

Fourth Cycle Universal Periodic Review: Canada

SUBMITTED: APRIL 5TH, 2023

The Ontario Native Women's Organization

1. Introduction

Established November 1971, the Ontario Native Women's Association (ONWA) is the oldest and largest Indigenous Women's organization in Canada. We are a not-for-profit organization mandated to empower and support all Indigenous women and their families in Ontario through research, advocacy, policy development, and programs.

The following submission provides an outline of the current issues our membership has highlighted as impacting the safety and wellbeing of Indigenous women and girls in urban settings. The list provided is by no means exhaustive, but rather a high-level overview of the priority issues we believe need attention within a human rights context.

2. Promotion and Protection of Human Rights

2a. Reconciliation and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Human Rights Council (HRC) Third Cycle National Report Paragraph 11-21: Highlighted Canada's commitment to achieving reconciliation through a renewed, Nation-to-Nation, Inuit-Crown, and government-to-government relationship with Indigenous peoples. It also reviewed federal/provincial/territorial (FPT) stated commitments to the co-development of legislation, implementation of UNDRIP and implementation of the Truth and Reconciliation Commission's (TRC) calls to action.

Progress: ONWA asserts that Canada has **partially implemented** is in the process of implementing their commitments through the passage of Bill C-15. A draft action plan for the implementation of Bill C-15 was released March 20, 2023. While the federal government has succeeded in drafting a national action plan for the implementation of UNDRIP, no timelines have been attached to the proposed next steps.

Recommendation: Canada, including all PTs, must commit to full implementation of and compliance with UNDRIP across all legislation.

Recommendation: The federal government must commit to a timeline regarding the full implementation of UNDRIP to promote accountability and ensure efforts and outcomes are measurable.

Recommendation: While Canada continues to reiterate commitment to the Nation-to-Nation relationship, this approach continues to discriminate and exclude Indigenous women and Indigenous women's organizations who are not represented by national organizations, such as non-status women and Urban Indigenous women. **ONWA strongly advocates for a shift to a distinctions-based PLUS approach.**

Recommendation: Indigenous women must be involved in the harmonization of new and existing legislation with UNDRIP, finalization of the National Action Plan, and annual progress reporting. Focus must be placed on legislation and policies that uphold matriarchal Indigenous women's rights, knowledge, and responsibilities in relation to their culture, safety, children, communities, and Mother Earth (environment).

2b. Truth and Reconciliation Commission (TRC) of Canada

HRC Third Cycle National Report Paragraph 22-24: Highlighted the TRC's release of their final report in 2015, including the 94 Calls to Action. PT governments have areas of responsibility for the implementation of the Calls to Action. Some PTs, like Ontario, developed their own responses/action plans (see *The Journey Together: Ontario's Commitment to Reconciliation with Indigenous Peoples*).

Progress: The Final Report of the TRC and its 94 Calls to Action promote and protect the rights of Indigenous peoples. There has been some positive implementation of recommendations based on the Calls to Action (e.g. In 2019, the Government of Canada passed legislation to mark September 30 as the National Day for Truth and Reconciliation). However, there is still much to be done. As such, ONWA asserts Canada has **partially implemented** the TRC Calls to Action. The experience and legacy of residential schools have been one of the largest deterrents to Indigenous women enjoying their collective and human rights. The discovery of unmarked graves in 2021 at former residential school sites again created additional trauma, which has been compounded for centuries, to Indigenous women and their families. residential schools and the legacy of impacts to the forefront of attention to Canadians and other worldwide communities.

Recommendation: ONWA asserts that the federal government must take immediate action to support the full implementation of the 94 TRC calls to action through systemic change and the provision of appropriate, sustainable funding to Indigenous women's led community-based organizations supporting the health, healing and wellness of Indigenous women, their children and their communities.

2c. First Nations Child and Family Services and Jordan's Principle

HRC Third Cycle National Report Paragraph 25-29: Highlighted the Canadian Human Rights Tribunal's finding of discrimination against First Nations children by the federal government by not funding welfare services on reserve at the same level elsewhere. The Tribunal called for the implementation of Jordan's Principle to ensure access to health, educational, and social supports without undue delay or disruption.

Progress: Canada has **partially implemented** this commitment through the passage of Bill C-92, which respects the rights of Indigenous peoples' self-government in relation to child and family services. However, the child welfare system continues the process of removing Indigenous children from their families and communities. While Jordan's Principle is a first step, it is restrictive and fails to consider

child welfare more broadly. Funding allocated to implement Jordan's Principle is not accessible to Indigenous women and families due to its narrow formulation and the lengthy review process, resulting in service gaps, delays and denials of service for First Nations children. Furthermore, the implementation of Jordan's principle has not addressed the jurisdictional divides between levels of government and service providers.

Recommendation: Legislation such as Bill C-92 must ensure off-reserve, Métis, non-status and Inuit children are included in provincial child and family prevention-based services, led by Indigenous women's organizations so that children and their mothers are not negatively impacted by the new child welfare funding and services.

Recommendation: Stable, long-term funding and substantial, committed investments in prevention, early intervention, and reunification including Indigenous women's led healing programs, parenting programs, and trauma-informed, wholistic, wrap-around approaches are needed to adequately support Indigenous women and their families.

3. Advancing Gender Equality and Women's Empowerment

3a. Gender-based Violence

HRC Third Cycle National Report Paragraph 42-48: Highlighted the progress provincial and territorial governments have made towards gender-based violence. FPT governments had developed gender-based strategies with considerations for certain groups at risk of violence.

Progress: ONWA asserts that efforts to end gender-based violence against Indigenous women **have not been implemented** across governments. Indigenous women continue to be uniquely impacted by identity-based discrimination due to intersecting dynamics of race, sex and gender. Ongoing legacies of colonization underpin their daily lives. There is a lack of coordination amongst systems regarding violence against Indigenous women and efforts to ensure the safety of Indigenous women.

Recommendation: To address violence against Indigenous women and girls, ONWA advocates for significant investments into Indigenous Women's organizations in the form of core sustainable funding. Stable, long-term Indigenous women's led community-based approaches must be acknowledged, funded, and supported. Indigenous women's led community-based services are best positioned to meet the needs of Indigenous women and their families.

HRC Third Cycle National Report Paragraph 49-51: Highlighted that government strategies take a multi-sectoral approach to prevention and response to family violence. Examples of PT initiatives were provided, including Ontario's *Domestic Violence Action Plan*.

Progress: The federal government recently committed \$525 million over five years through the national action plan to end gender-based violence (GBV). ONWA suggests that Canada's commitments to end GBV have **not yet been implemented** as funding is often not allocated to Indigenous women's led

organizations who support those most impacted by GBV, Indigenous women.

Recommendation: FPT governments must consider substantial core investments to Indigenous women's led healing programs, parenting programs, and trauma-informed, wholistic, wrap-around approaches that are needed to adequately support families and prevent intervention by child welfare agencies.

Recommendation: Development of an Indigenous women's led family violence strategy across FPT governments. Strategy would include housing, employment, training, education, law enforcement, justice, social assistance and health and healing is needed to address the root causes of family violence and barriers for healing for Indigenous women and their families. Coordination across government departments is essential to ensure the success of efforts to end Indigenous family violence. Further, there must be annual review of governmental strategies and funding. Ensuring Indigenous women's led community-based services are sufficiently funded is necessary to support the health and wellness of Indigenous women and their families.

3b. National Inquiry into Missing and Murdered Indigenous Women and Girls

HRC Third Cycle National Report Paragraph 52-56: Highlighted the 2016 National Inquiry into MMIWG, recommendations for concrete action and the opportunity for survivors, families, loved ones, grassroots women's organizations, and National Indigenous Organizations to share experiences and views on safety and prevention of violence.

Progress: The 2019 release of the National Inquiry delivered 231 individual Calls for Justice. Despite numerous recommendations and Calls for Justice, Indigenous women and girls continue to face disproportionate violence as the number of missing and murdered Indigenous women and girls continues to increase. It remains unclear how federal funding for the national inquiry/action plan was allocated. While some progress has been made including the appointment of Jennifer Moore Rattray as the Ministerial Special Representative to address calls for justice, overall outcomes from the national action plan also remain unclear. As such, ONWA asserts that Canada has **not yet implemented** commitments surrounding MMIWG.

Recommendation: ONWA advocates for the full implementation of the recommendations within our *Journey to Safe Spaces* (2019) and *Reconciliation with Indigenous Women* (2020) reports, along with the 231 MMIWG Calls for Justice.

Recommendation: All levels of government coordinate and work with Indigenous women and their representative organizations to establish a national database to assist in locating missing Indigenous women and girls, as well as a national alert system to notify citizens of missing Indigenous women.

Recommendation: To create true systemic changes, ONWA advocates for significant investments into Indigenous Women's organizations in the form of core sustainable funding. Indigenous women's organizations provide critical services and safe spaces for Indigenous women and their families.

Recommendation: All policy and legislative responses to MMIWG across all levels of government need to be analyzed using an Indigenous Gender-Based Analysis to ensure that they are responsive to the specific safety needs of Indigenous women.

4. Public Security

4a. Crime prevention and criminal justice

HRC Third Cycle National Report Paragraph 88: Highlights Canada's review of the criminal justice system to ensure that it is just, compassionate, and fair. The review was intended to ensure consistency with the Canadian Charter of Rights and reduce the over-representation of vulnerable populations involved with the justice system.

Progress: While Canada has made some progress through PT engagements and amendments to various legislation, there remains an urgent need for criminal justice reforms to address the unique needs of Indigenous people, particularly Indigenous women. ONWA suggests that the aims presented in the 3rd cycle report have been **partially implemented** as current reforms have not succeeded in reducing the disproportionate negative impact Indigenous women face when interacting with the criminal justice system in Canada.

Recommendation: ONWA advocates for all levels of government to implement national Gladue standards.

Recommendation: Indigenous women's led organizations must be funded to co-develop national Gladue standards to ensure that they meaningfully account for the intersections of gender, sex and racial discrimination.

Recommendation: Indigenous women's organizations, including ONWA, must be provided with long-term and stable funding to develop pre-sentence reports to ensure the consistent application of Gladue principles at bail and sentencing to fulfil their intended remedial purpose.

Recommendation: Indigenous women's organization, including ONWA must be funded to expand preventative justice programming to support Indigenous women, girls, Two-Spirit individuals, and families (i.e., prevention services, mental health supports, culture-based addiction treatment, diversion programming, in-court supports, bail supports, aftercare programming, etc.).

5. Economic and Social Rights and Well-being

5a. Housing and homelessness

HRC Third Cycle National Report Paragraph 106-110: Highlighted Canada's first National Housing Strategy, which was released by the Government of Canada in November 2017, prioritizing housing for vulnerable populations in greatest need.

Progress: The lack of housing and high core housing need has been deemed a national crisis. Indigenous women continue to experience the greatest lack of access to safe culture-based shelters, affordable housing, and wholistic support. The *2019 National Housing Strategy Act* declared that *"the right to adequate housing is a fundamental human right affirmed in international law."* The Act affirmed that the right to adequate housing without discrimination is a fundamental human right for everyone in Canada. All levels of government in Canada are accountable for the implementation of domestic and international legislation, agreements, and treaties that ensure the rights of Indigenous women, and their families are upheld. As new funds have been secured within the province of Ontario for Indigenous housing, ONWA asserts that Canada's commitments to address housing needs have been partially implemented.

ONWA asserts that Canada's commitments to address housing needs **have been partially implemented**, especially for Indigenous women in Canada.

Recommendation: All levels of government must work collaboratively and strategically through the implementation of the National Housing Strategy to address housing inequities, jurisdictional gaps, and barriers to safe housing and ensure that the voices of Indigenous women are included at government tables and reflected in policy solutions that meet their unique housing and safety needs.

Recommendation: Sustainable, strategic investments for Indigenous women's organizations are needed to design, develop, and deliver housing and supports for Indigenous women in a safe space free from racism, sexism and discrimination.

Recommendation: ONWA advocates for the implementation of a Duty to Assist legislative approach to prevent eviction and homelessness and ensure the right to safe and adequate housing.

Recommendation: Indigenous women require low-barrier access to transitional housing and supportive housing through a Housing First approach.

5b. Health

HRC Third Cycle National Report Paragraph 116: Highlighted federal funding over a ten-year period to improve home care and mental health services.

Progress: Federal funding was allocated and used differently across PTs. Ontario, for example, made amendments to home and community care legislation. including the promised removal of service maximums and inclusion of rights-based language surrounding culturally safe access to care for Indigenous people in Ontario. However, ONWA asserts that health commitments have been **partially implemented** as federal funding and provincial legislative changes have not remedied the individual and systemic racism, sexism, discrimination nor significantly improved the quality of care received by Indigenous women and their children within healthcare systems.

Recommendation: ONWA advocates for a distinctions-based PLUS approach to co-development of legislation and consideration for funding. Indigenous community-based service providers are best positioned to meet the needs of Indigenous women and their families. Stable, long-term Indigenous

women's led community-based approaches to healing and wellness must be acknowledged, funded, and supported. This includes allowing resources to be used at the discretion of Indigenous service providers to meet specific needs in communities.

5c. Human Trafficking

HRC Third Cycle National Report: Does not include any reference of the promotion and protection of human rights as it relates to human trafficking.

Progress: Canada's National Strategy to End Human Trafficking 2019-2024, is a whole of government approach (federal departments and agencies) for the prevention, protection, prosecution, partnership development, and empowerment focused supports and services for victims of human trafficking. Some provinces, like Ontario, have also developed anti-human trafficking strategies that provides Indigenous women and Two Spirited individual specific services and supports. Despite the implementation of these strategies, Indigenous women, girls and two-spirit peoples are disproportionality represented as survivors of human trafficking within Canada.

Recommendation: ONWA advocates for the full implementation of the recommendations within our *Journey to Safe Spaces* (2019) and *Reconciliation with Indigenous Women* (2020) reports, along with the 231 Missing and Murdered Indigenous Women and Girls (MMWIG) Calls for Justice.

Recommendation: Indigenous women's organizations require sustainable core funding to create safe spaces to provide Indigenous women and youth being trafficked with a place to heal, intervention and exiting supports, safety plans, and most importantly, a safe space of support without judgement.

Recommendation: There is a pointed need for Anti-Human Trafficking Coordination— including a national body or entity to report on data from service organizations, coordinate service providers, police and child welfare agencies in addressing and responding to the human trafficking of Indigenous women and their children.

Recommendation: Meaningful policies, procedures, programs, and legislation are needed across jurisdictions to ensure that the immediate safety concerns for Indigenous women and girls are central and at the forefront. Indigenous women and their representative organizations must be included to co design policies, legislation and funding models that impact their lives

Recommendation: All policy and legislative responses must be analyzed using an Indigenous Gender-Based Analysis to ensure that they are responsive to the specific safety needs of Indigenous women.

Recommendation: Governments must increase funding to community-based Indigenous women's organizations to provide specialized services and resources for Indigenous children.