



Women's Legal Education and Action Fund
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As UN Rapporteur Wraps Up Official Visit, Coalition calls for Immediate Government Action to Address MMIW crisis

As the UN's expert on violence against women prepares to deliver [preliminary conclusions from a 12-day official visit to Canada](#), a coalition of legal experts, Indigenous peoples' organizations and women's human rights organizations are warning that continued government failure to address the systemic bias in Canada's justice system, and the profound social and economic disadvantage of Indigenous women, girls, and two-spirit people is fuelling the crisis of murders and disappearances.

In a [Discussion Paper submitted to Dubravka Šimonović](#), the United Nations Special Rapporteur on violence against women, its causes and consequences, the Legal Strategy Coalition on Violence Against Indigenous Women (LSC)¹ has raised serious concern with Canada's persistent failure to implement up to 700 recommendations from past UN and regional intergovernmental bodies, including special investigative reports by the United Nations Committee on the Elimination of Discrimination against Women and the Inter-American Commission on Human Rights. The LSC found that sustained inaction is fueling continued and disproportionately high levels of violence against Indigenous women, girls, and two-spirit people. In many cases, this violence is linked to systemic racism and discrimination in Canada's law enforcement and justice systems, and inadequacies in social policy and program structures.

“What holds Canada back from tackling the deadly crisis of Missing and Murdered Indigenous women and girls is not a lack of a clearly defined, practical steps. It appears, clearly and with tragic

¹ The LSC paper was endorsed by Amnesty International Canada; Canadian Feminist Alliance for International Action (FAFIA); Institute for the Advancement of Aboriginal Women (IAAW); Nova Scotia Native Women; Women's Legal Education and Action Fund (LEAF); Constance MacIntosh, Associate Professor, Schulich School of Law, Dalhousie University; Julie Kaye, PhD, Sociology, Indigenous Justice Certificate and Certificate in Addictions and Criminology, University of Saskatchewan, and IAAW Research Advisor; Kim Stanton, Lawyer; Michelle Y. Williams, BSW, LLB, LLM, Director, Indigenous Blacks & Mi'kmaq Initiative, Schulich School of Law, Dalhousie University

consequences, the primary obstacle is a lack of deep commitment and political will spanning many decades and continuing to this moment,” says Shelagh Day, Chair of the Human Rights Committee for the Canadian Feminist Alliance for International Action (FAFIA). “We are hopeful the Special Rapporteur will send a very strong message for Canada to stop dragging its feet and take immediate action on existing recommendations to address this grave crisis.”

The Discussion Paper finds the current federal government has focussed predominantly on launching the National Inquiry into Murdered and Missing Indigenous Women and Girls while failing to implement the known solutions to this crisis, including concrete, long-standing recommendations from international bodies. The paper raises further concerns that the National Inquiry, whose terms of reference do not explicitly require a human rights framework or an examination of policing practices and discrimination in the justice system, is not an adequate response to these pressing concerns.

“Systemic racism and discrimination in Canadian systems of justice and policing practices, and deep social disadvantage, are the driving forces behind the ongoing crisis of Missing and Murdered Indigenous women, girls, trans, and two-spirit persons,” says Dr. Julie Kaye, Research Advisor for the Institute for the Advancement of Aboriginal Women (IAAW). “Federal, provincial, and territorial governments should not be squandering time and allowing this crisis to continue unabated by waiting on the sidelines as the National Inquiry unfolds. They should be coordinating and working urgently in parallel to the National Inquiry to implement already-defined steps to address systemic discrimination in our law enforcement systems and social structures.”

Among the core challenges to ensuring Canada complies with existing recommendations cited in the Discussion Paper is the lack of a formal mechanism to implement Treaty obligations and the recommendations of review bodies across federal, provincial and territorial jurisdictions. In addition, discrimination against women under the *Indian Act* and failure to implement intergovernmental bodies’ recommendations related to disproportionate poverty and low socioeconomic indicators are highlighted as critical factors in perpetuating the crisis.

Drawing from the more than 700 recommendations made to Canada by intergovernmental bodies, the LSC has proposed ten action points for federal, provincial and territorial governments, including:

Canada should without further delay:

1. Pass legislation removing the remaining discrimination from the *Indian Act*. The goals of such legislation should be:
 - (a) to repair past discrimination by entitling women to full 6(1)(a) status on the same footing as their male counterparts, making women and men equal in the ability to pass on status, and repairing situations where discrimination against women has disadvantaged those claiming status through the female line, and
 - (b) to remove from the *Indian Act* the 1985 amendments, like the two-parent rule for transmitting status and the "6(2) cutoff" which withholds status from the children of many women who cannot or will not provide the name of the father.

2. These amendments should be accompanied by provision of adequate resources to handle the increased demand on First Nations for services, including housing.
3. Consider criminalizing forcible sterilization in the imminent review of the *Criminal Code* of Canada.

Canada and the provinces and territories should immediately:

4. Implement legislative and administrative changes and allocate resources to address the disadvantaged socio-economic status of Indigenous women and their families.
 - (a) These changes should include provision of adequate housing on reserves, in Inuit settlements, and in cities,
 - (b) increased funds for education and child welfare on reserves,
 - (c) ensuring that supplies of untainted water are available in all reserves and settlements,
 - (d) redesign of child welfare and foster care systems and practices to ensure that they support and protect Indigenous women and girls and their families,
 - (e) access to adequate legal aid, and to rates of social assistance that, at least, meet the poverty line.
5. Review police policies and procedures with a view to repair of any provisions or patterns that are conducive to violence against Indigenous women and girls, including LGBTQ and two-spirited people;
6. Review the processes currently in place for making complaints against the police, ensuring that any complaint will be dealt with in a timely fashion, and investigated by an independent body, not the police themselves as is currently the case in almost all Canadian jurisdictions;
7. Establish a forensic review of cases which have raised concerns about systemic or individual discrimination should be established;
8. Establish a review of prosecutorial practices to ensure that charges conform to the evidence available (to avoid acquittals like those in the Tina Fontaine and Colten Bushie cases) and to educate Crown Attorneys on elements of discrimination and their duty to avoid it when conducting trials (to avoid treatment like that accorded Cindy Gladue).
9. Establish a monitoring mechanism, as recommended by the CEDAW Committee, to publicly track the steps taken to address the murders and disappearances of Indigenous women and girls, in conjunction with an action plan against which such steps can be measured. The action plan should reflect Canada's commitment to

the U.N. Declaration on the Rights of Indigenous Peoples, as well as the Convention on the Rights of the Child and CEDAW;

10. Establish a mechanism to coordinate implementation of Treaty body and IACHR recommendations and to collect and make public information about the steps being taken to implement the recommendations of such bodies.

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