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Feminist Alliance for International Action
L'Alliance Féministe pour l'Action Internationale
CANADA

List of Issues for the 7th Periodic Review of Canada by the Committee on Economic, Social and Cultural Rights

Written submissions by the Canadian Feminist Alliance for International Action (FAFIA)

February 7, 2020

Preamble

The Canadian Feminist Alliance for International Action (FAFIA) is a coalition of over sixty women's organizations in Canada. FAFIA was founded after the Fourth World Conference on Women in Beijing in 1995. We submit this information to assist your consideration of the State's upcoming Review.

A. Domestic Application of the Covenant

See E/C.12/CAN/CO/6, paras 5, 6:

> *Canada should be asked*: *why the Government of Canada's 2017 review of Charter litigation strategies did not engage civil society organizations in a review of the scope of ss. 7, 12, and 15 of the Charter in order to broaden interpretations to include social and economic rights; will it engage in a further review in order to ensure that interpretations of the Charter reflect Covenant rights and obligations, with the participation of civil society organizations; specifically, what plans does Canada have to review its legal system, at all levels, in light of the finding of the National Inquiry on Missing and Murdered Indigenous Women and Girls that there is no accessible or reliable mechanism for Indigenous women to seek remedies for violations of their rights; specifically, what plans does Canada have to develop a mechanism for overseeing, evaluating or ensuring domestic implementation of its human rights treaty obligations, as advocated for by Canadian NGOs over many years.*[1]

In its 2016 Concluding Observations, the Committee on Economic, Social and Cultural Rights expressed its concern that: "economic, social and cultural rights remain generally non-justiciable in domestic courts. The Committee is also concerned at the limited availability of legal remedies for victims in the event of a violation of Covenant rights, which may disproportionately impact disadvantaged and marginalized groups and individuals, including homeless persons, indigenous peoples and persons with disabilities."

[1] Moving Forward: A vision for strengthened international human rights implementation in Canada, 2017, online at: https://ccrweb.ca/en/joint-statement-ftp-human-rights-meeting-2017

This remains unchanged and is a matter of urgent concern to FAFIA. Canada's failure to recognize, and implement, women's fundamental economic and social rights, and the treatment by both governments and courts of social and economic rights as non-justiciable, is a central cause of women's continuing structural inequality.
The review of Canada's Charter litigation strategies undertaken by the former Minister of Justice Jody Wilson-Raybould did not foster the justiciability of economic and social rights, or broaden interpretations of ss. 7, 12 and 15 to include social and economic rights.[2] Nor was there civil society engagement in the review process.

In addition, since 2016, Canada's failure to provide domestic remedies for violations of treaty rights, and domestic mechanisms for implementation and monitoring of treaty obligations has been identified as a matter of urgent concern in a number of contexts. The National Inquiry on Missing and Murdered Indigenous Women and Girls found that Canada has failed to meaningfully implement the international human rights treaties that it has ratified. Further the National Inquiry found that "there is no accessible and reliable mechanism within the Canadian state for Indigenous women, girls and 2SLGBTQQIA people to see recourse and remedies for the violations of their domestic and international human rights and Indigenous rights. The Canadian legal system fails to hold the state and state actors accountable for their failure to meet domestic and international human rights. and Indigenous rights obligations."[3] The Special Rapporteur on Violence against Women noted in her June 2019 report on Canada the absence of implementation and enforceability mechanisms for Canada's treaty obligations.[4] That Canada has no mechanisms for overseeing, evaluating or ensuring domestic implementation of any of its human rights treaty obligations was also noted in Canada's 2018 UPR.[5]

[2] Canada, Department of Justice, Principles Guiding the Attorney-General in Charter Litigation, 2017, online at: https://www.justice.gc.ca/eng/csj-sjc/principles2-eng.pdf
[3] National Inquiry on Missing and Murdered Indigenous Women and Girls, Executive Summary, at p. 60, online at: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf
[4] Dubravka Šimonović , Report of the Special Rapporteur on violence against women, its causes and consequences, S I, v., A s. 32, A/HRC/41/42/Add.1[Advance, unedited version], June 3, 2019.
[5] See Canada, Matrice of Recommendations: 128.30. "Continue to engage with civil society groups and demonstrate that challenges presented by relationships between its federal, provincial and territorial governments do not present unnecessary obstacle to ensuring implementation of its international human rights obligations" (United Kingdom of Great Britain and Northern Ireland);Source of position: A/HRC/24/11/Add.1 - Para. 7. Available at https://www.ohchr.org/EN/HRBodies/UPR/Pages/CAindex.aspx.

B. Equality Between Women and Men

a) National Gender Equality Policy and Plan

See E/C.12/CAN/CO/6, para. 22:

> *Canada should be asked what steps it intends to take, and when, to "develop and implement a comprehensive national gender equality policy to address the structural factors leading to gender inequality, in close cooperation with provinces and territories, as well as in consultation with civil society organizations." What steps will Status of Ministers take to develop a 3-year strategic plan, as agreed in their December 2019 meeting in Victoria, and what is their concrete strategy for engaging with civil society in the development of this plan.*

In 2016, both the CESCR Committee and the CEDAW Committee in their Concluding Observations recommended that Canada initiate a comprehensive national gender strategy, policy and action plan that addresses the structural factors causing persistent inequalities, including intersecting forms of discrimination. The same structural factors that have impeded women's equality in Canada for decades remain in place: poverty, income inequality, unequal pay, lack of access to justice, male violence, inadequate child care, precarious work, and lack of adequate housing.

No steps have been taken to implement the Committee recommendations. Five years later, there is no strategic plan, co-ordinated among governments, all of whom bear responsibility for and have roles to play in counteracting women's inequality.[6] Status of Women Ministers met in Victoria in December 2019 and informed the press that they have "agreed to develop a three-year strategic plan to inform their collective action to advance gender equality across Canada."[7]

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[6] Some civil society organizations were selected by the Government of Canada in 2018 - 2019 to provide a report on what a national gender equality plan might look like, but this report has no status has not been endorsed by national women's organizations. See Canadian Women's Foundation, Women's Equality in Canada: An Environmental Scan, January 2018, online at https://canadianwomen.org/wp-content/uploads/2018/04/GENC-Environmental-Scan-Report-Final-EN.pdf

[7] Status of Women Ministers Meet in Victoria to Chart the Way Forward And Advance Gender Equality, December 4, 2019, file:///C:/Users/Shelagh/Documents/DATA/FAFIA%202020/News%20Release%20%E2%80%93%20Status%20of%20Women%20Ministers%20Meet%20in%20Victoria%20to%20Chart%20the%20Way%20Forward%20and%20Advance%20Gender%20Equality%20%E2%80%93%20Canadian%20Intergovernmental%20Conference%20Secretariat.htm

b) Equal Pay

See E/C.12/CAN/CO/6, para. 22 (a):

> *Canada should be asked what measures each jurisdiction is taking to close the gender wage gap; what timeline it has set for closing the wage gap; why Canada does not have legislation in every jurisdiction that complies with Article 7(a)(i) of the Covenant; what steps are being taken in every jurisdiction to address the even wider wage gap that is experienced by racialized women and women with disabilities; what steps are being taken in every jurisdiction to ensure that women workers earn a decent wage, that permits them to enjoy an adequate standing of living, and pay for food and housing for themselves and their children in the area where they live.*

Comparing annual earnings by gender, for both full-time and part-time workers, women workers in Canada earned an average of 69 cents for every dollar earned by men in 2016.[8] Comparing the annual earnings of full-time workers, women workers in Canada earned an average of 75 cents for every dollar earned by men in 2016.[9] Comparing hourly rates for full-time workers, women earned 87 cents for every dollar earned by men.[10] The gender pay gap is even larger for minority and Indigenous women, who make 60% or less than white men.[11]

Despite this wide and persistent wage gap, in most jurisdictions in Canada, there is no legislation that requires that women and men be paid equal pay for work of equal value that applies to both public and private sector employers. Only the Ontario, Quebec and federal jurisdictions have legislation requiring equal pay for work of equal value that applies to both public and private sector employers. Manitoba, New Brunswick and Prince Edward Island have pay equity legislation that only applies to public sector employers. Private sector employers in most jurisdictions in Canada are required by law to provide women with equal pay when they are performing the same work, or substantially similar work, as male co-workers, but not when they are performing work

[8] CANADIAN WOMEN'S FOUNDATION, FACT SHEET: THE GENDER WAGE GAP IN CANADA 1 (2018), https://www.canadianwomen.org/wp-content/uploads/2018/08/Gender-Wage-Gap-Fact-Sheet_AUGUST-2018_FINAL1.pdf

[9] IBID

[10] IBID

[11] CANADIAN CENTRE FOR POLICY ALTERNATIVES, UNFINISHED BUSINESS: A PARALLEL REPORT ON CANADA'S IMPLEMENTATION OF THE BEIJING DECLARATION AND PLATFORM FOR ACTION 8 (2019), https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/10/Unfinished%20Business.pdf

of equal value. This was the situation when Canada reported in 2016, and it is unchanged.

c) Indian Status for First Nations Women and Their Descendants

See E/C.12/CAN/CO/6, para. 22 (b):

> *Canada should be asked to provide detailed information regarding the plans of the Government of Canada, including the resources being provided, to ensure that the 450,000 First Nations women and their descendants newly entitled to status by the August 2019 amendments to the Indian Act (Bill S-3) can in fact be registered in a timely manner, and receive all the benefits of status, including statutory benefits, rights of belonging, and membership in First Nation Governments.*
>
> *The Government of Canada should be asked to provide information regarding the number of staff available to process new applications for registration, the average wait time for registration for those born before April 1985, the number of applications that are pending, and how it is notifying First Nations individuals and communities of the new terms of entitlement so that those who are eligible are fully informed and able to access the application process.*
> *The Government of Canada should also be asked to provide detailed information regarding the Government of Canada's plans to provide reparations, and to "take steps to address residual discrimination within First Nations communities arising from the legal discrimination based on sex in the Indian Act" as required by the United Nations Human Rights Committee's decision in* McIvor v. Canada*, CCPR/C/124/D/2020/2010.*[12]

On August 15, 2019, the Government of Canada brought into force provisions that will eliminate long-standing sex discrimination against First Nations women and their descendants from the federal *Indian Act*. Elimination of this discrimination was recommended by CESCR in 2006 and 2016, as well as by other UN treaty bodies.

Since 1876, the *Indian Act* has discriminated against First Nations women and their descendants. It has privileged Indian men and their descendants over Indian women and their descendants. For more than 100 years being entitled to Indian status required

[12] See also: https://povertyandhumanrights.org/wp-content/uploads/2019/08/ccpr_c_124_d_2020_2010_28073_e.pdf

being related to a male Indian by blood or marriage. There was a one-parent rule for transmission of status, and the one parent was male. In addition, Indian women who married non-Indian men lost their status, while Indian men who married non-Indian women endowed their Indian status on their wives.

This discrimination has had profoundly harmful effects on First Nations women, their descendants and their communities. The sex discrimination has functioned effectively as a tool of assimilation, defining thousands of First Nations women and their descendants as non-Indian, not entitled to recognition, belonging in their communities, political voice, or the benefits of treaties or inherent rights. This discrimination has been identified by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee) and the Inter-American Commission on Human Rights (IACHR) as a root cause of the murders and disappearances of Indigenous women and girls. On January 11, 2019, the United Nations Human Rights Committee, ruling on the petition of Sharon McIvor, found that the *Indian Act* violates the rights of First Nations women to equal protection of the law and to equal enjoyment of their culture.[13]

In its announcement of August 15, 2019, the Government of Canada estimated that removing the sex discrimination from the *Indian Act* will have the effect of newly entitling approximately 450,000 First Nations women and their descendants to Indian status. Until the women and their descendants are registered, and receive their certificates of status, the violations of their rights continue. However, there is currently no plan to supplement the existing resources of the Registrar and ensure that there are adequate resources available to inform First Nations women and their descendants about their right to register, to assist them in the registration process, and to process the applications.

d) Early Childhood Education and Care

See E/C.12/CAN/CO/6, para. 22 (c):

> *Canada should be asked why the new agreements established under the Multilateral Early Learning and Child Care Framework agreement, as well as the three-year bilateral funding agreements (April 1, 2017 to March 31, 2020) with each province and territory, are designed to provide only a targeted approach to ECEC for vulnerable families rather than a universal*

[2] See The Poverty and Human Rights Centre, "McIvor v Canada 2019", online: https://povertyandhumanrights.org/2019/08/mcivor-v-canada-2019/

> *system of Early Childhood Education and Care; why the provincial and territorial plans are not required to set specific goals, timelines or accountability measures for achieving the principles of quality, accessibility, affordability, flexibility and inclusivity that are identified in the agreements; why federal funding to support the Framework is woefully inadequate; and why the agreements do not provide funds to address child care workforce challenges such as low wages and difficult working conditions for the women who work in the child care sector, or any of the other factors blocking recruitment and retention of qualified staff.*[14]

The Canadian Centre for Policy Alternatives in its report on Canada for the Beijing + 25 process, *Unfinished Business*, states: "A crisis in early childhood education and child care (ECEC) is blocking Canada's progress in advancing the status of women. At the centre of this crisis is the failure of all levels of government to treat access to regulated child care services as a right or entitlement. One result of this is an absence of public policy to create a comprehensive, publicly managed, publicly funded system of ECEC."[15] As a result, Canada has a serious shortage of regulated, affordable, inclusive high quality ECEC services, and performs poorly by international standards. UNICEF's 2008 report card on ECEC in 25 OECD countries ranked Canada at the bottom of the list in terms of 10 quantified benchmarks.

While child care is delivered by provincial and territorial governments, the federal government can, and, for decades has been urged to, use its spending power and other levers to create a national, universal child care system by offering support to the provinces and territories for this purpose. In 2017, the Government of Canada created a Multilateral Framework Agreement to provide funds to the provinces and territories for Early Childhood Education and Care, but this Agreement has serious weaknesses and flaws, including underfunding, lack of universality, and failure to address the seriously inequitable conditions of childcare workers, who are overwhelmingly women.

C. Women's Right to An Adequate Standard of Living

a) Poverty

See E/C.12/CAN/CO/6, paras. 37, 38:

[14] Canadian Centre for Policy Alternatives, Unfinished Business, at p. 41, online at: https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/10/Unfinished%20Business.pdf,.
[15] Ibid at 39.

Canada should be asked: why the new Poverty Reduction Strategy does not address inadequate welfare rates in all provinces and territories, and provide funds tied to increasing rates and eligibility; what plans does Canada, and each province and territory, have for ensuring that social assistance rates are sufficient to provide an adequate standard of living; what steps is Canada, and each province and territory, taking to recognize and address the immediate risks of violence and sexual exploitation faced by women living in poverty; is Canada, or any province or territory, exploring the possibility of providing a Basic Income to residents in order to ensure an adequate standard of living; why did Ontario cancel its Basic Income pilot program and how is it supporting those it cut off without notice; why has the Government of Canada focused its attention on improving incomes and conditions for the middle class, including appointing a Minister for Middle Class Prosperity, rather focusing on those who do not enjoy an adequate standard of living; what strategy is Canada developing, in collaboration with the provinces and territories, to address the long-standing poverty and disadvantaged social and economic conditions of Indigenous women in Canada.

Women in Canada experience high rates of poverty - 13.5% in 2017 (as measured by the after-tax low income measure), and 24.8% for single mothers. While these poverty rates have fallen since 2014, they are still high, and rates of poverty for Indigenous women, immigrant women, and women with disabilities are much higher than rates overall. 2016 census figures show poverty rates for First Nations women at 31.2%, Métis women at 18.8%, Inuit women at 19.6%, racialized women at 21% and women who are recent immigrants at 31.4%.[16]

2018 data shows that nowhere in Canada, or for any family type, do social assistance rates meet the poverty threshold, as set by the Market Basket Measure.[17]

Canada released its first poverty reduction strategy, *Opportunity for All*,[18] followed by legislation in Spring 2019. However, this strategy has no new funding or program elements. It is focused on establishing an official methodology for poverty measurement, and setting up an advisory council to monitor progress.[19]

[16] Ibid at 57 - 58.
[17] Maytree Foundation, Welfare in Canada, Adequacy of Welfare Incomes, https://maytree.com/welfare-in-canada/canada/
[18] Employment and Skills Development Canada (2018), Opportunity for All — Canada's First Poverty Reduction Strategy.
[19] Unfinished Business at 58.

b) The Right to Adequate Housing

See E/C.12/CAN/CO/6, paras 39, 40:

> *Canada should be asked to: describe in detail its plans to ensure that the National Housing Strategy, and other new strategies such as a National Action Plan on Violence against Women, will serve the needs of women, including single mothers, Indigenous women, immigrant women, and women with disabilities, for affordable housing, and for sufficient shelter spaces for women fleeing violence, including in the North; describe in detail what steps the Government of Canada will take to implement the Call to Action from the United Nations Special Rapporteur on the Right to Housing and Indigenous organizations to immediately and urgently address the housing needs of Indigenous peoples;[20] describe in detail its plans to address the homelessness of Indigenous women on an urgent basis; describe, in detail, measures planned to address the lack of adequate housing for Indigenous women and girls as recommended in the Calls for Justice of the National Inquiry on Missing and Murdered Indigenous Women and Girls;[21] describe steps taken by Canadian municipalities to curtail the financialization of housing, in particular steps taken to ensure that municipal zoning and development practices do not support growing housing inequality and diminishing housing opportunities for those with low and modest incomes; describe the obstacles to the federal, provincial and territorial concluding agreements under the National Housing Strategy.*

FAFIA is a member of the National Right to Housing Network and endorses the submission made by the Network. In addition, FAFIA emphasizes that the housing crisis in Canada has critical impacts on the lives of women, and in particular single women, single mothers, women fleeing abuse, Indigenous women, racialized women, immigrant women, and women with disabilities.

Women have lower incomes, and less money for housing, making the lack of affordable housing for those with low and modest incomes a key issue. If they become dependent

[20] United Nations Special Rapporteur on the Right to Adequate Housing and Indigenous Organizations of Canada, Statement on National Urban Indigenous Housing Strategy, December 11TH, 2019, online at http://unhousingrapp.org/user/pages/04.resources/Statement%20on%20National%20Urban%20Indigenous%20Housing%20Strategy%2011-12-19.pdf

[21] National Inquiry on Missing and Murdered Indigenous Women and Girls, Calls for Justice, Calls for Justice 4.6 and 4.7, at p. 181, online at https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf

on social assistance, shelter rates are notoriously inadequate to cover the actual cost of housing. Women lose housing because of divorce, separation, violence and partner abuse; they also return to violent partners because they are unable to find affordable, adequate housing for themselves and their children.

Rates of homelessness among women are rising - women were 27.3% of the homeless population in Canada in 2016,[22] and this statistic may be an undercount as women are more likely to be among the hidden homeless. It is dangerous to be female and homeless, and particularly dangerous for Indigenous women.[23] It is also dangerous for women to be in homelessness shelters, and there are few homeless shelters that are designated for women only.

Canada has 627 shelters for women fleeing violence and abuse, with a total of 12,058 beds. These shelters for women fleeing violence are chronically underfunded, and there are too few, especially in rural and northern parts of Canada.[24]

The National Inquiry on Missing and Murdered Indigenous Women and Girls found, in its final report, that lack of adequate housing is a critical risk factor for violence against Indigenous women and girls.[25]

(i) The Right to Housing and Violence against Inuit Women

> *Canada should explain steps it is taking to provide adequate housing, including shelters, for Inuit women escaping violence in Inuit Nunangat. What is Canada doing to address 1) the lack of shelters for women who are victims of violence in the territory and implementation of Call for Justice 16.19 of the National Inquiry on Missing and Murdered Indigenous Women and Girls; and 2) the lack of adequate housing, which makes finding alternative housing for women who are victims of violence, difficult, if not impossible.*

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[22] The Homelessness Hub, The State of Homelessness in Canada 2016, https://www.homelesshub.ca/SOHC2016.

[23] The Homelessness Hub, Do Homeless Women Experience Violence, https://www.homelesshub.ca/resource/do-homeless-women-experience-violence

[24] Parliament of Canada, Status of Women Committee, *Surviving Abuse and Building Resilience—A Study of Canada's Systems of Shelters and Transition Houses Serving Women and Children Affected by Violence*, May 2019, online at: https://www.ourcommons.ca/Committees/en/FEWO/StudyActivity?studyActivityId=10236420

[25] National Inquiry on Missing and Murdered Indigenous Women and Girls, Executive Summary, at pp. 35, 37, online at: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf

Rates of violence against women in Nunavut are 14 times higher than the national average. In Nunavut, women and girls continue to be far more likely to be killed than in any jurisdiction in Canada[26] and the risk of a woman being sexually assaulted is 12 times greater than the provincial/territorial average.[27] But there are only 15 shelters and more than 70% of the 53 Inuit communities spread across four geographic regions of the Canadian Arctic do not have a safe shelter for women and children experiencing family violence.[28] The levels of violence severely undermine Inuit women's physical, emotional and psychological well-being and that of their children. This is a crisis directly linked to the failure to ensure that Inuit enjoy the right to adequate housing.

D. Violence against Women

See E/C.12/CAN/CO/6, paras 33, 34:

> *Canada should be asked for a detailed account of the steps it intends to take to put a National Action Plan on Violence Against Women in place (as opposed to a federal plan, that only applies to the federal government), with a timetable, and resources allocated for the work, as well as how the Plan will align with and further the objectives of the National Gender Equality Plan; Canada should be asked to explain what specific steps it is taking to incorporate into the National Action Plan the recommendations from the recent report on Canada of the Special Rapporteur on violence against women,*[29] *and the 2016 recommendation of this Committee that long-term housing solutions and adequate social assistance be available to victims of violence.*

Sexual harassment and sexual assault are common experiences for women in Canada. The rate of police-reported sexual offences has been increasing,[5] especially among

[26] Canadian Femicide Observatory for Justice and Accountability (2018). *Understanding gender-related killings of women and girls in Canada 2018*.
[27] Adam Cotter and Pascale Beaupré (2014), "Police-reported sexual offences against children and youth in Canada, 2012," *Juristat,* Canadian Centre for Justice Statistics, Statistics Canada, Catalogue no. 85-002-X; Cecilia Benoit, *et.al*. (2015), *Issue brief: Sexual violence against women in Canada*. Issue Brief was commissioned by the Federal-Provincial-Territorial Senior Officials for the Status of Women Canada.
[28] Pauktuutit, Shelters and Transitional Housing, online at: https://www.pauktuutit.ca/abuse-prevention/shelters-and-transitional-housing/
[29] Report of the Special Rapporteur on violence against women, its causes and consequences, Visit to Canada, A/HRC/41/42/Add.1, 3 June 2019.

young women and girls.[30] In 2017 alone, there were approximately 25,000 police-reported sexual assaults, an increase of 13% from 2016.[31] Also, a woman or girl was killed every 2.5 days on average in Canada last year, according to the Canadian Femicide Observatory. [32]

Certain groups , including Indigenous women[33] and women with disabilities[34] are at higher risk of violence than others, and the risk of intimate partner violence against immigrant and refugee women is increased by federal and provincial immigration policies which make them dependent on male sponsors.[35]

The 2017 and 2018 federal budgets committed resources ($100 million and $86 million, respectively) for the federal Gender Based Violence Strategy over a five-year period.[36] However, much of the funding has been earmarked for internal federal government priorities and initiatives.

In June 2019, the United Nations' Special Rapporteur on violence against women, Dubravka Šimonović, released her final report following her visit to Canada in April 2018. The Rapporteur highlights that there is an urgent need for a more comprehensive and holistic national (not federal) action plan on violence against women, ensuring that women and girls in all areas of the country have access to comparable levels of services and human rights protections. In her report Šimonović notes: "federalism should not constitute a barrier to human rights implementation."[37]

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[30] Shana Conroy (2018), Police-reported Violence against Girls and Young Women in Canada, 2017. Juristat, Statistics Canada, Catalogue no. 85-002-X.
[31] Cristine Rotenberg (2017), Police-reported Sexual Assaults in Canada, 2009 to 2014: A Statistical Profile. Juristat, Statistics Canada, Catalogue no. 85-002-X.
[32] Global News, "Every 2.5 days, a woman or girl is killed in Canada, new report shows", ,January 30, 2019, online at: https://globalnews.ca/news/4904975/a-woman-or-girl-is-killed-every-2-5-days-in-canada-report/
[33] Canada, Department of Justice, JustFacts, Victimization of Indigenous Women, July 2017, https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2017/july05.html
[34] Canadian Women's Foundation, Violence against Women with Disabilities - Violence Prevention Review, July 2011, https://www.canadianwomen.org/wp-content/uploads/2017/09/PDF-VP-Resources-Vecova_CWF_-Women-with-Disabilities_-2011.pdf
[35] AMSSA, Cultures West, Domestic Violence against Immigrant and Refugee Women, Vol 32, No. 2: Fall 2014, https://www.amssa.org/wp-content/uploads/2015/05/CulturesWestFall2014.pdf
[36] Status of Women Canada (2018) *Strategy to Prevent and Address Gender-Based Violence.*
[37] UN Human Rights Council (2019), *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/HRC/41/42/Add.1, p. 5.

E. Violence against Indigenous Women and Girls: Addressing Genocide

Canada should be asked how to describe, in detail, what steps it has taken to develop a National Action Plan to implement the recommendations of the National Inquiry on Missing and Murdered Indigenous Women and Girls, and to describe, in detail, the Plan as it is developed at the time of reporting. Canada should be asked: 1) what steps it has taken to ensure that Indigenous women are the leaders in the design, implementation and evaluation of a National Action Plan on Missing and Murdered Indigenous Women; 2) what mechanisms and time lines are in place for the development, implementation, ongoing monitoring, and evaluation of the National Action Plan; 3) how co-ordination between the federal, provincial and territorial governments is ensured so that the necessary transformative change occurs in programs, policies, laws, services and resource allocation at all levels of government; 4) specifically what plans have been made for all levels of government to undertake co-ordinated efforts to address the severe economic and social disadvantages of Indigenous women and girls, including high levels of poverty, chronic low incomes, lack of adequate housing, lower educational completion rates, and high incarceration rates; and 5) how is the federal government deploying its spending power to encourage and support actions by the provinces and territories to address the human rights crisis.

On June 3, 2019, the National Inquiry on Missing and Murdered Women issued its Final Report.[38] It found that "The significant, persistent and deliberate pattern of systemic racial and gendered human rights and Indigenous rights violations.... - perpetuated historically by the Canadian state, and maintained ...is the cause of the disappearances, murders and violence experienced by Indigenous women and girls and 2SLGBTQQIA people, and is genocide. "[39]

The National Inquiry found that:

> The violence the National Inquiry heard amounts to a race-based genocide of Indigenous Peoples, including First Nations, Inuit and Metis,

[38] National Inquiry on Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*, at https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a.pdf/; See also the Executive Summary, including the 231 Calls for Justice, at mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf

[38] Ibid at p. 60.

[39] Ibid at p. 60.

> which especially targets women, girls, and 2SLGBTQQIA people.[40] This genocide has been empowered by colonial structures evidenced notably by the *Indian Act*, the Sixties Scoop, residential schools and breaches of human and Indigenous rights, leading directly to the current increased rates of violence, death, and suicide in Indigenous populations.

The National Inquiry has issued 231 Calls for Justice, including an overarching call for a National Action Plan to implement its recommendations. The National Inquiry says, as its first recommendation:

> We call upon the federal, provincial, territorial, municipal and Indigenous governments ...to develop and implement a National Action Plan to address violence against Indigenous women, girls, and 2SLGBTQQIA people, as recommended...by other bodies of inquiry and other reports. As part of the National Action Plan, we call upon all governments to ensure that equitable access to basic rights such as employment, housing, education, safety, and health care is recognized as a fundamental means of protecting Indigenous and human rights [...]
>
> Governments in Canada should:
>
> Table and implement a National Action Plan that is flexible and distinctions-based, and that includes regionally specific plans with devoted funding and timetables for implementation that are rooted in the local cultures and communities of diverse Indigenous identities, with measurable goals and necessary resources dedicated to capacity building, sustainability, and long-term solutions.[41]

In addition, the National Inquiry calls on all governments to "implement all the recommendations of the 2015 CEDAW Inquiry Report into Missing and Murdered Indigenous Women and Girls and co-operate with the UN Committee on the Elimination of Discrimination against Women on all follow-up procedures."[42]

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[40] The National Inquiry issued a separate report on its finding of genocide, A Legal Analysis of Genocide, online at https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report_Genocide.pdf

[41] Ibid. Executive Summary at p. 62

[42] Ibid. Executive Summary, Calls for Justice 1.2 (iii) at p. 63.

The National Inquiry's Calls for Justice require profound changes to the extreme social and economic disadvantages of Indigenous women and girls, including:

- A redesign of the child welfare system to address the over-representation of Indigenous children in foster care and the harms that girls encounter in the child welfare system;
- The ongoing racism and sexism in Canada's justice system from police officers to courts to prisons;
- The high rates of sexualized violence including sexual exploitation and human trafficking;
- The violence against Indigenous women associated with "man camps" for the resource sector;
- The forced and coerced sterilization of Indigenous women;
- The crisis of criminalization and over-incarceration of Indigenous women and girls – the fastest growing prison population in Canada;[43]
- The ongoing effects of overt sex discrimination in the *Indian Act* which has excluded First Nations women and children from membership in their communities and access to critical programs and services, as well as treaty rights; and
- The purposeful, chronic and racially discriminatory underfunding of human services like access to water, food, housing, and adequate health care and social supports which has created the crisis-level socio-economic conditions of Indigenous women and girls and which increases their risk of experiencing sexual exploitation, violence and death.

Prime Minister Trudeau, when he accepted the report, agreed to a National Action Plan that would implement the National Inquiry's recommendations. At this time, no Plan is in place, nor are there any known concrete plans for its development.

F. Conclusion: A request for the CESCR Committee's ongoing support

Canada has made little progress on implementing the key recommendations in the Committee's 2016 Concluding Observations. Because of this, we request that the Committee remain seized of the matters set out in the 2016 Conclusion Observations and ensure that the 2020 review of Canada's compliance with CESCR advances the urgency of them.

[43] Office of the Correctional Investigator, "Indigenous People in Federal Custody Surpasses 30%", January 21, 2020, online at: https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx

In addition, we request that the Committee provide expert assistance to Canada, and to Indigenous women and their allies, in ensuring that the National Action Plan to implement the Calls for Justice issued by the National Inquiry is effective, reflective of the seriousness of the crisis of violence against Indigenous women, and of the need for transitional justice strategies. We especially urge emphasis on the prioritization of the participation, leadership and decision-making of Indigenous women at all stages of design, implementation, monitoring, evaluation, and oversight of this strategy, and on the fundamental importance of recognition and full implementation of social and economic rights as a central requirement to creating safety and equality.