

**NATIVE WOMEN'S ASSOCIATION OF CANADA'S RESPONSE TO  
CANADA'S SEVENTEENTH AND EIGHTEENTH PERIODIC REPORTS TO  
THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION**

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## **I. Introduction**

The Native Women's Association of Canada (NWAC) welcomes the opportunity to present our views on Canada's Seventeenth and Eighteenth Periodic Reports to the Committee on the Elimination of Racial Discrimination (the Committee). The NWAC is a national Aboriginal organization in Canada representing the political voices of Indigenous women throughout Canada. NWAC is founded on the collective goal to enhance, promote and foster the social, economic, cultural and political well-being of First Nations and Métis women within First Nation, Métis and Canadian societies.

It is well recognized that Indigenous women in Canada suffer from grave violations of the rights contained within the *International Convention on the Elimination of All Forms of Racial Discrimination* (the ICERD) on a daily basis. Below, we set out our concerns regarding Canada's compliance with the ICERD. We have considered the "Questions Put by the Rapporteur in Connection with the Consideration of the 17<sup>th</sup> and 18<sup>th</sup> Periodic Reports by Canada" (CERD/C/CAN/18) issued by the Committee and have provided information pertinent to these questions where they also relate to our concerns.

### **Article 2: Legislative, administrative, judicial or other measures**

Canada has set out in its report several legislative, administrative, judicial and other measures it has taken to address racial discrimination affecting Indigenous Peoples in Canada. These actions relate to residential schools, claims to Aboriginal title, proof of extinguishments of rights on land and resources, land use limitations, measures to eradicate violence against Aboriginal women, the Family Violence Initiative and program funding, and employment issues. While some progress has been made in these areas, such as supporting NWAC's Sisters in Spirit Initiative to address racialized, sexualized violence against Indigenous women, Canada is not taking sufficient measures to be in compliance with the ICERD. Further, there are actions and positions taken by Canada that overtly contradict the rights of ICERD.

The areas in which Canada is in violation of Article 2 of the ICERD include its limited measures and its negative actions and positions on 1) Aboriginal and Treaty Rights, particularly as it relates to the United Nations (UN) Declaration on the Rights of Indigenous Peoples (the Declaration) and 2) the Economic and Social Marginalization of Indigenous women and their families, including the eradication of violence against Indigenous women.

#### *1. Aboriginal and Treaty Rights*

The Native Women's Association of Canada has grave concerns about Canada's actions and position on the *United Nations Declaration on the Rights of Indigenous Peoples* (the Declaration). It has become apparent that Canada supports a discriminatory approach to the Aboriginal and treaty rights of Indigenous Peoples in Canada, by politicizing the

human rights of Indigenous peoples and by its erroneous, extreme, misleading and unsubstantiated positions and actions to oppose the *Declaration*.

Canada's discriminatory and extreme conduct and actions are in violation of *ICERD*, especially Articles 2 and 5. Such prejudicial conduct and actions have been documented in great detail.<sup>1</sup>

Regretfully, the principal focus of the government of Canada has been and continues to be to significantly weaken the current text of the *UN Declaration on the Rights of Indigenous Peoples*. In regard to Indigenous Peoples, this is an ideological strategy that is driving the government in many areas, reinforced by a number of other prejudicial government actions within Canada. These include:

- i) limiting Indigenous peoples' capacity to defend their rights through litigation, by **cancelling the largely successful Court Challenges Program** (discussed further below);
- ii) **politicizing the process for selection of judges**, so as to appoint judges that are more reflective of Conservative ideology (as evidenced in recent news articles in Canada<sup>2</sup>);
- iii) severely cutting back on legal reforms relating to Indigenous peoples, by **terminating all funding to Canada's Law Reform Commission**; and
- iv) **refusing to honour the Kelowna Accord**, which was unanimously agreed to by federal, provincial, territorial government leaders and Aboriginal leaders of the five national Aboriginal organizations. The \$5.1 billion Accord would have decreased disparities on education, health care, housing, drinking water, among other matters (discussed further below).

Canada called a vote in order to oppose the adoption of the Declaration by the UN Human Rights Council in June 2006<sup>3</sup> (where, out of 47 members, only Canada and Russia voted against the Declaration, 30 members voting in favour and 12 abstaining). Further, Canada voted to support the resolution approved by the Third Committee of the

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<sup>1</sup> Correspondence from President Beverley Jacobs to the Honourable Minister of Indian and Northern Affairs Canada Jim Prentice dated August 21, 2006 and Correspondence from National Chief Phil Fontaine to the Honourable Minister of Indian and Northern Affairs Canada Jim Prentice dated November 10, 2006 and accompanying [Commentary](#)).

<sup>2</sup> See, for example, J. Tibbetts, "PM 'muzzling judges'", *The [Montreal] Gazette* (19 February 2007) at A1 (criticism by former Chief Justice Antonio Lamer of Canada's Supreme Court); "Politicized judges damage bench", Editorial, *Globe and Mail* (13 February 2007) at A14; C. Clark, "Tories seeking rightist court, critics say", *Globe and Mail*, (13 February 2007) at A1.

<sup>3</sup> UN Human Rights Council, *Resolution 2006/2, Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of the General Assembly resolution 49/214 of 23 December 1994 in Report to the General Assembly on the first Session of the Human Rights Council*, 1<sup>st</sup> Sess., UN Doc. A/HRC/RES/2006/2 (2006).

UN General Assembly (UNGA) in November 2006 (thereby failing to adopt the recommendation of the UN Human Rights Council to immediately adopt the Declaration). Instead, the resolution calls for further consultations to take place before the UNGA considers the Declaration's adoption before the end of this 61<sup>st</sup> Session.<sup>4</sup> These decisions by Canada were taken without consultation and collaboration with Indigenous Peoples in Canada, even though NWAC and other Indigenous organizations have been actively involved in the UN standard-setting process over the past two decades. This is in violation of their constitutional obligations to consult with Indigenous Peoples and to accommodate when addressing the rights of Indigenous Peoples in Canada. Canada's actions constitute repeated violations of the rule of law in Canada and internationally.<sup>5</sup>

As NWAC has described in detail to Canada in our letter, dated August 21, 2006, and accompanying Annex:

As a member of the new Human Rights Council, Canada has engaged in politicizing Indigenous human rights matters before the Council in a number of ways. These include: shutting down a successful, collaborative Canada-Indigenous process on the *Declaration* that had been established during the previous Liberal government's term; misleading the Council on the nature of Canada's "consultation" process with Canadian provinces, which process did not conform with Canada's constitutional obligations; seeking to block adoption of the *Declaration* with a so-called "amendment" that would have placed any future adoption of a strong *Declaration* in severe jeopardy; misrepresenting the duration and adverse effects of Canada's proposed amendment through contradictory and misleading statements; repeatedly engaging in extremist, absolutist and erroneous interpretations with a view to reducing the support of States for adoption of the *U.N. Declaration*; lobbying States with high levels of human rights abuses against Indigenous peoples, with a view to encouraging their non-support for the *Declaration*; refusing repeatedly to provide Indigenous peoples from Canada any substantiation of its excessive positions; putting political alliances ahead of human rights responsibilities, e.g., facilitating questionable strategies of the U.S., Australia and New Zealand to undermine Indigenous peoples' human rights in a discriminatory manner; and in effect refusing to engage in international cooperation in an open, transparent and honest manner and in good faith.<sup>6</sup>

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<sup>4</sup> UN General Assembly Third Committee, *Namibia amendments to draft resolution A/C.361/L.57 Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of the General Assembly resolution 49/214 of 23 December 1994*, 61<sup>st</sup> Sess., UN Doc. A/C.3/61/L.57 (2006).

<sup>5</sup> Correspondence from President Beverley Jacobs to the Honourable Minister of Indian and Northern Affairs Canada Jim Prentice dated August 21, 2006 and Correspondence from National Chief Phil Fontaine to the Honourable Minister of Indian and Northern Affairs Canada Jim Prentice dated November 10, 2006 and Accompanying Commentary).

<sup>6</sup> Correspondence from President Beverley Jacobs to the Honourable Minister of Indian and Northern Affairs Canada Jim Prentice dated August 21, 2006.

Canada has provided a position paper on the Declaration.<sup>7</sup> However, these arguments provided to date for opposing the Declaration are not substantiated by the facts or law.

Specifically, Canada has voiced concerns with the provisions of the Declaration related to lands, resources and territories. More specifically, Canada is opposed to Article 26 since it refers to “the **right** to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired” instead of “the **rights** to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired” on the basis that the current wording is overly broad in scope and could result in the Declaration having a retroactive effect. This line of reasoning is false and runs contrary to Canadian policy and case law which both require Aboriginal rights be proved based on traditional occupation and use rooted in the past.<sup>8</sup>

Canada’s position is also contrary to the recommendations of the *Royal Commission on Aboriginal Peoples* which explicitly cited, with approval, Article 26 (of the earlier Sub-Commission text version which is similar to the current text) and urged the government of Canada to safeguard Aboriginal lands and resources in accordance with such norms. Specifically, the RCAP called on Canada to approve the Declaration and Convention 169:

“We agree that both the draft declaration and convention 169 [*Indigenous and Tribal Peoples Convention, 1989*] are authoritative statements of norms concerning Indigenous peoples, and we urge the government of Canada to protect Aboriginal lands and resources in accordance with these norms.”<sup>9</sup>

NWAC, along with many States and Indigenous Peoples and representative organizations throughout the world, is appalled that Canada has, through its actions, undermined the purpose of the Human Rights Council by failing to act on its recommendations for politically motivated purposes. The failure of Canada to support the much-needed advancement of the human rights of Indigenous Peoples through this critical instrument is disgraceful. The purpose of the Declaration is to remedy the mass human rights violations facing Indigenous Peoples worldwide by creating standards related to the rights to self-determination, lands, resources and territories, among others, aimed at reducing discrimination and inequality facing Indigenous Peoples and persons throughout the world. As a member of the Human Rights Council, Canada’s position on this historic human rights instrument runs counter to Canada’s obligations as a Human Rights Council

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<sup>7</sup> See Indian and Northern Affairs Canada (INAC), “Canada’s Position: United Nations Draft Declaration on the Rights of Indigenous Peoples - June 29, 2006”, available at: [www.ainc-inac.gc.ca/nr/spch/unp/06/ddr\\_e.html](http://www.ainc-inac.gc.ca/nr/spch/unp/06/ddr_e.html).

<sup>8</sup> Indian and Northern Affairs Canada, *Comprehensive Claims (Modern Treaties) in Canada*, March 1996 which states, “The traditional use and occupancy of the territory must have been sufficient to be an established fact at the time of assertion of sovereignty by European nations.” See also Supreme Court of Canada, *Delgamuukw v. The Queen* (1997) where the Court states, “In order to establish a claim to aboriginal title, the aboriginal group asserting the claim must establish that it occupied the lands in question at the time at which the Crown asserted sovereignty over the land subject to the title.”

<sup>9</sup> *Royal Commission on Aboriginal Peoples, Volume 2 (2)* at 567-568.

member to advance human rights. Canada's actions related to the Declaration are contrary to both Article 2 and Article 5 of the ICERD.

**Actions Required of Canada:**

**Reverse its position and actions of the *UN Declaration on the Rights of Indigenous Peoples* and instead support the immediate adoption of the UN Declaration adopted by the UN Human Rights Council in June 2005 (without amendment). Further, Canada should cease all of its prejudicial actions in relation to Indigenous Peoples to severely erode support for the adoption of the Declaration by the UN General Assembly.**

**Immediately engage in full and meaningful consultation with Indigenous Peoples and representative organizations in Canada regarding ratification of *International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples*.**

2) Economic and Social Marginalization

It is well-documented that Indigenous people, particularly women, suffer from economic and social marginalization at alarmingly high rates compared to the rest of society. This is captured by Special Rapporteur Rodolfo Stavenhagen in his report on Canada:

“Economic, social and human indicators of well-being, quality of life and development are consistently lower among Aboriginal people than other Canadians. Poverty, infant mortality, unemployment, morbidity, suicide, criminal detention, children on welfare, women victims of abuse, child prostitution, are all much higher among Aboriginal people than in any other sector of Canadian society, whereas educational attainment, health standards, housing conditions, family income, access to economic opportunity and to social services are generally lower...”<sup>10</sup>

For Indigenous women, this socio-economic marginalization leaving them at risk of racialized, sexualized violence, far too often leading to their disappearance or deaths.<sup>11</sup>

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<sup>10</sup> *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen, Addendum, Mission to Canada*, UN Commission on Human Rights, 61<sup>st</sup> Sess., UN Doc. E/CN.4/2005/88/Add.3 (2004) at 2.

<sup>11</sup> This is linked to government policies and systemic discrimination throughout Canadian society. “...Generations of Indigenous women and girls have been dispossessed by government policies. Many now face desperate circumstances in Canadian towns and cities, a situation compounded by sexist stereotypes and racist attitudes toward Indigenous women and girls and general indifference to their welfare and safety. The result has been far too many Indigenous women and girls placed in harm's way, denied adequate protection of the law, and marginalized in a way that allows some men to get away with carrying out violent crimes against them.” in Amnesty International, *Stolen Sisters: Discrimination and*

Estimates by NWAC indicated that at least 500 Indigenous women in Canada have been murdered or gone missing in the last two decades. Canada's statistics indicate that at least three-quarters of Indigenous women have been the victims of family violence and the overall mortality rate due to violence is three times higher for Indigenous women than non-Indigenous women, or five times higher for the age group of 25 to 44 years.<sup>12</sup>

In order to effectively address violence against Indigenous women, the overall causes and consequences, from socio-economic marginalization, to rampant gendered racism and discrimination, to a lack of recognition of land rights and other collective human rights of Indigenous peoples, must be addressed.

**Actions Required of Canada:**

**Gather adequate statistical information on violence against Indigenous women.**

**Address the root causes of violence against Indigenous women, including socio-economic marginalization, through systemic measures. Honour outstanding commitments, such as the Kelowna Accord, which would contribute to decreasing the socio-economic marginalization of Indigenous women and their families.**

**Article 5: Equality before the law**

NWAC is concerned about five main issues related to Canada's compliance with Article 5 of the ICERD that requires equality before the law. These include *Indian Act* issues, the over-representation of Indigenous women in the justice system, the *Anti-Terrorism Act*, the health status of Indigenous women and their families and section 67 of the *Canadian Human Rights Act*.

*1. Indian Act Issues*

a) The right to marry and choose one's spouse

Canada's report states that, "The *Indian Act* does not limit the right of individuals to marry and to choose one's spouse. The basis of the current Indian registration system is to maintain continuity with the original Aboriginal peoples of Canada." The report goes on to state that the 1985 amendments (commonly referred to as 'the Bill C-31 Amendments') remedy the discriminatory provisions of the *Indian Act* and create

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*violence against Indigenous women in Canada: A Summary of Amnesty International's Concerns* (Ottawa: Amnesty International Canada, 2004) at 9.

<sup>12</sup> Health Canada, Women's Health Bureau, "The Health of Aboriginal Women", online: <[http://www.hc-sc.gc.ca/english/women/facts\\_issues/facts\\_aborig.htm](http://www.hc-sc.gc.ca/english/women/facts_issues/facts_aborig.htm)>.

registration rules that provide for non-entitlement of grandchildren to registration after two successive generations of parenting with a non-Indian.

In fact, this new system creates new violations related to discrimination and equality. Under this system, upon marriage to a non-status individual, a status individual loses his or her right to pass on status and membership rights to his or her descendants. However, there are two different classes of individuals created under subsections 6(1) and 6(2) respectively. The descendants of those individuals classified under subsection 6(2) are more likely to reach the second-generation cut-off point one generation sooner than the descendants of those classified under subsection 6(1). First Nations women reinstated under Bill C-31 (after having been stripped of status in an overtly discriminatory manner) are more likely than their male relatives to be classified under subsection 6(2). This is why Bill C-31 contains residual discrimination, as noted by the Committee's Questions.

Furthermore, this system interferes with First Nations individuals' right to non-discrimination because the current provisions erode the right to status and membership under the *Indian Act* of all First Nations individuals. While an individual can marry whom he or she chooses, as noted by Canada's report, such a decision is not made without negatively affecting his or her equal right to pass on status and membership rights to their descendants. The unstated paternity rules contained within Bill C-31 create inequalities for women who decide not to reveal the identity of the father of their child or children. These further negatively affect a person's right to culture and to pass on their culture (which is intimately tied to the land) to their descendants. Canada's assertion that the registration system has as its purpose to "maintain continuity with the original Aboriginal peoples of Canada" does not reflect the well-documented reality that this registration system will in fact lead to the elimination of individuals entitled to register under the *Indian Act*. This is because of the overly rigid, still residually discriminatory registration system created by the 1985 Amendments.

This situation requires legislative and policy changes, based on full and effective consultation and collaboration with Indigenous peoples and representative organizations. Indigenous women's organizations must play a key role, given the specific discriminatory impact this legislation has had on Indigenous women and their descendants.

**Actions Required of Canada:**

**In consultation and cooperation with Indigenous Peoples and representative organizations, including Indigenous women's organizations, implement policy and legislative changes that will remove the residual gender discrimination against First Nations women and their descendants and redress the current discriminatory erosion of rights to membership and status under the *Indian Act* of all First Nations individuals.**

b) The right to own property

In relation to matrimonial property rights, First Nations individuals living on-reserve do not have access to the same legislative protections as individuals living off-reserve. This has a particularly detrimental effect on Indigenous women, who are far more likely than men to be the sole caregivers of their children. Where violence is involved, lack of matrimonial property rights puts both Indigenous women and their children at greater risk for staying in an abusive environment because of a lack of alternative housing choices.

Canada refers to the reports in 2004 and 2005 by the Senate and the House of Commons Studies that made several recommendations, including interim legislation in the short, immediate term and in the long term, consultation with First Nations organizations to develop a legislative solution.

On a positive note, Canada has established a tripartite process between the federal government of Canada, NWAC and the Assembly of First Nations, lead by a Ministerial Representative. The report of the Ministerial Representative will be presented to the Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-status Indians, the Honourable Jim Prentice, on March 9, 2007. We are confident that this will lead to immediate, non-legislative *and* legislative changes based on the outcomes of the current tripartite process.

**Actions Required of Canada:**

**To immediately adopt the non-legislative and legislative changes related to matrimonial property on-reserve that will result in the realization of equal rights for residents living on-reserve as compared to others living off-reserve. These changes should be based on the solutions identified through the established tripartite process between Indian Affairs and Northern Development, NWAC and the Assembly of First Nations described above.**

*2. Over-representation of Indigenous People in the justice system*

Canada's failure to detail any measures taken that specifically target the over-representation of Indigenous Peoples in the justice system is reflective of the Canadian government's failure to address these matters effectively.

The over-representation of Indigenous people in the justice system negatively affects Indigenous communities throughout Canada. The lack of access to justice for Indigenous women perpetuates their marginalization, as identified by the Canadian Human Rights Commission's report entitled, *Protecting Their Rights: A Systemic Review of Human*

*Rights in Correctional Services for Federally Sentenced Women.*<sup>13</sup> In this report, the Commission calls on Canada to address the discrimination and human rights abuses facing Indigenous women in society and in the correctional system:

“Women, particularly Aboriginal women, are vulnerable not only because they lack power in the prison context, but also because of the economic, social and political realities of women’s lives. This is particularly true for Aboriginal women who...are being incarcerated in increasing numbers. The disadvantage they experience is multi-layered both in the society and in the correctional system. From this perspective, the fiduciary duty on the Government of Canada augments the human rights obligations of the Correctional Service to these vulnerable groups.”<sup>14</sup> [references omitted.]

Amnesty International’s *Stolen Sisters* report also outlines numerous solutions aimed at addressing access to justice issues related to violence and discrimination facing Indigenous women, including:

- Identify and implement appropriate and effective protocols for action of missing person cases consistent with the specific risks to Indigenous women and girls.
- Provide adequate, sustained, multi-year funding to culturally appropriate services, such as shelters and counseling for Indigenous women and girls, need to prevent violence against Indigenous women...
- Increase recruitment of Indigenous police officers, particularly Indigenous women. As well, ensure adequate training for all police, prosecutors and judges on issues of violence against Indigenous women in a range of settings including family violence, child sexual exploitation and violence against women in the sex trade.
- Implement outstanding recommendations of the Royal Commission on Aboriginal Peoples which address poverty and social marginalization of Indigenous Peoples in Canada, as has repeatedly been urged by United Nations human rights treaty bodies.<sup>15</sup>

The need for a systemic approach to addressing these issues cannot be under-estimated. In fact, while the Sisters in Spirit is a positive initiative, the federal department in charge

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<sup>13</sup> Canada, *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*, (Ottawa: Canadian Human Rights Commission, 2003).

<sup>14</sup> *Ibid* at 16.

<sup>15</sup> These recommendations and several other sound recommendations are contained in *Stolen Sisters*, *supra* note 11 at 22-23.

of the administration of the criminal justice system, the Department of Public Safety and Emergency Preparedness did not contribute financial support to the Sisters in Spirit Initiative, limiting the budget and therefore the scope of the work. This lack of interest is startling given the grave realities facing Indigenous women in prison, including higher prevalence rates of mental illness, self-abuse (such as slashing and cutting) and suicide attempts.<sup>16</sup>

**Actions Required of Canada:**

**Ensure effective access to justice, including the implementation of the recommendations contained in the Canadian Human Rights Commission report, *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women* and Amnesty International's Report, *Stolen Sisters: Discrimination and violence against Indigenous Women in Canada: A Summary of Amnesty International's Concerns*.**

**Decrease the over-representation of Indigenous people, particularly women by addressing the root causes of socio-economic marginalization and violence.**

3. *Anti-Terrorism Act*

NWAC is concerned about the potential negative impacts on Indigenous Peoples and in particular, Indigenous women by the broad discretionary powers granted under the *Anti-Terrorism Act* in a system with discriminatory practices. We welcome policy efforts aimed at ensuring adequate checks and balances are in place to prevent racial discrimination, particularly gendered racism, from occurring through the operation of this Act. This includes the implementation of the recommendations by civil society referred to at pages 77-78 of Canada's report, specifically the inclusion on an anti-discrimination clause. In relation to the recommendation that outreach work be undertaken to complete a race analysis and gender analysis on how the legislation impacts minorities, it is recommended that such an analysis be done in relation to Indigenous Peoples and that an integrated gendered race analysis be completed in relation to the impacts on Indigenous women.

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<sup>16</sup> *Ibid* at 6.

#### **Actions Required of Canada:**

**Implement the recommendations by civil society in relation to the *Anti-Terrorism Act*, particularly the inclusion of an anti-discrimination clause. Further, complete a race analysis of the legislative impacts on Indigenous Peoples, and a gendered race analysis of the legislative impacts on Indigenous women in particular.**

#### *4. Health Status*

Indigenous people in Canada suffer from critical health problems at disproportionately high rates, leading to low life expectancy rates. The health status of Indigenous Peoples is linked to inequities in health determinants, including “lower quality housing, poorer physical environments, lower educational levels, lower socio-economic status, fewer employment opportunities and weaker community infrastructure.”<sup>17</sup> Indigenous women, because of continuing oppression, abuse, discrimination, and poor socio-economic status, are more apt to experience illness and diseases associated with these conditions, including diabetes, certain cancers, cardiovascular diseases, disabilities, additions, sexually transmitted diseases (including HIV/AIDS) and depression.

Canadian Indigenous women are almost three times more likely to have AIDS than non-Indigenous women,<sup>18</sup> make up 50% of new HIV cases, compared to only 16% of the non-Indigenous population<sup>19</sup> and suffer up to ten times the national average for other sexually transmitted diseases.<sup>20</sup>

Furthermore, without positive actions by Canada to reverse the discriminatory causes underlying the low health rates, life expectancy rates will remain low for Indigenous women and their families. There is an urgent need to provide First Nations, Métis and Inuit women equitable access to health care services, which must be done in a gender sensitive, culturally relevant manner. Health needs must be re-defined to reflect the traditional knowledge and unique perspectives of Indigenous women.

In September 2004, Canada announced new Aboriginal health funding in the amount of \$700 million to implement the “Aboriginal Blueprint”. This Blueprint provided for

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<sup>17</sup> Society of Obstetricians and Gynecologists of Canada (SOGC), “SOGC Policy Statement: A Guide for Health Care Professionals Working With Aboriginal Peoples”, Journal SOGC, Vol. 2, April 2001 at 3.

<sup>18</sup> Kevin Barlow, Canadian Aboriginal AIDS Network, Media Release March 5, 2004, “Aboriginal Women Continue to Face Major Challenges, as International Women’s Day Approaches” where he identifies the ratio of AIDS cases as 23.1% of Indigenous women versus 8.2% of non-Indigenous women.

<sup>19</sup> Tracey Prentice, *HIV/AIDS and Aboriginal Women, Children and Families*, (Ottawa: The Canadian Aboriginal AIDS Network, 2004) at 3. This growing trend is particularly acute for young Indigenous women.

<sup>20</sup> Audrey Steenbeek, “Empowering Health Promotion: A Holistic Approach in Preventing Sexually Transmitted Infections Among First Nations and Inuit Adolescents in Canada”, 22(3) *Journal of Holistic Nursing*, 2004 at 255.

funding in three areas: an Aboriginal Health Transition Fund (\$200 Million), Aboriginal Health Human Resources (\$100 Million) and critical areas, including diabetes, youth suicide, maternal and child care (\$400 Million). This discussion was based on the Canada-Aboriginal Peoples Roundtable Discussions, including the Sectoral Discussion on Health, as well as the First Ministers Meeting held in Kelowna in November 2005, resulting in the Kelowna Accord. The Kelowna Accord is an agreement entered into by the federal, provincial and territorial governments in Canada with the five National Aboriginal Organizations and would have provided \$5 Billion over 5 years to address education, housing, clean water, health and economic development needs of Indigenous peoples in Canada.<sup>21</sup> As mentioned above, the current Conservative government of Canada has not honoured this agreement.

**Actions Required of Canada:**

**Ensure equitable access to health care services in a culturally relevant, gender sensitive manner to reverse the current alarmingly low health status of Indigenous women and their families.**

**Honour the commitments made in the Kelowna Accord aimed at improving health status as well as overall socio-economic status by addressing determinants related to housing, education, environment and economic development.**

5. Section 67 of the *Canadian Human Rights Act*

In December 2006, the Honourable Minister of Indian and Northern Affairs, Jim Prentice, announced Canada's intention to repeal section 67 of the *Canadian Human Rights Act*. NWAC fully supports the repeal of section 67 in principle but does not support this repeal without a commitment by Canada to ensure that there is adequate consultation and collaboration with those directly affected by the appeal as well as an adequate implementation plan in place before the repeal takes effect.

NWAC supports the recommendations contained in the CHRC report entitled, *Matter of Rights: A Special Report of the Canadian Human Rights Commission on the Repeal of Section 67 of the Canadian Human Rights Act*.<sup>22</sup> Specifically, the report recommended that section 67 be repealed immediately by legislation that would developed and enacted in full consultation with Indigenous Peoples. It recommended the inclusion of an

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<sup>21</sup> *First Ministers and National Aboriginal Leaders Strengthening Relationships and Closing the Gap (The Kelowna Accord)* (Kelowna, British Columbia, 24-25 November 2005), online: Canadian Intergovernmental Conference Secretariat <[http://www.scics.gc.ca/cainfo05/800044004\\_e.pdf/](http://www.scics.gc.ca/cainfo05/800044004_e.pdf/).

<sup>22</sup> Canadian Human Rights Commission, *A Matter of Rights: A Special Report of the Canadian Human Rights Commission on the Repeal of Section 67 of the Canadian Human Rights Act*, (Ottawa: CHRC, October, 2005).

interpretative clause that would ensure that both the collective rights of Indigenous Peoples and the individual human rights of Indigenous individuals would be adequately protected and balanced. Furthermore, NWAC has called for an adequate implementation plan to promote equitable access to the *Canadian Human Rights Act* upon repeal of section 67.

**Actions Required of Canada:**

**Repeal section 67 after full consultation and collaboration with Indigenous Peoples concerned. The repeal legislation must include an interpretive clause as recommended by the Canadian Human Rights Commission. An adequate implementation plan must also be established prior to the repeal.**

**Article 6: Effective protection and remedies**

The Court Challenges Program provided effective protection and remedies to Indigenous women seeking to protect their equality rights or remedy equality rights violations. Canada's decision to cancel this program constitutes a regressive measure in the goal of addressing discrimination against Indigenous women and other vulnerable groups in Canadian society.

**Action Required of Canada:**

**Immediately re-instate the Court Challenges Program.**