

# Justice for Girls FAFIA

Rhetoric or Reality? Canada's Implementation of the Convention on the Elimination of Discrimination against Women

Reply to Issues 2, 3, 4, 5, 6, 7, 12, 13, 19, 20, and 23

Submission to the Committee on the Elimination of Discrimination against Women on the Occasion of the Committee's Tenth Periodic Review of Canada from the Canadian Feminist Alliance for International Action (FAFIA) and Justice for Girls (JFG)

Acknowledgments

FAFIA is an alliance of women's equality seeking organizations dedicated to making international human rights commitments a reality in women's lives in Canada.

JFG is a Canadian NGO that promotes equality, freedom from violence and colonialism, and the health and well-being of teenage girls who live in poverty.

FAFIA thanks Caitlin Salvino, Shelagh Day, Maria Sokolova, Sharon McIvor, Bre Woligroski, and Rachel Singleton-Polster for writing, research, and commentary and JFG for partnership.

Word Count: 6887

Table of Contents

I. Introduction 4

II. Core Implementation Issues (Reply to Issues 11, 12, 19, 20, and 23) 5

a. Women's Poverty 5

b. Unequal Pay and Income 7

c. Inadequate Childcare 8

d. Lack of Adequate Housing 8

e. Violence Against Women 9

f. The Need for a National Gender Equality Plan 10

g. Recommendations 11

III. Lack of Domestic Mechanism to Implement Treaty Body Recommendations (Reply to Issues 3, 4, 7) 12

a. Canada's History of Non-Compliance with Treaty Body Recommendations 12

b. Canada's Recent Steps to Create an Implementation Body 13

c. Recommendations 14

IV. The Crisis of Missing and Murdered Indigenous Women and Girls (Reply to Issues: 6, 12 and 13) 15

a. International Obligations to End the Crisis of Missing and Murdered Indigenous Women and Girls 15

b. National Inquiry 15

c. Recommendation 16

V. Justice for Canadian Women (Reply to Issues 5 and 6) 16

a. Chronic Underfunding of Legal Aid 16

b. Justice for Sexual Assault Survivors 17

c. Misogyny, Racism and Violence against Women in Canada's National Police Force 18

i) Violence Against Indigenous Women and Girls 19

ii) Ignoring Intimate Partner Violence 19

iii) Complaints against the RCMP 19

d. Recommendations 20

VI. Conclusion 20

VII. Contact Information 21

Introduction

Since the CEDAW Committee's last periodic review, Canada has introduced some important measures that support the advancement of women's equality, including the Poverty Reduction Strategy, the Canada Child Benefit, a new childcare strategy, a National Inquiry on Missing and Murdered Indigenous Women and Girls, a National Housing Strategy, and the Mass Casualty Commission. These initiatives are significant. However, as FAFIA's submission documents, there is much work to do to ensure that they achieve their intended goals.

2016 to 2024 has been a difficult period for Canada's women and girls. The COVID-19 pandemic exacerbated inequality for women due to increased risks of male violence in isolation, higher job loss rates, worsened gendered divisions of unpaid labour, and reduced access to support services. Importantly, the pandemic laid bare the structural nature of women's inequality, the deeper disadvantage of Indigenous women, Black women, racialized women, immigrant women, women with disabilities, single mothers, and gender diverse people, and major inadequacies in policy design and services for Canadian women.

In 2024 Canadian women are facing multiple and intersecting crises in housing, access to childcare, pay and income, and unpaid and underpaid caregiving work. Canadian women are also living with an epidemic of male violence that Canada does not have the strategies to effectively counter. Notably, five years after the National Inquiry on Missing and Murdered Indigenous Women and Girls issued its report, Canada has fulfilled only two of the 231 Calls for Justice.

These challenges are compounded by the barriers women encounter when they try to claim their rights, by seeking protection from police or remedies in courts, especially in family law matters.

Women who live in poverty or on low incomes, who live in inadequate housing or experience homelessness, who are at risk of violence but unable to escape it, do not enjoy equality. Canada takes the position that the social and economic rights set out in United Nations human rights treaties - including the rights to an adequate standard of living, and to adequate housing - are statements of aspiration, not enforceable rights that carry obligations. By maintaining this stance, Canada excuses its failures to engage resolutely with the social and economic inequalities of women that have been persistent since Canada ratified CEDAW in 1981, and that were dramatically highlighted by the COVID-19 pandemic.

This 2024 CEDAW review is happening at a crucial moment. After the COVID-19 pandemic women are in a worse position than before. Unfortunately, Canada did not emerge from the pandemic with a new strategy for tackling women's evident and entrenched inequalities. Despite the recommendation of this Committee in 2016, Canada has no national gender equality plan to support the development of co-ordinated federal, provincial and territorial actions.

Federal, provincial, and territorial governments need to take concerted action to fulfil the obligations set out in the CEDAW. FAFIA submits that there are five central requirements for improving the conditions of women in Canada: (1) taking social and economic rights seriously; (2) creating mechanisms for implementing international obligations; (3) urgently addressing the crisis of missing and murdered Indigenous women and girls; (4) transforming Canada's justice system into one that is responsive to women's realities and rights; and (5) implementing effective strategies for ending male violence against women.

## Core Implementation Issues (Reply to Issues 11, 12, 19, 20, and 23)

Women's rights are indivisible. Women cannot enjoy civil and political rights without the realization of social and economic rights. To end women's inequality, Canada must recognize social and economic rights as substantive, enforceable rights, and adequately fund programs and services that give life to these rights.

Canada's long-standing dismissal of social and economic rights as secondary, "soft rights", does not support women's advancement. The same social and economic factors that have impeded women's equality in Canada for decades remain in place: (1) poverty, income inequality, unequal pay, unpaid and precarious work (2) inadequate childcare, and (3) lack of adequate housing, all of which make (4) gender-based violence more difficult to escape or remediate. There is no national, coordinated strategy to counteract these interlocking causes of women's inequality.

### Women's Poverty

Canadian women are poorer than men, are more likely to be poor, and more likely to live in deeper poverty. According to Statistics Canada, in 2021 7.7% of women and girls in Canada lived below the low-income threshold (about 1.5 million women). Women living with intersecting identities also have much higher rates of poverty:

13.7% of Indigenous Women living off-reserve

9.8% of racialized women

8.4% of immigrant women

11% of women with disabilities

22% of single women

17.2% of single mothers

12% of transgender women

16% of senior women over 65.

Provincial and territorial social assistance rates are too low to lift women out of poverty. In a 2022 study of welfare incomes, 98% of households receiving social assistance remained below Canada's official poverty line. Further, of this group, 83% of the households receiving social assistance were living in deep poverty despite receiving payments.

Since 2022, Canada's "cost-of-living crisis" has made things worse for social assistance recipients. Canada's inflation rate has risen, there has been a "spike" in food prices, and Canadian cities have seen unprecedented increases in rent prices. Between 2022 and 2024, welfare recipients in Ontario effectively lost 16% of the value of their social assistance, and welfare recipients in Alberta and Manitoba lost about 7%.

Inadequate social assistance rates are a key issue for women – who are statistically more likely to live in poverty and more likely to rely on these programs. For example, in 2022-2023, of the total 383,000 recipients of welfare in Ontario, 243,000 were women compared to 140,000 men.

The inadequacy of social assistance rates also creates extreme difficulty for women living with disabilities. In Canada, disability-based social assistance is a highly fractured patchwork system – with programs split between federal, provincial and territorial governments, and no centralized process to apply for and receive assistance from multiple programs. Although there are dozens of intersecting disability support programs, collectively (even when all are accessed) they are not enough to raise people with disabilities out of poverty and cover their disability-related costs, such as accommodation needs, equipment, and medication costs.

Disability rights advocates have lobbied for years for adequate disability-related social assistance, and in 2022 the Government of Canada announced a new Canada Disability Benefit with the aim of "lift[ing] hundreds of thousands of working-age Canadians with disabilities out of poverty". Despite the hope that came with the announcement of this program, advocates have been disappointed with its roll-out. While 1.6 million Canadians receive disability-related social assistance, only 600,000 are eligible for the Canada Disability Benefit. And, even if

individuals are able to overcome the significant barriers inherent in the Canada Disability Benefit application process, they will only receive \$200 a year. Rather than lifting hundreds of thousands of people with disabilities out of poverty, at this rate of funding only 25,000 will be lifted above the official poverty line.

The low rates of disability-related social assistance have gendered impacts. Women are more likely to report having a disability than men (14.9% v. 12.5%) across all age groups, and this higher proportion of women living with disabilities increases over the lifespan. The prevalence of disability is also higher for Indigenous, Black, and racialized women.

Canada has a decades-long history of providing inadequate social assistance, with intermittent cuts and narrowed eligibility rules. The CEDAW Committee in 2008 raised concerns about “cuts in social assistance schemes in many provinces and at the resulting negative impact on the rights of vulnerable groups of women [...] who rely on social assistance for an adequate standard of living”. Because of the patchwork and inadequate funding for social assistance and disability supports, there are many calls for Canada to institute a guaranteed universal basic income, including from the National Inquiry into Missing and Murdered Indigenous Women and Girls and Senators.

### Unequal Pay and Income

Even when women are working they are more likely to have low incomes. When we compare per hour earnings of full-time full-year workers, women make approximately 84 cents for every dollar earned by men. But the more revealing statistic is that women’s average incomes are about 74% of men’s. This reflects the fact that women are less likely to hold well paid, full time jobs compared to men. The majority of women still work in traditionally female occupations where the pay is lower. Statistics Canada reports that in 2017 “around 56.0% of women were employed in occupations involving the “5 Cs”: caring, clerical, catering, cashiering and cleaning. This is little changed from 1987, when 59.2% of women were employed in these occupations.”

Women are also more likely to work part-time or hold multiple jobs. This is not necessarily women’s choice, but rather is due to childcare responsibilities or an inability to find full-time work. The growth of precarious, unstable work in Canada affects those workers who are already vulnerable – women, and particularly immigrant, racialized, Black, and Indigenous women, and women with disabilities. There are few effective protections for women workers in precarious, part-time, temporary, and “gig” work.

A recent study by the B.C. Centre for Policy Alternatives calculated, for different BC communities, the hourly pay rate that, if worked full-time, produces a livable income. The study found that 59% of workers earning less than a livable income in BC are women (277,000), and that half of the racialized women workers in Vancouver are not earning a liveable income.

It is not surprising then that, despite being one of the largest and most developed economies in the world, Canada currently ranks only 36th out of 156 countries on the World Economic Forum’s evaluation of women’s economic participation and opportunities. What is disturbing is that this central economic inequality, that affects all aspects of women’s lives, is not the focus of concerted nation-wide strategies and structural change.

### Inadequate Childcare

Access to affordable childcare is central to women’s equal participation in the workforce and society at large. Approximately 77% of mothers with children between 3 and 5 years old are in the labour force. .

In 2021 Canada took a big step towards increasing the accessibility of childcare. The federal government launched a national childcare strategy, promising to provide 30 billion dollars over five years and signing agreements with every province and territory to work towards reducing childcare costs to \$10 a day by 2025. In 2024, the federal government announced that it made more investments to increase the number of childcare spaces.

FAFIA applauds these steps and notes that a national program of public affordable childcare has been advocated for by Canadian women for decades, and was recommended by the CEDAW Committee in 2008 and 2016. However, there is still much work to be done to provide affordable childcare for all those who need it. There is still a serious shortage of childcare spaces. For example, in 2023, 46% of parents reported difficulty finding childcare – this is an increase from 36% of parents who reported similar challenges in 2019. Among this 2023 group of parents, 32%

reported that they could not find affordable or subsidized childcare. In addition, governments need to increase investments to address the underpayment of childcare workers, almost all of whom are women.

### Lack of Adequate Housing

In 2016, this Committee expressed concern with the “significant levels of [...] homelessness” that Canadian women continue to face. Since Canada’s last periodic review, Canada’s housing crisis has exploded – with disastrous effects on women.

In 2021, one in ten Canadian households experienced core-housing need, This means, according to Canada Mortgage and Housing, that these households are paying more than 30% of their household income for housing, or housing was inadequate or unsuitable. In 2016 female lone-parent households and female one-person households had the highest incidence of core-housing need.

There are multiple intersecting factors causing Canada’s housing crisis: unaffordable home ownership, rising rents, substandard housing conditions, and lack of shelter spaces. Women are particularly likely to face housing crises because of male violence and at the time of relationship breakdown.

Approximately, 235,000 people are homeless in Canada every year. Fewer women are documented in homeless shelters and in street counts, but women are more likely to be among the hidden homeless, living in overcrowded or dangerous situations to avoid the violence and exploitation they experience in shelters and on the street. Lack of adequate housing is an emergency for Indigenous people, living on and off reserve, and it threatens the safety and equality of Indigenous women and girls.

In 2017 the Government of Canada introduced the National Housing Strategy to address the housing crisis. This is crucial initiative, but, so far, this Strategy has failed to significantly change the crisis of homelessness or the housing needs of Canada’s most disadvantaged women. In December 2023, a coalition of feminist groups, presented the federal government with its report titled, An Intersectional Feminist Housing Agenda for Canada. In this report, the coalition set out 15 calls to action – all aimed at addressing housing precarity and homelessness experienced by women and gender-diverse people. The report recommends immediate and urgent attention to investment in an Urban, Rural and Northern Indigenous Housing Strategy, increased social housing, strengthened income supports, a dedicated funding stream specifically earmarked for housing to address the unique needs of women and gender-diverse people, including shelters for women escaping violence. They also recommended national standards for tenant protections, including strong rent and vacancy controls.

### Violence Against Women

Despite recommendations by this Committee in 2008 and 2016 regarding gender-based violence, it is an epidemic in Canada. According to Statistics Canada, women are five times more likely than men to be the victims of sexual assault, and sexual assault is the most under-reported crime. Victims are most often young women who are raped by someone they know.

Women are also the overwhelming majority of the victims of intimate partner violence, and they are more likely to experience severe forms of it – forced sex, choking, confinement. In Canada, one woman or girl is killed by a man about every 48 hours, and the numbers are increasing. The Canadian Femicide Observatory for Justice and Accountability (CFOJA) reports a 24% increase in femicides between 2019 and 2022.

The incidence of intimate partner violence and gender-based killings is highest in the territory of Nunavut and substantially higher in rural areas than in cities. Between 2011 and 2021, 21% of the victims of femicide were Indigenous women, even though they are only 5% of the female population.

This violence, and the threat of it, is woven into the lives of women and girls. Canada has developed a Federal Gender Based Violence Strategy and a National Gender-Based Violence Action Plan. However, as CFOJA states about femicide: “little appears to have changed” when it comes to how violence against women occurs and why. “Progress on prevention and on accountability has been slow to evolve. We have not yet met the basic standard required to prevent the [violence] or to hold perpetrators accountable...”

Canada's failure to fulfill the social and economic rights of women is deeply connected to the ways women experience violence and the consequences it has in their lives. As Laurel McBride writes: "Poverty, and the threat of it, forces women to tolerate male violence." Women's economic inequality, and poverty and violence create a "vicious circle" of connected events that is hard to escape. Brodsky et al described these connected events this way: "male violence, lack of adequate housing, inadequate welfare, child apprehension, lack of legal aid, and depression/addiction. If a woman seeks to leave a violent relationship, often she needs social assistance so that she can support herself and her family independently from the violent partner. Once she is receiving social assistance, inadequate rates mean finding and maintaining adequate housing for herself and her children is difficult, if not impossible. Children may be apprehended because they have witnessed male violence, or because living conditions are considered poor enough to constitute "neglect". Once children are apprehended, it is often hard for women to get them back. Shelter allowances are cut when children are not present, but a mother has to show that she has an adequate place for children to live before the children can be returned. Lack of legal aid to deal with separation-related issues, representation before children are taken away, welfare entitlements, and poor housing, makes it difficult to break out of the circle."

### The Need for a National Gender Equality Plan

In 2024, it is evident that women's inequality has not been successfully addressed by patchwork and siloed approaches to: poverty, income inequality, inadequate childcare, inadequate housing and violence, which together perpetuate women's inequality. The interplay between them is known. The failure to successfully address each component guarantees the failure of redressing the others.

### Recommendations

FAFIA recommends that the Government of Canada, in collaboration with the governments of the provinces and territories:

**Develop a National Gender Equality Strategy and Action Plan:** Immediately engage with women's organizations, and feminist experts through in-person meetings, specialized task forces and working groups, to develop a national gender equality strategy and action plan that will fulfill Canada's obligations under CEDAW, and address the central interlocking components of women's inequality: poverty and income inequality; child care; housing; and violence.

**Create a Gender-Based Violence Commissioner:** Establish a Gender-Based Violence Commissioner and a National Accountability Framework for Gender-Based Violence, as recommended by the Nova Scotia Mass Casualty Commission.

**Recognize Social and Economic Rights as Substantive, Enforceable Rights and Strengthen Implementation:** Immediately initiate a national review, in collaboration with civil society and Indigenous organizations, and federal, provincial and territorial governments of: 1) positions taken by governments in litigation in light of the need to ensure access to justice and effective remedies for economic, social and cultural rights; 2) legislative protections for economic and social rights in order to develop options for improving such protections; 3) recommendations from treaty bodies regarding the realization of economic and social rights to determine priorities for implementation; and 4) core programs and services that give life to economic and social rights in order to plan for necessary enhancements, changes and investments.

**Increase Income Security:** Initiate a collaborative process to review the adequacy of income support programs, and specifically their adequacy for women in need, and increase funding available under the Canada Disability Benefit.

**Eliminate Homelessness and Address Women's Housing Needs:** In collaboration with municipalities (a) within the coming year, implement a national plan to eliminate homelessness by 2030, with clear goals, timelines and indicators to ensure progress each year; (b) review all housing programs to ensure that they are providing affordable housing for women in core housing need and at risk of homeless; (c) increase social housing; (d) implement measures to address the adverse effects of real estate speculation and financialization of housing and; (e) ensure that there are adequate shelters and second stage housing available to meet the short-term needs of women and their children.

**Lack of Domestic Mechanism to Implement Treaty Body Recommendations (Reply to Issues 3, 4, 7)**

Canada has no mechanism for overseeing, monitoring and ensuring domestic implementation of the CEDAW or any of Canada's treaty obligations. This lack of domestic implementation machinery weakens Canada's ability to perform in good faith the international human rights treaties it has ratified.

#### Canada's History of Non-Compliance with Treaty Body Recommendations

Over the past two decades, United Nations treaty bodies and Canadian civil society organizations have expressed concern that Canada is not effectively implementing its obligations under international human rights law. As it currently stands, there is no domestic mechanism for monitoring Canada's response to concluding observations, Universal Periodic Review recommendations, decisions on individual communications, or reports from mandate holders, and there is no domestic procedure for government consideration of these recommendations and reports, or for implementation of them.

The effect of this lack of implementation mechanisms is to make Canada's adherence to UN human rights treaties largely symbolic. Canada holds itself out in international fora as a human rights champion but has not created the mechanisms and strategies necessary to ensure the realization of women's human rights at home. Canada participates in the review processes established under human rights treaties – files reports, appears in Geneva – but the recommendations that emerge from these processes do not translate into enhanced enjoyment of rights for women.

For many years, treaty bodies and civil society organizations have urged Canada to create meaningful monitoring, accountability and implementation mechanisms. Treaty body and civil society organizations that have criticized Canada's lack of implementation mechanisms, include: the CEDAW Committee, the Human Rights Committee, the Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, Universal Periodic Review Recommendations, and many civil society organizations, including FAFIA.

#### Canada's Recent Steps to Create an Implementation Body

After two decades of urging by international bodies and civil society organizations, Canada announced its intention to create a process for monitoring and overseeing the implementation of international human rights obligations. At the 2017 meeting of Federal-Provincial-Territorial (FPT) Ministers Responsible for Human Rights, Ministers created a new FPT Senior Officials Committee Responsible for Human Rights (SOCHR), and renewed the mandate of the Continuing Committee of Officials responsible for Human Rights (CCOHR). At the 2020 meeting, FPT Ministers adopted a Protocol for Follow-up to Recommendations from International Human Rights Bodies and an Engagement Strategy on Canada's International Human Rights Reporting Process. They also created the Forum of Ministers on Human Rights.

FAFIA welcomes these steps. However, so far, they do not meaningfully reflect the multiple recommendations made by UN bodies and civil society organizations.

The Protocol promises exchange of information, but no concrete procedures for oversight and implementation. So far, as evidenced by the Follow-up Consultation in April 2024 with civil society organizations regarding recent recommendations from the 4th Universal Periodic Review, engagement with civil society is not focused on implementation and has produced no concrete results.

In short, there is still no transparent and accountable body to provide co-ordination between governments, with powers to review recommendations from treaty bodies, to engage in serious dialogue with civil society organizations about implementation and to take follow-up steps to implement treaty obligations. In 2024, this is a failure on Canada's part to make rights real in the lives of women.

#### Recommendations

To redress this decades-long failure, Canada must:

Design a National Implementation Mechanism: Ensure that the Forum of Ministers, with input from civil society and Indigenous Peoples, designs a new national mechanism for monitoring and implementing treaty rights and recommendations from treaty bodies, Special Procedures and Universal Periodic Reviews in a coordinated, effective and transparent way.

Create a Specialized Task Force Focused on the Implementation of the CEDAW Convention and CEDAW Recommendations: In conjunction with the Gender Equality Plan, review all recommendations of the CEDAW Committee and other treaty bodies regarding women's human rights, to identify outstanding and priority recommendations, and, with women's organizations, and sub-national governments, devise a plan for implementation.

The Crisis of Missing and Murdered Indigenous Women and Girls (Reply to Issues: 6, 12 and 13)

International Obligations to End the Crisis of Missing and Murdered Indigenous Women and Girls

CEDAW conducted the first official inquiry into missing and murdered Indigenous women and girls in Canada. In 2011 FAFIA and the Native Women's Association of Canada requested that the CEDAW Committee launch an inquiry under Article 8 of the Optional Protocol to the Convention. In 2015, the CEDAW Committee issued its Report, finding that Canada's actions, and failures to act to address the crisis of murders and disappearances, are a grave violation of the rights in CEDAW. The Committee made 38 recommendations. Canada has not taken co-ordinated, effective action to implement these recommendations. As Canada's Follow-Up Report to the Committee shows, there have been piecemeal initiatives, and only some of them are directed specifically at Indigenous women.

National Inquiry

In 2016, the Government of Canada established a National Inquiry into Missing and Murdered Indigenous Women and Girls. The final National Inquiry Report, released in 2019, found that "the violence the National Inquiry heard amounts to a race-based genocide of Indigenous Peoples, including First Nations, Inuit and Metis, which especially targets women, girls, and 2SLGBTQQIA people". The National Inquiry Report calls on all governments to "implement all the recommendations of the 2015 CEDAW Inquiry Report and co-operate with the UN Committee on the Elimination of Discrimination against Women on all follow-up procedures".

As with the implementation of the CEDAW recommendations, federal, provincial and territorial governments have taken some steps towards addressing these recommendations, including issuing a National Action Plan, but their efforts have been piecemeal, and have had little effect, so far, for Indigenous women and girls. Five years after they were issued, the Assembly of First Nations reports, only 2 of the 231 Calls for Justice of the National Inquiry have been completed, and work on only 50% has been started. Pauktuutit Inuit Women of Canada says that "the promises made through the National Action Plan...have yet to fully materialize into tangible improvements." Former Commissioners of the National Inquiry say they are still waiting to see action on the Calls for Justice, and do not see "evidence of the political will needed to deliver the paradigm shift in Canada's relationship with Indigenous women and girls" that they called for in 2019.

Recommendation

To end the crisis of missing and murdered Indigenous Women, Canada must:

Review and Improve the MMIWG National Action Plan: Review the 38 recommendations of the CEDAW Inquiry and 231 recommendations of the National Inquiry, and, in light of extensive critiques by civil society organizations, update and revise the MMIWG National Action Plan, with a focus on developing co-ordinated actions, detailed plans, clear timelines, and funding commitments.

Justice for Canadian Women (Reply to Issues 5 and 6)

Women in Canada need, but do not have, a justice system that is responsive to their needs and to the realities of their lives. Unfortunately, there is evidence of deeply rooted gendered and racial bias in Canada's justice system.

Chronic Underfunding of Legal Aid

Canada does not fund legal aid adequately, and women are specially affected. In 2019, the Chief Justice of the Supreme Court of Canada emphasized the "essential" importance of legal aid for a fair justice system and urged governments to take "real, tangible steps, and [provide] funding" to increase access to legal aid. Despite the fundamental importance of legal aid, some governments have decreased funding for it – with Ontario slashing its

funding by 30% in 2019 - and Alberta recently threatening to terminate its contract with Legal Aid Alberta over cost.

In Ontario in 2024, to qualify for legal aid a single applicant must earn less than \$22,720 for domestic abuse cases or \$18,795 for all other matters. These rates are below Canada's low-income threshold, which in 2022 was \$24,347 for Canadians living in cities with a population over 500,000. As noted by Justice Nordheimer of the Ontario Superior Court in a legal aid case, "it should be obvious to any outside observer that the income thresholds being used by Legal Aid Ontario do not bear any reasonable relationship to what constitutes poverty in [Canada]."

There is a marked gender difference in legal aid usage: men are the primary users of criminal law legal aid, while women are the primary users of civil law legal aid, especially for family law matters. The Government of Canada makes direct financial transfers to the provinces and territories for criminal legal aid, but money for civil legal aid is a discretionary expenditure for provinces and territories from the Canada Social Transfer. Inadequate funding for civil legal aid restricts access to legal protections for women in particular.

Women who are victims of family violence require timely, affordable access to legal advice and representation to get protection orders, to navigate separation or divorce, and to assist with custody and access applications. As women are often economically disadvantaged when leaving a violent relationship, this is a critical moment when women need legal support.

#### Justice for Sexual Assault Survivors

The Canadian criminal justice system is failing survivors of sexual assault. Only 5% of all sexual assaults are reported to police. Sexual assault cases experience attrition at all levels of the criminal justice system with Statistics Canada finding that "an accused was solely identified in three in five (59%) sexual assault incidents reported by police; less than half (43%) of sexual assault incidents resulted in a charge being laid; of these, half (49%) only [were tried in court]; of which just over half (55%) led to a conviction; of which just over half (56%) were sentenced to custody".

Rates of reporting and conviction of perpetrators are lower for women with disabilities, racialized women, women with low incomes, Indigenous women, lesbians, and gender diverse women. These women experience higher rates of sexual violence and report greater challenges in navigating criminal justice systems.

Survivors of sexual assault encounter justice system bias when they report to police. Survivors are often confronted with deeply ingrained myths and stereotypes about sexual assault and "appropriate" responses to violation of their bodily integrity that undermine investigation into their complaints.

In a ground-breaking investigation conducted in 2017, the Globe and Mail reviewed over 870 police forces to reveal that they dismiss 1 in 5 sexual assault claims (or 19%) for being "unfounded" or baseless. In some regions, such as Saint John New Brunswick, the unfounded rate was over 50% of all sexual assault reports over a period of 5 years. This investigation revealed systemic failures in police investigations into sexual assault and led to some police departments agreeing to external sexual assault case reviews – whereby trained experts from sexual assault crisis centres independently review sexual assault reports that were deemed unfounded by police.

Despite some recent changes, survivors who choose to report their experiences of sexual violence to the police continue to report challenges. For example, although rates at which police departments nationally consider complaints unfounded are down from 19% in 2017 to 8% in 2022, the rates of sexual assault complaints translating into criminal charges is down from 46% to 36% in the same time period. Further, survivor advocates have expressed concerns that survivors who fit stereotypical assumptions of "perfect victims" are more likely to have their cases taken seriously and not dismissed. Despite some Criminal Code changes to ostensibly encourage more reporting, sexual assault is still the most underreported crime.

#### Misogyny, Racism and Violence against Women in Canada's National Police Force

The Royal Canadian Mounted Police (RCMP) is Canada's national police force. It provides contract policing in all provinces and territories, except Ontario and Quebec. It is the principal police force for rural and northern Canada. The RCMP regularly violates the human rights of the women it employs and the women it is intended to protect, in contravention of Canada's obligations under Article 2 of the CEDAW Convention.

The sexual harassment of female RCMP Officers by male RCMP Officers is a known and long-standing problem, and there have been many complaints. In 2020 Justice Bastarache, former Justice of the Supreme Court of Canada, issued a report entitled, *Broken Dreams, Broken Lives*, which provided his findings on the investigation arising from a class action suit joined by 3,086 women RCMP Officers. Justice Bastarache found that sexual harassment is fostered and permitted by an institutional culture of misogyny, racism and homophobia operating at every level of the RCMP and in every jurisdiction.

Justice Bastarache concluded that the RCMP is not capable of changing itself from within, and that the “time has come for the Government of Canada to ask some hard questions about the structure and governance of federal policing.” This culture of misogyny and racism affects not only how women employees are treated but how women in the community, whom the RCMP is charged with protecting, are treated.

#### i) Violence Against Indigenous Women and Girls

A review of reports provided over the last decade from legal experts and human rights organizations, including Human Rights Watch, the Legal Services Board of Nunavut, Pauktutit Inuit Women of Canada, the CEDAW Committee, the Inter-American Commission on Human Rights, the Oppal Inquiry, and the National Inquiry into Missing and Murdered Indigenous Women and Girls reveal a pattern and practice of sexualized violence against Indigenous women and girls by Officers of the RCMP, including harassment, sexual assault, rape, excessive use of force, unwarranted strip-searching, and sexualized verbal abuse. In addition, reports document RCMP failures to protect women, especially Indigenous women and girls, from violence by men in the community – including from sexual assault, domestic violence, human trafficking, and murder.

Additionally, Indigenous land defenders and human rights advocates, many of whom are women, are vilified, surveilled, criminalized, and subjected to violence by the RCMP. Many have been assaulted, arrested, and forcibly removed from their territories for engaging in peaceful land defence.

#### ii) Ignoring Intimate Partner Violence

In April 2020, Gabriel Wortman posed as an RCMP Officer and killed twenty-two people in Portapique, Nova Scotia. This mass shooting, which was the worst in Canada’s history, was labelled a femicide, and highlighted connections between intimate partner violence and mass violence.

Women’s rights advocates called for a public inquiry into the shooting. The Mass Casualty Commission was appointed in October 2020 and issued its Final Report on March 30, 2023. The Commission found profound failures by the RCMP in the handling of this mass homicide, which included failure to treat complaints about Gabriel Wortman’s known violence against his domestic partner and his illegal gun ownership with the seriousness warranted. Among other important recommendations, the Commission urged “[t]he federal minister of public safety to commission the in-depth, external, and independent review of the RCMP recommended by Mr. Bastarache in his 2020 report *Broken Dreams, Broken Lives*.”

#### iii) Complaints against the RCMP

The ineffectiveness of the Civilian Review and Complaints Commission for the RCMP (CRCC) as a complaint and oversight mechanism for the RCMP is widely acknowledged. In light of the record of RCMP violence against women, and RCMP failures to prevent violence against women, the weakness and inadequacy of the CRCC constitutes a failure on the part of Canada to ensure that women enjoy equal protection of the law and access to effective remedies when that right is violated.

#### Recommendations

To address justice system failures, Canada must:

**Increase Legal Aid Funding and Eligibility Categories:** Increase civil legal aid funding, and, at a minimum, ensure that adequate legal aid is available for all women living with low incomes, for women leaving violent relationships, and for women who are sexual assault survivors.

Attach Conditions to Federal Funding Transfers: Attach conditions to the Canada Social Transfer to ensure that all provinces and territories provide civil legal aid services that ensure women can use legal protections and rights when necessary, and obtain effective remedies when their rights are violated, in particular, women experiencing male violence, Indigenous women, and women with disabilities.

Increase Funding for External Case Review of Sexual Assault Reports: increase funding for external case review programs and encourage all police forces, including the Royal Canadian Mounted Police (RCMP), to participate in these programs.

Implement the recommendations of the Mass Casualty Commission.

Immediately establish the in-depth, external, and independent review of the RCMP recommended by Justice Bastarache, the Mass Casualty Commission and FAFIA.

#### Conclusion

43 years after Canada ratified the Convention on the Elimination of Discrimination against Women it is time for Canada to engage, in a concerted and strategic way, with implementation of its human rights obligations to women. It is time, not for rhetoric, but for wrestling with the realities of inequality, and time for a serious conversation between Canadian governments and Canadian women about mechanisms and measures needed to bring women to equality. There is much more work that Canada must do.

#### Contact Information

Shelagh Day, Human Rights Committee Chair

Canadian Feminist Alliance for International Action

9-2020 Lanthier Dr, Suite #228 Orleans, ON

Tel: +1 604-872-0750

Email: shelagh.day@gmail.com

Tania Amaral, Senior Manager

Tania@fafia-afai.org