



**Chair in  
Indigenous  
Governance**

# **Discrimination against Indigenous Women and Girls in Canada**

Report to the Human Rights Council on Canada's Third Universal  
Periodic Review

Submitted in October 2017 by the Ryerson University Chair in Indigenous  
Governance

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### Chair in Indigenous Governance

The Chair in Indigenous Governance is supported by Ryerson University as part of its commitment to Indigenous education, diversity and social justice. The Chair's mandate is to conduct research and scholarship on Indigenous law, governance and politics with a focus on nationbuilding. The Chair's topic areas include current laws and policies (domestic and international) that impact Indigenous peoples and Nations; governance and administration in First Nations; and Indigenous leadership and political structures. Dr. Pam Palmater, the presiding Chair, has focused her interventions at the United Nations on systemic discrimination against Indigenous women and girls in Canada, including socio-economic discrimination and violence against Indigenous women and girls, as well as police abuse and mistreatment. She is called as an expert witness before Parliamentary and Senate Committees on laws and policies impacting Indigenous peoples and she has made written and oral submissions to the Human Rights Committee, the Committee on the Elimination of All Forms of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the UN Special Rapporteur on the Rights of Indigenous Peoples, as well as participation at the Permanent Forum on Indigenous issues.

### Acknowledgements

The Canadian Feminist Alliance for International Action (FAFIA) is an alliance of more than sixty Canadian women's organizations that was founded in February 1999. One of the central goals of FAFIA is to ensure that Canadian governments respect, protect, and fulfill the commitments to women that they have made under international human rights treaties and agreements. FAFIA has worked intensively in recent years on issues specifically related to the human rights of Indigenous women and girls in Canada.

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## A. Inequitable access to essential services for First Nations children

### I. UPR and Treaty Body Concerns and Previous Recommendations

In 2013 at the Second Universal Periodic Review (UPR) of Canada, Canada accepted<sup>1</sup> Recommendation 129 to “take steps to ensure that all Canadian children have equal access to government services such as health, education and welfare, and address the disparities in access to these services for Indigenous children in particular, as recommended by the Committee on the CRC”.<sup>2</sup> In addition, Canada accepted in principle<sup>3</sup> Recommendation 64 to “ensure parity of funding and services between Aboriginal and non-Aboriginal communities”.<sup>4</sup> Canada has failed to ensure equal access and funding of services for Indigenous and non-Indigenous populations across all jurisdictions.

Recommendations 129 and 64 must be reasserted at Canada’s Third UPR. Further, the Human Rights Council should consider the recommendations<sup>5</sup> made to Canada by the Committee on the Elimination of Racial Discrimination, specifically the 2017 recommendation calling on Canada to “ensure that all [Indigenous] children on and off reserve, have access to all services available to other children in Canada, without discrimination”.<sup>6</sup>

### II. The Lack of Culturally Appropriate Child Welfare Prevention Services

Indigenous children are dramatically overrepresented in the child welfare system in Canada, with a significantly disproportionate number of Indigenous children being taken from their homes and placed in non-Indigenous homes. Recent studies indicate that 48% of the 30,000 children and youth in the foster care system across Canada are Indigenous, notwithstanding

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<sup>1</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review Canada Addendum, UN Doc A/HRC/24/11/Add.1 (2013) at para 21 [2013 Canada’s Reply].

<sup>2</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review Canada, UN Doc A/HRC/24/11 (2013) at Rec 128.129 [2013 UPR Working Group Report].

<sup>3</sup> 2013 Canada’s Reply at para 18.

<sup>4</sup> 2013 UPR Working Group Report at para 128.64.

<sup>5</sup> See Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined twenty-first and twenty-third periodic reports of Canada, 13 September 2017, UN Doc CERD/C/CAN/CO/21-23 [2017 CERD Concluding observations]; and CERD, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada, UN Doc CERD/C/CAN/CO/19-20 (2012) at paras 19(d), (f).

<sup>6</sup> 2017 CERD Concluding observations at paras 27-28.

that Indigenous peoples account for only 4.3% of the Canadian population.<sup>7</sup> In fact, there are more Indigenous children in foster care today than at the height of the residential school era.<sup>8</sup>

The primary justifications given by child welfare authorities for the apprehension of Indigenous children are ‘physical neglect’ and the ‘failure to supervise’, which are highly correlated with poverty, poor housing, and caregiver addiction misuse, all of which are linked to Canada’s past and ongoing racial discrimination against Indigenous Peoples.<sup>9</sup> The result is that Indigenous children are being forcibly removed from their families because their families are poor.

The removal of Indigenous children also has devastating effects on their mothers. The apprehension of children is often part of a vicious circle of harmful events experienced by poor Indigenous women. This circle includes inadequate income assistance, male violence, loss of housing, lack of access to timely and appropriate legal aid, removal of children, and depression/addiction.<sup>10</sup> Once an Indigenous woman is caught in this circle, one harmful event is likely to lead to another.

### III. The Intersection of Violence Against Indigenous Women and Girls and the Child Welfare System

Indigenous women and girls are significantly overrepresented as victims of crime. Additionally, they are more likely than other women to experience risk factors for violence and are disproportionately young, poor, unemployed, and have likely been involved with the child welfare system<sup>11</sup> which often fails to adequately care for Indigenous girls.

On August 17, 2014, the body of 15 year old Tina Fontaine was found in the Red River in Winnipeg, Manitoba. Her death put a spotlight not only on the need for an inquiry into missing and murdered Indigenous women and girls, but also on the failure of the child welfare system to protect Indigenous girls being cared for outside of their homes. Tina was being cared for by

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<sup>7</sup> Statistics Canada, *Selected Demographic, Income and Sociocultural Characteristics, Income Statistics in 2010 and Income Sources for the Population Aged 15 Years and Over in Private Households of Canada, Provinces, Territories, Census Metropolitan Area and Census Agglomerations, 2011 National Household Survey* (Ottawa: Statistics Canada, 2011), cited in Canada’s Premiers, *Aboriginal Children in Care: Report to Canada’s Premiers*, by the Aboriginal Children in Care Working Group (Ottawa: Council of the Federation, 2015) at 7.

<sup>8</sup> Lauren Pelley, “Indigenous Children Removed from Homes in the 1960s Begin to Heal”, *The Toronto Star* (2 November 2015), online: <<https://www.thestar.com/news/canada/2015/11/02/indigenous-children-removed-from-homes-in-the-1960s-just-now-beginning-to-heal.html>> .

<sup>9</sup> Nico Trocmé, Della Knoke & Cindy Blackstock, “Pathways to Overrepresentation of Aboriginal Children in Canada’s Child Welfare System” (2004) 78:4 *Social Science Rev* 578.

<sup>10</sup> Gwen Brodsky et al, “Advancing the Rights of Poor Women: The Vicious Circle” (2010) *Poverty and Human Rights Centre* at 4, online: <<http://povertyandhumanrights.org/wp-content/uploads/2012/11/The-Vicious-Circle-Report.pdf>> .

<sup>11</sup> Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future*, Final Report of the Truth and Reconciliation Commission of Canada, vol 1 (Toronto: James Lorimer & Company, 2015) at 180.

Manitoba's Child and Family Services and had been placed in a foster home before going missing.<sup>12</sup> Police reports indicate that she had a history of running away from her foster home and media reports suggest that the child welfare agency in charge of her care did not know of her whereabouts for periods prior to her murder.

Tina's story underscores the reality for many Indigenous girls in care: they are taken from their families as a result of poverty and the intergenerational impacts of the residential school era and the Sixties Scoop (forced adoptions into non-Indigenous families). They are often placed in non-Indigenous homes, where foster parents and child welfare agencies do not have the ability to provide them with culturally appropriate services or keep them safe. The most recent research shows that foster care is a pipeline to sexual violence, human trafficking, imprisonment, and/or being murdered or disappeared.<sup>13</sup> Further, Indigenous girls are 4 times more likely to be victims of sexual violence in foster care.<sup>14</sup> The girls are alienated from the safety and security of their cultures, identities, families and First Nations. Indigenous kin placements are often not an option. In some provinces kin do not receive the same level of financial support as foster parents, making it difficult for already marginalized communities to support their children.<sup>15</sup> Moreover, many Indigenous peoples do not want to engage with the child welfare system as foster parents, given their typically negative experiences with residential school and the Sixties Scoop.<sup>16</sup>

Inevitably, these girls flee (indefinitely or for periods of time) and become victims of traffickers, pimps and drug dealers. For many Indigenous women,

the first point of entry into the criminal justice system is a charge for an offence committed within a care facility. Girls may be charged with assault on a staff member or other 'violent' offence and are then remanded to detention centres, where they come into contact with sexually exploited youth and recruiters... Given the high rate of apprehension of [Indigenous] children, their over representation in the child welfare system leads to their over representation in the criminal justice system, which in turn facilitates their entry into prostitution.<sup>17</sup>

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<sup>12</sup> CBC News Manitoba, "Tina Fontaine, 15, Found in Bag in Red River", *CBC News* (17 August 2014), online: <<http://www.cbc.ca/news/canada/manitoba/tina-fontaine-15-found-in-bag-in-red-river-1.2739141>> .

<sup>13</sup> Pam Palmater, "From foster care to missing or murdered: Canada's other tragic pipeline" (Toronto: Maclean's, April 12, 2017).

<sup>14</sup> .E. Turpel-Lafond, "Too Many Victims: Sexualized Violence in the Lives of Children and Youth in Care" (Victoria: Representative for Children and Youth, 2016).

<sup>15</sup> Gretchen Perry, Martin Daly & Jennifer Kotler, "Placement Stability in Kinship and Non-Kin Foster Care: A Canadian Study" (2012) 34 *Child and Youth Services Rev* 460 at 460.

<sup>16</sup> Viktoria Ivanova & Jason Brown, "Strengths of Aboriginal Foster Parents" (2011) 20:3 *J of Child & Family Studies* 279 at 279.

<sup>17</sup> Anette Sikka, *Trafficking of Aboriginal Women and Girls in Canada*, Aboriginal Policy Research Series (Ottawa: Institute on Governance, 2009) at 9.

Indigenous women make up 35.5% of prisoners in federal institutions – a rate which has increased by 84% since 2003.<sup>18</sup> One-fifth of all Indigenous prisoners went to residential school and two-thirds were involved in child welfare. Indigenous girls represent 44% of all youth admitted into corrections. Indigenous women and girls are 7 times more likely to be targeted by serial killers and suffer 16x homicide rate.<sup>19</sup>

### IV. Ongoing failure to comply with a Canadian Human Rights Tribunal ordering an end to such discrimination<sup>20</sup>

The federal government funds First Nations child and family services on reserve through the Department of Indigenous and Northern Affairs (INAC), which was previously known as the Department of Aboriginal Affairs. INAC requires that First Nations child and family services agencies on reserve comply with provincial/territorial child welfare laws as a condition of funding. Pursuant to its own stated objectives, the First Nations Child and Family Services Program (FNCFS Program) is to provide for child welfare services on reserve that are reasonably comparable to those provided off reserve and are culturally appropriate.

On January 26, 2016, the Canadian Human Rights Tribunal (CHRT) released its decision on the complaint filed against the federal government in relation to the FNCFS Program.<sup>21</sup> It found that the Canadian government is racially discriminating against 165,000 First Nations children and their families by providing flawed and inequitable child welfare services. Shockingly, Canada failed to comply with the decision. In fact, government documents indicate that Canada's current budget for its FNCFS Program pre-dates the decision and that Canada did not modify this funding following the release of the decision. As a result of the Government of Canada's inaction, the CHRT was forced to issue three (3) subsequent non-compliance orders to compel Canada to cease its discriminatory and unlawful conduct.<sup>22</sup> Canada has sought a judicial review of the most recent order. In total, the Government of Canada has spent more than \$ 700,000 in legal fees in fighting this complaint.

In the meantime, First Nations children and First Nations girls, in particular, continue to experience the tragic consequences of Canada's racially discriminatory conduct. It is no

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<sup>18</sup> Office of the Correctional Investigator, 2014-15 report, online: < <http://www.ocibec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20142015-eng.pdf>>.

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<sup>20</sup> FAFIA thanks Sarah Clarke, Anne Levesque, David Taylor and Sébastien Grammond for their analysis and staunch commitment to advocate on behalf of Indigenous children in Canada.

<sup>21</sup> *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada)*, 2016 CHRT 2.

<sup>22</sup> *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada)*, 2016 CHRT 10; *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada)*, 2016 CHRT 16; *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada)*, 2017 CHRT 14.



exaggeration to say that the impact is deadly. Since January 2017, three 12 year-old girls from the Northern Ontarian community of Wapekeka have lost their lives due to suicide.<sup>23</sup> According to the contested evidence filed by the Nishnawbe Aski Nation to the Canadian Human Rights Tribunal, these deaths could have been avoided had appropriate mental health services been available for these girls.<sup>24</sup>

Further information is provided in Appendix A.

### V. Recommendations

**The Government of Canada should:**

- 1) Withdraw its June 23<sup>rd</sup>, 2017 application for judicial review of the decision of the Canadian Human Rights Tribunal that affirms the equality rights of 165,000 First Nations children.**
- 2) Address all the underlying root causes including adequate housing, healthcare, education, water, mental health services, and child and family.**
- 3) Immediately implement the orders of the Canadian Human Rights Tribunal in good faith, in consultation with First Nations Peoples and in a manner that promotes and protects the best interest of First Nations children, namely,**
  - a. To fully implement Jordan’s Principle throughout all government departments and in all services provided to First Nations children and their families;**
  - b. Undertake immediate measures to relieve the children’s suffering by substantially increasing culturally based prevention services intended to keep children safely in their homes and implementing other reforms to relieve the deep inequality in service provision while First Nations and the Government of Canada negotiate a more robust solution.**
- 4) Compensate First Nations children and their families who were taken into care from 2006 to today in accordance with the *Canadian Human Rights Act* and principles of international human rights law;**
- 5) Retroactively examine all Jordan’s Principle requests dating back to February 2006**

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<sup>23</sup> CBC News Thunder Bay, “Wapekeka Suicides: A Survivor of a ‘Pact’ Speaks Out”, *CBC News* (30 June 2017), online: <<http://www.cbc.ca/news/canada/thunder-bay/suicide-pact-wapekeka-1.4184438>> .

<sup>24</sup> *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada)*, 2017 CHRT 7 (Evidence, Dr Michael Kirlew Affidavit), online: <<https://fncaringsociety.com/sites/default/files/Affidavit%20of%20Dr.%20Michael%20Kirlew.%20FINAL.%20Sworn%20January%2027%202017Reduced.pdf>> .

(one year prior the filing of the human rights complaint) and immediately provide the appropriate service where necessary and/or compensation in accordance the *Canadian Human Rights Act* and principles of international human rights law;

- 6) In partnership and consultation with the Assembly of First Nations, the Caring Society and the Canadian Human Rights Commission, to develop an independent expert structure with the authority and mandate to ensure that it maintains non-discriminatory and culturally appropriate First Nations Child and Family Services. This body must also be adequately and sustainably funded by Canada.
- 7) Immediately stop discrimination in other First Nations children's services such as in education, health, culture and language and basics like water.

In consultation with human right and Indigenous peoples organizations, implement effective measures to ensure the protection of human rights defenders pursuant to Canada's obligations under the *International Covenant on Civil and Political Rights* and *the Declaration on Human Rights Defenders*.

The federal, provincial, territorial, and Indigenous governments commit to reducing the number of Indigenous children in care by:

Implement and properly fund First Nation jurisdiction over child and family services

- 8) Monitoring and assessing ongoing neglect investigations.
- 9) Address the root causes like housing, education, healthcare, clean water, mental health services on and off reserve,
- 10) Providing adequate resources to enable Indigenous communities and child-welfare organizations to keep Indigenous families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
- 11) Implement Jordan's Principle so that all Indigenous children have access to at least the same services as all Canadian children.

The federal, provincial, and territorial governments should review all policies and practices to identify and eliminate the specific gender-based harms caused to Indigenous women and girls by current child welfare practices.

## **B. The Social and Economic Conditions of Indigenous Women and Girls**

### **I. UPR and Treaty Body Recommendations to Canada**

In 2013, Canada accepted Recommendation 88 to "expand services and support to prevent

violence and discrimination against Aboriginal women and girls”.<sup>25</sup> Canada has not expanded support services to remedy the dire socio-economic conditions that perpetuate discrimination against Indigenous women and girls.

The CERD Committee noted its concerns about the disadvantaged conditions of Indigenous peoples in its 2007,<sup>26</sup> 2012,<sup>27</sup> and 2017<sup>28</sup> Concluding Observations, and made specific reference to safe drinking water, employment, health services, housing, education, and child welfare.

The CEDAW Committee in its 2016 Concluding Observations on Canada recommended that Canada:

Develop a specific and integrated plan for addressing the particular socioeconomic conditions affecting [Indigenous] 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 campaigns to raise awareness within [Indigenous] communities about women’s human rights and to combat patriarchal attitudes and gender stereotypes...<sup>29</sup>

## II. Deteriorating Socio-Economic Conditions of Indigenous Women and Girls

In Canada, the socio-economic conditions of Indigenous peoples generally, and Indigenous women and girls specifically, are extremely poor. Former Special Rapporteur on the rights of Indigenous peoples, James Anaya, concluded in his 2014 report on Canada that: “The most jarring manifestation of human rights problems is the distressing socio-economic conditions of [Indigenous] peoples in a highly developed country”.<sup>30</sup> Anaya emphasizes that there have been no improvements in the socio-economic conditions of Indigenous peoples since the last report in 2004, a finding confirmed by Canada’s Auditor General.<sup>31</sup>

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<sup>25</sup> 2013 Canada’s Reply at para 37; 2013 UPR Working Group Report at Rec 128.88.

<sup>26</sup> CERD, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada, UN Doc CERD/C/CAN/CO/18 (2007) at para 21.

<sup>27</sup> CERD, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada, UN Doc CERD/C/CAN/CO/19-20 (2012) at para 19.

<sup>28</sup> See e.g. CERD, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada, UN Doc CERD/C/CAN/CO/21-23 (2017) at paras 28(a), 30(a), and 32(a).

<sup>29</sup> CEDAW, Concluding Observations on the 8th and 9th Periodic Reports of Canada, UN Doc CEDAW/C/CAN/CO/8-9 (2016) at para 29(a).

<sup>30</sup> UNHRC, 27th Sess, Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya: The Situation of Indigenous Peoples in Canada, UN Doc A/HRC/27/52/Add.2 (2014) at para 15, online: <<http://unsr.jamesanaya.org/docs/countries/2014-report-canada-a-hrc-27-52-add-2-en.pdf>>; Auditor General of Canada, Report, “Status Report of the Auditor General of Canada, Chapter 4: Programs for First Nations on Reserves” (June 2011) at 1-2, online: <[http://www.oag-bvg.gc.ca/internet/docs/parl\\_oag\\_201106\\_04\\_e.pdf](http://www.oag-bvg.gc.ca/internet/docs/parl_oag_201106_04_e.pdf)> .

<sup>31</sup> *Ibid.*

Indigenous peoples suffer from a lack of access to housing, safe drinking water and sanitation, adequate health services, economic development, education and employment.<sup>32</sup> Indigenous women and girls are particularly disadvantaged due to ongoing discrimination in the *Indian Act* and Canada's related policies and funding mechanisms, which often disentitle them from essential social programs.<sup>33</sup> Indigenous women and girls are also particularly vulnerable to abuse within this context of poor socio-economic conditions, which Anaya categorized as "a continuing crisis".<sup>34</sup>

The Auditor General of Canada concluded that long-standing problems in First Nations, including the welfare, housing, water and sanitation, and poverty crises, and the high numbers of people who are caught in the criminal justice system and subjected to violence, are expected to continue unless Canada acts on the recommendations and makes significant financial investments in its Indigenous peoples.<sup>35</sup> The Truth and Reconciliation Report made 94 Calls to Action, which included increasing funding for education, health, and child welfare.<sup>36</sup> Anaya made similar calls for more funding for housing, health, child welfare, and education.<sup>37</sup> Despite promises to the contrary, Canada has not addressed the chronic underfunding in these areas.<sup>38</sup> The 2% cap on education funding put in place in 1996 is still in place and the extra money promised for First Nation post-secondary education has not materialized.<sup>39</sup>

The CEDAW Committee recognized in its Inquiry Report on missing and murdered Indigenous women and girls,<sup>40</sup> that the poverty and social disadvantage of Indigenous women exacerbates

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<sup>32</sup> Pamela Palmater, "Stretched Beyond Human Limits: Death by Poverty in First Nations" (2011) No 65/66 Canadian Rev of Social Policy 112.

<sup>33</sup> *Indian Act*, RSC 1985, c-15; Pamela Palmater, *Beyond Blood: Rethinking Indigenous Identity* (Saskatoon: Purich Publishing, 2010).

<sup>34</sup> UNHRC, 27th Sess, Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya: The Situation of Indigenous Peoples in Canada, UN Doc A/HRC/27/52/Add.2 (2014) at para 80, online: <<http://unsr.jamesanaya.org/docs/countries/2014-report-canada-a-hrc-27-52-add-2-en.pdf>>.

<sup>35</sup> *Ibid* at 2.

<sup>36</sup> Truth and Reconciliation Commission of Canada, *Calls to Action* (Winnipeg: Truth and Reconciliation Commission of Canada, 2015), online: <[http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls\\_to\\_Action\\_English2.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf)>.

<sup>37</sup> James Anaya, *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya: Extractive Industries and Indigenous Peoples*, UNOHCHR, 24th Sess, UN Doc A/HRC/24/41 (2013) at paras 20-23, online: <<http://unsr.jamesanaya.org/docs/annual/2013-hrc-annual-report-en.pdf>>.

<sup>38</sup> Right Honourable Prime Minister Justin Trudeau, "Remarks by Justin Trudeau at the Assembly of First Nations 36<sup>th</sup> (delivered at the Annual General Assembly of First Nations, 10 December 2015), online: <<https://www.liberal.ca/realchange/justin-trudeau-at-the-assembly-of-first-nations-36th-annual-general-assembly/>>.

<sup>39</sup> Joanna Smith, "First Nations Funding Cap is Still There, Despite Trudeau's Promise", *Canadian Press* (16 June 2016), online: <[http://www.huffingtonpost.ca/2016/06/16/political-will-to-lift-first-nations-funding-cap-is-there-needs-time-chief\\_n\\_10515960.html](http://www.huffingtonpost.ca/2016/06/16/political-will-to-lift-first-nations-funding-cap-is-there-needs-time-chief_n_10515960.html)>.

<sup>40</sup> Committee on the Elimination of Discrimination against Women, *Report of the inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women, under article 8 of the Optional Protocol to the Convention on the Elimination of Discrimination against Women*, UNCEDAW, 2015, UN Doc CEDAW/C/OP.8/CAN/1

every form of social, sexual and racialized subordination that they experience. High rates of domestic and sexualized violence are one of the manifestations of poor socio-economic conditions and the ongoing discrimination against Indigenous women and girls.<sup>41</sup> Profound deprivations of personal autonomy, liberty, and safety result.

Data on socio-economic conditions is provided in Appendix B.

### III. Conclusion

Indigenous women and girls continue to suffer from deteriorating health and living conditions. They are subject to unacceptably high levels of violence and murder, their children are disproportionately taken by the State, and they are one of the fastest growing prison populations in Canada. The living situations of many Indigenous women and girls continue to deteriorate and should be considered an urgent crisis in need of redress.

Many recommendations have been made to Canada to improve the socio-economic living conditions of Indigenous women and girls; little concrete action has been taken.

### IV. Recommendations

**The Government of Canada should:**

- **Immediately provide adequate needs-based funding for all social programs on-reserve at least on par with provincial funding levels, taking into account significant additional investments which will be required to address the housing and education backlogs, long-standing infrastructure deficiencies, and cumulative social and health problems that developed from lack of funding, with special attention to the particular disadvantages faced by Indigenous women and girls.**
- **Create joint emergency task force(s) in partnership with, and with adequate funding to support, First Nations, Indigenous women's groups, organizations, and experts to create a strategic plan to address long-standing urgent crises such as emergency management, children in care, over-imprisonment of Indigenous women, and high suicide rates.**
- **Work in partnership with First Nations, Indigenous women's groups, organizations and experts to develop legislation, policy and funding support mechanisms to fully implement UNDRIP with a special and urgent focus on extractive activities taking place in Canada and the need for free, informed and prior consent, special protections for Indigenous women and girls, and funding for suitable research, legal support and**

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(2015) at paras 111 – 117, 218, online:

<[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CAN/CEDAW\\_C\\_OP-8\\_CAN\\_1\\_7643\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CAN/CEDAW_C_OP-8_CAN_1_7643_E.pdf)>.

<sup>41</sup> *Ibid* at paras 36-37.

**Indigenous institutions to fully and properly engage in ongoing consultations and decision-making, before allowing any further activity on or near Indigenous lands.**

- **Implement the recommendations of the Auditor General of Canada, Truth and Reconciliation Commission, UN Special Rapporteur on rights of Indigenous peoples, the CEDAW Committee and other United Nations treaty bodies to address the socio-economic crises faced by Indigenous women and girls.**
- **Investigate and address the vulnerabilities associated with Indigenous children in care, runaways, and homeless Indigenous women and children to police racism and sexualized violence.**

### C. Exclusion of Indigenous Women's Organizations from Nation-to-Nation Talks

#### I. UNDRIP Implementation

In 2013, Canada rejected Recommendation 66 to “give full effect to the United Nations Declaration on the Rights of Indigenous Peoples” (UNDRIP) and part of Recommendation 67 calling for UNDRIP’s implementation.<sup>42</sup>

After finally endorsing the *United Nations Declaration on the Rights of Indigenous Peoples* in 2010, Indigenous and human rights organizations have been disturbed by Canada’s repeated assertions that the UNDRIP is “...an aspirational ...non-legally binding document that does not reflect customary international law nor change Canadian laws.”<sup>43</sup> We note that the Truth and Reconciliation Commission, which issued its final report on 2 June 2015, has called on Canada to implement the UNDRIP as part of the project of reconciliation.<sup>44</sup>

On 9 May 2016, the Government of Canada announced that it fully supports UNDRIP,<sup>45</sup> and the Prime Minister asked the Minister of Indigenous and Northern Affairs and other Ministers to

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<sup>42</sup> 2013 UPR Working Group Report at Rec 128.66 (see also at Recs 128.60, 128.61); 2013 Canada’s Reply at para 19.

<sup>43</sup> Aboriginal Affairs and Northern Development, Media Release, “Canada’s Statement of Support on the United Nations Declaration on the Rights of Indigenous Peoples” (12 November 2010), online: AANDC <<http://www.aadnc-aandc.gc.ca/eng/1309374239861/1309374546142>> [emphasis added].

<sup>44</sup> Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada: Calls to Action* (Winnipeg, MB: TRC, 2015), Recommendation 42 at 4, online: TRC <[http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls\\_to\\_Action\\_English2.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf)>.

<sup>45</sup> Indigenous and Northern Affairs Canada, “Statement on the United Nations Declaration on the Rights of Indigenous Peoples” (23 June 2017) online: <<https://www.aadnc-aandc.gc.ca/eng/1309374407406/1309374458958#a2>>.

fully implement its provisions.<sup>46</sup> However, Canada has imposed specific conditions on the future implementation of UNDRIP including that it must be consistent with Canada's Constitution Act, 1982, it must be consistent with Canada's court decisions (many of which violate Aboriginal and treaty rights and international human rights), and that First Nations "consent" does not include the right to say "no" – i.e. no veto over projects on their lands.<sup>47</sup> There is currently no clear process of legislative implementation underway. Thus, the federal government has not yet given domestic effect to the UNDRIP and no clear timeframe. Recommendations 66 and 67 must be reiterated to Canada.

### II. Indigenous Women's Organizations Excluded from Nation-to-Nation Framework

Canada accepted Recommendation 63 that it "enhance, through consultation mechanisms, the participation of indigenous peoples in the determination of public policies that affect them".<sup>48</sup> Today, Indigenous women are still excluded from Nation-to-Nation framework discussions that inform law and policies that affect them and their communities. Indigenous women must be included in this important dialogue and Recommendation 63 must be reiterated with a specific gender-focus.

The Government of Canada has decided that, under its new Nation-to-Nation framework, it will engage with the three groups recognized in s. 35 of Canada's Constitution - First Nations, Inuit and Métis - and consequently it will consult on a regular basis with the three national organizations that claim to represent these groups, the Assembly of First Nations (AFN), the Métis National Council, and the Inuit Tapirisat. The Government is also meeting with the Congress of Aboriginal Peoples.<sup>49</sup> These are all male-led organizations, and their record on women's rights and women's participation is weak. The AFN has never elected a woman leader and their small women's council has no real power. Until this new nation-to-nation relationship was defined, the Government of Canada had a practice of engaging with five National Aboriginal Organizations, which included the Native Women's Association of Canada (NWAC).

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<sup>46</sup> *Ibid.*

<sup>47</sup> Tim Fontaine, "Canada officiall adopts UN declaration of rights of Indigenous People" CBC (10 May 2016), online: <<http://www.cbc.ca/news/indigenous/canada-adopting-implementing-un-rights-declaration-1.3575272>>; John Ivison, "First Nations hear hard truth that UN indigenous rights decalration is 'unworkable' as law" National Post (14 July 2016), online: <<http://nationalpost.com/opinion/john-ivison-first-nations-hear-hard-truth-that-un-rights-declaration-unworkable-as-law>>; Warren Bernauer, "Trudeau's promise unravel in legal battle of Indigenous rights" Canadian Dimension (10 November 2016), online: <<https://canadiandimension.com/articles/view/trudeaus-promises-unravel-in-legal-battle-over-indigenous-rights>>.

<sup>48</sup> 2013 UPR Working Group Report at para 128.63; 2013 Canada's Reply at para 16.

<sup>49</sup> John Tasker, "Justin Trudeau announces 3 steps to help enact Truth and Reconciliation calls to action" CBC (15 December 2016), online: <<http://www.cbc.ca/news/politics/trudeau-indigenous-leaders-trc-1.3897902>>; Canadian Press, "Justin Trudeau meets Congress of Aboriginal Peoples to discuss concerns" (10 January 2017), online: <<http://www.cbc.ca/news/politics/trudeau-congress-aboriginal-peoples-1.3929297>>.

The change to a Nation-to-Nation dialogue that only included three male-led National Aboriginal Organizations came in March 2016, when NWAC found itself, for the first time in many years, not included in talks between federal, provincial, territorial governments and Indigenous leadership.<sup>50</sup> Since that time, NWAC has been directly informed by the Prime Minister that it will not be included in talks that fall under the nation-to-nation framework.

On June 12, 2017, the Assembly of First Nations and the Government of Canada signed a memorandum of understanding setting out joint priorities for the nation-to-nation relationship. This memorandum ignores critical life and death women's issues such as a missing and murdered Indigenous women and girls, sexualized violence and trafficking, gender discrimination in the *Indian Act*, over-incarceration and child and family services.<sup>51</sup>

This is a step backwards. A new nation-to-nation relationship requires supporting and fostering the equality and participation of Indigenous women. Indigenous women need to be full partners in their communities and nations and in engagements with governments.

### IV. Recommendations

- **Based on Canada's domestic and international human rights obligations, and specifically Articles 18 and 44 of UNDRIP, the Government of Canada should ensure that the Native Women's Association of Canada is a full partner in the nation-to-nation framework, and take steps to invest in Indigenous women's organizations at the national, provincial, and territorial level as well as regional, treaty and local levels as appropriate, so that Indigenous women can participate in their own decision-making structures and prepare informed positions so that they can engage effectively in dialogue with governments on the issues that directly affect them, their families and Nations.**
- **The Government of Canada should also prioritize issues impacting Indigenous women in its nation-to-nation relationship building and include in these discussions the native Women's Association of Canada, Native women's organizations, and Indigenous women experts and advocates.**

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<sup>50</sup> Elizabeth McSheffrey, "Indigenous Leaders Shocked by Exclusion from Climate Change Meeting" *National Observer* (7 March 2016), online: <<http://www.nationalobserver.com/2016/03/07/news/indigenous-leaders-shocked-exclusion-climate-change-meeting>>.

<sup>51</sup> Memorandum of Understanding on Joint Priorities between the Assembly of First Nations and the Her Majesty the Queen in Right of Canada, dated June 12, 2017, online <<http://www.afn.ca/uploads/files/canada-afn-mou-final-eng.pdf>>.



## Appendix A: Failure to Implement the Canadian Human Rights Tribunal Decision in *Caring Society*

*This information is a continuation from section A(v):*

The key findings of the Canadian Human Rights Tribunal (CHRT) were:

- The FNCFS Program is discriminatory and promotes negative outcomes for Indigenous children and families.<sup>52</sup>
- The FNCFS Program provides an incentive to remove children from their homes as a first resort rather than a last.<sup>53</sup>
- The Government of Canada’s “one-size fits all” approach to child welfare services does not work for children and families living on reserves.<sup>54</sup>
- The FNCFS Program contains no mechanism to ensure child and family services provided to Indigenous Peoples living on reserves are reasonably comparable to those provided to children in similar circumstances off reserve.<sup>55</sup>
- The FNCFS Program causes Indigenous children and families to be denied the opportunity to remain together or be reunited in a timely manner.<sup>56</sup>
- The FNCFS Program is not culturally appropriate and did not meet the real needs of Indigenous children and their families nor take into account their historical, cultural and geographical circumstances.<sup>57</sup>

The CHRT ordered the Government of Canada to immediately cease discriminating against Indigenous children and their families and to ensure that Indigenous children are no longer denied services provided to other Canadians as a result of jurisdictional disputes between and within governments.<sup>58</sup>

In light of Canada’s non-compliance with the decision, the Canadian Human Rights Tribunal has released three subsequent decisions ordering Canada to comply with its ruling and to cease its racially discriminatory conduct against First Nations children.<sup>59</sup> In a May 2017 order, the

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<sup>52</sup> *First Nations Child and Family Caring Society of Canada et al v Canada*, 2016 CHRT 2 at para 344.

<sup>53</sup> *Ibid* at para 344.

<sup>54</sup> *Ibid* at para 315.

<sup>55</sup> *Ibid* at para 334.

<sup>56</sup> *Ibid* at para 349.

<sup>57</sup> *Ibid* at para 465.

<sup>58</sup> *Ibid* at para 474.

<sup>59</sup> *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada)*, 2016 CHRT 10; *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada)*, 2016 CHRT 16; *First Nations Child and Family Caring Society of Canada v*

Tribunal stated that “Canada has repeated its pattern of conduct and narrow focus with respect to Jordan’s Principle” and issued a third set of compliance orders.<sup>60</sup>

In June 2017, it was revealed that Canada has spent nearly one million dollars in legal fees seeking to avoid its compliance with the Canadian Human Rights Tribunal decision.<sup>61</sup> On June 23, 2017, just two days after National Aboriginal Day, Canada filed a notice of application before the Federal Court of Canada in which it seeks to quash the most recent order of the Canadian Human Rights Tribunal in the case.<sup>62</sup>

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*Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada), 2017 CHRT 7; First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada), 2017 CHRT 14.*

<sup>60</sup> *First Nations Child and Family Caring Society of Canada v Attorney General of Canada (representing the Minister of Indian and Northern Affairs and Northern Development Canada), 2017 CHRT 14.*

<sup>61</sup> Tanya Talaga, “Ottawa Spent \$707,000 in Legal Fees Fighting Decision that Protects Indigenous Children”, *The Toronto Star* (2 June 2017), online: <<https://www.thestar.com/news/canada/2017/06/02/ottawa-spent-707000-in-legal-fees-fighting-a-rights-decision-that-protects-indigenous-children.html>> .

<sup>62</sup> *Caring Society v Canada*, (23 June 2017), Federal, FCTD T-918-17 (notice of application), online: <<https://fncaringsociety.com/sites/default/files/Notice%20of%20Application%20for%20Judicial%20Review%20-%20June%2023%202017.pdf>>.

## Appendix B: Data on Socio-Economic Conditions of Indigenous People

*This information is a continuation from section B(ii):*

Below are some examples of how the health and living conditions of Indigenous women and girls continue to deteriorate:

- **Children in care crisis:** 48% of children in state care (foster care) in Canada are Indigenous (more than 85% in Manitoba);<sup>63</sup> the number of children in care has “increased rapidly.”<sup>64</sup>
- **Water and sanitation crisis:** 113+ First Nations do not have clean drinking water;<sup>65</sup> 73% of all water systems and 64% of wastewater systems on reserves are at medium to high risk;<sup>66</sup> some reserves have been under boil water advisories for over 10 years.<sup>67</sup>
- **Housing crisis:** 28% of First Nations people live in over-crowded housing; 43% of First Nation homes are in need of major repair;<sup>68</sup> there is a 110,000 home backlog on First Nations reserves;<sup>69</sup> and Indigenous women and children are vulnerable to homelessness upon marriage breakdown due to the fact that the possession of homes on reserves are most often held by men.<sup>70</sup>

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<sup>63</sup> Statistics Canada, “Living Arrangements of Aboriginal Children Aged 14 and Under”, by Annie Turner, Catalogue No 75-006-X (Ottawa: Statistics Canada, 2016) at 1, online: <<http://www.statcan.gc.ca/pub/75-006-x/2016001/article/14547-eng.pdf>> .

<sup>64</sup> Deena Mandell et al, “Partnerships for Children and Families Project” (Wilfred Laurier University, 2003) at 3, online: <[https://legacy.wlu.ca/documents/7179/Aboriginal\\_child\\_welfare.pdf](https://legacy.wlu.ca/documents/7179/Aboriginal_child_welfare.pdf)>; Pamela Gough et al, “Pathways to the Overrepresentation of Aboriginal Children in Care” (2005) No 23E Centre of Excellence for Child Welfare 1 at 1, online: <<http://cwrp.ca/sites/default/files/publications/en/AboriginalChildren23E.pdf>> .

<sup>65</sup> Health Canada, “Drinking Water Advisories: First Nations South of 60” (2016), online: <<http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-dwa-eau-aqep-eng.php>> . According to Health Canada there are 92 First Nations on boil water advisories (in BC, there are an additional 21 First Nations on boil advisories). See also First Nations Health Authority, “Drinking Water Safety Program” (2016), online: <<http://www.fnha.ca/what-we-do/environmental-health/drinking-water-safety-program>> .

<sup>66</sup> Neegan Burnside, “National Assessment of First Nations Water and Wastewater Systems: National Roll-Up Report Final” (2011) at ii, online: <[https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/enr\\_wtr\\_nawws\\_rurnat\\_rurnat\\_1313761126676\\_eng.pdf](https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/enr_wtr_nawws_rurnat_rurnat_1313761126676_eng.pdf)> .

<sup>67</sup> Human Rights Watch, “Make it Safe: Canada’s Obligation to End the First Nations Water Crisis” (2016) at 29-39, online: <[https://www.hrw.org/sites/default/files/report\\_pdf/canada0616web.pdf](https://www.hrw.org/sites/default/files/report_pdf/canada0616web.pdf)> .

<sup>68</sup> Statistics Canada, “Aboriginal Peoples: Fact Sheet for Canada”, by Karen Kelly-Scott & Kristina Smith, Catalogue No 89-656-X2015001 (Ottawa: Statistics Canada, 2015) at 4, online: <<http://www.statcan.gc.ca/pub/89-656-x/89-656-x2015001-eng.pdf>> .

<sup>69</sup> Assembly of First Nations, “National First Nations Housing Strategy” (2010) at 1, online: <[http://www.afn.ca/uploads/files/housing/afn\\_national\\_housing\\_strategy.pdf](http://www.afn.ca/uploads/files/housing/afn_national_housing_strategy.pdf)> .

<sup>70</sup> Pamela Palmater, “Marital Real Property on First Nation Reserves” (2015) Chair in Indigenous Governance, Ryerson University, online: <<http://www.ryerson.ca/chair-indigenous-governance/research-projects/past/matrimonial-real-property/>> .

- **Health crisis:** life expectancy for Indigenous people is currently eight years less than non-Indigenous Canadians;<sup>71</sup> life expectancy is projected to be 5-15 years less than non-Indigenous Canadians in 2017;<sup>72</sup> Indigenous peoples suffer from higher rates of chronic and infectious diseases, injuries, substance abuse and mental health issues;<sup>73</sup> rates of heart disease and stroke have declined in Canada, but continue to increase for Indigenous peoples;<sup>74</sup> Indigenous women have higher rates of heart disease and stroke compared to Indigenous men and non-Indigenous women.<sup>75</sup>
- **Education crisis:** the gap in education levels between Indigenous peoples and non-Indigenous people is widening – it would take at least 28 years to close the gap;<sup>76</sup> more than 9,500 Indigenous peoples are on a waiting list to obtain post-secondary education;<sup>77</sup> the number of Indigenous people funded for post-secondary education has decreased by 18.3% since 1997;<sup>78</sup> and there have been drastic cuts to First Nation educational institutes that have crippled Indigenous language immersion programs for primary students.<sup>79</sup>
- **Suicide crisis:** First Nation suicide rates are 2-6 times higher than those of Canadians and Inuit rates are 10 times higher;<sup>80</sup> 38% of all Indigenous youth deaths are from suicide,<sup>81</sup> three 12 year old girls in the town of Wapekeka died by suicide in 2016,<sup>82</sup> Indigenous

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<sup>71</sup> Auditor General of Canada, Report 4, “Access to Health Services for Remote First Nations Communities” (2015), online: <[http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201504\\_04\\_e\\_40350.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201504_04_e_40350.html)> .

<sup>72</sup> Statistics Canada, “Life Expectancy” (2015), online: <<http://www.statcan.gc.ca/pub/89-645-x/2010001/life-expectancy-esperance-vie-eng.htm>> .

<sup>73</sup> *Ibid*; Heart and Stroke Foundation, “Aboriginal Peoples, Heart Disease and Stroke: Position Statement” (2010) at 1.

<sup>74</sup> *Ibid* at 3.

<sup>75</sup> Heart and Stroke Foundation of Canada, “Women, Heart Disease and Stroke in Canada: Issues and Options” (1997) at 1, online: <<http://data.library.utoronto.ca/datapub/codebooks/utm/canheart/CHH/womanhrt.pdf>> .

<sup>76</sup> Don Drummond & Ellen Rosenbluth, “The Debate on First Nations Education Funding: Mind the Gap” (2013) Queen’s University Working Paper 49 Policy Studies at 2.

<sup>77</sup> Auditor General for Canada, “Report of the Auditor General for Canada: Chapter 5: Indian and Northern Affairs Canada – Education Program and Post-Secondary Student Support” (2004) at 20, online: <<http://www.oag-bvg.gc.ca/internet/docs/20041105ce.pdf>> .

<sup>78</sup> John Tasker, “Fewer First Nations students receiving funds for post-secondary education” *CBC News* (12 September 2016), online: <<http://www.cbc.ca/news/politics/first-nations-cap-higher-education-1.3753021>> .

<sup>79</sup> Michael Erskine, “Ottawa Cuts its Portion of Kenjgewin Teg Funds by 75%”, *Manitoulin Expositor* (24 August 2016), online: <<http://www.manitoulin.ca/2016/08/24/ottawa-cuts-portion-kenjgewin-teg-funds-75/>> .

<sup>80</sup> Aboriginal Healing Foundation, “Suicide Among Aboriginal People in Canada” (2007) at 14, online: <<http://www.douglas.qc.ca/uploads/File/2007-AHF-suicide.pdf>> .

<sup>81</sup> National Aboriginal Health Organization, “Backgrounder: Suicide Among Aboriginal People in Canada” (2008), online: <[http://www.naho.ca/media-releases/04\\_04\\_2008BG.pdf](http://www.naho.ca/media-releases/04_04_2008BG.pdf)> .

<sup>82</sup> CBC News Thunder Bay, “Wapekeka Suicides: A Survivor of a ‘Pact’ Speaks Out”, *CBC News* (30 June 2017), online: <<http://www.cbc.ca/news/canada/thunder-bay/suicide-pact-wapekeka-1.4184438>> .

women have higher rates of suicide attempts;<sup>83</sup> some First Nations have the highest suicide rates in the world;<sup>84</sup> and suicide rates are increasing.<sup>85</sup>

- **Prison crisis:** 36% of the Canadian prison population is Indigenous women;<sup>86</sup> imprisonment of Indigenous women has increased 90% in the last decade;<sup>87</sup> incarceration rates for Indigenous youth are eight times higher than for Canadian youth overall;<sup>88</sup> 41% of admissions to detention were Indigenous youth and Indigenous girls represent 53% of youth in corrections;<sup>89</sup> and incarceration rates for all Indigenous peoples are increasing<sup>90</sup>.
- **Poverty crisis:** 60% of Indigenous children living on reserve live in poverty (76% in Manitoba First Nations) compared to 13% for non-Indigenous and non-racialized Canadians; poverty rates have worsened in the last five years;<sup>91</sup> Indigenous women are more likely to be single mothers and disproportionately live in poverty compared to Indigenous men and non-Indigenous women.<sup>92</sup>
- **Crisis of violence:** There are over 1,181 known cases of murdered and disappeared Indigenous women and girls;<sup>93</sup> research indicates the number is likely more than 4,000;<sup>94</sup>

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<sup>83</sup> Sarah Hamid-Balma, ed., "Aboriginal People" (2008) 5:1 *Visions* at 6, online:

<[http://www.heretohelp.bc.ca/sites/default/files/visions\\_aboriginal\\_people.pdf](http://www.heretohelp.bc.ca/sites/default/files/visions_aboriginal_people.pdf)>.

<sup>84</sup> Martin Patriquin, "Canada, home to the suicide capital of the world", *Maclean's* (30 March 2012), online:

<<http://www.macleans.ca/news/canada/canada-home-to-the-suicide-capital-of-the-world/>>.

<sup>85</sup> Laura Eggertson, "Aboriginal Youth Suicide Rises in Northern Ontario" (2015) 187:11 *Canadian Medical Association Journal* at 1, online: <<http://www.cmaj.ca/content/187/11/E335.full.pdf+html>>; ; Jody Porter, "3rd Girl Involved in Suicide Pact Dies in Remote Ontario First Nation" *CBC News* (14 June 2017), online:<<http://www.cbc.ca/news/canada/thunder-bay/wapekeka-3rd-suicide-1.4160928>>.

<sup>86</sup> Mandy Wesley, "Marginalized: The Aboriginal Women's Experience in Federal Corrections", *Public Safety Canada* (2012) at 33-34, online: <<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/mrgnlzd/index-en.aspx>>.

<sup>87</sup> *Ibid.*

<sup>88</sup> Justice Canada, *A One-Day Snapshot of Aboriginal Youth in Custody Across Canada: Phase II*, (Ottawa: Department of Justice Canada, 2004) at iii, online: <<http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/yj2-jj2/yj2.pdf>>.

<sup>89</sup> Statistics Canada, *Youth correctional statistics in Canada, 2013/14*, by Correctional Services Program Catalogue No 85-002-X (Ottawa: Statistics Canada, 2015), online: <<http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14164-eng.htm>>.

<sup>90</sup> Office of the Correctional Investigator, *Backgrounder: Aboriginal Offenders – A Critical Situation* (Ottawa: Office of the Correctional Investigator, 2012), online: <<http://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20121022info-eng.aspx>>.

<sup>91</sup> David Macdonald & Daniel Wilson, "Shameful Neglect: Indigenous Child Poverty in Canada" (2016) 5 *Canadian Centre for Policy Alternatives* at 5-6, online: <[https://www.policyalternatives.ca/sites/default/files/uploads/publications/NationalOffice/2016/05/Indigenous\\_Child\\_Poverty.pdf](https://www.policyalternatives.ca/sites/default/files/uploads/publications/NationalOffice/2016/05/Indigenous_Child_Poverty.pdf)>.

<sup>92</sup> Aboriginal Affairs and Northern Development Canada, *Aboriginal Women in Canada: A Statistical Profile from the 2006 Census*, (Ottawa: Minister of Aboriginal Affairs and Northern Development, 2012) at ii-iv, online: <[https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/ai\\_rs\\_pubs\\_ex\\_abwch\\_pdf\\_1333374752380\\_eng.pdf](https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/ai_rs_pubs_ex_abwch_pdf_1333374752380_eng.pdf)>.

<sup>93</sup> Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, (Ottawa: RCMP, 2014) at 3, online: <<http://www.rcmp-grc.gc.ca/wam/media/460/original/0cbd8968a049aa0b44d343e76b4a9478.pdf>> [*RCMP Report*].

<sup>94</sup> John Tasker, "Confusion Reigns Over Number of Missing, Murdered Indigenous Women", *CBC News* (16 February 2016), online: <<http://www.cbc.ca/news/politics/mmiw-4000-hajdu-1.3450237>>.

Indigenous women represent 16% of homicide victims but only 4% of the female Canadian population;<sup>95</sup> while homicide rates are decreasing for Canadian women, they are increasing for Indigenous women and girls.<sup>96</sup>

- **Cultural crisis:** 96% of Indigenous languages are at high risk of extinction (60/63);<sup>97</sup> Indigenous peoples lack access to 99% of their traditional lands and resources;<sup>98</sup> extractive industries cause environmental destruction disproportionately on or near Indigenous lands impacting socio-economic conditions;<sup>99</sup> there is an increasing risk of violence to Indigenous women<sup>100</sup> and criminalization of land and water defenders, many of whom are women.<sup>101</sup>

There has been no improvement in socio-economic conditions in many First Nations.<sup>102</sup> Canada's Auditor General has noted the following reasons for this:

- Canada does not provide adequate, equitable or sufficient funding for critical social programs and emergency management;<sup>103</sup>

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<sup>95</sup> Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, (Ottawa: RCMP, 2014) at 7, 9, online: <<http://www.rcmp-grc.gc.ca/wam/media/460/original/Ocbd8968a049aa0b44d343e76b4a9478.pdf>>.

<sup>96</sup> *Ibid* at 9.

<sup>97</sup> Site for Language Management in Canada, "Native Peoples and Languages" *University of Ottawa*, (2016), online: <[https://slmc.uottawa.ca/?q=native\\_peoples\\_languages](https://slmc.uottawa.ca/?q=native_peoples_languages)>.

<sup>98</sup> Arthur Manuel, *Unsettling Canada: A National Wake-up Call* (Toronto: Between the Lines, 2015) at 8.

<sup>99</sup> Alexander Miller, *From the Indian Act to the Far North Act: Environmental Racism in First Nations Communities in Ontario* (Kingston: Queen's University Department of Environmental Studies, 2016), online:

<[http://www.queensu.ca/ensc/sites/webpublish.queensu.ca.enscwww/files/files/501/Miller\\_ENSC501.pdf](http://www.queensu.ca/ensc/sites/webpublish.queensu.ca.enscwww/files/files/501/Miller_ENSC501.pdf)>; Beverly Jacobs, "Environmental Racism on Indigenous Lands and Territories" (Paper delivered at the Canadian Political Science Association's Annual Conference, 20 May 2010), online: <<https://www.cpsa-acsp.ca/papers-2010/Jacobs.pdf>>.

<sup>100</sup> Pamela Palmater, "Corporate Conquistadors Rape Indigenous Lands and Bodies", *Venezuela: Telesur English*, (16 August 2016), online: <<http://www.telesurtv.net/english/opinion/Corporate-Conquistadors-Rape-Indigenous-Lands-and-Bodies--20160816-0011.html>>; Andrea Woo, "Study Shows Link Between BC Extraction Industries, Domestic Abuse", *The Globe and Mail* (24 July 2014), online: <<http://www.theglobeandmail.com/news/british-columbia/mining-forestry-tied-to-domestic-violence/article19735561/>>.

<sup>101</sup> James Anaya, *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya: Extractive Industries and Indigenous Peoples*, UNOHCHR, 24th Sess, UN Doc A/HRC/24/41 (2013) at paras 20-23, online: <<http://unsr.jamesanaya.org/docs/annual/2013-hrc-annual-report-en.pdf>>; Mining Watch Canada, *In the National Interest? Criminalization of Land and Environment Defenders in the Americas* (Ottawa: Mining Watch Canada, 2015), online: <[http://miningwatch.ca/sites/default/files/inthenationalinterest\\_fullpaper\\_eng\\_1.pdf](http://miningwatch.ca/sites/default/files/inthenationalinterest_fullpaper_eng_1.pdf)>.

<sup>102</sup> Statistics Canada, *The Community Well-Being Index: Report on Trends in First Nations Communities, 1981-2011*, (Ottawa: Statistics Canada, 2015), online: <<https://www.aadnc-aandc.gc.ca/eng/1345816651029/1345816742083>>.

<sup>103</sup> Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons-: Chapter 4: First Nations Child and Family Services Program – Indian and Northern Affairs Canada* (Ottawa: Office of the Auditor General, 2008) at 2, online: <[http://www.oag-bvg.gc.ca/internet/docs/aud\\_ch\\_oag\\_200805\\_04\\_e.pdf](http://www.oag-bvg.gc.ca/internet/docs/aud_ch_oag_200805_04_e.pdf)>; Auditor General of Canada, *Report of the Auditor General for Canada: Chapter 6: Emergency Management on Reserves* (Ottawa: Office of the Auditor General, 2013) at 2, online: <[http://www.oag-bvg.gc.ca/internet/docs/parl\\_oag\\_201311\\_06\\_e.pdf](http://www.oag-bvg.gc.ca/internet/docs/parl_oag_201311_06_e.pdf)>.

- Decision-making for program funding for First Nations lacks transparency, does not adhere to relevant policies, and appears “arbitrary”;<sup>104</sup>
- Canada’s attempts to implement recommendations that would have the greatest impact on the health and well-being of First Nations have repeatedly failed;<sup>105</sup> and
- Information that would give a clear picture of crisis in First Nations is not tracked, adequately recorded, maintained, or reported to Parliament.<sup>106</sup>

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<sup>104</sup> Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons: Chapter 5: First Nations Policing Program – Public Safety Canada*, (Ottawa: Office of the Auditor General, 2014) at 12, online: <[http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201405\\_05\\_e\\_39336.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201405_05_e_39336.html)>.

<sup>105</sup> Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons: Chapter 5: First Nations Policing Program – Public Safety Canada*, (Ottawa: Office of the Auditor General, 2014) at 12, online: <[http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201405\\_05\\_e\\_39336.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201405_05_e_39336.html)>.

Auditor General of Canada, *2011 June Status Report of the Auditor General of Canada to the House of Commons – Chapter 4: Programs for First Nations on Reserves*, (Ottawa: Office of the Auditor General, 2011) at 1-2, online: <[http://www.oag-bvg.gc.ca/internet/docs/parl\\_oag\\_201106\\_04\\_e.pdf](http://www.oag-bvg.gc.ca/internet/docs/parl_oag_201106_04_e.pdf)>.

<sup>106</sup> Auditor General of Canada, *Report of the Auditor General of Canada: Chapter 5: Indian and Northern Affairs Canada – Education Program and Post-Secondary Student Support*, (Ottawa: Office of the Auditor General, 2004) at 1, online: <<http://www.oag-bvg.gc.ca/internet/docs/20041105ce.pdf>>; Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons: Chapter 6: Federal Government Support to First Nations – Housing on Reserves*, (Ottawa: Office of the Auditor General, 2003) at 2, 18, 21-2, online: <<http://www.oag-bvg.gc.ca/internet/docs/20030406ce.pdf>>.