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July 1, 2015

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RE: Review of Canada

Dear Human Rights Committee Members,

On the occasion of your review of Canada, we write to draw your attention to the gaps in accountability for policing failures and abuses that perpetuate long-standing tensions between the police and indigenous communities and contribute to an unsafe environment for indigenous women and girls. We recognize that at Canada's last review in 2006, the committee expressed concern about the rate of violent death among indigenous women in Canada, and called attention to inadequacies in data collection and in the reported police response to such violence.¹ We urge your committee to consider again the ongoing violence against indigenous women and girls in assessing Canada's compliance with the International Covenant on Civil and Political Rights.

As you are aware, the Committee on the Elimination of Discrimination against Women issued a report in March 2015 concluding that Canada was responsible for grave violations of its obligations under the global women's rights treaty with regard to its inadequate response to the murders and disappearances of indigenous women and girls.² Human Rights Watch observed many of the same issues raised by the CEDAW Committee in researching our 2013 report, ["Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls"](#)

¹ Human Rights Committee, Concluding Observations on Canada's 5th review, April 2006, CCPR/C/CAN/CO/5, para. 23.

² Committee on the Elimination of All Forms of Discrimination Against Women, Report of the inquiry concerning Canada of the Committee of the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW inquiry report), March 2015, CEDAW/C/OP.8/CAN/1.

[in Northern British Columbia, Canada.](#)³ Based on 87 interviews with indigenous women and girls and other stakeholders, the report documents the double failure of the Royal Canadian Mounted Police (RCMP) in British Columbia: the failure to protect indigenous women and girls from violence and the responsibility of the police for abusive practices and behavior, including excessive use of force, and physical and sexual assault. The report further documents the inadequate police complaint mechanisms and oversight procedures in Canada, which do not mandate independent civilian investigations into all reported incidents of serious police misconduct.

Since the release of the Human Rights Watch report, limited progress has been made toward meaningful accountability for the policing failures affecting indigenous women and girls in British Columbia and across Canada. As detailed below, the half measures adopted by the federal and provincial governments to-date are insufficient for addressing the broken relationship between the police and indigenous communities. Given the central role this issue plays in violence against indigenous women and girls, we would recommend that the issue of accountability figure prominently in your dialogue with Canadian government authorities. Please find below suggested questions to pose to the governmental authorities during your review.

- 1. What is Canada doing to improve the accountability and transparency of police investigations into acts of violence against indigenous women and girls?**

In May 2014, the RCMP released a national operational overview of the murders and disappearances of indigenous women and girls. While the RCMP had previously expressed skepticism at non-governmental estimates that there were close to 600 such cases, the RCMP study itself identified 1,181 cases (1,017 murders and 164 missing persons).⁴ The study provided valuable information about the scope and context of the violence. However, neither this effort nor others to date adequately address the accountability of individual investigations to the families of those murdered or missing. In our research, family members consistently expressed dissatisfaction at the police response following a report of an indigenous woman or girl's disappearance or murder, and described difficulty accessing a remedy for what many found to be police neglect for those cases.

The central accountability mechanism for addressing public complaints against the Royal Canadian Mounted Police is in transition. At the time that Human Rights Watch conducted research in northern British Columbia, the Commission for Public

³ Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada*, February 2013, <http://www.hrw.org/reports/2013/02/13/those-who-take-us-away-o>.

⁴ Royal Canadian Mounted Police, "Missing and Murdered Aboriginal Women: A National Operational Overview," May 2014, <http://www.rcmp-grc.gc.ca/pubs/mmaw-faapd-eng.pdf> (accessed June 23, 2015) p. 7.

Complaints (CPC) against the RCMP was the main mechanism through which families of missing and murdered women, or victims of violence themselves, could raise concerns about police performance. The CPC's primary role was to monitor the processing of complaints by the RCMP. The main investigative authority resided with the RCMP and the RCMP ultimately determined what remedial action would be taken. Following criticism of the CPC's independence and effectiveness by non-governmental advocates and members of parliament, a law was enacted in June 2013 that established a new Civilian Review and Complaints Commission (CRCC) to replace the CPC.⁵ While the law grants the CRCC certain expanded investigative powers, it does not obligate the RCMP commissioner to heed the recommendations of the CRCC, nor does it remove the CRCC from reporting to the Minister of Public Safety, a move that would have enhanced the body's independence.⁶

In May 2013, the CPC announced that it would conduct a public interest investigation into some of the systemic issues raised in the Human Rights Watch report with regard to northern British Columbia. This investigation was assumed by the CRCC when that body took over. Although originally slated to be completed within a year, the investigation remains ongoing. Human Rights Watch has welcomed the high-level attention to the problems identified in the report, but we continue to have serious concerns about the efficacy of such an investigation, given the structural constraints and limited independent powers of both the old and new mechanisms.

2. How is Canada addressing the issue of police abuses and impunity when police, who are supposed to be investigating and prosecuting perpetrators of violence, may also be complicit in acts of violence?

Human Rights Watch maintains that meaningful accountability for incidents of serious police misconduct requires independent civilian investigation. At the time of our research, the problems with the CPC noted above severely impaired the handling of complaints against RCMP members, as the investigation of complaints would often fall to an external (non-RCMP) police force or the RCMP itself. Unfortunately, the 2013 law creating the CRCC failed to establish a national independent civilian body to investigate these cases, relying instead on the investigative resources of other bodies, including police forces. Under the law, a serious incident—one in which an RCMP members' conduct may have resulted in serious injury or death to a person, or those involving a potential criminal offense which are deemed by certain public officials to merit independent investigation—will be first referred to a provincial investigative body (where one exists), secondarily to a police force or other body designated by the province, or in the alternative to one designated by the

⁵ *Enhancing Royal Canadian Mounted Police Accountability Act*, Act of June 19, 2013, ch. 18, 2013 S.C. (Can.), http://laws-lois.justice.gc.ca/PDF/2013_18.pdf (accessed June 23, 2015).

⁶ See *Enhancing Royal Canadian Mounted Police Accountability Act*, secs. 45.76-45.78.

RCMP.⁷ If none of these is an option, the RCMP may itself investigate and the relevant provincial authority or the CRCC may choose to appoint an observer.⁸

Even in a province like British Columbia, where an independent civilian investigative body has been established, this system will not ensure proper investigation of all serious allegations of misconduct. British Columbia's Independent Investigations Office (IIO), which began operations in September 2012, is mandated to conduct "criminal investigations regarding police-related incidents involving death or serious harm."⁹ However, "serious harm" is defined by statute to mean "injury that (a) may result in death, (b) may cause serious disfigurement, or (c) may cause substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ."¹⁰ Significantly, this definition does not provide the office with jurisdiction in most cases of police rape and other forms of sexual assault. Consequently, it is highly likely that sexual assault allegations against RCMP officers in BC will continue to be investigated by police officers (either external or RCMP).

3. Will Canada agree to collect sex- and race-disaggregated data about victims of crime and police abuse?

Accountability for violence against indigenous women and girls begins with properly tracking how often and under what circumstances such violence occurs. The Human Rights Committee as well as other UN treaty bodies have noted with regret Canada's lack of disaggregated data collection and recommended that Canada collect disaggregated data on violence, as well as establish a national database on missing and murdered indigenous women.¹¹ The RCMP's May 2014 report represented an unprecedented effort to collect data from police forces across the country on the murders and disappearances of indigenous women. While this effort should be commended, it did not establish the systematic collection of similar data going forward.¹² In order for that to be possible, police forces across Canada would need to consistently collect race and ethnicity data. Human Rights Watch believes that this should be done not only for victims of crime but for complainants of police

⁷ Ibid., secs. 45.79-45.82.

⁸ Ibid., secs. 45.83-45.85.

⁹ British Columbia Ministry of Justice, "Independent Investigation Office," 2012, <http://www.pssg.gov.bc.ca/policeservices/iio/index.htm> (accessed August 2, 2013).

¹⁰ *Police Act*, RSBC 1996, c 367, s 76, available at <http://www.qp.gov.bc.ca/statreg> (accessed August 2, 2013).

¹¹ See UN Human Rights Committee, "Consideration of reports submitted by states parties under article 40 of the Covenant Concluding observations of the Human Rights Committee Canada," CCPR/C/CAN/CO/5, April 20, 2006, <http://www2.ohchr.org/english/bodies/hrc/hrcs85.htm> (accessed October 22, 2012), para. 23; UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, CAT/C/CAN/CO/6, para. 23; UN Committee on the Elimination of Racial Discrimination, CERD/C/CAN/CO/19-20, para. 17.

¹² The June 2015 update to the RCMP's 2015 National Operational Overview states, "Since the RCMP does not collect and report homicide data for the over 300 non-RCMP police agencies who each gave individual consent to use their data for the 2014 Overview, this update reflects RCMP data only." RCMP, "Missing and Murdered Aboriginal Women: 2015 Update to the National Operational Overview," June 2015, <http://www.rcmp-grc.gc.ca/pubs/abo-aut/mmaw-fada-eng.pdf> (accessed June 23, 2015), p. 3, footnote 3.

misconduct (with their voluntary participation) in order to identify potential bias in policing.

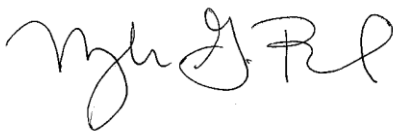
4. Why does Canada refuse to establish a national public commission of inquiry into the issue of missing and murdered indigenous women and girls?

Canadian indigenous and women's rights organizations have long called on the government to establish a national commission of inquiry into the disappearances and murders of indigenous women and girls. More recently, that call has come from the premiers of provinces and territories across Canada, as well as both federal opposition parties. In its March 2015 report, the CEDAW committee joined those calls, recommending the government of Canada establish a national public inquiry, and then develop an integrated national plan of action on the basis of the results of the inquiry.¹³ In spite of growing public and international support, the government has repeatedly rejected the idea of a national inquiry into the violence.

In February 2013 the federal government established an all-party committee in Canada's House of Commons to hold hearings on the issue of missing and murdered indigenous women and propose solutions to address root causes of violence. While a positive step, the committee lacked the independent investigative and reparative powers of a national inquiry. Further, the Conservative members of the committee removed key recommendations from the March 2014 final report, including recommendations calling for a national inquiry and national action plan, and instead issued a report that did little to alter the status quo.

We appreciate the opportunity to share our concerns about the impunity of police and non-police perpetrators of violence against indigenous women and girls in Canada, and the lack of effective domestic recourse for police mistreatment. Please contact us if we can be of assistance in your review of Canada's obligations under the ICCPR.

Sincerely,



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¹³ CEDAW inquiry report, March 2015, p. 51.