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No Action: No Progress

Canadian Feminist Alliance for International Action
Report on Canada's Progress in Implementing Priority
Recommendations made by
the United Nations Committee on the Elimination of
Discrimination against Women in 2008

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Submission by
Canadian Feminist
Alliance for International
Action

Attention
United Nations CEDAW
Committee



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Acknowledgements



The Canadian Feminist Alliance for International Action (FAFIA) is a national alliance of over one hundred Canadian women's equality-seeking organizations. FAFIA's central goal is to ensure that the Government of Canada protects, respects, and fulfils the human rights of women as set out in Canada's Charter of Rights and Freedoms and the international human rights treaties that Canada has ratified.

FAFIA has made submissions regarding Canada's compliance with its human rights obligations to the United Nations Committee on the Elimination of Discrimination against Women in 2003 and 2008, the Human Rights Committee in 2005, and the Committee on Economic, Social and Cultural Rights in 2006. FAFIA also participated in the preparation of NGO submission for the Universal Periodic Review of Canada by the Human Rights Council in 2009.

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Executive Summary

Three decades have passed since Canada ratified the United Nations *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. One year ago, the United Nations found that the Government of Canada had failed to comply with its human rights commitments under *CEDAW* and identified two areas in which human rights violations were so pressing that they required immediate action:

- **Canada's persistent failure to provide adequate social assistance to women and girls living in poverty;**
- **The endemic violence against Aboriginal women and girls.**

The Committee asked the Government of Canada to report back on the actions it has taken in these two areas by November 2009.

Recommendation I: Address Women's Poverty and Inadequate Social Assistance Rates

Women and girls living in poverty currently rely on welfare incomes so low that the National Council of Welfare called them "cruel" in its 2006 report. The United Nations has asked the Government of Canada to establish minimum standards for social assistance, applicable at the federal, provincial and territorial levels.

The Government of Canada has set no standards. Instead it transfers funds to the provinces and territories and permits them to set social assistance rates so low that they do not fulfill Canada's human rights obligations. In this way, the federal government shirks its responsibilities to poor Canadians, ignoring its obligation under international human rights law to ensure that everyone enjoys equality and an adequate standard of living. It also ignores its obligation under section 36 of the Constitution to work with the legislatures and governments of the provinces to provide "essential public services of reasonable quality to all Canadians."

Provinces and territories have not demonstrated a willingness to address this human rights violation themselves. Social assistance rates have remained unchanged in seven provinces and territories in the past year, have risen by only 1 - 3% in four provinces and territories. For only a few family types in a few jurisdictions do social assistance rates reach the Statistics Canada Low-Income Cut-Offs. Most social assistance incomes in Canada remain well below the poverty line. There is no federal mechanism to ensure that women and girls living in poverty receive support adequate to meet their basic needs. The United Nations

Committee on the Elimination of Discrimination Against Women recognized that poverty is an equality issue because it has gendered consequences.

- Women lose autonomy in their relations with men. Low welfare rates coerce women into “survival sex” or prostitution;
- Women living on inadequate welfare benefits live in unsafe housing, such as squats and shelters, and are more vulnerable to rape and sexual harassment;
- Women receiving welfare are more likely to have their children apprehended, not because the children are mistreated, but because they cannot provide adequate housing and food;
- Women cannot leave abusive relationships because welfare rates are not sufficient to support them and their children. If they do leave, they often return for economic reasons, even when they are endangered.

Recommendation II: Address Endemic Violence Against Aboriginal Women and Girls

Nowhere is the link between poverty, lack of adequate housing, and violence more evident than in the human rights abuses suffered by Aboriginal women and girls. According to Statistics Canada, the poverty rate of Aboriginal women, including Indian, Inuit and Métis women, is more than double that for non-Aboriginal women. Aboriginal women in Canada report rates of violence, including domestic violence and sexual assault, that are nearly four times higher than non-Aboriginal women. Aboriginal women are five times more likely than non-Aboriginal women to die from violence.

Poverty and economic dependence, combined with racism and indifference from legal authorities, make Aboriginal women and girls easy prey for violent men, and endemic violence is difficult for them to escape. The Native Women’s Association of Canada has now documented 520 cases of missing and murdered women; more than half of those women and girls have been murdered or gone missing since 2000. The Native Women’s Association of Canada, and other non-governmental organizations, believe that the actual number of missing and murdered Aboriginal women and girls is much higher. Many of these disappearances and murders did not receive timely and thorough investigation from Canadian police forces.

The CEDAW Committee recommended in 2008 that Canada investigate the reasons for the failure of law enforcement authorities to adequately investigate violence against Aboriginal women and girls and “take the necessary steps to remedy the deficiencies in the system.” The Committee also urged Canada to “develop a specific and integrated plan for addressing the particular conditions affecting aboriginal women, both on and off reserves, ...including poverty, poor health, inadequate housing, low school-completion rates, low employment rates, [and] low income.”

The Native Women’s Association of Canada, Amnesty International, the Canadian Feminist

No Action, No Progress: FAFIA’s Report on Canada’s Progress in Implementing the 2008 CEDAW Committee Recommendations

Alliance, and many other organizations, have called for a comprehensive national response to the severe and continuing violations of the human rights of Aboriginal women and girls.

The Government of Canada has not acted.

On the occasion of the Government of Canada's submission of its follow-up report to the CEDAW Committee, **we call on the Government of Canada to immediately:**

- **Establish a federal and pan-Canadian strategy now for eliminating poverty**, and women's poverty in particular, grounded in the rights to equality and to an adequate standard of living, and one that ensures that incomes for women and men who require social support reach a level that is adequate to meet their needs;
- **Establish a transparent monitoring mechanism** to ensure the accountability of provincial and territorial governments for the use of transferred funds so as to ensure that funding decisions meet the needs of the most vulnerable groups and do not result in discrimination against women;
- **Carry out an impact assessment of social programs** to determine whether they are adequate to realize the human rights of women, including the most vulnerable groups of women;
- **Establish a co-ordinated national action plan to address violence against Aboriginal women and girls**, that includes:
 - a thorough investigations of the cases of Aboriginal women and girls who have gone missing or been murdered in recent decades;
 - an inquiry and investigation into the systemic failures of law enforcement agencies that will lead to changes to police protocols, lines of authority, systems of co-ordination, training, and statistics-keeping to ensure that Aboriginal women and girls will be protected equally by law enforcement authorities and that violence against them will be investigated and prosecuted promptly and effectively;
 - a specific and integrated plan for addressing the social and economic conditions of Aboriginal women and girls, both on and off reserves, including: poverty, poor health, inadequate housing, low school-completion rates, high rates of child apprehension, low employment rates, and low incomes.

We call on the Government of Canada to act immediately to respect, protect, and fulfill the human rights of women.

Antigonish Women's Resource Centre & Sexual Assault Services Association
Association féminine d'éducation et d'action sociale (Afeas)
Atikokan Crisis Centre
Canadian Association of Sexual Assault Centers
Canadian Federation of University Women
Canadian Federation of Nurses Unions
Canadian Labour Congress
Canadian Union of Postal Workers
Centre for Equality Rights in Accommodation
Centre for Northern Families
Communication, Energy and Paperworkers Union of Canada
Fédération de ressources d'hébergement pour
femmes violentées et en difficulté du Québec
Harmony House
Ingamo Family Homes (Woodstock)
International Association of Machinists and Aerospace Workers
International Women of Saskatoon
Marjorie House
National Association of Women and the Law (NAWL)
National Union of Public and General Employees
New Starts for Women
Ontario Association of Interval and Transition Houses (OAITH)
Ottawa Coalition to End Violence Against Women (OCTEVAW)
Public Service Alliance of Canada (PSAC)
Social Rights Advocacy Centre (SRAC)
Springtide Resources
Transition House Association of Nova Scotia
UNPAC Manitoba
Vancouver Rape Relief and Women's Shelter
Women's and Children's Shelter of Barrie
Women's Economic Council
Women's Legal Education Action Fund (LEAF)
Women's Worlds 2011



Introduction



Canada was asked to report back within one year to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) on steps it has taken to implement two recommendations made by the Committee after its review of Canada in 2008.

The two recommendations of the CEDAW Committee are that the Government of Canada take concrete steps to address:

- 1) women's poverty and inadequate social assistance rates; and
- 2) police and government failure to prevent, or investigate promptly and thoroughly, violence against Aboriginal women and girls.

The request that Canada report back to the CEDAW Committee in one year, rather than in the usual four years, indicates the seriousness of these issues.

Canada has taken no steps to effectively implement these recommendations in the past year.

The Canadian Feminist Alliance for International Action urges the CEDAW Committee to respond directly to Canada's follow-up report before the next regular review, and to make clear that Canada's failure to act swiftly and effectively amounts to a failure to comply with its undertakings under Articles 2 and 3 of CEDAW.

As this response will show, there is a tight connection between the Committee's two recommendations. Women in Canada who are living in poverty, and who have only inadequate social assistance incomes to rely on, as is the case for many Aboriginal women and girls, are at high risk of violence and are less able to escape from it. Canada's failure to fulfil the social and economic rights of the most disadvantaged groups of women is a direct cause of violations of their rights to security of the person and to life.

Recommendation I: Address Women's Poverty and Social Assistance Rates

In 2008, the CEDAW Committee recommended as follows:

- The Committee calls upon the State party to establish minimum standards for the provision of funding to social assistance programmes, applicable at the federal, provincial and territorial levels, and a monitoring mechanism to ensure the accountability of provincial and territorial governments for the use of such funds so as to ensure that funding decisions meet the needs of the most vulnerable groups of women and do not result in discrimination against women. The Committee also calls upon the State party to carry out an impact assessment of social programmes related to women's rights.

The CEDAW Committee is not alone in its concern for women's poverty in Canada. This issue has been raised by virtually every UN body that reviews Canada's human rights performance, including the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and the Human Rights Council.¹

The CEDAW Committee's 2008 recommendation on poverty and social assistance has three parts:

1. The Government of Canada must ensure that Social Assistance rates are held to a minimum standard of adequacy in keeping with human rights norms;
2. The Government of Canada must establish a monitoring mechanism for social assistance programming;
3. The Government of Canada should undertake a gender impact assessment of poverty and social assistance programming.

Standards of Adequacy

First, the Committee recommended that Canada set minimum standards for welfare benefits, applicable to all jurisdictions, which will ensure that the most vulnerable groups of women can meet their basic needs.

¹ Committee on Economic, Social and Cultural Rights, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada, May 19, 2006, E/C.12/CAN/CO/5 at paras. 15, 44, 52, 53; Human Rights Committee, Concluding Observations of the Human Rights Committee, 20 April 2006, CCPR/C/CAN/CO/5, at para. 24; Human Rights Council, Universal Periodic Review, Report of the Working Group: Canada, 3 March 2009, A/HRC/11/17, at para. 45.

Federal funding for social assistance has been provided through block funding arrangements since 1995.² Under the current scheme, provinces and territories receive money ostensibly targeted for social assistance through the Canada Social Transfer (CST). But there are no conditions attached to the transfers that require money from the CST to be spent on social assistance, or that ensure that the receiving provinces and territories will provide benefits at a level adequate to sustain a decent life. There is consequently no accountability at either the federal or provincial level for the violations of women's rights that result when women do not have access to adequate incomes.

The Committee's recommendation on this subject was made in response to evidence before the Committee that, since the repeal of the *Canada Assistance Plan Act* and the removal of conditions from the transfers in 1995, virtually every province has cut welfare rates, and the federal government under the current and previous administration has backed away from any role in ensuring that welfare rates are adequate for all Canadians.

Women in Canada have a higher rate of poverty overall than men, and particular groups of women, including single mothers, Aboriginal women, women of colour, immigrant women, women with disabilities, and single women, have shockingly high rates of poverty. *Women in Canada* shows rates of poverty for Aboriginal women – including Indian, Métis and Inuit women - at 36%, for women of colour at 29%, for immigrant women at 23%, rising to 35% for those who arrived in Canada between 1991 and 2000, and for women with disabilities at 26%.³ Single mothers had an after-tax poverty rate of 35.6% in 2004,⁴ while single women over 65 had a poverty rate of 17%.⁵

Lacking the means of subsistence has well-documented gendered consequences:

- Women lose autonomy in their relations with men;
- Low welfare rates coerce women into “survival sex” or prostitution;
- Women living on inadequate welfare benefits live in unsafe housing and are more vulnerable to rape and sexual harassment, as well as poor health;
- Women receiving welfare are more likely to have their children apprehended, not because the children are mistreated, but because they cannot provide adequate housing and food;

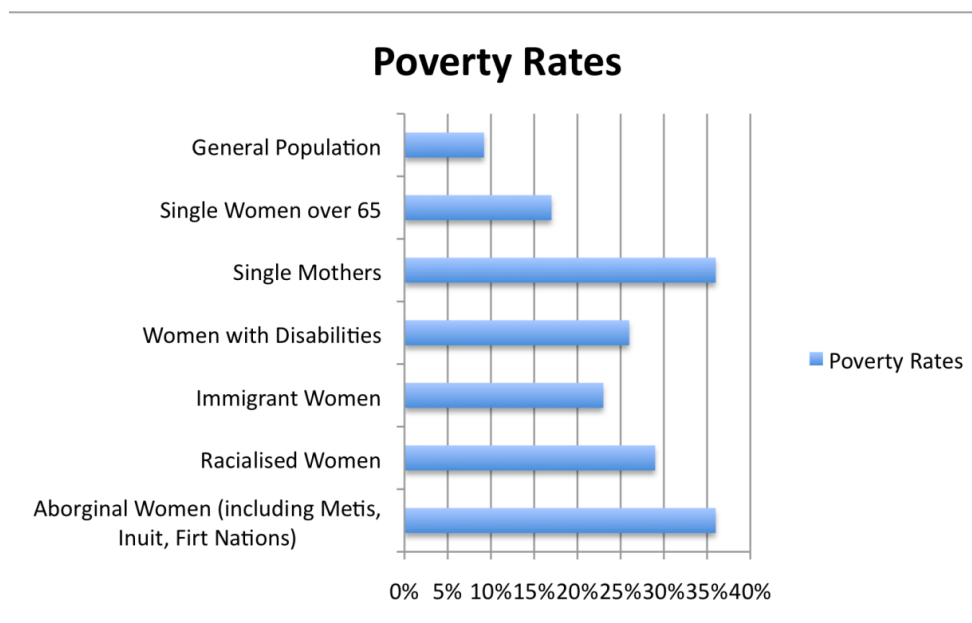
² Department of Finance Canada. “Canada Social Transfer” (web page; retrieved from <http://www.fin.gc.ca/fedprov/his-eng.asp> on November 7th, 2009).

³ Statistics Canada, *Women in Canada: A Gender-Based Statistical Report (2005)*. Online at: <http://www.statcan.ca/english/freepub/89-503-XIE/0010589-503-XIE.pdf>.

⁴ National Council of Welfare, *Poverty by selected family types*, 2004. Online at: <http://www.ncwcnbes.net/documents/researchpublications/ResearchProjects/PovertyProfile/2004/PovertyRates-FamiliesENG.pdf>.

⁵ National Council of Welfare, *Poverty for unattached individuals by sex and age*. Online at: <http://www.ncwcnbes.net/documents/researchpublications/ResearchProjects/PovertyProfile/2004/PovertyRates-IndividualsENG.pdf>

- Women cannot leave abusive relationships because welfare rates are not sufficient to support them and their children. If they do leave, they often return for economic reasons, even when they are endangered.⁶



Cuts to welfare rates and erosion of the value of benefits through inflation have had a harsh impact on women who are in need. Women who are more likely to have to turn to welfare, including single mothers and Aboriginal women must now rely on welfare incomes so low that the National Council of Welfare Chairperson recently called them “shameful and morally unsustainable in a rich country.”⁷

Since the 2008 CEDAW Concluding Observations were issued there has been no change in the administration of the Canada Social Transfer. The 2009 Federal budget provides for an annual 3% increase in the CST through 2011, but does not address the issue of adequacy of social assistance benefits provided by the provinces and territories.⁸ According to the Department of Finance, the money provided by the CST is “notionally earmarked” for three spending areas: post-secondary education, child care services, and social assistance programs. Of these, social assistance spending has been allotted the smallest increase in

⁶ National Council of Welfare, “First Nations, Métis and Inuit Children and Youth: Time to Act” National Council of Welfare Reports, Fall 2007, vol. 127. At 27 – 29; Janet Mosher, *Walking on Eggshells: Abused Women’s Experiences of Ontario’s Welfare System* (2004). Online at: <http://dawn.thot.net/walking-on-eggshells.htm>

⁷ National Council of Welfare, “Staggering losses in welfare incomes”, August 24, 2006. Online at: http://www.ncwcnbes.net/documents/researchpublications/ResearchProjects/WelfareIncomes/2005Report_Summer2006/PressReleaseENG.pdf

⁸ Department of Finance Canada. “Canada’s Economic Action Plan: Budget 2009” (retrieved from <http://www.budget.gc.ca/2009/pdf/budget-planbudgetaire-eng.pdf> on November 7th, 2009) at p. 189.

funding from 2007 to 2010.⁹ No conditions have been attached to ensure that social assistance is more than “notionally” funded by the CST, or that incomes delivered by the provinces and territories are adequate to meet the needs of the most vulnerable women.

Canada is likely to make the same response to the CEDAW Committee that it made to the Human Rights Council during the first Universal Periodic Review of Canada, which took place in June 2009. Canada rejected the recommendation that it develop a national anti-poverty strategy on the grounds that the “provinces and territories have jurisdiction in this area of social policy”.¹⁰ The Government of Canada says it contributes to the incomes of poor women through benefits provided to children. However, the contribution of federal child benefits to improving the incomes of poor women is questionable.

In some jurisdictions, the National Child Benefit Supplement is still clawed back from welfare recipients. Also, the interaction of benefits provided by the federal government, often through the tax system, with provincial and territorial welfare benefits is confusing and incoherent.

The current government of Canada describes its position on federal-provincial relations as “open federalism”. It cleaves to a “bright-line” view of the constitutional divisions of powers between the federal and provincial governments, and treats its own spending power with suspicion. In effect, this position permits the federal government to simply wash its hands of the problems of poor women, on the grounds that they are the responsibility of the provincial and territorial governments. This policy ignores the long history of the federal government’s involvement in the development of social policy and programs. It ignores the federal government’s responsibilities under s. 36 of the Constitution to work with the legislatures and governments of the provinces to provide “essential public services of reasonable quality to all Canadians”. Further, it ignores the overarching character of women’s human rights and the federal government’s leadership role in the implementation of Canada’s international human rights obligations.

In 2007, the National Council of Welfare reviewed anti-poverty strategies in the United Kingdom, Ireland, Sweden, New Zealand and other countries and concluded that if Canada continues to have no long-term vision, no plan, no accountability, and no resources assigned – which is the current situation – the most disadvantaged Canadians will continue to be mired in poverty for years to come.

On November 24, 2009, the Parliament of Canada passed a resolution referred to it by the Standing Committee on Human Resources, Skills Development and the Status of Persons

⁹ Department of Finance Canada. “Canada Social Transfer” (web page; retrieved from <http://www.fin.gc.ca/fedprov/cst-eng.asp> on November 7th, 2009).

¹⁰ Canada responded: “Canada does not accept ... the...recommendation from Ghana to develop a national strategy to eliminate poverty. Provinces and territories have jurisdiction in this area of social policy and have developed their own programs to address poverty.” See Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Canada, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, 8 June 2009, A/HRC/11/17/Add.1, at para. 27.

with Disabilities:

That, with November 24th, 2009 marking the 20th anniversary of the 1989 unanimous resolution of this House to eliminate poverty among Canadian children by the year 2000, and not having achieved that goal, be it resolved that the Government of Canada, taking into consideration the Committee's work in this regard, and respecting provincial and territorial jurisdiction, develop an immediate plan to eliminate poverty in Canada for all.¹¹

Because the current Government of Canada governs as a minority, this resolution represents the will of the majority of Members of Parliament, but not the will of the Government.

In short, the federal government has not acted during this period to set standards or reconfigure federal-provincial fiscal arrangements in order to give stability, adequacy and consistency to social assistance rates across the country.

Nor have provincial and territorial governments acted independently to increase rates to make them adequate. Over the last two years, there were no changes to social assistance rates in seven jurisdictions, increases of 1 – 3% in four jurisdictions, and increases of 5 – 15% for family types in two jurisdictions. (Appendix A provides complete information of 2008-2009 changes.) The small increases to welfare rates in some jurisdictions, while welcome, still do not bring most social assistance recipients anywhere close to the poverty line as defined by Statistics Canada's Low Income Cut-Offs. What this means practically is that most women in receipt of social assistance make the impossible choice each month between paying the rent or feeding their children.

In a report released December 2008, the National Council of Welfare compared welfare incomes in 2006 and 2007 to Low-Income Cut-Offs (LICOs). The Council found that welfare incomes were less than two-thirds of the pre-tax LICOs in all but four scenarios¹² and well below after-tax LICOs in 22 of 41 scenarios. Lone parents in Newfoundland and Labrador were a welcome exception, as this group, mostly women, had welfare incomes that met and slightly exceeded the after-tax LICOs in 2006 and 2007.¹³ The new 5 – 10% increases may bring lone parents in Prince Edward Island close to the after-tax LICO.

¹¹ House of Commons resolution, referred by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, passed November 24, 2009:
<http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4236608&Language=E&Mode=1&Parl=40&Ses=2>

¹² Scenarios assess welfare incomes for different household types – singles, couples, single parents – and for family size.

¹³ National Council of Welfare, *Welfare Incomes 2006 and 2007* at 40-45:
http://www.ncwcnbes.net/documents/researchpublications/OtherPublications/2008Report-WelfareIncomes2006-2007/ByChapterE/62091_Eng_Chapter_2.pdf

Social Assistance Rate Changes: 2008 - 2009	
British Columbia	No change
Alberta	No change
Saskatchewan	No change
Manitoba	No change
Ontario	Increase of 1.6 - 2.2%
Quebec	Increase of 1.5%
New Brunswick	Increase of 3%
Newfoundland	Increase of 2.7 - 2.9%
Nova Scotia	No change
Prince Edward Island	Increase of 5 - 10% (first increase in 10 years)
Yukon	Increase of 5 - 15%
Northwest Territories	No change
Nunavut	No change

Monitoring Mechanism

The Committee recommended that Canada establish a monitoring mechanism so that provincial and territorial governments are accountable for the expenditure of funds transferred to them for welfare benefits.

The Auditor General for Canada noted in her December 2008 report: "According to federal officials, the extent to which the federal government is accountable for funds it transfers to the provinces and territories depends on the extent to which conditions are attached to these transfers."¹⁴ As there are no conditions attached, there is no accountability for the expenditure of the funds.

Since the 2008 CEDAW review, the government has taken no steps to create a monitoring or accountability mechanism to ensure that it meets its obligations under CEDAW and other treaties to ensure that women in receipt of social assistance have an adequate standard of living.

Gender Impact Assessment

The Committee recommended that Canada carry out an impact assessment of social programs to determine whether they are fulfilling women's rights. No such assessment has been carried out.

14. Office of the Auditor-General of Canada. "2008 December Report of the Auditor-General of Canada, Chapter 1 - A study of Federal Transfers to Provinces and Territories" (available online at http://www.oag-bvg.gc.ca/internet/English/parl_oag_200812_01_e_31825.html), ch.1, para. 42.

In addition to the fact that the current federal government believes that responsibility for social policy lies with the provinces and territories, the explanation for the lack of action on this aspect of the Committee's recommendation may lie with the failure to effectively implement gender-based analysis (GBA) inside the federal government.

Performing GBA in federal departments is voluntary. Each department is responsible for completing the analysis. Status of Women Canada (SWC) is responsible for providing GBA training to departments. There is no requirement that GBA be performed, nor is there any requirement that GBA be acted upon when done. There is no accountability or quality control system to ensure that GBA is done regularly and competently.

In May 2006, the all-party House of Commons Standing Committee on the Status of Women (SCSW) issued a study on GBA in federal departments, which found that GBA processes were weak, inconsistent across government departments, and in some cases, perfunctory.¹⁵

Following this study, the Committee recommended that the Government of Canada:

- develop legislation immediately that would ensure the systematic application of gender-based analysis (GBA) to all federal policy and program activities;
- establish a secretariat in the Privy Council Office (PCO) with responsibility for ensuring the development and implementation of effective gender equality legislation.¹⁶

The Government of Canada refused to implement the Committee's recommendations, preferring to maintain the *status quo* of uncoordinated departmental efforts.

In 2008, the SCSW again recommended that the Government of Canada introduce legislation by April 2009 to promote gender equality, to set out the GBA and gender budgeting obligations of federal departments and agencies and to create the Office of the Commissioner for Gender Equality.

The Committee also recommended that: "the Auditor General of Canada regularly conduct audits to review Canada's implementation of gender-based analysis in the federal government; and, that such audits take into account all of the elements of Canada's framework for equality, including the *Convention on the Elimination of All Forms of Discrimination against Women*, and other international treaties to which Canada is a signatory."¹⁷

¹⁵ *Towards Responsive Gender Budgeting: Rising to the Challenge of Gender Equality*, Report of the Standing Committee on the Status of Women, June 2008, 39th parliament, 2nd session. Online at: <http://www2.parl.gc.ca/content/hoc/Committee/392/FEWO/Reports/RP3551119/feworp11/feworp11-e.pdf>.

¹⁶ Standing Committee on the Status of Women, Second Report, 39th Parliament, Session 1. Online at: <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=2216072&Language=E&Mode=1&Parl=39&Ses=1>

¹⁷ Standing Committee on the Status of Women, Ninth Report, 39th Parliament, Session 2. <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3431733&Language=E&Mode=1&Parl=39&Ses=2>

In the spring of 2009, the Auditor-General of Canada, Sheila Fraser, confirmed that there is no government-wide policy requiring that departments and agencies perform gender-based analysis. She also found that few of the departments that do perform gender-based analysis can provide evidence that these analyses are used in designing public policy.¹⁸

In October 2009, the Auditor General's Spring Report was considered by the House of Commons Public Accounts Committee. Ms. Fraser testified that she was astonished that the Government's central agencies - the Privy Council Office, the Finance Department and Treasury Board - could provide no proof that they subject their advice regarding resource allocations and programming to any assessment of impacts on women. The Treasury Board Secretary, Michelle Auray, explained that the gender "challenge" function is conducted verbally. "We do not document."¹⁹

In summary, by the Government's own admission, there is no accountability for expenditure of the funds transferred by the Government of Canada to the provinces and territories through the CST which are only "notionally" earmarked for social assistance; there is no documentation of any gender-based analysis conducted by the three central agencies of the Government of Canada. If there has been any impact assessment of social programs related to women's human rights, there is no proof, no public record, and no positive result.

Most importantly, most welfare incomes across the country remain inadequate to meet the basic needs of Canada's poorest women and men, and the Government of Canada has taken no action to implement change.

¹⁸ Spring Report of the Auditor General of Canada, Chapter 1, Gender-Based Analysis: http://www.oag-bvg.gc.ca/internet/English/parl_oag_200905_01_e_32514.html#hd3a

¹⁹ Cynthia Munster, "Treasury Board Won't Commit to Documenting GBA", Hill Times, Ottawa, October 26, 2009, at 34: http://www.thehilltimes.ca/page/view/civil_circles-10-26-2009

Recommendation II: Address Violence Against Aboriginal Women and Girls

Regarding missing and murdered Aboriginal women and girls, the Committee said that, having heard Canada's representations, it remained "concerned that hundreds of cases involving aboriginal women who have gone missing or been murdered in the past two decades have neither been fully investigated nor attracted priority attention, with the perpetrators remaining unpunished." The Committee urged Canada:

to examine the reasons for the failure to investigate the cases of missing or murdered aboriginal women and to take the necessary steps to remedy the deficiencies in the system. The Committee calls upon the State party to urgently carry out thorough investigations of the cases of aboriginal women who have gone missing or been murdered in recent decades. It also urges the State party to carry out an analysis of those cases in order to determine whether there is a racialized pattern to the disappearances and take measures to address the problem if that is the case. (para. 32)

On March 31, 2009, the Native Women's Association of Canada issued its second report from the Sisters in Spirit project,²⁰ which documents the disappearances and murders of 520 Aboriginal women and girls over the last thirty years. Of the 520 cases:

- 43% of disappearances and 50% of murders occurred during or since 2000
- 24% are cases of missing women and girls
- 67% are cases of murder (homicide or negligence causing death)
 - 52% of murder cases have been cleared by charges or suicide
 - 43% remain open (no one charged)
- 26% of cases are in British Columbia, 17% in Alberta, 14% in Manitoba, 12 % in Saskatchewan
- 52% are women and girls under 30
- majority of women were mothers.²¹

The Native Women's Association of Canada points out that their documented number "likely does not reflect the actual number of missing and murdered Aboriginal women and girls in Canada." They have included only cases in the public domain, that is, cases that have

²⁰ Native Women's Association of Canada, *Voices of Our Sisters in Spirit: A Report to Families and Communities*, 2nd edition, March 2009, http://www.nwac-hq.org/en/documents/NWAC_VoicesofOurSistersInSpiritII_March2009FINAL.pdf

²¹ Ibid. pp 88-93.

been: 1) reported to police/ media; 2) acknowledged by police/media; and 3) publicized by police/media. Cases that do not meet these criteria were not included in the Sisters in Spirit database.²²

Walk 4 Justice has carried out a walk across Canada each summer for the last four years to talk with Aboriginal families and communities about missing women. From anecdotal evidence Walk 4 Justice believes that there are many more cases of missing and murdered Aboriginal women and girls that have gone undocumented by police or media. Most informed observers and non-governmental organizations that work on this issue agree that the count of missing and murdered Aboriginal women and girls is likely much higher.

The disappearances and murders of Aboriginal women and girls is not a phenomenon of the past. As the Sisters in Spirit documented cases show 43% of the disappearances and 50% of the murders have occurred since 2000. Six Aboriginal girls have gone missing in Manitoba just over the last year, and two young Aboriginal women, Cherrisse Houle, 17, and Hillary Angel Wilson, 18, were found murdered in August in Winnipeg.²³ The disappearances and murders continue.

Two facets of this problem have been identified by Aboriginal women, families of the missing and murdered Aboriginal women and girls, and non-governmental organizations, including the Native Women's Association of Canada, Amnesty International, the Canadian Feminist Alliance for International Action, the Aboriginal Women's Action Network, and the B.C. CEDAW Group. These two facets are:

1. the failure of police to protect Aboriginal women and girls and to investigate promptly and thoroughly when they are missing or murdered;
2. the disadvantaged social and economic conditions in which Aboriginal women and girls live, which make them vulnerable to violence and unable to escape from it.

Police Failure

Despite the overwhelming evidence of high levels of violence against Aboriginal women and girls, Canadian police forces have been slow, if not reluctant, to take this violence seriously. There are multiple reports in the media, and in the reports from the Native Women's Association of Canada of the negative experiences that families, communities, and friends of missing Aboriginal women and girls have had with police. From police personnel, NWAC reports that families have experienced "a lack of responsiveness, disrespect, confusing or incorrect information, poor adherence to policies and protocols, and an overall discounting of family information."²⁴ Many family members or friends who report the disappearance of an Aboriginal woman or girl have been brushed off with justifications that stereotyped and discounted the women, such as, "she has a transient life style" or

²² Ibid. p. 6.

²³ CBC News – Manitoba, "Unsolved murders of women under review by Winnipeg police", August 25, 2009, <http://www.cbc.ca/canada/manitoba/story/2009/08/25/mb-missing-women-review-manitoba.html>

²⁴ NWAC, *Voices*, *supra* note 20 at 96.

“she’ll come back when she wants to.” Many of the cases did not receive timely or thorough investigation.²⁵ Beverly Jacobs, President of the Native Women’s Association of Canada said to the media when presenting Sisters in Spirit’s second report, “it’s as if society is prepared to disregard the missing women as ‘garbage.’”²⁶

There is a pattern of systemic racism and sexism in the police and justice system response. Because the women and girls are Aboriginal, poor, and some are involved in prostitution, they have been treated as though they do not matter.

Racialized Violence

In its recommendation, the Committee urges Canada to determine whether there is a racialized pattern to the disappearances and murders of Aboriginal women and girls and to address the problem if that is the case.

Whether there is a racialized pattern to the violence is not an open question in Canada. The racism and sexism inherent in the high rates of violence against Aboriginal women is known and has been widely acknowledged.²⁷ Racism and sexism affect the attitudes of violent men who view Aboriginal women and girls as socially unprotected targets because of the depth of discrimination against them. Racism and sexism also affect how seriously the police take their disappearances and murders, and the treatment their families receive.

Racism and sexism are also root causes of the disadvantaged social and economic conditions of Aboriginal women and girls and are manifest in the long-standing failure of Canadian governments to correct these conditions.

In its 2008 Concluding Observations, at the same time that the Committee urged Canada to inquire into the root causes of missing and murdered Aboriginal women, it called on Canada to “develop a specific and integrated plan for addressing the particular conditions affecting aboriginal women, both on and off reserves, ...including poverty, poor health, inadequate housing, low school-completion rates, low employment rates, [and] low income...”²⁸

²⁵ See *Voices*; *supra* note 20. See also Amnesty International, *Stolen Sisters: Discrimination and Violence Against Indigenous Women in Canada*, 2004, at 2 and 23 – 33. Online at: <http://www.amnesty.ca/campaigns/resources/amr2000304.pdf>; and Amnesty International, *No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Aboriginal Women*, September 2009, at 1. Online at: <http://www.amnesty.org/en/library/info/AMR20/012/2009/en>.

²⁶ Winnipeg Free Press, Mia Rabson, “Feds urged to stem tragedies”, May 1, 2009, <http://www.winnipegfreepress.com/local/feds-urged-to-stem-tragedies-44125677.html>

²⁷ See Manitoba Justice Inquiry, 1991, re: the death of Helen Betty Osborne. <http://www.ajic.mb.ca/volumell/toc.html>; see also *No More Stolen Sisters*, *supra* note 25 at 5- 6. See also statement from Minister for Status of Women, the Honourable Helena Guergis, quoted below.

²⁸ Concluding observations of the Committee on the Elimination of Discrimination against Women: Canada, CEDAW/C/CAN/CO/7, 7 November 2008, para. 44.

The violations of the social and economic rights of Aboriginal women and girls cannot be separated from the violations of their civil and political rights. As noted, the disadvantaged social and economic conditions of Aboriginal women and girls make them easy prey for male violence, and make violence harder for them to escape. The failure by all levels of government in Canada to fulfill the social and economic rights of Aboriginal women and girls to an adequate standard of living, including adequate food, clothing and housing directly violates their rights to security of the person and to life.²⁹

As noted above, poverty rates for Aboriginal women are extremely high and higher than for Aboriginal men.³⁰ In addition, all of the other indicators of equality and well-being – educational attainment, health status, income level, housing adequacy, participation in paid work, and rates of child apprehension – reveal an entrenched pattern of inequality and dismal conditions of life for Aboriginal women and girls.³¹

In Western Canada in particular, disproportionate numbers of Aboriginal women and girls are in street prostitution. They experience very high levels of violence. Aboriginal women and girls are coerced into street prostitution by their impoverished conditions, and by early experiences of violence and sexual abuse both in their own communities, and in the broader society. Well-designed strategies are needed to support Aboriginal women and girls so that they can exit prostitution. Necessary resources include treatment beds in detoxification programs, recovery centres, and funding for educational initiatives and job training.

Conditions for Aboriginal women and girls will not change until strategic and co-ordinated policies are put in place by the Government of Canada, working in co-operation with provincial and territorial governments, to address and reverse the specific disadvantages of Aboriginal women and girls. Further, conditions will not change until adequate resources are allocated, over a sustained period, to support systemic change.

Among the changes needed are:

- poverty elimination strategies that include provision of social assistance in an amount that will provide adequate food, clothing, and shelter;
- adequate housing for Aboriginal women and girls, both on and off reserves;
- culturally appropriate training and supports for education;
- shelter services for women in or near Aboriginal communities;
- a change to policies regarding child apprehension to bring to an end the high rates of Aboriginal children being taken away from poor Aboriginal mothers.³²

²⁹ These rights are set out in Articles 6 and 9 of the *International Covenant on Civil and Political Rights*, which Canada ratified in 1976, as well as in s. 7 of the *Canadian Charter of Rights and Freedoms*.

³⁰ Statistics Canada, *Women in Canada 2005: A Gender-Based Statistical Report (2005)* at 190-200. Online: Statistics Canada, <http://www.statcan.ca/english/freepub/89-503-XIE/0010589-503-XIE.pdf>.

³¹ *Ibid.* 181-201.

³² See *Voices*, *supra* note 20 at 98 – 105.

Actions Taken So Far

There are currently four police task forces dealing with missing and murdered women that are operating in Canada:

❖ *Vancouver Police Department – R.C.M.P. Project Even-Handed*

A joint task force between the Vancouver Police Department and the Royal Canadian Mounted Police was established in 2001. Project Even-Handed has a mandate to investigate and solve disappearances of women from the Downtown Eastside of Vancouver and surrounding areas between 1978 and end of 2001. As of March 4, 2009, there were 38 unsolved missing women cases that remain open investigations. At its peak 69 women were on the official list.

❖ *E-PANA Coordinated Investigation Team*

Formed in 2005 by E Division Criminal Operations of the R.C.M.P., E-PANA has a mandate to review the unsolved murders and suspicious missing persons cases linked to Highway 16. E-PANA is currently investigating the disappearances or homicides of 18 women dating back to 1969. It has completed the review phase of incidents, and is now in its operational phase.

❖ *Alberta Project Kare*

Project KARE is a joint operation of the Edmonton Police Service and the R.C.M.P. It commenced in October 2003 as an investigational unit to deal with the murders of missing women whose bodies were found in rural areas around Edmonton. Its current mandate is to:

- Prepare and implement strategies to minimize the risk of having any further “High Risk Missing Persons” murdered.
- Pursue investigational strategies to investigate all leads, capture and prosecute the offender(s) responsible for these crimes.
- Establish an integrated homicide unit that enables the province of Alberta to have the capacity to investigate High Risk Missing Persons, unsolved historic homicides, and serial offenders.
- Create a template of “best practices” for utilization in other similar projects nationally.³³

❖ *Manitoba Integrated Task Force*

In August 2009, the Government of Manitoba, the Winnipeg Police Service and the R.C.M.P. formally established a Manitoba Integrated Task Force to review cases of missing and murdered women. The Task Force is composed of 3 R.C.M.P. officers, 2

³³ Project Kare. Online at: <http://www.kare.ca/content/view/2/>

R.C.M.P. analysts, and 4 Winnipeg Police Service Officers.³⁴

The mandate of the Task Force is to:

- Review and investigate unsolved homicide files involving female victims
- Review missing-person files involving female victims where foul play is suspected
- Analyse those files to determine what if any, links exist between the incidents.

Over the last two decades 75 aboriginal women are known to have gone missing in Manitoba.

The national picture then is that Canada has some region-based joint police task forces reviewing and re-investigating cold files, or in some cases, providing co-ordinated investigation of new cases.

However, these police task forces are not mandated to analyze and address systemic problems in law enforcement and the administration of justice. So far, there is no pan-Canadian strategy or plan of action. No Commission, Parliamentary Committee, or judge in Canada has been tasked with inquiring into the reasons for the pattern of police inaction and delay in the cases of missing and murdered Aboriginal women and girls, or inquiring into what steps, protocols, resources, co-ordination and training are necessary to ensure that 1) Aboriginal women and girls are protected more effectively from violence and 2) that violence against them is investigated and prosecuted promptly when it occurs.

Despite the prevalence of this violence, there is no national database of information on missing and murdered women that identifies them by Aboriginal status and sex, nor is there any established pan-Canadian, or even intra-provincial, co-ordination among police forces.

There are also no standard police protocols for dealing with missing and murdered Aboriginal women and girls, and no mandatory comprehensive training for all police personnel on this issue. Nor are there well-funded and culturally relevant services for Aboriginal women and girls who are either at risk, or in contact with the police and justice system. Services that are lacking or inadequate include: girl-only or women-only shelters, services for Aboriginal women and girls who are trafficked internally in Canada, and advocacy and supports for Aboriginal women and girls who are engaged with the police or justice system.³⁵

³⁴ Canadian Broadcasting Corporation, "Task force to probe missing , murdered women in Manitoba", August 25, 2009: <http://www.cbc.ca/canada/manitoba/story/2009/08/26/mb-task-force-murdered-manitoba.html>

³⁵ See recommendations in Amnesty International, *No More Stolen Sisters*, *supra* note 25, at 27; and *Voices*, *supra* note 20, at 98-105.

In short, Canada has not taken responsibility for identifying and correcting the systemic aspects of this problem. It has not determined “the reasons for the failure to investigate the cases of missing or murdered aboriginal women” or designed and implemented “the necessary steps to remedy the deficiencies in the system.” It has not acknowledged the social and economic disadvantages of Aboriginal women and girls that are a main cause of their vulnerability to violence, or taken any steps to address the failure to fulfill their social and economic rights.

Federal/Provincial Working Groups

There are two federal/provincial working groups whose mandates relate to the issue of missing and murdered Aboriginal women and girls:

- 1) the Missing Women Working Group whose mandate is to examine criminal justice system responses to cases involving serial killers who target vulnerable women, including Aboriginal women in high-risk situations. The CEDAW Committee was informed of this Working Group at the time of its examination of Canada’s 2008 report.
- 2) the Aboriginal Justice Working Group whose mandate is to examine victimization in Aboriginal communities resulting from interpersonal and family violence. It has agreed, as of October 2009, to include the issue of missing and murdered Aboriginal women in its work.³⁶

Neither Working Group is solely focused on missing and murdered Aboriginal girls and women. Further, these federal/provincial/territorial working groups convene and work in private. Even the final results of their work will not necessarily be public. They are not accountable to either the provincial Legislatures or the Parliament of Canada. So far, there are no visible outcomes.

Government of Canada Statements

On October 4, 2009, a day on which there were 71 vigils across the country to remember the missing and murdered Aboriginal women and girls and to call for action, the Government of Canada issued a statement. This statement said, in part:

Today, Canadians from across the country will gather to honour the lives of the many Aboriginal women and girls who are missing, and offer support to their families who bear the terrible burden of grief. As a nation, we cannot stand by while over five hundred Aboriginal mothers, sisters, daughters, and aunties have been taken so violently from us.

Ending this type of violence and bringing to justice those who have committed

³⁶ Letter from the Honourable Rob Nicholson, Minister of Justice and Attorney General of Canada to the B.C. CEDAW Group, November 20, 2009, on file with the B.C. CEDAW Group.

crimes is a shared responsibility of all levels of government as well as law enforcement agencies, the justice system, and civil society. *We will continue to work together* with Aboriginal organizations, provinces and territories, to protect the rights, freedoms and safety of Aboriginal women and girls.³⁷ (emphasis added)

This statement, while a public recognition of the problem, offers no action.

The three Opposition parties in Parliament – the Liberal Party, the New Democratic Party and the Bloc Québécois – have called on the Government of Canada to act.³⁸ Questions asked in Parliament over recent months receive an unvarying answer from the Government.

The Honourable Helena Guergis (Minister of State (Status of Women)) stated on October 6, 2009 that the Government is supporting Sisters in Spirit, the five-year research project of the Native Women's Association of Canada that is aimed at quantifying and identifying the number of murdered and missing aboriginal women. This project is scheduled to end sometime in 2010. The Minister stated that "our government support for Sisters in Spirit and to [sic] identifying the root causes of racialized and sexualized violence that our aboriginal women are experiencing in overwhelming rates is not questionable. We absolutely support the great work that Sisters in Spirit has done. I want to give my respect to the families and to the victims for the courage they have shown, that they continue to show, as we complete this research project."

As Opposition critics and the Native Women's Association of Canada have pointed out, support for the excellent research and public education carried out by the Sisters in Spirit project is not a substitute for government measures that will protect and fulfill the human rights of Aboriginal women and girls.

On December 2, 2009, the Attorney General of Canada and Minister of Justice, the Honourable Rob Nicholson, wrote to FAFIA in answer to our request that he appoint a public inquiry and develop a national action plan to address the problem of missing and murdered Aboriginal women and girls. He said: "Further information from the outcome of ongoing police investigations and relevant FPT (federal/provincial/territorial) discussions will be required before determining what additional steps may be needed to address the issue of missing and murdered Aboriginal women." The Native Women's Association of

³⁷ Status of Women Canada, "Ministers Commemorate Missing and Murdered Aboriginal Women at Annual Sisters in Spirit Vigil", October 4, 2009, <http://www.swc-cfc.gc.ca/med/sta-dec/2009/1004-eng.html>

³⁸Hon. Anita Neville (Winnipeg South Centre, Lib.), 40th Parliament, 2nd Session, Edited Hansard, Number 090, Oral questions, Monday, October 5, 2009. Online at: <http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&Parl=40&Ses=2&DocId=4124672#00B-2877410>; New Democratic Party, "Government still failing to address violence against women one year after UN recommends change", November 4, 2009. Online at: <http://www.ndp.ca/press/government-still-failing-to-address-violence-against-women-one-year-after-un-recommends-change>; Ms. Nicole Demers (Laval, BQ), 40th Parliament, 1st Session, Edited Hansard, Number 063, Oral questions, May 28, 2009. Online at: <http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&Parl=40&Ses=2&DocId=3931160#00B-2790464>.

Canada, and many other organizations, have set out in detail the additional steps that need to be taken. The Government of Canada refuses to act.

Calls for National Action Plan, Investigation and Inquiry Ignored

In addition to the Parliamentary Opposition Parties - the Liberal Party, the New Democratic Party and the Bloc Quebecois - many non-governmental organizations across Canada have called for public inquiries, at the provincial and/or national levels, for a national investigation and the development of a national action plan.

In October 2009, national organizations, lead by the Native Women's Association of Canada, and including Amnesty International Canada , the Assembly of First Nations, Canadian Association of Elizabeth Fry Societies, Canadian Federation of Students, The Canadian Feminist Alliance for International Action (FAFIA), KAIROS: Canadian Ecumenical Justice Initiatives, Métis National Council, and the National Association of Friendship Centres have called on all levels of government to design and implement a National Action Plan that:

- Recognizes the violence faced by Aboriginal women because they are Aboriginal and because they are women,
- Ensures effective and unbiased police response through appropriate training, resources and coordination,
- Improves public awareness and accountability through the consistent collection and publication of comprehensive national statistics on rates of violent crime against Aboriginal women,
- Reduces the risk to Aboriginal women by closing the economic and social gap between Aboriginal and non-Aboriginal people in Canada; and,
- Improves the child welfare system.³⁹

Also, many organizations, including the Canadian Feminist Alliance for International Action, the United Native Nations, the Union of B.C. Indian Chiefs, Walk 4 Justice, the Aboriginal Women's Action Network, the Carrier Sekani group of First Nations, the B.C. CEDAW Group, the Canadian Association of Sexual Assault Centres, the B.C. Civil Liberties Association, PIVOT Legal Society, and most recently the Vancouver Police Department, have called for a public inquiry in British Columbia.⁴⁰ Some of these organizations have also called for a federal inquiry or for a national investigation.

³⁹ Native Women's Association of Canada, Joint Statement, October 4, 2009. Online at: http://www.nwac-hq.org/en/documents/20091004_JointStatement_FINALVERSION.pdf

⁴⁰ See: B.C. CEDAW Group letter to Attorney General Wally Oppal, March 11, 2009. Online at: <http://www.justiceforgirls.org/publications/InquiryletterCEDAW2009.pdf>; see also: www.bccla.org/othercontent/09missing_women.pdf; <http://www.globallethbridge.com/Highway+Tears+inquiry+possible+attorney+general/2220244/story.html>; <http://www.missingjustice.ca/2009/06/activists-call-for-inquiry-into-the-highway-of-tears>

So far, no public inquiry or investigation has been launched in any province, or at the national level, and no steps have been taken to initiate the development of a National Action Plan.

Conclusion

FAFIA asks the Committee on the Elimination of Discrimination against Women to take note of Canada's failure to take immediate and effective steps to implement the Committee's priority recommendations. FAFIA urges the Committee to censure Canada for its failure to respect, protect, and fulfil the human rights of the most disadvantaged women in the country.



Acronyms and Abbreviations



CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CST	Canada Social Transfer
FAFIA	Canadian Feminist Alliance for International Action
FPT	Federal, Provincial, and Territorial
GBA	Gender-Based Analysis
LICO	Low-Income Cut Off
NWAC	Native Women's Association of Canada
PCO	Privy Council Office, Government of Canada
RCMP	Royal Canadian Mounted Police
SCSW	House of Commons Parliamentary Standing Committee on the Status of Women
SWC	Status of Women, Government of Canada