

Canadian Association Elizabeth Fry Societies

Canadian Civil Society Submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW)

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This report has been prepared by:

The Canadian Association of Elizabeth Fry Societies (CAEFS) a national intersectional feminist organization advocating with and alongside criminalized women and gender diverse people, gender-diverse people, and those incarcerated in federal prisons. The organization actively monitors prison conditions and engages with those incarcerated, striving to address the systemic issues that lead to criminalization and exclusion from society. The Elizabeth Fry Society of Northern Alberta was also consulted in the preparation of the submission.

The John Humphrey Centre for Peace and Human Rights (JHC), based in Edmonton, Alberta, works to advance human dignity, freedom, and justice through transformative education and community collaboration. Guided by the Universal Declaration of Human Rights, JHC engages youth, fosters adult learning, and supports human rights application in government and organizations.

Indigenous Disability Canada / British Columbia Aboriginal Network on Disability Society (IDC/BCANDS), is an internationally recognized and award winning, national Indigenous not for profit, Society serving the unique and diverse disability needs of Indigenous peoples across Canada. IDC/BCANDS is a “stand alone” organization and is one of the only organizations of its type in Canada. IDC/BCANDS holds Special Consultative Status with the United Nations Economic and Social Council.

The Coalition for Justice and Human Rights (CJHR) is an independent advocacy and education network dedicated to ensuring justice and accountability on human rights issues. CJHR provides legal support to vulnerable individuals, advances public education on human rights, and promotes awareness through campaigns, research, and advocacy for ethical policies and practices.

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Executive Summary

This report will prioritize the rights of incarcerated women and gender diverse people, highlighting Canada's shortcomings in fully implementing the International Convention on the Elimination of Discrimination Against women and gender diverse people (CEDAW). It examines how Canada has failed to meet its obligations to uphold the human rights standards enshrined in CEDAW. Specifically, the report draws attention to the dire conditions at the Edmonton Institution for women and gender diverse people (EIFW) in Alberta, with a particular emphasis on the inequities faced by Indigenous women and gender diverse people incarcerated there.

CEDAW Committee's Concerns and Previous Recommendations

It was astounding to find that the latest recommendations did not include a focus on the rights of the women and gender-diverse people in detention given the alarming rate of incarceration of Indigenous women and gender-diverse people in Canadian provincial jails and federal prisons.

The Committee had previously expressed concerns about the disproportionately high number of Indigenous girls taken into state custody. The had Committee recommended that Canada eliminate discriminatory legal provisions, end practices that limit Indigenous women and gender diverse people's access to education, employment, and well-being, and address issues such as poverty, poor health, and inadequate housing. Additionally, the Committee urged Canada to provide funding for Indigenous women and gender diverse people to address legal and substantive

equality issues and to take necessary measures to prevent the separation of Indigenous children from their parents. These issues remain and should continue to be emphasized in this committee's recommendations until the issues are resolved.

The issues covered in this submission fall under CEDAW articles, 1, 2, 3, 5, 10, 11, 12, and 15.

The Social and Economic Conditions of Indigenous women and gender diverse people and Girls: Antecedents to Criminalization

In Canada, the justice system criminalizes the lived realities of the most vulnerable populations, including poverty, homelessness, trauma, abuse, and disability. For Indigenous women, girls, and gender diverse people, especially those with disabilities, these systemic inequities increase their vulnerability to both victimization and criminalization. The criminalization of survival behaviours—such as theft or fraud—reduces these individuals to the identity of "criminal," further entrenching their marginalization.

Many incarcerated individuals, particularly those CAEFS works with, are convicted of crimes driven by economic survival. The leading causes of convictions for those in federal prisons designated for women include theft, fraud, and trafficking of stolen goods. The gender pay gap, gendered poverty, and systemic barriers to economic stability for people with intersecting experiences of discrimination, which includes, Indigenous, Black, 2SLGBTQIA+, people with disabilities, exacerbate these challenges. These groups often face discrimination in the workforce and limited access to social or health services, further entrenching their economic instability. Women and gender-diverse people with disabilities not only face discrimination in society, but also experience ableism, which limits access to social, disability, and health services, further entrenching their economic instability.

The over-policing and lack of protection of marginalized communities, particularly Indigenous people, are rooted in Canada's history of colonial oppression. Government policies and legislation targeting and oppressing Indigenous people such as residential schools, the Sixties Scoop, and the Indian Act have contributed to the over-incarceration and over-representation of Indigenous peoples in the justice system. Indigenous individuals are more likely to experience systemic discrimination within the prison system, such as over-classification and disproportionate use of solitary confinement. Racism and inherent biases from Correctional Service of Canada (CSC) employees further exacerbates and perpetuates these issues and systemic discrimination.

This legacy of colonial oppression extends to Black and other racialized communities in Canada, who are similarly subjected to racial profiling, surveillance, and over-policing. This increased presence of law enforcement in Indigenous and Black communities and people of colour artificially inflates incarceration rates and contributes to the over-representation of people of colour in the criminal justice system.

The Unique Challenges and Barriers for Women and Gender Diverse People in Detention in Canada

Women and gender diverse people in detention in Canada face unique challenges and barriers that reflect broader societal inequities, particularly for Indigenous and Black women and gender diverse people. The Canadian criminal legal system's approach to criminalization and punishment disproportionately impacts marginalized groups, often failing to align with the human rights standards guaranteed by the Convention on the Elimination of All Forms of Discrimination Against Women and Gender Diverse People (CEDAW). This analysis synthesizes the critical issues faced by women and gender diverse people in detention, highlighting systemic failures and offering recommendations for reform.

Mass-Incarceration and Systemic Discrimination

The mass-incarceration of Indigenous and Black women and gender diverse people in Canada is a significant manifestation of systemic racism and colonial legacies. Indigenous women and gender diverse people represent the fastest-growing prison population in the country. This trend is exacerbated by the criminal legal system's failure to address the root causes of criminalization, such as poverty, violence, and discrimination.

The Custody Rating Scale (CRS), used by the Correctional Service of Canada (CSC) to assess security levels for women and gender diverse people entering prison, was originally designed for a white male population. Despite adjustments, the CRS continues to over-classify Indigenous and Black women and gender diverse people, placing

them in higher security levels than necessary. This over-classification restricts access to programs, services, and early release options, perpetuating their marginalization within the prison system. According to the Canada's Office of the Correctional Investigator (OCI), Canada's Ombudsperson responsible for the federal prisons, Indigenous women were placed in maximum security at more than three times the rate of their non-Indigenous counterparts and made up nearly 70% of maximum-security placements between April 2018 and December 2021.

Moreover, the majority of federally incarcerated women and gender diverse people are criminalized for behaviours rooted in their attempts to navigate poverty, violent racism, and other forms of discrimination. Indigenous and Black women and gender diverse people are more likely to be sentenced to federal prisons and face harsher classifications, leading to a higher likelihood of being placed in maximum security or solitary confinement.

Human Rights and Treatment of women and gender diverse people incarcerated people

Women and gender diverse people in detention have the fundamental right to be free from human rights abuses, including protection from physical, sexual, and emotional harm. Despite this, Canadian correctional facilities have been repeatedly criticized for failing to uphold these standards, particularly in their treatment of women and gender diverse people. The Task Force on Federally Sentenced Women and gender diverse people, the Arbour Commission, the Auditor General, The Senate of Canada, The Canadian Office of the Correctional Investigator and other bodies have consistently found that incarcerated women and gender diverse people pose a low risk to public safety. Yet, the CSC continues to apply risk and needs assessment tools that are overly security focused, not culturally appropriate or accessible, and which are designed for a predominantly male population, thereby neglecting the specific needs of women and gender diverse people and the intersectionality of their lived experiences.

Programming

Incarcerated women and gender diverse people are subjected to less diverse programming, limited and gendered employment-related training, and reduced access to services compared to their male counterparts. For example, sections 77 and 80 of the CCRA mandate gender-specific and culturally appropriate programming; however, in practice, women and gender diverse people often receive programs designed for men, which fail to address their unique circumstances.

Segregation and Solitary Confinement

Solitary confinement, also referred to as segregation, remains a pervasive and controversial practice in Canadian prisons. The practice of isolating incarcerated people for up to 23 hours a day in small cells, with minimal human interaction, has been widely condemned as a form of torture, particularly for those with mental health disabilities, which are often invisible disabilities. Despite legal challenges and reforms, the use of solitary confinement has continued in Canada under different names. The old administrative segregation regime has been replaced with Structured Intervention Units (SIUs), beginning in 2019.

The 1996 Arbour Commission and other human rights bodies have highlighted the detrimental effects of segregation (or isolation) on mental health, noting that it aggravates existing conditions and reduces incarcerated people's motivation and ability to participate in reintegration activities. Indigenous women and gender diverse people are disproportionately subjected to involuntary segregation and tend to be held in isolation for longer periods than non-Indigenous women and gender diverse people. The Canadian Medical Association and the UN Special Rapporteur on Torture have labelled solitary confinement as "cruel and unusual punishment," with calls for its abolition, particularly for those with mental health issues.

The Shift to Structured Intervention Units

In 2019, the introduction of Bill C-83 aimed to replace the segregation regime with SIUs. This legislative change followed court rulings that found administrative segregation in Canadian federal prisons unconstitutional. However, reports from CAEFS and other advocacy groups suggest that SIUs have merely rebranded segregation rather than eliminating its harmful practices. Preliminary studies on SIU implementation from the Structured Intervention Advisory Panel indicate that the practice of isolating incarcerated people remains largely unchanged, with many incarcerated people still failing to receive the mandated four hours of out-of-cell time and meaningful human contact.

Moreover, additional methods of solitary confinement, such as dry-celling, observation cells, and maximum-security units (max pods), continue to be used in Canadian federal prisons without proper regulation or oversight. These methods allow for the isolation of incarcerated people under conditions that are equally, if not more, detrimental than those under the SIU model. For instance, those placed in dry cells are subjected to continuous observation, with lights kept on 24 hours a day, and are denied basic privacy and human contact.

The United Nations has made several recommendations to Canada regarding the treatment of incarcerated people, including the need to establish independent mechanisms for addressing complaints of torture and ill-treatment and to limit the use of solitary confinement to exceptional cases, with a maximum duration of 15 days. Despite these recommendations, the Canadian government has yet to implement meaningful reforms to address the underlying issues.

The continued use of solitary confinement and other forms of isolation in Canadian prisons represents a significant violation of human rights, particularly for women and gender diverse people. The rebranding of segregation under the guise of SIUs does little to address the systemic abuses that persist within the correctional system.

Health and Living Conditions

The health and living conditions of women and gender diverse people in detention are deeply concerning, particularly for Indigenous women and gender diverse people who face compounded disadvantages. The majority of incarcerated women and gender diverse people have histories of abuse and trauma, with 85.7% of all incarcerated women and gender diverse people and 91% of Indigenous women and gender diverse people having experienced physical and/or sexual abuse in their lifetimes. Despite these high rates of trauma, many women and gender diverse people in detention do not receive adequate therapeutic support and are instead pathologized and medicated.

Women and gender diverse people in detention are also more likely to be live with disability, be impoverished, be under-educated, and unemployed compared to the general population. A significant number of these women and gender diverse people are single mothers/parents, and their incarceration often results in their children being placed in state care, perpetuating cycles of poverty and marginalization.

The lack of culturally appropriate services and support within the prison system further exacerbates the challenges faced by Indigenous women and gender diverse people. Many are geographically and culturally isolated from their communities, which disrupts their connection to family and support networks.

Incarcerated individuals in Canada, particularly women and gender diverse people, face significant barriers to accessing adequate healthcare, including mental health services, treatment for Fetal Alcohol Spectrum Disorder (FASD), and substance abuse support. These challenges are exacerbated by systemic issues within the correctional system, which often fails to provide the necessary care and support to meet the complex needs of this population.

Mental Health, FASD, and Substance Use

Many incarcerated women and gender diverse people in Canada struggle with mental health challenges, substance use disorders, and conditions such as FASD. These disabilities are often rooted in experiences of poverty, intergenerational trauma, family dysfunction, and lack of access to necessities such as clean water and shelter. The prison system is ill-equipped to address these underlying factors, resulting in inadequate and inaccessible treatment and support for affected individuals.

A 2018 study of 154 women and gender diverse people incarcerated in six CSC-operated facilities found that 80% met the criteria for a current mental disorder, including high rates of alcohol and substance dependence, antisocial personality disorder, and borderline personality disorder. Furthermore, the Office of the Correctional Investigator (OCI) reported in 2019 that 92% of federally incarcerated Indigenous women and gender diverse people had moderate to high substance abuse needs, and 97% had a diagnosed mental health disability. These statistics underscore the complex healthcare needs of incarcerated women and gender diverse people and the significant gaps in the prison system's ability to provide appropriate care.

Right to Healthcare and Quality of Care

Incarcerated individuals have the right to receive healthcare services that meet the same standards as those available in the community. This includes timely and appropriate medical treatment, disability and health supports, and necessary medications. However, the reality within Canadian prisons often falls short of these standards.

Access to adequate physical, mental, and dental care was the most frequently reported issue by women and gender diverse people and gender-diverse people in federal institutions in 2020. Many reported difficulties accessing personal health records, medications, menstrual products, and hygiene items. Additionally, there were numerous complaints about delays in receiving medical appointments, sometimes resulting in missed care due to short notice from CSC.

Dental care, in particular, has been a significant concern. Women and gender diverse people in several federal institutions reported negligent and unprofessional conduct by prison dentists, including incidents of physical harm and a lack of informed consent. These issues highlight the systemic inability of CSC to provide the healthcare services guaranteed under the CCRA.

Reproductive Health and Reproductive Justice

Reproductive health is a critical issue for incarcerated women and gender diverse people and gender-diverse individuals. Incarceration exacerbates existing inequities, particularly for Indigenous women and gender diverse people, who are disproportionately represented in the prison system.

The report "Reproductive (In)Justice in Canadian Federal Prisons for women and gender diverse people" highlights the incompatibility of reproductive justice with the current prison system, which separates families, alienates individuals, and disrupts essential connections. It also underscores the lack of information available to federally sentenced women and gender diverse people regarding their reproductive rights and the obligations of CSC. It argues that ending incarceration is essential to achieving reproductive justice, as the current system fundamentally undermines the well-being and autonomy of incarcerated individuals.

Mental Health Care in Prisons

Funding cuts to health and social services, including social housing, have contributed to the increasing number of women and gender diverse people with severe and prolonged mental health disabilities in prisons. These individuals are often caught in a "revolving door" syndrome, where homelessness and mental illness lead to criminalization, and upon release, the lack of housing and support services results in re-incarceration.

Federally sentenced women and gender diverse people are twice as likely as federally sentenced men to have a mental health disability upon admission to prison. The OCI has repeatedly found that CSC is inadequately equipped to address the mental health needs of these individuals, relying too heavily on force, physical restraints, and isolation rather than providing appropriate and accessible therapeutic interventions.

Systemic Barriers and Inadequate Services

The healthcare challenges faced by incarcerated women and gender diverse people are compounded by systemic barriers within the correctional system. Limited resources, inadequate staffing, lack of disability training, and a lack of external oversight contribute to the poor quality of care available to incarcerated people. For example, healthcare professionals employed by CSC are in a conflict of interest, as they are both providers of care and employees of the correctional system, which compromises their ability to advocate effectively for their patients.

Furthermore, the Custody Rating Scale (CRS) used by CSC to determine security classifications fails to account for the unique needs of women and gender diverse people, Indigenous individuals, and those who live with disabilities. This tool, originally designed for a white male population, often leads to the over-classification of women and gender diverse people - Indigenous people and people with mental health disabilities are most frequently overclassified - restricting their access to programs and services and prolonging their time in custody.

The use of force against individuals with mental health disabilities is another area of concern. The OCI has reported that a significant percentage of uses of force in federal prisons involve individuals with mental health disabilities, reflecting a punitive approach to "corrections" and a systemic failure to provide appropriate care and support.

UN Recommendations and International Standards

International bodies, including the United Nations Committee against Torture and the Committee on the Elimination of All Forms of Racial Discrimination, have repeatedly called on Canada to address the treatment of incarcerated people with mental health disabilities. These recommendations emphasize the need to abolish the use of segregation for individuals with mental health or intellectual impairments and to ensure that incarcerated individuals receive healthcare equivalent to community standards.

The United Nations Standard Minimum Rules for the Treatment of incarcerated people (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of women and gender diverse people incarcerated people (the Bangkok Rules) provide comprehensive guidelines for the treatment of incarcerated people with mental health needs, including the requirement for individualized, trauma-informed care and the prohibition of solitary confinement for those with mental health disabilities. Despite these international standards, Canada's correctional system continues to fall short in its treatment of incarcerated women and gender diverse people.

The treatment of incarcerated women and gender diverse people in Canada, particularly those who live with disabilities, remains deeply problematic. The correctional system's reliance on segregation, inadequate healthcare services, and systemic barriers all contribute to the ongoing violation of these individuals' rights.

Sexualized Violence in Canadian Federal Prisons

Sexualized violence within Canadian federal prisons, particularly those designated for women and gender diverse people, represents a profound and pervasive issue that reflects broader systemic failures within the correctional system. Despite the recognition of human rights for incarcerated individuals, the inherent power imbalances in prisons create an environment where sexual coercion and violence are not only possible but are often underreported and inadequately addressed.

Prisons are inherently violent environments where the power dynamics between staff and incarcerated individuals cultivate a culture of silence and shame. Sexual coercion and violence, particularly against marginalized groups, are underreported and under-documented. The OCI has highlighted the disincentives for reporting sexual violence, including fear of retaliation, retribution, and re-victimization, as well as the risk of not being believed or being punished for reporting coerced sex.

Marginalized individuals, including women and gender diverse people, those with histories of trauma and abuse, and those with disabilities, are particularly vulnerable to sexual violence in prisons. CSC staff have been reported to intentionally target these groups, exacerbating existing trauma and perpetuating cycles of abuse. For Indigenous women and gender diverse people, non-binary, trans, or Two-Spirit people, the reality of violent victimization is even more pronounced, with nearly all Indigenous women and gender diverse people serving federal sentences reporting histories of physical or sexual abuse.

Strip Searching as Sexual Assault

Strip searches are routine in federal prisons under the guise of preventing contraband. However, there is little evidence to support the efficacy of this practice, and significant evidence suggests that strip searches are traumatizing and harmful. The Supreme Court of Canada has described strip searches as "inherently humiliating and degrading," with many incarcerated individuals experiencing them as acts of sexualized violence, particularly those who have previously experienced sexual abuse.

Strip searches are often conducted after temporary absences, work releases, family visits, and even after attending programs within the prison. The use of mandatory randomized strip searching, as implemented in institutions like the Grand Valley Institution (GVI), exacerbates the issue, subjecting a significant portion of the prison population to unnecessary and invasive searches. This practice not only violates the dignity of incarcerated individuals but also contravenes their rights under the Canadian Charter of Rights and Freedoms and international law.

Sexual Violence Perpetrated by CSC Staff

Instances of sexual violence and coercion by CSC staff are not uncommon. Since 2015, CAEFS has documented numerous incidents, including sexual harassment, inappropriate behaviour, and sexual assaults by CSC employees.

In some cases, survivors were discouraged from reporting the incidents, and in others, they delayed reporting for fear of retribution or negative impacts on parole hearings.

The public became more aware of this issue in 2020 when two CSC correctional officers were charged with sexual assault. These cases highlighted the broader issues within the prison system: a culture of fear and potential retribution, inadequate mechanisms for reporting sexual abuse, and the pervasive nature of sexual violence against incarcerated women and gender diverse people. These cases, though publicised, are not isolated incidents but represent a broader pattern of abuse within federal prisons.

Systemic Barriers to Reporting and Accountability

CSC's institutionalized culture of silence and limited commitment to addressing sexual violence contribute to the underreporting of these incidents. The mechanisms for reporting sexual misconduct are often inaccessible, and there is little guidance or training for staff on how to handle such reports. The few existing documents related to responding to sexual assault are buried within CSC's internal systems, making them difficult for staff to access and implement.

Moreover, Canada does not require CSC to provide data or statistics on sexual violence within its institutions, nor are there any academic studies or government-mandated inquiries into the prevalence of sexual assault in Canadian prisons. This lack of transparency and accountability allows the issue to persist unchecked.

Relevant International Recommendations

International bodies, including the United Nations Committee against Torture and the Committee on the Elimination of Discrimination against women and gender diverse people, have expressed concerns about gender-based violence in Canadian prisons, particularly against Indigenous women and gender diverse people. These bodies have recommended mandatory training for justice officials and law enforcement personnel on prosecuting gender-based violence, as well as the implementation of policies that ensure the dignity and safety of incarcerated individuals.

The Mandela Rules and the Bangkok Rules both address the harmful impact of invasive body searches and advocate for alternatives. Canada, as a signatory to these rules, is expected to adhere to these minimum standards, yet continues to fall short in protecting incarcerated individuals from sexual violence and coercion.

Sexualized violence within Canadian federal prisons is a deeply entrenched issue that requires urgent and comprehensive action. The current system not only fails to protect incarcerated individuals but also perpetuates cycles of abuse and trauma. By implementing the recommendations outlined above, Canada can begin to address these systemic issues and ensure that the rights and dignity of all incarcerated individuals are upheld.

Punitive System: Denial of Cultural Rights in Prison: Edmonton Institution for Women (EIFW) as a Case Study

The denial of access to culture and the co-opting of cultural and constitutional rights within the Edmonton Institution for women and gender diverse people (EIFW) profoundly affect the well-being and identity of incarcerated Indigenous women and gender diverse people. EIFW is one of six federal prisons designated for women in Canada, and the one with the highest population of Indigenous women and gender diverse people. The systemic violations of these individuals' rights, rooted in the colonial structures of the prison system, exemplify the ongoing erasure and marginalization of Indigenous culture and spirituality.

Access to Indigenous ceremony, a fundamental right, is often treated as a privilege within EIFW. Canadian law mandates that incarcerated people retain all rights, except those which are necessarily limited to impose a criminal sentence. This means that incarcerated Indigenous people retain their cultural and spiritual rights, including the right to regular access to practice traditions and engage in ceremonies, as defined by their communities. However, Indigenous leaders have been contracted by the Correctional Service of Canada, paid to enforce incarcerated women and gender diverse people's participation in their culture. The act of the government paying Indigenous people to enforce culture is translating into myriad harms and grievances, not least of which, tensions between Nations who practice different belief systems and traditions. More broadly, Indigenous People's ceremonies have been reduced to be only available "when needed" or during significant recognized cultural events. These events are planned and administered by the CSC and its agents with very little input and inclusion from incarcerated people. Since August

2023, there has been a notable decline in access to such ceremonies at EIFW. The CSC cites a lack of staffing and appropriate facilities as reasons for this deficiency, further perpetuating the notion that cultural practices are privileges to be earned rather than rights to be respected.

One specific example is evidenced through cultural offerings which are currently being provided in manners limited to the traditions of Treaty 6 territory, despite the diverse Indigenous backgrounds of those incarcerated at EIFW. According to the latest Canadian census data, there are over 630 First Nations communities in Canada, which represent more than 50 Nations and 50 Indigenous languages. The lack of recognition for the variety of ceremonies practised across different Indigenous communities results in a significant cultural disconnect and deprives individuals of their right to engage with their specific cultural practices. Evidence of use of non-traditional items in ceremonies, such as an inappropriate pipe for pipe ceremonies, and the discontinuation of drumming teachings, further alienates incarcerated people from their cultural roots.

Access to Elders, who are supposed to provide spiritual and cultural support, is also severely limited. With only four Elders available to serve a population of nearly 200, the needs of the Indigenous and gender-diverse individuals at EIFW are grossly unmet. Additionally, there are consistent reports of harmful behaviour by some Elders—such as enforcing gender norms inconsistent with individual identities and breaching confidentiality—further undermine the trust and safety of those seeking cultural and spiritual guidance and violating individuals' human rights to not be discriminated against via their gender diversity or identity.

There is simultaneously an erosion in the agency and inclusion of incarcerated people in the provision of access to cultural and spiritual rights. The Little Sisters in Spirit (LSIS) is a peer-led Indigenous committee within EIFW, which currently faces significant obstacles in fulfilling its mandate. Grievances from members of this committee suggest mismanagement of their raised funds and resources by the institution. They also suggest that there is a general lack of transparency in financial matters and engagement with them about matters which pertain to them.

Indeed, there are many tense and overlapping accounts surfacing from EIFW which should give pause to the Correctional Service of Canada's Indigenous Initiatives Sector. CAEFS continues to respond to reports of disrespectful and dismissive attitudes of EIFW staff towards Indigenous culture, derogatory remarks made to individuals about traditional foods like Bannock, and reports of a generally hostile environment where Indigenous identity is devalued.

All these conditions are occurring amidst systemic overclassification of Indigenous women and gender diverse people in EIFW. CAEFS visits into the maximum-security unit continue to reveal that the most restrictive units in the prison are almost solely occupied by Indigenous individuals. The cumulative effect of these actions is not just a denial of cultural rights but a systematic attack on the identity and well-being of Indigenous women and gender diverse people and gender-diverse individuals at EIFW. The use of culture as a tool of control and punishment, rather than a source of healing and connection, reflects a broader pattern of institutional racism and colonial oppression within the Canadian prison system. The result is a profound disempowerment of Indigenous peoples, who are forced to navigate a system that consistently denies their humanity and cultural identity.

The situation at EIFW is a stark example of how the restriction and regulation of cultural rights by carceral agencies translates into a manipulation of cultural practices which serve as tools of oppression within the prison system and exacerbate Canada's crisis of mass incarceration of Indigenous Peoples.

Food as a Tool of Compliance

The issue of food insecurity in Canadian prisons, particularly at (EIFW), highlights a broader pattern of systemic discrimination, neglect, and abuse faced by incarcerated Indigenous women and gender diverse people and gender-diverse individuals. Food, a basic human necessity, is not only insufficiently provided but also weaponized as a tool of control and compliance within the prison system. This is reflective of a wider culture of punitive measures that disregard the rights and dignity of incarcerated individuals, particularly those from marginalized communities.

In Canadian federal prisons, food insecurity is a persistent problem. Incarcerated individuals often report that their caloric intake is strictly managed, with limited access to food that meets their traditional, cultural, or dietary needs. This managed scarcity of food is not just an issue of inadequate nutrition but also serves as a mechanism of control.

Food is used as a tool to enforce compliance, with access to adequate or culturally appropriate food being contingent on good behaviour or perceived obedience. This approach strips individuals of their autonomy and dehumanizes them, further entrenching the punitive nature of the prison system.

Involuntary Transfers and Separation from Family

Another significant issue exacerbating the hardships faced by incarcerated Indigenous individuals is the practice of involuntary transfers. Indigenous women and gender diverse people and gender-diverse people at EIFW are often transferred to prisons in other regions, far from their families and support networks. This not only disrupts their connection to their communities but also limits their access to culturally relevant programs and ceremonies, which are crucial for their rehabilitation and mental well-being. The separation from family and community ties further alienates these individuals, making it even more difficult for them to reintegrate into society upon release.

Furthermore, the frequency of involuntary transfers is underreported as the incarcerated women and gender-diverse people report that they are being provided incentives, like a lower security classification, to transfer to another federal penitentiary. When agreed to, the transfer is then recorded as a voluntary transfer, which further skews the transfer data.

Barriers to Legal Remedies

Access to justice is another significant challenge for incarcerated individuals, particularly for those who are self-represented. Many cannot afford legal representation and face numerous obstacles in navigating the complex legal system. High court filing fees further restrict their ability to seek legal remedies and hold the prison system accountable for human rights abuses. The lack of legal support and resources exacerbates the disparities in access to justice, particularly for Indigenous women and gender diverse people and gender-diverse individuals who are already marginalized within the prison system.

Overcrowding and Unsafe Conditions

The issue of overcrowding in Canadian prisons further complicates the situation. Overcrowded facilities compromise the safety, security, and well-being of inmates and staff alike. This environment makes it even more difficult to provide adequate food, healthcare, and rehabilitative services, further entrenching the punitive nature of the prison system. The overcrowded and unsafe conditions within these facilities reflect a broader neglect of the rights and dignity of incarcerated individuals, particularly those from marginalized communities.

Recommendations for Change

To address the issues within this report, the Government of Canada should:

Invest heavily in upstream prevention of criminalization. Increase income security, health and educational measures such as income assistance, adequate housing, and community supports for women and gender diverse people especially those who live with disabilities and to address the reality that women and gender diverse people are being criminalized and incarcerated because of the ongoing effects of colonization, poverty, previous abuse, social disadvantage, racism, and disabling mental health, disability, and intellectual capacity issues.

Uphold both the rights articulated in Article 4 of UNDRIP, and the principles of CEDAW to ensure that the Correctional Service of Canada (CSC) is held accountable for actions resulting in harm to Indigenous communities, particularly their treatment of incarcerated Indigenous women and gender-diverse individuals. The government should establish formal consultation processes and be required to provide transparent explanations for CSC practices that affect Indigenous populations. This accountability must be directed specifically to, First Nations, Inuit, and Métis communities and organizations.

Implement UNDRIP, TRC recommendations and MMIWG Calls to Justice: Canada must fully implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Truth and Reconciliation Commission (TRC) Calls to Action and the Calls to Justice from the National Inquiry into Missing and Murdered Indigenous women and gender diverse people and Girls. These frameworks provide a comprehensive approach to addressing the systemic issues within the justice system and ensuring the rights of Indigenous women and gender diverse people are upheld.

Decarceration and Community-Based Alternatives: Restrict the use of imprisonment for women and gender diverse people in tandem with the urgent need for the decarceration of Indigenous women and gender diverse people.

Reform the Custody Rating Scale: The CSC should immediately reform the CRS to account for the cultural and gender-specific needs of Indigenous and Black women and gender diverse people. This reform should include an evaluation of the current classification system and the development of new tools that do not disproportionately classify racialized women and gender diverse people into higher security levels.

The Corrections and Conditional Release Act (CCRA) should be fully implemented to facilitate community-based release options, particularly through sections 81 and 84, which are intended to provide Indigenous communities with greater control over justice matters affecting them.

Restore cultural rights as fundamental human rights, providing people with community-based alternatives to incarceration, and to the broadest genuine access to Indigenous practices while people are kept in prison.

Cultural supports should be available broadly and supporting the diversity of Nation's practices and traditions. These should not be enforced as mandatory elements of correctional programming, but rather the government needs to ensure continued access to family, cultural, and spiritual care that is community based.

Abolish the practice of Segregation: The practice of segregation, including solitary confinement, should be abolished in all federal institutions. This practice has severe and lasting effects on individuals with mental health disabilities and exacerbates pre-existing conditions.

Ratification of United Nations' Optional Protocol to the Convention against Torture (OPCAT).

The challenges faced by women and gender diverse people in detention in Canada, particularly Indigenous and Black women and gender diverse people, are deeply rooted in systemic racism and colonial legacies. Addressing these issues requires a commitment to transformative justice approaches that move beyond addressing the issues within the existing system. By implementing the recommendations outlined above, Canada can begin to rectify the injustices faced by these women and gender diverse people and work towards a more equitable and just society.

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