

Executive Summary: Oral Submission to the National Inquiry on Missing and Murdered Indigenous Women and Girls

Amnesty International Canada

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Amnesty International is an international non-governmental organization with extensive experience in research and advocacy in the promotion of human rights and has long been an active civil society partner in research and advocacy addressing the national crisis of violence against First Nations, Inuit, and Métis women, girls, and two-spirit people.

Amnesty International's written submission contains information drawn from our research and participation as a Party to this Inquiry and lays out a set of recommendations we hope you will seriously consider as you prepare the Inquiry's final report. Following is a brief overview of a few key issues we have highlighted.

Recognizing the volume of testimony, and the plethora of recommendations before this Inquiry, we hope the guiding criteria for which recommendations to include in the final report will not be how many times a recommendation was made in testimony or written submissions. We hope and trust the key criteria will be which recommendations will best ensure that the human rights of Indigenous women, girls, and two-spirit people are respect, protected, and upheld.

Testimony before this Inquiry has confirmed what Amnesty International has experienced over two decades of advocating alongside Indigenous advocates—the knowledge and expertise on the root causes of violence against Indigenous women, girls, and two-spirit people, and the solutions to prevent and address this violence and support survivors, exists within communities. This Inquiry has an historic opportunity to make recommendations to government to take a human rights-based approach by prioritizing investment in this expertise by committing to adequate, sustained funding to Indigenous women's organizations, frontline

service providers, and grassroots advocates to develop and carry out culturally-specific programming before allocating new funding to government and law enforcement. Any new funding for policing should proactively demonstrate how it will lead to reversing the pattern of over-policing and under-protection of Indigenous peoples in Canada, which has been a cross-cutting theme throughout much of the testimony before the Inquiry.

Recognizing the diversity of experiences that Indigenous women, girls, and two-spirit people have had with discrimination, marginalization, and violence, recommendations regarding policy and programming responses should take into account the need for a broad spectrum of initiatives and solutions to help meet the needs of all Indigenous women, girls, and two-spirit people. As has been said so many times in testimony before the Inquiry, people need programming that ‘meets us where we’re at.’

The federal government’s response to ending the national crisis of missing and murdered Indigenous women, girls, and two-spirit people has been piecemeal at best. The Inquiry has an opportunity to prioritize a recommendation for a comprehensive, whole of government, measurable response to the violence. Canada recognizes the importance of the international legal obligation to adopt a National Action Plan on gender-based violence as has promoted such plans internationally, while failing to adopt a plan domestically. The Inquiry should make recommend that the federal government, as a matter of urgent priority, to work with Indigenous women, representative organizations, and provincial and territorial officials to develop a comprehensive, measurable, well-resourced, time-bound National Action Plan to address all forms of violence against Indigenous women, girls, and two-spirit people in Canada, including commitments to address the violence on the basis of the full realization of the rights of Indigenous peoples, as set out in international human rights law, including the UN Declaration on the Rights of Indigenous Peoples.

Amnesty International emphasizes the need for a **human rights-based approach** in order to fully address the scale and scope of violence against Indigenous women, girls, and two-spirit people in Canada. A human rights-based response centers the needs, voices, and expertise of Indigenous women, girls, and two-spirit people as rights holders in order to fully address

systemic and root causes of the extreme and pervasive violence that they face. As noted by the Special Rapporteur on violence against women, gaps in incorporation and implementation of the human rights framework result in insufficient human rights-based approaches in law and policy, and in turn, insufficient services for those impacted by gender-based violence.

Amnesty International's research has demonstrated how violations of economic, social, and cultural rights are inextricably bound to the continued cycle of violence against Indigenous women, girls, and two-spirit people and in fact perpetuate the cycle. Deep inequalities in living conditions and access to government services have pushed many Indigenous women, girls, and two-spirit people into situations that carry heightened risks of violence such as overcrowded housing, homelessness, and commercial sex. These same inequalities deny Indigenous women, girls, and two-spirit people access to necessary support and emergency services, such as shelters, preventing them from escaping violence.

At the same time, it is clear that some men—influenced by dehumanizing attitudes toward Indigenous peoples in general, and Indigenous women, girls, and two-spirit people in particular—target Indigenous women, girls, and two-spirit people for crimes of hatred and extreme violence. Failure to publicly condemn, investigate, and punish such acts normalizes violence against Indigenous women, girls, and two-spirit people and encourages perpetrators to believe that they can act with impunity.

Intersectional discrimination lies at the heart of all these concerns. Amnesty International's research has highlighted how Indigenous women in Canada face discrimination on numerous fronts: from gender and Indigenous identity, to other socio-economic factors that compound this discrimination, such as poverty, ill-health, or involvement in commercial sex.

Amnesty International's case study on resource development in Northeast British Columbia, published in the report *Out of Sight, Out of Mind*, documented how the promotion of intensive resource development activities on the traditional territories of Indigenous peoples—often without the consent of affected communities or adequate consideration of human rights impacts—increases the risk of violence to Indigenous women, girls, and two-spirit people. This

compounding of risk results from numerous factors, but most directly from the dangerous pattern of anti-social behavior among transient workers, commonly referred to as “blowing off steam,” characterized by heavy drug and alcohol use during off-shift hours, frequently leading to violence. Additionally, resources and services for survivors of violence are limited by loss of lands necessary for culturally-based healing and wellness activities, as well as by the influx of large numbers of transient workers who severely strain local social and emergency services. Further, as high resource sector wages drive up the costs of local essentials such as food and housing, those without access to this income, which includes the majority of Indigenous women and girls, face increased food and housing insecurity, exacerbating their risk of exposure to violence.

The current regulatory framework for resource development projects in Canada does not adequately assess or mitigate these risks, and even proposed legislation such as Bill C-69, would not cover all projects, nor would it address all impacts, such as impacts that are assumed to be known and manageable, which are routinely excluded from review.

When measuring State compliance with rights obligations, the **human rights standard of “due diligence”** offers an essential assessment framework for ascertaining what constitutes effective rights fulfilment. Due diligence—the State responsibility to take every reasonable precaution to prevent human rights violations—has a specific characterization in the context of violence against women that is now so well-established and so widely accepted that it is considered a matter of customary international law.

The requirement of due diligence is even greater where, as in the case of Indigenous peoples in Canada, government actions have already harmed groups or individuals or put them in situations of heightened risk of further human rights violations. In decisions potentially affecting the rights of Indigenous peoples, governments in Canada need to take account of the lasting harm created by colonial policies and practices.

Accurate and comprehensive information on the rates of violence faced by Indigenous women, girls, and two-spirit people is essential to developing effective prevention strategies.

It is also essential to meeting the due diligence standard. Canada has failed to assemble adequate data as required by human rights law, which has hampered the effectiveness of policy planning and investigations. This lack of data has serious consequences for allocation of resources necessary to address the violence and hinders governments' ability to measure the impact of initiatives meant to combat violence against Indigenous women, girls, and two-spirit people.

Effective, independent, civilian oversight is an indispensable part of policing in all circumstances and is all the more necessary in a context of well-established racial-bias that has denied Indigenous women, girls, and two-spirit people the protection they are owed. As has been confirmed in numerous public inquiries, the systemic racism that permeates Canadian society has also permeated Canadian police services, resulting in Indigenous peoples being denied equal protection of the law and creating a wide gulf of mistrust between police and Indigenous people in the communities they serve. Effective oversight is needed to bridge this divide, and to ensure survivors can safely report such crimes. Such mechanisms must be accessible to impacted individuals and communities.

Amnesty International supports the interim report of the National Inquiry in its call for the creation of a national taskforce able to re-examine and even reopen past investigations where there are reasons to believe that the death or disappearance of an Indigenous woman, girl, or two-spirit person has not been properly investigated, including cases where an Indigenous woman, girl, or two-spirit person died under suspicious circumstances.

Any comprehensive response to violence against Indigenous women, girls, and two-spirit people must **acknowledge and respect the spectrum of experiences with and views on commercial sex**. A human rights-based approach to state policies surrounding the commercial sex trade that is Charter compliant and meets Canada's international human rights obligations to protect the rights of sex workers would include repealing the Protection of Communities and Exploited Persons Act; and the application of existing criminal laws including laws regarding the sexual exploitation of children.