



CANADA WITHOUT POVERTY  
CANADA SANS PAUVRETÉ

## Priority Recommendations: A National Action Plan to End Violence against Indigenous Women and Girls

Exhibit: <i>National Inquiry into Missing and Murdered Indigenous Women and Girls</i>		
Location/Phase: <i>Part 4: Closing oral</i>		
Witness: <i>WLA</i>		
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1. Indigenous women and girls are rights-holders. All levels of government therefore have corresponding obligations under domestic and international law to fulfill Indigenous women's and girls' Indigenous rights and human rights to equality and to live free from violence. This includes the right to be free from conditions that create and perpetuate that violence. Irrespective of government obligations, the rights of Indigenous women and girls in Canada are being violated daily, in multiple and brutal ways.
2. Although all governments have agreed to participate in the National Inquiry into Missing and Murdered Indigenous Women and Girls ("the Inquiry"), they are still active perpetrators, or perpetuators, of violence against Indigenous women and girls. International and regional human rights experts, mandate holders, and treaty bodies agree that Canada is in the midst of a human rights crisis because of long-standing and persistent violations of the human rights of Indigenous women and girls, and that Canada's responses, to date, are woefully inadequate.
3. The time has come for a co-ordinated, strategic, and national response, that matches the scope and character of the rights violations perpetrated against Indigenous women and girls. This response must address the root causes of the violence, including the severe social and economic disadvantages of Indigenous women and girls, which also stem from human rights violations, and the long-standing police and justice system abuses, violation of their rights, and failures to protect them and provide justice. The Inquiry is, in itself, an opportunity to implement Canada's international human rights obligations to Indigenous women and girls.
4. A co-ordinated and strategic National Action Plan must be formulated. The National Action Plan must be based in human rights, and, as such, incorporate international human rights standards, such as ensuring a maximum of available resources are dedicated to enhancing established program and service elements, while allowing for variations in regional needs and delivery mechanisms. It must set measurable goals for improvements in social and economic indicators, and justice system indicators. Clear timelines for meeting these goals, and for implementing the various plan elements, must be established. The National Action Plan must also account for differences in realities and needs among First Nations women living on and off reserve, Métis women, and Inuit women. As it is best placed to lead implementation of the Plan, the federal government must make funding transfers to the provinces and territories conditional on their implementation of plan elements, and their commitment to engage in co-ordinated strategies, and public reporting and monitoring. It should also include substantial needs- and rights-based funding to Indigenous women's service groups to implement their human rights, including Indigenous rights, and address their own solutions, in addition to being full partners in any solutions at the national and regional levels.

### Federal Government Leadership

5. The federal government must take leadership immediately on the issue of violence against Indigenous women and girls. United Nations treaty bodies have repeatedly urged Canada to use its leadership, capacity, and spending power to ensure consistent and coherent implementation of human rights standards in Canada.<sup>1</sup> Despite the federal government's insistence that it cannot take responsibility for treaty implementation by the provinces and territories because of the constitutional division of powers, United Nations and regional human rights bodies continue to identify the federal government as having the capacity and tools to exercise leadership for the country on matters of human rights implementation.<sup>2</sup>



### Use of the Federal Spending Power

6. The federal government must use its constitutionally approved spending power to transfer funds to the provinces and territories for expenditures on specified programs, services, and strategies that will fulfill the human rights of Indigenous women and girls. This funding must be conditional on detailed reporting and evidence of substantive reduction in violence and improvement of the conditions of Indigenous women and girls. This spending power is a key tool for establishing equality-creating programs and services that are co-ordinated and stable. In its 2016 report on Canada, the United Nations (UN) Committee on Economic, Social and Cultural Rights urged the federal government to take the lead on human rights implementation by using funding and other agreements with the provinces and territories in order to “establish responsibilities for the implementation of [treaty] rights at the different [government] levels”.<sup>3</sup> In 2016, the UN Committee on the Elimination of Discrimination Against Women called on the federal government to consistently use conditional and targeted federal funding to ensure transfer payments promote compliance with the human rights of women.<sup>4</sup>

### Coordination with Provinces, Territories, and Indigenous Women

7. The federal government must develop a mechanism for co-ordination and collaboration with the provinces, territories, municipal governments, where relevant, and, most importantly with Indigenous women and Indigenous women's organizations, to identify programs, services, and strategies that will prevent and remedy violence against Indigenous women and girls and substantively improve conditions. The identification of priorities and the formulation of a National Action Plan must be grounded in the recommendations of the UN Committee on the Elimination of Discrimination Against Women, CEDAW, the Inter-American Commission on Human Rights, and recommendations of the Inquiry, and of parties at the Inquiry.

### Indigenous Women's First Voice

8. Indigenous women know best what is needed to end the violence against them. A key principle of a rights based approach is to place first voices at the core of decision-making. Therefore, Indigenous women must be in leadership, decision-making positions throughout the formulation, implementation, funding, and monitoring of the National Action Plan.

### Monitoring and Review

9. The National Action Plan must have a pro-active and independent review mechanism to ensure that implementation of the National Action Plan is monitored, evaluated, and adjusted as necessary. This mechanism must permit Indigenous women and Indigenous women's organizations, their advocates, services providers, and organizations of their choice to participate fully in the evaluation of the National Action Plan, including assessing progress and correcting deficiencies on a regular basis, as well as ensuring regular public reporting.

### Rights Claiming Mechanism

10. The National Action Plan must include a rights-claiming mechanism so that Indigenous women can bring forward systemic violations of rights to ensure that effective remedies are available and accessible. A rights-claiming mechanism will begin to address the broader problem in Canada of “limited availability of legal remedies for victims in the event of a violation of Covenant rights,”<sup>5</sup> particularly violations of social and economic rights. A rights-claiming mechanism will also permit identification of areas and situations where the National Action Plan is not meeting goals and needs, and where further actions are required.<sup>6</sup>

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<sup>1</sup> United Nations (UN) Committee on the Elimination of Discrimination against Women, Concluding Observations of the Committee on the Elimination of Discrimination against Women, Canada, 7 November 2008, UN Doc CEDAW/C/CAN/CO/7 at paras 9-12; UN Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Canada, 8 May 2017, UN Doc CRPD/C/CAN/CO/1 at para 10(a); UN Committee on Economic, Social and Cultural Rights, Concluding Observations of the Committee on Economic, Social and Cultural Rights on the sixth periodic report of Canada, 23 March 2016, UN Doc E/C.12/CAN/CO/6 at para 7 [2016 CESCR Concluding Observations].

<sup>2</sup> The *Vienna Convention on the Law of Treaties* (May 23, 1969), entered into force January 29, 1980, states at Article 27 that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."

<sup>3</sup> 2016 CESCR Concluding Observations, *supra* at para 7.

<sup>4</sup> UN Committee on the Elimination of Discrimination against Women, Concluding Observations of the Committee on the Elimination of Discrimination against Women, 18 November 2016, UN Doc CEDAW/C/CAN/CO/8-9 at para 11.

<sup>5</sup> 2016 CESCR Concluding Observations, *supra* at para 5.

<sup>6</sup> This should be undertaken in cooperation with efforts by Employment and Social Development Canada to establish a National Housing Advocate and National Poverty Reduction Advocate.