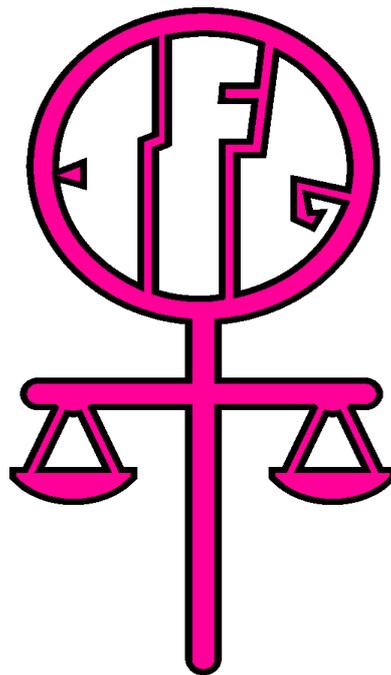


**Submission to  
UN Committee on the Elimination of All forms of  
Discrimination Against Women  
at its 7<sup>th</sup> periodic review of Canada**



Jointly Submitted by

**Justice for Girls &**

**Justice for Girls International**

OCTOBER 2008

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## **About our organizations**

*Justice for Girls* is a Canadian non government organization that works to promote the human rights of girls<sup>1</sup> who are homeless or living in poverty. For almost a decade, we have monitored criminal cases of violence against girls and advocated for the rights of girl-victims. The organization works to ensure that girls' human rights are upheld and promoted across institutions that impact girls who live in poverty—child welfare, education, health, policing, courts, and youth prisons.

*Justice for Girls International* is a Canadian non government organization that was incorporated in May 2008 to promote the international human rights of girls around the globe. It is a sister organization to *Justice for Girls*. Justice for Girls International aims to create international alliances and networks of civil society groups who will jointly advocate for the human rights of girls in local communities and at the international level.

## **Introduction**

Together we respectfully submit that Canada is failing to take the necessary steps to acknowledge and progressively realize the rights set out in the *Convention on the Elimination of Discrimination Against Women* ('the *Convention*') as they pertain to girls.

We submit that Canada has failed to recognize and respond to the unique circumstances of girls and to adequately address violations of their rights. The rights of girls and the specific conditions of oppression they encounter are frequently overlooked by the Canadian government and policy makers. Marginalized within the category of children as females and within the category of women as minors, girls and the issues that affect them are often eclipsed by concerns general to youth or adult women.

The UN Special Rapporteur on the Right to Adequate Housing recently identified girls as a group that is especially vulnerable to international human rights violations, and particularly with respect to the right to adequate housing. Mr. Kothari noted that '[h]omelessness in general and that of young women and girls... has become a national concern in Canada.'<sup>2</sup>

The *Platform for Action on the Girl Child*, arising from the United Nations Fourth World Conference on Women, as well as the *World Programme of Action for Youth on Girls and Young Women* articulate numerous strategic objectives to eliminate violence and discrimination in the lives of girls worldwide and set out a framework for situating the girl-child within international human rights.<sup>3</sup> Despite these commitments, girls remain a low priority for many countries, including Canada. As a result, international human rights monitors often overlook breaches specific to girls.

We respectfully submit that in accordance with the recognition of the specific circumstances of the girl-child arising from the United Nations Fourth World

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<sup>1</sup> We use the term 'girls' and the 'girl-child' interchangeably to mean 'girl-child' as defined by the Beijing Conference. This category includes both girl children and young women who are not legally adults; in Canada, girls younger than 19 years of age.

<sup>2</sup> Miloon Kothari, 'Economic, Social and Cultural Rights: Women and Adequate Housing', Report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination (2006), 20 [76].

<sup>3</sup> *The United Nations Beijing Declaration and Platform for Action*, accessed online: <http://www0.un.org/womenwatch/daw/beijing/platform/girl.htm>; *The World Programme of Action*, accessed online: <http://www.un.org/esa/socdev/unyin/wpaygirls.htm>.

Conference on Women, Canada's compliance with the *Convention* be reviewed **as it pertains to the specific and unique circumstances of girls.**

## **1. THE UNIQUE POSITION OF THE GIRL-CHILD**

- 1.1. The unique marginalization of teenage girls in Canada and around the globe is a product of their dual oppression. In the realm of international human rights, girls are marginalized within the category of children as females and within the category of women as minors. The issues that affect girls are thus invariably eclipsed by larger concerns general to children or women.
- 1.2. Girls' marginalized status is both a cause and consequence of disparities faced by women and children worldwide.<sup>4</sup> This includes poor health and nutrition, economic disadvantage, systemic discrimination, and male violence. Violence is a serious international concern, ranging from interfamilial sexual and physical abuse to infanticide and commercial sexual exploitation. Although public awareness of violence against girls is increasing, **sexual and physical abuse, both within and outside the family, remains a prevalent and serious problem in all regions of the world.**<sup>5</sup>
- 1.3. In 2006, the UN Department of Economic and Social Affairs conducted a report on the elimination of all forms of discrimination and violence against the girl child. The report concluded that despite the existence of an internationally agreed upon framework, girls disproportionately experience the worst human rights abuses.<sup>6</sup> Pervasive patriarchal social structures and the low value attributed to minors perpetuate this rights-denial. Further oppression and discrimination – such as homophobia, racism, colonization and poverty – exacerbate the disadvantage already experienced by girls as a result of their age and gender.

## **RECOMMENDATIONS**

- The unique situation of the girl child must be a focus of government, policy makers, civil society groups and international human rights monitors.
- State parties must evaluate compliance with the *Convention* as it applies to the specific situation of girl-children.
- The creation of a “United Nations Special Rapporteur for the Girl-Child” may assist state parties to better understand, articulate, and respond to the global marginalization of girl children.

## **2. CANADA'S FAILURE TO AKNOWLEDGE AND RESPOND TO GIRLS' SPECIFIC NEEDS AND MARGINALIZATION**

### CEDAW ARTICLES 2 & 3

- 2.1. We respectfully submit that despite Canada's efforts under the *Convention*, there has been a discriminatory failure to focus on girls as a distinct group in need of

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<sup>4</sup> UNESCO, 'Gender and Education for All: The Leap to Equality', Summary Report 10 (2003), accessed online: [http://www.unesco.org/education/efa\\_report/2003\\_pdf/summary\\_en.pdf](http://www.unesco.org/education/efa_report/2003_pdf/summary_en.pdf).

<sup>5</sup> Working Groups on Girls (NGO committee on UNICEF), 'Clearing a Path for Girls', accessed online: [www.girlsrights.org/summary.htm](http://www.girlsrights.org/summary.htm).

<sup>6</sup> Division for the Advancement of Women, 'Elimination of All Forms of Discrimination and Violence against the Girl-Child' (2006), (Report of the Expert Group Meeting), EGM/Girl Child/2006/REPORT, Florence: Innocenti Research Centre, [37].

rights protection. In Canada's combined 6<sup>th</sup> and 7<sup>th</sup> periodic report to the Committee, girls' experiences of poverty, violence, racism, and other forms of discrimination are invisible. Solely mentioning issues pertaining to children, or using the conjunctive phrase 'women and girls' does not capture the specific human rights violations that girls face, or their unique marginalization in Canadian society.

- 2.2. Specific human rights violations against the girl child are ignored when she is pushed to the periphery of discussion. Issues of discrimination including: violence against girls, homelessness of teenage girls, and Canada-wide mixed-gender youth prisons (staffed by mostly male guards) remain unseen and unchallenged within a 'women and girls' or 'children' framework. Girls are often placed in the category of youth, children, or women, but seldom acknowledged as a specific group at the intersection of these social locations.
- 2.3. The gender-neutral approach of the Canadian government leaves the girl-child's particular vulnerability (due to her age, gender and position in the family) unacknowledged. For example, the gendered dimension of sexual abuse of the girl child within the family home is erased in discussions of violence against women in Canada's 6<sup>th</sup> and 7<sup>th</sup> periodic report to the Committee. Instead, sexual abuse is briefly mentioned as 'child sexual abuse.' This is particularly concerning given that the overwhelming majority of sexual abuse is perpetrated against female children and in a context of systemic gender inequality.<sup>7</sup>
- 2.4. Canada's 6<sup>th</sup> and 7<sup>th</sup> periodic report section on sexual exploitation of children and youth also deals with children as genderless, ignoring the interplay of sexism as a key factor in the particular vulnerability of girls to this form of sexual abuse.<sup>8</sup>
- 2.5. Attempts to include girls in discussions on women's rights are largely limited to the use of the conjunctive phrase 'women and girls.' This approach does not account for the specific rights violations that girls face, nor does it consider the specific milieu of law, policy, and practice that girls encounter as minors in relation to trafficking or commercial sexual exploitation. Federal policies for achieving gender equality focus on the experiences of adult women, erasing the fact that the *Convention* also applies to girls. For example, although the 'Violence against Women' section within Canada's report to the Committee highlights the vulnerability of children, there is no mention of the way girls experience violence that may be different from boys or adult women.<sup>9</sup> Similarly within the 'Trafficking of Women and Girls' section there is no consideration of how girls' position/status as children may impact their situation or vulnerability.<sup>10</sup> This critical oversight makes policies and programs ineffective in their response to girls.
- 2.6. Gender-neutral youth programs and policies discriminate against girls and compromise gender equality under the Section 15 of the *Canadian Charter of Rights & Freedoms*. Moreover, gender-neutral policies and programs often exacerbate situations of inequality and violence by, for example, placing homeless girls in government facilities (youth shelters, youth prisons) with male

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<sup>7</sup> See generally: D. Finkelhor, 'The International Epidemiology of Child Sexual Abuse', *Child Abuse & Neglect* (2005), 18(5), 409-417.

<sup>8</sup> Government of Canada, 'Sixth and Seventh Reports of Canada on the Convention on the Elimination of All Forms of Discrimination against Women' (April 1999-March 2006), CEDAW/C/CAN/7, 30-31.

<sup>9</sup> Government of Canada, 'Sixth and Seventh Reports of Canada on the Convention on the Elimination of All Forms of Discrimination against Women' (April 1999-March 2006), CEDAW/C/CAN/7, 25-26.

<sup>10</sup> Government of Canada, 'Sixth and Seventh Reports of Canada on the Convention on the Elimination of All Forms of Discrimination against Women' (April 1999-March 2006), CEDAW/C/CAN/7, 29-30.

staff and male youth where they experience sexual harassment, assaults, and discrimination.

- 2.7. Discrimination and male-bias characterise the 'youth policy' approach. Boys' experiences define the norm while girls' experiences are frequently devalued and ignored. The tendency for Canada and other nation states to take a gender-neutral approach to youth and children obscures the role of sexism in society, and how issues like sexual abuse and assault disproportionately affect girls. **A gender-neutral approach further marginalizes teenage girls.**
- 2.8. Canada must acknowledge and develop policies that address the complexity of girls' lived realities of inequality and violence as manifested at the intersection of multiple forms of oppression such as poverty, colonization, racism, sexism, and age discrimination.

### RECOMMENDATIONS

- Evaluate all child and youth policies in accordance with the *Convention*.
- Create girl-specific provincial and federal policies and programs to adequately respond to the situation of girls as a distinct group. Ensure that such programs address the diverse needs of young women and are guided by principles of equality and human rights.
- Collect disaggregated data on the social and economic situation of girls (based on age, sex, and race).

### 3. THE FAILURE TO RESPOND TO VIOLENCE AGAINST GIRLS

#### CEDAW ARTICLE 3

- 3.1. We respectfully submit that Canada has not met its obligations to prevent and respond to violence against girls.<sup>11</sup>
- 3.2. Recent Canadian statistics demonstrate that teenage girls are disproportionately sexually and physically violated by men in their families and communities:
  - Teenage girls are more likely to report being sexually assaulted than women in any other age category.<sup>12</sup>
  - Girls represent 79% of the victims of family-related sexual assaults reported to a large subset of Canadian police departments. Rates of sexual offences are highest against girls between the ages of 11 and 14, with the highest rate at age 13.<sup>13</sup>
  - Up to 75% of victims of sex crimes in Aboriginal communities are female and under 18 years of age, 50% of those are under 14, and almost 25% of those are younger than 7 years of age.<sup>14</sup>

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<sup>11</sup> During its 5<sup>th</sup> periodic review of Canada's compliance with the *Covenant on the Elimination of all forms of Discrimination against Women* (CEDAW), the Committee urged Canada intensify its efforts to combat violence against women and girls and increase funding to women's crisis centers and shelters. See: United Nations Report of the Committee on the Elimination of All forms of Discrimination against Women, 28<sup>th</sup> Session, January 2003, accessed online: [http://www.fafia-afai.org/images/CEDAW\\_UNrecs\\_to\\_Canada\\_2003.pdf](http://www.fafia-afai.org/images/CEDAW_UNrecs_to_Canada_2003.pdf).

<sup>12</sup> Canadian Center for Justice Statistics Profile Series, *Children & Youth in Canada* (2001), accessed online: <http://www.statcan.ca/english/freepub/85F0033MIE/85F0033MIE2001005.pdf>.

<sup>13</sup> Canadian Center for Justice Statistics. *Family Violence in Canada: A Statistical Profile 2005*, accessed online: <http://www.statcan.ca/english/freepub/85-224-XIE/85-224-XIE2005000.pdf>

<sup>14</sup> FREDA Research Centre, *Violence Prevention and the Girl Child*, accessed online: [www.harbour.sfu.ca/freda/report/gc01.htm](http://www.harbour.sfu.ca/freda/report/gc01.htm)

3.3 Indigenous<sup>15</sup> girls in Canada face extreme levels of violence as well as deeply rooted and pervasive social inequality as a result of colonization. This added marginalization places indigenous girls in situations of extreme vulnerability and has denied them adequate protection of the law and of society as a whole.

3.4 Male violence, including sexual abuse, physical assault and psychological torment, force Canadian girls out of their family homes. As the Special Rapporteur on Adequate Housing recently noted, '[s]tudies from both Canada and the United States identify sexual abuse in the family home as one major contributing reason for homelessness among girls.'<sup>16</sup> Recent Canadian and US research indicates that between 75-84% of homeless girls reported having experienced sexual abuse.<sup>17</sup>

3.5 When girls attempt to escape male violence within the family home, Canadian state authorities, such as police and child welfare organizations, frequently respond in a discriminatory manner. Government authorities often return girls to their family homes where the abuser remains. Girls who are removed from their family homes/communities are frequently placed in unsafe and/or inadequate government homes or mixed gender youth shelters. Canadian authorities rarely remove the abusive adult males from the family home or pursue criminal prosecution.

3.6 Men who pay to sexually abuse children commercially are rarely criminally prosecuted. Though in recent years a greater number of men have been charged for sexual exploitation, conviction rates are low and sentences are minimal.

## RECOMMENDATIONS

- The Canadian government must recognize and become acutely responsive to girls who are victims of male violence. This can be achieved through a national policy designed to protect girls from abuse within the home. Programs and strategies must be specific to the needs of teenage girls.
- Canada must prioritize the safety of women and children by suspending the rights of perpetrators while investigations and prosecutions are underway. Perpetrators must be removed from the family home during investigation and criminal prosecution.
- Canada must ensure that the criminal justice response to violence against girls is immediate, thorough, and complies with girls' right to equality under the *Canadian Charter of Rights and Freedoms*.
- Canada must place greater focus on funding girls' rights, advocacy, and anti-violence centers across Canada.

## 4. GIRL-HOMELESSNESS

### CEDAW ARTICLE 13

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<sup>15</sup> Indigenous people of Canada include First Nations, Métis and Inuit peoples.

<sup>16</sup> Miloon Kothari, Women and Adequate Housing, 2006. [Note #77]

<http://daccessdds.un.org/doc/UNDOC/GEN/G06/111/66/PDF/G0611166.pdf?OpenElement>

<sup>17</sup> A study of 523 homeless youth found that 87% of the homeless girls had been physically and/or sexually abused. See: The McCreary Centre Society, *No Place to Call Home: A Profile of street youth in BC* (2001), accessed online: [www.hvl.ihpr.ubc.ca/pdf/mccreary2001.pdf](http://www.hvl.ihpr.ubc.ca/pdf/mccreary2001.pdf). See also: The McCreary Centre Society, *Between the Cracks: Homeless Youth in Vancouver* (2002), accessed online: [www.hvl.ihpr.ubc.ca/pdf/mccreary2002.pdf](http://www.hvl.ihpr.ubc.ca/pdf/mccreary2002.pdf). The study found that 84% of homeless Aboriginal girls had experienced sexual abuse. See generally: A. H. Kral, B. E. Molnar, R. E. Booth and J. K. Watters, 'Prevalence of sexual risk behavior and substance use among runaway and homeless adolescents in San Francisco, Denver, and New York City,' *International Journal of STD and AIDS* 8 (2). The study of 775 homeless youth found that 75% of homeless girls reported being sexually abused.

- 4.1. Currently, teenage girls make up about 10% of the homeless in Canadian cities and approximately half of all homeless youth.<sup>18</sup>
- 4.2. The Committee on Economic, Social, Cultural Rights recently recommended that '[Canada] give special attention to the difficulties faced by homeless girls who are more vulnerable to health risks and social and economic deprivation, and take all necessary measures to provide them with adequate housing and social and health services.'<sup>19</sup> The government of Canada has not made efforts towards complying with this recommendation since 2006.
- 4.3. Despite the public perception that homeless teenage girls do not 'sleep rough,' homeless girls often sleep outside in parks, stairwells of buildings, or on sidewalks when they do not have a place to stay. They also sleep in abandoned derelict buildings ('squats'). Most of the girls we interviewed in the development of our housing strategy for teenage girls had experienced 'absolute homelessness.'<sup>20</sup>
- 4.4. Once homeless, girls are at greater risk of developing physical and mental health problems. The prevalence of sexually transmitted diseases, HIV, viral hepatitis, drug dependence and mental illnesses are significantly higher than that found among the non-homeless population.<sup>21</sup>
- 4.5. Despite Canada's assertion that services exist for homeless youth, these services are inadequate, gender-neutral, and fail to meet the specific needs of girls. Through our advocacy work we have found that child welfare programs often do not respond to girls' requests for help but instead refer them to adult financial aid programs or tell girls to 'go home.'
- 4.6. Teenage girls who need affordable housing do not have access to subsidized housing in many provinces, including British Columbia. In spite of the *BC Residential Tenancy Act*<sup>22</sup> which allows persons under 19 to sign tenancy agreements, the primary subsidized housing body in BC, BC Housing, discriminates against young persons, and does not allow girls to apply for subsidized housing. Thus, teenage girls who are on their own and low income or living on income assistance cannot access subsidized suites.
- 4.7. Teenage mothers and their children experience acute poverty. Young mothers are in particular need of subsidized housing suites with supports so that they do not become homeless and/or lose their children to child welfare authorities.<sup>23</sup>

<sup>18</sup> According to various Canadian studies youth make up a significant number of the homeless. About 10-30% of the homeless are youth according to the National Homelessness Initiative <http://www.hrsdc.gc.ca/en/cs/sp/hrsdcedd/reports/2003-002435/page05.shtml> . Girls make up 1/3 to half of homeless youth (in many cities girls are half of homeless youth) according to various studies including: McCreary 2007 *Against the Odds: A profile of marginalized and street involved youth in BC*; and *On Her Own: Young Women and Homelessness in Canada 2002*.

<sup>19</sup> UN Committee on Economic, Social and Cultural Rights, 'Third Periodic Review of Canada,' accessed online: <http://www.ohchr.org/english/bodies/cescr/docs/E.C.12.CAN.CO.5.pdf>.

<sup>20</sup> See generally: A. Czapska, N. Taefi and Annabel Webb, *More than Bricks and Mortar: A Rights-Based Strategy to Prevent Girl Homelessness in Canada* (2008), Justice for Girls: Vancouver, Canada.

<sup>21</sup> S. Acorn, 'Mental and physical health of homeless persons who use emergency shelters in Vancouver' (1993), *Hospital and Community Psychiatry*, (44(9)), 854-7, accessed online: The Homelessness Research Virtual Library <http://www.hvl.ihpr.ubc.ca/pdf/AcornEmergency.pdf>. See also:

É. Roy, N. Haley, P. Leclerc, B. Sochanski, J-F. Boudreau and J-F Boivin, *Mortality in a Cohort of Street Youth in Montreal*, (2004), *The Journal of the American Medical Association*, (292)(5).

<sup>22</sup> Section 2, Residential Tenancy Act 2002, British Columbia.

<sup>23</sup> City of Toronto, 'City of Toronto Report Card on Homelessness' (2003), accessed online: [www.toronto.ca/homelessness/pdf/reportcard2003.pdf](http://www.toronto.ca/homelessness/pdf/reportcard2003.pdf)

## RECOMMENDATIONS

- The Canadian government should ensure that girls' right to adequate housing is identified, legally enshrined, and enacted within a federal housing policy.
- Prevention programs should be directed specifically at teenage girls. This includes the provision of safe, voluntary services for girls who are escaping male violence and extreme poverty/homelessness, including girl-only transition houses, detoxification and treatment facilities, and advocacy centers.
- The Canadian Government must provide long-term and transitional, girl-only, female-staffed girls' shelters in every province and territory.

## 5. THE MARGINALIZATION OF INDIGENOUS GIRLS

### CEDAW ARTICLES 2 & 3

- 5.1. Indigenous girls face extreme social and economic marginalization in dominant Canadian society and within their own communities. Aboriginal women disproportionately live in poverty, with considerably lower incomes than Aboriginal men and non-Aboriginal women.<sup>24</sup> Indigenous girls also experience high rates of abuse. Up to 75% of victims of sex crimes in Aboriginal communities are female under 18 years of age, 50% of those are under 14, and almost 25% of those are younger than 7 years of age. The incidence of child sexual abuse in some Aboriginal communities is as high as 75% to 80% for girls under 8 years old.<sup>25</sup> The prevalence of sexual abuse in the home and wider community/society goes largely unnoticed, unreported and unpunished. Many Indigenous girls do not report sexual abuse, rape, and sexual assault out of fear of being disbelieved, blamed, or criminalized in response to their abuse.
- 5.2. Indigenous girls are disproportionately criminalized by the Canadian justice system. Racist stereotypes about the assumed criminality of racialized and indigenous girls mediate the courts' response to poverty related offences. Over years of advocacy Justice for Girls has observed that the courts tend to respond to Indigenous girls as though it is inevitable that they will become criminal, drug/alcohol addicted, or seriously ill on the street, and that their lives may only be salvaged through the harsh treatment of the criminal law. For example, while Aboriginal youth make up only 8% of the population of young people in BC, one 2005 study found that 47% of youth in custody are Aboriginal.<sup>26</sup>
- 5.3. Racism is a significant factor in the incarceration of young women. In a report prepared for the Victim Services Division of British Columbia, a researcher found that victims were perceived by the justice system as 'deserving' or 'undeserving'. She noted that women from diverse groups, especially indigenous women and girls and racialized women were often relegated to the 'undeserving' category and frequently cycled through the system.<sup>27</sup>

## RECOMMENDATIONS

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<sup>24</sup> The average annual income of Aboriginal women is \$13,300, compared to \$18,200 for aboriginal men and \$19,350 for non-aboriginal women. Marika Morris, Fact Sheet 'Women and Poverty,' (2002) Canadian Institute for the Advancement of Women, accessed online: Canadian Institute for the Advancement of Women <[http://www.criaw-icref.ca/indexFrame\\_e.htm](http://www.criaw-icref.ca/indexFrame_e.htm)>.

<sup>25</sup> FREDA Center for Research on Violence against Women & Children, 'Violence against Girls: Statistical Highlights,' Accessed online: <http://www.harbour.sfu.ca/freda/articles/stats.htm>.

<sup>26</sup> [http://www.mcs.bc.ca/pdf/time\\_out\\_2.pdf](http://www.mcs.bc.ca/pdf/time_out_2.pdf) Time Out 2: McCreary Centre Society Study.

<sup>27</sup> M. Russell, 'Measures of Empowerment: for Women Who are Victims of Violence Who Use the Justice System' (2001), A report prepared for Victim Services Division, B.C. Ministry of Public Safety and Solicitor General, 39.

- Canada must provide supports, resources, and core funding to indigenous women's organizations for the development of advocacy, support, housing and education services for Indigenous teenage girls.
- The Canadian government must specifically uphold the inherent rights of Aboriginal<sup>28</sup> girls and make every effort to remedy the consequences of colonization. In so doing, the Canadian government must engage the leadership of the Native Women's Association of Canada, Pauktutit, Metis National Council of Women, and provincial/territorial indigenous grassroots women's groups.
- Canada must urgently respond to the epidemic of violence against indigenous girls.
- Canada must immediately de-incarcerate indigenous teenage girls.

6. **CO-INCARCERATION, CROSS-GENDER MONITORING AND CO-EDUCATIONAL PROGRAMMING IN CANADIAN YOUTH PRISONS**

CEDAW ARTICLE 2

- 6.1. **Canada must end the co-incarceration of teenage girls with boys, cross-gender monitoring and co-educational programming in youth prisons across Canada.** Although the *Youth Criminal Justice Act* stipulates that measures taken against young persons who commit offences should 'respect gender',<sup>29</sup> teenage girls are continually put at risk through co-educational incarceration and cross-gender monitoring in youth prisons. The current system endangers girls and compromises their right to live in safety and dignity.
- 6.2. Mixed youth prisons inevitably result in incidents of sexual harassment and sexual assault, most of which go unreported. Sexual harassment and sexual abuse becomes a part of daily life in penal facilities and occurs in the form of verbal abuse and threats of rape. Sexual encounters between young women and men are frequent in juvenile prison units where young women may be pressured into sex.<sup>30</sup> Youth prison policy in at least one province explicitly states that condoms must be made available to all youth in prison. While it is emphasized that '[t]his policy should not be construed as condoning sexual activity among youth', it does demonstrate that prison authorities are aware of sexual activity within prisons.<sup>31</sup>
- 6.3. Supervision of girls by male guards is accepted practice in youth prisons across Canada. Male guards frequently monitor girls on their living units and in vulnerable situations, such as when girls are showering. The historical, biological and sociological differences between men and women mean that the effect of cross-gender searching is more threatening for females than it is for males.<sup>32</sup> Moreover, given that so many girls who are in prison have experienced male violence, the presence of male guards, especially in their living space, is highly inappropriate and a breach of girls' right to equality pursuant to section 15 of the *Canadian Charter of Rights & Freedoms*.

<sup>28</sup> Throughout this submission the terms 'Aboriginal' and 'Indigenous' are used interchangeably to describe the Original peoples of what is now called Canada.

<sup>29</sup> Section 3, Youth Criminal Justice Act 2002, Canada.

<sup>30</sup> Dr. Mark Totten, 'The Special Needs of Females in Canada's Youth Justice System: An account of some young women's experiences and views,' (March 2000), Youth Services Bureau of Ottawa, Department of Justice Canada, 29-40.

<sup>31</sup> *Youth Custody Programs Provincial Operations Manual*, British Columbia, Section G, [11.01-11.02].

<sup>32</sup> This has been acknowledged by the SCC in *Weatherall v. Canada (Attorney General)* [1993] 2 S.C.R. 872.

6.4. Because youth prisons were originally designed for boys, the existing youth prison policies, programs, practices, and staff training are male-specific. The absence of girl-specific programs and policies is evidence of systemic discrimination. Prison programming is often based on sexist stereotypes where girls are offered programs such as sewing, cooking, or manicure/pedicure classes while being denied adequate access to physical activities outdoors or in the gymnasium.<sup>33</sup> The needs of young women in the justice system differ from boys because their experiences are different. Girls tend to internalise their emotional reactions to abuse and trauma manifesting in the form of depression, self-mutilation, and addictions. When young women are violent, their aggression is often directed at other young women. Typically, this violence is the result of multiple and severe abuses and oppression they themselves have experienced.<sup>34</sup>

## RECOMMENDATIONS

- The Federal government must **amend Section 84 of the Youth Criminal Justice Act** to ensure that a female youth who is committed to custody shall be held separate and apart from any male who is detained or held in custody.
- The Canadian government should guarantee that girls in prison are monitored by female staff at all times – not ‘*where available.*’
- Youth prison policy and programming across Canada must address the specific position, needs, experiences, and vulnerabilities of girls.

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<sup>33</sup> Information gathered as part of a 3 year analysis of Justice for Girls prisoner advocacy files (Report pending).

<sup>34</sup> Francine T Sherman, ‘Detention Reform and Girls: Challenges and Solutions’ (2005), Baltimore, MD: Annie E. Casey Foundation, 16. See also Sandra Simkins and Sarah Katz, ‘Criminalizing Abused Girls’ *Violence Against Women* (2002), ((8)12), 1474-1499.