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## Committee on the Elimination of Discrimination against Women

### Concluding observations on the combined eighth and ninth periodic reports of Canada\*

1. The Committee considered the combined eighth and ninth periodic reports of Canada ([CEDAW/C/CAN/8-9](#)) at its 1433rd and 1434th meetings, on 25 October 2016 (see [CEDAW/C/SR.1433](#) and 1434). The Committee's list of issues and questions is contained in [CEDAW/C/CAN/Q/8-9](#) and the responses of Canada are contained in [CEDAW/C/CAN/Q/8-9/Add.1](#).

#### A. Introduction

2. The Committee appreciates the submission by the State party of its combined eighth and ninth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group and welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its multi-sectoral delegation, which was headed by Ms. Linda Savoie, Senior Director General of Status of Women Canada, and also included representatives of the Department of Public Safety Canada; the Department of Indigenous and Northern Affairs Canada; the Department of Employment and Social Development Canada; the Department of Justice Canada; Status of Women Canada; the Department of Immigration, Refugees and Citizenship Canada; the Governments of Ontario and Quebec; and the Permanent Mission of Canada to the United Nations Office and other international organizations in Geneva.

#### B. Positive aspects

4. The Committee welcomes the progress achieved since its consideration in 2008 of the State party's seventh periodic report ([CEDAW/C/CAN/7](#)) in undertaking legislative reforms, in particular the adoption of the following legislation:

- (a) The Zero Tolerance for Barbaric Cultural Practices Act, in 2015;
- (b) The Protecting Canadians from Online Crime Act, in 2014;

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\* Adopted by the Committee at its sixty-fifth session (24 October-18 November 2016).

- (c) The Family Homes on Reserves and Matrimonial Interests or Rights Act, in 2014;
  - (d) The Protection of Communities and Exploited Persons Act, in 2014;
  - (e) The Gender Equity in Indian Registration Act, in 2011.
5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, including the adoption or establishment of:
- (a) The Court Challenges Program, in 2017, and the Interim Federal Health Program, in 2015;
  - (b) The Action Plan to Address Family Violence and Violent Crimes against Aboriginal Women and Girls, in 2014;
  - (c) The National Action Plan to Combat Human Trafficking, in 2012;
  - (d) The Federal Framework for Aboriginal Economic Development, in 2009;
6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified the Convention on the Rights of Persons with Disabilities, in 2010.

## **C. Principal areas of concern and recommendations**

### **Parliament**

7. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the House of Commons and the Senate, as well as provincial and territorial legislatures, in line with their mandates, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.**

### **Visibility of the Convention, the Optional Protocol thereto and the Committee's general recommendations**

8. The Committee remains concerned that the provisions of the Convention, the Optional Protocol thereto and the Committee's general recommendations are not sufficiently known in the State party, including by women themselves. The Committee is further concerned that the Convention may not be directly invoked before the domestic courts.

9. **The Committee recommends that the State party:**

(a) **Develop a sustainable strategy, including by allocating adequate financial resources, to disseminate the Convention, the Optional Protocol thereto and the Committee's general recommendations among all stakeholders, including women's organizations;**

(b) **Enhance efforts to raise awareness among women about their rights under the Convention and corresponding remedies, targeting in particular women belonging to disadvantaged groups, including Aboriginal, Afro-Canadian, migrant, asylum seeking, refugee and disabled women;**

(c) **Take the necessary legislative measures to give full effect to the Convention rights in its legal order and promote the justiciability of such rights;**

**(d) Promote capacity-building programmes for judges, prosecutors and lawyers on the Convention, the Optional Protocol thereto, the Committee's general recommendations and Committee views on individual communications and inquiry findings, to enable them to invoke those instruments before domestic courts and interpret domestic legislation accordingly.**

#### **Application of the Convention under the federal system**

10. While the Committee is cognizant of the complex federal and constitutional structures in the State party, it reiterates (see CEDAW/C/CAN/CO/7, para. 11) that the federal Government is responsible for ensuring the implementation of the Convention and providing leadership to the provincial and territorial governments in that context. The Committee is concerned that the federal Government may not sufficiently use the available accountability mechanisms to ensure that the provincial and territorial governments establish legal and policy measures that are fully compliant with the Convention.

11. **The Committee, taking into account the legal responsibility and leadership role of the federal Government in the implementation of the Convention, reiterates its previous recommendation (see CEDAW/C/CAN/CO/7, para. 12) that the State party establish an effective mechanism aimed at ensuring accountability and the transparent, coherent and consistent implementation of the Convention throughout its territory. In this regard, the Committee recommends that the State Party consistently starts using conditional and targeted federal funding in order to make sure that transfer of payments to provinces and territories take into due account compliance with the provisions of the Convention, as already is the case for some of Canada's development assistance programmes.**

#### **Legislative framework**

12. The Committee notes the various constitutional, legislative, statutory, administrative and policy provisions promoting gender equality and defining sex as a prohibited ground of discrimination. It further notes that a new Bill amending the Indian Act is currently being developed. However, the Committee remains concerned about continued discrimination against indigenous women, in particular regarding the transmission of Indian status, preventing them and their descendants from enjoying all the benefits related to such status.

13. **The Committee recommends that the State party remove all remaining discriminatory provisions of the Indian Act that affect indigenous women and their descendants, and ensure that aboriginal women enjoy the same rights as men to transmit status to their children and grandchildren.**

#### **Access to justice**

14. The Committee welcomes the repeal of section 67 of the Canadian Human Rights Act, in 2008, as well as the restoration of the Court Challenges Program, in 2017. The Committee is, however, concerned that:

(a) Financial support for civil legal aid programmes has considerably diminished in the past 20 years and has become increasingly restricted, affecting particularly women who are the primary users of civil legal aid;

(b) Income tests for eligibility limit civil legal aid to women living well below the poverty line, consequently denying low-income women access to legal representation and services;

(c) Information is lacking on whether the newly reinstated Court Challenges Program, which provided funding for equality test cases, will be expanded to cover claims under section 7 of Canada's Charter of Rights and Freedoms to include economic and social equality issues related to poverty, whether it will fund equality rights challenges to provincial, territorial, and federal laws, and whether it will preserve its community-based structure.

**15. In line with its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party:**

**(a) Increase funding for civil legal aid, and specifically earmark funds for civil law legal aid in the Canada Social Transfer in order to ensure that women have access to adequate legal aid in all jurisdictions, in particular women victims of violence, indigenous women and women with disabilities;**

**(b) Review criteria applied in income tests for eligibility to ensure access to civil legal aid, especially in the area of family law, to all women without sufficient means;**

**(c) Expand the mandate of the Court Challenges Program to include cases in provincial and territorial jurisdiction, as well as those under section 7 of Canada's Charter of Rights and Freedoms, and retain the Program's community-based structure.**

#### **Views under the Optional Protocol**

16. The Committee notes with concern that its views concerning communication No. 19/2008, adopted under article 7 (3) of the Optional Protocol at its fifty-first session, in February 2012, have not been fully implemented and that the State party has not provided up to date information on action taken in the light of those views and recommendations.

**17. The Committee urges the State party:**

**(a) To fully implement the Committee's views concerning communication No. 19/2008 regarding reparation and compensation for the author of the communication and inform the Committee without delay of all measures taken and planned as a consequence of its recommendations;**

**(b) To recruit and train more aboriginal women to provide legal aid to women from their communities, including in domestic violence cases and on property rights, and to review its legal aid scheme to ensure that aboriginal women who are victims of domestic violence have effective access to justice.**

#### **Extraterritorial State obligation**

18. The Committee is concerned about:

(a) The negative impact of the conduct of transnational companies, in particular mining corporations, registered or domiciled in the State party and operating abroad on the enjoyment of the rights enshrined in the Convention by local women and girls;

(b) The inadequate legal framework to hold all companies and corporations from the State party accountable for abuses of women's human rights committed abroad;

(c) The limited access to judicial remedies by women victims, and the absence of an effective independent mechanism with powers to investigate complaints alleging abuses by such corporations;



(d) The lack of impact assessments explicitly taking into account women's human rights prior to the negotiation of international trade and investment agreements.

**19. The Committee recommends that the State party:**

(a) Strengthen its legislation governing the conduct of corporations registered or domiciled in the State party in relation to their activities abroad, including by requiring those corporations to conduct human rights and gender impact assessments prior to making investment decisions;

(b) Introduce effective mechanisms to investigate complaints filed against those corporations, including by establishing an Extractive Sector Ombudsperson, with the mandate to, inter alia, receive complaints and conduct independent investigations;

(c) Adopt measures to facilitate women victims of human rights violations access to justice and ensure that judicial and administrative mechanisms put in place take into account a gender perspective;

(d) Ensure that trade and investment agreements negotiated by the State party recognize the primacy of its international human rights obligations over investors' interests, so that the introduction of investor-State dispute settlement procedures shall not create obstacles to full compliance with the Convention.

**National machinery for the advancement of women and gender mainstreaming**

20. The Committee welcomes the creation, within the newly appointed Federal Government, of a full-fledged Minister of Status of Women. The Committee is, nevertheless, concerned about:

(a) The lack of clear and coherent coordination and management of gender mainstreaming efforts between the federal and the provincial/territorial level, the uneven level of implementation of the Convention at the provincial/territorial level, as well as the lack of comprehensive monitoring and impact evaluation mechanisms and measures;

(b) The absence of a comprehensive national gender equality strategy, policy and action plan that address the structural factors causing persistent gender inequalities;

(c) The fact that the indigenous women organizations are not included in the national nation-to-nation relationship on equal footing with other indigenous people's organizations;

(d) The closure of 12 of the 16 Status of Woman Canada regional offices, which has limited women's access to the services provided by Status of Women Canada, in particular in remote and rural areas.

**21. The Committee recommends that the State party:**

(a) Ensure that the Ministry of Status of Women is provided with a strong mandate and the human, technical and financial resources necessary to effectively coordinate gender equality plans, policies and programmes in all areas and at all levels of government, including through allocating earmarked resources to provincial and territorial governments;

(b) Develop a comprehensive national gender strategy, policy and action plan that addresses the structural factors causing persistent inequalities, including intersecting forms of discrimination, against women and girls, with a special focus on disadvantaged groups of women and girls, including First Nations, Inuit, Métis, Afro-Canadian, disabled, migrant, refugee, asylum-seeking, single parent, lesbian, bisexual, transsexual and intersex women and girls;

(c) **Make sure that indigenous women organisations are included in the national nation-to-nation relationship in all issues of relevance for women;**

(d) **Strengthen the implementation of gender equality policies at the provincial and territorial levels and ensure that all government bodies involved receive sustained guidance and support in their implementation efforts, including sufficient human, technical and financial resources;**

(e) **Reinforce monitoring mechanisms to comprehensively and regularly assess progress in the implementation of provincial and territorial gender equality policies, plans and programmes and evaluate the impact of such efforts, with a view to taking remedial action;**

(f) **Reopen the Status of Women Canada regional offices and ensure that they are adequately resourced to provide appropriate services to women, especially those living in remote and rural areas.**

#### **Stereotypes and harmful practices**

22. The Committee welcomes the legislative and other measures taken to combat harmful practices, including child and forced marriage, female genital mutilation and crimes in the name of so-called honour. The Committee is, however, concerned that information on harmful practices and the ways to combat them in the State party is not readily accessible to many women.

23. **The Committee recommends that the State party systematically collect disaggregated data on harmful practices in the State party and make information on ways to combat such practices widely available.**

#### **Gender-based violence against women**

24. The Committee notes with appreciation that the Ministry of Status of Women is currently working with other Ministries to develop a federal strategy against gender-based violence. It also notes a number of federal criminal laws, complemented by provincial and territorial civil laws and policies, addressing gender-based violence against women, including against aboriginal women and girls. However, the Committee is concerned about:

(a) The continued high prevalence of gender-based violence against women in the State party, particularly against indigenous women and girls;

(b) The very low number of cases of gender-based violence against women reported to the police by victims;

(c) The low rates of prosecution and conviction and the lenient penalties imposed on perpetrators of gender-based violence against women;

(d) The lack of a national action plan, bearing in mind that the strategy will only apply at the federal level;

(e) The lack of shelters, support services and other protective measures for women victims of gender-based violence, which reportedly prevents them from leaving their violent partners;

(f) The lack of statistical data on gender-based violence against women, including domestic violence, particularly on investigations, prosecutions, convictions, sentences and reparation;

(g) The repeal of section 13 of the Canadian Human Rights Act, which provided a civil remedy to victims of cyber violence, and the enactment of the Protecting Canadians from Online Crime Act (2015), which penalizes the non-consensual

distribution of intimate images, but fails to cover all situations that were previously covered by section 13 of the Canadian Human Rights Act.

**25. Recalling its general recommendation No. 19 (1992) on violence against women, the Committee recommends that the State party:**

**(a) Enhance its efforts to firmly combat all forms of gender-based violence against women, including domestic and sexual violence, paying particular attention to minority and indigenous women;**

**(b) Increase reporting by women of incidents of violence, including domestic violence, to law enforcement bodies by de-stigmatizing victims, provide capacity-building programmes and cultural training regarding aboriginal women for judges, prosecutors, police officers and other law enforcement officials on the strict application of criminal law provisions on violence against women and raise awareness among the general public of the criminal nature of such acts;**

**(c) Effectively enforce its criminal legislation at the federal, provincial and territorial levels, and ensure that all cases of violence against women are thoroughly and effectively investigated and that perpetrators are prosecuted and adequately punished;**

**(d) Expeditiously adopt a national action plan, in consultation with civil society organizations, especially aboriginal women's organizations, to combat gender-based violence against women and ensure that adequate human, technical and financial resources are allocated for its implementation, monitoring and assessment;**

**(e) Strengthen services for women victims of gender-based violence, including by establishing shelters throughout the territory of the State party and ensuring the availability of psychosocial rehabilitation and reintegration programmes;**

**(f) Systematically collect data on all forms of gender-based violence against women, disaggregated by sex, age, ethnic groups, including aboriginal women, and the relationship between the victim and the perpetrator, as well as on protection orders, prosecutions and sentences imposed on perpetrators;**

**(g) Review and amend legislation in order to provide an adequate civil remedy to victims of cyber violence and reintroduce section 13 of the Canadian Human Rights Act.**

#### **Murdered and missing indigenous women and girls**

**26. The Committee commends the State party's decision in 2015 to establish a National Inquiry into Missing and Murdered Indigenous Women and Girls, which was one of the main recommendations of the Committee's inquiry conducted in 2013 (CEDAW/C/OP.8/CAN/1). However, it is concerned about:**

**(a) The absence of any action plan or coordinated mechanism to oversee the implementation of the outstanding 37 recommendations issued by the Committee in 2015 (CEDAW/C/OP.8/CAN/1, paras. 216-220);**

**(b) The insufficient measures taken to ensure that all cases of missing and murdered indigenous women are duly investigated and prosecuted;**

**(c) The Terms of Reference of the national inquiry, which do not clearly require the application of a human rights based approach as called upon by the Canadian Human Rights Commission and which does not include any explicit mandate to review policing policies and practices and the criminal justice system, and does not provide any**

mechanism for the independent review of alleged cases of inadequate or partial police investigations;

(d) The lack of an explicit assurance of adequate support and protection provided to witnesses, and the lack of sufficient cooperation with indigenous women's organizations in the process of establishing the inquiry.

**27. The Committee recommends that the State party fully implement, without delay, all recommendations issued by the Committee in the 2015 report on its Canada inquiry (CEDAW/C/OP.8/CAN/1, paras. 216-220), and:**

**(a) Develop an coordinated plan for the overseeing of the implementation of the outstanding 37 recommendations issued by the Committee in its report (CEDAW/C/OP.8/CAN/1, paras. 216-220), and by working in cooperation, as appropriate, with the Commission of the national inquiry, as well as indigenous women and their organizations, women's human rights organizations, and provincial and territorial governments;**

**(b) Ensure that all cases of missing and murdered indigenous women are duly investigated and prosecuted;**

**(c) Complement the Terms of Reference of the national inquiry to:**

**(i) Ensure the use of a human rights based approach ;**

**(ii) Ensure that the mandate of the inquiry clearly covers the investigation of the role of the Royal Canadian Mounted Police, Provincial police, Municipal police, and public complaints commissions across federal, provincial, and municipal jurisdictions;**

**(iii) Establish a mechanism for the independent review of cases where there are allegations of inadequate or partial police investigations;**

**(d) Ensure adequate support and protection to witnesses and strengthen the inclusive partnership with indigenous women's organizations and national and international human rights institutions and bodies during the conducting of the inquiry and in its implementation process.**

#### **Root causes of violence and discrimination against indigenous women**

28. The Committee is concerned about the fact that indigenous women continue to suffer from multiple forms of discrimination, particularly as regards their access to employment, housing, education and health care and continue to live in poverty in the State party, as reflected by high poverty rates, poor health, inadequate housing, lack of access to safe water, low school-completion rates. It further notes with concern the low participation of indigenous women in the labour market, in particular in senior or decision-making positions, their disproportionately high unemployment rates and their lower pay compared with men and non-indigenous women. The Committee notes the State party's commitment to fully implement the United Nations Declaration on the Rights of Indigenous Peoples (2007). However, it remains concerned about the lack of a coherent plan or strategy to improve the socioeconomic conditions of indigenous communities, in particular indigenous women to combat the root cause of their vulnerability to violence as well as the lack of measures to break the circle of distrust between the authorities and indigenous communities, as was established by the Committee's inquiry (CEDAW/C/OP.8/CAN/1, paras. 218-219).

**29. The Committee recommends that the State party, in consultation with indigenous peoples:**

(a) **Develop a specific and integrated plan for addressing the particular socioeconomic conditions affecting aboriginal women, both on and off reserves, including poverty, poor health, inadequate housing, low school-completion rates, low employment rates, low income and high rates of violence, and take effective and proactive measures, including awareness-raising campaigns, to sensitize aboriginal communities about women's human rights and to combat patriarchal attitudes and gender stereotypes;**

(b) **Implement the recommendations made by the Special Rapporteur on the rights of indigenous peoples following his mission to Canada in 2013 (see A/HRC/27/52/Add.2);**

(c) **Promote and apply the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples;**

(d) **Ratify ILO Convention No. 169 (1989) on indigenous and tribal peoples.**

#### **Participation of women in peace processes**

30. The Committee commends the State party's commitment to Security Council resolution 1325 (2000) and subsequent resolutions on women, peace and security, as well as the launch of its first national action plan on women, peace and security in 2010. However, the Committee is concerned about the lack of information regarding the elaboration and adoption of a second national action plan, as well as measures taken to address the gaps identified in the implementation of the first national action plan, which expired in March 2016.

31. **The Committee encourages the State party to:**

(a) **Require that effective accountability mechanisms are in place in countries where the State party is supporting the implementation of Security Council resolution 1325 (2000) to ensure full participation of women in peace negotiations and reconstruction processes;**

(b) **Increase support to local women's organizations and networks that are active in peace initiatives and post-conflict reconstruction processes; and**

(c) **Expedite the adoption of the second national action plan on women, peace and security, and develop effective tools for measuring its outcomes;**

(d) **Increase the financial resources allocated to its Women, Peace and Security agenda and its National Action Plan, in line with the recommendations of the Global Study on the implementation of the Security Council resolution 1325 (2000).**

#### **Trafficking and exploitation of prostitution**

32. The Committee welcomes the adoption of the National Action Plan to Combat Human Trafficking (2012-2016), the allocation of 25 million CAD to support projects addressing human trafficking at the federal and provincial/territorial levels, and the Supreme Court's Bedford judgment which led to the adoption of the Protection of Communities and Exploited Persons Act. It is, however, concerned about:

(a) **The low rates of prosecution and conviction in cases of trafficking in women and girls;**

(b) **The lack of adequate mechanisms to identify and refer victims of trafficking in need of protection, in particular unaccompanied children, who are often**

considered as offenders and irregular migrants, rather than as victims, and the lack of sufficient data on victims of trafficking;

(c) The lack of information regarding the elaboration and adoption of the next national action plan, given that the first national action plan recently expired;

(d) The lack of systematically organized rehabilitation and reintegration measures, including access to counselling, medical treatment, psychological support and redress, including compensation, for victims of trafficking, in particular for indigenous and migrant women, who are not automatically entitled to temporary residence permits unless they cooperate with the police and judicial authorities;

(e) Reports that indigenous women and girls in foster care and in child welfare system are particularly vulnerable to sex trafficking;

(f) The insufficient efforts to prevent trafficking and exploitation of women and girls in prostitution and to address its root causes;

(g) The potentially increased risk to the security and health of women in prostitution, particularly indigenous women, brought about by the criminalization of prostitution under certain circumstances as provided for in the new legislation.

**33. The Committee recommends that the State party:**

**(a) Investigate, prosecute and adequately punish all cases of trafficking in persons, especially women and girls;**

**(b) Strengthen measures to identify and provide support to women at risk of trafficking, in particular unaccompanied children;**

**(c) Improve access to data on victims of trafficking, disaggregated by sex and age;**

**(d) Expeditiously assess the impact of the National Action Plan to Combat Human Trafficking (2012-2016) and adopt a new plan for the period 2017-2020;**

**(e) Provide victims of trafficking with adequate access to health care and counselling and strengthen human, technical and financial resources to social work centres and targeted training for social workers dealing with victims of trafficking;**

**(f) Ensure that all victims of trafficking, irrespective of their ethnic, national or social background, obtain effective protection and redress, including rehabilitation and compensation;**

**(g) Address the root causes of trafficking and exploitation of women and girls in prostitution by adopting and implementing adequately resourced programmes and other appropriate measures to create educational and employment opportunities for women, particularly among the indigenous community, who are at risk of being trafficked or entering into or who are already engaged in prostitution and wish to leave it;**

**(h) Fully decriminalize women engaged in prostitution and assess the impacts of the law on Protection of Communities and Exploited Persons, notably on the health and security of women in prostitution.**

**Participation in political and public life**

34. The Committee commends the State party on the appointment of a Cabinet of Ministers with gender parity. It also notes with appreciation the high number of women judges on the Canadian Supreme Court and other levels of the judiciary at the federal, provincial and territorial levels. However, it remains concerned about:

(a) The low representation of women in the House of Commons (26 per cent) and the Senate (37.3 per cent), in provincial and territorial legislative assemblies (26 per cent on average), as well as in locally appointed positions, such as mayors (28 per cent) or councillors (18 per cent);

(b) The structural obstacles to the realization of women's political rights and engagement in public life.

**35. The Committee recommends that the State party:**

(a) **Strengthen its efforts to increase the number of women in elected decision-making bodies at the federal, provincial and territorial levels as well as in appointed positions at the local level, and to achieve equal representation of women in political and public life, including through the adoption of temporary special measures, such as quotas, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures;**

(b) **Adopt proactive measures, including temporary special measures, to address the structural obstacles to the realization of women's political rights and engagement in public life;**

(c) **Intensify awareness-raising campaigns for politicians, journalists, teachers and the general public, to enhance the understanding that the full, equal, free and democratic participation of women on an equal basis with men in political and public life is a requirement for the full implementation of women's human rights;**

(d) **Continue developing and providing targeted training and mentoring programmes on leadership and negotiation skills for potential women candidates and potential female leaders in the public sector, including those who are underrepresented, such as migrant, Aboriginal and Afro-Canadian women, as well as women belonging to other minorities and women with disabilities.**

**Education**

36. The Committee welcomes the measures taken to ensure that gender equality permeates all levels of education and to overcome gender-stereotyped educational and vocational choices. However, the Committee notes with concern:

(a) The continuous lower educational and academic achievements of indigenous and Afro-Canadian women and girls and their high dropout rates at all levels of education;

(b) The significant barriers, including lack of grants and fragmented funding of educational programmes, which prevent disadvantaged and marginalized women and girls, in particular indigenous, Afro-Canadian women and those with children in need of childcare, and other women in remote and rural areas, from accessing post-secondary education;

(c) That women are still concentrated in traditionally female-dominated fields of study and career paths and are underrepresented in vocational training and in certain fields of higher education, such as mathematics, information technology and science;

(d) The lack of a comprehensive set of national guidelines or standards for education on sexual and reproductive health and rights curriculum, which resulted in severe discrepancies among provinces/territories in terms of curricula;

(e) The high number of girls who suffer from discrimination and sexual harassment in schools and the disproportionate number of migrant, refugee, asylum

seeking and indigenous girls, as well as girls with disabilities, who continue to face difficulties in gaining access to high-quality education.

**37. The Committee recommends that the State party:**

(a) **Increase grants and remove the funding cap on the Post-Secondary Student Support Program to ensure that indigenous women and girls have access to funding for post-secondary education;**

(b) **Strengthen its strategies to address discriminatory stereotypes and structural barriers that may deter girls from progressing beyond secondary education and enrolling in traditionally male-dominated fields of study, such as mathematics, information technology and science;**

(c) **Establish national guidelines or standards to harmonize sex education curricula among provinces and territories and allow the Federal Government to hold them accountable for implementing such guidelines or standards;**

(d) **Ensure that a zero-tolerance policy on violence and harassment that includes counselling services, awareness-raising efforts and effective reporting mechanisms, is effectively implemented in all schools;**

(e) **Continue to combat discrimination against disadvantaged groups of women and girls in access to high-quality education, including by adopting temporary special measures, and ensure the effective monitoring and evaluation of the impact of such measures, to inform remedial action.**

**Employment**

38. The Committee is concerned about the slow progress made in the field of employment and more specifically about:

(a) The persistent gender wage gap in both the public and private sectors, which adversely affect women's career development and pension benefits, the lack of effective legislation on the principle of equal pay for work of equal value at the federal level, even in the public sector since the Public Sector Equitable Compensation Act (PSECA) has not delivered any results, and the lack of such legislation in the private sector in most provinces and territories, as repeatedly noted by the ILO;

(b) The continuing horizontal and vertical occupational segregation and the concentration of women in part-time and low-paid jobs, which is often due to their parallel traditional child raising and caretaking responsibilities, as well as the low representation of women in managerial positions in companies;

(c) The lack of affordable childcare facilities and the low use of parental leave by fathers;

(d) The prevalence of sexual harassment in the workplace, especially in male dominated sectors, such as Canada's Policing and military environments, and the lack of effective measures to deal with such harassment measures and to inform women of their rights;

(e) The limited access by indigenous, Afro-Canadian, migrant, refugee and asylum-seeking women, as well as women with disabilities, to the labour market;

(f) The practice of issuing employer-specific closed work permits, which makes it challenging for migrant workers, including caregivers, to leave abusive employment situations.



39. The Committee recommends that the State party:

(a) Take all necessary measures to narrow the wage gap, including by repealing the PSECA and by adopting legislation in the federal as well as in all provincial and territorial jurisdictions on the principle of equal pay for work of equal value, and by increasing the minimum wage which many women disproportionately receive;

(b) Adopt effective measures, including skills training and incentives for women to work in non-traditional professions, and temporary special measures to achieve substantive equality of women and men in the labour market and eliminate occupational segregation, both horizontal and vertical, in the public and private sectors, and adopt quotas to enhance the representation of women in managerial positions in companies;

(c) Create more opportunities for women to gain access to full-time employment, including by adopting a rights-based national childcare framework in order to provide sufficient and adequate childcare facilities, and strengthen incentives for men to exercise their right to parental leave;

(d) Develop a confidential and safe system for filing complaints related to sexual harassment in the workplace, and ensure that victims have access to effective mechanisms and remedies;

(e) Take into account the needs of disadvantaged groups of women, especially indigenous, Afro-Canadian, migrant, refugee and asylum-seeking women, as well as women with disabilities, and consider the use of targeted measures, including temporary special measures, to create further employment opportunities for women belonging to such groups;

(f) Discontinue the use of closed work permits in the Temporary Foreign Workers Program, thereby enabling women migrant domestic workers to freely change employers and improving their working and living conditions and reducing the risk of abuse; ensure that women migrant domestic workers who are victims of rights violations have effective access to justice, including legal aid; and take steps to facilitate access to permanent residency permits for women migrant domestic workers;

(g) Ratify ILO Convention No. 189 (2011) on decent work for domestic workers.

## Health

40. The Committee notes the measures taken to facilitate access to legal abortion services. It remains concerned, however, at disparities in access to such services and to affordable contraceptives.

41. In line with its general recommendation No. 24 (1999) on women and health, the Committee recommends that the State party:

(a) Ensure access to legal abortion services in all provinces and territories;

(b) Ensure that invocation of conscientious objection by physicians does not impede women's access to legal abortion services;

(c) Make affordable contraceptives accessible and available to all women and girls, in particular those living in poverty and/or in remote areas.

42. The Committee welcomes that the State party intends to review the use and application of criminal norms to certain HIV/AIDS issues. This review will include the concerning application of harsh criminal sanctions (aggravated sexual assault) to women

for non-disclosing their HIV status to sexual partners, even when the transmission is not intentional, when there is no transmission or when the risk of transmission is minimal.

**43. The Committee recommends that the State party limit the application of criminal law provisions to cases of intentional transmission of HIV/AIDS, as recommended by international public health standards.**

44. The Committee welcomes the commitment of the State party to review its drug policy with a view to shifting from a criminal to a public health and harm reduction approach. However, the Committee is concerned about the excessive use of incarceration as a drug-control measure against women and the ensuing female over-population in prison. The Committee is also concerned about the significant legislative and administrative barriers women face to access supervised consumption services, especially in light of the ongoing nation-wide opioid overdose crisis.

**45. The Committee recommends that the State party:**

**(a) Define harm reduction as a key element of its federal strategy on drugs, and reduce the gap in health service delivery related to women's drug use, by scaling-up and ensuring access to culturally appropriate harm reduction services;**

**(b) Repeal the Respect for Communities Act and establish a transparent process for exemptions permitting the operation of supervised consumption services without risk of criminal prosecution of clients or service providers;**

**(c) Repeal mandatory minimum sentences for minor, non-violent drug-related offences;**

**(d) Take measures to prevent overdose deaths across the State party, including by exempting from arrest drug users who, when facing an overdose, call 911 to get assistance.**

#### **Economic empowerment of women**

46. The Committee notes the development of a National Poverty Reduction Strategy and a National Housing Strategy by the State party. However, it is concerned that women continue to experience significant levels of poverty, homelessness and hunger in the State party, especially First Nations women, Afro-Canadian women, Inuit and metis women, women of immigrant origin, women with disabilities, elderly women, and single mothers. It is also concerned at the lack of affordable quality childcare, the current severe housing shortage, in particular in aboriginal communities, and the high costs of rent and the impact thereof on women, especially low-income women with families.

**47. The Committee recommends that the State party:**

**(a) Ensure that the National Poverty Reduction Strategy and the National Housing Strategy protect the rights of all women, with a focus on the most disadvantaged and vulnerable groups, by integrating a human rights and gender-based approach;**

**(b) Actively engage First Nations women in water systems management and regulation on reserves in order to assist populations that are at risk from poor water and sanitation conditions;**

**(c) Increase the amounts of transfer payments to provinces and territories, earmark sufficient funds specifically for social assistance, and make transfer payments to provinces and territories conditional on setting their social assistance rates at levels that are sufficient to ensure an adequate standard of living, and prevent discriminatory effects of inadequate incomes for women;**

(d) Intensify its efforts to provide sufficient numbers of affordable childcare facilities and affordable and adequate housing options, including in aboriginal communities, with priority being given to low-income women.

#### **Disadvantaged groups of women**

##### *Women in detention*

48. The Committee is concerned about:

(a) The high and rising incarceration rates of Aboriginal women and African Canadian women in federal and provincial prisons across Canada;

(b) The classification of many women in the federal prison system at a maximum-security level, thus restricting their access to work and community programmes and to aboriginal healing lodges;

(c) The high rates of HIV/AIDS among female inmates;

(d) The many cases of administrative or disciplinary segregation, sometimes for long periods of time, including of detainees with mental illness, and reported cases of solitary confinement;

(e) The continuing presence of male guards in female prisons, which increases the risk of sexual harassment or assault and violates the right to privacy of women in detention.

49. **The Committee recommends that the State party:**

(a) **The State party address the issue of disproportionate incarceration of aboriginal and Afro-Canadian women, including by increasing the use of alternative measures for those who commit non-violent offences;**

(b) **Redesign its classification system for women in the federal prison system to ensure their access to work and community programmes as well as to aboriginal healing lodges;**

(c) **Expand care, treatment and support services to women in detention living with or vulnerable to HIV/AIDS, including by implementing prison-based needle and syringe programmes, opioid substitution therapy, condoms and other safer sex supplies;**

(d) **Abolish the practice of solitary confinement, and effectively limit the use of administrative or disciplinary segregation as a measure of last resort for as short a time as possible and avoid such measure for women with serious mental illness;**

(e) **Discontinue the practice of employing male guards as front-line staff in women's institutions.**

#### **Marriage and family relations**

50. The Committee welcomes the adoption of the Family Homes on Reserves and Matrimonial Interests or Rights Act. However, it is concerned that the Act does not apply to the First Nations reserves that have enacted their own First Nations matrimonial real property laws under the Act or the First Nations Land Management Act.

51. **The Committee recommends that the State party adopt guidelines or minimum standards which should be incorporated by First Nations to ensure women's matrimonial property rights.**

52. The Committee is concerned about the lack of harmonization of legislation at the federal and provincial and territorial levels with respect to child-custody determination, as the federal Divorce Law still includes the highly problematic "maximum contact" provision and makes no mention of domestic violence. The Committee is further concerned at evidence of reduced or even cessation of child support orders that can result from shared custody orders or agreements, which in practice are not always followed and do not necessarily reflect the reality of time and cost allocation between parents.

53. **The Committee recommends that the State party take the necessary measures to harmonize federal and provincial/territorial legislation with respect to child-custody determination, ensuring that the ongoing problem of violence against women be taken into account in any such efforts, and use the new British Columbia Family Law Act to guide future legislative reforms, especially with respect to the definition of domestic violence and the best interest of the child as regards "maximum contact". The Committee further calls upon the State party to employ means to closely monitor the economic welfare of children following divorce, so as to prevent strategic/opportunistic claims for shared custody, and ensure that child support payments are not inappropriately reduced.**

#### **Beijing Declaration and Platform for Action**

54. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

#### **2030 Agenda for Sustainable Development**

55. **The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.**

#### **Dissemination**

56. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (federal, provincial and territorial), in particular to the Government, the ministries, Parliament and the judiciary, to enable their full implementation.**

#### **Ratification of other treaties**

57. **The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.**

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

**Follow-up to the concluding observations**

58. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 21 (a), (b), (d) and 27 (a) above.

**Preparation of the next report**

59. The Committee invites the State party to submit its tenth periodic report in November 2020. In case of delay, the report should cover the entire period until the time of its submission.

60. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents ([HRI/GEN/2/Rev.6](#), chap. I).

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