Murders and Disappearances of Aboriginal Women and Girls in Canada

Request for Thematic Hearing during the 147th Period of Sessions March 7–22, 2013

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Re: Request for Thematic Hearing—Missing and Murdered Aboriginal Women and Girls in Canada

Dear Mr. Longoria,

The Native Women’s Association of Canada (NWAC) and the Canadian Feminist Alliance for International Action (FAFIA) respectfully request a thematic hearing under Article 66 of the Rules of Procedure of the Inter-American Commission on Human Rights regarding the alarming numbers of disappearances and murders of Aboriginal women and girls in Canada. This request is for the 147th Period of Sessions: March 7-22, 2013.
NWAC and FAFIA were granted an opportunity on March 28, 2012 to brief the Inter-American Commission on Human Rights about the murders and disappearances of Aboriginal women and girls in British Columbia, one of Canada’s thirteen provincial and territorial jurisdictions. With this new application, we seek the opportunity to brief the Commission on the broader issue of murders and disappearances of Aboriginal women and girls in Canada as a whole, and to update the Commission on developments in Canada’s response to these grave and systemic violations of the human rights of Aboriginal women and girls.

As you may know, there is a widespread call in Canada from First Nations people — youth, women, elders and leaders — for a change in the relationship between First Nations and the Crown. Some First Nations leaders met with the Prime Minister of Canada on January 11, 2013 in an effort to reset the relationship. Assembly of First Nations National Chief, Shawn A-in-chut Ateko, outlined seven actions considered necessary to moving forward towards real change. One of these is:

Immediate Commitment to the establishment of a National Public Commission of Inquiry on Violence Against Indigenous Women and Girls, including special focus on murdered and missing indigenous women, and the broader factors that lead to increased vulnerability among Indigenous peoples.¹

The call for a national public commission of inquiry is widely supported in Canada by Aboriginal and non-Aboriginal organizations because other efforts — meetings of provincial and territorial Ministers and Premiers, working groups of officials, yearly vigils across the country, research and production of reports, lobbying — have failed to produce a full examination and acknowledgement of the obligations of the Canadian State to prevent, investigate, punish, and remedy the violence, or a comprehensive and co-ordinated national plan for doing so.

This is a time when the re-establishment of trust and respect between Aboriginal peoples and Canada is crucial. For Aboriginal women and girls, the re-establishment of trust requires Canada to meet its obligations to respect and fulfill their human rights.

In light of the expertise of the Inter-American Commission on the issue of violence against women, the Commission can provide critical assistance to: 1) secure broader understanding in Canada and the hemisphere that the police and government failures to respond adequately to the murders and disappearances of indigenous women and girls constitute human rights violations, and 2) hold the Canadian State accountable for protecting this vulnerable segment of its population and providing remedies for this systematic pattern of sexualized and racialized violence.

Background

The Native Women’s Association of Canada, through its Sisters in Spirit project, has documented over 600 disappearances and murders of Aboriginal women and girls in Canada over the past 30 years.²

² Native Women’s Association of Canada, What Their Stories Tell Us: Research findings from the Sisters In Spirit initiative, at 19, available at http://www.nwac.ca/sites/default/files/reports/2010_NWAC_SIS_Report_EN.pdf. Since this report was published in 2010, more disappearances and murders of Aboriginal women and girls
NWAC, FAFIA and other human rights organizations believe that there are many more Aboriginal women and girls whose disappearances and murders remain undocumented. Between 2000 and 2008 alone, 153 Aboriginal women were murdered.\(^3\) Homicide rates of Aboriginal females were almost seven times higher than non-Aboriginal females between 1997 and 2000,\(^4\) and Aboriginal women between the ages of 25 and 44 with Indian status are five times more likely than other women of the same age to die as the result of violence.\(^5\)

Despite these tragic numbers, the Canadian State has failed in its obligation to exercise due diligence to prevent this violence, promptly and thoroughly investigate reports of disappearances and murders, and bring the perpetrators to justice. Authorities, and in particular the federal government, have failed to design and implement a comprehensive, national plan to stop this violence, including measures such as training, protocols, systems for disaggregated data collection, co-ordination across jurisdictions, and accountability mechanisms. For example, police are not required to ensure that they consistently and accurately record whether the victims of crime and missing persons are Aboriginal.\(^6\)

The obligation to prevent the violence requires addressing the fact that Aboriginal women are amongst the most discriminated against and socially and economically disadvantaged groups in Canadian society. Discriminatory attitudes by police to the effect that Aboriginal women are “transient,” live a “risky lifestyle,” or “will show up when they want to” are often used to justify failure to respond to reports of missing women. The vulnerability of Aboriginal women and girls to sexualized and racialized violence is created in part by the lack of response to it from the police and the courts.\(^7\)

In addition, the profound social and economic marginalization of Aboriginal women and girls makes them easy prey for violent perpetrators.

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have been documented by the Native Women’s Association of Canada, and the number is now over 600.

\(^3\) Ibid. at ii.

\(^4\) Ibid. at 5


The widespread patterns of violence against Aboriginal women and girls have their roots in colonization and its impacts, including the loss of traditional lands, cultures and languages, long-standing sex discrimination against Aboriginal women which is entrenched in the Indian Act, and an intergenerational cycle of violence resulting from abuse and mistreatment of Aboriginal children who were forced into residential schools in Canada. Aboriginal women face severe economic and social hardship, including high rates of poverty and unemployment, lower educational attainment, poor health, lack of access to clean water, and overcrowded, substandard housing.9

The Standing Committee on the Status of Women, a Committee of the House of Commons of the Government of Canada composed of Members of Parliament from all parties, issued an interim report on violence against Aboriginal women in March 2011, recognizing the need for a comprehensive approach. After hearing from over 150 witnesses from across Canada, the Committee stated:

....it is impossible to deal with violence against Aboriginal women without dealing with all of the other systems which make women vulnerable to violence and make it difficult for them to escape violence. What is required is a co-ordinated, holistic approach to violence against Aboriginal women. The vulnerability of Aboriginal women is not new; it is chronic.10

Aboriginal women in Canada face discrimination on multiple fronts: as women within their home communities due to the patriarchal effects of colonialism, as women in mainstream society, and as

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10 Standing Committee on the Status of Women, Interim Report, Call Into the Night: An Overview of Violence against Aboriginal Women, March 2011, 40th Parliament, 3rd session, online at: http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5056509&Language=E&Mode=1&Parl=40&Ses=3. Unfortunately, this understanding of the need for a comprehensive approach was not carried forward into recommendations, as the composition of the Committee was different in the next session of Parliament, and the political agreement forged across party lines at the time of the hearings was lost.
Aboriginal persons in mainstream society." As described above, they live disproportionately in poverty, face high risks of violence, and experience high rates of child apprehension as well as systemic discrimination within the criminal justice and social welfare systems. Additionally, a disproportionate number of the most vulnerable street prostituted women are Aboriginal women, who struggle with addiction, homelessness, and chronic, often life-threatening, health problems. Aboriginal women and girls are funneled into prostitution because of their economic and social marginalization, and engagement in prostitution further increases levels of vulnerability to coercion, abuse and violence. State policies which produce and reproduce the serious social and economic deprivations suffered by Aboriginal women and girls, combined with the discrimination and indifference of authorities to Aboriginal women, result in impunity for many of the crimes committed against them, and permits the violence to continue.

The Native Women’s Association of Canada and the Canadian Feminist Alliance for International Action believe that the above-mentioned factors amount to serious violations of the human rights of Aboriginal women and girls under the American Declaration on the Rights and Duties of Man ("Declaration"), including: the right to life, which includes “having access to the conditions that guarantee a dignified existence,”; the right to preservation of health and well-being (Article XI); the right to equality/non-discrimination (Article II); the right to protection of honor, personal reputation, and private and family life (Article V); the right to access the courts and to justice (Article XVIII); and the rights of the child (Article VII). Although Canada has not yet ratified the principal Inter-American treaties, these failures would likely also amount to violations of the corresponding articles within the American Convention on Human Rights and contravene the goals of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Convention of Belem do Para").

To date, as noted, the Inter-American Human Rights Commission has considered the issue of violence against Aboriginal women and girls in British Columbia, but not in Canada as a whole. It is a nation-wide problem of long standing. Despite the seriousness of the human rights violations, and despite the repeated urging of non-governmental organizations and international and regional human rights bodies, Canada has not taken the steps necessary to effectively prevent, investigate, prosecute and remedy them, including addressing the root causes of the violence.

A thematic hearing at the next session would be an effective means through which to bring renewed and intensified attention to this critical human rights issue in Canada and throughout the hemisphere. Additionally, an audience with the Inter-American Commission on Human Rights in 2013 would re-engage the Government of Canada in an exchange with Aboriginal women and representative organizations about the means of addressing and correcting the life-threatening and widespread violence and discrimination.

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12 Ibid.
13 Ibid. at 29.
Criticism by International Organizations and the United Nations

Since our first briefing with the Inter-American Commission on Human Rights in March 2012, the list of international organizations, including United Nations treaty bodies and Special Rapporteurs, that have expressed concern about the disappearances and murders of Aboriginal women and girls in Canada has grown.

Amnesty International has drawn attention to the situation through its Stolen Sisters campaign, starting in 2004. It has collected the stories of missing and murdered women and their families, created petitions for individuals to sign, and urged the Government of Canada to address the problem.\(^{15}\) However, in its latest report on Canada, issued in December 2012, Amnesty notes few gains:

In recent years, the federal government has announced various initiatives and programs with respect to violence against Indigenous women. While many of these initiatives are welcome, they do not constitute a coordinated strategy and, taken together, still fall short of the comprehensive action needed to address what is, by any measure, one of the most serious human rights problems in the country. The Minister responsible for the Status of Women, who should bear much responsibility for spearheading the development of a comprehensive national response to violence against Indigenous women, has indicated that she does not see the need for a national plan of action, commenting that various levels of government are “putting in place — and have already put in place — very good concrete measures to deal with this issue.”\(^{16}\)

In 2012, Human Rights Watch initiated an investigation into the “atrocities against aboriginal women” being committed in northern communities in British Columbia, and a report is expected soon.\(^{17}\)

United Nations treaty bodies that have expressed concerns to Canada about the murders and disappearances of Aboriginal women and girls now include the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, the Committee Against Torture, and the Committee on the Rights of the Child. They have highlighted two facets of this problem:

- the failure of police to protect Aboriginal women and girls from violence and to investigate disappearances and murders promptly and thoroughly; and

- the disadvantaged social and economic conditions which make Aboriginal women and girls vulnerable to violence and unable to escape from it.\(^{18}\)


\(^{18}\) Human Rights Committee, Concluding observations: Canada, UN Doc. CCPR/C/CAN/CO/5, 20 April 2006, at ¶ 23—24, available at
Since 2005, these treaty bodies have repeatedly urged Canada to adopt a strategic and comprehensive plan to address and eliminate the violence against Aboriginal women and girls.

During the Human Rights Council’s Universal Periodic Review of Canada in 2009, recommendations were made to Canada regarding violence against women, and against Aboriginal women in particular. These included recommendations that Canada remedy police failures to deal with violent crimes against Aboriginal women and girls, and that Canada address the low socio-economic status of Aboriginal women and girls as a factor that contributes to the violence against them. Canada has not effectively implemented the recommendations that were made during the 2009 UPR.

In her report on Gender-based Killings, the United Nations Special Rapporteur on Violence Against Women took note of the high rate of violence against Aboriginal women in Canada, and noted the “intersection of different layers of discrimination based on race, ethnic identity, sex, class, education and political views [that] further disenfranchises indigenous and aboriginal women, reproducing a multi-level oppression that culminates in violence.”


While not focusing specifically on Canada, James Anaya, the UN Special Rapporteur on the rights of indigenous peoples, stated in September 2012 that violence against indigenous women and girls is one of the most pressing issues facing indigenous peoples today.\footnote{21 UN News Centre, “Violence against indigenous women, Property rights, most pressing indigenous issues — UN expert”, 18 September 2012, available at http://www.un.org/apps/news/story.asp?NewsID=42924#.UPRhbKxTFgg}

The severity of the situation is also highlighted by the CEDAW Committee’s announcement in December 2011 that it has initiated an Article 8 Inquiry under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on missing and murdered Aboriginal women in Canada, in light of its own review of Canada and formal requests filed by the Native Women’s Association of Canada and the Canadian Feminist Alliance for International Action.\footnote{22 Indian Country Media Network, “Aboriginal Leaders Welcome U.N. Attention to Missing-Women Cases,” December 15, 2011, available at http://indiancountrytodaymedianetwork.com/2011/12/15/aboriginal-leaders-welcome-u-n-scrutiny-of-missing-women-cases-67937} Under Article 8 of the Optional Protocol, the Committee has discretion to conduct an Inquiry into situations of “grave or systematic violations” occurring within a state party.\footnote{23 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, A/RES/54/4, 15 October 1999.} This Inquiry procedure has only, to date and to the public’s knowledge, been utilized once before in the similar situation of systematic disappearances and murders of women in Juarez, Mexico.\footnote{24 United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol of the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO, 27 January 2005 (case file of attachments to the application, volume VII, attachment 3b, folio 1921).} The requirement of “grave or systematic violations” and the rarity with which the CEDAW inquiry procedure is invoked underscore the seriousness of the situation in Canada.

The Inter-American human rights system has produced progressive jurisprudence and guidance regarding state obligations with respect to violence against women, particularly through its site visit and report related to Ciudad Juarez. NWAC and FAFIA believe that the Commissioners can provide insightful and expert assistance to Aboriginal women and girls, to the Canadian State, and to indigenous women in the region, through a 2013 hearing on murders and disappearances of Aboriginal women and girls in Canada.

**Update on British Columbia**

The only official inquiry into failures by police and prosecutors with regard to the murders and disappearances of Aboriginal women is the Missing Women Commission of Inquiry, appointed by the Government of British Columbia in 2010. The Inquiry was mandated to examine police failures to investigate and prosecute disappearances and murders of women, some of whom were Aboriginal, from the Downtown Eastside of Vancouver between 1997 and 2002.
This Inquiry did not specifically focus on missing and murdered Aboriginal women or on addressing the conditions and circumstances that place Aboriginal women at high risk. Its focus was on police and prosecutorial failures, not on broader governmental failures, and only on police failures with respect to murders and disappearances of women from one specific locale, in one province, during a particular time period.

The capacity of this inquiry was further diminished by a decision of the Government of British Columbia to deny funding for legal counsel to groups who were granted standing at the Inquiry, including the Native Women’s Association of Canada. This denial of funding to groups that have been granted standing by a Commissioner of Inquiry is unprecedented in Canada. It had the effect of shutting out and denying participation to all Aboriginal organizations who were granted standing and to other key advocacy groups, in particular those that are most knowledgeable about the social and economic conditions of the missing and murdered women, and about the systemic, sexualized and racialized violence that Aboriginal women and girls experience in Canada.

The final report of the Missing Women Commission of Inquiry was issued to the public on December 17, 2012. The Inquiry found that “the police investigations into the missing and murdered women were blatant failures.” The report includes 43 recommendations, which are designed to improve policing standards, processes, and structures in the Vancouver region of British Columbia.

The Inquiry also found that: “Eradicating the problem of violence against women involves addressing the root causes of marginalization, notably sexism, racism and the ongoing pervasive effects of the colonization of Aboriginal peoples — all of which contribute to the poverty and insecurity in which many women live.” The Inquiry report notes that these issues are most worthy of consideration, but are “beyond the scope of the Inquiry.”

Because the Government of British Columbia has not made a comprehensive response to the report, it is not yet known whether the report’s recommendations will be implemented. Whether they are or not, these recommendations do not address the government and police failures with respect to murders and disappearances of Aboriginal women and girls in Canada as a whole.

Nonetheless, we consider this inquiry significant, both because of what it has done and what it has not done. We wish to update the members of the Inter-American Commission on Human Rights on this development in British Columbia.

Conclusion

The poor governmental response by Canada to such a massive problem does not do justice to the many Aboriginal women and girls who have died and who still live in the shadow of this violence. Canadian governments have responded ineffectively; their efforts to prevent, investigate, and remedy the violence have been weak and piecemeal. To date, Canada does not have the necessary measures in place to prevent the violence from continuing.

27 Ibid., Volume I, at 5.
For the foregoing reasons, the Native Women’s Association of Canada and the Canadian Feminist Alliance for International Action respectfully request a thematic hearing for the next period of sessions (March 2013) in accordance with Article 66 of the Rules of Procedure of the Inter-American Commission on Human Rights.

Thank you for your consideration of our request.

Sincerely,

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