



International
WOMEN'S
Rights Project



Lawyers' Rights Watch Canada, the Native Women's Association of Canada, BC CEDAW Group, Feminist Alliance for International Action, and International Women's Rights Project call on the federal government to immediately adopt and implement TRC recommendation to conduct public inquiry into missing and murdered Aboriginal women and girls

Joint Statement

June 2015 - Lawyers' Rights Watch Canada (LRWC), the Native Women's Association of Canada (NWAC), B.C. CEDAW Group (BC CEDAW), Feminist Alliance for International Action (FAFIA), and International Women's Rights Project (IWRP) call on the federal government to immediately adopt and implement Recommendation #41 made by the Truth and Reconciliation Commission of Canada (TRC) to, "in consultation with Aboriginal organizations, appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls" including an "[i]nvestigation into missing and murdered Aboriginal women and girls" and "[l]inks to the intergenerational legacy of residential schools."¹ The above organizations further call on the federal government to adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples*, as recommended in TRC recommendations # 24, 27, 28, 42, 43, 44, 45, 48, 50, 57, 67, 69, 70, 86, and 92.

Background

The overrepresentation of Aboriginal women and girls among murdered and missing women and the greater risk factors for violence faced by Aboriginal women and girls², as compared to other women, is well documented in Canada.³ The 2014 RCMP report found that, between

¹ Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, 2015 [TRC Executive Summary], at p. 227, available at http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf.

Also, see Lawyers' Rights Watch Canada and the B.C. CEDAW Group, *Missing and Murdered Aboriginal Women and Girls in British Columbia and Canada: Submission to the United Nations Committee on the Elimination of Racial Discrimination on the occasion of its review of Canada's 19th and 20th reports*, January 2012, for an earlier statement on this issue, available at http://www2.ohchr.org/english/bodies/cerd/docs/ngos/BCCEDAWGroup_LRWC_Canada80.pdf

² The TRC's findings confirm previous studies that Aboriginal women and girls are "disproportionately young, poor, unemployed, and likely to have been involved with the child-welfare system and to live in a community marked by social disorder": *TRC Executive Summary*, *ibid.* at p. 226.

³ See, for example, Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women*, 3, <http://www.rcmp-grc.gc.ca/pubs/mmaw-faapd-eng.pdf>; Native Women's Association of Canada, *What Their Stories Tell Us: Research findings from the Sisters In Spirit initiative* (2010), available at: <http://www.nwac.ca/research/nwac-reports>; Amnesty

1980 and 2012, 1,017 Aboriginal women and girls were killed and 164 were missing. What confounds efforts to address this tragic reality is a persistent refusal on the part of the federal government to acknowledge the need, as urged by a growing number of national and international bodies, to examine, at a national level, and address the social, economic and historical factors that operate to create and sustain a culture of violence against Aboriginal women and girls in Canada.⁴

In December 2014, following a two-year study of the situation of missing and murdered indigenous women in British Columbia, the Inter-American Commission on Human Rights (IACHR) joined a number of other international treaty bodies in finding Canada in breach of its international human rights obligations to protect the rights of Aboriginal women and girls and in recommending the creation of a national-level action plan or a nation-wide inquiry.⁵ The IACHR noted that similar recommendations had previously been made by the UN Committee on the Elimination of Racial Discrimination (CERD), in its 2012 Concluding Observations; by the UN Human Rights Council, during Canada's 2009 and 2013 Universal Periodic Reviews; and by the UN Special Rapporteur on the rights of indigenous peoples, James Anaya in 2014.⁶ The IACHR observed that provincial premiers in Canada have also expressed support for a national inquiry.

On March 6, 2015, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) issued a report on its findings on an investigation begun in 2011, following a formal request by the Native Woman's Association of Canada and the Feminist Alliance for International Action.⁷ CEDAW concluded that Canada's ongoing failure to address the extreme violence against Aboriginal women and girls constitutes a "grave violation" of their human rights, thereby violating a number of articles of the UN *Convention on the Elimination of all Forms of Discrimination against Women*, including the obligation to eliminate all forms of discrimination against women; the right to equal protection before the law and to an effective remedy; the obligation on States to combat and eliminate harmful stereotypes; and the right of Aboriginal women to enjoy adequate living conditions on and off reserves. CEDAW found that Canada's failure to provide the conditions to realize the economic, social, political and cultural rights of Aboriginal women – "including education,

International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada* (2004), available at: http://www.amnesty.ca/campaigns/sisters_overview.php.

⁴ In a recent report, Legal Strategy Coalition on Violence Against Indigenous Women, *Review of Reports and Recommendations on Violence Against Indigenous Women in Canada*, February 2015, researchers with the Legal Strategy Coalition on Violence Against Indigenous Women reviewed 58 reports dealing with aspects of violence and discrimination against Indigenous women and girls, including government studies, reports by international human rights bodies, and published research of Indigenous women's organizations. The reports cover a period of two decades. Researchers found that only a few of more than 700 recommendations in these reports have ever been fully implemented. The report observes that the existing literature does not support the government's stance that violence against Indigenous women and girls is not a sociological phenomenon and that the problem has already been adequately studied. The researchers find that

First, despite diverse authors, the reports reviewed show strong consensus about the root causes of this violence; it is a sociological issue. Second, the recommendations that are repeated time and again in so many of the reports highlight exactly why an inquiry is needed: to ascertain the extent to which these recommendations have been implemented, and to identify and address obstacles to implementation. Such an inquiry could also provide the basis for future informed and coordinated inter-jurisdictional action on this issue, which is based on credible evidence.

The Legal Strategy Coalition report is available at <http://www.leaf.ca/legal-strategy-coalition-on-mmwi/>.

⁵ IACHR, *Missing and Murdered Indigenous Women in British Columbia, Canada*, OEA/Ser.L/V/II. Doc. 30/14, 21 December 2014, available at <http://www.oas.org/en/iachr/reports/pdfs/indigenous-women-bc-canada-en.pdf>.

⁶ *Ibid.*, at para. 300, quoting United Nations, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, *The Situation of indigenous peoples in Canada*, A/HRC/27/52/Add.2, 7 May 2014, para. 89.

⁷ UN Committee on the Elimination of Discrimination against Women (CEDAW), Report of the inquiry concerning Canada of the Committee of the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/OP.8/CAN/1, 6 March 2014, available at http://www.fafia-afai.org/wp-content/uploads/2015/03/CEDAW_C_OP-8_CAN_1_7643_E.pdf.

housing and transportation options and support to families and children...places Aboriginal women at an increased vulnerability, making it more difficult for them to achieve protection against and redress for different forms of violence.”⁸ In the CEDAW’s view, a National Public Inquiry “out of which would emanate a National Action Plan elaborated in collaboration with relevant stakeholders” would enable Canada to address many of the violations highlighted in their report.⁹

TRC Recommendation

The TRC has now added its voice in calling for a public inquiry into the matter of missing and murdered Aboriginal women and girls. The summary report of the TRC includes the following recommendation:

41) We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry’s mandate would include:

- i. Investigation into missing and murdered Aboriginal women and girls.
- ii. Links to the intergenerational legacy of residential schools.

In its report, the Commission finds a “devastating link” between the high numbers of missing and murdered Aboriginal women and girls and the many harmful background factors in their lives, many of which the TRC finds “are part of the legacy of residential schools.” Among the background factors identified by the TRC are:

overrepresentation of Aboriginal children in child-welfare care; domestic and sexual violence; racism, poverty, and poor educational and health opportunities in Aboriginal communities; discriminatory practices against women related to band membership and Indian status; and inadequate supports for Aboriginal people in cities.¹⁰

The TRC states that it is this “complex interplay of factors” which needs to be examined, “as does the lack of success of police forces in solving these crimes against Aboriginal women.”¹¹

The TRC also calls upon Canada to make a commitment to recognize, adopt and fully implement the UN *Declaration on the Rights of Indigenous Peoples* (UNDRIP)¹² as an overriding “framework for reconciliation” that addresses the legacies of residential schools.¹³ For example, the TRC recommendations include a call for education about the UNDRIP for all lawyers and law students and all federal, provincial and municipal public servants,¹⁴ which would include all police, prosecutors and many others involved in the justice system. Article 22 of the UNDRIP emphasises the State duty to ensure that “indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.”

⁸ *Ibid.*, at para. 203.

⁹ *Ibid.*, at para. 214.

¹⁰ TRC Executive Summary, *supra* note 1, at p. 227.

¹¹ *Ibid.*

¹² UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, available at: <http://www.refworld.org/docid/471355a82.html>

¹³ TRC Executive Summary, *supra* note 1, at p. 20, 241-244.

¹⁴ *Ibid.*, at p. 215.

Recommendations

LRWC, NWAC, B.C. CEDAW Group, FAFIA, and IWRP urge the federal government to:

1. Immediately adopt TRC Recommendation #41 and urgently establish, in partnership with NWAC and other Aboriginal organizations, a nation-wide inquiry on missing women and girls;
2. Urgently develop a national action plan for addressing the crisis of violence against Aboriginal women and girls, in partnership with NWAC and other Aboriginal organizations;
3. Design and implement policies to ensure inter-jurisdictional and inter-agency coordination of policing and law enforcement, with a view to preventing disappearances and violence against Aboriginal women and girls and responding quickly and effectively to cases that arise;
4. Cooperate with civil society groups endeavouring to end violence against Aboriginal women and girls in Canada, and ensure that Aboriginal women's organizations, Aboriginal organizations and communities have stable and adequate funding so that they can participate fully and take the lead in the development of policies that affect them;
5. Ensure that Aboriginal women and girls have access to legal aid and other funding so that they are free to exercise their right to choose their own representatives so as to participate fully and adequately in any sort of legal or administrative process in which their rights are being determined or affected;
6. Immediately develop and implement a strategy to address the disadvantaged social and economic conditions of Aboriginal women and girls, including poverty, inadequate housing, low educational attainment, punitive child welfare policies, and over criminalization;
7. Fully adopt and implement the UNDRIP as recommended in TRC recommendations 24, 27, 28, 42, 43, 44, 45, 48, 50, 57, 67, 69, 70, 86, and 92, including immediate action for education about the UNDRIP for all lawyers and law students and all federal, provincial and municipal public servants to the end that "indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination."

Tuesday, June 16, 2015

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Lawyers Rights Watch Canada (LRWC) is a committee of lawyers who promote human rights and the rule of law around the world through advocacy, education and legal research. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.

The Native Women's Association of Canada (NWAC) is founded on the collective goal to enhance, promote, and foster the social, economic, cultural and political well-being of First Nations and Métis women within First Nation, Métis and Canadian societies. As a national organization representing Aboriginal women since 1974, NWAC's mandate is to achieve equality for all Aboriginal women in Canada. NWAC is actively involved with partner organizations across the globe towards this goal, including the United Nations and Amnesty International to end the discrimination against Indigenous women.

The B.C. CEDAW Group is a coalition of women's British Columbia organizations that are committed to advancing the equality interests of women and girls. Coalition members are: The Poverty and Human Rights Centre, Coalition of Child Care Advocates of B.C., Hospital Employees' Union, Justice for Girls, Vancouver Committee for Domestic Workers and Caregivers Rights, Vancouver Rape Relief and Women's Shelter, Canadian Association of Sexual Assault Centres/B.C. and Yukon Region and West Coast Women's Legal Education and Action Fund

The Feminist Alliance for International Action (FAFIA) is an alliance of more than sixty Canadian women's organizations founded following the Fourth World Conference on Women, Beijing 1995. FAFIA's central goal is to ensure that Canadian governments respect, protect and fulfill the commitments to women that they have made under international human rights treaties and agreements.

International Women's Rights Project (IWRP) was founded in 1998 to help strengthen the capacity of women's NGOs in Canada and internationally to advocate for women's human rights. The IWRP works to influence the implementation of international human rights standards through collaboration, participatory research and evidence-based advocacy. IWRP works in partnership with Canadian and international NGOs to provide research, capacity-building, and advocacy.