



Feminist Alliance for
International Action
L'alliance féministe pour
l'action internationale

January 17, 2011

Madame Sylvia Pimentel, Chair
Members

United Nations Committee on the Elimination of Discrimination Against Women
c/o CEDAW Secretariat,
OHCHR - Palais Wilson, 8-14 Avenue de la Paix, CH-1211
Geneva 10, Switzerland.

Dear Madame Pimentel and Members of the Committee,

The Canadian Feminist Alliance for International Action (FAFIA) is writing to request that the Committee on the Elimination of Discrimination Against Women initiate an inquiry regarding missing and murdered Aboriginal women and girls in Canada, under Article 8 of the Optional Protocol to CEDAW.

FAFIA is a national alliance of Canadian women's equality-seeking organizations. FAFIA's central goal is to ensure that the Government of Canada protects, respects and fulfills 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.

Aboriginal women and girls experience extremely high levels of violence in Canada. In its submission to the CEDAW Committee in 2009, the Native Women's Association of Canada stated that: "Violence against Aboriginal women and girls is a national tragedy that requires immediate, widespread action."¹ Aboriginal women in Canada report rates of violence including domestic violence and sexual assault, 3.5 times higher than non-Aboriginal women.² Young Aboriginal women are five times more likely than other Canadian women of the same age to die of violence.³ Aboriginal women and girls experience both high levels of sexual abuse and violence in their own families and communities, and high levels of stranger violence in the broader society.⁴

¹ Native Women's Association of Canada, Submission by the Native Women's Association of Canada and the Assembly of First Nations to the United Nations Committee on the Elimination of Discrimination Against Women, November 2009.

² Violence against Aboriginal women and girls is well-documented in Canada. See Jodi-Anne Brzozowski, Andrea Taylor-Butts and Sara Johnson, "Victimization and offending among the Aboriginal population in Canada", *Juristat*. Vol. 26, no. 3, Canadian Centre for Justice Statistics, 2006. Online at: <http://dsp-psd.tpsgc.gc.ca/Collection-R/Statcan/85-002-XIE/85-002-XIE2006003.pdf>

³ 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>

⁴ See Brzozowski, *supra* note 2.



Sisters In Spirit (SIS), a research and data-collection project initiated by the Native Women's Association of Canada (NWAC), has now documented the disappearances or murders of 582 Aboriginal women and girls over twenty years.⁵ However, NWAC believes that the scope of this violence is far greater than these documented cases. It refers to the cases in its database as the "known cases" of missing and murdered Aboriginal women and girls. Walk 4 Justice, which has carried out a walk across Canada each summer for the last five years to talk with Aboriginal families and communities about missing women, believes that there are many more cases of missing and murdered Aboriginal women and girls that have gone undocumented by police or media.⁶ Most Aboriginal and human rights organizations agree that the count of missing and murdered Aboriginal women and girls is likely much higher.

Two facets of this problem have been identified by Aboriginal women, families, and non-governmental organizations, including the Native Women's Association of Canada, Amnesty International,⁷ the Canadian Feminist Alliance for International Action, and the Aboriginal Women's Action Network. These two facets are:

- the failure of police to protect Aboriginal women and girls from violence and to investigate promptly and thoroughly when they are missing or murdered; and
- 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.

Both of these issues have been highlighted by United Nations treaty bodies after reviews of Canada, including the Committee on Economic, Social and Cultural Rights in 2006,⁸ and the Committee on the Elimination of Racial Discrimination in 2007.⁹ During the Universal Periodic Review of Canada in 2009 by the Human Rights Council, recommendations were made to Canada regarding violence against women, and against indigenous women in particular. Canada accepted the underlying principles in these recommendations (paras. 33-38), which included recommendations that Canada remedy police failures to deal with violent crimes against Aboriginal women and girls, and that Canada address the low socio-

⁵ Native Women's Association of Canada, *What Their Stories Tell Us: Research findings from the Sisters In Spirit initiative*, March 2010, online at:

http://www.nwac.ca/sites/default/files/imce/2010_NWAC_SIS_Report_EN.pdf

⁶ See: The Hook, "Walk 4 Justice demands answers to missing women cases". Online at:

<http://thetyee.ca/Blogs/TheHook/Aboriginal-Affairs/2009/06/05/Walk4JusticeMissingWomenCases>

⁷ See Amnesty International, *Stolen Sisters: A Human Rights Response To Discrimination and Violence Against Indigenous Women in Canada*, online at: <http://www.amnesty.ca/stolensisters/amr2000304.pdf>

⁸ Concluding observations of the Committee on Economic, Social and Cultural Rights: Canada. UN Doc. E/C.12/CAN/CO/4, E/C.12/CAN/CO/5 (22 May 2006) at paras. 11(d), 15, 26.

⁹ Concluding observations of the Committee on the Elimination of Racial Discrimination: Canada, UN Doc.CERD/C/CAN/CO/18 (25 May 2007) at paras. 20-21.



economic status of Aboriginal women and girls as a factor that contributes to the violence against them.¹⁰

The CEDAW Committee after reviewing Canada's compliance with its obligations under the *Convention on the Elimination of All Forms of Discrimination against Women* in 2008, the Committee, in its Concluding Observations, stated:

31. Although the Committee notes that a working group has been established to review the situation relating to missing and murdered women in the State party and those at risk in that context, it remains 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.

32. The Committee urges the State party 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.

Canada was asked to report back on its actions on this recommendation in one year, and it did so in 2009. The Canadian Feminist Alliance for International Action (FAFIA), the B.C. CEDAW Group and the Native Women's Association of Canada (NWAC) provided alternative follow-up reports indicating that Canada had taken no adequate action.

Despite years of lobbying by many diverse non-governmental organizations, the Government of Canada, along with the provincial and territorial governments, have still not put in place a comprehensive and effective action plan for addressing the root causes and effects of the violence against Aboriginal women and girls. Nor is there a comprehensive plan for improving and co-ordinating the capacity of the police, and the justice system, to protect Aboriginal women and girls, or to respond adequately to the violence when it occurs. The Government of Canada has not publicly acknowledged that there are grave and systematic violations of the human rights of Aboriginal women and girls occurring in Canada, nor has it acknowledged its obligations to take concrete steps to prevent the violence and to ensure that the rights of Aboriginal women and girls to life, to freedom from torture, to equal protection and benefit of the law, and to equality in social and economic conditions are fully realized.

¹⁰ United Nations Human Rights Council, Review of the Working Group on the Universal Period Review: Canada, A/HRC/11/17, 5 October 2009, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/152/99/PDF/G0915299.pdf?OpenElement>



It is our view that the Committee has reliable information that there is a grave and systematic violation of the human rights of Aboriginal women and girls occurring in Canada, which has been transmitted to the Committee in the form of alternative reports from non-governmental organizations at the time of the most recent review of Canada in 2008, and in the alternative follow-up reports regarding progress made on priority recommendations in 2009 and 2010, and in the studies and data referred to in these reports.

Developments since January 2010

Since the time of the follow-up reports and the UPR recommendations, there have been three developments:

1. 10 Million Dollars – Government of Canada

In the March 2010 Budget, the Government of Canada allocated 10 million dollars to combat violence against Aboriginal women. This amount represents 0.003565% of the 280.5 billion dollars of planned total expenditure for the fiscal year 2010-2011. The Budget stated that the money was being allocated “to address the disturbingly high number of missing and murdered Aboriginal women,” and also stated “[c]oncrete actions will be taken so that law enforcement and the Justice system meet the needs of Aboriginal women and their families.”¹¹

On October 29, 2010, the Government of Canada announced that the 10 million dollars will be spent over two years as follows:

1. \$4-million for the Royal Canadian Mounted Police (RCMP) to 1) establish a National Police Support Centre for Missing Persons, including one resource, linked to National Aboriginal Policing Services, specifically dedicated to the issue of missing and murdered Aboriginal women; 2) enhance the Canadian Police Information Centre (CPIC) to capture additional missing persons data; 3) create a national registry for missing persons and unidentified remains so police have more comprehensive information on missing persons across jurisdictions; and 4) create a national Web site to encourage the public to provide tips and information on missing persons cases and unidentified human remains.
2. \$1 million to support the development of school- and community-based pilot projects to help heal, move forward and provide alternatives to high-risk behaviour for young Aboriginal women, including young offenders. The overall goal of the initiative will be to reduce the vulnerability of young Aboriginal women to violence.

¹¹ Government of Canada, March 9, 2010, *Budget 2010, Chapter 3.4 Supporting Families and Communities and Standing Up for Those Who Helped Build Canada*, online at: <http://www.budget.gc.ca/2010/plan/chap3d-eng.html>



3. \$2.15 million to the Department of Justice's Victims Fund to help the western provinces develop or adapt victim services for Aboriginal people and specific culturally sensitive victim services for families of missing and murdered Aboriginal women. These funds will also be made available to Aboriginal community groups to respond to the unique issues faced by the families of missing or murdered Aboriginal women at the community level.
4. \$1.5 million to Public Safety Canada to develop community safety plans to improve the safety of Aboriginal women within Aboriginal communities. Community safety plans will be developed by Aboriginal communities with the support of the Government of Canada to improve community safety and wellness.
5. \$850,000 to the Justice Partnership and Innovation Fund to develop materials for the public on the importance of breaking intergenerational cycles of violence and abuse that threaten Aboriginal communities across Canada. This funding will be made available to Aboriginal organizations and Public Legal Education groups working with Aboriginal groups.
6. \$500,000 for the development of a national compendium of promising practices in the area of law enforcement and the justice system to help Aboriginal communities and groups improve the safety of Aboriginal women across the country. These "best practices" will be identified in a number of fields: law enforcement, victim services, Aboriginal community development and violence reduction.¹²

As the Native Women's Association of Canada has pointed out, the funding in these various envelopes is not in all cases specifically designated to deal with Aboriginal women, or to address serious violence, like murder. Some amounts are allocated so that the Western provinces and community organizations in those provinces (BC, Alberta, Saskatchewan and Manitoba) can access it, and services for Aboriginal women may be included within a more generic project. There is only enough money to support small projects on a short-term basis. The allocation of funds within the 10 million dollars was decided without consultation with NWAC.¹³

At the same time, the Government of Canada informed NWAC that it will no longer fund Sisters In Spirit. Sisters In Spirit was first funded in 2005 as a five-year research, education and policy initiative through the policy branch of Status of Women Canada and approved

¹² Government of Canada, October 29, 2010, "Government Of Canada Takes Concrete Action Regarding Missing And Murdered Aboriginal Women", http://www.justice.gc.ca/eng/news-nouv/nr-cp/2010/doc_32560.html

¹³ Native Women's Association of Canada, November 9, 2010, "NWAC responds to \$10M announcement from the Department of Justice Canada", online at http://www.nwac.ca/sites/default/files/imce/Press%20Release_NWAC%20responds%20to%20%2410M_9%20November%202010.pdf



by Cabinet. Sisters in Spirit received \$5million dollars over five years. This initial funding ended in March 31, 2010.

As noted above, Sisters In Spirit has collected information about missing and murdered Aboriginal women and girls across Canada, and has constructed an important, reliable database of information. It has published analytical reports, and has been an essential source of information and support for the families of the missing and murdered Aboriginal women and girls. It is widely recognized that through its careful and sensitive research, Sisters In Spirit brought the issue of murdered and missing Aboriginal women to light, and demonstrated that the Government of Canada, as well as provincial and territorial governments, need to take action on this disturbing reality. When the Budget announcement was made, those involved in Sisters in Spirit, and all of the supporters of its excellent work, were sure that its funding would be renewed. However, the Cabinet did not approve renewed funding for Sisters In Spirit, and instead NWAC received bridge funding of \$500,000 for six months from April to October 2010.

Most recently, NWAC has been informed that since, under Status of Women's Community Fund, no research, policy development or advocacy can be funded, there will be no further funding for Sisters In Spirit. It appears to be the view of the Government of Canada that there is no need for Sisters in Spirit to continue its research and maintain its database of information on missing and murdered Aboriginal women and girls, because the RCMP has now been funded to collect information. A decision not to fund Sisters In Spirit ignores known facts:

- Sisters in Spirit continues to add more women and new evidence to its database;
- the RCMP may be limited by policy or expertise from collecting data about Aboriginal identity, and consequently its database will necessarily be inferior to the SIS database;
- it will take several years for an RCMP database to be fully functioning, even if it is adequately funded.

Letters expressing support for continued funding for Sisters In Spirit have received responses from the Honourable Rona Ambrose, Minister responsible for the Status of Women, which refer to the allocation of 10 million dollars and assure writers that Status of Women Canada is currently funding a project of the Native Women's Association of Canada, which has been titled "Evidence to Action". The Minister writes: "This project will strengthen the abilities of 500 Aboriginal women and girls across Canada to recognize and respond to issues of gender-based violence within their families and communities. The project will also allow the Native Women's Association of Canada to develop, with the assistance of Status of Women Canada, a longer term initiative within the Women's Program to work in communities to help prevent violence against Aboriginal women."¹⁴

¹⁴ Letter to a supporter of Sisters In Spirit from Minister Rona Ambrose, dated December 2, 2010.



It is our view that the Government of Canada is currently using funding – the giving, withholding and setting terms for it - as a means of controlling and restricting the activities of NWAC, and the Sisters In Spirit project in particular, because their work has helped to expose grave and systematic violations of the human rights of Aboriginal women and girls in Canada.

The allocation of this 10 million dollars over 2010-2011 does not amount to an adequate remedy for the grave and systematic violations of human rights that are occurring.

2. Missing Women Commission of Inquiry – British Columbia

On September 27, 2010, the Government of British Columbia established the Missing Women Commission of Inquiry, with the former Attorney General of British Columbia, Wally Oppal, Q.C., as the Commissioner. This is an inquiry into the facts, police investigations and official decisions involved in “the Pickton case”.

Since 1983, over 60 women have gone missing from Vancouver’s Downtown Eastside. The Vancouver Police and RCMP did not get involved until 1999, by which time 31 women had been reported missing. Police and city officials long denied that there was any pattern to the disappearances or that women in the area were in any particular danger.

In 2002 and 2003, Robert William Pickton was charged with first-degree murder in the deaths of 26 of the women missing from Vancouver’s Downtown Eastside. In December 2007, Pickton was convicted of second-degree murder on six counts. Proceedings on the other counts were stayed.

Under its terms of reference, the Missing Women Commission of Inquiry will:

- a) inquire into and make findings of fact respecting the conduct of the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver;
- b) inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;
- c) recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides; and



d) recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations.

Commissioner Oppal's report is to be submitted by Dec. 31, 2011.

The focus of this Inquiry is not missing and murdered *Aboriginal* women and girls, and it is confined to a specific locale in British Columbia. Its focus is the conduct of the police investigations that lead to the charging of Robert William Pickton with 26 murders of women (some of whom were Aboriginal) who had been reported missing from the Downtown Eastside of Vancouver. It is expected that the Commissioner's chief concern will be with the jurisdictional conflicts and lack of co-ordination between the Royal Canadian Mounted Police (a federal force) and various municipal police forces in British Columbia. This lack of co-ordination is understood to be one factor that resulted in reports about missing women not being acted on in a timely or effective way. It can be expected that the Commissioner will issue recommendations intended to improve police handling of cases of missing women. It is unlikely, however, that the Commissioner will issue recommendations that address the range of social, economic, historical, and political factors that contribute to the disproportionate violence that Aboriginal women and girls in British Columbia experience. Nor is the Commissioner likely to issue recommendations that identify, and lead to the remedy of, the particular failures in law enforcement that are experienced by Aboriginal women and girls. All the Commissioner's recommendations will relate to British Columbia only.

3. Status of Women Committee – Parliament of Canada

The Standing Committee on the Status of Women of the Parliament of Canada, composed of eleven Members of Parliament from all parties, has decided to conduct a study into violence against Aboriginal women and is holding hearings in Ottawa, in the Western provinces, and in the North. This study may be completed in the spring of 2011, and will make recommendations to the Government of Canada. The Government of Canada is required to respond formally to a report from this Committee; it can accept or reject its recommendations. Recently, the Government of Canada has not responded positively to most recommendations from this Committee.

Need for An Inquiry

Each of these measures may turn out to be helpful. But they are fragmentary; they do not show, either alone or in combination, a serious and co-ordinated commitment on the part of Canada to identify and plan effective and comprehensive strategies for addressing the violations of the human rights of Aboriginal women and girl in Canada.

It is because of this failure to take adequate steps to address the violations of the human rights of Aboriginal women and girls, that we now request the Committee to initiate an



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inquiry under Article 8 of the Optional Protocol. We believe that the Committee that assist Canada and Aboriginal women and girls by undertaking an inquiry that will address the two facets of this problem, and by visiting Canada to listen to Aboriginal women and girls, their families, police officials, Members of Parliament and Members of Legislative Assemblies in the provinces and territories, as well as others.

We look forward to your response, and would be pleased to provide further information or any assistance.

Sincerely,

Bonnie Diamond
Co-Chair, Steering Committee, Canadian Feminist Alliance for International Action

Leilani Farha
Co-Chair, Steering Committee, Canadian Feminist Alliance for International Action