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Feminist Alliance for
International Action

L'Alliance Féministe pour
l'Action Internationale

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FAFIA Responds: 2021 National Action Plan Is Not Adequate to End Violence Against Indigenous Women, Girls and 2SLGBTQQIA+ People

"[T]he legacy of colonization, the development of post-colonial policies which embodied institutionalized discrimination against and stigmatization of Aboriginal people, such as the residential school system, the adverse impact of gender inequality embedded in the Indian Act, and persistent tensions resulting from land claims and treaty rights, are all factors that cannot be separated from the current violence against Aboriginal women and their continued and increased vulnerability to such violence." (United Nations Committee on the Elimination of Discrimination against Women, 2015)

The Canadian Feminist Alliance for International Action is deeply disappointed in the National Action Plan released today by the Government of Canada. We hoped for, and expected to see, a fleshed out plan, with actions, goals, timetables, resources, and responsibilities assigned, that would respond to the urgent nature of the crisis of violence against Indigenous women, girls, and 2SLGBTQQIA+ people. This crisis was identified by the National Inquiry as a key element of Canada's slow-moving, decades-long genocide against Indigenous peoples. Instead, two years after the National Inquiry tabled its findings and recommendations, we find expressions of good intent and restatements of some of the National Inquiry's Calls for Justice, with little more. We are told that we need to wait longer, for an implementation plan.

We also expected inter-governmental coordination to address issues of shared and overlapping jurisdiction with respect to health, social welfare, housing, justice and policing, all of which must be addressed. Instead, we find a collection of distinct and separate federal, provincial, and territorial plans.

Canada has critical obligations to respect, protect and fulfill the rights of Indigenous women and girls to equality and non-discrimination, and to live free from violence. Remedy, redress, and transformational change require engagement with the truth that it is acts of governments through law, policy and practice, or their failures to act, that have caused the crisis of murders and disappearances, and that perpetuate it. The National Action Plan released today does not directly engage with this truth, or acknowledge the multiple violations of their human rights that Indigenous women have suffered, and still suffer in Canada.

FAFIA is pleased that today, at the ceremony launching the Plan, Prime Minister Trudeau acknowledged that the violence against Indigenous women and girls constitutes genocide. Reversing genocidal practices and policies requires immediate, urgent and comprehensive action.

Obligations under domestic and international human rights law

Canada is obliged, under regional and international human rights treaties it has ratified, to:

- eliminate all forms of discrimination and take all appropriate measures to ensure that women can exercise and enjoy their human rights and fundamental freedoms; and
- act with due diligence to prevent, investigate, punish, and remedy violence against women, regardless of whether the perpetrator is a state or non-state actor, and whether an act is committed in an official or private capacity.

Canada is also required by the *Universal Declaration on the Rights of Indigenous Peoples*:

- not to engage in any form of forced assimilation or forced population transfer that undermines the rights of Indigenous peoples;

- to support the right of Indigenous women to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves; and
- to take measures to ensure that Indigenous women and girls enjoy full protection and guarantees against all forms of violence and discrimination.

There is reference to regional and international human rights treaties in the Plan, but the central legal obligations have **not** been fulfilled by Canada, and the obligation to fulfill them is a primary duty of all governments - an obligation which a National Action Plan must be designed to discharge.

Indian Act Sex Discrimination

Indian Act sex discrimination¹ has been identified as an element of the Canadian genocide against Indigenous peoples, because it is a form of forced assimilation. It has had the effect of defining thousands of First Nations women and their descendants out of the pool of legally recognized 'Indians,' disentiing them to recognition, belonging in their communities, political voice, and the benefits of treaties and inherent rights, in violation of Article 8 of the *Universal Declaration on the Rights of Indigenous Peoples*.

The sex discrimination has had profoundly harmful effects on First Nations women, their descendants and their communities. It has been identified as a root cause of the violence against Indigenous women and girls by the UN Committee on the Elimination of Discrimination against Women, the Inter-American Commission on Human Rights, and the National Inquiry on Missing and Murdered Indigenous Women and Girls.

A 2019 amendment to the *Indian Act* (Bill S-3) removed the core of the pre-1985 sex discrimination. Independent demographers estimate the number of still living First Nations women and their descendants who are newly entitled to status by

¹ Since its inception, the *Indian Act* has privileged 'Indian' men and their descendants over 'Indian' women and their descendants. For more than 140 years being entitled to Indian status required being related to a male Indian by blood or marriage. There was a one-parent rule for transmission of status, and the one parent was male. In addition, Indian women who married non-Indian men lost their status, while Indian men who married non-Indian women endowed their Indian status on their wives.

this change at 270,000 to 450,000², highlighting the effectiveness of *Indian Act* sex discrimination as a tool of assimilation. However, until the women and their descendants are actually registered, the discrimination continues, and the women continue to be excluded.

Restoring First Nations women and their descendants to their rightful place as equals of their male counterparts, and as equal participants in their communities, must be an urgent priority of the National Action Plan. Reference to full implementation of Bill S-3 is made in the Federal Pathway, but not in the National Action Plan. There is no detailed strategy, and no goals, timelines, or new resource allocation attached to the registration of the women and their descendants. Bringing the women and their children back from legally enforced exile is crucial. Currently, the Government of Canada promotes a “nation-to-nation” framework, but it is engaging with First Nations that have been stripped of thousands of women members, along with their descendants, by colonial and patriarchal law.

Social and Economic Rights of Indigenous Women and Girls

All investigations and reports on the crisis of murders and disappearances have found that the severe social and economic disadvantages and marginalization of Indigenous women and girls are a root cause of their vulnerability to violence. They have called for strategic measures to address the social and economic disadvantage of Indigenous women, girls and 2SLBGTQQIA+ people. FAFIA is pleased to see that the Calls for Justice for a basic income and for urgent action on housing are among the short term and immediate goals listed in the Plan. However, we are concerned that there is no detail provided, and no indication of how, when or by whom action will be taken on these foundational issues.

Policing

Police in every part of Canada have failed Indigenous women and girls, and their families. Canada’s national police force, the Royal Canadian Mounted Police (RCMP), which provides policing in every province and territory except Ontario

² Office of the Parliamentary Budget Officer, *Addressing sex-based inequities in Indian Registration*, 5 December 2017, online at: https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2017/Bill%20S-3/Bill%20S-3_EN.pdf

and Quebec, and is the primary police force for rural and Northern Canada, initially disputed that there was a problem of murders and disappearances, and contested the ground-breaking research done by Sisters in Spirit. Since that time, a number of reports have documented misogyny, racism and homophobia in the RCMP, abuse and brutality by RCMP Officers to First Nations women and Inuit women, including verbal abuse, unnecessary strip-searching, and sexual assaults, as well as failures to act diligently on reports of disappearances, and of domestic violence. Despite this, there is no component of the Plan that specifically addresses the racism and sexism that is deeply lodged in Canada's national police force, and in policing in all parts of the country. This is a glaring, and shocking, omission.

Indigenous Women with Disabilities

The Plan acknowledges the intersectional realities of Indigenous women and girls with disabilities who experience a higher rate of violence, and even deeper social and economic disadvantage. However, the Plan provides no detail as to how these realities will be addressed. FAFIA notes that when registration of Indigenous women and their descendants is not treated as a high priority, women and their descendants who have disabilities are denied timely access to health benefits and COVID assistance, which they specially need.

Looking Backward, Looking Forward

It is essential that the National Action Plan be forward-looking. It is critical that the Plan provide supports to survivors of violence and to families of murdered and disappeared women and girls and to 2SLGBTQQIA+people, as well as measures to ensure that all deaths and disappearances are thoroughly investigated. However, this is only a beginning.

Truly honouring the dead also requires changing the future. Indigenous women and girls need governments to take all necessary measures, now, to prevent more murders and disappearances, to make them safe, and able to live their lives without fear.

FAFIA expects urgent and immediate preventive action. The questions that must be asked of the Plan are: will this keep Indigenous women and girls and 2SLGBTQQIA+people safe? When?

Note on the Work

Celebrating the Struggle for Human Rights for Indigenous Women and Girls in Canada

Indigenous women, Indigenous women's organizations, Indigenous organizations and communities, families, survivors, experts and allies have worked for many years to shine a light on the crisis of murders and disappearances of Indigenous women and girls and to demand accountability by governments and institutions. There would not have been a National Inquiry were it not for their determined advocacy. The work of all the individuals and organizations who have engaged - work that is far from finished - must be honoured and celebrated. They are human rights defenders.

FAFIA's Engagement and Partnership

FAFIA is proud to be engaged in this human rights work, and to have partnered, over many years, with Indigenous women leaders, Indigenous women's organizations, experts, and human rights organizations. FAFIA's work includes:

- submissions to the United Nations treaty bodies, starting in 2007
- submissions to the Inter-American Commission on Human Rights, starting in 2012
- submissions to the UN Special Rapporteur on the Rights of Indigenous Peoples, starting in 2013
- request to the CEDAW Committee to initiate an inquiry under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in December 2011
- assistance to the CEDAW Inquiry visit to Canada, 2013
- request to the Inter-American Commission to undertake an investigation of murders and disappearances in British Columbia in 2012
- assistance to the Inter-American Commission on Human Rights visit to Canada, 2013
- convening of two Symposia on missing and murdered Indigenous women and girls and the National Inquiry, 2015, and 2018
- participation in the National Inquiry as a party with standing, with partners – Canada Without Poverty and Dr. Pamela Palmater - starting in 2016.

FAFIA thanks all our partners.

