

## ANALYSIS OF IMPLEMENTATION - BY THEME

**This document breaks down the recommendations of the reports reviewed into 16 themes. For each theme, there is a summary of the extent to which each type of recommendation appears to have been implemented to date.**

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## 1. National commission of inquiry

Four reports, spanning from 2012 to 2015, recommend the establishment of a national commission of inquiry to investigate the persistence of violence against Indigenous women and girls, and make recommendations to address it.

### Implementation

As at February 26, 2015, the Canadian federal government has rejected calls to establish a national commission of inquiry to examine violence against Indigenous women and girls in Canada. In an interview with CBC's Peter Mansbridge on December 17, 2014, Prime Minister Stephen Harper said, in response to a question about whether the government was considering a national inquiry: "it isn't really high on our radar, to be honest"<sup>1</sup>.

While a national commission of inquiry requires the federal government's support to be instituted, calls for a national inquiry have been endorsed by all provinces and territories<sup>2</sup>.

## 2. National action plan

Twelve reports, spanning from 2002 to 2015, recommend the development of a national action plan to respond to the disproportionate amount of violence experienced by Indigenous women and girls. Explicit or implicit in each of these recommendations is the importance of coordinated action between federal, provincial, and Indigenous governments and service providers.

### Implementation

This recommendation has not been implemented. There has been a lack of federal leadership on this issue, despite the federal government being best placed to facilitate and support increased inter-jurisdictional cooperation on the issue of violence against Aboriginal women.

On September 15, 2014, the federal government released a document titled "Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls" (Action Plan)<sup>3</sup>. According to

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<sup>1</sup> Stephen Harper Interview with Peter Mansfield, CBCnews, online: <http://www.cbc.ca/news/politics/full-text-of-peter-mansbridge-s-interview-with-stephen-harper-1.2876934>

<sup>2</sup> For more information see theme 3 *Public acknowledgement and prioritization*. In her 2014 Mandate letters to the Ministers for Aboriginal Affairs and the Women's Directorate, Premier Kathleen Wynne has called on the respective ministers to continue to support the efforts of National Aboriginal Organisations to establish an inquiry into this issue. See: Letter Premier Kathleen Wynne to Minister Response for Women's Issues Tracy MacCharles, 2014 Mandate letter: Women's Directorate, September 25, 2014, online: <https://www.ontario.ca/government/2014-mandate-letter-womens-directorate>; Letter, Premier Kathleen Wynne to Minister for Aboriginal Affairs David Zimmer, 2014 Mandate letter: Aboriginal Affairs, September 25, 2014, online: <https://www.ontario.ca/government/2014-mandate-letter-aboriginal-affairs>. See also: <http://globalnews.ca/news/1527862/growing-support-for-national-inquiry-ahead-of-premiers-meeting/>

the government, the 5-year Action Plan involves a total of \$25 million funding<sup>4</sup>. However, this amount is dwarfed by the recent federal budget cuts to many Indigenous organizations and programs across the country that have been addressing violence against Indigenous women and its root causes (for more information, please refer to theme 4 *Properly resourced, Indigenous-specific, programs and services* below).

The Action Plan involves funding for victim services, and a commitment by the federal government to share information and resources with communities and report on progress made. The federal government also used the plan to affirm its continued funding for shelters and family violence prevention initiatives, as well as a DNA-based missing persons database, and a National Centre for Missing Persons and Unidentified Remains. The Plan is consistent with the federal government's stance that violence against Indigenous women is a criminal rather than sociological issue.

However, the Action Plan has been widely criticized by opposition leaders, Indigenous leaders, and community organizations. Liberal party member and opposition critic for Aboriginal Affairs, Carolyn Bennett has denounced the Action Plan for simply repackaging ongoing budget measures<sup>5</sup>. These concerns were echoed by Pauktuutit, the national voice of Inuit women, who also argued that the initiatives mentioned in the Action Plan did little to address the persistent marginalization of Inuit women<sup>6</sup>. The Chiefs of Ontario expressed disappointment that the Action Plan failed to acknowledge the systematic nature and root causes of violence against Indigenous women, and noted that addressing those issues would better bring about lasting change<sup>7</sup>. Other critiques of the Action Plan highlight the document's vagueness, the fact that the Action Plan does not noticeably increase the funding currently allocated to the various projects it identified, and that it fails to present an inclusive and evidence-based approach to the issue<sup>8</sup>.

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<sup>3</sup> Status of Women Canada, News Release "Government Releases Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls", September 15, 2014, online: <http://www.swc-cfc.gc.ca/med/news-nouvelles/2014/0915-eng.html>. See also, Action Plan to Address Family Violence and Violent Crimes Against Indigenous Women and Girls, released September 15, 2014 (Action Plan), online: <http://www.swc-cfc.gc.ca/violence/efforts/action-eng.pdf>.

<sup>4</sup> See Action Plan, foreword, online: <http://www.swc-cfc.gc.ca/violence/efforts/action-eng.pdf>.

<sup>5</sup> See: Hon Carolyn Bennett MP Liberal Party of Canada, "Harpers "Action Plan" For Missing and Murdered Aboriginal Women and Girls: No New Action", *Huff Post Politics*, September 17, 2014, online: <http://www.huffingtonpost.ca/hon-carolyn-bennett/>; <http://www.yukon-news.com/news/feds-announce-action-plan-on-violence-against-aboriginal-women/>

<sup>6</sup> Pauktuutit, "Pauktuutit Responds to Canada's Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls" News Release, December 4, 2014, online: <http://pauktuutit.ca/news/pauktuutit-responds-to-canadas-action-plan-to-address-family-violence-and-violent-crimes-against-aboriginal-women-and-girls/>

<sup>7</sup> Chiefs of Ontario, "Ontario Regional Chief Encourages All to Visit the Murdered and Missing Aboriginal Women Art Exhibit and Continues Demand for a National Enquiry", News Release, September 19, 2014, online: [http://www.chiefs-of-ontario.org/sites/default/files/news\\_files/NR-09-19-2014-MMIW-ARTTBAY-FINAL.pdf](http://www.chiefs-of-ontario.org/sites/default/files/news_files/NR-09-19-2014-MMIW-ARTTBAY-FINAL.pdf)

<sup>8</sup> Amnesty International, "Latest federal "action plan" on violence against Indigenous women short on "action"", News Release, September 16, 2014, online: <http://www.amnesty.ca/news/public-statements/latest-federal-%E2%80%9Caction-plan%E2%80%9D-on-violence-against-indigenous-women-short-on->; EPN Staff, "FSIN Vice Chief Kimberly Jonathan says National Action Plan on Family Violence not enough", *Eagle Feather News*, September 17, 2014, online: <http://www.eaglefeathernews.com/news/index.php?detail=732>.

The UN General Assembly has repeatedly outlined the need for national action plans addressing violence against women to map out a “systematic, comprehensive, multisectoral and sustained approach”, supported by adequate funding and sound institutional mechanisms for implementation.<sup>9</sup> In light of the criticisms outlined above, the federal government’s ‘Action Plan’ does not, in fact, constitute a national action plan.

### **3. Public acknowledgement and prioritization**

Four reports, spanning from 2004 to 2012, recommend that federal and provincial governments publicly acknowledge the extent of violence against Indigenous women, and that they recognize the urgency of this issue and commit to prioritizing efforts to address it.

#### Implementation

##### *Federal level*

In August 2014, Prime Minister Harper refused the Canadian Human Rights Commission’s call for a national inquiry into violence against Indigenous women. According to the federal government, violence against Indigenous women in Canada has been the subject of numerous studies and therefore does not warrant further inquiry. In addition, Harper has also denied the sociological causes of violence against Aboriginal women, instead characterizing the issue as a series of crimes<sup>10</sup>. This federal government’s reluctance to acknowledge the complex and structural causes of violence against Indigenous women is evident in the federal Action Plan discussed above. It is also evident in the government’s public comments about this issue.

Canada-wide initiatives, incorporating provincial and territory governments, have been more willing to acknowledge the severity of the problem and the urgency with which it needs to be addressed. However, statements made in inter-jurisdictional contexts continue to imply a narrow understanding of the causes and extent of violence against Aboriginal women. Statements made at a recent Canadian Intergovernmental Conference Secretariat on measures to address violence against Aboriginal women illustrate this. For example, the following statement was contained in a ‘Progress Report’ released on October 17 2014:

“Federal, Provincial and Territorial Governments take this situation seriously and have taken action on many fronts to address the violence. Ministers responsible for Justice and Public Safety

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<sup>9</sup> UN General Assembly, Intensification of efforts to eliminate all forms of violence against women: resolution adopted by the General Assembly, January 30, 2007, A/RES/61/143; UN General Assembly, Intensification of efforts to eliminate all forms of violence against women: resolution adopted by the General Assembly, January 30, 2009, A/RES/63/155. See also UN General Assembly, *In-depth study on all forms of violence against women: report of the Secretary-General*, July 6, 2006, A/61/122/Add. para 284.

<sup>10</sup> Alex Boutilier, “Native teen’s slaying a ‘crime,’ not a ‘sociological phenomenon,’ Stephen Harper says”, *The Star*, August 21, 2014, online: [http://www.thestar.com/news/canada/2014/08/21/native\\_teens\\_slaying\\_a\\_crime\\_not\\_a\\_sociological\\_phenomenon\\_stephen\\_harper\\_says.html](http://www.thestar.com/news/canada/2014/08/21/native_teens_slaying_a_crime_not_a_sociological_phenomenon_stephen_harper_says.html); “Harper rebuffs renewed calls for murdered, missing women inquiry”, *CBC News*, August 21, 2014, online: <http://www.cbc.ca/news/canada/manitoba/harper-rebuffs-renewed-calls-for-murdered-missing-women-inquiry-1.2742845> .

have publicly stated that violence against Aboriginal women and girls is unacceptable, and that any attitudes or actions that result in violence must be condemned. Recent tragic deaths have brought renewed focus to growing concerns in Canada and beyond, urging that further and immediate action is needed to prevent more lives being lost”<sup>11</sup>.

#### *Provincial level*

Several provincial governments have made statements acknowledging the importance of addressing violence against Aboriginal women, although in some cases these statements fall short of clear declarations that the issue is a priority. It is worth noting that, as outlined above, all provincial and territory leaders have expressed their support for a national inquiry. The following analysis examines whether any additional statements have been made at a provincial level.

British Columbia is in the process of implementing this recommendation. Premier Christy Clark has signed a Memorandum of Understanding (MOU) with First Nations and Métis leaders in the province<sup>12</sup>. The MOU acknowledges that Aboriginal women experience disproportionately high levels of violence, the cause of which is “years of colonial policies and practices that sought to exclude aboriginal people economically and socially, and attempted to destroy their culture”<sup>13</sup>. The MOU requires the government of British Columbia, and First Nations and Métis groups to set priorities and develop associated policies to address violence against Indigenous women. These groups must meet once a year to manage their progress.

In Ontario, Premier Wynne has been a vocal advocate for a national inquiry into this issue. She has also expressed support for the Ontario Native Women’s Association, attending their General Assembly in November 2014 with several Ontario Ministers to express commitment to partnering with Indigenous peoples to address violence against Indigenous women<sup>14</sup>. The Premier has also encouraged greater provincial commitment to preventing and ending the violence<sup>15</sup>.

The Quebec government’s 2012-2017 Government Action Plan on Domestic Violence divides its plan into two ‘components’: a general and Aboriginal component, thus recognizing that Aboriginal women and

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<sup>11</sup> Canadian Intergovernmental Conference Secretariat, Reference, “Addressing Violence Against Aboriginal Women and Girls - A Progress Report”, October 17, 2014, online:

<http://www.scics.gc.ca/english/conferences.asp?a=viewdocument&id=2246>

<sup>12</sup> Canadian Intergovernmental Conference Secretariat, Reference, “Addressing Violence Against Aboriginal Women and Girls - A Progress Report”, October 17, 2014, online: <http://www.scics.gc.ca/english/Conferences.asp?a=viewdocument&id=2246>

<sup>13</sup> Government of British Columbia, Memorandum of Understanding, online:

<http://www2.gov.bc.ca/abQPm/gov/DownloadAsset/index.page?assetId=DAEC2DC3EF2F47C9994178B264FEAB3A>

<sup>14</sup> Staff, “Premier Wynne attends and <https://www.tworowtimes.com/news/l-supports-ONWA-gathering>”, Two Row Times, November 25, 2014, online: [ocal/premier-wynne-attends-supports-onwa-gathering/](http://ocal/premier-wynne-attends-supports-onwa-gathering/).

<sup>15</sup> Robert Benzie, “Kathleen Wynne says premiers will have to act on plight of native women if Harper doesn’t”, *The Star*, August 26, 2014, online:

[http://www.thestar.com/news/canada/2014/08/26/kathleen\\_wynne\\_says\\_premiers\\_will\\_have\\_to\\_act\\_on\\_plight\\_of\\_native\\_women\\_if\\_harper\\_doesnt.html](http://www.thestar.com/news/canada/2014/08/26/kathleen_wynne_says_premiers_will_have_to_act_on_plight_of_native_women_if_harper_doesnt.html)

communities experience violence differently<sup>16</sup>. However, the Quebec government does not include in its plan explicit recognition of the extent and nature of violence against Aboriginal women and girls.

In Alberta, the website of the Aboriginal Relations department of the Alberta government states: “Aboriginal women’s well-being is a priority for the Government of Alberta”<sup>17</sup>, and goes on to describe its work with the Aboriginal Affairs Working Group, national Aboriginal organizations and Aboriginal communities, to “develop options aimed at ending violence against Aboriginal women and girls, and increasing their economic security”<sup>18</sup>.

Manitoba’s Multi-year Domestic Violence Prevention Strategy (November 2012) acknowledges that “Aboriginal women are at a much greater risk of experiencing domestic violence”,<sup>19</sup> and lists as a priority “the over-representation of Aboriginal women and children in Manitoba’s shelter system”<sup>20</sup>.

In August 2014, Saskatchewan Premier Brad Wall affirmed the need for a national inquiry into “systemic issues” in violence against Aboriginal women<sup>21</sup>. However, beyond such statements, there have been no explicit declarations by the provincial government that this issue is a priority.

Premier Stephen McNeil of Nova Scotia, and the leaders of the Progressive Conservative and New Democratic Parties, have declared their support for a national inquiry into violence against Aboriginal women and girls<sup>22</sup>. Beyond this, no explicit declaration has been made. In particular, while Nova Scotia’s Domestic Violence Action Plan acknowledges that “[A]boriginal women experience domestic violence more often and more severely than non-[A]boriginal women”<sup>23</sup>, it does not purport to address the issue with a greater priority.

On March 19, 2014, the House of Assembly of Newfoundland and Labrador unanimously passed a resolution calling for a national inquiry to address “the very serious issue of Aboriginal girls and

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<sup>16</sup> See generally, Government of Quebec, *Preventing, Detecting, Ending: 2012-2017 Government Action Plan on Domestic Violence*, online: [http://www.scf.gouv.qc.ca/fileadmin/publications/Violence/Plan\\_d\\_action\\_2012-2017\\_version\\_anglaise.pdf](http://www.scf.gouv.qc.ca/fileadmin/publications/Violence/Plan_d_action_2012-2017_version_anglaise.pdf)

<sup>17</sup> Aboriginal Relations Department, Government of Alberta, Aboriginal Women, online: <http://www.aboriginal.alberta.ca/Aboriginal-Women.cfm>

<sup>18</sup> Aboriginal Relations Department, Government of Alberta, Aboriginal Women, online: <http://www.aboriginal.alberta.ca/Aboriginal-Women.cfm>

<sup>19</sup> Government of Manitoba, *Manitoba’s Multi-year Domestic Violence Prevention Strategy*, November 2012, at 4, online: [http://www.gov.mb.ca/asset\\_library/en/stoptheviolence/domestic\\_violence\\_prevention\\_strategy\\_2012.pdf](http://www.gov.mb.ca/asset_library/en/stoptheviolence/domestic_violence_prevention_strategy_2012.pdf)

<sup>20</sup> Government of Manitoba, *Manitoba’s Multi-year Domestic Violence Prevention Strategy*, November 2012, at 8, online: [http://www.gov.mb.ca/asset\\_library/en/stoptheviolence/domestic\\_violence\\_prevention\\_strategy\\_2012.pdf](http://www.gov.mb.ca/asset_library/en/stoptheviolence/domestic_violence_prevention_strategy_2012.pdf)

<sup>21</sup> Saskatchewan Premier Wall pushes for public inquiry, wants to examine “systemic issues”, *The Globe and Mail*, August 26, 2014, online: <http://www.theglobeandmail.com/news/politics/saskatchewan-premier-wall-pushes-for-public-inquiry-wants-to-examine-systemic-issues/article20202613/>

<sup>22</sup> Government of Nova Scotia, “Province Supports Inquiry into Missing, Murdered Indigenous Women”, News Release, March 6, 2014, online: <http://novascotia.ca/news/release/?id=20140306002>; see also, “Nova Scotia parties unite to urge slain aboriginal women inquiry”, CBCnews, online: <http://www.cbc.ca/news/canada/nova-scotia/nova-scotia-parties-unite-to-urge-slain-aboriginal-women-inquiry-1.2562577>

<sup>23</sup> Government of Nova Scotia, *Domestic Violence Action Plan*, (undated) online: <http://www.novascotia.ca/news/smr/2010-12-03-domestic-violence-plan/media/Domestic-Violence-Action-Plan.pdf>

women”<sup>24</sup>. Statements made during the debate, by Premier Tom Marshall, Liberal Leader Dwight Ball and New Democrat leader Lorraine Michael suggest that recognition is being given to extent and nature of violence against Aboriginal women and girls in Canada, with each leader reiterating the need for a response to this issue, and to examine the systemic causes of violence against Aboriginal women through a national inquiry<sup>25</sup>.

In New Brunswick, no formal declarations have been made about the priority to be afforded this issue. However, the government of New Brunswick has established an Advisory Committee on violence against Aboriginal Women, which developed and is implementing the New Brunswick Strategic Framework to End Violence Against Wabanaki Women in New Brunswick (Strategic Framework)<sup>26</sup>. The Strategic Framework acknowledges that the problem is a severe one with complicated and deep-rooted causes, and requiring immediate and effective action<sup>27</sup>.

On November 4, 2014, the Legislative Assembly of the Northwest Territories declared that violence against Aboriginal women is a product of “numerous and complex reasons, including historical trauma and current socio-economic conditions”, and that the number of missing and murdered Aboriginal women to be “disproportionately high and unacceptable”, and resolved to support Aboriginal organizations in their calls for a national inquiry and roundtable on the issue<sup>28</sup>.

The website of the Yukon government’s Women’s Directorate states: “One of the Women’s Directorate key goals is to enhance Aboriginal Women’s equality”<sup>29</sup>. Separate from support for a national inquiry, no more specific statements appear to have been made.

Like all other provincial and territorial leaders, Nunavut’s Premier Bob McLeod came out in support of a national commission of inquiry, at the gather of premiers in Charlottetown on September 1, 2014<sup>30</sup>.

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<sup>24</sup> Journal of the Proceedings of the House, March 18, 2014, online: <http://www.assembly.nl.ca/business/journal/2014/14-03-18.pdf>.

<sup>25</sup> Government of Newfoundland and Labrador, “Government of Newfoundland and Labrador Supports All Party Resolution of National Inquiry into Missing and Murdered Aboriginal Women and Children”, News Release, March 14, 2014, online: <http://www.releases.gov.nl.ca/releases/2014/exec/0314n06.htm>; see also “Parties unite to lobby for inquiry, *The Telegram*, March 19, 2014, online: <http://www.thetelegram.com/News/Local/2014-03-19/article-3654666/Parties-unite-to-lobby-for-inquiry/1>

<sup>26</sup> New Brunswick Advisory Committee on Violence against Aboriginal Women, *Strategic Framework to end Violence Against Wabanaki Women in New Brunswick*, March 2008, online: <http://www.gnb.ca/0012/Womens-Issues/wabanaki-e.pdf>; see also, “Violence Against Women in New Brunswick”, government factsheet, undated, online: <http://www.gnb.ca/0012/violence/PDF/VP%20Fact%20Sheet-E.pdf>

<sup>27</sup> New Brunswick Advisory Committee on Violence against Aboriginal Women, *Strategic Framework to end Violence Against Wabanaki Women in New Brunswick*, March 2008, p. 6, online: <http://www.gnb.ca/0012/violence/PDF/VP%20Fact%20Sheet-E.pdf>

<sup>28</sup> Northwest Territories Legislative Assembly, “National Inquiry and National Roundtable into Missing and Murdered Aboriginal Women and Girls”, Motion, November 4, 2014, online: [http://www.assembly.gov.nt.ca/sites/default/files/motion\\_30-175\\_0.pdf](http://www.assembly.gov.nt.ca/sites/default/files/motion_30-175_0.pdf)

<sup>29</sup> Yukon Government Aboriginal Women’s Directorate, Aboriginal Women, undated, online: [http://www.womensdirectorate.gov.yk.ca/aboriginal\\_women.html](http://www.womensdirectorate.gov.yk.ca/aboriginal_women.html)

<sup>30</sup> Kassina Ryder & John McFadden, “Premier Support Inquiry”, *Northern News Service online*, September 1, 2014, online: [http://www.nnsl.com/frames/newspapers/2014-09/sep1\\_14ps.html](http://www.nnsl.com/frames/newspapers/2014-09/sep1_14ps.html)

#### **4. Properly resourced, Indigenous- specific programs designed to address the root causes of violence against Indigenous women and girls, and to provide culturally sensitive services to protect, heal and support Indigenous women victims and survivors of violence, and their families.**

The majority of the reports emphasise the sociological causes of the disproportionately high rates of violence against Indigenous women in Canada. A substantial number of reports describe how the economic and social marginalization of Indigenous women, and specifically, a lack of housing, education, employment opportunities, and little access to other social services, makes Indigenous women more susceptible to violence, and less able to escape violent circumstances. Accordingly, 28 reports recommend measures to prevent violence against Indigenous women by addressing its root causes, and to respond to this violence when it occurs. Preventive measures include ensuring adequate housing, better access to employment, improved education, and reducing the overcriminalization of Indigenous women. Responsive or remedial measures in the aftermath of violence including providing counselling and other essential health and social services on both a crisis and long term basis. A ‘sub-theme’ was also identified within this overarching theme: fifteen reports, spanning 1994 to 2012, also make explicit the need for healing of male perpetrators of violence and (more generally) prevent the perpetuation of attitudes in which men devalue the lives and experiences of Indigenous women.

##### Implementation

Programs and strategies specifically designed to tackle the root causes of violence against Indigenous women exist primarily at the provincial level. However, whether these initiatives are successful is subject to debate. Most government-drafted policies highlight the success of their programs, while program providers and non-governmental organizations often lament insufficient funding.

One of the common ways in which provinces could be said to be responding to the social and economic marginalization of Indigenous women is through poverty alleviation strategies<sup>31</sup>. Every strategy reviewed recognizes the disproportionately high rates of poverty within Indigenous communities, relative to non-Indigenous communities. They also all claim to have consulted with Indigenous stakeholders in the drafting of their plans. It is worth briefly noting how some of these plans address the poverty experienced by Aboriginal people and communities.

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<sup>31</sup> Except for BC and Saskatchewan which have no formal strategies or plans for province-wide poverty alleviation. Alberta’s plan is still in progress and addresses poverty reduction for children only, Government of Alberta, “Together we raise tomorrow: Alberta’s Poverty Reduction Strategy Discussion Paper”, June 2013, online: <http://povertyreduction.alberta.ca/files/documents/ahs-prs-discussionguide-web.pdf>

Quebec's 2<sup>nd</sup> 2010-2015 Government Action Plan for Solidarity and Social Inclusion promotes greater partnership between funders and Aboriginal groups in order to tailor services to Aboriginal clients<sup>32</sup>. Nova Scotia's poverty reduction program focuses on off-reserve housing, healthcare, and employment for Aboriginal peoples, though its spending on these programs has been decreasing in recent years. Manitoba<sup>33</sup> and PEI's<sup>34</sup> strategies include the provision of general funding for employment and family programs and services to Indigenous people and communities.

Ontario's strategy focuses on education, employment, and youth entrepreneurship as well as providing an increase in funding for developing mental health services for Aboriginal people living in more remote communities. The plan includes Native Learning Centres and new funds to support 'Aboriginal economies'. However, the Association of Ontario Health Centres has criticized Ontario's plan for not sufficiently addressing issues specific to Indigenous people, and have called for a separate Indigenous poverty reduction strategy. It does not appear as though Ontario has responded to their request<sup>35</sup>.

At least four poverty alleviation strategies specifically provide services aimed at Indigenous women and girls. Ontario's plan also involves providing increased funding to the True Self/Debwewendizwin Program which provides culturally centred employment-readiness training to Indigenous women in Nipissing region<sup>36</sup>.

Newfoundland and Labrador provide regular funding to the Newfoundland Aboriginal Women's network supporting Aboriginal women by providing education, training, and cultural awareness opportunities to empower women to be more self-sufficient<sup>37</sup>. The government also funds an Aboriginal Training Partnership program to maximize partnership in local energy projects, and funds various programs with the Mokami Women's Centre<sup>38</sup>.

The Yukon's poverty reduction strategy makes reference to Yukon's Aboriginal Women's Summits and their recommendations. The territory's Women's Directorate contributes annually to a Prevention of Violence against Aboriginal women Fund. Fees were doubled in 2009 due to high demand, but no information is available concerning more recent numbers<sup>39</sup>.

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<sup>32</sup> Government of Quebec, "Quebec's Combat Against Poverty: Government Action Plan for Solidarity and Social Conclusion: 2010-2015", online: [http://www.mess.gouv.qc.ca/publications/pdf/ADMIN\\_Plan\\_de\\_lutte\\_2010-2015\\_en.pdf](http://www.mess.gouv.qc.ca/publications/pdf/ADMIN_Plan_de_lutte_2010-2015_en.pdf)

<sup>33</sup> Government of Manitoba, "All Aboard: Manitoba's Poverty Reduction Strategy", online: [http://www.gov.mb.ca/fs/misc/pubs/all\\_aboard\\_report.pdf](http://www.gov.mb.ca/fs/misc/pubs/all_aboard_report.pdf)

<sup>34</sup> Prince Edward Island Community Services, Seniors and Labour, "Preventing and Reducing Poverty in Prince Edward Island: A Strategy for Engagement, Discussion Paper", July 2011, online: [http://www.gov.pe.ca/photos/original/cssl\\_povertyred.pdf](http://www.gov.pe.ca/photos/original/cssl_povertyred.pdf)

<sup>35</sup> Submission from the Association of Ontario Health Centres to Consultants on Ontario's Poverty Reduction Strategy", October 16 2013, online: <http://aohc.org/news/submission-association-ontario-health-centres-consultations-ontario%E2%80%99s-poverty-reduction>

<sup>36</sup> Government of Ontario, "Realizing our Potential: Ontario's Poverty Reduction Strategy 2014-2019", Online: <http://www.ontario.ca/home-and-community/realizing-our-potential-ontarios-poverty-reduction-strategy-2014-2019-all>

<sup>37</sup> Newfoundland and Labrador, "Poverty Reduction Strategy: Progress Report", June 2014, at 15, online: [http://www.aes.gov.nl.ca/poverty/pdf/prs\\_progress\\_report.pdf](http://www.aes.gov.nl.ca/poverty/pdf/prs_progress_report.pdf)

<sup>38</sup> *Ibid.* at 51.

<sup>39</sup> Government of Yukon, "A Better Yukon for All: The Government of Yukon's Social Inclusion and Poverty Reduction Strategy", 2012, online: [http://www.abetteryukon.ca/files/social\\_inclusion\\_strategy.pdf](http://www.abetteryukon.ca/files/social_inclusion_strategy.pdf)

The Northwest Territories drafted their poverty reduction plan inclusively and collaboratively with First Nation and territorial government working groups. The territory funds traditional language initiatives, as well as funding Aboriginal-specific soup kitchens, shelters, and transitional housing. The government also supports traditional harvesting activities through a Harvesters Assistance Program, Inuvialuit Hunters Assistance Program, small scale agriculture program, and fisheries program. And it is noted that Aboriginal women are hired to provide several of these services. Part of their strategy is also the Northwest Territory Coalition Against Family Violence, which has 23 member organizations and works with the RCMP Victim Services<sup>40</sup>.

Ontario established an Aboriginal Healing and Wellness Strategy in 1994, which combines traditional and mainstream services to promote Indigenous people's health and reduce family violence. Programs are community-based and accessible to those living on and off reserve. They are funded and developed by Indigenous organizations and five Ontario ministries including the Ontario Women's Directorate and Aboriginal Affairs<sup>41</sup>. Over the last 20 years, the Strategy has created six healing lodges, seven family shelters, two family violence healing programs, two outpatient hostels and crisis intervention teams in 47 northern communities. The program also claims to have created over 650 jobs and 460 community-based healing programs, training over 1000 staff in health and social services<sup>42</sup>.

A key factor undermining the implementation of these recommendations is the consistent decline in funding for services and programs relevant to the lives of Indigenous peoples. Over the last decade, federal funding for Indigenous-led and Indigenous-specific organizations has steadily decreased. The federal government has eliminated federal funding for some Indigenous organizations, forcing them to close. In addition, the government has subsumed the work of several Indigenous-led organizations into already existing government programs. As a result, many of these initiatives have been removed from the control of Indigenous people, and the services provided have become less specific to Indigenous peoples' experiences.

In January 2015, APTN National News obtained access to an internal AFN report which has assessed funding cuts to Indigenous organizations over the last three years<sup>43</sup>. The report was based on AANDC figures, and showed the federal government cuts amounted to \$60 million<sup>44</sup>. The AFN analysis also found that funding for Indigenous organizations had dropped 59% over the last three years. However, this seemed to vary depending on the demographics: funding for First Nations dropped by 65%, Metis funding

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<sup>40</sup> Government of Northwest Territories, "Building on the Strengths of Northerners: A Strategic Framework Toward the Elimination of Poverty in NWT", June 2013, online: [http://www.hss.gov.nt.ca/sites/default/files/anti-poverty\\_report.pdf](http://www.hss.gov.nt.ca/sites/default/files/anti-poverty_report.pdf)

<sup>41</sup> Ontario Ministry of Community and Social Services, "Supporting Aboriginal People, Aboriginal Healing and Wellness Strategy", online: <http://www.mcscs.gov.on.ca/en/mcscs/programs/community/programsforaboriginalpeople.aspx>

<sup>42</sup> *Ibid.*

<sup>43</sup> Jorge Barrera, "Aboriginal Organizations hit with \$60 million worth of cuts, Inuit faced steepest reduction: AFN analysis" *APTN National News*, January 13, 2015, online: <http://aptn.ca/news/2015/01/13/aboriginal-organizations-hit-60-million-worth-cuts-inuit-faced-steepest-reduction-afn-analysis/>

<sup>44</sup> "AANDC Cuts to First Nation Organizations and Tribal Councils- UPDATED", 2015, online: <http://aptn.ca/news/wp-content/uploads/sites/4/2015/01/15-01-13-Federal-Budget-Cuts-to-FN-Organizations-and-Tribal-Councils-1.pdf>

dropped by 39%, non-status Indian funding dropped 14%, and women's organizations experienced a 7% cut.

According to the APTN's analysis, the federal government's funding to provincial Indigenous leadership organizations has also dropped. Ontario's First Nations organizations experienced the largest funding cut (76%). Two organizations in New Brunswick and PEI experienced 80% funding drops. The Federation of Saskatchewan Indian Nations experienced a 91% decrease. Manitoba's three regional organizations saw 78% of their federal funding cut. BC's three regional First Nations organizations experienced between 73% and 82% reductions. Tribal Councils (distinct and separate from regional organizations as they tend to represent smaller communities) have experienced an average of 40% drop in their federal funding over the last three years<sup>45</sup>.

Funding cuts over the last five years have forced several important national Indigenous-run initiatives to close their doors, or limit the scope of their programming. These include the Aboriginal Healing Foundation (AHF), First Nations Statistical Institute (FNSI), National Aboriginal Health Organization (NAHO), and the Sisters in Spirit initiative of the Native Women's Association of Canada (NWAC). The combined cuts to all of these programs amount to over \$100 million.

The funding cuts to Indigenous-led organizations have been far reaching, impacting initiatives that address the health of Indigenous communities and the wellbeing of Indigenous women and children. Funding to the National Aboriginal Health Organization was cut in 2012, forcing the organization to close its doors. NAHO was founded in 2000, and since then it has produced studies, reports, databases, and journals<sup>46</sup> concerning diverse health issues as well as traditional Indigenous health knowledge. It also engaged in outreach activities and health education activities in Indigenous communities<sup>47</sup>.

Like NAHO, the AHF was forced to close in 2013 due to cuts to its funding. It was an Aboriginal-managed non-profit that had been active since 1998 and partnered with over 100 communities and community-based organizations to facilitate individual and community healing. It funded grassroots initiatives, the organization funded research projects and published reports and other resources for Indigenous communities and the public at large<sup>48</sup>.

The funding cuts to the AHF were widely criticized, and even prompted an emergency House of Commons debate. Despite this, the federal government elected to fund Health Canada to provide some counselling to residential school survivors. Critics insist that these programs are not as effective or specific as those that existed under the AHF<sup>49</sup>. Given that the legacy of residential schools is frequently cited as being a root cause of the disproportionate violence experienced by Indigenous women and girls in Canada, the closure of the AHF is especially significant.

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<sup>45</sup> Jorge Barrera, "Aboriginal Organizations hit with \$60 million worth of cuts, Inuit faced steepest reduction: AFN analysis" *APTN National News*, January 13, 2015, online: <http://aptn.ca/news/2015/01/13/aboriginal-organizations-hit-60-million-worth-cuts-inuit-faced-steepest-reduction-afn-analysis/>

<sup>46</sup> Including founding the *Journal of Aboriginal Health*.

<sup>47</sup> National Aboriginal Health Organization online: <http://www.naho.ca/>

<sup>48</sup> Aboriginal Healing Foundation, "Frequently Asked Questions", online: [www.ahf.ca/FAQs](http://www.ahf.ca/FAQs)

<sup>49</sup> Voices-Voix, Aboriginal Healing Foundation case study, online: <http://voices-voix.ca/en/facts/profile/aboriginal-healing-foundation>

Services for children have also been impacted. The First Nations Child and Family Caring Society, in partnership with the AFN, has launched legal proceedings against the federal government for discriminating against Indigenous children living on reserves in the provision of funding for services.

As discussed in theme 6 *Data - gathering and publication*, below, other reports have noted that the lack of available data on Indigenous people frustrates attempts to understand, and therefore address, violence against Indigenous women. This problem arises because many First Nations do not participate (for various reasons) in Canadian censuses, and as data collection concerning urban populations of First Nations, Métis, and Inuit people has traditionally been very limited, the organization filled an important gap in the data available about Canadian Indigenous populations. Federal funding cuts to groups like the FNSI, or initiatives like Sisters in Spirit, prevent efforts to better understand and effectively respond to the needs of Indigenous communities and Indigenous women.

The FNSI was an Indigenous-run organization that has been impacted by federal budget cuts. It was created by the federal government in 2005 to address data and knowledge gaps concerning Indigenous populations in Canada<sup>50</sup>. In 2012 their federal funding was cut in half. Then, in 2013, the federal government cut their funding completely. As a result, the organization's work has decreased considerably<sup>51</sup>.

Similarly, the Sisters in Spirit initiative was a federally funded project developed and run by the Native Women's Association of Canada. It was also dedicated to filling in the above-mentioned data gaps. It collected information over the course of five years and created a database of over 500 instances of missing and murdered Indigenous women spanning over three decades. The federal government stopped funding this project in 2010, asserting that \$4 million would be provided to the RCMP to develop a missing persons database to replace the work done by this project<sup>52</sup>.

Since 2010, the federal government has provided just under \$2 million for NWAC's 'Evidence to Action' initiative which is concerned with "developing concrete actions and activities" to help end the cycle of violence that leads to the disappearances and deaths of Indigenous women in the country<sup>53</sup>. While this project is a positive development, its scope is considerably narrower than Sisters in Spirit.

Finally, while the federal government's Action Plan specifies funding for various initiatives that address Indigenous communities and violence against Indigenous women, the plan should be understood within the context of these larger federal budgetary restrictions. For a more detailed discussion of the Plan, please refer to theme 2 *National action plan*, above.

#### Sub-theme: Programs for Indigenous Men

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<sup>50</sup> Jorge Barrera, "Conservatives Axe First Nations Statistics Crown Corporation", *APTN National News*, online: <http://aptn.ca/news/2012/03/29/conservatives-axe-first-nations-statistics-crown-corporation/>

<sup>51</sup> Voices-Voix, First Nations Statistical Institute case study, online: <http://voices-voix.ca/en/facts/profile/first-nations-statistical-institute>

<sup>52</sup> Voices-Voix, Sisters in Spirit, online: <http://voices-voix.ca/en/facts/profile/sisters-spirit>

<sup>53</sup> Native Women's Association of Canada, "Evidence to Action for Sisters in Spirit", online: [http://www.nwac.ca/sites/default/files/imce/2011\\_NWAC-ETA-SIS-Project.pdf](http://www.nwac.ca/sites/default/files/imce/2011_NWAC-ETA-SIS-Project.pdf)

For several years, the Ontario government has been funding two programs for Indigenous men in the province (one is Kizhaay Anishnaabe Niin, and the other is Kanawayhitowin). These programs support men and families in their work to end all forms of violence against Indigenous women. More recently Kizhaay Anishnaabe Niin has been brought to four Ontario correctional facilities, and the Kanawayhitowin program continues to provide facilitator training for initiatives in cities across the province.

The Yukon Aboriginal Women's Council has spearheaded a Brothers in Spirit project which seeks to implement recommendations from the second Yukon Aboriginal Women's Summit. Namely, stopping victim blaming culture, and involving men in violence prevention programming. The initiative seeks to: strengthen relationships between community organizations working to end violence against Indigenous women, increasing community dialogue concerning men's roles in preventing and ending this violence, and the promotion of male role models who choose not to perpetuate violence<sup>54</sup>.

There have been several awareness-building campaigns around violence against Indigenous women, which have focused attention on engaging men as allies in attempts to end and prevent violence against Indigenous women<sup>55</sup>. For more information on awareness building initiatives, see theme 7 *Public information and awareness raising*.

## **5. Aboriginal involvement in program development and delivery**

Twenty reports, spanning 1996 to 2015, call for Indigenous peoples, and in particular women, to drive (or at the very least, be involved in and consulted on) the development and implementation of all programs, policies and actions that seek to address violence against women. The recommendations repeatedly emphasize the need for a community-led response, informed by Indigenous knowledges.

### Implementation

Federal and provincial governments attempt to include Indigenous women in the development and provision of culturally-sensitive programming in a number of ways. Primarily, governmental efforts are directed to the provision of funding to various community-based initiatives. This approach is made explicit in the federal government's Action Plan, which states, "[c]ommunities are in the best position to lead in developing solutions to violent crime, by taking measures to ensure the safety of women and girls, providing access to services for victims, and raising awareness within communities that violence is unacceptable"<sup>56</sup>.

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<sup>54</sup> Yukon Aboriginal Women's Council, "Brothers in Spirit", online: <http://www.yawc.ca/YAWC- Brothers In Spirit.html>

<sup>55</sup> For example, see this recent initiative in Alberta: Matthew Dykstra, "Alberta Men Wearing Moose Hide to Show Support for Stopping Violence Against Aboriginal Women", November 25, 2014, Sun News, online: <http://www.edmontonsun.com/2014/11/25/alberta-men-wearing-moose-hide-to-show-support-for-stopping-violence-against-aboriginal-women>

<sup>56</sup> Action Plan to Address Family Violence and Violent Crimes Against Indigenous Women and Girls, released September 15, 2014 (Action Plan), online: <http://www.swc-cfc.gc.ca/violence/efforts/action-eng.pdf> at 4.

One example of this is the federal government's Aboriginal Peoples' Program<sup>57</sup>, through which funds are provided to support Indigenous groups to promote Indigenous cultural practices. The program has three objectives:

1. to strengthen Aboriginal cultural identity;
2. to encourage the full participation of Aboriginal people in Canadian life; and
3. to preserve and revitalize Aboriginal languages and cultures as living elements of Canadian society.<sup>58</sup>

This program also funds three Aboriginal Women's Programming Elements (in addition to various other projects):

1. Women's Community Initiatives (which support projects lead by women to address challenges they have identified concerning their families and traditions);
2. Family Violence Initiative (which supports a series of community-based and culturally-appropriate approaches to addressing issues of family violence); and
3. Women's Self Government Participation Initiative (for Aboriginal women's "participation in self government design and advancement").<sup>59</sup>

While the existence of this Program is positive, it is difficult to determine the adequacy of the funding it provides. On this point, it is important to keep in mind the significant budget cuts by the federal government to Indigenous-specific programming, discussed in more detail below, under theme 4 *Properly resourced, Indigenous-specific, programs and services*.

Several provinces have similar programs that involve provincial funding for Indigenous-led services and programming. The Nova Scotia Advisory Council on the Status of Women has partnered with the Nova Scotia Native Women's Association to better ensure their programming is developed with consideration for the perspectives of Indigenous women<sup>60</sup>. Also worth noting are initiatives being funded in Labrador, Yukon, the Northwest Territories and Ontario. Specifically, the Labrador government has committed to supporting leadership by Aboriginal people on the issue of violence prevention<sup>61</sup>. Similar initiatives by the provincial governments in Ontario, Yukon and the Northwest Territories are described in more detail in theme 4 *Properly resourced, Indigenous-specific, programs and services*.

Despite these efforts, several Indigenous organizations remain concerned about the inadequate consultation processes associated with new government policies that may impact Indigenous women.

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<sup>57</sup> Canadian Heritage, Government of Canada, "Aboriginal Peoples' Program", online: <http://www.pch.gc.ca/eng/1288012444767>

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> Status of Women, "Press Release: Partnership will Advance Aboriginal Women's Issues in Nova Scotia", December 1, 2014, online: Nova Scotia Advisory Council on the Status of Women <http://women.gov.ns.ca/content/press-release-partnership-will-advance-aboriginal-womens-issues-nova-scotia>

<sup>61</sup> Newfoundland and Labrador, "Taking Action Against Violence: 2006-2012: Violence Prevention Initiative", online: [http://www.gov.nl.ca/VPI/initiative/actionplan2006\\_2012.pdf](http://www.gov.nl.ca/VPI/initiative/actionplan2006_2012.pdf)

Provincial and federal governments have positive legal duties to consult with Indigenous communities with regards to policy developments that may impact their Aboriginal and/or Treaty rights. The Supreme Court of Canada has noted that this obligation is entrenched in section 35 of Canada's constitution, and that the process of consultation is a key aspect of reconciliation between Indigenous peoples in Canada and the Canadian state<sup>62</sup>.

However, Shawn Atleo, while still National Chief of the Assembly of First Nations, noted that the federal government consistently failed to honour promises to provide more meaningful consultation opportunities for Indigenous communities<sup>63</sup>. Other organizations have raised this lack of consultation in several different contexts. Concerns were raised over the lack of consultation with Indigenous women over specific ways in which they may be adversely impacted by the use of restorative justice programs in instances of violence against Indigenous women<sup>64</sup>. Organizations have also pointed to the lack of consultation with Indigenous women with regards to how policies and laws governing illegal substances can specifically impact Indigenous women with histories of substance abuse<sup>65</sup>.

## 6. Data – gathering and publication

Fourteen reports, spanning 1994 to 2015, recommend improved collection and dissemination of disaggregated data on violence against Indigenous women.

Recommendations concerning data/information gathering and sharing fall under four sub-categories:

1. Sharing information (especially disaggregated data) with the public: this concerns the ability for governments and police to collect and make public updated statistics concerning the extent of the victimization of Indigenous women.
2. Sharing information with families: this concerns police officers proactively communicating with the families and loved ones of missing persons, throughout the duration of the missing persons case.
3. Sharing information between police departments: this refers to inter-jurisdictional cooperation and information-sharing between police departments across the country with regards to open missing persons or murder cases.
4. Including Indigenous individuals, communities, and organizations in the collection and management of data and other information concerning missing and murdered Indigenous women.

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<sup>62</sup> Aboriginal Affairs and Northern Development Canada, "Aboriginal Consultation and Accommodation - Updated Guidelines for Federal Officials to Fulfil the Duty to Consult, March 2011", online: <http://www.aadnc-aandc.gc.ca/eng/1100100014664/1100100014675>

<sup>63</sup> Gloria Galloway, "Native Leader Frustrated by Lack of Consultation with Ottawa on job program", *The Globe and Mail*, March 22, 2013, online: <http://www.theglobeandmail.com/news/politics/native-leader-frustrated-by-lack-of-consultation-with-ottawa-on-job-program/article10242016/>

<sup>64</sup> Aboriginal Women's Action Network (AWAN), "The Implications of Restorative Justice in Cases of Violence Against Aboriginal Women and Children", online: <http://www.casac.ca/content/aboriginal-womens-action-network-restorative-justice-policy-awan>

<sup>65</sup> National Aboriginal Women's Association, "Aboriginal Women and Substance Abuse, Needs Consultation", January 1996, online: <http://www.nwac.ca/files/reports/AboriginalWomen%26SubstanceAbuse.pdf>

## Implementation

### *1. Government and police information sharing with the public*

The Sisters in Spirit, led by NWAC, was an important information-gathering and awareness raising initiative, initially funded by Status of Women Canada. A central aspect of the initiative concerned a project that collected statistical information and documented murders and disappearances of Indigenous women across Canada. NWAC did not make their database publicly accessible. Rather, NWAC published reports containing the number of murders and disappearances, as well as some demographics and themes that were found by analysing the data set they compiled. For more information concerning this project, please refer to implementation theme 4 *Properly resourced, Indigenous-specific, programs and services*.

The RCMP's National Operational Overview, published in May 2014, contains the most recent information about the number of Indigenous women who are missing or who have been murdered. The report notes trends in data collected concerning overall numbers of Indigenous women impacted by violence, the characteristics of perpetrators of violence, the numbers of cases concerning missing and murdered Indigenous women that remain unsolved, and risk factors that affect the safety of Indigenous women. However, prior to the publication of this report in 2014, the RCMP had made no attempt to gather statistics about the number of Indigenous women missing or murdered in Canada<sup>66</sup>. In addition, the RCMP report refers only to those deaths determined by the RCMP to be homicides. The number listed is too low, given that the deaths of Indigenous women are often not investigated properly, or at all, and therefore wrongly classified as accidental<sup>67</sup>. Moreover, that data which has been gathered is flawed: in its report, the RCMP acknowledges that police often fail to accurately or consistently record when victims of crime or missing women are Indigenous; nor does the RCMP distinguish between First Nations, Inuit and Métis women<sup>68</sup>. Finally, the RCMP has yet to make any disaggregated data available to the public.

Statistics Canada continues to draft reports summarizing data about First Nations, Métis, and Inuit peoples, as well as more specific reports concerning instances of violence experienced by Indigenous women. However, the data used to inform these reports is not publicly available<sup>69</sup>.

### *2. Information-sharing with family and friends of missing or murdered Indigenous women*

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<sup>66</sup> Amnesty International, "New RCMP violence report highlights the need to hold government and police accountable for failing Indigenous women and girls", News Release, May 16, 2014.

<sup>67</sup> Amnesty International, "New RCMP violence report highlights the need to hold government and police accountable for failing Indigenous women and girls", News Release, May 16, 2014.

<sup>68</sup> Amnesty International, "New RCMP violence report highlights the need to hold government and police accountable for failing Indigenous women and girls", News Release, May 16, 2014.

<sup>69</sup> See generally: Statistics Canada, "aboriginal Peoples, General Resources", online: <http://www5.statcan.gc.ca/subject-sujet/subtheme-soustheme?pid=10000&id=-10000&lang=eng&more=0>, as well as the following reports: Criminal Victimization in the Territories, 2009: [http://www5.statcan.gc.ca/access\\_acces/alternative\\_alternatif.action?l=eng&loc=http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11614-eng.pdf&t=Criminal%20victimization%20in%20the%20territories,%202009](http://www5.statcan.gc.ca/access_acces/alternative_alternatif.action?l=eng&loc=http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11614-eng.pdf&t=Criminal%20victimization%20in%20the%20territories,%202009), First Nations, Métis and Inuit Women: <http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.pdf>, Violent Victimization of Aboriginal Women in the Canadian Provinces, 2009: <http://www.statcan.gc.ca/pub/85-002-x/2011001/article/11439-eng.htm>.

The Missing Women Working Group of the Federal/Provincial/Territorial (FPT) Coordinating Committee of Senior Officials on Criminal Justice has recommended the development of guidelines for police officers to help ensure that they continue to share information with the families of missing or murdered Indigenous women throughout their work on these cases<sup>70</sup>. It is unclear whether these guidelines have been prepared, as they are not publicly available at this time.

### 3. *Information sharing between police departments*

Several reports recommended increased sharing of information between police departments. However, there is little to no information available publicly about whether internal police guidelines have been reviewed to ensure increased cooperation and information sharing between departments. The 2014 RMCP National Operational Overview states that their internal database (assembled for their report) will continue to be updated as more cases are discovered and reported. This RCMP national database may be useful for inter-jurisdictional cooperation between police departments, however, their review does not explicitly address this potential.

The federal government's Action Plan includes a commitment to institute a DNA-based missing persons database. The DNA-based database will allow police forces and coroners to submit DNA samples from unidentified remains as well as the personal effects of missing individuals. These samples would subsequently be compared with DNA contained in the National DNA Data Bank. The Plan asserts this database "will help bring closure to the families of missing persons through DNA matching"<sup>71</sup>.

In 2011, the federal government established the National Centre for Missing Persons and Unidentified Remains. It provides law enforcement, medical examiners and chief coroners with specialized investigative services in cases of missing persons and unidentified remains<sup>72</sup>. The Centre assists investigations being conducted in different jurisdictions via inter-jurisdictional databases and the provision of investigational advice<sup>73</sup>.

### 4. *Indigenous peoples' and organizations' involvement in data collection and dissemination*

As mentioned above in theme 4 *Properly resourced, Indigenous-specific, programs and services* the federal government's recent funding cuts to Indigenous-specific services has impacted data collection and dissemination. An example of this, given above, is the First Nations Statistical Institute.

Statistics Canada had also undertaken several initiatives to support and promote the development of statistical capacity among Indigenous communities. The Aboriginal Statistic Training Program was instituted as part of the federal government's response to the Royal Commission on Aboriginal Peoples. The initiative included a series of training workshops for Indigenous organizations (at no cost) to assist them in being able to use statistics to "support their organization's decision-making, planning, programming, evaluation, and related activities", workshops also assisted with the organization and use of

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<sup>70</sup> Coordinating Committee of Senior Officials Missing Women Working Group, "Report: Issues Related to the High Number of Murdered and Missing Women in Canada", September 2010, online: [http://www.scics.gc.ca/CMFiles/830992005\\_e1MAJ-2112011-6827.pdf](http://www.scics.gc.ca/CMFiles/830992005_e1MAJ-2112011-6827.pdf)

<sup>71</sup> Action Plan at 13.

<sup>72</sup> Action Plan at 11.

<sup>73</sup> Government of Canada, "Canada's Missing: About Us", online: <http://www.canadasmising.ca/about-ausujet/index-eng.htm>

Indigenous data as well as how to collect persuasive data<sup>74</sup>. However, this program was terminated in 2012 by the federal government<sup>75</sup>.

In 2006, Statistics Canada started the Aboriginal Community Data Initiative<sup>76</sup>. This was meant to provide Indigenous communities with data that would help them understand their demographics and those of the larger communities in which they are situated. The initiative was supported by the (then) Ministry of Indian Affairs and Northern Development, as well as the various provincial Ministries and agencies that helped support the preparation of reports on data for local communities. The program provided data from the 2006 census reports. This initiative does not appear to have been renewed in subsequent years.

For many years, individuals citizens and several community groups have sought to address the lack of disaggregated data concerning missing and murdered Indigenous women. These efforts led to the development of non-profit and citizen-managed databases and resource centres providing free information to the public concerning missing and murdered Indigenous women<sup>77</sup>. In 2014, Maryanne Pearce, a federal civil servant in Ottawa, created a publicly accessible database of missing and murdered Indigenous women as part of her Ph.D. thesis<sup>78</sup>. Also in 2014, No More Silence (a group working to support the efforts of others to stop the murder and disappearances of Indigenous women) partnered with Families of Sisters in Spirit, The Native Youth Sexual Health Network, and Dr. Janet Smylie and Conrad Prince of the Well Living House at the Keenan Research Centre to create a database documenting violent deaths of Indigenous women, two-spirited, and transgender individuals since the 1960s<sup>79</sup>.

## 7. Public information and awareness raising

Fifteen reports, spanning 2005 to 2014, recommend raising awareness and providing information violence against Indigenous women to a number of groups, including in particular the public at large, Indigenous peoples generally and the families and victims of violence. The reports recommend that information and education be provided about the nature and extent of violence against Indigenous women and its root causes, as well as what to do when someone goes missing or experiences violence, and what services are available. This theme also includes recommendations for advocacy campaigns seeking to address violence against Indigenous women.

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<sup>74</sup> Statistics Canada, “Workshops” online: <http://www.statcan.gc.ca/cgi-bin/workshop/wst2.cgi?workshop=24>

<sup>75</sup> Statistics Canada, “Program Adjustments to Meet Budgetary Savings Target in Fiscal Years 2013-4 to 2014-5”, online: [http://www.statcan.gc.ca/about-apercu/smr09/smr09\\_039a-eng.htm](http://www.statcan.gc.ca/about-apercu/smr09/smr09_039a-eng.htm)

<sup>76</sup> British Columbia Statistics, “Aboriginal Community Data Initiative” <http://www.bcstats.gov.bc.ca/StatisticsBySubject/AboriginalPeoples/AboriginalReports.aspx>

<sup>77</sup> Recently, the Canadian Resource Centre for Victims of Crime, and Ontario’s Missing Adults (two non-profit groups) collaborated to develop an online resource for those with missing loved ones. This partnership created the Canadian Centre for Information on Missing adults which has information specifically for Indigenous people: Missing Persons Information, online: <http://missingpersonsinformation.ca/what-we-do/>.

<sup>78</sup> Kelly Malone, “New public database says 824 murdered, missing Indigenous women in Canada”, *Saskatoon News*, January 29, 2014, online: <http://ckom.com/story/new-public-database-says-824-murdered-missing-indigenous-women-canada/237958>.

<sup>79</sup> No More Silence, “Community Database Data entry has begun!”, January 2, 2014, online: <http://nomoresilence-nomoresilence.blogspot.ca/2014/01/community-database-data-entry-has-begun.html>

## Implementation

There has been some progress on this issue at both the federal and provincial levels, although there remains much more to be done.

### *Federal*

The Action Plan released by the federal government in September 2014 states that the federal government “is taking action by supporting...projects to break intergenerational cycles of violence and abuse by raising awareness and building healthy relationships (\$25 million over five years)”.<sup>80</sup> According to the Action Plan, the following awareness initiatives will be undertaken:

- Justice Canada will invest in programs “to break intergenerational cycles of violence and abuse by raising awareness and creating tools, activities and resources to build healthy relationships”;
- Status of Women Canada will “work with First Nations, Inuit and Métis communities and stakeholders to denounce and prevent violence against Aboriginal women. Projects will raise awareness through education and related activities to increase understanding about the impacts of violence; engage Aboriginal men and boys to prevent violence; and empower Aboriginal women and girls to speak out about violence and to seek support from service providers and law enforcement official”.<sup>81</sup>

However, there is no information about what these programs will look like.

At present, federal government involvement in education and awareness raising comes primarily through the AANDC’s Family Violence Prevention Program, which administers funding to some shelter operations in each province.<sup>82</sup> Funding to shelters is supposed to cover core shelter services, which may include education and counselling for men, community education and awareness raising for “service providers and general public”.<sup>83</sup> However, according to the 2012 evaluation of the AANDC Family Violence Prevention Program (which appears to be the most recent) shelter operators were often unable to provide education and awareness raising services, or education programs, because of a lack of funding and/or properly trained staff<sup>84</sup>.

The National Aboriginal Circle Against Family Violence also receives funding from AANDC, which it uses, amongst other things, to promote public awareness about “the depth of issues surrounding family violence in Aboriginal communities”<sup>85</sup>. In addition, according to the 2014 RMCP National Operational

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<sup>80</sup> Action Plan, at 1.

<sup>81</sup> Action Plan, at 7.

<sup>82</sup> Aboriginal Affairs and Northern Development Canada, *Evaluation of the Family Violence Prevention Program*, February 2012, part 4.1.2, online: <https://www.aadnc-aandc.gc.ca/eng/1355952957773/1355953186153#mra>

<sup>83</sup> Aboriginal Affairs and Northern Development Canada, *Evaluation of the Family Violence Prevention Program*, February 2012, part 4.1.2, online: <https://www.aadnc-aandc.gc.ca/eng/1355952957773/1355953186153#mra>

<sup>84</sup> Aboriginal Affairs and Northern Development Canada, *Evaluation of the Family Violence Prevention Program*, February 2012, part 4.1.2, online: <https://www.aadnc-aandc.gc.ca/eng/1355952957773/1355953186153#chp4>.

<sup>85</sup> National Aboriginal Circle Against Family Violence, *What we do*, online: <http://www.nacafv.ca>

Overview, the RCMP has a dedicated liaison to the NWAC, who “works collaboratively with NWAC to develop public awareness tools and resources focused on the prevention of violence against women”<sup>86</sup>.

*Provincial level*

At the provincial level, the March 2014 Senate Committee report notes that there are some promising initiatives being developed that raise awareness and educate people about violence against Aboriginal women. The report lists the following as examples of best practice for awareness raising and education:

- Alberta First Nations Regional Board for Family Violence Prevention. This board manages the money received from AANDC Family Violence Prevention Program and has hosted youth gatherings designed to educate youth about preventing violence.
- The Lac La Ronge Indian Child and Family Services Agency in Saskatchewan delivers a program to schools that educates students, teachers, parents and communities about ways to reduce violence and risk behavior. Since the release of the Senate Committee report, Saskatchewan had also its first Missing Persons Week, between 4 and 10 May 2014, to raise awareness of the issue<sup>87</sup>.
- The Naskapi Nation of Kawawachikamach in Quebec offers family violence awareness workshops, as well as training for teachers and parents, and a radio talk show.

The following other promising, provincial level public awareness campaigns were recently discussed at Third National Aboriginal Women’s Summit (NAWS III) on Murdered and Missing Aboriginal Women and Girls in November 2012:<sup>88</sup>

- Highway of Tears Prevention and Awareness Project, which is part of the broader Highway of Tears project committed to implementing the recommendations made in the report of the Highway of Tears Symposium. The project’s current initiative, which is funded from the Civil Forfeiture Office and the Victims Services and Crime Prevention Division of the Ministry of Justice in British Columbia, “includes 14 resources to educate Aboriginal Community members and service providers about the potential dangers along the Highway of Tears corridor. The material covered in the toolkits promotes safety and increase education and awareness in many areas, including: violence against women, personal safety, addiction, community violence as well as specific resources targeted at empowering men to stand up against violence”<sup>89</sup>.
- Kizhaay Anishinaabe Niin : I Am a Kind Man (funded by the Government of Ontario) is an initiative “to engage the men of our communities to speak out against all forms of abuse towards Aboriginal women”, one aspect of which is “[t]o provide education for men to address issues of abuse against women”<sup>90</sup>.

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<sup>86</sup> RCMP, *Missing and Murdered Aboriginal Women: A National Operational Overview*, October 2014, 18. online: <http://www.rcmp-grc.gc.ca/pubs/mmaw-faapd-eng.pdf>

<sup>87</sup> Saskatchewan Association of Chiefs of Police, Saskatchewan Missing Persons, online: <http://www.sacp.ca/missing/>

<sup>88</sup> Canadian Intergovernmental Conference Secretariat, “Provinces, Territories, National Aboriginal Organizations Renew Efforts to End Violence Against Aboriginal Women and Girls”, Press Release, November 2, 2012, online: <http://www.scics.gc.ca/english/conferences.asp?a=viewdocument&id=1901>

<sup>89</sup> Highway of Tears: Preventing Violence Against Women, Current Initiative, online: <http://www.highwayoftears.ca/current-initiative>

<sup>90</sup> Kizhaay Anishinaabe Niin : I Am a Kind Man, online: <http://www.iamakindman.ca/IAKM/>

Other provincial initiatives include:

- Manitoba's Multi-year Domestic Violence Prevention Strategy (Strategy), the Manitoban government supports a variety of public awareness raising initiatives, including (not an exhaustive list):
  - Domestic Violence Prevention Month (November)
  - Family Violence Prevention Program website information
  - Victims services brochures
  - Publications for various minority groups that promote gender equality and healthy relationships (for girls, single parents, women with disabilities and immigrant women; Aboriginal women, men or children are not listed as being targeted)
- It is worth noting that the Strategy is not intended for violence against women specifically, and does not refer to any initiatives specific to Aboriginal peoples.
- However, in 2013, the Aboriginal Men's Anti-Violence Campaign was launched. Its purpose is "is to engage Aboriginal men in taking up the challenge to end violence against Aboriginal women and girls. This campaign is supported by Manitoba's Multi-year Domestic Violence Prevention Strategy and it is being implemented in partnership with Aboriginal community agencies"<sup>91</sup>.
- Nova Scotia's Domestic Violence Action Plan includes a commitment to "[l]aunch campaigns to build awareness and help people address domestic violence"<sup>92</sup>. The campaigns foreshadowed include a workplace initiative, a pilot campaign aimed at neighbours, friends and family and a "communications strategy to make sure Nova Scotians know about existing services and how to access them"<sup>93</sup>.
- The Yukon government has a social marketing campaign to shed light on the ways people knowingly and unknowingly "contribute to a Yukon culture that perpetrates violence against women"<sup>94</sup>. While the campaign does not make specific mention of Indigenous women, some phases of the program appear to have been developed with First Nations representatives.

## **8. Transport services and physical access to housing, including safe houses and/or shelters**

Twelve reports, spanning 2002 to 2013, discuss the challenges of ensuring the safety of Aboriginal women and girls when they live in remote locations and are therefore unable to access safe transport and accommodation, if necessary. These reports recommend that safe transport options be increased (especially

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<sup>91</sup> Aboriginal Men's Anti-Violence Campaign, online: <http://www.gov.mb.ca/stoptheviolence/amavc.html>; see also, Government of Manitoba, "Province Partners with Community to Launch New Aboriginal Men's Anti-Violence Campaign", News Release, April 10, 2013, online: <http://news.gov.mb.ca/news/index.html?item=17171>

<sup>92</sup> Government of Nova Scotia, *Domestic Violence Action Plan*, (undated) online: <http://www.novascotia.ca/news/smr/2010-12-03-domestic-violence-plan/media/Domestic-Violence-Action-Plan.pdf>

<sup>93</sup> Government of Nova Scotia, *Domestic Violence Action Plan*, (undated), at 8 online: <http://www.novascotia.ca/news/smr/2010-12-03-domestic-violence-plan/media/Domestic-Violence-Action-Plan.pdf>

<sup>94</sup> Government of Yukon, "Violence Prevention, I am the Solution social marketing program", online: [http://www.womensdirector.gov.yk.ca/violence\\_prevention.html](http://www.womensdirector.gov.yk.ca/violence_prevention.html)

along Highway 16 in British Columbia) and that Aboriginal women have readily accessible and safe access to crisis accommodation:

### Implementation

This issue appears most pressing in British Columbia, along the Highway of Tears. According to the British Columbia government's Final Status Update Report in Response to: Forsaken - The Report of the Missing Women Commission of Inquiry, the provincial government has consulted with leaders and organisations from communities along Highway 16 to "determine how best to address the need for safe and reliable transportation".<sup>95</sup> However, there is no indication in the Final Status Update that transportation services have been improved.

Media reports from early to mid-2014 are more critical, alleging that the British Columbia government has done virtually nothing with respect to transport, and that in some cases, transportation services have been cut.<sup>96</sup> Moreover, media reporting on the issue notes that poverty, more than the availability of transport, is a key factor in the risk faced by Aboriginal women being at risk of violence – women are unable to afford tickets for transport.<sup>97</sup> And no shuttle system has ever been established, in accordance with the first recommendation of the Oppal report.

With respect to northern communities in Labrador – another location about which recommendations were made on this issue - there is no direct mention of improving transport services and accessibility to safe houses on websites of any of the police agencies, or in the six year plan of the Women's Policy Office with respect to its Violence Prevention Initiative.

## **9. Community based first response measures, including search and rescue**

Five reports, spanning 2002 to 2012, recommend that measures to ensure coordinated and adequate search and rescue resources are available in communities, or if not available in communities, are provided by the government. These recommendations have been separated out from recommendations directed towards police forces, because they invoke a more community based response.

### Implementation

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<sup>95</sup> British Columbia Ministry of Justice, A Final Status Update Report in Response to: Forsaken - The Report of the Missing Women Commission of Inquiry, December 2014, at 16, online:

[http://www.ag.gov.bc.ca/public\\_inquiries/docs/MWCI\\_Report\\_2014.pdf](http://www.ag.gov.bc.ca/public_inquiries/docs/MWCI_Report_2014.pdf)

<sup>96</sup> "Northern bus route cuts conflict with Missing Women recommendations" CBC News, January 18, 2013, online: <http://www.cbc.ca/news/canada/british-columbia/northern-bus-route-cuts-conflict-with-missing-women-recommendations-1.1370201>

<sup>97</sup> Mark Hume, "The longer B.C. fails to act on missing women recommendations, the more lives are put at risk", *The Globe and Mail*, June 2, 2014, online: <http://www.theglobeandmail.com/news/british-columbia/failure-to-act-on-report-puts-lives-at-risk/article18941348/>

There was very little information available with respect to the implementation of recommendations under this theme.

Provincial and municipal search and rescue organisations generally rely on volunteers to conduct their operations. It is unclear from a review of provincial search and rescue websites whether actions have been taken to respond to calls for improved search and response capacity. It is also unclear whether any further coordination of inter-jurisdictional search and rescue efforts has occurred in response to these recommendations.

## 10. Aboriginal women working in the survival sex industry

Four reports, spanning 2004 - 2012, recommend that measures be implemented that enhance the safety and protect the fundamental rights of Aboriginal women in the sex industry.

### Implementation

Over the course of the last year, there has been considerable legal debate concerning the best ways in which Canadian law could help protect women engaged in survival sex work. Because Indigenous women are overrepresented amongst those engaging in this work<sup>98</sup>, recent legal developments in this area have significant impacts on their wellbeing.

In 2013, the Supreme Court (in a unanimous decision) struck down several sections of the *Criminal Code of Canada* pertaining to prostitution (while sex work itself was not illegal, the following were offences under the *Code*: the operation of fixed indoor locations for offering sexual services, living off the avails of prostitution, and communication for the purpose of prostitution). The Supreme Court found that these sections were inconsistent with the *Charter of Rights and Freedoms* (the *Charter*). The Court gave the federal government one year to resolve the inconsistencies<sup>99</sup>.

The reactions to this decision from Indigenous organizations have been mixed<sup>100</sup>. Some groups expressed satisfaction with the judgment on the grounds that it sought to destigmatize sex work, which may result in less marginalization of, and better safeguards for, Indigenous women engaged in this work. Others were not as optimistic, believing that the judgment would “compound the social inequality that compels more aboriginal women to enter the sex trade”<sup>101</sup>.

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<sup>98</sup> Katie Scrim, “Aboriginal Victimization in Canada: A Summary of the Literature” Department of Justice, Government of Canada website, online: <http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd3-rr3/p3.html>

<sup>99</sup> *Canada (Attorney General) v Bedford*, 2013 SCC 72, online: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13389/index.do>

<sup>100</sup> Jessica Barrett, “Groups divided over whether landmark prostitution ruling will help First Nation sex workers”, O Canada, December 20, 2013, online: <http://o.canada.com/news/national/groups-divided-over-whether-landmark-prostitution-ruling-will-help-first-nations-sex-workers>

<sup>101</sup> *Ibid.*

This past summer, the government introduced Bill C-36, which contains a series of legislative amendments aimed at discouraging prostitution. The Bill passed its third reading in the Senate on November 4, 2014<sup>102</sup>. Again, reactions to the bill were mixed, with some Indigenous organizations expressing concern over the failure of the new laws to comply with Gladue principles or the *Charter*<sup>103</sup>. Other organizations have expressed support for certain aspects of these new measures<sup>104</sup>.

Several reports' recommendations have discussed the importance of ensuring that Indigenous women have access to specific services that would better protect them despite the risks a harm-reduction. Over the past few years, the Sister Watch Table and the Sister Watch Program have been established in Vancouver to provide resources for Indigenous women engaged in survival sex work. The program has been developed, and is currently provided by the Vancouver Police Department, in partnership with the Aboriginal Front Door Society. It seeks to provide "collaborative strategies to address safety issues" for "at-risk" Indigenous women and youth<sup>105</sup>. The program also tries to ensure Indigenous women engaged in survival sex work will have access to support services that include counselling and referrals for treatment<sup>106</sup>. The extent to which similar programs are being implemented in other jurisdictions is unclear.

## **11. Measures to improve relationships between police and Indigenous individuals and communities**

Twenty-one reports, spanning 2001 to 2015, call for improved relationships between police and Indigenous individuals and communities. Reports variously recommend that police receive cultural sensitivity training with the inclusion of educational programming that address root causes for violence against Indigenous women and best methods to help prevent and stop this violence. Other reports stress the importance of constructive dialogues between police departments and local Indigenous communities and organizations.

### Implementation

#### *Federal*

At the federal level, the RCMP's National Operational Overview does not explicitly acknowledge the need to improve relations between the RCMP and Aboriginal communities, nor does it acknowledge the need for police to have better attitudes towards Aboriginal people. However, the RCMP's 2014-2015 Report on

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<sup>102</sup> Second Session, Forty-first Parliament, 62-63 Elizabeth II, 2013-2014, Statutes of Canada, Chapter 25, online: <http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Bill&Doc=C-36>

<sup>103</sup> Ms. Christa Big Canoe (Legal Advocacy Director, Aboriginal Legal Services of Toronto) at the Justice and Human Rights Committee, July 10, 2014, online: <http://openparliament.ca/committees/justice/41-2/41/christa-big-canoe-1/only/>

<sup>104</sup> House of Commons Committees, Standing Committee on Justice and Human Rights, July 8, 2014, online: <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=6685646&Language=E&Mode=1>

<sup>105</sup> Vancouver Aboriginal Community Policing Centre Society, Programs and Services, online: <http://vacpc.org/programs/>

<sup>106</sup> Vancouver Aboriginal Community Policing Centre Society, Programs and Services, online: <http://vacpc.org/programs/>

Plans and Priorities states that “Throughout the year, the RCMP will offer cultural awareness and sensitivity training for frontline RCMP officers and employees. These developmental initiatives will emphasize Aboriginal culture, spirituality and perceptions of law and justice”<sup>107</sup>.

In addition, the Federal/Provincial/Territorial Ministers Responsible for Justice and Public Safety created a working Draft Justice Framework to Address Violence Against Aboriginal Women and Girls to inform their discussions with various Aboriginal stakeholders.<sup>108</sup> The draft recommendations generally call for more cooperation and collaboration between Aboriginal peoples, agencies, police departments, and provincial, territorial, and federal governments, in order to address violence against Aboriginal women<sup>109</sup>. There is also a specific recommendation directed towards “Improving the relationship between justice sector professionals (including police), and Aboriginal people”<sup>110</sup>. However, the framework remains a draft, and has not been adopted.

At a more general level, some measure of engagement between Indigenous communities and Canadian police forces occurs through the First Nations Policing Program (FNPP), which is administered by Public Safety Canada. The FNPP is delivered through agreements between the federal government, provincial or territorial governments, and Indigenous communities, in which First Nations’ communities manage their own policing, or existing police forces (usually the RCMP) police First Nations’ communities. According to Public Safety Canada’s review of the FNPP, the program is intended to “contribute to the improvement of social order, public security and personal safety in First Nation communities, including that of women, children and other vulnerable groups”<sup>111</sup>. However, measured against this objective, the FNPP has not been a success. A report outlining the results of community engagement sessions conducted in spring 2010 as part of Public Safety Canada’s Comprehensive Review of the First Nations Policing Program reported that:

Participants highlighted the need for increased trust between the First Nation communities and their police service providers...It was also noted that there was lingering resentment around how the cases of missing First Nation women was being handled by the police and the perception around how these cases would have been handled differently if they involved non-First Nation women<sup>112</sup>.

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<sup>107</sup> RCMP, 2014-15 Report on Plans and Priorities, at 15 online: <http://www.rcmp-grc.gc.ca/rpp/2014-2015/2014-eng.pdf>.

<sup>108</sup> Federal, Provincial and Territory Ministers Responsible for Justice and Public Safety, *Draft Justice Framework to Address Violence Against Aboriginal Women and Girls*, November 2013, online: <http://www.justice.gov.sk.ca/draft-justice-framework-aboriginal-justice-violence-against-aboriginal-women-girls>

<sup>109</sup> Federal, Provincial and Territory Ministers Responsible for Justice and Public Safety, *Draft Justice Framework to Address Violence Against Aboriginal Women and Girls*, November 2013, online: <http://www.justice.gov.sk.ca/draft-justice-framework-aboriginal-justice-violence-against-aboriginal-women-girls>

<sup>110</sup> Federal, Provincial and Territory Ministers Responsible for Justice and Public Safety, *Draft Justice Framework to Address Violence Against Aboriginal Women and Girls*, November 2013, at 9, online: <http://www.justice.gov.sk.ca/draft-justice-framework-aboriginal-justice-violence-against-aboriginal-women-girls>.

<sup>111</sup> Public Safety Canada, 2009-2010 Evaluation of First Nations Policing Program, September 2010, at 8, online: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/vltn-frst-ntns-plcng-2009-10/index-eng.aspx>

<sup>112</sup> Public Safety Canada, *Comprehensive Review of the First Nations Policing Program: National Report from the Community Engagement Sessions*, 2010, at 17.

In addition to these observations, the report on the community engagement sessions shows that FNPP are not adequately funded, or trained, and entirely unable to administer community policing initiatives beyond responding reactively to the perpetration of crimes. The lack of victims' services in communities was mentioned repeatedly throughout the community consultation report<sup>113</sup>.

Things have become worse since the 2010 community consultations. Evidence given at the House of Commons Committee on Violence Against Indigenous Women emphasized the absence of an adequate or reliable police presence in Indigenous communities. Without a police presence, or proper funding, it seems impossible for police forces to build trust with Indigenous peoples. However, rather than increase funding, the last twelve months, the federal government has sought to end the funding arrangements in place under the FNPP. Moreover, in May 2014, the Auditor General's report on the FNPP condemned it for providing lower quality policing services to those provided to off-reserve Canadians.

#### *Provincial level*

In British Columbia, efforts to address the issue of bias in police investigation and a lack of understanding or cultural sensitivity with respect to the causes of violence against Aboriginal women are still 'in progress'. The British Columbia government, makes the following commitment in its White Paper on Justice Reform (Part Two): "Government will ensure the development and delivery of cultural awareness and sensitivity training for police officers in the province, particularly related to the cultural implications of violence against women in a range of settings including family violence, childhood sexual exploitation, and violence against women in the sex trade"<sup>114</sup>. This commitment is an explicit response to the recommendations of the Oppal Commission report.

Similarly, in its Final Status Update Report in Response to Forsake - The Report of the Missing Women Commission of Inquiry, Report on the implementation of the Oppal Commission report, the British Columbia government states that it is in the progress of putting in place: implementing the following recommendations:

- "Justice-specific Indigenous Cultural Competency Training".
- Integrating "cultural competency and bias free policing training' into police training curricula. examining police policies and practices to ensure equitable treatment and bias-free policing.
- "Mechanisms to support bias-free policies and practices"<sup>115</sup>
- determining gaps in current training of police officers, and where they exist, ensuring the development of cultural awareness and sensitivity training for officers
- building on "the established learning strategy" and reviewing present training and best practices.

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<sup>113</sup> Public Safety Canada, *Comprehensive Review of the First Nations Policing Program: National Report from the Community Engagement Sessions*, 2010, at 52-53..

<sup>114</sup> British Columbia Ministry of Justice, *White Paper on Justice Report, Part 2: A Timely Balance Justice System*, February 2013, at 19, online: <http://www.ag.gov.bc.ca/public/WhitePaperTwo.pdf>.

<sup>115</sup> British Columbia Ministry of Justice, *A Final Status Update Report in Response to Forsaken - The Report of the Missing Women Commission of Inquiry*, December 2014, at 9-10, online: [http://www.ag.gov.bc.ca/public\\_inquiries/](http://www.ag.gov.bc.ca/public_inquiries/)

Alberta's Victim Services Unit currently working on 2-year federally funded initiative to examine better responses to violence against Aboriginal women<sup>116</sup>.

The Aboriginal Women's Council of Saskatchewan has launched (along with Child Find Saskatchewan, the Prince Albert City Police, and the RCMP) the "Woman Find Project". This project involves the development of identification kits as part of a database to help police locate and identify missing women. This is an example of cooperation between Aboriginal groups and the police on this issue.

In Manitoba, the Police Chief has met with eighteen communities since 2012, and the Winnipeg Police Service has committed to 'improv[ing] cultural awareness training' for police officers, after such action was recommended by the Winnipeg Police Board.<sup>117</sup>

Beyond the measures outlined above, it is very difficult to gather information on the extent to which Canadian police forces are working to improve their relationships with Aboriginal communities, and/or taking steps to eliminate racist and sexist attitudes in the police force. While there may be more initiatives taking place than those identified in this review, very little information is publicly available.

#### *Aboriginal liaison offices*

Several reports referred to difficult relationships between Indigenous communities and local police departments. These reports stressed the need for more meaningful and frequent communication between the police and communities and between police and the family and friends of missing Indigenous women, as well as more sensitive and responsive local policing.

The RCMP created a two-year pilot project in 2010 called the Community Constable (CC) Program. This program recruited individuals from Indigenous communities and provided specific training for them to become armed and uniformed Special Constables. These Special Constables returned to their communities once their training was complete to support the work being done by general duty constables. The CC Programs meant to facilitate policing that was more responsive to the concerns and cultures of specific communities. The pilot project has been extended to 2015, and at the time of writing there are two Special Constables in Thompson, one in Gypsumville, and one at Nisichawayasihk<sup>118</sup>.

Another way Police Departments have been addressing this issues is by establishing Aboriginal liaison offices. We conducted a preliminary review of local Aboriginal liaison offices within police departments across the country. The following is a summary of our findings.

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<sup>116</sup> Alberta Department of Justice and Solicitor General, Missing Persons, online:

[http://www.solgps.alberta.ca/programs\\_and\\_services/victim\\_services/Pages/MissingPersons.aspx](http://www.solgps.alberta.ca/programs_and_services/victim_services/Pages/MissingPersons.aspx)

<sup>117</sup> "Winnipeg police to make missing, murdered women cases a priority", *CBC News*, December 5, 2014; see also "Winnipeg police chief meets with aboriginal community members", *CBC News*, September 9, 2014, online:

<http://www.cbc.ca/news/canada/manitoba/winnipeg-police-chief-meets-with-aboriginal-community-members-1.2761517>

<sup>118</sup> Public Safety Canada, *Community Constable (CC) Program (Synopsis)*, March 5, 2014, online <https://www.publicsafety.gc.ca/cnt/cntrng-crm/plcng/cnmcs-plcng/ndx/snpss-eng.aspx?n=97>

Vancouver has a Diversity and Aboriginal Policing Section (DAPS). The section comprises an inspector, sergeant, hate crimes investigator, two constables, a program planner, and administrative assistant, out of the approximately 1,125 police officers in Vancouver<sup>119</sup>. Further, DAPS' services are not specific to Indigenous women. This section is responsible for addressing specific and distinct needs of cultural, economic, ethnic, sexual, racial, and other marginalized populations<sup>120</sup>.

In 2009, the VPS partnered with the Vancouver Aboriginal Friendship Centre on an "aboriginal Awareness Program to teach VPD members and city employees about systemic issues facing the urban Indigenous community. As of 2007, the VPD and British Columbia Aboriginal Workforce Strategy have partnered to create the Aboriginal Cadet Program, which seeks to mentor Indigenous youth (19-29) who have demonstrated an interest in joining the VPD<sup>121</sup>. The VPD also has an Aboriginal Liaison Officer who works with the Aboriginal Policing Centre Society (VACPCS) on building relationships between the police department and urban Indigenous individuals and community organizations.

The VACPCS is non-profit organization governed by an Indigenous Board of Directors. It was developed as "a community based storefront where community members can gather to identify, discuss, and address justice and safety issues in Vancouver". It also "provides an avenue to engage and support Aboriginal people to better understand and utilize the services of the VPD", and build a "healthier relationship" between the community and VPD<sup>122</sup>. There are 15 VACPCS services, made possible by collaborations between the VPD and various community groups. Two programs specifically address murdered and missing women in Vancouver: 1) the Sister Watch program provides counselling, referrals for treatment, cultural interventions, exiting strategies for "at-risk" Indigenous women, including those involved in the survival sex trade, and 2) the Na'tsa'mat 15 month healing project providing direct assistance and support to youth and adult family members of missing or murdered Indigenous women<sup>123</sup>.

Toronto's Police Department established a Chief's Native Liaison position in 1989, and an Aboriginal Peacekeeping Unit (APU) in 1992. The APU is responsible for ameliorating the relationship between Toronto police and Indigenous communities, as well as increasing community access to access to policing services. The Unit does outreach to inform communities about police services and how they can be accessed, it also informs police officers about Indigenous peoples' customs, traditions, values, history, and modes of behaviour<sup>124</sup>. Toronto's Police service also has an Aboriginal Community Consultative Committee<sup>125</sup>.

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<sup>119</sup> as of 2003, [http://www.llbc.leg.bc.ca/public/pubdocs/bcdocs/196533/1994-2003/foreword\\_introduction.pdf](http://www.llbc.leg.bc.ca/public/pubdocs/bcdocs/196533/1994-2003/foreword_introduction.pdf)

<sup>120</sup> Vancouver Police Department, *Diversity & Aboriginal Policing Sections (DAPS)*, online: <http://vancouver.ca/police/organization/public-affairs/diversity-aboriginal-policing/>

<sup>121</sup> Vancouver Police Department, *Aboriginal Cadet Program*, online: <http://vancouver.ca/police/recruiting/aboriginal-cadet-program.html>

<sup>122</sup> Vancouver Aboriginal Community Policing Centre Society, online: <http://vacpc.org/>

<sup>123</sup> Vancouver Aboriginal Community Policing Centre Society, *Programs*, online: <http://vacpc.org/programs/>

<sup>124</sup> Toronto Police Service, *Aboriginal Police Keeping Unit*, online: <http://www.torontopolice.on.ca/community/aboriginal.php>

<sup>125</sup> Toronto Police Service, *Community Consultative Process*, online: <http://www.torontopolice.on.ca/community/ccp.php>

Apart from Vancouver and Toronto, other municipal police departments rarely have more than two Aboriginal Liaison officers servicing the needs of the whole city. None of these liaison positions make any specific note of the needs of Indigenous women, specifically or the needs of family and friends of missing Indigenous women. Most Canadian Urban centres, including Thunder Bay<sup>126</sup>, Winnipeg<sup>127</sup>, Calgary<sup>128</sup>, Saskatoon<sup>129</sup>, and others have between one and two Aboriginal Liaison Officers responsible to facilitating better relationships between Indigenous individuals and communities and their respective police departments. By contrast, the Australian state of Victoria, has 98 Aboriginal Liaison officers<sup>130</sup>. There are also several Canadian provincial capitals that appear to have no Aboriginal Liaison positions.

## 12. Investigation and prosecution

Fifteen reports, spanning 2004 to 2015, analysed the adequacy of police investigations of missing or murdered Aboriginal women. Recommendations were generally able to be grouped into three broad sub-themes:

1. Investigations: the need to dedicate specialised and adequate resources to these investigations, develop standardized protocols that properly took into account the particular circumstances of Aboriginal women and girls, and ensuring better coordination between provinces or different police forces so that information about missing persons cases ‘did not fall through the cracks’. (The underlying theme in some cases was that because of sexism and racism, police do not prioritize the investigation of missing Aboriginal women and girls.)
2. Prosecutions: the need to ensure that Aboriginal witnesses are treated fairly by the justice system and do not experience further discrimination in the conduct of their case.
3. the need for adequate oversight of police practices to ensure that policing is not discriminatory, and that police do not themselves commit violence against Aboriginal women

### 1. Implementation - investigation

#### *Federal*

Federally, the 2014 RCMP Overview of Operations notes that the RCMP has “dedicated resources” to establishing a National Missing Persons Strategy, which includes the provision of guidance and supervision (presumably to the provinces) on missing persons investigations, an updating of the RCMP National Missing Persons Policy, the initiation and mandatory completion of a national missing persons

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<sup>126</sup> Shawn Bell, “Thunder Bay police revamping Aboriginal Liaison Unit”, *Wawatay News online*, February 14, 2013, online: [http://www.wawataynews.ca/archive/all/2013/2/14/thunder-bay-police-revamping-aboriginal-liaison-unit\\_24118](http://www.wawataynews.ca/archive/all/2013/2/14/thunder-bay-police-revamping-aboriginal-liaison-unit_24118)

<sup>127</sup> Government of Winnipeg, *Aboriginal Liaison Officer Winnipeg Police Service*, January 31, 2015, online: <http://www.winnipeg.ca/interhom/guide/map/LiaisonOfficer.stm>

<sup>128</sup> Calgary Police Service, *Aboriginal Community*, online: <http://www.calgary.ca/cps/Pages/Community-programs-and-resources/Diversity-resources/Aboriginal-community.aspx>

<sup>129</sup> Craig Nyirfa, *Saskatoon Police Service Aboriginal Police Liaison Report, A Profile of Aboriginal relations*, February 29, 2012, online: <http://crr.ca/en/library-a-clearinghouse/bibliographic-search-2/11-aboriginal-peoples/21129-saskatoon-police-service-aboriginal-liaison-report-a-profile-of-aboriginal-relations?view=item>

<sup>130</sup> Victoria Police, *Aboriginal Police and Research Unit*, December 23, 2013, online: [http://www.police.vic.gov.au/content.asp?Document\\_ID=287](http://www.police.vic.gov.au/content.asp?Document_ID=287)

intake form, and the implementation of a mandatory national risk assessment tool as an investigative aid. However, this initiative is not specific to the issue of missing and murdered Indigenous women.

In addition, the National Centre for Missing Persons and Unidentified Remains has been established (NCMPUR).<sup>131</sup> According to the NCMPUR's website, the centre's establishment is part of the government's efforts to respond to the issue of missing Aboriginal women and girls. The NCMPUR provides 'enhanced services' including data sharing, analytical support, liaison and coordination and works on investigative best practices'.<sup>132</sup> The NCMPUR does not provide services specifically with respect to the investigation of missing Aboriginal women. (A key aspect of this NCMPUR is its operation of a national database - see recommendation theme 9 *Data gathering and publication*).

### *Provincial*

In British Columbia, some steps have been taken to improve police investigations, in response to recommendations made in the British Columbia Missing Women Commission of Inquiry, although more needs to be done. limited or no progress has been made on with respect to this issue. The Final Status Update Report in Response to Forsaken - The Report of the Missing Women Commission of Inquiry outlines the following 'Enhanced Investigative Tools':

- Real Time Intelligence Centre "that will ensure that information will be shared more readily and will enhance the ability of police to investigate all crimes, including those of missing persons"; and
- the *Missing Persons Act*, which is not yet in force, is intended to facilitate police access to records such as bank statements and texts or cell phone messages, for example.<sup>133</sup>

The Final Status Update also describes as underway the review of police structure and funding to "explore ways to build on the regional delivery of specialized services", the development of provincial policing standards.<sup>134</sup> It is unclear what exactly these projects involve, or when they will be completed. However, the British Columbia government's White Paper on Justice Reform (Part Two) notes that, in response to Commissioner Oppal's conclusion that fragmented policing and ineffective coordination contributed to the failure of investigations into missing women, the BC government is working with 'key stakeholders' to develop a comprehensive project by 2015 that will clarify policing responsibilities between the federal, provincial and municipal police forces and review current models of 'service delivery'.<sup>135</sup> Missing Persons Act - gives police greater power to access records and "give police the power

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<sup>131</sup> Government of Canada, *Canada's Missing*, online: <http://www.canadasmising.ca/index-eng.htm>

<sup>132</sup> RCMP, National Centre for Missing Persons and Unidentified Remains Privacy Impact Assessment, online: <http://www.rcmp-grc.gc.ca/pia-efvp/ncmpur-cnpdmr-eng.htm>

<sup>133</sup> British Columbia Ministry of Justice, *A Final Status Update Report in Response to Forsaken - The Report of the Missing Women and Murdered Commission of Inquiry*, December 2014, at 12, online: [http://www.ag.gov.bc.ca/public\\_inquiries/](http://www.ag.gov.bc.ca/public_inquiries/); see also Government of Canada, *Canada's Missing*, online: <http://www.canadasmising.ca/index-eng.htm>

<sup>134</sup> British Columbia Ministry of Justice, *A Final Status Update Report in Response to Forsaken - The Report of the Missing Women Commission of Inquiry*, December 2014, at 9-10, online: [http://www.ag.gov.bc.ca/public\\_inquiries/](http://www.ag.gov.bc.ca/public_inquiries/)

<sup>135</sup> British Columbia Ministry for Justice, *White Paper on Justice Reform, Part 2: A Timely Balance Justice System*, February 2013, at 16-17, online: <http://www.ag.gov.bc.ca/public/WhitePaperTwo.pdf>.

to demand records like bank statements, cell phone texts and messages, hotel guest books or anything else they feel could help find a vulnerable person”.<sup>136</sup>

Outside of British Columbia, regional taskforces have been established in Alberta and Manitoba. In Alberta, Project KARE was established in 2002 as an RCMP investigation unit dedicated to the investigation of high risk missing persons. Specific mention is not made of Aboriginal women – rather, the project was established to respond to the high number of missing and murdered women in Edmonton, any of whom were involved in street based sex work. A key aspect of the project’s work involves registering sex workers, and taking details about their personal information, including a photograph, to use in the event they go missing.<sup>137</sup> It is worth noting that Project KARE was not established in response to report recommendations.

In Manitoba, the Manitoba Taskforce for Missing and Murdered women was established in 2009 to review open missing persons cases, where foul play is suspected, or that involve exploited or at risk persons, and to make recommendations about their future investigation. In 2011, the Taskforce handed over to Project DEVOTE, which will investigate these cases.<sup>138</sup>

Ultimately, evidence gathered by the House of Commons Committee on Violence Against Indigenous in March 2014 suggests that initiatives that are underway are not working. The Committee repeatedly heard “heard credible and very moving accounts from victims’ families, women and stakeholders” that police consistently failed to take seriously investigations involving violence against Aboriginal women, failing to act promptly after reports were made about missing women, even potentially missing useful evidence.<sup>139</sup>

## 2. Implementation - prosecution

With respect to prosecution, initiatives are underway in British Columbia and federally, although they are by no means implemented.

### *Federal*

At a federal level, the Victims’ Bill of Rights has been touted as a way to ensure victims, including Indigenous women and their families, are treated with respect, kept informed, remain protected throughout criminal proceedings, and given access to restitution.<sup>140</sup> While the Victims’ Bill of Rights is not designed to respond directly to vulnerable Aboriginal victims, the March 2014 Senate Committee Report

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<sup>136</sup> <http://www.cbc.ca/news/canada/british-columbia/missing-persons-act-would-allow-more-searches-by-police-1.2537380>

<sup>137</sup> “KARE proactive team working at registering Edmonton streetwalkers”, *Metro News*, January 20, 2014, online: <http://metronews.ca/news/edmonton/915744/kare-proactive-team-working-at-registering-edmonton-streetwalkers/>; RCMP, KARE, online: <http://www.kare.ca/>

<sup>138</sup> “Manitoba taskforce examines 28 homicide and missing cases”, *CBC News*, July 13, 2012, online: <http://www.cbc.ca/news/canada/manitoba/manitoba-task-force-examines-28-homicide-and-missing-cases-1.1234265>; RCMP, “Next Phase for Manitoba Integrate Taskforce For Missing and Murdered Women”, News Release, May 27, 2011, online <http://www.rcmp-grc.gc.ca/mb/news-nouvelles/2011/2011-05-27-devote-eng.htm>

<sup>139</sup> House of Commons Special Committee on Violence Against Indigenous Women, *Invisible Women: A Call to Action*, a Report on Missing and Murdered Indigenous Women in Canada, March 2014, chapter 4.

<sup>140</sup> Speech by Prime Minister Harper, “Introducing the Canadian Victims Bill of Rights”, April 3, 2014.

recommended the Victims' Bill of Rights as being a way to address this issue. Unfortunately, some Indigenous groups have been left out of the consultation process, suggesting that the Bill may not respond to the particular needs of Indigenous victims in the justice system.<sup>141</sup>

### *Provincial*

In British Columbia, the Final Status Update Report in Response to Forsaken - The Report of the Missing and Women Commission of Inquiry notes that as of April 2013, "540 frontline victim service workers participated in the Indigenous Cultural Competency Core Training". In addition, the British Columbia government has recently put in place a policy a set of guidelines for the supporting vulnerable witnesses involved in the justice system. However, these guidelines have been criticized for not addressing the specific needs of Indigenous women.<sup>142</sup>

According to the website of the Office of the Federal Ombudsman for Victims of Crime, Saskatchewan is the only province other than British Columbia that provides victim services specific to Indigenous people.<sup>143</sup> These services include 'specialized Aboriginal Resource Officers and programs funded primarily for victims of domestic violence and sexual assault'.

### 3. Implementation - oversight

In May 2013, and explicitly in response to an HRW report on the failure of police to protect Aboriginal women and girls in Northern British Columbia, the Commissioner for Public Complaints against the RCMP commenced investigations into the conduct of RCMP officers in British Columbia.<sup>144</sup> This investigation is ongoing. However, it is worth noting that the former Commissioner for Public Complaints (who initiated the investigation into HRW's allegations) criticized the CPC's lack of independence. He has since been replaced by the current commissioner, who has not resolved the investigation.

Moreover, the availability of adequate complaint processes does little to reduce the fears of retaliation that Indigenous women report. In a series of roundtable discussions held between the Canadian Human Rights Commission and Indigenous women, "[o]ne factor that was consistently raised is that many Aboriginal women are often discouraged by the prospect of having to challenge the police, or powerful members of their communities on whom they depend for their livelihoods".<sup>145</sup>

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<sup>141</sup> Pauktuutit, "Pauktuutit Responds to Canada's Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls" News Release, December 4, 2014, online: <http://pauktuutit.ca/news/pauktuutit-responds-to-canadas-action-plan-to-address-family-violence-and-violent-crimes-against-aboriginal-women-and-girls/>

<sup>142</sup> Tamsyn Burgmann, "B.C. implements new vulnerable witness policy years after Robert Pickton inquiry", CBC News, January 6, 2015, online: <http://www.cbc.ca/news/canada/british-columbia/b-c-implements-new-vulnerable-witness-policy-years-after-robert-pickton-inquiry-1.2891987>; see also British Columbia Criminal Justice Branch, "Criminal Justice Branch Implements Vulnerable Victim and Witness Policy", Media Release, January 6, 2015.

<sup>143</sup> Office of the Federal Ombudsman for Victims of Crime, Services by province/territory, online: <http://www.victimsfirst.gc.ca/serv/spt-spt.html>

<sup>144</sup> Civilian Review and Complaints Commission for the RCMP, "Chair-Initiated Complaint and Public Interest Investigation Regarding Policing in Northern British Columbia", May 15, 2013, online: <http://www.crc-cetp.gc.ca/en/chair-initiated-complaint-and-public-interest-investigation-regarding-policing-northern-british>

<sup>145</sup> Canadian Human Rights Commission, 2013 Annual Report, at 4, online: <http://www.chrc-ccdp.gc.ca/eng/report>

### 13. Community-based and restorative justice measures

Six reports, spanning 2001 to 2015, recommend that when Indigenous men are prosecuted for violence against Indigenous women, culturally appropriate alternatives to the mainstream prison system should be explored and developed.

#### Implementation

According to a Department of Justice survey of Gladue Practices across Canada, there are Aboriginal courts in all but three provinces in Canada (the exceptions being New Brunswick, Newfoundland and Labrador, and Prince Edward Island).<sup>146</sup> These courts are supposed to systematically take into account an Aboriginal person's background when making decisions about bail and sentencing, and consider non-custodial sentences in keeping with the decision of the Supreme Court of Canada in *Gladue*. In addition, all those working for these courts (defence lawyers, prosecutors, and judges, etc.) are required to be knowledgeable in programs and services available to Aboriginal people.

While there is variation between the provinces and territories as to the quality of information about alternatives to incarceration, and the availability of such alternatives, it appears that some efforts have been taken with respect to this issue (although such efforts are likely a product of the *Gladue* decision, rather than report recommendations).

More recently, however, the federal government's 'tough on crime' stance has resulted in some significant steps backward for community-based justice and sentencing. A poignant example of this was omnibus Bill C-10, the *Safe Streets and Communities Act*, which passed in 2012. The bill created new criminal offences and limited judicial discretion to determine sentences, requiring minimum prison sentences for certain offences and harsher sentences for youth offenders<sup>147</sup>. The Canadian Civil Liberties Association (CCLA) noted that the changes in Bill C-10 would result in increased incarceration rates amongst Indigenous peoples who are already overrepresented in the criminal justice system<sup>148</sup>. Many of these changes are inconsistent with attempts to avoid custodial sentences in Aboriginal sentencing processes.

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<sup>146</sup> Department of Justice, *Gladue Practices in the Provinces and Territories: Part 6 - Results*, online:

[http://www.justice.gc.ca/eng/rp-pr/csj-sjc/ccs-ajc/rr12\\_11/p2.html#ftn3](http://www.justice.gc.ca/eng/rp-pr/csj-sjc/ccs-ajc/rr12_11/p2.html#ftn3)

<sup>147</sup> Canadian Civil Liberties Association,

*Brief to the House of Commons Standing Committee on Justice and Human Rights regarding Bill C-10*,

October 28, 2011, online: <http://ccla.org/wordpress/wp-content/uploads/2011/10/CCLA-Brief-C101.pdf>; Canadian Civil Liberties Association, *Bill C-10, The Omnibus Crime Bill: Unwise, Unjust, Unconstitutional*, online: <http://ccla.org/omnibus-crime-bill-c-10/>.

<sup>148</sup> Canadian Civil Liberties Association,

*Brief to the House of Commons Standing Committee on Justice and Human Rights regarding Bill C-10*,

October 28, 2011, at 3, 14-15, online: <http://ccla.org/wordpress/wp-content/uploads/2011/10/CCLA-Brief-C101.pdf>.

## 14. Law reform of discriminatory legislation

Five reports, spanning 1996 to 2009, call for a review of existing legislation, with a view to identifying and amending any aspects that have a discriminatory impact on Aboriginal women. The laws that are mentioned include:

1. gender bias in the *Indian Act* and Bill C-31,
2. Section 67 of the Canadian Human Rights Act ,
3. matrimonial property rights on reserve.

### Implementation

While a comprehensive review of legislative amendments has not been possible, some reforms have occurred since the above recommendations were made. Irrespective of the relatively small number of reforms that have been made, there is no evidence of a detailed and systematic review of Canadian laws, to determine which are discriminatory towards Indigenous women and ensure their amendment.

#### *1. Gender Bias in the Indian Act and Bill C-31*

Bill C-31 was introduced in 1985 in an attempt to eliminate gender discrimination in the *Indian Act*. However, in the case of *McIvor v Canada*, the British Columbia Court of Appeal held that despite the amendments, Aboriginal women continued to be discriminated against under the Act with respect to their ability to transmit ‘Indian status’ to their descendants, relative to their male counterparts<sup>149</sup> .<sup>150</sup>

To respond to the British Columbia Court of Appeal decision in *McIvor v Canada*, the Indian Act was amended by Bill C-3, to remove its discriminatory effects between men and women regarding Indian status. Bill C-3 *Gender Equality in the Indian Registration Act* came into effect on 31 January 2011.

However, some discriminatory effects remain. First, the British Columbia Court of Appeal decision on which Bill C-3 is based is only a partial remedy<sup>151</sup>. To address this, Sharon McIvor submitted a communication to the United Nations Human Rights Committee arguing that she is ineligible for full Indian status under the *Indian Act*, and that her ineligibility is solely because she is a woman. As a result of her ineligibility, she is unable to pass her status on to her son<sup>152</sup>. As of the date of writing, the Human Rights Committee has not issued its views with respect to her communication.

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<sup>149</sup> Aboriginal Affairs and Northern Development Canada, *History of McIvor v Canada*, online: <http://www.aadnc-aandc.gc.ca/eng/1100100032433/1100100032434> ; see also *McIvor v Canada*, 2009 BCCA 153, paras 68 - 117.

<sup>150</sup> Application for Leave to Appeal to Supreme Court of Canada (dismissed) <https://www.canlii.org/en/ca/scc-l/doc/2009/2009canlii61383/2009canlii61383.pdf>

<sup>151</sup> See, e.g. Sarah E. Hamill, “McIvor v Canada and the 2010 Amendments to the Indian Act: A Half-Hearted Remedy to Historical Injustice” (2011) 19:2 *Constitutional Forum* 75 at 75.

<sup>152</sup> Sharon McIvor & Jacob Grismer v Canada, Communication Submitted for Consideration Under the First Optional Protocol to the International Covenant on Civil and Political Rights, November 24, 2010, online: <http://povertyandhumanrights.org/wp-content/uploads/2011/08/McIvorApplicantsPetition1.pdf>

Second, the *Indian Act* continues to discriminate against women who do not state the paternity of their children. Specifically, if a woman is registered as a Status Indian under section 6(2) of the *Indian Act* - which applies to individuals entitled to registration because one of their parents is or was entitled to registration under section 6(1) - then unless she states the paternity of the father, AANDC will assume he is not entitled to registration, which renders the child ineligible for Indian Status.<sup>153</sup> Proceedings are currently before the Ontario Supreme Court with respect to this issue.<sup>154</sup>

### 2. *Canadian human rights legislation*

Section 67 of the Canadian Human Rights Act “restrict[ed] the ability of people living or working in communities operating under the *Indian Act* to file complaints of discrimination if the discrimination they are complaining about is related to the *Indian Act*.”<sup>155</sup> On 18 June 2008, Bill C-21, *An Act to Amend the Canadian Human Rights Act*, repealed section 67.<sup>156</sup>

Unfortunately, proceedings currently before the Canadian Human Rights Tribunal risk undermining the gains made by Indigenous peoples when section 67 was repealed. In particular, the First Nations Child and Family Caring Society, the Assembly of First Nations and the Canadian Human Rights Commission, as joint complainants, have alleged that the Aboriginal Affairs and Northern Development Canada (AANDC) have been underfunding child welfare services on reserves and that this amounts to the discriminatory provision of services as prohibited by the Canadian Human Rights Act. In replying to the complaint, one of AANDC’s key arguments is that providing funding is distinct from service delivery and therefore the Canadian Human Rights Act’s prohibition does not apply. If AANDC’s argument is successful, this will likely shield the federal government from being held accountable under the Canadian Human Rights Act for a whole host of funding decisions, including for services critical to preventing and responding to violence against Indigenous women.

### 3. *Matrimonial property rights on reserve*

Prior to the passing of *The Family Homes on Reserves and Matrimonial Interests or Rights Act* (the Act) in June 2013, there was a gap in the laws relating to matrimonial real property rights on reserve land<sup>157</sup>. Because of this gap, “spouses experiencing a marital breakdown (or a breakdown of a common law or same-sex relationship) [were] left to resolve property issues affecting the family home largely on their

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<sup>153</sup> Native Women’s Association of Canada, “Aboriginal Women and Unstated Paternity: An Issue Paper”, prepared for the National Aboriginal Women’s Summit, June 20-22, 2007, at 1, online:

<http://www.laa.gov.nl.ca/laa/naws/pdf/nwac-paternity.pdf>

<sup>154</sup> Pamela Palmater, “Unstated paternity still excluding Indigenous women from ‘Indian’ status”, October 21, 2014, [rabble.ca](http://rabble.ca); see also generally Dr Lynn Gehl, “Indian Rights for Indian Babies: Canada’s “Unstated Paternity” Policy” (2013) 8:2 *First Peoples Child and Family Review* 54.

<sup>155</sup> Canadian Human Rights Commission, “A Matter of Rights: A Special Report of the Canadian Human Rights Commission on the Repeal of Section 67 of the Canadian Human Rights Act”, October 2005, p. 2.

<sup>156</sup> Parliament of Canada, Legisinfo, online:

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Bill=C21&Language=E&Mode=1&Parl=39&Ses=2&View=0>

<sup>157</sup> For a detailed explanation of the reasons for this gap in the law, see Wendy Grant-John, *Report of the Ministerial Representative: Matrimonial Real Property Issues on Reserves*, March 9, 2007, paras 56 - 62 online:

<http://www.coemp.ca/file/report-of-the-ministerial-representative-with-annexes.pdf>

own”, as there was no body of law guiding the division of property interests, or the processes by which such division is achieved<sup>158</sup>. This gap disproportionately affected Aboriginal women and children<sup>159</sup>.

The Act gives First Nations communities the ability to introduce laws governing ‘matrimonial property’ in the event of relationship breakdown<sup>160</sup>. In the absence of First Nations’ created rules, default federal provisions apply<sup>161</sup>.

However, the Act has been subject to some criticism, including that the bill does not properly address the complicated issues associated with on-reserve marital rights, and that there is no plan for how to ensure women can enforce their new rights<sup>162</sup>.

## 15. International human rights instruments

Five reports, spanning 1996 to 2013, recommend that the Canadian government endorse international declarations and ratify international conventions concerned with promoting the safety of women, and Indigenous peoples’ rights.

### Implementation

Canada initially voted against the adoption of the United Nations Declaration on the Rights of Indigenous Peoples<sup>163</sup>. Responding to public outcry over this decision, the government subsequently released a statement that they ‘endorse’ the Declaration<sup>164</sup>.

Similarly, Canada has not ratified signed the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (“*Convention Belém Do Pará*”)<sup>165</sup>, or the American Convention on Human Rights<sup>166</sup>.

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<sup>158</sup> Wendy Cornet and Allison Lendor, “Matrimonial Real Property Issues On-Reserve” in *Setting the Agenda For Change* (2004: Aboriginal Policy Research Series) 143 at 143.

<sup>159</sup> Native Women’s Association of Canada, *Matrimonial Real Property, Overview*, online: <http://www.nwac.ca/matrimonial-real-property>

<sup>160</sup> Bill S-2, Family Homes on Reserves and Matrimonial Interests of Rights Act (S.C. 2013 c. 20), s. 7.

<sup>161</sup> Bill S-2, Family Homes on Reserves and Matrimonial Interests of Rights Act (S.C. 2013 c. 20), s. 12.

<sup>162</sup> Josh Wingrove, “New law sets out rules for divorces on reserves despite First Nations opposition”, *The Globe and Mail*, June 11, 2013, online: <http://www.theglobeandmail.com/news/politics/new-law-sets-out-rules-for-divorces-on-reserves/article12475285/>

<sup>163</sup> Aboriginal and Northern Development Canada, “Frequently Asked Questions: Canada’s Endorsement of the United Nations Declaration on the Rights of Indigenous Peoples”, February 5, 2012, online: <http://www.aadnc-aandc.gc.ca/eng/1309374807748/1309374897928>

<sup>164</sup> Aboriginal and Northern Development Canada, “Canada’s Statement of Support on the United Nations Declaration on the Rights of Indigenous Peoples”, November 12, 2010, online: <http://www.aadnc-aandc.gc.ca/eng/1309374239861/1309374546142>

<sup>165</sup> Organisation of American States, Department of International Law, *Multilateral Treaties*, online: <http://www.oas.org/juridico/english/signs/a-61.html>

<sup>166</sup> Organisation of American States, Department of International Law, *Multilateral Treaties*, online: [http://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights\\_sign.htm](http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm)

While not specifically recommended in any of the reports reviewed, it may be worth noting that Canada has also not ratified the ILO Convention on Indigenous and Tribal peoples.<sup>167</sup>

## 16. Compensation and/or healing fund

Four reports, spanning 2006 to 2012, recommend that compensation be made available for the families of missing and murdered and Aboriginal women and girls, or the victims themselves. Notably, they all relate to the deaths and disappearances of Aboriginal women in British Columbia.

### Implementation

There has been no initiative to create a nation-wide healing or compensation fund for Aboriginal women who have experienced violence or for families of missing or murdered Indigenous women.

The British Columbia government settled a suit with 13 children of missing women. The settlement created a \$4.9 million fund to provide \$50,000 for each child of women named in the Oppal Report. There are approximately 98 individuals eligible for these damages. According to the Final Status Update Report in Response to the Missing Women Commission of Inquiry, 77 individuals have contact the province about accessing compensation.<sup>168</sup>

No other province appears to have a similar fund. The federal Victims Fund makes funding available, on application, for programs and services directed at victims of crime. It does not provide compensation for victims, and is not directed specifically at Aboriginal women who have experienced violence or their families.

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<sup>167</sup> International Labour Organisation, *Ratification for Canada*, online: [http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:102582](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102582)

<sup>168</sup> British Columbia Ministry of Justice, *A Final Status Update Report in Response to: Forsaken - The Report of the Missing Women Commission of Inquiry*, December 2014, online: [http://www.ag.gov.bc.ca/public\\_inquiries/](http://www.ag.gov.bc.ca/public_inquiries/)