unprecedented hostile stereotyping of women; when there are increasingly restrictive legislative measures at the state level and violent attacks to prevent women's access to exercise of their rights to reproductive health¹ and when there is a significant and disparate worsening of women's economic situation, in particular women of colour.

5. The Working Group acknowledges the United States' commitment to liberty, so well represented by the Statue of Liberty which symbolizes both womanhood and freedom. Nevertheless, in global context, women in the United States do not take their due place as citizens of the world's leading economy, which has one of the highest rates of per capita income. In the United States, women fall behind as regards their public and political representation, their economic and social rights and their health and safety protections.

6. Coming as it did in an economy which already had a high level of socio-economic inequality, the global economic crisis further increased economic

¹ On 27 November 2015, a gunman attacked a Planned Parenthood clinic in Colorado. Three people were killed and several others injured

insecurity for the middle and lower deciles of the population and had a significantly adverse impact on women, in particular women of colour². Government recovery policies to boost the economy resulted in decreased expenditures on critical social protection programs, many of which are essential for women.

7. The experts are fully aware of the diversity of the United States and of its political and legal framework, which combines federal and state legislation. Accordingly, the Working Group, rather than reviewing multitudinous provisions does comprehensively seek to extract the key features of national policy, selected examples of state policy, the most recent trends in women's political, civil, social and economic situation and the achievements and obstacles in promoting gender equality³.

II. Legal, institutional and policy framework for women's equality and human rights

A. Legal framework

1. Ratification of Conventions at the international and regional levels

8. The United States ratified the International Covenant on Civil and Political Rights (1992), the International Convention on the Elimination of All Forms of Racial Discrimination (1994), the Convention against Torture (1994) and the two Optional Protocols to the Convention on the rights of the child (2002).

9. The Working Group deeply regrets that the United States has not ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol. In 2010 and 2015, in the framework of the Universal Periodic Review, the Government committed to ratify the Convention but this has not yet been translated into action. The Group notes that resistance to ratification of CEDAW reflects, inter alia, the opposition of a powerful sector of society to the Convention's formulation of women's international human right to equality. The United States is one of only seven countries in the world which have not ratified CEDAW. Even in the absence of ratification of CEDAW, many of its standards are entrenched in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and in customary international law, and are hence binding on the United States. Nevertheless, the Group is of the unreserved opinion that ratification of CEDAW is crucial, on both the domestic and the global levels, in order to confirm the US commitment to substantive equality for women in all spheres of life. At the domestic level, ratification is essential in order to provide all US women with missing rights and protections guaranteed under CEDAW, such as universal paid maternity leave, accessible reproductive health care and equal opportunity in standing for political election. The Group welcomes in this regard the Cities for CEDAW initiatives which have started a process of incorporating CEDAW principles at the local level.

10. The Working Group also deeply regrets that the United States has not ratified other major international and regional human rights instruments, which have a direct

² See also statement of UN Working Group on People of African Descent on its recent visit to the United States
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000&LangID=E>

³ The report cannot exceed an established strict word limit

impact on the rights of women, such as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention on the Rights of Persons with Disabilities⁴, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará, 1994). It further regrets that it is not party to the ILO Equal Remuneration Convention, No. 100 (1951), Workers with Family Responsibilities Convention, No. 156 (1981), Indigenous and Tribal Peoples Convention, No. 169 (1989), Maternity Protection Convention, No. 183 (2000) and Domestic Workers Convention, No. 189 (2011).

2. Main achievements in prohibiting discrimination and violence against women

11. The experts recognize the very significant protection for women's rights under federal legislation and under the Constitution and greatly appreciate landmark decisions, in particular of the Supreme Court⁵, which have created benchmarks in prohibiting sex discrimination. They note in particular:

Employment rights

12. The Equal Pay Act of 1963 requires that men and women in the same workplace be given equal pay for equal work.

13. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination, including sexual harassment, based on race, colour, religion, sex, or national origin by employers with fifteen or more employees⁶.

14. The Pregnancy Discrimination Act (PDA) of 1978, amending Title VII of the Civil Rights Act of 1964, prohibits sex discrimination on the basis of pregnancy⁷, clarified that employment discrimination on the basis of pregnancy, childbirth, or related medical conditions is sex discrimination under Title VII.

15. The Family and Medical Leave Act (1993) provides employees with the right to take unpaid, job-protected leave of twelve workweeks in a 12-month period, including for the birth of a child and to care for the new-born child within one year of birth (see para 15).

16. The Lilly Ledbetter Fair Pay Restoration Act (2009)⁸ and Executive Order 13665 (2014), promoting pay transparency provide more effective procedures for challenging unequal pay.

⁴ <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

⁵ See https://www.aclu.org/files/interactive/womensrights_sotus_0303a.html#00

⁶ While the Equal Pay Act is limited to jobs within the same work place, Title VII does not have this limitation in its language. In 1981, four female prison guards sued the county of Washington in Oregon under Title VII for paying them less than male prison guards (County of Washington vs. Gunther: Court clarified that claims of wage discrimination brought under Title VII were not limited to equal pay for the exact same work, as they are under the Equal Pay Act.

⁷ Only Indiana and North Carolina do not offer any protections against pregnancy discrimination. In Texas and 13 other states, employers, by law, must provide reasonable accommodations for pregnant workers. Oregon and 18 other states have passed laws providing workplace breastfeeding rights (such as break times and a private space for pumping breast milk). South Dakota, Nevada and Alabama provide that employers must allow pregnant employees to take sickness or disability leave owing to them for pregnancy related conditions

⁸ See <https://www.nwlc.org/resource/lilly-ledbetter-fair-pay-act-0>

Education

17. Title IX of the Education Amendments of 1972 prohibits sex discrimination in federally funded educational programs.

Same sex marriage

18. The landmark 2015 decision of the Supreme Court in *Obergefell et Al. v. Hodges, Director, Ohio Department of Health, et Al.* has recognised same-sex marriage as a constitutional right under the 14th Amendment of the US Constitution.

Right to health

19. The adoption of the Affordable Care Act (ACA) in 2010, by expanding access to health care for many uninsured citizens, with the gains biggest for the poor, minorities and low-wage workers, marked significant progress in women's enjoyment of the right to health. ACA also establishes crucial protections against discriminatory practices by health insurance plans in charges and coverage regarding women's reproductive health needs, as well as provisions for coverage of provider screening and counselling for domestic violence. (see para 63).

Violence against women

20. The Violence against Women Act of 1994⁹, as last reauthorized in 2013 is a key resource to prevent gender-based violence, including specifically domestic violence, sexual assault, dating violence and stalking. There are also statutory protections at state and local levels. The last reauthorization of the VAW Act created set-aside funding to support Sexual Assault Response Teams and train law enforcement and prosecutors about sexual assault and explicitly bars discrimination based on gender identity or sexual orientation.²¹ The Working Group also notes positively the adoption of the National Standards to Prevent, Detect, and Respond to Prison Rape in 2012, pursuant to the Prison Rape Elimination Act (2003).

22. The experts welcome the significant legislative and judicial measures in the past decades aimed at eliminating discrimination and violence against women, nonetheless, the Working Group notes significant remaining gaps in many of these legal frameworks and makes recommendations for further measures in order to guarantee gender equality in the workplace, in family status, in the right to health and as regards violence against women.

3. Challenges

Absence of an equality provision in the Constitution

23. The Working Group regrets that political resistance has consistently blocked efforts to pass an equal rights amendment¹⁰, which would entrench women's right to equality in the US Constitution. Constitutional guarantee is considered by leading human rights experts as crucial in order to secure women's right to equality and is

⁹ See A/HRC/17/26/Add.5

¹⁰ In 1972, the ERA was passed by Congress with a seven year deadline for ratification by the states (to enter into force, an amendment requires ratification from $\frac{3}{4}$ of the states (38 out 50). This number was never reached

included in almost all constitutions globally. According to a poll in 2012, 91% of US people think that the Constitution should include equal rights for men and women.¹¹

24. An Equal Rights Amendment also is essential to demonstrate genuine political will to attain substantive equality between women and men, to pre-empt legislative reversal of gains made in the protection of women's right to equality and to further strengthen the review power of the Supreme Court to strike down discrimination against women.

Marital status

25. Family laws are organised and passed by the states. There are therefore 50 different marriage laws across the US¹². Most states set the age of marriage at 18 without parental consent and 16 with parental consent and under certain conditions. Mississippi is the only State where women can get married without parental consent from 15 years old and men from 17 years old¹³.

26. Although polygamy is illegal in all States since 1862 (Morrill anti-bigamy Act), some illegal cases of polygamy have been reported, especially in Utah and in Colorado. However, in December 2013, a US district court in Utah ruled in the case *Brown v. Buhman* that Utah's anti-polygamy law was unconstitutional on the basis of the First Amendment of the US Constitution¹⁴.

Guns and gender based violence

27. A series of federal and state laws have aimed to keep guns out of the hands of the most dangerous domestic violence offenders. The strongest state laws prohibit domestic abusers and stalkers from buying or possessing guns, require background checks for all gun sales, and create processes to ensure that abusers and stalkers surrender the guns already in their possession. However, federal prohibitions apply to abusers who are currently or formerly married to their victims, who live with or formerly lived with their victims but do not prohibit dating partners or misdemeanor stalkers from buying or possessing guns. The experts regret that existing regulations have done little to curb the problem of guns and violence against women, in particular regarding intimate partner homicides (see para 76) but welcome the new actions announced by the Executive in January 2016 to reduce gun violence by increasing background checks for purchasers.

Rights to reproductive and sexual health

28. The experts regret to note that throughout the years, US women have seen their rights to sexual and reproductive health significantly eroded. Since the 1973 constitutional guarantee under *Roe v. Wade* for a woman to be able to choose to terminate a pregnancy in the first trimester prior to viability¹⁵, other Supreme Court decisions have opened the door to, inter alia, greater state regulation of abortion, barred abortion counselling and referral by family planning programs funded under Title X of the federal Public Health Service Act, established the "undue burden test," providing that state regulations can survive constitutional review so long as they do

¹¹ Equal means Equal, Jessica Neuwirth, 2015

¹² For all 50 marriage laws: https://www.law.cornell.edu/wex/table_marriage

¹³ Mississippi Code (2013), Title 93, para. 93 1-5, see at: <http://law.justia.com/codes/mississippi/2013/title-93/chapter-1/section-93-1-5/>

¹⁴ Guarantees freedoms concerning religion, expression, assembly, and the right to petition

¹⁵ See <https://www.aclu.org/timeline-important-reproductive-freedom-cases-decided-supreme-court>

not place a "substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus", decided that lawmakers could overrule a doctor's medical judgment and that the "State's interest in promoting respect for human life at all stages in the pregnancy" could outweigh a woman's interest in protecting her health¹⁶. Women's rights to sexual and reproductive health are constantly being challenged.

29. The Supreme Court is reviewing a major case (*Whole Woman's Health v. Hellerstedt* (Texas HB2¹⁷) for the future of access to essential reproductive health care in the United States. The expert group deeply hopes that this decision will reinstate the fundamental right of women to access reproductive and sexual health services in accordance with their constitutional rights. The Working Group is also concerned that the Supreme Court's recognition, in the *Hobby Lobby* case¹⁸, of an exemption on grounds of freedom of religion to opt out of contraceptive insurance for employees, will deprive some women of the possibility of accessing contraceptives. *Zubik v. Burwell* (contraception and religious refusals) is also being reviewed by the Supreme Court.

30. Furthermore, the Working Group deplores the adoption in 1973 of the Helms Amendment to the Foreign Assistance Act¹⁹ which prohibits U.S. foreign assistance from being used to pay for the performance of abortion "as a method of family planning", but is being applied as a complete ban, even when a pregnancy is a result of rape or incest, or when a pregnancy is a threat to the life of a woman or girl. The Working Group also regrets that in 1976 the Hyde Amendment prohibited the expenditure of Federal funds for abortions, except in cases of rape, incest or preserving the life of the mother.

Social and economic rights

31. The Working Group regrets the important gaps in the legal framework which prevent women in the United States from fully enjoying their economic and social rights, including their equal right to work (see paras 46 to 62).

B. Access to justice

32. The courts play a central role in determining women's ability to enjoy and exercise the rights accorded to them by law. In the United States, there has been an increase in awareness of the need for gender diversity and gender sensitive adjudication in judiciaries. Since the beginning of his mandate, the President has appointed over 130 women judges. The Supreme Court counts three women among its nine Justices for the first time in history²⁰. Of the 170 active judges currently sitting on the 13 federal courts of appeal, 60 are women (35%)²¹.

¹⁶ See e.g. 1989 *Webster v. Reproductive Health Services*; 1991 *Rust v. Sullivan*; 1992 *Planned Parenthood of Southeastern Pennsylvania v. Casey*; 2007 *Gonzales v. Carhart and Gonzales v. Planned Parenthood Federation of America, Inc. (Carhart II)*

¹⁷ See WG communication in A/HRC/29/50, p.54

¹⁸ *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014)

¹⁹ <http://plannedparenthoodaction.org/community/planned-parenthood-global/helms-amendment-hurts-women-worldwide>

²⁰ Only 4 of the 112 Justices ever to serve on the highest court in the US have been women

²¹ <http://www.nwlc.org/resource/women-federal-judiciary-still-long-way-go-1>

33. A severe problem for women litigants is in access to justice: free legal counsel and aid is not systematic for women living in poverty and when legal aid is partially provided to the most destitute, it is allegedly of very poor quality. The experts hope that the White House Legal AID Interagency Roundtable established in September 2015 will propose concrete solutions and adequate budget to address this gap.

34. The institution of the class action which has allowed large numbers of women to access compensation for discrimination or injury caused by powerful corporations, is being eroded with particular impact on women's legal resources for fighting gender discrimination, as demonstrated in the Supreme Court's rejection in 2013 of a class action suit against Wal-Mart Stores Inc. for discrimination on behalf of potentially a million female workers. The justices held that the petitioners failed to point to a common corporate policy that led to gender discrimination against workers at thousands of Wal-Mart and Sam's Club stores across the country.

35. The Working Group also remains concerned at the particular difficulties faced by Native women in accessing justice. The interaction between federal, state and tribal jurisdictions means that crimes committed by non-indigenous men on reservations often go unpunished. To address this, in July 2010, the Tribal Law and Order Act was passed, with the aim of clarifying responsibilities and increasing coordination among the various law enforcement agencies.²² Efforts at remedying the criminal justice response to violence against Native women were also made with the reauthorization of the VAWA in 2013. However, the Group received reports that these legislations are not being fully and effectively implemented, resulting in a persistent failure of the justice system to respond adequately to acts of violence against Native women.²³

36. The experts recommend that the issue of substantive equality for women in court proceedings be revisited and reinvigorated and that access to justice for all, with adequate legal representation, be regarded as a civil right which, where necessary, should be publically funded.

C. Institutional framework and policies at the federal level

1. Institutional framework

37. The Government has considerably strengthened the institutional structure to promote women's rights and gender equality, including through the White House Council on Women and Girls, the White House Advisor on Violence against Women, which have reinforced the Civil Rights Division and the Office on Violence against Women within the Department of Justice, the Office on Women's Health²⁴, the Family Violence Prevention and Services Division and the Office of Minority Health within the Department of Health and Human Services. Other departments and federal entities also play a key role such as the Department of Labour, the Equal Employment Opportunity Commission, the Office of Personnel Management and the Commission on Civil Rights.

38. The Working Group observed during its visit the very limited knowledge by federal or state authorities of international human rights standards and mechanisms. It regrets that

²² UN Women, "2011-2012: Progress of the World's Women: in pursuit of justice", p73

²³ See CERD Concluding Observations, 2014 and A/HRC/17/26/Add.5

²⁴ Conducting gender mainstreamed research

no national human rights institution²⁵ has been established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles)²⁶. The Working Group appreciates the existence of six interagency working groups, under White House leadership, to coordinate the review of UPR recommendations and concluding observations of Treaty Bodies but regrets the absence of a mechanism which would coordinate and monitor the implementation of Special Procedures recommendations.

2. Policies

39. The Working Group acknowledges that the promotion of gender equality and empowerment of women and girls has been at the forefront of the current administration's policies. Indeed, the Government has been working to combat discrimination, eliminate violence against women and girls, expand access to women's health care, including sexual and reproductive health and rights, support women-owned businesses and entrepreneurs, and encourage women's economic and political leadership²⁷. In the Government's report on the Implementation of the Beijing Declaration and Platform for Action, several of these policies are detailed²⁸.

III. Participation of women in political and public life, in economic and social life and access to health

A. Participation in political life

40. Despite the current administration's commitment to advancing women's rights, it is far from achieving adequate representation for women in political life and, indeed, only 4 out of 15 members of cabinet are women.

41. Women hold 19.4% of seats in the House of Representatives and 20% at the Senate. Between 2004 and 2015, the number of women in the Senate increased from 14 to 20, and the number of women in the House of Representatives grew from 60 to 84. This represents the highest level of legislative representation ever achieved by women in the United States. However, it still places the country at only 95 in global ranking²⁹. Women of colour make up 7.4% (32 of 435 representatives) of the House of Representatives. There is only one woman of colour³⁰ serving in the Senate, but not a single African American woman for instance.

42. Only six states have female Governors: New Hampshire, New Mexico, Oklahoma, Oregon, Rhode Island, and South Carolina. The share of state senate seats held by women is largest in Arizona (43, 3%) and smallest in South Carolina (2, 2%). The share of seats in

²⁵ The Commission on Civil Rights has authority to undertake many of the monitoring activities envisioned by a national human rights institution, including the power to convene hearings, issue reports, and make recommendations to Congress and the Executive branch but does not comply with the Paris Principles

²⁶ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

²⁷ <https://www.whitehouse.gov/the-press-office/2015/09/27/fact-sheet-promoting-gender-equality-and-womens-empowerment>

²⁸ http://www.unece.org/fileadmin/DAM/Gender/Beijing_20/United_States_Beijing_20_Review.pdf

²⁹ <http://www.ipu.org/wmn-e/classif.htm>

³⁰ Mazie Hirono of Hawaii

the state house or assembly held by women is largest in Colorado (46, 2 %) and smallest in Oklahoma (12, 9%)³¹.

43. According to several interlocutors met during the Working Group's visit, the low level of representation for women in elected political posts is partly due to the greater difficulties women face in fundraising for campaigns. The financing of political campaigns has increasingly been playing a major role in the last decades and has drastically altered the landscape for elections and political participation. The experts observed that women's difficulty in fundraising is considered to result from complex causes. In particular, it is a result of exclusion from the predominantly male political networks that promote funding. Interlocutors also attribute women's low rate of election to negative stereotypes and biased presentation of women in the media, which adversely affect both women's fundraising ability and their political candidacy. The experts consider the objective difficulties women face in raising campaign funding as a serious limitation on women's opportunities for political representation and are deeply concerned that the removal of limits on campaign funding by the Supreme Court in 2014 threatens to exacerbate this situation.

44. In this regard, the Working Group welcomes the initiatives undertaken by some states and cities which have started to use programs for public financing of campaigns. One method, which its supporters call "Clean Money, Clean Elections", gives each candidate who chooses to participate a fixed amount of money. Some interlocutors have pointed out that, in order to effectively give women an equal chance, competing private funding would have to be restricted. The Working Group encourages the efforts deployed by some voluntary organisations, such as Emily's List, which promote women candidates. The Working Group recalls that, in accordance with international human rights law requirements, temporary special measures have been adopted in many democratic countries to ensure more adequate representation of women in politics.

45. Furthermore, while women currently vote in higher percentages than men³², it is essential to ensure women's continued access to the voting booth. Today, a patchwork of state laws is making it more and more difficult to exercise the right to vote. For instance, officials from Ohio to Texas and North Carolina have manipulated rules to keep part of the population out of the voting booth. The Working Group welcomes the efforts deployed by the League of Women Voters that has for instance successfully challenged the Florida state legislature for redrawing congressional districts for a particular party's benefit.³³ The Working Group is concerned that changes in voter identification laws, such as those in Alabama, which increase bureaucratic requirements for voter identification, is particularly problematic for women who changed their name after marriage and reduction of the number of voting centers, can make registration and voting less accessible for the poor, of whom a majority are women. A counter example and good practice is the state of Oregon which has facilitated voter registration and voting by mail.

B. Participation in economic and social life

46. Women's participation in the workforce has played a key role in contributing to the last decades of the country's economic growth. Women constitute nearly half of the labour force in the United States, at a participation rate of 57.0%. Mothers are more likely to provide significant financial support to their families than ever before,

³¹ Status of women in the states, IWPR, 2015

³² Status of Women in the states

³³ Equal means equal, Jessica Neuwirth, 2015

with nearly two-thirds primary or co-breadwinners for their families³⁴. Among dual-earner couples, 29% of women equalled or out-earned their husbands. Women today are more likely than men to graduate college, and are as likely to obtain advanced degrees³⁵.

47. However, while women have made great achievements in education and have increased their workforce participation, the Working Group is concerned that their crucial labour force participation and educational achievements are not accompanied by equal economic returns, especially as it is reflected in the wage gap and the high numbers of women earnings minimum or beneath minimum wage. It notes that, in practice, the discrimination against women in employment continues, valuing women's work less and providing less favourable terms and conditions of work, including salary and promotion. Furthermore it considers that, despite the prohibition of discrimination in employment and the establishment of an Equal Employment Opportunity Commission, the legal system does not provide women with an equal playing field, failing to secure the workplace accommodations necessary for women to fulfil both reproductive and productive roles.

48. The Working Group regrets the persistence of a corporate culture that perpetuates gender stereotypes. The Working Group was informed that women own over one third of US firms, mainly in small and medium size businesses³⁶, and that these businesses face greater barriers in obtaining low cost capital from sources such as the Small Business Administration and clearly need support in order to achieve equal economic potential. However, the Small Businesses Administration has a stated goal of awarding only 5% of federal contracts to women-owned businesses. It is reported that this goal has never been reached in practice.

49. The Working Group recognizes the gains for women's equal opportunity in employment made under the equal protection guarantees of the Fourteenth and Fifth Amendments and the prohibition against employment discrimination contained in Title VII of the Civil Rights Act of 1964. It also appreciates the sex discrimination decisions, in which the United States Supreme Court has rejected the use of gender stereotypes, has recognised the legitimacy of affirmative action and the discriminatory effect of sexual harassment and gender hostility in the workplace. However, in other of its decisions, the Court has made it more difficult for women to prove discrimination. In equal protection cases under the 14th Amendment, the Court has traditionally applied intermediate scrutiny rather than strict scrutiny. In Title VII cases, the Court has developed two principal models for proving claims of employment discrimination. The "disparate treatment" model focuses on an employer's intent to discriminate. Alternately, the "disparate impact" model a facially neutral employment practice may violate Title VII even if there is no evidence of an employer's intent to discriminate. Both models require the plaintiff to establish a prima facie case of discrimination and the burden then shifts to the employer to articulate a defense. Ultimately, however, the plaintiff retains the burden of persuasion to establish that the employer's assertion of a legitimate, non-discriminatory reason for its actions was a mere pretext. The Supreme Court has also recently circumscribed the effectiveness of using class action suits in employment discrimination claims (see para 33).

50. The gender wage gap is 21% and during the last decade little improvement has been made in closing it despite the Equal Pay Act of 1963 (EPA). According to some

³⁴ See Heather Boushey's research: <https://heatherboushey.com/writing-and-testimonies/>

³⁵ http://www.unece.org/fileadmin/DAM/Gender/Beijing_20/United_States_Beijing_20_Review.pdf

³⁶ Women Chamber of Commerce

research, a woman working every year between 25 and 65 will have lost \$420,000 over her working lifetime because of the earnings gap.³⁷ Education increases women's earnings but does not eliminate the gap, which is in fact larger for those with the highest levels of educational attainment. In her lifetime, a woman with an advanced degree such as law or medicine can expect to earn 2 million dollars less than her male peers³⁸. The wage gap affects women's income throughout their lives, impacting their financial security and independence and increasing pension poverty.

51. The wage gap may be attributed both to vertical discrimination in wage scales and to horizontal discrimination as a result of a gender segregated labour market. In order to address the latter, international human rights law requires the right to equal pay for work of equal value. However, in the United States, neither federal nor state equal pay laws have required equal pay for work of equal value. Exceptionally, California has now set a precedent with its 2015 California Fair Pay Act legislating the right to equal pay for work of equal value.

52. Women's earnings also differ considerably by ethnicity: Afro-American, Native American and Hispanic women have the lowest earnings. Across the largest racial and ethnic groups in the United States, Asian/Pacific Islander women have the highest median annual earnings at \$46,000³⁹, followed by white women (\$40,000). Native American and Hispanic women have the lowest earnings at \$31,000 and \$28,000, respectively. Data also indicates that women of color are less likely to attain a Bachelor's degree or higher when compared to other women⁴⁰.

53. The expert group is concerned that, although the 1978 Pregnancy Discrimination Act established that pregnancy discrimination is sex discrimination under Title VII, between 1997 and 2011, the number of pregnancy discrimination complaints filed with the Equal Employment Opportunity Commission increased by 46 percent⁴¹ and pregnant women have largely continued to lose their requests for remedy. The experts hope that the 2014 guidelines of the EEOC and the decision of the Supreme Court in 2015 in *Peggy Young vs. UPS*⁴², improve access to justice for pregnancy related discrimination⁴³.

54. The Working Group is appalled by the lack of mandatory standards for paid maternity leave, which is required in international human rights law. The Family and Medical Leave Act, which gives employees of employers who have more than 50 employees the right to take unpaid, job-protected leave of twelve workweeks in a 12-month period, cannot be regarded as in lieu of paid maternity leave and falls far beneath international human rights standards, which require that maternity leave must be paid leave for a minimum of 14 weeks, with best practice being the provision of additional paid leave for fathers too. Some form of paid parental leave is provided by legislation in 3 states⁴⁴ but only for six weeks and none at full pay.

³⁷ Equal means equal, Jessica Neuwirth, 2015

³⁸ Status of women in states

³⁹ For further disaggregated data on these ethnic subgroups showing incoming disparities, please see https://www.dol.gov/wb/images/Asian_Pacific_Islander_Infographic.pdf

⁴⁰ Ibid

⁴¹ <https://www.eeoc.gov/eeoc/statistics/enforcement/pregnancy.cfm>

⁴² http://www.supremecourt.gov/opinions/14pdf/12-1226_k5fl.pdf

⁴³ The EEOC reissued its Enforcement Guidance on Pregnancy and Related Issues in June 2015 to address the US Supreme Court's decision in *Young v. UPS*.

⁴⁴ California, New Jersey and Rhode Island.

https://www.whitehouse.gov/sites/default/files/docs/leave_report_final.pdf

Attempts by the current administration to provide paid maternity leave for federal employees have not yet been successful.⁴⁵ The United States is one of only two countries in the world without a mandatory paid maternity leave for all women workers.

55. The Working Group is also concerned at the unequal division of family caregiving work demonstrated by the fact that women are nine times as likely as men to work part-time for family care reasons. Part-time work means lower earnings (and lower Social Security contributions) than full-time work; part-time workers are also much less likely than full-time workers to have access to paid leave of any kind or to benefit from employer contributions to employer-provided health insurance or pension plans. Women are also three times as likely as men to report having left their job because of caregiving responsibilities (6 percent compared with 2 percent respectively, according to a 2013 AARP survey of people aged 45 to 74). A study by MetLife (2011) estimated that women with caregiving responsibilities who are over the age of 50 lose \$324,044 in income and benefits over their lifetime when they completely exit the workforce for caregiving reasons.⁴⁶ The Working Group considers that the public budget should provide childcare, after-school and also elder and disabled facilities, which are affordable and accessible, to allow adults with care responsibilities, women and men, to work in full time employment.

56. The percentage of women in poverty has increased over the past decade, from 12.1% to 14.5%, at a higher rate of poverty than men, affecting predominantly women of colour, single parent families and older women. As noted previously by other UN independent experts, the subprime mortgage market disparately targeted the poor and, in particular, poor women, thus contributing to this increase in women's poverty.

57. The Working Group suggests that both Federal and state governments address this problem urgently, by promoting employment for women, raising the minimum wage and eliminating the wage gap. Residual poverty should be addressed through the social security system and, given the country's economic strength, there should be a policy of zero tolerance for the relegation of people to poverty.

58. Furthermore, many stakeholders complained that minimum wages have lost value as a living wage. The majority of minimum wage earners are women working full time and as the sole source of income for their families. The Working Group regards the raising of the minimum wage to the level of a living wage as one of the most appropriate ways both to reduce the wage gap and reduce poverty amongst working women. The Working Group welcomes recent efforts by the Government in this regard⁴⁷.

59. The Working Group is also concerned at the situation of the estimated 2.5 million domestic workers in the US who are overwhelmingly women⁴⁸, frequently immigrant women⁴⁹ many of whom are undocumented. During their visit, the experts heard dreadful testimonies from these workers who are victims of verbal and physical abuse and wage

California is already one of only a few states that offer paid parental leave, with workers receiving 55 percent of their pay for six weeks, paid for by employee-financed public disability insurance.

⁴⁵ <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/family-and-medical-leave/> and <https://www.whitehouse.gov/the-press-office/2015/01/15/presidential-memorandum-modernizing-federal-leave-policies-childbirth-ad>

⁴⁶ Status of women in states

⁴⁷ http://www.unece.org/fileadmin/DAM/Gender/Beijing_20/United_States_Beijing_20_Review.pdf

⁴⁸ Submission of the National Domestic Workers Alliance

⁴⁹ See <http://www.immigrationpolicy.org/just-facts/immigrant-women-united-states-portrait-demographic-diversity>

theft. The Working Group welcomes the initiatives taken by the CSOs to improve conditions for domestic workers through a domestic workers' bill of rights⁵⁰. Wage theft also impacts other low-income and migrant workers (such as manufacturing, construction and some service jobs). The Working Group welcomes the recent increase in the budget of the Wage and Hour Division within the Department of Labor to support investigations.

60. The Working Group recalls that international human rights law requires the establishment of social protection floors for core economic and social rights, provision for paid maternity leave, and the taking of all appropriate measures to produce de facto equality between all women and men in the labour market. It is not for the Working Group to suggest how these minimum standards should be achieved but only to point out how the United States, as economic leader of the world, lags behind in providing a safety net and a decent life for those of its women who do not have access to independent wealth, high salaries or economic support from a partner or family.

C. Access to health care

61. The Working Group praises the considerable progress achieved in the adoption of the Affordable Care Act (see para 18). However, it regrets the absence of a universal health insurance coverage. The experts also regret the decision of the Supreme Court to allow states to opt out from the expansion of their Medicaid thresholds foreseen by the ACA⁵¹. Too many women pay the price, sometimes with their lives, of this considerable coverage gap with strong regional and ethnic disparities. According to official data⁵², 28% of the people living in poverty are still uninsured, affecting primarily women, in particular Afro-American and Hispanic women, preventing them from accessing basic preventive care and treatments.

62. Furthermore, there are restrictions for immigrants, including immigrant women to access Medicaid during a five year waiting period and there is perpetual exclusion of undocumented migrants from health care with the exception of emergency care, including labor and delivery and access to community and migrant health centers, HIV/AIDS and maternal child health programs. During their visit, the experts observed that Texas and Alabama do not allow lawfully residing immigrants to enroll in Medicaid even after completion of the federal waiting period of five years. The experts heard appalling testimonies of migrant women who were diagnosed with breast cancer but could not afford the appropriate treatment. The Health Equity and Access under the Law (HEAL) for Immigrant Women and Families Act, currently before Congress, would expand access to health care for immigrants, particularly for women and children. The Working Group also regretted to learn about the serious inadequacies of health care facilities to treat women with disabilities and calls for improvement in this regard.

63. The Working Group deplores that substantial disparities persist in the prevalence of certain diseases, like obesity, cancer, HIV/AIDS by ethnicity, sex and education⁵³. Black women for instance experience the highest rates of hypertension and obesity compared to any other ethnic group⁵⁴. The experts also regret that the vast majority of LGBTI persons

⁵⁰ <http://www.domesticworkers.org/homeeconomics/>

⁵¹ National Federation of Independent Business v. Sebelius, 132 S. Ct. 2566 (2012)

⁵² <http://www.cdc.gov/nchs/data/nhis/earlyrelease/insur201508.pdf>

⁵³ CDC Health Disparities and inequalities report 2013

⁵⁴ Office of Minority Health, Data Brief No.4, November 2015

report “experiencing discrimination by healthcare providers, including refusal of care, harsh language and physical roughness”⁵⁵.

64. The experts are also concerned at the results of a recent study which showed that, after a period of consistent decline, suicide rates among women has increased between 1999 and 2014 from 4% to 5,8%. Suicide is a very worrying public health issue and concerned authorities should urgently address this issue⁵⁶.

Sexual and reproductive health

65. Women’s empowerment is intrinsically linked to their ability to control their reproductive lives⁵⁷. The Working Group would like to recall that, by international human rights standards, in accordance with CEDAW⁵⁸, states must take all appropriate measures to ensure women’s equal right to decide freely and responsibly on the number and spacing of their children which includes women’s right to access contraceptives.

66. The Working Group notes positively the ACA’s requirement that new private health plans cover contraceptive counselling, without out-of-pocket costs. Despite the Government’s efforts and a significant drop in teen pregnancy, the Group remains concerned that the U.S. rate is substantially higher than in other western industrialized nations, and ethnic and geographic disparities in teen birth rates persist⁵⁹.

67. The experts were informed that, being a prerogative of each state, there is no national policy on sex education and adequate and quality sex education in schools, such as which the Group learned is provided in Oregon, was lacking in many curricula. According to interlocutors, in many schools, only abstinence was taught instead of scientifically based sex education which is a key element of health policy.

68. Although women have a right under federal law to terminate a pregnancy, in various circumstances including the constitutional guarantee under *Roe v. Wade* for a woman to be able to choose to terminate a pregnancy in the first trimester (see para 27), ever increasing barriers are being created to prevent their access to abortion procedures. Women’s access to reproductive health services has been truncated in some states by imposition of severe barriers. These take the form of unjustified medical procedures, such as compelling women to undergo ultrasounds or to endure groundless waiting periods, withholding of early pregnancy abortion medications, imposing burdensome conditions for the licensing of clinics, which have resulted in the closing of clinics across the country leaving women without access to sexual and reproductive health services. Furthermore, marketplace insurance coverage for the legal termination of pregnancy is far from universal. Thus, insurance will frequently not be available for women who wish to exercise their right to terminate their pregnancy in the first trimester. These restrictions have a disproportionate and discriminatory impact on poor women. As the experts observed during their visit in the Rio Grande Valley, one of the poorest regions in the country, immigrant women face severe barriers in accessing sexual and reproductive health services⁶⁰. The adoption of the Woman’s Health Protection Act would prohibit states from enacting unconstitutional restrictions on reproductive health care providers that block access to safe and legal abortion services; and to require all hospitals to provide these services and

⁵⁵ Human Rights Campaign Foundation submission to the Working Group

⁵⁶ <http://www.cdc.gov/nchs/products/databriefs/db241.htm>

⁵⁷ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/44

⁵⁸ Not ratified by the US, see para. 9

⁵⁹ <http://www.cdc.gov/teenpregnancy/about/index.htm>

⁶⁰ <http://www.reproductiverights.org/document/nuestro-texas-the-fight-for-reproductive-health-in-the-rio-grande-valley>

insurance schemes to provide coverage for abortions to which women have a right under US law.

69. The Working Group is also worried that an increasing number of states are targeting women's health providers for exclusion from key federal health programs, including the Title X family planning program, Centers for Disease Control and Prevention (CDC) Section 318 STI prevention programs, and Medicaid programs. At least 17 states have done so since 2011. Ten of these states have taken official action to block certain women's health providers, such as Planned Parenthood, from participating in Medicaid.

70. In addition, many of the clinics work in conditions of constant threats, harassment and vandalising, too often without any kind of protection measures by law enforcement officials, as was observed by the experts during their visits to Texas and Alabama. Alabama has a history of severe violence against abortion providers including the killing of Dr. David Gunn, in 1993, the first doctor to be murdered for performing abortions in the United States. The recent massacre in the Colorado family planning centre, which occurred just before the start of the visit, once again demonstrated the extreme hostility and danger faced by family planning providers and patients. The experts are concerned by the stigma attached to reproductive and sexual health care, which leads to violence, harassment and intimidation against those seeking or providing reproductive health care. It reminds the Government of its due diligence obligation and encourages it to investigate and prosecute violence or threats of violence.

71. The experts reiterate that the enjoyment of the right to freedom of religion or belief cannot be used to justify gender discrimination and therefore should not be regarded as a justification for hindering the realization of women's right to the enjoyment of the highest attainable standard of physical and mental health⁶¹. U.S. laws on religious or conscience-based refusals to provide reproductive health care should be reconciled with international human rights standards. Refusal to provide sexual and reproductive health services on grounds of religious freedom should not be permitted, where such refusal would effectively deny women immediate access to the highest attainable standard of reproductive health care, for implementation of rights to which they are entitled under both international human rights law and US law.

72. The Working Group expresses serious concern at the increase in maternal mortality rates in the United States. According to UN reports⁶², the ratio increased by 136% between 1990 and 2013. These numbers also hide distressing ethnic and socio-economic disparities. African-American women are nearly four times more at risk to die in childbirth. States with high poverty rates have a 77% higher maternal mortality rate. Concerned authorities should continue to elaborate adequate policies to address this issue.

73. The Working Group is surprised at the extremely high levels of cesarean deliveries in the United States which reach 32.2%⁶³, while according to WHO, the ideal rate for caesarean sections should be between 10 and 15%. When medically necessary, a caesarean section can effectively prevent maternal and newborn mortality, however when this rate goes above 10%, there is no evidence that mortality rates improve.⁶⁴ The experts would encourage concerned authorities to carefully address this issue and take measures to prevent the performance of caesarian sections for non-medical reasons.

⁶¹ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/44

⁶² http://apps.who.int/iris/bitstream/10665/112682/2/9789241507226_eng.pdf

⁶³ <http://www.cdc.gov/nchs/fastats/delivery.htm>

⁶⁴ http://www.who.int/reproductivehealth/publications/maternal_perinatal_health/cs-statement/en/

74. The Working Group welcomes the progressive policies introduced by several states to promote access to reproductive and sexual health care in the United States. A recent report⁶⁵ provides a compendium of proactive policy solutions on reproductive health issues ranging from access to contraception and termination of pregnancy to promoting comprehensive sexuality education and improving maternal health and recommends that these solutions should be widely adopted. The Group also notes with satisfaction the recent law passed in Oregon allowing pharmacists to prescribe contraceptives, thus facilitating access to family planning measures

IV. Gender based violence and women victims of multiple forms of discrimination

75. Despite the considerable efforts deployed in the past two decades at the legal, institutional and policy levels and some positive achievements to prevent and respond to gender based violence, all stakeholders have unanimously denounced the alarmingly persistent high levels of such violence.

Poverty and violence

76. The Working Group observed that poverty may result in homelessness which exposes women to higher levels of violence and vulnerability. During the visit, interlocutors pointed out that victims of domestic violence are often numbered amongst the homeless, either because they have been evicted as a result of the violence or because they have fled from their violent partner. Solutions should include effective protection orders, increased availability of shelters, housing support, prioritizing eligibility particularly for single mother households and those facing heavy unpaid care burdens.

Gun violence

77. The Working Group is troubled at the persistent fatal consequences for women of the lack of gun control, in particular in cases of domestic violence. Women in the United States are eleven times more likely to be murdered with guns than women in other high-income countries. Over the past 25 years, more intimate partner homicides have been committed with guns than with all other weapons combined. When a gun is present in a domestic violence situation, it increases the risk of homicide for women by 500 percent. In 35 states, persons convicted of domestic violence misdemeanours or subject to restraining orders are not prohibited from acquiring guns. Federal law (and the law in most states) allows domestic abusers and stalkers to easily evade gun prohibitions by purchasing guns from unlicensed, private sellers. Forty-one states do not require all prohibited domestic abusers to relinquish guns they already own. (see para 26)⁶⁶.

Minority women

78. The Working Group is deeply concerned at the disproportionate number of women from ethnic minorities, particularly African American, Native American and immigrant women who are subjected to heightened levels of violence, including rape and sexual violence.⁶⁷ Relevant authorities stressed the difficulties in obtaining

⁶⁵ <http://www.reproductiverights.org/sites/crr.civicaactions.net/files/documents/US-PAPS-Compendium-final-SM.pdf>

⁶⁶ Guns and Violence against women, Everytown for gun safety

⁶⁷ See CERD Concluding Observations, 2014 and A/HRC/17/26/Add.5

accurate data on various immigrant and refugee communities who may fear reporting to law enforcement officials. Indigenous women are more than twice as likely as all other women to be victims of violence and one in three of them will be raped during her lifetime. Estimates are that nearly 80 per cent of the rapes of indigenous women are by nonindigenous men⁶⁸. The experts also deplore reports of police brutality and the increased number of homicides of African-American women by the police.⁶⁹

79. LGBTI face heightened exposure to hate crimes and physical violence. Sexual orientation-based hate crimes made up about 21 percent of hate crimes reported by law enforcement in 2013 to the Bureau of Justice Statistics' Uniform Crime Reporting program. This percentage is probably an underestimate given a number of LGBTI survivors of hate violence may not report their abuse to the police.⁷⁰

Migrant women in detention centers

80. The Working Group is extremely concerned at the situation of migrant women in detention centers⁷¹, in particular women with minor children who are in prolonged detention. According to the information received, some detention facilities are not complying with federal mandates and agency policies. Regarding women seeking asylum⁷², the Civil Rights Commission noted that the expedited removal process creates a fundamentally unfair process by not affording detained immigrants the proper ability to obtain counsel and that the credible fear process should be improved to ensure that those who fear persecution can exercise their right to seek asylum in the U.S. The Working Group also received allegations of sexual abuse and assault of women detainees, as well as mistreatment by CBP officials. Migrant women are often victims of trafficking and violence, including sexual violence during their journey to the United States. In spite of requirements under detention standards, the experts received complaints that appropriate health care services are not systematically provided to these women in a timely manner despite the horrifying physical and emotional ordeals endured. The experts also received complaints of migrant transgender women being mistreated in detention often wrongfully placed with males.

Incarcerated women

81. The Working Group shares the concerns expressed by the Special Rapporteur on violence against women in her report on her visit to the United States⁷³ regarding women in detention (over-incarceration, sexual violence, shackling of pregnant women, solitary confinement, and lack of alternatives to custodial sentences for women with dependent children, inappropriate access to health care and inadequate re-entry programmes). The Working Group is also concerned at the negative effects of the Prison Litigation Reform Act on the ability of prisoners to seek protection of their rights, which requires prisoners to exhaust all internal complaint procedures before bringing an action in federal court. While welcoming the adoption of National Standards to Prevent, Detect, and Respond to Prison Rape, pursuant to the Prison

⁶⁸ A/HRC/21/47/Add.1

⁶⁹ http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_CSS_USA_18555_E.pdf

⁷⁰ Ibid

⁷¹ See also http://www.usccr.gov/pubs/Statutory_Enforcement_Report2015.pdf

⁷² Ibid.

⁷³ A/HRC/17/26/Add.5

Rape Elimination Act (2003), the Working Group expresses serious concerns at reports that their implementation at the state level continues to be a substantial challenge.

Women in prostitution/sex workers

82. The criminalization of women in prostitution/sex workers in most of the country exposes them further to violence, places them in a situation of injustice, vulnerability and stigma and is contrary to international human rights law. As the CEDAW Committee has systematically reiterated, women should not be criminalized for being in a situation of prostitution. Furthermore, as stipulated in the Palermo Protocol, efforts should be deployed to discourage the demand that fosters all forms of exploitation of women.

V. Conclusions and recommendations

A. Conclusions

83. **The experts greatly appreciate the invitation by the US government to this visit which opened the door to an open and frank exchange regarding both good practices and gaps in US women's enjoyment of their human rights.**

84. **The experts are of the opinion that, in a global context, US women do not take their due place as citizens of the world's leading economy, which has one of the highest rates of per capita income. In the US, women are left behind in terms of international standards as regards their public and political representation, their economic and social rights and their health and safety protections.**

85. **The experts welcome the genuine support expressed by the current administration for the cause of women's equality and its undertaking to ratify CEDAW. However, the experts regret the failure to implement these aims. As many stakeholders have underscored, the extreme polarisation of politics has profoundly affected the ability of the Government to ratify CEDAW and to introduce measures to guarantee women's human rights.**

86. **At the domestic level, ratification of CEDAW is essential in order to provide all US women with the rights and protections guaranteed under the Convention. There is a myth that women already enjoy all these rights and protections under US law. However, there are missing rights and protections to which US women would be entitled under CEDAW, such as universal paid maternity leave, accessible reproductive health care and equal opportunity in standing for political election.**

87. **The United States, which is a leading state in formulating international human rights standards, is allowing its women to lag behind these standards. While all women are the victims of these missing rights, women who are poor, belong to Native American, African-American, Hispanic and Asian ethnic minorities, migrant women, LGBTI women, women with disabilities and older women are in a situation of heightened vulnerability.**

88. **Addressing these challenges is limited by a range of factors. Such obstacles include lack of political will to pass essential legislation, women's limited representation in leadership positions in Congress and in business, a strong Conservative religious lobby which opposes reproductive rights, gun**

lobbies which oppose gun control and discriminatory gender norms perpetuating a culture that allows discrimination against women to flourish. Women's underrepresentation and negative representation in the media also present major challenges and reinforce existing gender biases.

B. Recommendations

89. In a spirit of cooperation and collaboration, the Working Group makes the following recommendations to the federal and state authorities, as relevant, with a view to strengthening measures designed to guarantee gender equality, the empowerment of women and the promotion and protection of women's human rights:

90. With regard to the legal framework, the Working Group recommends to:

- (i) Ratify CEDAW;
- (ii) Pass an equal rights amendment which would entrench women's right to equality in the Constitution;
- (iii) Reinforce existing legislation in order to eliminate all forms of sex discrimination in employment, to pre-empt restrictive interpretation of the laws which prejudice women's access to remedies and to allow class action suits for employment discrimination claims on the basis of overall data against large corporations;
- (iv) Amend the Equal Pay Act to include the right to equal pay for work of equal value, with the implementation provisions recommended in the Economic and Social Life Report of the Working Group in 2014⁷⁴;
- (v) Mandate 14 weeks of paid maternity leave for all women workers in public and private employment, taking into account that best practice is payment from a social security fund which does not impose the direct financial burden on employers;
- (vi) Ratify the ILO Domestic Workers Convention and apply its provisions to ensure that domestic work is decent work;
- (vii) Make sure that women can, in practice, exercise their existing constitutional right under *Roe v. Wade* to choose to terminate a pregnancy in the first trimester;
- (viii) Ensure that the ACA provisions regarding insured access to contraceptives are universally enforced;
- (ix) Repeal the Helms amendment and issue in the meantime an executive order clarifying the scope of the existing legislation and clarifying women's right to insured reproductive health care for termination of pregnancy in cases of risk to life, to health (physical and mental), a pregnancy resulting from rape or other unlawful intercourse, teenage pregnancy or severe foetal impairment;
- (x) Repeal the Hyde Amendment;
- (xi) Adopt the Woman's Health Protection Act;

⁷⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/128/34/PDF/G1412834.pdf?OpenElement>

(xii) Disallow conscientious objection by health care personnel, providers and insurers to performing procedures to which women are legally entitled and for which there is no easily accessible, affordable and immediate alternative health provider; (xiii) Expand access to health care for immigrants via for instance the adoption of the Health Equity and Access under the Law (HEAL) for Immigrant Women and Families Act;

(xiii) Ensure women in prostitution/sex workers are not criminalized;

(xiv) Amend gun control laws to effectively protect women against gun violence;

(xv) Change laws to ensure that the legal age of marriage is systematically 18 for both women and men;

Access to justice

(xvi) Ensure further gender diversity and gender sensitive adjudication in judiciaries;

(xvii) Revisit and reinvigorate substantive equality for women in court proceedings and ensure access to justice for all without discrimination, with adequate legal representation be regarded as a civil right which, where necessary, should be publically funded;

(xviii) Ensure systematic accountability in cases of police brutality noting in particular the frequency of police brutality against African American women;

(xix) Empower Native American tribes to ensure justice in their communities through the exercise of full criminal jurisdiction within their lands.

(xx) Ensure the implementation of the National Standards to Prevent, Detect, and Respond to Prison Rape;

91. Regarding the institutional framework, the Working Group recommends to:

(i) Establish an independent human rights institution in compliance with the Paris Principles, which should include a woman's rights commission;

(ii) Establish a high-level Interagency Working Group on Human Rights Implementation with a mandate to oversee and coordinate the implementation of U.S. human rights obligations and commitments domestically, including the implementation of Special Procedures recommendations;

92. As to policies, the Working Group recommends:

Public and political life

(i) Apply temporary special measures to ensure gender equality in political representation both at the executive and legislative levels;

(ii) Introduce initiatives to encourage the participation of women in elected positions, including by provision of public funding for election campaigns.

Economic and social life

- (iii) **Develop policies to address occupational segregation both vertical and horizontal;**
- (iv) **Provide childcare, after-school and also elder and disabled facilities, which are affordable and accessible to all women without discrimination, to allow adults with care responsibilities, women and men, to work in full time employment;**
- (v) **Raise the minimum wage to a living wage level;**
- (vi) **Facilitate access to capital and increase the level of federal contract procurement for women-owned businesses; and take measures to combat a corporate culture that perpetuates gender stereotypes;**
- (vii) **Ensure proper investigations from the Wage and Hour Division within the U.S. Department of Labor. Increase supervision to hold employers who violate the rights of vulnerable women workers to account.**
- (viii) **Address the legacies of racism and persistent forms of racial discrimination and ethnic disparities in every sphere of life (inequalities in access to education, employment, housing and healthcare);**

Health

- (ix) **Increase funding of clinics under the Title X Family Planning Program in order to expand coverage for low-income women who lack insurance in order for them to access preventive care, including sexual and reproductive health services, and in order to reduce maternal mortality;**
- (x) **Prevent politically motivated actions to exclude women's health providers from federally supported public health programs;**
- (xi) **Take additional measures to make contraception available and accessible at no cost, in particular for teenagers with a view to combat teen pregnancy;**
- (xii) **Consider reviewing the eligibility requirements to the public welfare system, so that the basic human rights of immigrants, including the undocumented, are guaranteed, in particular access to health for women and children**
- (xiii) **Address the root causes of increased maternal mortality, in particular among African American women;**
- (xiv) **Ensure adequate, scientifically based sex education in school curricula;**
- (xv) **Ensure mandatory human rights education in schools, including the promotion of gender equality, the elimination of violence against women and harmful gender stereotypes as well as the legacy of slavery and racism;**
- (xvi) **Combat the stigma attached to reproductive and sexual health care, which leads to violence, harassment and intimidation against those seeking or providing reproductive health care, and duly investigate and prosecute violence or threats of violence;**
- (xvii) **Take steps to reconcile U.S. laws on religious or conscience-based refusals to provide reproductive health care with international human rights law and to prohibit refusal to provide sexual and reproductive health services on grounds of religious freedom, where such refusal would effectively deny women**

immediate access to the highest attainable standard of health care to implement the rights to which they are entitled under both international human rights law and US law;

Violence against women and safety

(xviii) Implement fully the VAWA 2013;

(xix) Ensure effective protection orders, increased availability of shelters, culturally and linguistically responsive programs, housing support, prioritizing eligibility particularly for single mother households and those facing heavy unpaid care burdens;

(xx) End detention of migrant women with children and establish accountability mechanisms and adequate gender sensitive training of CBP;

(xxi) Seek alternatives to custodial sentences for mothers of dependent children;

Women in the media

(i) Strengthen the enforcement of Federal Communications Commission's Equal Employment Opportunity rules;

(ii) Promote the training of journalists regarding gender equality and women's rights to try and combat harmful gender stereotyping in the media.
