

# CANADA

FOLLOW UP TO THE  
CONCLUDING  
OBSERVATIONS OF THE  
UNITED NATIONS  
COMMITTEE ON THE  
ELIMINATION OF  
DISCRIMINATION AGAINST  
WOMEN

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# CANADA: FOLLOW UP TO CONCLUDING OBSERVATIONS OF THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

**“WHEN MY DAUGHTER WENT MISSING, IT JUST SEEMED LIKE AN UPHILL BATTLE FOR A WHILE TRYING TO GET THE POLICE TO HELP US FIND HER... DALEEN MAY BE ONE OF 500 MISSING AND MURDERED ABORIGINAL WOMEN, BUT SHE IS MORE THAN JUST A STATISTIC. SHE WAS OUR DAUGHTER. SHE WAS MY GRANDDAUGHTER'S MOTHER. SHE WAS A SISTER TO HER BROTHERS. SHE WAS A WIFE TO HER HUSBAND. SHE WAS A COUSIN, AN AUNT, A FRIEND. SHE WAS GRANDDAUGHTER TO HER GRANDMOTHER.”**

Pauline Muskego speaking to Amnesty International, July 2008

## INTRODUCTION

In November 2008, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) called on Canada to report within one year on progress made in the implementation of CEDAW's recommendation to *“examine the reasons for the failure to investigate the cases of missing or murdered aboriginal women and to take the necessary steps to remedy the deficiencies in the system.”*<sup>1</sup>

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<sup>1</sup> Committee on the Elimination of Discrimination Against Women (UNCEDAW), Concluding Observations: Canada, 7 November 2008, Doc. CEDAW/C/CAN/CO/7. Under Article 18 of CEDAW, Canada is required to report to CEDAW on its observance of the obligations contained in CEDAW. In order to fulfil this obligation in good faith, Canada should submit reports that address the concluding comments submitted by CEDAW in previous reports and identify the steps undertaken to implement the recommendations included in these comments. See *Compilation of Guidelines on the Form and Content of Reports to be Submitted by State Parties to the International Human Rights Treaties*, UN Doc. HRI/GEN/2/Rev.1/Add.2, 5 May 2003, at para. E.1. Indeed, CEDAW has previously raised concerns regarding Canada's practices in submitting reports. CEDAW, Report of the Committee on the Elimination of Discrimination against Women, 28th and 29th Sess., 7 November 2008, UN Doc. A/58/38, paras 347-348.

Almost a year later, there has been no substantive consultation with Indigenous women's organizations in Canada on a response to CEDAW's recommendation.

CEDAW's recommendation concerns human rights issues of the utmost seriousness. While there are no comprehensive national statistics, studies have consistently found that violence against First Nations, Inuit and Métis women is much more frequent, and of greater severity, than that experienced by other women in Canada. For instance, a 1996 government report found that Indigenous women between the ages of 25 and 44 with status under the Indian Act, are five times more likely than other women to die as a result of violence.<sup>2</sup> **Almost eight years after,** In a 2004 survey, Aboriginal women reported rates of violence, including domestic violence and sexual assault, 3.5 times higher than non-Aboriginal women.<sup>3</sup> The Native Women's Association of Canada has compiled data on more than 520 Indigenous women who have gone missing or been murdered in the last three decades.<sup>4</sup>

Thorough and unbiased police investigations are critical to addressing the high levels of violence faced by Indigenous women. Effective remedy also requires substantive measures to address the entrenched marginalization and discrimination that put Indigenous women's lives at risk.

A state's internal political organization - for example, the fact that powers are divided among different levels of government - cannot excuse a state from its duty to comply with or implement its obligations under international law. In this regard, Amnesty notes that CEDAW has previously stated:

While the Committee is cognizant of the complex federal and constitutional structures in the State party, it underlines, as it did in its previous concluding observations of 2003, that the federal Government is responsible for ensuring the implementation of the Convention and providing leadership to the provincial and territorial governments in that context. The Committee reiterates the concern, expressed in its previous concluding observations, that the federal Government may lack the will and an efficient mechanism to ensure that the provincial and territorial governments establish legal and other measures to fully implement the Convention in a coherent and consistent manner.<sup>5</sup>

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<sup>2</sup> Indian and Northern Affairs Canada, *Aboriginal Women: A Demographic, Social and Economic Profile*, Summer 1996.

<sup>3</sup> Jodi-Anne Brzozowski, Andrea Taylor-Butts and Sara Johnson, "Victimization and offending among the Aboriginal population in Canada," *Juristat*. Vol. 26, no. 3, Canadian Centre for Justice Statistics, 2006.

<sup>4</sup> Native Women's Association of Canada. *Voices of Our Sisters In Spirit: A Research and Policy Report to Families and Communities, 2nd Edition*. March 2009. [http://www.nwac-hq.org/en/documents/NWAC\\_VoicesofOurSistersInSpiritII\\_March2009FINAL.pdf](http://www.nwac-hq.org/en/documents/NWAC_VoicesofOurSistersInSpiritII_March2009FINAL.pdf)

<sup>5</sup> CEDAW Concluding Observations: Canada, 42nd Sess., 7 November 2008, UN Doc. CEDAW/C/CAN/CO/7, para. 11.

In Canada, policing and social services are delivered by many levels of government across many jurisdictions. Within this complex structure, Canadian officials can inevitably point to numerous programs and services relevant to addressing violence against Indigenous women. However, these existing programs and services have demonstrably failed to assure Indigenous women the full enjoyment of their human rights, including their right to live free from violence and discrimination. A concerted effort must be made to close gaps and inequalities in services and support, ensure coordination of responses, and bring about the implementation of long overdue reforms necessary to meet the specific needs of Indigenous women.

Amnesty International is aware of a number of significant initiatives that have been undertaken in the last year by Indigenous peoples' organizations and by police and governments, particularly at the local and provincial or territorial levels. These initiatives highlight the fact that many of the measures needed to address the threats to the lives and well-being of Indigenous women are already known. We are deeply concerned, however, that the federal government has yet to take any significant steps toward the kind of comprehensive, coordinated national response necessary to address a human rights concern of this scale and severity.

Indigenous women's organizations, human rights groups, faith groups and UN human rights bodies, including CEDAW in its 2008 Concluding Observations on Canada,<sup>6</sup> have called on the Government of Canada to work in collaboration with Indigenous women to institute a comprehensive national plan of action in keeping with the scale and severity of violence faced by Indigenous women. The continued failure to do so is unacceptable.

#### **Key concerns**

1. The federal government has not discharged its responsibility to ensure an accurate assessment of the extent and nature of violence against Indigenous women. Police forces in Canada do not consistently record whether or not the victims of crime are Indigenous.<sup>7</sup> The federal government has not provided any direction to police as to the importance of accurately and consistently recording this information. A review of long term missing persons cases in the province of Saskatchewan found that 60 percent of missing women in the province are Indigenous, although Indigenous women make up only six percent of the population.<sup>8</sup> No such review has been carried out on a national level. Police in the territories and some Western provinces have established a shared database of missing persons cases. As yet, there is no such national database.

2. The federal government has failed to take adequate measures to address the economic impoverishment and unequal access to government services that contributes to the high risk of violence against Indigenous women. Indigenous women on average earn approximately 30

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<sup>6</sup> CEDAW Concluding Observations: Canada. See footnote 1.

<sup>7</sup> Rebecca Kong and Karen Beattie, *Collecting Data on Aboriginal People in the Criminal Justice System: Methods and Challenges*, Ottawa: Canadian Centre for Justice Statistics, 2005.

<sup>8</sup> Provincial Partnership Committee on Missing Persons. Final Report, October 2007.

per cent less than non-Indigenous women. Three quarters of Indigenous families with a single female parent do not earn enough money to meet their daily needs.<sup>9</sup> Despite the fact that it typically costs more to deliver services in remote communities, the federal government, which has jurisdiction on reserve communities, spends less money per person on many services vital to Indigenous women's health and well-being than the provincial and territorial governments spend in predominantly non-Indigenous communities.

For instance, a 2000 joint study by the Department of Indian Affairs and Northern Development and the Assembly of First Nations found that child and family services on reserves received on average 22 per cent less funding per child than provincially funded counterparts that serve predominantly non-Indigenous families.<sup>10</sup> Systemic underfunding of child and family services within Indigenous communities is a key factor in the large-scale removal of Indigenous children by child and family services. This in turn has created a climate in which many Indigenous women are reluctant to report violence for fear of coming to the attention of child service agencies.

In November 2005, national Indigenous peoples' organizations and the federal, provincial and territorial governments reached an agreement intended to close the gap in living standards between Indigenous peoples and the non-Indigenous population, especially in the areas of health care, education and housing. The agreement, which became known as the Kelowna Accord, was the product of 18 months of roundtable discussions and consultations. The federal government subsequently announced plans to allocate \$5 billion towards implementation of these commitments. However, when a new federal government was elected in 2006, it arbitrarily rejected both the Accord and the promised spending.

4. Women living in Indigenous communities in Canada have inadequate protection from violence within the home and family. The vast majority of Indigenous communities do not have emergency shelters. Coupled with a persistent problem of severe overcrowding, this means that Indigenous women often have no where to escape violence, except by leaving their communities. Finding safety may mean traveling hundreds of kilometers. At the U.N. Permanent Forum on Indigenous Issues in May 2009, a Canadian government representative cited plans to open five new shelters on First Nations reserves as an indication of Canada's commitment to stopping violence against Indigenous women. This represents a woefully inadequate response to the needs of Indigenous women when hundreds of reserves are without shelters.

5. There are no national policing standards or protocols to address the specific threats to Indigenous women. Characteristically, many of the cases of Indigenous women who have been abducted and murdered in Canadian cities are first reported to police as missing persons cases. While the fact that a person has gone missing is not necessarily indication

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<sup>9</sup> Statistics Canada, *Women in Canada: A Gender-Based Statistical Report by Statistics Canada*. (Ottawa: Statistics Canada, 2006)

<sup>10</sup> Dr. Rose-Alma J. MacDonald, Dr. Peter Ladd, et. al., *Final Report of the First Nations Child and Family Services Joint National Policy Review*, June 2000, available at: [http://www.fncfcs.com/docs/FNCFCS\\_JointPolicyReview\\_Final\\_2000.pdf](http://www.fncfcs.com/docs/FNCFCS_JointPolicyReview_Final_2000.pdf).

that a person is a victim of crime or in danger – the vast majority of missing persons have chosen to run away and will return home unharmed – police response must be based on informed and unbiased recognition of the high level of threat faced by Indigenous women and girls.

Unfortunately, the decision of how to respond to missing persons reports often falls to the discretion of individual officers who may have had little experience or professional training in making such assessments. Families of missing Indigenous women have described a wide range of police responses, but all too often express concern that police did not take their concerns seriously and did not thoroughly investigate the disappearance of their missing family member until weeks, months or years had passed. In 2006, the Canadian Association of Chiefs of Police adopted a resolution acknowledging the high levels of violence experienced by Indigenous women and calling on all police services across Canada to adopt missing persons policies that include specific measures to address the circumstances and needs of Indigenous people.<sup>11</sup> Amnesty International is aware of only a few police forces that have taken measures to implement this recommendation. No direction or support has been provided by the federal government.

### **Recommendations**

As a matter of urgent priority, the federal government should work with Indigenous women and representative organizations and provincial and territorial officials to develop and implement a comprehensive, co-ordinated national plan of action in keeping with the scale and seriousness of the violence experienced by Indigenous women. Such a plan of action must include measures to ensure appropriate police response as well as measures to reduce the gap in standard of living and access to services for Indigenous women.

A national police response should include, among other measures to be identified in collaboration with Indigenous women, the following:

- 1) Instruction to police to consistently record whether or not the victims of violence are Aboriginal and enter this information in the two national police information systems
- 2) Review of all long term missing persons cases to determine how many are Aboriginal and whether they have been adequately investigated as potentially serious crimes
- 3) Creation of a national database or clearinghouse for missing persons cases to ensure effective sharing of information across jurisdictions and between police and relevant service organizations
- 4) Creation of effective police protocols for response to missing persons cases that acknowledges and reflects the specific risks to Aboriginal women
- 5) Increased specialized resources in all police jurisdictions to investigate missing persons cases and ensure effective coordination among all police forces
- 6) Meaningful incorporation of issues of violence against Indigenous women in police training, including in training scenarios.

Measures necessary to improve the social and economic situation of Indigenous women, and

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<sup>11</sup> Canadian Association of Chiefs of Police, Resolution #07-2006: Missing Persons Investigations Policies, 2006.

therefore reduce the risk of violence, include:

- 7) Adequate, sustained, long-term funding to ensure the provision of culturally relevant services to meet the needs of Indigenous women and girls at risk of violence or in contact with the police and justice system no matter where they live, including emergency shelters, court workers, victim services and specific programmes to assist women who have been trafficked within Canada.
- 8) A review of all social programmes to ensure that funding for programmes for Indigenous women, children and families is equitable and sufficient to ensure effective protection and full enjoyment of their rights. Particular priority should be given to eliminating discrimination in funding for Indigenous child welfare.
- 9) Provide sufficient funding to fulfil the commitment set out in the Kelowna Accord (First Ministers and National Aboriginal Leaders: Strengthening Relationships and Closing the Gap) to end inequalities in health, housing, education, and other services for Indigenous peoples.