

## **Follow-up Submission of Canada to the Views of the Committee on the Elimination of Discrimination against Women on the Communication of Cecilia Kell**

*Communication No. 19/2008*

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1. On 28 February 2012, the Committee on the Elimination of Discrimination against Women (“the Committee”) adopted its views on the merits of the communication of Cecilia Kell (“the author”), Communication No. 19/2008. An advance unedited version of these views was transmitted to Canada on 10 April 2012. The final version of the views is dated 26 April 2012.<sup>1</sup>
2. The Committee concluded that there had been violations of the author’s rights under articles 2(d), 2(e), and 16(1)(h) of the *Convention on the Elimination of All Forms of Discrimination against Women* (“the *Convention*”). At paragraph 11 of its views, the Committee made the following remedial recommendations:
  - (a) Concerning the author of the communication
    - (i) Provide housing commensurate in quality, location and size to the one that she was deprived of;
    - (ii) Provide appropriate monetary compensation for material and moral damages commensurate with the gravity of the violations of her rights;
  - (b) General
    - (i) Recruit and train more aboriginal women to provide legal aid to women from their communities, including on domestic violence and property rights;
    - (ii) Review its legal aid system to ensure that aboriginal women who are victims of domestic violence have effective access to justice.
3. At paragraph 12 of its views, the Committee indicated that it wished to receive, within six months of the issuance of its views, a written response from Canada concerning any action taken in light of the views and recommendations of the Committee. The Committee also requested that Canada publish the Committee’s views and recommendations.
4. Canada makes this submission in follow-up to the Committee’s views and recommendations. It should be stated at the outset, however, that Canada maintains its position that the author’s communication was not admissible, and that even if it was admissible, Canada did not violate the rights of the author as protected by the *Convention*.

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<sup>1</sup> UN Doc. No. CEDAW/C/51/D/19/2008.

Canada is generally in agreement with the individual dissenting opinion that was appended to the Committee's views.

5. Nevertheless, Canada has given due consideration to the views of the Committee, with particularly careful consideration given to the remedial recommendations. Canada takes the concerns raised by the Committee very seriously, and provides the following information in response.

#### **A. Recommendations concerning the author of the Communication**

6. Officials from the Northwest Territories ("NWT") Housing Corporation have been in contact with the author and her representative, in order to initiate discussions as to what options might be possible in light of the Committee's remedial recommendations concerning the author. Officials with the Government of the Northwest Territories hope to arrange in-person meetings with the author and her representative in order to further these discussions. The in-person meetings will be attended by officials from the NWT Housing Corporation and the NWT Department of Justice.
7. At an appropriate time, Canada will provide an update to the Committee on the progress that has been made in these discussions.

#### **B. General recommendations**

##### **1) Background information**

8. The core incidents giving rise to the author's communication occurred in the early- to mid-1990s, before Canada ratified the Optional Protocol to the *Convention*. In the years since the events described by the author's communication, Canada has put in place a variety of measures. The legal and policy situation described by the author in her communication is therefore not the situation that exists today.
9. Canada observes, however, that some important contextual factors have not significantly changed. The NWT's total land area, 1,143,793.47 square kilometres, is more than three times the land area of Germany; in 2011, the NWT had a total enumerated population of only 41,462 people.<sup>2</sup> The NWT's population is spread across 33 communities ranging in size from 54 residents to about 19,000 residents. Only 16 of these communities are accessible by road year-round; the others are accessible, generally, only by aircraft. In implementing its

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<sup>2</sup> For statistical data on the NWT, see online: <http://www12.statcan.gc.ca/census-recensement/2011/as-sa/fogs-spg/Facts-pr-eng.cfm?Lang=Eng&TAB=1&GK=PR&GC=61>. The total land area of Germany is 348,672 square kilometres: *The World Factbook 2009*, "Germany" (Washington, DC: Central Intelligence Agency, 2009), updated 12 September 2012, online: <https://www.cia.gov/library/publications/the-world-factbook/geos/gm.html>.

human rights obligations in this context, Canada has had to adapt to the challenges presented by these practical realities.

10. Before responding specifically to each of the Committee's general recommendations, Canada will first provide the Committee with a few examples of relevant measures recently taken in three general areas, focusing on measures for women in the NWT.

*Improvements at the NWT Housing Corporation*

11. First, the NWT Housing Corporation ("NWTHC") has taken a number of steps to improve the management of its programs, including its work with local housing organizations. With respect to the management of land transactions, including the sale of residential properties, the NWTHC has increased its internal capacity to manage these activities and ensure that social housing clients' interests are heard and respected. The NWTHC has hired more land officers, and updated program policies and procedures. Perhaps most importantly, the NWTHC now provides significant ongoing training to program delivery staff to ensure that land and mortgage documents are duly executed in accordance with program objectives. The NWTHC has also focused more attention on communication activities directed at stakeholders, with a view to improving transparency in the delivery of programs and services to the public.
12. Steps have also been taken by the NWTHC to improve its services for women who are victims of domestic violence. Applicants for social housing with the NWTHC are prioritized through a point rating system, which now establishes victims of family violence as a priority group for the purpose of accessing NWTHC programs and services. Furthermore, local housing organizations have been provided with updated policies, allowing applicants for social housing to be considered to be in good standing even if they have previous tenant arrears with the organization. This flexibility allows each organization to work in the best interests of women who have left violent situations, by providing opportunities to access social housing within their community.<sup>3</sup>
13. The NWTHC has also taken a number of steps to improve the responsiveness of the services it provides. It has upgraded the systems and procedures used in the delivery of its community housing programs. The implementation of centralized operating systems provides real-time data monitoring of activities related to community housing operations. Improved access to programs and procedures for local housing organizations and increased training and support for staff of these organizations has been implemented. With these improvements, the NWTHC can more effectively respond to the urgent housing needs of residents by ensuring that those with the greatest needs receive assistance first.

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<sup>3</sup> More information on such measures was provided in Canada's initial Submission on the Merits (25 May 2011) at paras. 193-199.

14. Broadly speaking, these improvements have cumulatively resulted in a current system at the NWTHC that is vastly improved, compared to what was in place in the early 1990s when the incident giving rise to this communication occurred. Today, inaccurate information that could negatively impact the housing situation of a resident can be detected and corrected more efficiently, leading to more positive outcomes for those in need of housing assistance.

*Legal protections for common law spouses*

15. Second, the NWT has taken steps to improve the legal protections available for common law spouses with respect to their family home and other family property. In 1998, the new NWT *Family Law Act* came into force. The *Family Law Act* includes common law spouses within the *Act's* definition of spouse.<sup>4</sup> As a result, common law spouses in the Northwest Territories now have the right to equal division of family property in the event of a spousal separation. In addition, one spouse cannot encumber or dispose of the family home without the consent of the other spouse, or remedies are available. In contrast, at the time of the events described in the author's communication, and up until 1998, common law spouses in the NWT (such as Ms. Kell) did not have such matrimonial property rights.

*Family violence preventative measures*

16. Third, in the years since the events described in the author's communication, Canada has strengthened its efforts to prevent domestic violence – particularly domestic violence against Aboriginal women. Many of these efforts were described in some detail in Canada's initial submission on the merits, at paragraphs 168-177.
17. The NWT in particular has taken a number of measures to prevent domestic violence. The *Northwest Territories Action Plan on Family Violence (2003-2008)* was developed in 2003 in response to a call to action by non-governmental agencies. The 2004 response to the *Action Plan* by the Government of the NWT ("GNWT") contained 72 actions in the areas of policy and legislation, working together, capacity building, training, prevention, education and awareness, services and monitoring, evaluation and accountability.<sup>5</sup> To provide one specific example of a prevention program linked to the *Action Plan*, in 2006 the NWT Department of Justice collaborated with the Coalition Against Family Violence to facilitate workshops in 13 northern communities on community responses to family violence. In November 2009, the initial *Action Plan* was followed by the *NWT Family Violence Action*

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<sup>4</sup> S.N.W.T. 1997, c. 18 (in force 1 November 1998), online: <http://www.canlii.org/en/nt/laws/stat/snwt-1997-c-18/latest/snwt-1997-c-18.html>.

<sup>5</sup> *Government of the Northwest Territories Response to the NWT Action Plan on Family Violence (2003-2008): A Framework for Action* (October 2004), online: [http://www.gov.nt.ca/research/publications/pdfs/GNWT\\_response\\_FAMVIOL.pdf](http://www.gov.nt.ca/research/publications/pdfs/GNWT_response_FAMVIOL.pdf).

*Plan: Phase II (2007-2012).*<sup>6</sup> One notable initiative under *Phase II* has been the development of a pilot program for men who use violence in their relationships, emphasizing alternatives to violence. This was in response to requests from victims of violence who wanted help for their partners. Funding is now in place for wide implementation of the Men Who Use Violence program, and it is expected to be operational by April 2013. *Phase II* ended in March of 2012. The progress made over the first two phases is currently being evaluated, with a view to determining next steps.

18. Another important development in the NWT was the creation in March 2011 of a Domestic Violence Treatment Options Court (“DVTO Court”). The DVTO Court allows low-risk domestic violence offenders to participate in treatment. To be eligible, offenders must have taken responsibility for their actions and pled guilty. Offenders are carefully screened and are required by the court to attend an eight-week treatment program, which is designed to reduce further incidents of domestic violence or the escalation of domestic violence. The DVTO Court is based in Yellowknife. Behchoko (formerly Rae-Edzo), the home community of the author, is about an hour’s drive away. Offenders from Behchoko who are willing to attend treatment sessions in Yellowknife are encouraged to participate.
19. While the DVTO Court is an alternative to the formal justice system, it does not divert offenders away from criminal court: successful completion of the treatment program is a mitigating factor in sentencing. The GNWT also recognizes that victim safety is a key component to the successful implementation of the DVTO Court, and support for victims is provided. The DVTO Court initiative therefore emphasizes the accountability of the offender while taking precautions to protect the victim.
20. Furthermore, the Government of Canada invests in measures to address family violence through the Family Violence Initiative, which gathers 15 partner departments, agencies and Crown corporations. With the long-term goal of reducing the occurrence of family violence in Canada, the Government of Canada provides the Initiative with permanent annual funding.
21. The Government of Canada, in 2012-2013, has continued to invest approximately \$30 million annually in family violence prevention programs and services on reserve. Aboriginal Affairs and Northern Development Canada’s (AANDC’s) Family Violence Prevention Program (FVPP) provides operational funding for a network of 41 shelters and supports proposal-based prevention projects. This investment contributes to enhanced safety and security of on-reserve residents, particularly women and children. AANDC’s policy covers funding to First Nation communities to provide shelter and prevention services to First

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<sup>6</sup> Northwest Territories Health and Social Services, *NWT Family Violence Action Plan: Phase II (2007-2012) – Enhancing and Expanding the System for Families Affected by Family Violence* (November 2009), online: [http://www.hss.gov.nt.ca/sites/default/files/nwt\\_family\\_violence\\_action\\_plan\\_phase\\_2\\_2007\\_2012.pdf](http://www.hss.gov.nt.ca/sites/default/files/nwt_family_violence_action_plan_phase_2_2007_2012.pdf).

Nations considered ordinarily resident on reserve, which includes First Nations in the provinces and in the Yukon territory. Generally, provincial and territorial governments provide shelter services to Aboriginal women and children residing off reserve.<sup>7</sup> The Government of Canada, through Territorial Formula Financing, provides an annual transfer to enable territorial governments to provide all their residents with a range of social services comparable to provincial governments.

22. The FVPP also provides core funding to the National Aboriginal Circle Against Family Violence, to provide a national coordinating role for service providers from Aboriginal shelters by conducting research and providing training opportunities.

**2) Policies and programs that specifically address the Committee's general recommendations**

**(i) Recruiting and training more Aboriginal women to provide legal aid to other women from their communities**

23. The Government of Canada and the GNWT support a range of measures to increase the number of Aboriginal women involved in the provision of legal assistance and advice, particularly through publicly funded programs for legal aid and other assistance in accessing the justice system. Women, including Aboriginal women, are significant players in the justice system of the NWT, both in terms of numbers and the positions they hold. They play a prominent role in the NWT's legal aid and access to justice programs, and more generally within the legal community and the judiciary.
24. This section will first discuss legal aid and access to justice programs in NWT communities, with a focus on the role of women. It will then turn to Canada's broader efforts to promote access to post-secondary education, including legal education, for Aboriginal individuals including Aboriginal women. Canada recognizes that promoting greater access to post-secondary education for Aboriginal women is a critical step in increasing the number of Aboriginal women involved in the provision of legal assistance and advice.

*Publicly funded legal aid*

25. The federal government and the GNWT share the cost of delivering criminal and civil legal aid in the NWT. Funding is administered through the Access to Justice Services Agreement, a federal-territorial agreement to share the costs of services in three program components: legal aid, aboriginal courtwork, and public legal education and information. In 2011-2012

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<sup>7</sup> For more information on the First Nations Family Violence Prevention Program, see online: <http://www.aadnc-aandc.gc.ca/eng/1100100035253>.

the GNWT contributed \$5,282,473 pursuant to the Agreement, and the federal government contributed \$1,972,327.

26. In the NWT, publicly funded legal aid services are delivered by the NWT Legal Services Board. Women have a central role in the Board's operations. The Executive Director of the Board, who is a lawyer, is an Aboriginal woman. The Board employs seven family law lawyers, three of whom are women.
27. For eligible individuals, civil and family legal aid in the NWT is available for matters concerning: child support, custody or access; division of property and divorce when related to child support, custody or access; spousal support; emergency protection orders, restraining orders or peace bonds; child protection issues; and certain problems with government services.

*Community legal outreach service*

28. If they occurred today, the kind of legal issues experienced by the author of this communication would most likely be addressed through the specialized community legal outreach service offered by the NWT Legal Services Board. This service is meant to provide assistance for civil matters impacting an individual's livelihood, physical or mental health, or ability to provide food, clothing, and shelter for themselves or their families. The clinic lawyer can offer assistance on such legal matters as housing, landlord and tenant disputes, employment insurance questions, debt protection remedies, child protection issues, and elder abuse. Women who seek an emergency protection order or civil restraining order will be referred by the clinic lawyer to the appropriate agency.
29. The clinic lawyer provides advice and assistance to a client, but if any substantial legal work is required the client must apply and be eligible for legal aid. The service is promoted to potential clients through the NWT Legal Services Board, through referrals from court workers, and through community visits by the clinic lawyer. The Board contacts both government and non-government agencies in all communities to advertise and promote this specialized service.
30. The clinic lawyer currently providing this service is a woman who is based in the Community Legal Aid Clinic in Yellowknife, but who also periodically travels to communities throughout the NWT. The 17 communities that have so far benefitted from the service include Behchoko (formerly Rae-Edzo), the home community of the author.<sup>8</sup> The clinic lawyer will also provide assistance by telephone, particularly for clients who live outside of Yellowknife. To date, about 95% of the clinic's clients have been Aboriginal.

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<sup>8</sup> The other communities have been Inuvik, Fort MacPherson, Sachs Harbour, Tuktoyaktuk, Ulukhaktok, Fort Smith, Fort Liard, Fort Simpson, Fort Providence, Fort Resolution, Lutsel K'e, Hay River, Wha Ti, Deline, Tulita, Norman Wells, and Fort Good Hope. The lawyer has visited some of these communities more than once.

*Court workers placed in local communities*

31. The NWT Legal Services Board also employs seven court workers who are based in communities throughout the NWT. Currently, the court workers are all women, and five are Aboriginal. One of the court workers is based in Behchoko (formerly Rae-Edzo). Many of the court workers are women who have lived in these communities for most of their lives.
32. The court workers, who are not practicing lawyers, assist victims of family violence on a daily basis. Their services include helping clients complete legal aid applications, providing public legal education and information on all areas of the law, and assisting clients who are appearing in Territorial Court on family law matters. The court workers can also refer Aboriginal clients to appropriate legal, community justice and social programs. Overall, the court workers' mandate is to promote access to justice in their community by assisting Aboriginal people involved in the justice system to obtain fair, just, equitable, and culturally sensitive treatment. By serving as a liaison between justice officials and Aboriginal people and communities, the court workers can help local justice system officials become familiar with the culture, values and customs of the local Aboriginal community.
33. The seven court workers in the NWT form part of the Aboriginal Courtwork program component of the Access to Justice Services agreement, and as such are funded by the federal and territorial governments. There is also a national Aboriginal Courtwork Program, which is funded by the federal and provincial governments. Across Canada, there are approximately 190 court workers who provide services to 455 Aboriginal communities.

*Significant numbers of practicing lawyers and judges in the NWT are women*

34. Outside of the specific context of legal aid, nearly half of the resident practicing lawyers in the NWT are women.<sup>9</sup> The Law Society of the Northwest Territories, which is responsible for governing the legal profession in the public interest, is led predominantly by women. The Law Society's Executive Director is a woman, and so are four of the five members of its Executive Committee. Women also feature prominently in the judiciary of the NWT. The NWT has two resident courts: the Territorial Court and the Supreme Court. Two of the Territorial Court's four judges are women. In the Supreme Court all four of the judges are female, and one of them is Aboriginal. In addition, the Chief Justices of both of the NWT's appellate-level courts (the Court of Appeal for the Northwest Territories and the Supreme Court of Canada) are women.

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<sup>9</sup> Of the 134 total resident members of the Northwest Territories Law Society, 62 are women. Many members of the Northwest Territories Law Society are resident outside of the NWT. Out of the 391 total active members of the NWT Law Society (including those who live in the NWT and those who do not), 125 are women.



*Promoting access generally to post-secondary education for Aboriginal women*

35. More generally, a critical step in recruiting and training more Aboriginal women to provide legal assistance and advice is promoting greater access to post-secondary education for Aboriginal women. Canada is committed to ensuring that Aboriginal peoples enjoy the same educational opportunities as other Canadians. Canada views the task of improving educational outcomes as a shared responsibility, involving not only governments but also First Nations organizations, parents, and individual students. All have a role to play in achieving real results.
36. Each year the Government of Canada provides funding to help First Nation and Inuit students cover tuition and related expenses associated with post-secondary education. Roughly 70% of these students are women. In 2010-2011, the Government of Canada provided about \$295 million to approximately 22,500 First Nation and Inuit students for post-secondary education, and about \$21 million for institutional support.
37. There are two post-secondary education support programs that provide financial assistance for eligible Status Indian and Inuit students to help offset tuition, travel and living expenses. The Post-Secondary Student Support Program provides financial assistance to students who are enrolled in eligible post-secondary programs, while the University College Entrance Preparation Program provides financial assistance to help eligible students achieve the academic level required to enter degree or diploma programs. At the institutional level, the Indian Studies Support Program is aimed at increasing the availability of post-secondary education programs tailored to First Nations and Inuit cultural and educational needs, with the aim of increasing the number of First Nations and Inuit students pursuing a post-secondary education.<sup>10</sup>
38. Post-secondary education funding is also available through Indspire, a non-governmental charitable organization led by Aboriginal people. Indspire receives funding for its various education-related initiatives from a number of government and corporate partners. In 2011-2012, Indspire awarded \$6,288,735 in bursary and scholarship funding to over 2200 First Nation, Inuit and Métis students across Canada. This funding for students is available in four major categories: post-secondary education (including law), fine arts, health careers, and oil and gas trades and technology. Since its inception, Indspire has disbursed over \$49 million to over 14,000 students.<sup>11</sup>

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<sup>10</sup> For additional information on the programs discussed in this paragraph, see online: <http://www.aadnc-aandc.gc.ca/eng/1100100033679/1100100033680>.

<sup>11</sup> For additional information on Indspire and its bursary and scholarship awards, see online: [www.indspire.ca/scholarships](http://www.indspire.ca/scholarships).

39. Finally, like other students in Canada, Aboriginal students are also eligible for post-secondary financial assistance through the Canada Student Loans Program.

*Promoting legal education for Aboriginal women*

40. Turning to legal studies in particular, approximately 150 First Nation and Inuit students – including approximately 100 women – were studying law in Canada in the 2010-2011 academic year. The Government of Canada’s Aboriginal Bursaries website lists over 25 bursaries, scholarships, and incentives for students interested in legal education, including programs in the Northwest Territories.<sup>12</sup>
41. To give one specific example of such funding for legal studies, each year the federal government contributes \$100,000 towards the Legal Studies for Aboriginal People Program (LSAP). The objective of the LSAP is to promote the equitable representation of Aboriginal people in the legal profession by providing financial assistance to those enrolled in a pre-law program or a law program in Canada. LSAP funding is open to Métis and Non-Status Indians. The LSAP is administered by Indspire. A significant majority of students who have benefitted from the LSAP in recent years have been Aboriginal women:

	2010-2011	2011-2012	2012-2013
Pre-law program	11 students (8 women)	9 students (8 women)	13 students (9 women)
Law program	20 students (10 women)	39 students (27 women)	<i>Data not yet available</i>

42. The law component of the LSAP is a bursary available to eligible students registered in law schools throughout Canada. The level of the bursary is dependent on needs and available funds. The pre-law component of the LSAP is a bursary to attend an 8-week intensive program open to Aboriginal students from across Canada who have been admitted to law school. The program, which is held annually at the University of Saskatchewan, includes a course in property law, and full academic support to prepare Aboriginal students for success in law school. Through the LSAP pre-law bursary, eligible students enrolled in the course receive \$3500, divided between \$2500 for tuition and \$1000 as a living allowance.
43. In order to further encourage people from the NWT to attend law school and return to their home communities as a practicing lawyer, the Northwest Territories Law Foundation offers grants to NWT students attending law school, and debt reduction or income supplements for those individuals when they return to the NWT to practice law.<sup>13</sup>

<sup>12</sup> The Aboriginal Bursaries website is accessible at: <http://www.aboriginalcanada.gc.ca/ab/site.nsf/index-eng>.

<sup>13</sup> For more information on the grants and other financial assistance offered by the Northwest Territories Law Foundation, see online: <http://www.lawsociety.nt.ca/LawFoundation/>.

**(ii) Ensuring effective access to justice for Aboriginal women who are victims of domestic violence**

44. Canada views access to justice as fundamental to an effective and efficient justice system. A strong legal aid system is one of the pillars supporting Canada's system of justice. On its own, however, a legal aid program cannot guarantee effective access to justice for Aboriginal women who are victims of domestic violence. There must also be a surrounding framework of policies, services, and legal mechanisms that support and promote access to justice for this vulnerable population. In the years since the events described by the author's communication, both the GNWT and the Government of Canada have significantly enhanced this framework, in order to make it easier for victims of domestic violence to access the legal aid programs that are available, and more generally to seek legal remedies.

*Legal aid is an important pillar of access to justice*

45. In Canada, the provinces and territories are responsible for the management and delivery of legal aid services, while the federal government shares in the delivery costs. The core objective of the legal aid program is to promote fair legal proceedings and to ensure access to justice for economically disadvantaged persons, including youth, women and Aboriginal persons. The specific requirements for using these programs differ from jurisdiction to jurisdiction, but their purpose is the same: to facilitate individuals' access to legal services where necessary.<sup>14</sup>

46. In the NWT in particular, and as explained above, the federal government and the GNWT share the cost of delivering criminal and civil legal aid. The NWT Legal Services Board provides a wide range of services, including civil legal aid services, the court worker service, and the community legal outreach service, all of which were described above in response to the first general recommendation. Generally speaking, the Board provides equal access to its programs and services; however, depending on the nature of individual circumstances, priority is given to victims of violence.

*Availability of emergency shelters for women fleeing abusive situations*

47. The services available at women's shelters are often the initial access point to the justice system for women who are victims of domestic violence. As a part of the *NWT Family Violence Action Plan: Phase II*, ongoing funds have been provided by the GNWT to shelters located outside of Yellowknife, for staffing expenses as well as operations and management expenses. This funding has enabled shelters to become more actively involved in their communities, by providing more support programming to both in-house and drop-in clients.

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<sup>14</sup> For more information on legal aid in Canada, see online: <http://canada.justice.gc.ca/eng/pi/pb-dgp/arr-ente/lap-paj.html>.

*Enhanced training of shelter workers and others assisting victims of abuse*

48. The GNWT has also taken measures to familiarize shelter workers with the legal mechanisms available to women who are victims of family violence. In June 2010, the NWT Department of Health and Social Services published *Supporting Northern Women: A Northwest Territories Family Violence Training Program for Shelter Workers*.<sup>15</sup> This comprehensive resource, designed as both a self-study manual for shelter workers and as the basis for a facilitated training program, includes a module entitled “Legal Protection from Family Violence”. It explains the nature of available legal remedies, including emergency protection orders, and how to support women who seek to make use of such protections. *Supporting Northern Women* also includes information on collaborating with other community service providers, such as providers of legal services, to support their clients.

*Effective criminal laws*

49. For women who are victims of domestic violence, an effective criminal justice response to their situation is a critical aspect of a framework to enable meaningful access to justice. Canada’s approach to domestic violence is based on recognition of the seriousness of spousal abuse and of the fact that an assault against a spouse is as equally deserving of state attention and intervention as an assault against a stranger. Domestic violence is a crime in Canada and is caught by a wide range of *Criminal Code* offences such as assault, assault with a weapon, sexual assault, and criminal harassment. Canada’s criminal law also requires that instances of spousal or child abuse be taken into consideration as aggravating circumstances for the purpose of sentencing offenders. Various legislative amendments have facilitated the receipt of testimony by vulnerable victims and witnesses of crime, and have provided greater protection to these individuals. Furthermore, these amendments have facilitated the criminal law enforcement of breaches of restraining or protection orders, which are often used in cases of family violence.

*Effective responses by police services*

50. Police in the NWT have worked to improve their response to family violence. The GNWT Department of Justice has been collaborating with the NWT division of the Royal Canadian Mounted Police (“RCMP”) to establish a Family Violence Co-ordinator position. This position, which will be staffed by March 2013, will focus on the RCMP’s response to family violence, by providing training to support a stronger and more consistent front line approach by officers responding to family violence situations.

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<sup>15</sup> Available online: [http://www.hss.gov.nt.ca/sites/default/files/supporting\\_northern\\_women\\_a\\_nwt\\_family\\_violence\\_shelter\\_worker\\_training\\_program.pdf](http://www.hss.gov.nt.ca/sites/default/files/supporting_northern_women_a_nwt_family_violence_shelter_worker_training_program.pdf).

*Assistance to victims of domestic violence*

51. Women who are victims of domestic violence require information, emotional support or counselling, and practical assistance. One of the benefits of such services is that they improve the ability of victims of domestic violence to access justice.
52. The GNWT supports a community-based model of victim services delivery. As part of this model, the GNWT provides annual contribution funding of \$75,000 per agency to victim services sponsoring organizations in Behchoko (formerly Rae-Edzo, the home community of the author), Inuvik, Fort Good Hope, Yellowknife, Hay River Reserve, Fort Smith and Fort Simpson. The funding is used to support the development or enhancement of community-based programs and projects that support or directly benefit victims of crime by providing information, emotional support, practical assistance (including help to prepare victim impact statements), court orientation, and referrals to other supporting agencies.
53. The Federal Victims Strategy is a wide-ranging federal government initiative that includes a multi-million dollar Victims Fund available to local, regional and national non-governmental organizations, provincial and territorial governments, and individual victims of crime. Multi-year agreements are in place with the three territorial governments, including the GNWT, to enhance victim services and direct support to victims of crime.
54. In the NWT, this funding has enhanced victim services, provided outreach services to victims in outlying communities, advanced the exploration of a child advocacy centre in the territory, and provided limited emergency financial assistance to victims. The NWT Victims of Crime Emergency Fund (“VCEF”) program, now in its fourth year of operation, provides victims of serious violent crime with financial assistance to help mitigate the impact of crime. With funding from the Federal Victims Strategy, the GNWT has provided eligible victims with financial assistance for short-term immediate counselling, emergency groceries, emergency transportation, emergency medical expenses and emergency clothing. All victim service providers have received training on the VCEF program, as have key local agencies such as the Alison McAteer House (a women’s shelter) and the Centre for Northern Families.
55. In addition, the Public Prosecution Service of Canada provides Crown-based assistance to victims/witnesses in each of the three territories (including the NWT) through the Crown Witness Coordinators (CWC) program. CWCs assist and prepare victims and witnesses for their role in the prosecution of crimes. CWCs provide victims and witnesses with information on their rights during the court process. They can inform and assist victims and witnesses on the filing of Victim Impact Statements, assist in the arrangement of testimonial aids, accompany victims/witnesses to court, and provide referrals to other supportive services as needed. Many of the victims with whom CWCs work are Aboriginal women who are victims of family violence. There are currently six CWCs working in the NWT, five of

whom are lifelong or long term residents of the North. Four of the CWCs are women; two are Aboriginal women.

*Enhanced legal remedies for victims of abuse*

56. Both the GNWT and the federal government have taken steps to enhance the legal remedies available for women who are victims of domestic violence, and to make these remedies more easily accessible. In 2005, the NWT *Protection Against Family Violence Act* came into force.<sup>16</sup> Remedies under this *Act* are available to anyone in a family or intimate relationship; had these remedies existed at the time, they would have been available to the author of this communication. An emergency protection order under the *Act* helps protect victims of family violence who, because of the serious or urgent nature of their situation, require assistance without delay. Such an order can grant sole use of a home or other property, restrict communication between the individuals involved, or order the seizure of weapons or firearms by the police. Victims of family violence can apply for an order at any time – 24 hours a day, 7 days a week – either by contacting their local police or by calling a toll-free number. So far, a significant majority of the applicants for emergency protection orders under the *Act* have been Aboriginal women. As discussed above, additional remedies concerning the family home are also now available to common law spouses under the NWT *Family Law Act*.
57. For Aboriginal women who live on reserve, the Government of Canada has recently introduced Bill S-2, the *Family Homes on Reserves and Matrimonial Interests or Rights Act*. Bill S-2 would help address incidents of family violence against Aboriginal women and their children living on reserves by providing for emergency protection orders that grant temporary exclusive occupation of the family home. The Bill is currently awaiting debate at second reading in the House of Commons.<sup>17</sup>

*Northwest Territories Human Rights Act*

58. In the NWT, Canadian citizens, permanent residents, and persons who are legally present in Canada can bring complaints of discrimination pursuant to the NWT *Human Rights Act*.<sup>18</sup> The *Act* prohibits discrimination and harassment on the basis of a number of areas and grounds, including sex, marital status, and race. Like all jurisdictions in Canada, the NWT provides mechanisms to assess discrimination complaints and encourage dispute resolution, and has an adjudicative body that can decide the merits of complaints and order remedies.

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<sup>16</sup> S.N.W.T. 2003, c. 24, online: <http://www.canlii.org/en/nt/laws/stat/snwt-2003-c-24/latest/snwt-2003-c-24.html/>.

<sup>17</sup> Bill S-2 was passed by the Senate on 1 December 2011, and received its first reading in the House of Commons on 8 December 2011.

<sup>18</sup> S.N.W.T. 2002, c. 18, online: <http://www.canlii.org/en/nt/laws/stat/snwt-2002-c-18/latest/snwt-2002-c-18.html>.

These decisions are reviewable by the courts. The protections available under the *Act* were discussed in more detail in paragraphs 156-161 of Canada's initial submission on the merits.

59. The human rights systems of the NWT and other jurisdictions were designed to provide an informal and accessible process for the resolution of discrimination complaints. They cover areas of daily life such as employment, housing, and access to services, supporting the full participation of all Canadians in contemporary society. It is not necessary for a person to have legal representation or specialized legal knowledge to bring a complaint against a public or private-sector actor who they believe has discriminated against them.

*Public legal education and awareness-raising*

60. Accessible and relevant public legal education is a final critical element of a framework for effective access to justice. The Government of Canada provides contribution funding to the GNWT to support public legal education and information efforts. One significant effort undertaken by the Legal Services Board has been the release in 2007 of a family law manual for the general public, entitled *Family Law in the NWT: Rights, Responsibilities, Answers, Information*.<sup>19</sup> This 200 page document includes a section on legal remedies for family violence – including emergency protection orders under the *Protection Against Family Violence Act* – and information on accessing legal services.
61. Other public legal education materials can be found on the GNWT website.<sup>20</sup> This includes practical, plain language information on how to obtain emergency protection orders, as well as how to access the Victims of Crime Emergency Fund.

**C. Conclusion**

62. Canada is pleased to inform the Committee that its views in the *Kell* communication have been made publicly available. The Committee's views have been posted to the website of the Department of Canadian Heritage.<sup>21</sup> In addition, the Committee's views received significant media coverage within the NWT and were discussed in the Legislative Assembly of the NWT.<sup>22</sup> The Committee's views were also circulated to and discussed by relevant officials within the public service of the Government of Canada and that of the GNWT.

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<sup>19</sup> Available online: [http://www.justice.gov.nt.ca/pdf/Family/Family\\_Law\\_Manual\\_WEB.pdf](http://www.justice.gov.nt.ca/pdf/Family/Family_Law_Manual_WEB.pdf).

<sup>20</sup> To view the various materials, see online: <http://www.justice.gov.nt.ca/FamilyLaw/publications.shtml>.

<sup>21</sup> See online: <http://www.pch.gc.ca/pgm/pdp-hrp/inter/decisions-eng.cfm>.

<sup>22</sup> *Northwest Territories Legislative Assembly Hansard* (7 June 2012) at 963, 966-967, online: [http://www.assembly.gov.nt.ca/\\_live/documents/content/hn120607.pdf](http://www.assembly.gov.nt.ca/_live/documents/content/hn120607.pdf).

63. With respect to the Committee's specific recommendations, as stated earlier, Canada continues its efforts to begin discussions with the author, and will provide an update to the Committee at an appropriate time.
64. Canada continues to place great importance on finding solutions to the challenges presented by violence against women, as well as enhancing the ability of women – and indeed all persons – to access the justice system in Canada.

Ottawa, Canada  
26 October 2012