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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Visit to Canada

Report of the Special Rapporteur on violence against women, its causes and consequences * **

Summary

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, on her visit to Canada from 13 to 23 April 2018.

In the report, she examines gaps and challenges in fulfilling the obligations of the State to eliminate violence against women, its causes and consequences, and recommends measures for preventing and combating violence against women in the country.

* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.

** The present report was submitted late to reflect the most recent developments.

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I. Introduction

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences, Ms Dubravka Šimonović, visited Canada from 13 to 23 April 2018.
2. During her visit, she met with key stakeholders on the situation of violence against women at the federal, provincial and territorial level, gathering first-hand information through visiting three out of the ten province level governments (Ontario, Quebec and Manitoba), as well as one territory government – Nunavut.
3. At the federal level, she held several meetings and roundtable with officials from the Ministries for Women and Gender Equality Canada (formerly Status of Women Canada), Justice, Crown-Indigenous Relations and Northern Affairs, Employment, Families, Children and Social Development, Immigration, Refugees and Citizenship, Public Safety and Emergency Preparedness, Correctional Services, Canada Border Services Agency, National Defence and Global Affairs.
4. At the provincial and territorial levels, in Toronto, she met with Ministers and authorities representing the government of Ontario, in Montreal, with authorities from the government of Quebec, in Winnipeg, with Ministers and authorities of the government of Manitoba, and in Iqaluit with a Minister and government officials from Nunavut.
5. She visited two women’s correctional facilities: the Nunavut Women’s Correctional Centre in Iqaluit and the Women’s Correctional Centre of Manitoba in Headingly. She also visited shelters for women fleeing of violence in each of the locations visited.
6. She also met with a range of representatives of statutory human rights agencies such as the Canadian Human Rights Commission, the Ontario Human Rights Commission and the Commission on the rights of the people and youth of Québec. Other institutions and advisory bodies with whom the Rapporteur met are: the Office of the Correctional Investigator, the Qullit Nunavut Status of Women Council, the Protector of the Citizen of Québec and the Council on the status of women of Québec.
7. In addition, she held a video conference with the Chief Commissioner of the National Inquiry into Missing and Murdered Indigenous Women and Girls and met with representatives of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec, also known as the Viens Inquiry.
8. She convened meetings with a broad range of civil society representatives, academics, service providers and women’s legal centres, such as the National Association of Women and the Law,¹ the Barbra Schlifer Commemorative Clinic² and the Canadian Feminist Alliance for International Action.³ She also held several meetings with academics in Ottawa and Toronto.
9. The Special Rapporteur expresses her gratitude to the federal Government and the governments of the provinces and territories for welcoming the first visit by the mandate and for their excellent cooperation and to civil society organizations, academics and other stakeholders for their valuable inputs. She expresses her heartfelt thanks to victims of violence who agreed to relate their personal experiences, crucial to gaining a deeper understanding of the situation of violence against women in the country.

II. General context

10. Canada has a long-standing record of support at the United Nations to issues related to violence against women, including the establishment of the mandate of the Special Rapporteur on violence against women, its causes and consequences as the main sponsor of the mandates founding resolution of 1994. The first mandate’s official visit to Canada to

¹ <http://nawl.ca/en/>.

² <https://schliferclinic.com>.

³ <http://fafia-afai.org/en/>.

gather first-hand information on the situation of violence against women coincides with the commendable decision by the Government to proclaim itself as a feminist government and to adopt feminist foreign and international assistance policies. Despite such commitments the mandate holder notes that women lives' in the country are still marked by systemic gender-based violence, especially concerning Indigenous and other women who encounter multiple forms of discrimination.

11. Within the visit to different federal, provincial and territorial jurisdictions, the Rapporteur could identify a variety of good practices that could be replicated in other provinces and territories, as well as at the global level. She also observed significant gaps and challenges related to prevention and protection of women from gender-based violence, in particular with regard to Indigenous women and girls.

12. Intimate partner violence is the most common form of violence against women in Canada with 8 in 10 victims who are women and girls.⁴ Rates of female victims of violent crime were 8 times higher in the territories and nearly 3 times higher in the Provincial North than in the South.⁵ Indigenous women are 3 times more likely to be victims of violence than non-Indigenous women. Approximately every 2.5 days, a woman in Canada is killed by her intimate partner.⁶ In 2017, 84% of police-reported homicide victims killed by an intimate partner were women.⁷

13. An issue of major concern in the country is the inadequate protection of Indigenous women and girls' economic social and cultural rights as an element exacerbating the high rate of violence against women. Indigenous women from First Nations, Metis and Inuit communities face violence, marginalization, exclusion and poverty because of institutional, systemic, multiple intersecting forms of discrimination not addressed adequately by the State. According to 2016 data, Indigenous peoples represent 5% of Canadian population, with Indigenous women 2.5 per cent of the total population.⁸ Yet, Indigenous women and girls are nearly 3 times more likely to be victimized by violent crime⁹ and 6 times more likely to be the victim of homicide than non-Indigenous women.¹⁰ Indigenous women and girls encounter multiple forms of discrimination, including inadequate social assistance and housing and lack of affordable public childcare. Indigenous women continue to experience high rates of children being removed from their care, a practice which began in the era of residential schools.¹¹

III. Incorporation of the international framework on women's rights and violence against women

14. In 1981, Canada was one of the first countries to ratify the CEDAW Convention. In 2002 it ratified the CEDAW Optional Protocol and recently announced that it would begin the process to join the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belem do Para' Convention), but at the current stage of finalization of this report this Convention has yet to be ratified.¹²

15. Despite an early ratification of the CEDAW Convention, its provisions are not fully incorporated into the national legal system. They are not directly applicable and do not have full legal effect at the federal, provincial or territorial level. Canada's federal structure and

⁴ In Canada, crime is measured using a combination of both police (police-reported data) and victim-reported information (self-reported data). Statistics Canada 2018. Family violence in Canada: A statistical profile, 2017.

⁵ Statistics Canada 2015. Police-reported crime in Canada's Provincial North and Territories, 2013. <https://www150.statcan.gc.ca/n1/pub/85-002-x/2015001/article/14165-eng.htm>.

⁶ <https://femicideinCanada.ca/callitfemicide.pdf>.

⁷ Statistics Canada 2018. Homicide in Canada 2017 Family violence in Canada: A statistical profile, 2016.

⁸ Statistics Canada 2016. Aboriginal Population Profile, 2016 Census.

⁹ Statistics Canada 2017. Women and the Criminal Justice System.

¹⁰ Source: Statistics Canada 2018. Homicide in Canada, 2017.

¹¹ <http://www.standCanada.org/truth-reconciliation-commission-report-summary/>.

¹² In addition, Canada has not ratified the ICPED, the CMW, the OP-CAT, the OP-ICESCR and the OP3-CRC.

division of competencies concerning the protection of women's rights among the federal, provincial and territorial governments', combined with the absence of a strict obligations to apply the CEDAW provisions at all levels, results in different level of CEDAW Convention's incorporation in laws on violence against women and girls, which presents particular challenges in assessing implementation gaps.

IV. State responses and measures to address violence against women

A. Constitutional and legislative and policy framework

16. Canada is a federal system with a division of responsibilities between the federal, provincial and territorial (FPT) governments, including in the area of violence against women. While the federal government has jurisdiction over criminal law, the administration of justice is a provincial and territorial responsibility. However, federalism should not constitute a barrier to human rights implementation. In this regard, the Rapporteur recalls that, in compliance to CEDAW general recommendation No. 28 (2010), States parties have core obligations under article 2 of the Convention to fulfil its obligations to all women within its jurisdiction. Through its 2016 concluding observations, the CEDAW Committee also reiterated that "the federal Government is responsible for ensuring the implementation of the Convention and providing leadership to the provincial and territorial governments".

17. Within the Canadian Constitution Act, (1982), Sections 15 and 28 of the Canadian Charter of Rights and Freedoms are repository of equality and non-discrimination provisions. The right to life, liberty and security of the person is guaranteed under section 7 of the Charter, as well as and the right not to be subjected to any cruel and unusual treatment or punishment are established under section 712 of the Act Charter. Section 25 and 35 of the Constitution Act, 1982 recognizes and affirms the existing Indigenous and aboriginal and treaty or other rights or freedoms aboriginal and treaty rights of the aboriginal peoples of Canada, while the Section 35 further clarifies that the aboriginal and treaty rights are guaranteed equally to male and female persons."

18. Despite these constitutional guarantees and the accepted international treaties like the CEDAW and ICCPR, the Indian Act (R.S.C., 1985, c. I-5) still discriminates against First Nations women and their descendants with respect to entitlement to, and transmission of Indian status which represents a continuous violation of international and national gender equality provisions.

19. The Canadian Charter of Rights and Freedoms of 1982 is part of Canada's Constitution. The Charter protects everyone's right to be treated equally under the law. The Charter guarantees broad equality rights and other fundamental rights, such as the freedom of expression, freedom of assembly and freedom of religion.

20. The Canadian Human Rights Act (1977) provides protection against harassment or discrimination when based on one or more grounds such as race, age and sexual orientation.¹³ In 1996, it was amended to specifically include sexual orientation as one of the prohibited grounds of discrimination. In 2000, the Parliament passed Bill C-23, which gives same-sex couple the same social and tax benefits as heterosexuals in common-law relationships. Bill C-38, the Civil Marriage Act, in 2005, provided for same-sex couples to be married anywhere in Canada. Most provinces and territories have included sexual orientation as a prohibited ground of discrimination.¹⁴ In 2017, the Government amended the Canadian Human Rights Act and Criminal Code, making gender identity and expression a prohibited ground for discrimination.

21. Today, at the federal level, the Canadian criminal legislation is providing uniform norms on sexual assault that encompass rape and sexual violence. The Rapporteur notes the

¹³ <https://laws-lois.justice.gc.ca/eng/acts/h-6/page-1.html>.

¹⁴ <https://www.canada.ca/en/canadian-heritage/services/rights-lgbti-persons.html>.

recent adoption (2018) of Bill C-51, intended to clarify and strengthen Canada's sexual assault laws, including important clarification on lack of consent.

22. In 2018, the government also introduced Bill C-75, which, among other provisions: modernize interim release provisions and require that particular attention be given to the circumstances of accused Indigenous and vulnerable populations, providing more onerous requirements for offences involving violence against an intimate partner; and increase the maximum term of imprisonment for repeat offences involving intimate partner violence, also considering it as an "aggravating factor".

23. The Criminal Code also contains a number of provisions dedicated to protect victims of violence, including of domestic violence by transmitting to criminal courts a wide range of powers to release or detain an accused person, including release conditions such as "no contact" until the trial or appeal (Section 515). Special consideration is given to the harm that comes from family violence. Because of the nature of the harm, sentencing provisions of the Criminal Code (Section 718.2) make it an "aggravating factor" when the offence involves abuse of a spouse or common law partner, abuse of a person under the age of 18 or abuse of a position of trust or authority.

24. The Rapporteur welcomes the Protecting Canadians from Online Crime Act, of 2015, which created a new offence under s.162.1 of the Criminal Code prohibiting the non-consensual distribution of intimate images. The province of Manitoba, Alberta, Newfoundland and Labrador introduced, respectively, The Intimate Image Protection Act, S.M. 2015, c. 42; the Protecting Victims of Non-Consensual Distribution of Images Act, S.A. 2017, c. P-26.9 which came into force in 2017, and the Intimate Images Protection Act, 2018.

25. Although criminalization of violence against women in family, sexual assault and immigration law is an important legal action towards tackling this epidemic, reports by service providers for women victims of violence highlight a certain victimization of women requesting state protection against violence, which is reflected in an increase in the laying of charges against themselves when denouncing alleged perpetrators whom they know. Service providers have also observed in cases where the requirements of child custody arrangements based on the so-called best interests of the child test, force women to have continued contact with abusers, ignoring violence committed by the former spouses¹⁵.

26. To date, six provinces (Alberta, Manitoba, Nova Scotia, Prince Edward Island, Newfoundland and Labrador and Saskatchewan) and three territories (Northwest Territories, Yukon and Nunavut) have adopted specific legislation on family violence. These civil statutes are designed to complement the Criminal Code, and offer further protection to victims of family violence, including by providing emergency intervention and protection orders. Other jurisdictions provide for family violence protection orders under their family law legislation, such as the Family Law Act SBC 2011, c 25, in British Columbia. Some provinces and territories also provide "non-criminal emergency protection orders" or, if not available, Canada's Criminal Code authorizes "peace bonds" that are available in all Canadian jurisdictions.¹⁶ In addition, all parts of Canada have police and Crown prosecutor and spousal abuse policies to ensure that spousal violence is treated as seriously as stranger violence, including regarding the enforceability of protection orders.¹⁷

27. One of the main issue of concern is also the lack of a national definition of family and domestic violence and the lack of national legal framework on violence against women and domestic violence based on women's international human rights standards, as enshrined in the CEDAW and elaborated in detail in its General Recommendations No. 19 and No. 35 on gender-based violence against women.

28. The provincial and territorial governments have primary jurisdiction in the administration and delivery of health care services. The Canada Health Act, Canada's federal health care insurance legislation, requires them to provide coverage for medically necessary hospital, physician, and surgical-dental services to their eligible residents. Concerning the

¹⁵ Dale, YWCA, 2007; Cross, YWCA 2009; Woman Abuse Council, Pollack, Battaglia, Anke Allspach, 2005.

¹⁶ also Criminal Code

¹⁷ <https://www.justice.gc.ca/eng/cj-jp/fv-vf/laws-lois.html>.

protection of sexual and reproductive health and rights, the Rapporteur notes that, in compliance with the 1988 Supreme Court of Canada decision *R. v. Morgentaler*, there is no criminalization of abortion in Canada. Yet, access to it is uneven across the country.

29. Canada has 14 different jurisdictions for employment legislation, each with its own approach, and some with very little or no language on harassment and violence. Depending on the jurisdiction, regulation on workplace violence may not include all forms of violence, such as psychological harassment and bullying or domestic violence when it impacts the workplace. Much health and safety legislation is framed around the reporting of incidents of violence, which makes it challenging to capture more diffuse forms of harassment like hostile workplaces, or the intersections of different forms of harassment for women with multiple and intersecting identities. Of particular concern is that such legislation does not always apply to all workers, including precarious and part-time workers, workers in the informal sector, migrant workers (including migrant domestic worker) – categories where women are over-represented.

30. In this regard, the Rapporteur notes the introduction, in 2017, of Bill 65, which amends the *Canada Labour Code* to create a framework enhancing prevention, protection and response to harassment and violence in federally regulated workplaces, and also extends the provisions to include parliamentary workers. In addition, recent changes were made to the *Canada Labour Code* by introducing a new 10-day leave for victims of family violence (of which five days are paid).

31. In June 2017, the federal government through the Minister for Women and Gender Equality (formerly Status of Women) launched “It’s Time: Canada’s Strategy to Prevent and Address Gender-Based Violence”. The Rapporteur also welcomes the Minister for Women and Gender Equality’s of Status of Women Report on the 2016 Engagement Process for the Strategy which include data collection among the key priority actions.

32. However, the Strategy based on three pillars (prevention; support for survivors and their families; and promotion of responsive legal and justice systems), appears to be mainly project oriented, focusing on specific areas and lacking a human rights based holistic legal framework and comparable data collection for all forms of gender-based violence against women in all jurisdictions.

33. The rapporteur also highlights that there is a need for a more comprehensive and holistic National Action Plan on violence against women.

B. National machinery and independent institutions

34. Since the Royal Commission on the Status of Women tabled its landmark report in 1970, Canada has developed a multi-level national machinery for the advancement of women at the federal level, with a federal Minister on the Status of Women since 1971. In 2015, the first full Minister for Status of Women was appointed. The Minister acts within Cabinet to ensure women’s contributions and concerns are part of government decision-making. In 2018, the Office of the Coordinator for the Status of Women was formally replaced by the Department for Women and Gender Equality. Departmental legislation introduces an expanded mandate to advance equality, including social, economic, and political equality, with respect to sex, sexual orientation, and gender identity or expression. The Department is also responsible for promoting a greater understanding of the intersection of sex and gender with other identity factors that include race, national and ethnic origin, Indigenous origin or identity, age, sexual orientation, socio-economic condition, place of residence and disability. Provincial and territorial governments also have Ministers responsible for the status of women and commensurate offices within the public service, and some have independent advisory councils. In addition, there is a FPT Forum of Ministers Responsible for the Status of Women that meets annually.

35. The Special Rapporteur welcomes the upgrading of the Federal Agency on the Status of Women into a full-size department. She considers this an important step for better coordination of laws and policies with accepted international standards across the country.

36. The Canadian Human Rights Commission (CHRC), as an independent and human rights institution established in 1977 with the authority to raise awareness on any matter related to human rights and administer the law protecting people from discrimination based on different grounds. It is empowered under the Canadian Human Rights Act to investigate and settle complaints of discrimination in employment and in the provision of services within federal jurisdiction.¹⁸

37. Additionally to the legislative reforms needed to harmonize and coordinate the implementation of international human rights standards at all levels, the Rapporteur was also informed that there are already national mechanisms that could be used in that respect. For example, for the first time in nearly thirty years FPT ministers responsible for human rights met to discuss key priorities in relation to Canada's international human rights obligations. These meetings could be used for the systematic monitoring and implementation of the CEDAW standards on the elimination of violence against women.

V. Manifestations of violence against women, its causes and consequences

38. Data relating to gender-based violence against women in the country is collected but fragmentary and generally incomparable across the different provinces and territories, owing to differences in what is captured, counted and reported. In the absence of an exhaustive national observatory on violence against women, data is collected without a comprehensive information gathering and analysis at the national level.

A. Femicide and gender-based violence against women

39. The Special Rapporteur received some official general data on violence against women by Statistic Canada's Homicide Survey. However, this data lacks of adequate gender lens.¹⁹ While the killing of all women and girls is included as a core focus of data collection for Statistic Canada's Homicide Survey, data are limited (e.g. minimal information on context of crime, history of relationship, prior history of violence, etc.), with little focus on justice and accountability following the femicide beyond initial charge laid by police. Furthermore, it does not address post-femicide information prevention possibilities including the monitoring of criminal justice and social responses and stereotypes. Both pre- and post-prevention initiatives are crucial and reciprocal.

40. Comparable data at the national level on specific forms of violence and gender related killings of women's or femicide are necessary for evidence-based policy making. The Rapporteur welcomes that there are initial steps and good practices in some provinces for the establishment of observatories on femicides, in line with her initiative for the establishment of "Femicide watch" worldwide.²⁰ She welcomes as a good practice the establishment, in 2017, by the Centre for the Study of Social and Legal Responses to Violence at the University of Guelph, of the Canadian Femicide Observatory for Justice and Accountability (CFOJA) in Ontario that tracks femicides and documents social and state responses somewhat in line with the SRVAW recommendations.²¹

41. Domestic violence death review committees are also important mechanisms but they do not apply the human rights framework in their work necessary for prevention of femicides.

42. Comprehensive data collection and analysis of cases on femicide and gender-based violence in line with modalities recommended by the Rapporteur will allow for international and cross-jurisdictional comparisons and determination of shortcomings as a basis for prevention violence against women.

¹⁸ <https://www.canada.ca/en/human-rights-commission.html>.

¹⁹ <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2017001/article/54879-eng.pdf?st=b4CCeKMU>.

²⁰ A/71/398.

²¹ <https://femicideincanada.ca/sites/default/files/2018-09/CFOJA%20FINAL%20REPORT%20ENG%20V3.pdf>.

1. Provision of shelters and adequate housing

43. There is a significant number of women's shelters in Canada. According to 2017/2018 data there are 552 residential facilities for victims of abuse across the country.²² Most have a long history, like the Ontario Association of Interval and Transition Houses created in 1977, the Regroupement des maisons pour femmes victimes de violence conjugale in Quebec and the Alberta Council of Women's Shelters, to name a few. In 2012, these associations created the Canadian Network of Women's Shelters and Transition Houses, a provincial/territorial organization also known as Women's Shelters Canada.²³

44. The operations of shelters are mostly linked to provincial policies and governments. Although the current number of shelters may seem impressive, Canada is a vast country and a significant percentage of shelters often lacks capacity and services, resulting in hundreds of women being turned away on a daily basis with no other place to go, also due to the housing crisis affecting the country. Due to the lack of adequate services able to welcome women victims of violence with their children, women, especially Indigenous, are also concerned to lose children's custody when seeking for protection. Of the 215 shelters that responded to the 2018 Shelter Voices survey,²⁴ 47% declared to have no available space which resulted in 75% of the requests for residential services not being accommodated. The services providers unanimously denounced the dire shortage of shelters and a general lack of funding and affordable public housing, including transitional housing and second stage accommodation and rehabilitation services, including employment opportunities. The extent of services available in urban areas is much greater than in rural areas, despite the fact that there the rates of violence against women are among the highest in the country, and too often the services provided are limited to safe space without specific programs aiming at the empowerment of women. Public funds are often distributed on a per capita basis, which greatly disadvantages rural and isolated communities. There are only three women's shelters in the Yukon, and five residential facilities for victims of abuse respectively in the Northwest Territories and five in Nunavut, further exacerbating the geographical isolation of women from Indigenous communities. Many of these shelters are small and only accessible by air or ice roads and the lack and cost of transportation increased cost of services.

45. Of the 552 shelters for victims of abuse operating across Canada in 2017/2018, just six percent served women and children in Indigenous communities. The high rates of violence and small size of communities make community-based shelters extremely important for women. However, there is a lack of adequate shelters provided to Indigenous communities respecting cultural and language diversities and led by Indigenous women.

2. Legal Aid

46. Another matter of concern is the inadequacy of free legal aid services including for women survivors of violence, and federal-provincial cost-shared pilot projects providing independent legal advice for survivors are available only in some provinces. The Government provides a direct transfer to the provinces and territories for criminal and civil legal aid which are included in the basket of programs to be paid from the Canada Social Transfer (CST). Since requirements for provinces and territories to spend CST money on civil legal aid were removed in 1995, expenditures have fallen drastically.

47. There is a marked gender difference in legal aid usage: men are the primary users of criminal legal aid, while women are the primary users of civil legal aid, especially for family law matters. The Canadian Bar Association asserts that the lack of access to civil legal aid disproportionately affects women and Indigenous people, as well as other disadvantaged groups.

48. Additionally, in 2008 and 2016, the CEDAW Committee recommended that there be standardized minimum criteria for eligibility for legal aid. Notwithstanding, there continues

²² <https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00007-eng.htm>.

See Shelter Capacity Report 2016.

²³ Runaway Wives and Rogue Feminists; sheltersafe.ca.

²⁴ https://endvaw.ca/wp-content/uploads/2018/06/shelterVoices_ENG_2018_WEB.pdf.

to be uneven access to legal aid services across provinces and territories and narrow eligibility requirements, which severely curtail women's access to justice.²⁵

B. Domestic violence

49. Intimate partner violence is one of the most common forms of violence against women in Canada. According to 2017 data, women are victims of intimate partner homicide at a rate five times greater than men. A woman is killed by her partner or former partner every 2.5 days. Of all police-reported violent crime in 2016, more than 26% resulted from family violence. Almost 67% of family violence victims were women and girls. 79% of police reported intimate partner violence was committed against women during same year.²⁶

C. Sexual assault of women and girls

50. Despite an increased societal awareness about sexual assault, it continues to be a persistent issue. Unlike the rate of other violent crimes, which have been decreasing, the rate of sexual assault remains unchanged since 2004. According to the 2014 General Social Survey, there were approximately 636,000 self-reported incidents of sexual assault over a twelve-month period.²⁷ Because of the pervasiveness of sexual violence in women's lives, women are now more likely than men to be victims of violent crime. Some groups of women, including Indigenous women, young women, LGBTQ²⁸ women and women with mental health conditions are especially vulnerable to sexual violence. As highlighted by the 2014 General Social Survey, more than one in five Indigenous women between the ages of 15 and 24 reported having been sexually assaulted that year and the sexual assault justice gap, which seems to be rooted in gendered colonization, is glaringly wide for Indigenous women.²⁹

51. A further element of concern is the urgent need of capacity building to address violence against women and sexual violence by law enforcement officials. The Royal Canadian Mounted Police Force (RCMP), has faced continuous public scrutiny stemming from numerous reports highlighting a culture of bullying, harassment, and dysfunction. In 2016, the RCMP delivered a historic apology to female officers and civilian members with a massive settlement over harassment, discrimination and sexual abuse claims that was capped at \$100 million. In 2015, former Supreme Court Justice Marie Deschamps produced a major report, the External Review on Sexual Misconduct and Harassment in the Canadian Armed Forces (CAF), which denounced an underlying sexualized culture hostile to women and LGTBQ² members, and conducive to serious incidents of sexual harassment and assault, as well as a clear indication of lack of reporting. Following the Deschamps report, the CAF established Operation HONOUR in order to address harmful, inappropriate sexual behaviour and sexual misconduct in the Canadian military. Both the RCMP and CAF recently adopt initiatives to prevent and address gender-based violence against women and girls.

Sexual Violence and harassment against women and girls at universities

52. The Rapporteur received reports on the widespread cases of sexual violence against women and girls in schools and on campuses. Young women between 15 and 25 years old attending an education facility are at high risk of experiencing sexual violence. Of all self-reported sexual assault in 2014, 41% were reported by students, 90% of whom committed against female student. Risk of sexual violence is particularly high for female students who are Indigenous, with disabilities, and LGBTQ².³⁰

²⁵ Currie, *The State of Civil Legal Aid in Canada*; Brewin, *Legal Aid Denied: Women and the Cuts to Legal Services in BC*, 2004.

²⁶ Statistics Canada 2018. *Family violence in Canada: A statistical profile*, 2016.

²⁷ <https://www150.statcan.gc.ca/n1/pub/85-002-x/2017001/article/14842-eng.htm>; <https://www150.statcan.gc.ca/n1/pub/85-002-x/2017001/article/54866-eng.htm>.

²⁸ "2" refers to Indigenous 2-Spirit individuals, and inclusive to queer identities.

²⁹ See *Independent Report on Incarceration of Angela Cardinal*, 2018.

³⁰ Statistics Canada. 2017. *Self-reported sexual assault in Canada*, 2014.

53. Across Canada there are some inconsistencies in legislation addressing sexual violence in schools and on campuses. In relation to post-secondary institutions, only four provinces (out of our 10 provinces and 3 territories), namely Québec, Ontario, British Columbia and Manitoba, have introduced legislation that require universities to have stand-alone sexual violence policies. Student groups and experts question the efficacy of the current legislation in informing the implementation of comprehensive sexual violence policies. The Rapporteur welcomes the specific budget allocation in 2018 through Canada's Strategy to Prevent and Address Gender Based Violence to establish a National Framework to Address Gender-based Violence in Post-Secondary Institutions.

D. Trafficking of women and girls

54. Trafficking is a matter of serious concern in the country. Canada's response to human trafficking is framed primarily through the criminal law (Criminal Code, Section 279.01; to section 279.04). The country also adopted a specific national action plan to combat human trafficking³¹ and launched the National Human Trafficking Hotline. Even though human trafficking constitutes a criminal offence in Canada, the Rapporteur highlights that there is a lack of comprehensive and systemic data collection on trafficking and trafficking victims, including on trafficked indigenous women, and exploitation of prostitution and other related purposes.

55. According to a survey conducted by the Canadian Women's Foundation, Indigenous women and girls are overrepresented as victims of human trafficking in Canada (50% of trafficked girls and 51% of trafficked women).³² LGBTQ2 people also are vulnerable to being trafficked, facing many vulnerabilities including precarious housing and employment, lack of supports, and isolation from their families and communities.³³ Stigma, and lack of equal access to culturally-appropriate programs and services create shame which hinders them from accessing the legal system, healing resources and permanent, affordable housing.

56. The immigration and labor migration system implemented under Canada's Temporary Foreign Worker Program (TFW) allows Canadian employers to hire documented foreign nationals. However, in case of foreign nationals who are undocumented, they face conditions of labor and economic scarcity and coercion, and lack access to social services, such as healthcare, that can lead to the criminalization and marginalization of migrant women and expose them to trafficking and sex work, with related risks of detention and deportation. This has the perverse impact of disincentivizing female migrants from reporting rapes, assaults, or other violations.

E. Online Violence and harassment against women and girls

57. Online violence against women is an emerging issue in the country. In light of her thematic work on online violence against women and girls³⁴, the Rapporteur welcomes the country's legislative response on this matter, as well as the creation of a new offence under the Criminal Code with regard to non-consensual distribution of intimate images and the adoption of similar provisions in Alberta, Manitoba, and Newfoundland and Labrador. She also welcomes the budget allocation to invest in preventing teen dating violence and cyber bullying initiatives and the creation of the Digital Inclusion Lab within Global Affairs Canada which is currently focusing on technology facilitated violence against women and girls, digital threats to liberal democracy and artificial intelligence and human rights, as well as work carried out by the Citizen Lab of the University of Toronto, which is an interdisciplinary laboratory focusing on research, development, and high-level strategic policy and legal engagement at the intersection of information and communication technologies, human

³¹ <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-ctn-pln-cmbt/index-en.aspx>.

³² https://www.canadianwomen.org/wp-content/uploads/2017/09/CWF-TraffickingReport-Auto-1_0.pdf.

³³ Ayden "Barriers to well-being for Aboriginal gender-diverse people; Ristock, Aboriginal Two-Spirit and LGBTQ Migration, Mobility, and Health Research, 2010 Project: Winnipeg Final Report,"; Taylor, 2009.

³⁴ A/HRC/38/47.

rights, and global security while integrating a gender and diversity-based analysis.³⁵ Such good practices should be systemically implemented across all jurisdictions.

F. Violence against women and girls related to reproductive and sexual rights and health

58. While there are no criminal laws restricting access to abortion in Canada, the Rapporteur notes that the lack of access to safe abortion services continues to be a barrier for women, particularly those in rural or remote regions.³⁶ In addition, while there are no laws requiring parental consent nor imposing restrictions to abortion based on age, young women seeking abortion services have reported experiencing stigmatization from health care providers.

59. During the visit the Rapporteur was also informed of several alleged cases of forced sterilization of Indigenous women in the country.³⁷ After several women, Indigenous in particular, reported having been victims of this practice, some official recognition of such episodes of gender-based violence has taken place.

60. In this regard, also the Saskatoon Health Region apologized to the Indigenous women who were coerced into surgery that prevented them from bearing more children, and acknowledged through its spokesperson that “racism exists within our health care system and we as leaders acknowledge this”.

61. The Rapporteur believes that the practices of forced sterilization should be investigated and addressed in the context of systemic discrimination against Indigenous peoples, particularly Indigenous women, as well as comprehensive information on consent instituted while victims of such violence should receive full remedy including compensation.³⁸

G. Violence against women in detention

62. The Rapporteur visited the Nunavut Women’s Correctional Centre in Iqaluit and the Women’s Correctional Centre of Manitoba in Headingly, and in both provincial centres she had the opportunity of holding private meetings with women in detention.

63. She welcomes the positive steps that the Government is taking in relation to the current consultations with provincial and territorial governments in view of the forthcoming accession of the State to the OPCAT. However, she draws the government’s attention to serious concerns collected during her visit to the detention centers.³⁹ Primarily, the overcrowding of facilities, the over-representation of Indigenous women, the widespread use of practices such as strip searching and employing male staff working in direct contact with women in women’s institutions and no dedicated, stand-alone treatment facility for women in federal corrections.

64. The majority of women in prison have histories of abuse (physical, sexual, domestic) and addictions and suffer from posttraumatic stress disorder⁴⁰. In 2014-15, 68% of federally sentenced women reported histories of sexual abuse and 86% reported having been physically abused at some point in their life. 64.2% of federally incarcerated women are single mothers. At the provincial level, both of the provincial detention centres visited had not currently in

³⁵ <https://citizenlab.ca/wp-content/uploads/2017/11/Final-UNSRVAG-CitizenLab.pdf>.

³⁶ Soon, Dressler, Barriers to Rural Induced Abortion Services in Canada., 2013.

³⁷ Amnesty International, Further Recommendations 30th session UPR Canada, 2018; Maurice Law and Barrister, Submission to IACH, Forced Sterilization of Indigenous Women in Canada.

³⁸ See also Bartlett, Boyer, External Review - Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women 2017.

³⁹ <https://www.csc-scc.gc.ca/research/err-16-23-eng.shtml>; See also <http://www.caefs.ca/wp-content/uploads/2013/05/csc-revw.pdf>.

⁴⁰ <http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20162017-eng.pdf>; <http://www.caefs.ca/wp-content/uploads/2013/05/csc-revw.pdf>.

place any child and mother program.⁴¹ In an investigation conducted in 2016-2017 by the Office of Correctional Investigator among women in maximum security, 90% women reported being segregated during their detention and 83% also reported having mental health problems that, as highlighted also by the Canadian Human Rights Commission, are often exacerbated during their placement in segregation.⁴²

65. An emblematic case is the one of the 19-year-old Ashley Smith, who was found dead in her segregation cell. Staff members were charged for their alleged assaults or criminal negligence. Although the charges were stayed because of CSC's administrative direction to staff not to assist Ashley, the jury following the inquest into her death ruled her death a homicide and made 104 recommendations.⁴³

66. The Rapporteur highlights that incarceration as a response for women with mental health conditions is not in compliance with international human rights standards and that there is the urgent need to provide alternatives to imprisonment for women with mental health conditions by transferring prisoners to mental health services, facilities or psychiatric hospitals.

Over-incarceration of Indigenous women

67. Currently, the over-incarceration of Indigenous people is among the most pressing social justice and human rights issues in Canada. Over the last ten years, the number of Indigenous federally sentenced women increased by 60%, growing from 168 in March 2009 to 270 in March 2018. At the end of the reporting period, 40% of incarcerated women in Canada were of Indigenous ancestry. "These numbers are distressing."⁴⁴

68. They are also over-represented in segregation and as a result have limited to no access to programs, education, training nor access to justice or alternatives to incarceration. They are more likely to be considered high risk and high need and they are classified low reintegration potential besides being released later in their sentences. Canada has legislation that allows for the decarceration of prisoners, yet it is hardly ever used and segregation is a widespread practice.

69. An important case of jurisprudence is "the R v. Gladue decision", following which, in compliance with the Canadian Criminal Code, judges should consider the background circumstances of Indigenous offenders.⁴⁵ Some provinces and territories now use "Aboriginal Social History reports" to supply judges with information on the lives of Indigenous people before they are sentenced. However, there are warnings that such reports remain ill-understood and sometimes simply reinforce stereotypes and undermine the agency of the offender.⁴⁶

70. Besides the Criminal Code provisions requiring that judges consider "all available sanctions, other than imprisonment" for offenders, Sections 81 and 84 of the Corrections and Conditional Release Act (S.C. 1992, c. 20) related to federal corrections allow women to execute the sentence in their community or apply for early release to an Indigenous community. Unfortunately, this legislation is under-utilized, under-funded and often not communicated to women as part of their intake process.

⁴¹ FAFIA, Discrimination against Indigenous and Racialized Women in Canada, 2017; Canadian Association of Elizabeth Fry Societies, Long Term Effects of Abuse and Trauma.

⁴² <http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20162017-eng.pdf>.

⁴³ <http://www.chch.com/wp-content/uploads/2013/12/2013-1219-AshleySmithVerdict.pdf>.

⁴⁴ <http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20172018-eng.aspx#s6>.

⁴⁵ <https://theyee.ca/News/2018/11/21/Failing-Indigenous-Offenders/>.

⁴⁶ Williams, Intersectionality analysis in the sentencing of Aboriginal women in Canada, 2008.

H. Situation of women who encounter multiple and intersecting forms of discrimination and violence

71. During her visit, the Special Rapporteur paid special attention to the situation of women and girls who encounter multiple and intersecting forms of discrimination and violence and experience higher rates of all forms of violence against women.

1. Violence against Indigenous women and girls

72. It has been recognized also by the Government that the basic inequalities that exist between Indigenous peoples and the rest of Canada are a glaring reminder of the failure by the State to overcome systemic racism, the intergenerational trauma resulting from colonialism and the inadequate provision of specialized services and programs for each community.

73. Indigenous peoples from First Nations, Métis and Inuit communities represent around the 5% of Canadian population, with Indigenous women 2.5 per cent of the total population. Yet, Indigenous women and girls are 3 times more likely to be victimized by violence, including intimate partner violence and violent crime, and approximately six times higher to be a victim of female homicide.⁴⁷

74. According to the Native Women's Association of Canada information, there are more than 4000 murdered and missing Indigenous women and girls. According to RCMP indigenous women represents 11% of missing women in 2013 and 16% of victims of homicide nationally between 1980 and 2012.⁴⁸ It has been estimated that more than half of victims of human sex trafficking are Indigenous women and girls. Suicide rates are high among Indigenous peoples, particularly for youth with First Nations (five to seven times higher than for non-Indigenous youth) and Inuit youth (11 times the national average).⁴⁹

75. Indigenous women are overtly disadvantaged within their societies and in the larger national scheme. They face marginalization, exclusion and poverty because of institutional, systemic, multiple, intersecting forms of discrimination that has not been addressed adequately by the State. Universal access to social and community-based services and infrastructure is not adequate for Indigenous people and in particular for those living in rural and remote areas where access to safe and clean drinking water, education, health care facilities, adequate housing and employment represents a real challenge.

76. In this regard, the rapporteur welcomes the Action Plan to Prevent Family Violence and Violent Crimes against Aboriginal Women and Girls (2015-2020), which outlines concrete actions on prevention of violence, support to victims and protection. However this plan lacks a holistic approach and does not fully address what stated in 2015 by the CEDAW Committee (CEDAW/C/OP.8/CAN/1), which found that Indigenous women have been subjected to grave human rights violations, emphasizing the long-lasting social and economic disadvantages, biases and racism in administration of justice, policing, data collection, jails and penitentiaries, social programs. Indigenous people in Canada have also been discriminated historically even by law. The Indian Act (R.S.C., 1985, c. I-5) is a colonial and patriarchal document at its core which is embedded with historical racial and sex-based discrimination. Its treatment of First Nations women as secondary to men allows violence to be perpetrated against them. It works to systemically reduce the number of recognized First Nations people by discriminating against First Nations women and their descendants, denying them entitlement to Indian status on the same footing as their male counterparts. This discrimination and hierarchy among status exacerbates collateral violence within communities, as well as jurisdictional and logistical barriers for First Nations people to access services. The 2011 and 2017 reforms to the Indian Act have fallen short of providing equality

⁴⁷ Statistics Canada 2018. Homicide in Canada, 2017.

⁴⁸ <http://www.rcmp-grc.gc.ca/en/missing-and-murdered-aboriginal-women-national-operational-overview>.

⁴⁹ <https://www.canada.ca/en/indigenous-services-canada/services/first-nations-inuit-health/health-promotion/suicide-prevention.html>.

to First Nations women and their descendants, which further results in unequal access to benefits and services.

77. On several occasions, the CEDAW, the Human Rights Committee and the IACHR have recognized that sex discrimination in the Indian Act is a root cause of violence and called for the urgent elimination of the legal provisions that discriminate against First Nations women and their descendants. Bill S-3 was passed in 2017, in response to the Descheneaux decision of the Quebec Superior Court, which found that the Indian Act unjustifiably violate equality rights under the Canadian Charter of Rights and Freedoms. Because the Senate of Canada insisted that the Government of Canada should go beyond the requirements of Descheneaux and remove the core discrimination embedded in the sex-based hierarchy between full status (6(1)(a) and partial status (6(1)(c), the Government of Canada included provisions in Bill S-3 that would have this effect. However, these provisions were not brought into force in December 2017.

78. The Rapporteur the decision of 14 January 2019 by United Nations Human Rights Committee in favour of Sharon McIvor. The Committee held that the sex-based hierarchy between s. 6(1)(a) and s. 6(1)(c), introduced by the 1985 Indian Act, and continued by the amendments of 2011 and 2017, violates the right to the equal protection of the law without discrimination based on sex, and violates the equal right of men and women to the enjoyment of Indigenous culture, guaranteed by the International Covenant on Civil and Political Rights. The Committee also found that Canada is obligated to provide full reparation, and "to take steps to address residual discrimination based on sex by the federal government arising from the Indian Act."

79. For a century now, on the grounds of discriminatory policies and practices, Indigenous children have been taken away from their families alienating them from their traditional culture, language and social relations and support network. Since the time of residential schools, and Sixties Scoop⁵⁰, the Rapporteur was informed that it continues to be a persistent harmful practice embedded in the Canadian child welfare system. While just 7.7 per cent of all children under 14 are Indigenous, they represent the 52.2 per cent of all children in foster care.

2. Inquiry on Indigenous women

80. Evidences and emblematic cases show that violence against Indigenous women in Canada, is rooted in racial discrimination⁵¹ and inter-generational trauma which has not yet been adequately acknowledged or addressed. This discrimination takes the form both of overt cultural prejudice and implicit or systemic biases in the policies and actions of government officials and agencies, or society as a whole, failing to provide Indigenous women the protection from violence that is every woman's human rights.⁵² It is therefore crucial to provide a human rights-based approach to discrimination and violence against Indigenous women and to promptly investigate all the cases of missing and murdered women in the country.

81. In its 2015 recommendations (CEDAW/C/OP.8/CAN/1), the CEDAW Committee recommended that the Government establish a national public inquiry into cases of missing and murdered Indigenous women and girls. In this regard, the expert welcomed the dialogue and ongoing healing process initiated with the launch of the National Inquiry into the Missing and Murdered Indigenous women and girls but called for urgent action on other CEDAW recommendations from its Inquiry report.

82. During her visit the expert received updated information on the work of the National Inquiry which has continued, for almost two years to collect many testimonies across the

⁵⁰ [⁵¹ Palmater, *Shining Light on the Dark Places* 2008.](https://www.cbc.ca/news/politics/tasker-ottawa-child-welfare-services-indigenous-1.4927104?fbclid=IwAR0Zp8iWswGIIBZvPL1BJT96DOtwAknGTXOTAwzMYerZg3KfWIKifDT1X1k,The'Sixties Scoop' refers to the practice in Canada for decades after the 1950s of indiscriminately removing Indigenous kids from their homes and putting them in foster care or up for adoption.</p></div><div data-bbox=)

⁵² Amnesty International: *Stolen Sisters*, 2004; *Violence against Indigenous Women and Girls in Canada*, 2014; *Missing and murdered Indigenous women and girls*, 2014.

country and plans to hold expert hearings on 1) human rights framework, and 2) racism. The subjects of the institutional hearings, based on a family approach, are: 1) government services and 2) policing.

83. The Rapporteur considers that this is an important mourning and healing process that opened up an important dialogue on the past and current racist and colonial policies. However, several concerns have been raised about the limited mandate of the inquiry including on child welfare. In March 2018 the Inquiry asked the 14 governments for a 24-month extension on their mandate, from December 2018 to December 2020 while the governments agreed to a shorter extension of 6 months ending in June 2019.

84. During her visit, the expert was informed of the work of the Provincial Inquiry dealing with the investigation of misconduct and violence of police forces against Indigenous women in Quebec. The mandate of the Inquiry includes investigating specific cases. She has also been made aware of a similar request for an inquiry in relation to the death of Tina Fontaine in Winnipeg. The request included the need to examine the failure of the whole social child welfare and criminal justice system.

3. Violence against women and girls with disabilities

85. In line with of the most recent concluding observations to the State Party under the CEDAW Convention, the CRPD and the CESCRC, the Rapporteur expressed serious concern about the high incidences of violence against women and girls with disabilities. Even though all relevant federal and provincial legislation already prohibits violence against persons with disabilities, the law has not been successful enough in the prevention or reduction of violence. Based on the information received and the shelters she visited, services for assistance and home support or adapted transportation lack accessibility for women with disabilities.⁵³

86. Women with disabilities are at risk of many forms of violence— neglect, physical abuse, sexual abuse, psychological abuse and financial exploitation. Because there is a lack of accessible and affordable housing, women with disabilities are forced into institutions and become more vulnerable to abuse. They are twice as likely as women without disability to be victims of violent crime and to be sexually assaulted⁵⁴ and they are also particularly vulnerable to being trafficked for sexual and labor exploitation.

87. According to the British Columbia Aboriginal Network on Disability Society (BCANDS), the rate of disability among Indigenous persons in Canada is two to three times higher than the national rate. Indigenous women and black women with disabilities are also over represented in prison, trafficking and homelessness.

88. The lack of comprehensive data on violence against women with disabilities stems from lack of self-reporting by female victims with disabilities. This is due by the stigmatization faced by them because they are women with disabilities that is further exacerbated by factors such as race and age.

4. Violence against women asylum seekers and refugees

89. The Rapporteur acknowledged Canada's longstanding policy in welcoming migrants to the country. However, during her visit, she collected information about immigration and refugee policies practice carried out by the Canada Border Services Agency (CBSA) under which women, including pregnant women, and children can be detained indefinitely.

90. Migrant women are made more vulnerable to violence and abuse through their employment relationships, precarious migration status, and gendered pathways to migration and survivors of gender-based violence, as well as discriminatory policies concerning child custody and protection. Such vulnerability is even worse for black women, LGBTQ2 individuals and women with disabilities.

91. Although gender is not explicitly expressed as an enumerated Convention ground for refugee protection, the Immigration and Refugee Board (IRB) has interpreted gender to be

⁵³ <https://www.dawncanada.net> submission.

⁵⁴ 2014 General Social Survey on Victimization.

included as one of the enumerated grounds as a “particular social group.” Under section 96 of the Immigration and Refugee Protection Act (S.C. 2001, c. 27), a Convention Refugee must establish a well-founded fear of persecution for reasons of membership in a particular social group; they must further show that they are unable or unwilling to avail themselves of the protection of their country of origin. Although section 97 of the Act was meant to bring it in line with Canada’s international obligations under the International Convention Against Torture, the expert highlights that a number of studies have shown that, in practice, the Refugee Protection Division (RPD) adjudicators fail to assess the gendered aspects of a claimant’s fear of persecution for gender-based violence, and will instead suggest that these women are fleeing from a generalized risk of crime. This is a result of the failure to clearly enumerate gender as a separate basis on which refugee status can be claimed.

92. Of particular concern is also the inability of migrants and refugees victims of violence to access a separate permit permission and available services and assistance, including legal aid. Women who arrive in Canada as sponsored spouses are often unable to leave sponsorship relationships that have become violent as a result of application criteria that fail to consider the realities of abused women.

5. Violence against rural women

93. In 2016, 16% of Canada’s population lived in a rural area. At the same time, 24% of violent crime, 18% of property crime, 23% of other Criminal Code offences, 32% of impaired driving and 22% of drug crime occurred in a rural area. As noted, certain types of crimes are overrepresented and victimization rates are highest for women in rural areas, including concerning violent crimes. For 2017, police-reported rates of violent crime were higher for women of all age groups in rural than in urban areas. Crimes committed by intimate partners are disproportionately high also in rural areas.

94. Among the issues exacerbating violence against women in rural context there is social isolation, access to weapon and unregulated fire arms, the lack of legal representation and ICT access, limited public transportation and day care services, and economic crisis and poverty. The lack of access to services for women and confidentiality when reporting abuses, social, cultural psychological isolation also exacerbate violence against women and girls in rural areas, including in terms of underreporting of violence.

VI. Conclusions and recommendations

95. **Based on the above findings and in a spirit of cooperation and dialogue, the Special Rapporteur on violence against women, its causes and consequences, a mandate whose establishment had Canada as a lead player 25 years ago, offers the Government of Canada the following recommendations:**

- (a) **Concerning the international framework on women’s rights, to ratify the Belem do Para’ Convention, as well as the OP-CAT;**
- (b) **Effectively, fully harmonize laws at all levels of the national jurisdiction with the CEDAW Convention and, with regards to Indigenous women, in conjunction with the United Nations Declaration on the Rights of Indigenous Peoples;**
- (c) **Enacting a federal law on combating and preventing violence against women and domestic violence, based on the CEDAW Convention, the CEDAW General Recommendations No. 35, the DEVAW, and the Belem do Para Convention;**
- (d) **Ensure the harmonization of the legislation on violence against women and domestic violence across all federal/provincial/territorial jurisdictions in line with the CEDAW, the DEVAW and other international and regional human rights instruments and commit to ensuring that feminist and equality-seeking groups are systematically involved in the framing and monitoring of all the law reform initiatives on violence against women;**
- (e) **The Rapporteur highlights that there is an urgent need for a more comprehensive and holistic National Action Plan on violence against women, ensuring**

that women and girls in all areas of the country have access to comparable levels of services and human rights protection. She, therefore, recommends adopting, in cooperation with independent human rights institutions and CSOs, a National Action Plan on Violence Against Women and Domestic violence, based on human right standards on prevention, services and prosecution of violence against women accepted by Canada, such as the CEDAW Convention and its General Recommendation No. 35 on gender-based violence against women;

(f) Adopt a National Action Plan on violence against Indigenous women or elaborate it as a separate part of the recommended National Action Plan on Violence against women and domestic violence. This NAP should provide the same level of protection across the country based on the implementation of international human rights standards as well as the CEDAW Inquiry report recommendations (CEDAW/C/OP.8/CAN/1).

(g) Concerning the situation of violence against Indigenous women, the mandate holder also reiterates her full endorsement of previous CEDAW Inquiry report recommendations and calls for their full implementation. In particular:

(i) Urgently repeal remaining discriminatory provisions in Canada's Indian Act and any other discriminatory national law and practices against Indigenous women and girls;

(ii) Adopt measures to improve the socioeconomic conditions of Indigenous women and girls and provide adequate funding to support dedicated Indigenous-based holistic community supports;

(h) Review family laws and the *Divorce Act (R.S.C., 1985, c. 3 (2nd Supp.))* to ensure that domestic violence is taken in primary consideration when a decision about child custody occurs and that protection orders are easily enforceable across all province and territories while guaranteeing freedom of movement to survivors;

(i) Take the necessary legislative, or other, measures to ensure that a woman victim of violence is not criminalized when seeking for state protection and that the exercise of any visitation or custody rights does not jeopardize the rights and safety of the women who are victims of violence or their children;

(j) Review through gender lens the gun control legislation in order to harmonize it with the CEDAW Convention;

(k) As enshrined in the CEDAW Convention, provide awareness-raising and training programs on women's rights and violence against women, including on sexual violence and harassment, addressed to law enforcement officials, social and health workers, teachers and the general public, including information and guidelines on the specific needs of Indigenous women, LGBT2 individuals, women with disabilities and other women belonging to groups that are particularly a target of violence;

(l) Strengthen existing coordination mechanisms on human rights or establish a new coordinating mechanism (composed by FPT ministers for human rights) for coordination and implementation of human rights obligations and recommendations arising from the international and regional human rights mechanisms (UN treaty bodies, Special procedures and the IACHR and independent human rights commissions) with the constructive participation of civil society and Indigenous representatives;

(m) Ensure systemic and comparable national data collection on all manifestations of gender-based violence against women and girls and femicide, as well as specific information on violence against women and femicide of Indigenous women and establish and provide support to existing femicide watch or observatories, including Indigenous women's femicide observatories. Such observatories should focus on prevention through human rights-based analysis of cases as recommended in the SRVAW thematic report on modalities for the establishment of femicide observatories (A/71/378);

- (n) **Ensure collection of data on trafficking of women and girls including, Indigenous women and LGBTQ2S+ people;**
- (o) **Establish adequate number, distribution and sustainable funding for culturally appropriate victim's services, shelters, second stage affordable housing facilities dedicated to women victims of violence, giving duly consideration to the specific needs of women belonging to vulnerable groups, in line with SRVAW recommendations (A/HRC/35/30). This encompasses the establishment of specific shelters and services tailored for Indigenous women and communities, including those living in remote areas, which should be run by them;**
- (p) **In order to strengthen its framework on sexual assault and criminal justice system, the federal government, in cooperation with provinces and territories, should improve criminal justice responses to survivors, including providing free legal aid at the FPT level;**
- (q) **Ensure consistency in policy and legislation across all jurisdictions in order to promptly address sexual violence on universities' campuses and schools;**
- (r) **Investigate all allegations of forced or coerced sterilizations, with particular attention to cases involving Indigenous women and girls, ensuring justice and remedies including reparations to survivors and their families, explicitly prohibiting sterilization without free, full, and informed consent and enforce healthcare professional accountability;**
- (s) **Establish a consistent approach across all jurisdictions regulating online violence against women and the prohibition of non-consensual distribution of intimate images by implementing best practices from Canada and related SRVAW recommendations (A/HRC/38/47);**
- (t) **Ensure that relevant labor legislation addresses the full spectrum of violence and harassment against women in the world of work and consistency across jurisdictions, covering all women workers, migrant workers included;**
- (u) **Amend the *Immigration and Refugee Protection Act (S.C. 2001, c. 27)* to guarantee protection to survivors of trafficking and offer adequate support to trafficked persons and faster access to permanent residence. Increase access to information about Temporary Residence Permits to victims of human trafficking and streamline applications for Permanent Residence;**
- (v) **Enable women migrant workers to have open work permits, or regional or sectorial work permits and end the practice of issuing tied work permits;**
- (w) **Provide resources to assist migrant women with filling out their forms in order to prevent misinformation including funding NGOs to provide such assistance;**
- (x) **Fully implement the United Nations Standard Minimum Rules for the Treatment of Prisoners and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) which provides guidance for women in prison;**
- (y) **In compliance with the above mentioned rules, institute a ban on solitary confinement, segregation, intensive psychiatric care, strip searching and all other related forms of isolation of women in detention, including young women, women with mental health issues and Indigenous women, which experience high rates of segregation, and guarantee that "mother and child" and rehabilitation programs are always in place;**
- (z) **Reduce the over-crowding of detention centers, ensuring that sections 81 and 84 of the of the *Corrections and Conditional Release Act (S.C. 1992, c. 20)* concerning federal corrections are consistently applied, give preference to alternatives to imprisonment for prisoners with mental health conditions by transferring prisoners to mental health services, facilities or psychiatric hospitals, pursuing to existing and/or potential exchange of services agreements between the federal and provincial and territorial health authorities;**

- (i) Take concrete steps to eliminate the over-representation of Indigenous women in custody (and youth corrections facilities for Indigenous girls). Issue detailed annual reports to monitor and evaluate progress and stop classifying them as bearing a low potential of reintegration when they are detained;
- (ii) Address the disproportionately high number of Indigenous children institutionalized by Child welfare authorities which renders Indigenous women more vulnerable to violence, as they are reluctant to seek help from authorities fearing that their children may be taken away;
- (iii) Respectively with all levels of jurisdictions, establish civilian oversight of police, as an important step in monitoring police response to sexual assault and sexual assault survivors especial against Indigenous women and girls;
- (iv) Establish an independent civilian oversight body for the RCMP, to monitor police response to sexual assault and sexual assault survivors, especially indigenous women and girls;
- (v) Support an external review, conjointly with civil society and Indigenous communities, of the disproportionate levels of racism, abuse, and violence towards Indigenous women and girls by police and correctional officers, with a view to implement preventative measures and enforcing institutional accountability on a concept of zero tolerance for excessive use of force and sexual harassment or assault;
- (vi) On women with disabilities, fully align policies and legal framework with the recommendations made by the international human rights mechanisms and provide a comprehensive assessment of the situation of girls and women with disabilities in the country;
- (vii) On women refugees and asylum seekers, amend immigration and refugee policies to end the current practice under which women, including pregnant women, and children can be detained indefinitely. An independent oversight mechanism to monitor the Canada Border Services Agency (CBSA) and its detention policies should be put in place to deal with complaints of violence and abuse towards women in detention;
- (viii) Adopts measures that will facilitate the process of regularization of migrant status based on humanitarian and GBVAW ground in line with CEDAW General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women;
- (ix) Concerning the protection LGBTQ2S women victims of stigmatization and violence and of LGBT rights, increase provision and funding for support services that are culturally-relevant, community and survivor-based.
