

**VIOLENCE AGAINST
INDIGENOUS WOMEN
AND GIRLS IN CANADA:
A SUMMARY OF
AMNESTY
INTERNATIONAL'S
CONCERNS AND CALL
TO ACTION
February 2014**

**AMNESTY
INTERNATIONAL**



VIOLENCE AGAINST INDIGENOUS WOMEN AND GIRLS IN CANADA

BACKGROUND

The scale and severity of violence faced by Indigenous women and girls in Canada—First Nations, Inuit and Métis—constitutes a national human rights crisis. Despite the vast scale and entrenched nature of the crisis, and the many calls for action made by Indigenous peoples' organizations, civil society groups, provincial and territorial government leaders, Parliamentarians, and international and national human rights bodies, the Canadian government has failed to implement a comprehensive and coordinated national response in keeping with the seriousness and pervasiveness of the threats faced by Indigenous women and girls.

Available statistics consistently point to a greatly disproportionate incidence of violence against Indigenous women in Canada. In a 2009 government survey of the ten provinces, Aboriginal women were nearly three times more likely than non-Aboriginal women to report being a victim of a violent crime; this was true regardless of whether the violence was perpetrated by a stranger or by a spouse.¹

Not only do Indigenous women face more frequent incidence of violence, the violence is also much more severe. A recent Statistics Canada report suggests that the national homicide rate for Indigenous women is at least seven times higher than for non-Indigenous women.²

There are also a greatly disproportionate number of Indigenous women and girls among long-term missing persons cases—cases where the reasons for the individual's disappearance and their eventual fate remain undetermined. Saskatchewan, which to Amnesty International's knowledge is the only jurisdiction to have thoroughly reviewed its long-term missing persons' files for a possible trend in the disappearances of Indigenous women, found that although Indigenous women make up only 6 per cent of the population of the province, 60 per cent of its missing women are Indigenous.³ Finally,

¹ Shannon Brennan, *Violent Victimization of Aboriginal Women in the Canadian Provinces* (Statistics Canada, 2011), www.statcan.gc.ca/pub/85-002-x/2011001/article/11439-eng.htm. The figure excludes violence against women in the north, in Yukon, Northwest Territories and Nunavut, where the majority of Inuit women live.

² Vivian O'Donnell and Susan Wallace, *Women in Canada: A Gender-based Statistical Report: First Nations, Inuit and Métis Women* (Statistics Canada, 2011), www.statcan.gc.ca/pub/89-503-x/2010001/article/11442-eng.pdf.

³ *Saskatchewan Provincial Partnership Committee on Missing Persons*, Final Report (October 2007), www.justice.gov.sk.ca/adx/adxGetMedia.aspx?DocID=3025.104.81.1.Documents&MediaID=1615&filename=missing-persons-final.pdf.

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through its own research, the Native Women's Association of Canada was able to document 582 cases of missing or murdered Indigenous women and girls, mostly from the last two decades.⁴

Violence affects Indigenous women and girls in their own families and communities, as well as in predominantly non-Indigenous communities, and threatens Indigenous women and girls from all walks of life. This violence against Indigenous women and girls has deep roots in racism, marginalization and poverty.

Decades of government policy have impoverished and broken apart Indigenous families and communities, leaving many Indigenous women and girls at heightened risk of exploitation and attack. Deep inequalities in living conditions and discrimination in the provision of government services have pushed many Indigenous women and girls into precarious situations—ranging from inadequate housing to sex work—where there is a heightened risk of violence. These same inequalities have also denied many Indigenous women access to services needed to escape violence, such as culturally appropriate emergency shelters and transition houses. At the same time, there is clear evidence that some men seek out Indigenous women as targets for attacks.⁵ Acts of violence against Indigenous women and girls may be motivated by racism, or may be carried out in the expectation that society's indifference to the welfare and safety of these women will allow the perpetrators to escape justice.⁶

Amnesty International's research, based on the testimonies of families who have sought police help when sisters and daughters have gone missing, as well as on interviews with police, indicates that police procedures and practices for responding to missing persons cases too often fail to take into account the pervasiveness and severity of threats faced by Indigenous women and girls, resulting in a failure to take prompt and effective action. Bias among police may mean that family concerns over a missing person or a suspicious death are ignored, leading to investigations that are inadequately resourced or closed prematurely. The resulting impunity for violence against Indigenous women and girls contributes to an environment where such acts are seen as normal and inevitable rather than serious and

⁴ Native Women's Association of Canada, *What their voices tell us: Research findings from the Sisters in Spirit Initiative* (March 2010), www.nwac.ca/sites/default/files/reports/2010_NWAC_SIS_Report_EN.pdf.

⁵ Commissioners A.C. Hamilton and C.M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba: The Deaths of Helen Betty Osborne and John Joseph Harper*, 1991.

⁶ For example, Transcript of trial, *R v Crawford*, May 1996, p.87. Warren Goulding, *Just Another Indian: A Serial Killer and Canada's Indifference* (Calgary: Heritage House Publishing Company, 2001), p.188. See also Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada*, AMR 20/003/2004 (2004), www.amnesty.ca/sites/default/files/amr200032004enstolensisters.pdf; and Amnesty International, *No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Indigenous Women in Canada*, AMR 20/012/2009 (2009), www.amnesty.ca/sites/default/files/amr200122009enstolensistersupdate.pdf.

criminal, and where women and girls do not seek justice because they know they will not get it.⁷

A crucial concern is the inadequacy and inconsistency of police data collection practices. According to Statistics Canada, in the majority of homicide cases across the country police fail to record whether or not the victim identified as Aboriginal.⁸ As a consequence, there are no definitive official statistics on the numbers of missing and murdered Indigenous women and girls. This gap in the data masks the severity of the problem, making it more difficult to allocate appropriate resources and creating barriers to an effective response at the community level.

Resource allocation and programming to tackle this violence and its root causes have been piecemeal and without a guiding strategy or coordination. Although in 2010 the federal government announced plans to spend \$10 million over five years to address violence against Indigenous women and girls, most of the funding was earmarked for police initiatives that track missing persons in general, without any particular focus on the specific patterns of gender-based violence against Indigenous women and girls. Furthermore, organizations working to advance the rights of Indigenous women and girls and address issues of violence, such as the Native Women's Association of Canada, continue to face an uncertain funding climate in which long delays and cuts in government funding threaten work the government itself has identified as being vital in addressing violence against Aboriginal women and girls.⁹

A CONCERTED CALL TO ACTION

A wide range of national and international organizations and human rights bodies have raised urgent concerns over the scope and scale of violence against Indigenous women and girls in Canada and called for a concerted national response that is comprehensive, coordinated, and developed in collaboration with Indigenous women and girls themselves.

The level of international concern is demonstrated by the fact that in 2013, three international human rights mechanisms conducted visits to Canada either wholly or in part to investigate violence against Indigenous women

⁷ See Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada* (2004); and Amnesty International, *No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Indigenous Women in Canada* (2009).

⁸ Vivian O'Donnell and Susan Wallace, *Women in Canada: A Gender-based Statistical Report: First Nations, Inuit and Métis Women*, Statistics Canada (2011). See also Rebecca Kong and Karen Beattie, *Collecting Data on Aboriginal People in the Criminal Justice System: Methods and Challenges* (Canadian Centre for Justice Statistics, 2005), www.statcan.gc.ca/pub/85-564-x/85-564-x2005001-eng.pdf.

⁹ Amnesty International, "Our Work, Issues, Indigenous Peoples: No More Stolen Sisters," www.amnesty.ca/our-work/issues/indigenous-peoples/no-more-stolen-sisters.

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and girls. The Inter-American Commission on Human Rights mission was held in August, followed by the Committee on the Elimination of Discrimination against Women in September, and United Nations Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, in October. Reports from all three missions are expected this year.

The visits by these human rights mechanisms follow years of statements and recommendations by international human rights bodies. In April 2013 Canada made its second appearance before the Universal Periodic Review process of the UN Human Rights Council. During this review, twenty-four countries raised questions and made recommendations with respect to deep concerns about staggeringly high rates of violence against Indigenous women and girls in Canada. Nine countries, including New Zealand, Norway and Switzerland specifically called on Canada to develop a comprehensive national action plan and/or carry out a national inquiry to address the violence. Canada's response to these concrete recommendations for action made by close partners and allies did not acknowledge any need for changes in government policies and approach.

In 2012 the Committee Against Torture recommended that Canada "enhance its efforts to end all forms of violence against aboriginal women and girls by, inter alia, developing a coordinated and comprehensive national plan of action, in close cooperation with aboriginal women's organizations [...]."¹⁰ In 2012, the Committee on the Rights of the Child advised Canada to "[e]nsure that the factors contributing to the high levels of violence among Aboriginal women and girls are well understood and addressed in national and province/territory plans."¹¹ The Committee also affirmed that it was "gravely concerned about cases of Aboriginal girls who were victims of child prostitution and have gone missing or were murdered and have not been fully investigated with the perpetrators going unpunished."¹² Also in 2012, the Committee on the Elimination of Racial Discrimination expressed its concern "that Aboriginal women and girls are disproportionately victims of life-threatening forms of violence, spousal homicides and disappearances," and urged Canada to take appropriate action, including the establishment of a national database on murdered and missing Aboriginal women, in consultation with Aboriginal women and their organizations.¹³

Likewise, in 2008 the Committee on the Elimination of Discrimination Against Women recommended that Canada "develop a specific and

¹⁰ Concluding Observations of the Committee Against Torture: Canada, CAT/C/CAN/CO/6, June 25, 2012, para. 20.

¹¹ Concluding Observations of the Committee on the Rights of the Child: Canada, CRC/C/CAN/CO/3-4, October 5, 2012, para. 47.

¹² *Ibid*, para. 48.

¹³ Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada, CERD/C/CAN/CO/19-20, April 4, 2012, para. 17.

integrated plan for addressing the particular conditions affecting aboriginal women, both on and off reserves, and of ethnic and minority women, including poverty, poor health, inadequate housing, low school-completion rates, low employment rates, low income and high rates of violence.”¹⁴ The Committee further urged Canada “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.”¹⁵

Public demands for action continue to grow each year. Amnesty International, the Native Women’s Association of Canada, the Assembly of First Nations, and many other organizations have long called for a comprehensive response to violence against Indigenous women. There is growing momentum within Canadian society as a whole to demand meaningful commitments to address this human rights tragedy. In October 2013, 216 communities across the country hosted Sisters in Spirit vigils to honour missing and murdered Indigenous women.

National Action Plan

A comprehensive, coordinated national response is essential to address gaps in current policies, programs and services to stop violence against Indigenous women and girls. Implementation of a national action plan to end violence against women is also necessary to fulfill Canada’s international human rights commitments.

In 2006, a comprehensive report on violence against women by the UN Secretary-General set out measures required of states to meet their legal obligations and policy commitments. Among these obligations is the “[f]ormulation and implementation of executive policies or plans of action to eliminate violence against women.”¹⁶ In January 2007, the United Nations General Assembly adopted a resolution that called on all states to eliminate all forms of violence against women “by means of a more systematic, comprehensive, multisectoral and sustained approach, adequately supported and facilitated by strong institutional mechanisms and financing, through national action plans...”¹⁷ The call for comprehensive, sustained National Action Plans has been reaffirmed in subsequent resolutions.¹⁸ The United Nations Secretary-General’s campaign, *UNiTE to End Violence against Women*, which is associated with the Millennium Development Goals, calls

¹⁴ Concluding Observations of the Committee on the Elimination of Discrimination against Women: Canada, CEDAW/C/CAN/CO/7, November 7, 2008, para. 44

¹⁵ *Ibid.*, para. 32.

¹⁶ UN General Assembly, In-depth study on all forms of violence against women: report of the Secretary-General, 6 July 2006, A/61/122/Add.1. Para. 284.

¹⁷ UN General Assembly, Intensification of efforts to eliminate all forms of violence against women: resolution adopted by the General Assembly, 30 January 2007, A/RES/61/143.

¹⁸ For example, UN General Assembly, Intensification of efforts to eliminate all forms of violence against women: resolution adopted by the General Assembly, 30 January 2009, A/RES/63/155.

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on all countries to have adequately-resourced National Action Plans to end violence against women adopted and underway by 2015.¹⁹

It should be noted that Canada has played a leading role in the promotion of initiatives at the United Nations to end violence against women, including these UN resolutions calling for National Action Plans. Canada is not exempt from the position, which it has supported at the UN, that all states should adopt National Action Plans to end violence against women.

A successful plan would require several elements:

- A commitment to address violence against Indigenous women and girls on the basis of the protection and full realization of their human rights as set out in Canadian law and international human rights standards, including the *UN Declaration on the Rights of Indigenous Peoples*;
- The collection and routine publication of gender-disaggregated data on health and social and economic conditions for Inuit, Métis and First Nations women, men, girls and boys including rates of violence against Indigenous women and girls;
- The promotion of standardized protocols for police handling of missing persons cases, including tools for fair and effective assessment of the risk to the missing individual;
- Improved coordination of police investigations into long-term missing persons cases and unsolved murders involving Indigenous women and girls;
- Adequate, sustained, and long-term funding to ensure the provision of culturally relevant services to meet the needs of Indigenous women and girls at risk of violence or in contact with the police and justice system, including emergency shelters, court workers, services for survivors of violence and specific programs to assist women and girls who have been trafficked within Canada.
- Immediate measures to ensure that funding for healthcare, housing, education and other services for Indigenous women, children and families are equitable to those available to non-Indigenous people in Canada and sufficient to enable effective protection and full enjoyment of their rights. Particular priority should be given to eliminating discrimination in funding for child and family services.²⁰

To be successful, a National Action Plan must be accompanied by adequate sustained funding to meet its goals as well as means to ensure accountability to Parliament and to the Indigenous women and their families who the plan would serve. Critically, such a plan should be developed in collaboration with Indigenous women's organizations to ensure their full and effective participation in defining needs and solutions.

¹⁹ <http://endviolence.un.org>.

²⁰ Amnesty International, *No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Indigenous Women in Canada* (2009), p.26.

Amnesty International notes that when a previous Parliamentary committee examined the issue of violence against Indigenous women and girls, the interim report made a clear call for “a co-ordinated, holistic approach to violence against Aboriginal women.”²¹ This Committee should do no less.

National Public Inquiry

Amnesty International has supported the call by the Native Women's Association of Canada and many others for a national inquiry focused on exposing the nature of this violence and on ensuring government and police accountability for an effective and coordinated response. In our experience many, if not all, the measures needed for an effective national action plan to end violence against Indigenous women and girls have already been identified by Indigenous women's organizations, frontline service providers, and the families of the missing and murdered. A national inquiry must not be simply another opportunity to talk about the issues: it must provide an effective forum for these expert voices to be heard and their recommendations implemented.

Any national inquiry into violence against Indigenous women and girls must necessarily be able to address matters of federal, provincial and territorial jurisdiction. The fact that the majority of provincial and territorial governments have endorsed such an inquiry creates an important historic opportunity that should be seized.

A national public inquiry into the murder and disappearance of Indigenous women and girls would also be an opportunity to mobilize the resources necessary to address past failings to adequately investigate disappearances and suspicious deaths. Amnesty International recommends that such an inquiry be provided the resources and authority necessary to commission independent reviews of police or coroners records wherever the inquiry determines that there is sufficient credible evidence that bias or other factors may have led to inadequate investigation. The results of such reviews would provide important insight into necessary reforms in police procedures and training and could be instrumental in addressing unresolved concerns of families and communities who feel that investigations have been improperly neglected. Amnesty International believes that disclosure of the results of such reviews can be managed and restricted in such a way as to avoid undermining future investigations into specific cases.

Amnesty International was among the many organizations that had called for a specific public inquiry into the police and government response to the abduction and murder of women from the Downtown Eastside in Vancouver. We were consequently deeply disappointed by how the Missing Women Commission of Inquiry unfolded. While government and police had ample,

²¹ Committee on the Status of Women, *Called into the Night: An Overview of Violence Against Aboriginal Women*, Interim Report, March 2011.

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publicly funded legal representation to ensure their views were heard, the same was not true for the families and community organizations. Although it was a very hard decision to make, we felt that we had no choice but to join the wide range of organizations forced to withdraw from a process that had strayed so far from the purpose of transparency and accountability.²² Since the release of the inquiry report, there has been growing concern among families and advocacy organizations about the stalled process of implementation.²³ Looking forward, it is crucial that the lessons of this bitter experience not be lost.

Amnesty International endorses the report by the B.C. Civil Liberties Association, Pivot Legal Society and West Coast LEAF, *Blue Print for an Inquiry: Learning from the Failures of the Missing Women Commission of Inquiry*, which, among other recommendations, calls for the terms of references of any inquiry to be developed in full consultation with affected communities, that such terms of reference must be broad enough to address underlying systemic factors, and that witnesses from marginalized backgrounds receive all necessary, culturally appropriate supports and protections to ensure their full and effective participation.²⁴

Accurate statistics

As Professor David Harris has written: "Policing has long been, in many respects, a data-driven endeavor."²⁵ Statistical data collected by police is a crucial factor determining allocation of police resources to different patterns of crime and to different geographical areas.

Existing police databases have the capacity to record whether or not missing persons and the victims of violent crime are Indigenous. Such information could play a critical role in identifying specific patterns of violence against Indigenous women and girls and informing how police and Canadian society should respond. However, as noted above, there are substantial gaps in the available data because many police services simply do not record this data, or do not provide officers with guidelines or training to ensure that the information is recorded consistently and accurately. In Amnesty International's view, the failure to ensure that the Indigenous identity of missing persons and victims of crime is accurately and consistently recorded is a dereliction of the state's essential responsibility to ensure due diligence in the prevention and prosecution of crime.

²² Aboriginal Front Door Society et al, "Open Letter: Groups affirm boycott of discriminatory Missing Women Commission of Inquiry," 10 April 2012.

²³ See for example, Aboriginal Front Door Society, et al, "Advocacy Groups Object to Stalling by B.C. Since Conclusion of Missing Women Commission of Inquiry," Press release, July 10, 2013.

²⁴ Darcie Bennett et al, *Blue Print for an Inquiry: Learning from the Failures of the Missing Women Commission of Inquiry* (B.C. Civil Liberties Association, Pivot Legal Society and West Coast LEAF, 2012).

²⁵ David A. Harris, "The Reality of Racial Disparity in Criminal Justice: The Significance of Data Collection," *Law and Contemporary Problems* 66 (2003), pp. 75-76.

During the Human Rights Council's 2013 Universal Periodic Review of Canada, the Government of Australia recommended that Canada adopt measures to ensure that the Indigenous identity of victims of crime are appropriately recorded. In response, the Government of Canada stated, "In addition, race-based statistics are not recorded in a systematic manner across Canada's criminal justice system due to operational, methodological, legal and privacy concerns."²⁶ Canada's response is consistent with conversations that Amnesty International has had with police officers who have said that they are reluctant to record the Indigenous identity of victims of crime out of concern that doing so would either violate privacy protections or would expose the police service to accusations of racial profiling.

It is important to note, however, that a broad consensus already exists in Canada that these concerns should not prevent the appropriate recording and sharing of data necessary to effective policing and public policy. In 2003, in response to the decision of the RCMP to not report Aboriginal identity in the Incident-based Uniform Reporting Survey, the Canadian Centre for Justice Statistics sought legal positions from the Department of Justice and from the provinces. The Department of Justice and the eight provincial governments which responded all agreed that Canadian law does not prevent the collection or compilation of data on the racial identity of victims of crime for legitimate investigation and research.²⁷

The government of Ontario did not respond to the Centre for Justice Statistics. However, the Ontario Human Rights Commission has considered the issue in some depth. The Commission's Policy and Guidelines on Racism and Racial Discrimination note that not only is it permissible to collect and analyze data on racial identity for legitimate public purposes, but also that "appropriate data collection is necessary for effectively monitoring discrimination, identifying and removing systemic barriers, ameliorating historical disadvantage and promoting substantive equality."²⁸

The fact is that the racial identity is already a factor, both positive and negative, in how police respond to victims of crime.²⁹ The policies of the RCMP and other police services including the OPP already included specific measures that should be taken when missing persons or victims of crime are Aboriginal, such as providing an Aboriginal liaison officer or contacting the relevant Band office. Systematizing expectations of how and when police should record the Indigenous identity of missing persons and victims of

²⁶ Government of Canada, "Response to Second cycle Universal Periodic Review of Canada," September 2013.

²⁷ Rebecca Kong and Karen Beattie, Canadian Centre for Justice Statistics, *Collecting Data on Aboriginal People in the Criminal Justice System: Methods and Challenges*. Statistics Canada, Catalogue no. 85-564-XIE (2005), pp.12-14.

²⁸ Ontario Human Rights Commission, *Policy and Guidelines on Racism and Racial Discrimination*, Revised December 2009, p. 42.

²⁹ Paul Millar and Akwasi Owusu-Bempah, "Whitewashing Criminal Justice in Canada: Preventing Research through Data Suppression," *Canadian Journal of Law and Society* 26:3 (2011), pp. 659-660.

crime, and providing appropriate training and protocols to assist officers in doing so, will introduce greater accountability and professionalism and reduce the likelihood of the information being used in a biased or discriminatory manner.

CONCLUSION

Amnesty International urges this Committee to call on the government of Canada to make a clear commitment to First Nations, Inuit, and Métis women and girls—a commitment to value them enough to count them accurately in official crime statistics, to provide opportunities for their voices to be heard, to take immediate action on what is already known about the widespread violence they face, and to work together with them and organizations representing them to develop a comprehensive approach to addressing the factors fuelling this violence.

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