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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
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**Mandates of the Special Rapporteur on the rights of indigenous peoples and of the Special
Rapporteur on violence against women, its causes and consequences.**

REFERENCE: OL Indigenous (2001-8) G/SO 214 (89-15)
USA 2/2013

18 February 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of indigenous peoples and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolution 15/14 and 16/7.

We would like to refer to the recent approval by the United States Senate of Bill S.47, a bipartisan Bill that would reauthorize the Violence Against Women Act (VAWA). Following Senate approval on 12 February, 2013, the Bill is now to be considered by the United States House of Representatives.

Since its enactment in 1994, the VAWA has significantly strengthened the criminal justice system's response to issues of violence against women by, among others, creating new felonies, compelling state and municipal jurisdictions to enforce protection orders, and helping undocumented immigrants who rely on abusers to obtain lawful immigration status.

The federal funding provided through VAWA has helped improve law enforcement, victim services, research, and other programs related to issues of violence against women. The reauthorization of VAWA in 2000 improved protection for battered immigrants, sexual assault survivors, and victims of dating violence; enabled victims that flee across state lines to obtain custody orders without returning to their jurisdictions and improved the enforcement of protection orders across state and tribal lines. The 2005 reauthorization of the act, created new programs on court training and child witnesses, as well as culturally specific programs. It also introduced housing provisions to protect victims of intimate partner violence from evictions. While the Act technically expired in September 2011, funding will reportedly still run through September 2013.

According to information received, Bill S.47 includes new improvements with regards to the criminal justice system's response to sexual assault, domestic violence homicides, housing needs, and campus victimization. It also foresees enhanced protections for Native American and Alaskan Native women, Lesbian, Gay, Bisexual, and

Transgender victims, as well as immigrant victims and their children. The Bill would also include the SAFER Act, S. 80, which reportedly promotes the elimination of sexual assault evidence (rape kits) backlogs that could be used to prosecute offenders and solve cold cases.

With regard to violence against Native American women, the Bill includes provisions that would restore concurrent tribal criminal jurisdiction over a specific set of crimes, including domestic violence, dating violence, and the violations of protection orders. These are all crimes that affect Native American women disproportionately. A fundamental cause of these high levels of violence are the jurisdictional restrictions faced by Native-American tribes, to enforce tribal law over all perpetrators, both native and non-native, who commit acts of sexual and domestic violence within their jurisdiction.

In this regard, in his report on the situation of indigenous peoples in the United States (A/HRC/21/47.Add.1) following his visit to the country from 23 April to 4 May 2012, the Special Rapporteur on the rights of indigenous peoples expressed concern over the "...alarmingly high rates of violence against indigenous women" as well as the fact that many of the perpetrators of these crimes are "not presently subject to indigenous prosecutorial authority because of their non-indigenous status." (para. 36).

Following her visit to the United States of America from 24 January to 7 February 2011 (A/HRC/17/26/Add.5), the Special Rapporteur on violence against women highlighted the positive legislative and policy measures undertaken by your Excellency's Government to combat violence against women, including the enactment and subsequent reauthorizations of the VAWA, and the establishment of a dedicated office on violence against women at the highest level of the Executive.

The VAWA has steadily expanded funding to address domestic violence and, with each reauthorization, has included historically underserved groups. It has played a crucial role in providing guidance to State and local level governments, and in facilitating their adequate responses to violence against women.

We would like to take this opportunity to reiterate the importance of reauthorizing the VAWA in order to build upon its achievements and continue improving your Government's ability to hold perpetrators accountable and provide protection to women victims of violence.

Violence against women impairs or nullifies the enjoyment by women of human rights and fundamental freedoms. This pervasive form of discrimination requires that States take all available measures to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. Furthermore, women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm they have suffered.

We would be grateful if your Excellency's Government could keep me informed on the developments relating to the re-authorization of VAWA.

We would also like to inform your Excellency's Government that we intend to issue a press release addressing the reauthorization of the Violence Against Women Act (VAWA) later today in order to alert a wider audience to the importance of this Act and its reauthorization.

Please accept, Excellency, the assurances of my highest consideration.

James Anaya
Special Rapporteur on the rights of indigenous peoples

Rashida Manjoo
Special Rapporteur on violence against women, its causes and
consequences