

Submission on the Occasion of Canada's 4th Universal Periodic Review to the Office of the High Commissioner of Human Rights

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by

**CFUW (Canadian Federation of University Women)
FCFDU (La Fédération Canadienne des Femmes Diplômées des Universités)**

About CFUW

CFUW is a self-funded, non-partisan organization of over 6,500 women and 95 clubs across Canada that works to improve the status of women by promoting human rights, public education, social justice and peace in Canada and abroad. CFUW is a member of the National Council of Women of Canada. CFUW also holds special consultative status with the United Nations "ECOSOC" and is a member of the Canadian Commission for UNESCO network. CFUW is the largest of the 61 affiliates of Graduate Women International (GWI) and is a member of the International Alliance of Women (IAW).

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The State of Human Rights in Canada in 2023:

Violence against Indigenous Women and Environmental Racism in Canada

1. The recent visit of the UN Special Rapporteur on Indigenous Peoples, Mr. José Francisco Calí-Tzay, in March 2023, resulted in his acknowledgement of the ongoing harms of Canada's colonial policies in the past and present and the effects on the First Nations, Inuit and Métis Peoples in Canada (hereafter referred to as Indigenous Peoples).¹ We echo Mr. Calí-Tzay in many of his concerns and recommendations – and we stress that the violation of human rights of the Indigenous Peoples in Canada is the most urgent matter in need of widespread resolution. Amongst many issues within Canada and facing Indigenous communities, we will focus on two topics which are inextricably linked: violence against Indigenous women and environmental racism.

I. Violence against Indigenous Women - An Overview

2. Unfortunately, from 2019 to 2021, rates of femicide in Canada increased by 26%.² Rates of intimate partner violence (IPV) are also much higher in rural areas than urban areas, and especially in rural Saskatchewan, Manitoba and Alberta, Yukon and Northwest Territories.³
3. We also know that intersecting identities increase an Indigenous woman or gender-diverse individual's likelihood of experiencing IPV in their lifetime. Where 86% of 2SLGBTQQIA+ (Two Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, and Asexual Plus) Indigenous women are likely to experience IPV, this is compared to their non-2SLGBTQQIA+ counterparts (59%)⁴. While 74% Indigenous women with disabilities will experience IPV in their lifetime compared to 46% of able-bodied Indigenous women. Indigenous people in Canada also have higher rates of disability – 31% in 2017 compared to non-Indigenous (22%)⁵. In general, Indigenous women have the highest rates of predicted disability of any demographic, with highest rates for both men and women who live off-reserve.
4. The Canadian government responded to recommendations in the third cycle of UPR "implemented" recommendations on domestic violence, however, we argue that the increasing rates of intimate partner violence, femicide, and missing and murdered Indigenous Women, Girls and Two-Spirited (MMIWG2S+) warrant more action, funding, and follow-through on promises.⁶

¹ Calí-Tzay, J. F. (10 March 2023). Visit to Canada 1-10 March 2023 End of Mission Statement, United Nations Special Rapporteur on the Rights of Indigenous Peoples. United Nations Office of the High Commissioner. [ohchr.org](https://www.ohchr.org)

² Canadian Femicide Observatory for Justice and Accountability. (2022). #CallItFemicide 2021 Report. [Femicide in Canada](#).

³ Statistics Canada. (2022). Table 35-10-0156-01 Number, percentage and rate of homicide victims by gender and Indigenous identity. <https://doi.org/10.25318/3510015601-eng>

⁴ Statistics Canada. Indigenous people with disabilities in Canada: First Nations people living off reserve, Metis and Inuit aged 15 years and older. (2019). [Catalogue no. 89-653-X2019005](#).

⁵ Ibid

⁶ Human Rights Council. (2018). Report of the Working Group on the Universal Periodic Review. Canada. Addendum [\(A/HRC/39/11/Add.1\)](#).

5. We are concerned that of the \$724.1 million allocated to tackle gender-based violence, only 5% of these funds have been spent.⁷ We would also like to point out that the conditions which put Indigenous women, girls and 2SLGBTQQIA+ people at risk, are interconnected with other issues facing Indigenous communities, as a result of the past and present treatment by the Canadian state and the relationship of Indigenous people with all levels of government in Canada. This issue cannot be treated independently of issues such as poverty, incarceration, family separation, separation from one's land and culture, lack of housing, social determinants of health, and more.

I.I Missing and Murdered Indigenous Women, Girls, and Two-Spirited (MMIWG2S+)

6. Despite the National Public Inquiry into MMIWG2S+, and agreements such as the Canada-Indigenous Peoples' Association of Canada Accord (signed in 2019 by the Native Women's Association of Canada (NWAC) and the Government of Canada), rates of violence against Indigenous women continue to increase.⁸ In 2023, Indigenous women, girls and 2SLGBTQQIA+ people continue to experience much higher rates of being missing or murdered – 12 times the rate of non-Indigenous women.⁹
7. In the 2022 progress report on the national inquiry for MMIWG2S+, intergenerational trauma is cited as the root cause of violence against Indigenous women “due to the impacts of colonization (including Indian Residential schools), marginalization, lack of institutional will, and failure to recognize the expertise and capacity of Indigenous women.”¹⁰ High rates of violence against Indigenous women are also linked to factors such as: over-policing, rurality, participation in sex work, vulnerability to trafficking, and a lack of access to safe, secure and affordable housing and transportation.
8. Qajag Robinson, a former Commissioner of the National Inquiry into MMIWG2S+ aptly points out that: “we have to recognize that the creation of poverty...is part of the state violence. It's not accidental.”¹¹ It is undeniable that these same social and economic conditions are not experienced at the same rate by any other population in Canada.¹²
9. The exact number of MMIWG2S+ is unknown as many of these deaths or disappearances are suspected to have been unreported or misreported. The Royal Canadian Mounted Police (RCMP) has reported that between 1980 and 2012, there were “1,181 cases of ‘police-recorded incidents of Aboriginal female homicides and unresolved missing Aboriginal females’”.¹³ While only being

⁷ McLeod, M. (10 February 2023). Ottawa has spent little of \$724.1-million investment meant to support Indigenous women and children facing violence. [The Globe and Mail](#).

⁸ Crown-Indigenous Relations and Northern Affairs Canada. (2019). Actions taken by the Government of Canada since the launch of the inquiry. [Government of Canada](#).

⁹ (2019). Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Canada. Retrieved from: <https://www.mmiwg-ffada.ca/final-report/>

¹⁰ (2022). 2022 Progress Report on the Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ People National Action Plan. Retrieved from: [mmiwg2splus-nationalactionplan.ca](#)

¹¹ Ibid

¹² Ibid

¹³ Ibid

4% of the female population in Canada, Indigenous women represent 16% of the homicides, and the number of homicides has only continued to climb since 2012.¹⁴

10. In the last review, Canada committed to a “governance structure” for provinces and territories to act on the National Inquiry into MMIWG2S+.¹⁵ The National Inquiry released its final report in 2019, along with 94 Calls for Justice. In 2021, the Canadian government released a National Action Plan (NAP) to help fight violence against Indigenous women, girls and 2SLGBTQIA+ people. The federal government worked with Indigenous partners, communities, families of victims and survivors, community organizations, and provincial and territorial governments to create the NAP. In direct response to a “governance structure”, a “core working group” of multi-level and departments within the Canadian government worked with the National Family and Survivors Circle and much work has been done by the Congress of Aboriginal Peoples (CAP) to coordinate actions and build capacity on MMIWG2S+. Further, their federal pathway and funding allocation of \$2.2 billion should also be noted.
11. Although with national action plans and funding allocations, the federal government has demonstrated that they understand that the issue of MMIWG2S+ needs to be addressed – progress has been relatively slow on the 231 Calls for Justice.¹⁶ In a 2022 progress report on the MMIWG2S+ NAP, there still remains calls for a NAP committee, an independent chairperson and secretariat, as well as an implementation plan, an independent oversight body, more inclusion of 2SLGBTQIA+ people, and better accountability measures and data.¹⁷ We find it extremely concerning that an implementation plan, at the bare minimum, has not been announced.

I.II Overrepresentation of Indigenous Women in the prison system

12. High numbers of Indigenous women in the prison system has been linked to several factors: “colonialism; socio-economic marginalization; and culture clash” and overall, “the systemic discrimination against Indigenous people in the criminal justice system.”¹⁸ In Mr. Calí-Tzay’s 2023 statement after his visit to Canada, he aptly mentions the ‘poverty-to-prison ‘pipeline’ present in Indigenous communities.
13. Mr. Calí-Tzay also acknowledges that Indigenous women and gender-diverse people make up approximately 50% of incarcerated women in Canada (or 85% in Saskatchewan and Manitoba), despite, again, being only 4% of the population.¹⁹ He further describes “racial profiling, arbitrary

¹⁴ ³ Statistics Canada. (2022).

¹⁵ (2018). National report submitted in accordance with paragraph 5 of the annex to the Human Rights Council resolution 16/21: Canada. United Nations Human Rights Council. (A/HRC/WG.6/30/CAN/1). Source of Position: III.B.55. Retrieved from <https://www.ohchr.org/en/hr-bodies/upr/ca-index>

¹⁶ (2019). Calls for Justice. Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Canada. Retrieved from: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf

¹⁷ ¹⁰ MMIWG-FFADA Final Report. (2019).

¹⁸ Clark, S. (2019). Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses. Research and Statistics Division, Department of Justice Canada. Retrieved from: <https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/oip-cjs-en.pdf>

¹⁹ ¹ Calí-Tzay, J. F. (10 March 2023).

and discriminatory arrests, and excessive use of force” by Canadian police as one of the direct causes for these high incarceration rates of Indigenous women.

14. We consider the overrepresentation of Indigenous women in the prison system to be part of the ongoing violence against Indigenous women and colonial policies rooted in racial discrimination. The link of incarcerated Indigenous women should also be linked with MMIWG2S+, where a lack of resources or safe, accessible, and affordable housing means that many women out of prison are forced back into unsafe housing conditions and unsafe work.
15. Currently, the federal government has a few judicial strategies to address the issue of the high rate of incarcerated Indigenous women. In 2017, Bill C-5 scrapped minimum sentences which disproportionately impacted Indigenous and racialized people.²⁰ Further, \$1.16 million was allotted to address the overrepresentation of Inuit peoples currently in the justice system.²¹ Additionally, as accepted by Canada in the last report (III.D.89), efforts are being made to increase access to, and the prevalence of, Indigenous justice systems, which could drastically reduce the number of incarcerated Indigenous people in Canadian jails. On March 21st, 2023, it was also announced that the Indigenous Community Corrections Initiative (ICCI) will allocate \$5.21 million for 2023-2024, and \$12 million ongoing after for Indigenous offenders’ rehabilitation and reintegration.²² Additionally, more efforts need to be made within the policing system to attempt to repair decades of harm caused by the police and RCMP to Indigenous communities, as promised in the last report (III.D.97). Although training on gender and racial bias have occurred, this is likely decades-long work and requires a systemic overhaul as the RCMP has a documented history of institutional racism and enforcing colonial policies.²³
16. Additionally, the incarceration of Indigenous women is also closely linked with the overrepresentation of Indigenous children in state care. Much like Indigenous women, Indigenous children make up a small proportion of the child population in Canada (7.7%), but the majority of children in foster care (53.8%).²⁴ The intergenerational effects of children and families disconnected from their birth parents, communities, land, and culture have been seen in the aftermath of the Canadian Residential Schools and the Sixties Scoop and at this rate, will continue.
17. Canada has entered into several agreements with Indigenous communities to transfer the care of Indigenous children back to their Indigenous communities, in agreements such as the “Agreement in Principle with the Assembly of First Nations, the First Nations Child and Family Caring Society, the Chiefs of Ontario and the Nishnawbe Aski Nation on Long-Term Reform of the First Nations Child and Family Services Program.”²⁵ These agreements and the transfer of care are starting to

²⁰ Bill C-5, An Act to amend the Criminal Code and Controlled Drugs and Substances Act. First Session, Forty-fourth Parliament. (2022). Canada. Retrieved from [Parliament of Canada Website](#).

²¹ Public Safety Canada. (21 March 2023). Government of Canada takes steps to address overrepresentation of Indigenous, Black and racialized people in the criminal justice system. News Release. Retrieved: [Public Safety Canada website](#).

²² Ibid

²³ Gerster, J. (15 June 2019). The RCMP was created to control Indigenous people. Can that relationship be reset? Global News. Retrieved from [Global News](#).

²⁴ Indigenous Services Canada. (2022). First Nations Child and Family Services. Retrieved from [Government of Canada website](#).

²⁵ Ibid

be repeated throughout Canada in Indigenous communities and need to be properly resourced on an ongoing basis.

II. Environmental Racism

18. Due to the proximity to land and nature, as well as the deep connection to the land - Indigenous communities often live on and/or close to sites of “natural resources”. Thinking of nature in this way and on this scale, of resource exploitation, is of course a capitalist concept. In some ways, Indigenous communities have worked with corporations and the government to benefit from resource extraction. However, in many instances, shortcuts in environmental assessment or regulation, or a lack of consultation with rights-holders has led to environmental pollution, over-extraction, and negative health effects for close by communities.

19. According to the UN Human Rights Council, environmental injustices in Indigenous communities can look like "industrial pollution in living environments, toxic discharges, the presence of hazardous waste storage or burial sites, abuses committed by extractive industries, substandard housing, polluting transportation, non-existent or insufficient green spaces, etcetera."²⁶ We should note that these outcomes are representative of human rights violations under UNDRIP (UN Declaration of the Rights of Indigenous Peoples), the right to a healthy, clean, and sustainable environment, but also “the rights to life, dignity, health and physical integrity - as well as the principle of non-discrimination.”²⁷

20. Ingrid Waldron's studies of the health impacts of pollution and toxic waste dumping on Mi'kmaq and African-Canadian communities in Nova Scotia demonstrate that "environmental problems (disorders, risks, threats, hazards, or disasters) have a variety of adverse effects on the ecosystem of racialized communities in many domains: food, health, education, housing, work, recreation, travel, and so on."²⁸ In a case like the Grassy Narrows First Nations, mercury poisoning is *still* affecting the community after contamination in the 1970s.²⁹ This is emblematic of environmental racism for a few reasons: the sheer volume of cases in which Indigenous communities are affected by a lack of regulation and oversight in natural resource projects, as well as the power dynamics which exist between corporations and “underdeveloped” communities.

21. At time of writing, Bill C-226: National Strategy Respecting Environmental Racism and Environmental Justice Act has passed its third (and final) reading, and now simply needs Senate approval to become law.³⁰ This bill would require a national action plan to address environmental racism. This bill is expected to pass; however, implementation and adequate funding will continue to be monitored. There is also a tentative deal reached between the US and Canada March 24, 2023 to “‘reduce and mitigate’ the impact of toxic mining runoff in British Columbia’s Elk Valley, which has caused transnational selenium contamination, affecting mostly Indigenous

²⁶ Thésée, G. (2022). Reconnaître le racisme environnemental. *Relations*, (816), 47–49. Retrieved from: <https://www.erudit.org/en/journals/rel/2022-n816-rel06810/97876ac/>

²⁷ Ibid

²⁸ Ibid

²⁹ Kabatay, J. (17 March 2022). New study adds to body of proof connecting mercury poisoning to health issues in Grassy Narrows. CBC News. Retrieved from [CBC News Thunder Bay](https://www.cbc.ca/news/thunder-bay-grassy-narrows-mercury-poisoning-1.6544444).

³⁰ Bill C-226, National Strategy Respecting Environmental Racism and Environmental Justice Act. Forty-Fourth Parliament, First Session. (2023). Canada. Retrieved from [Parliament of Canada website](https://www.parliament.ca/bills/44-1/c-226).

communities. This deal is “a fresh bilateral commitment to an ‘environmentally responsible and resilient’ supply chain for critical minerals across North America” – a growing component of Canada and the USA’s plans for growing the “clean” economy.³¹ These many cases of environmental racism mean we need a national action plan to address this systemic issue.

II.I Violations of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

22. In Canada’s last report in 2018, they signified that Canada announced its “full support of the UNDRIP on May 10, 2016” ([III.A.12](#)).³² In June 2021, the UNDRIP Act received Royal Assent and was immediately enacted into law. Bill C-262 “imposes obligations on the federal government” to uphold Indigenous rights.³³ Questions concerning the right to self-determination and self-government, as well as free, prior, and informed consent (FPIC) have also demonstrated some varying degrees of commitment ([III.A.16](#)).
23. Though the government has issued “principles” and an “implementation framework”, the ongoing violent and forced removal of land defenders in cases such as resource development projects like Coastal GasLink in Wet’suwet’en First Nation territory³⁴, the Site C Dam development despite Indigenous and local opposition³⁵, the still in-place discriminatory “Indian Act”³⁶, Ontario’s lack of consultation and impact assessment with First Nations on the “Ring of Fire” mining and road development, and many other cases³⁷, demonstrate that the government of Canada still has a long way to go in respecting Indigenous rights and sovereignty.

II.III Water and Sanitation

24. The lack of access to clean drinking water in 28 of Indigenous communities is a key indicator of both environmental racism and social determinants of health – where 100% of the long-term advisories are in racialized and Indigenous communities.³⁸ Canada’s commitment in the last report ([III.A.30](#)) promised to “eliminate all long-term drinking water advisories affecting public water systems financially supported by the Government of Canada” by 2021 ([III.A.30](#)).³⁹
25. There have been advancements in this area, however Canada has not reached its goal of ending all long-term advisories. The federal government has invested in infrastructure for water and wastewater treatment, training sanitation professionals, and controlling water delivery. As of February 3rd, 2023, according to the Government of Canada, 138 long-term drinking water

³¹ McCarten, J. (24 March 2023). Indigenous groups wary of Canada-U.S. pledge to ‘reduce, mitigate’ Kootenay pollution. The Canadian Press. Retrieved from [CTV News](#).

³² ¹⁵ National Report to Human Rights Council: Canada. (2018).

³³ Department of Justice Canada. (2021). Background: United Nations Declaration on the Rights of Indigenous Peoples Act. Retrieved from: [Department of Justice Canada website](#).

³⁴ Proctor, J. (22 June 2022). Wet’suwet’en members sue RCMP and Coastal GasLink for alleged harassment and intimidation. CBC News. Retrieved from [CBC News British Columbia](#).

³⁵ Treaty 8 Tribal Association. Site C News. Retrieved from [Treaty 8 Tribal Association website](#).

³⁶ Native Women’s Association of Canada. (2023). Indian Act. Retrieved from [NWAC website](#).

³⁷ Phan Nay, I. (30 March 2023). ‘You’re not listening to us’: Some First Nations warn they will resist Ontario’s Ring of Fire development. National Observer. Retrieved from [National Observer](#).

³⁸ Indigenous Services Canada. (2023). Ending long-term drinking water advisories. Retrieved from [Indigenous Services Canada website](#).

³⁹ ¹⁵ National Report to Human Rights Council: Canada. (2018).

advisories have been lifted since November 2015, while 32 drinking water advisories remain in 28 communities.⁴⁰ This represents 81% of all advisories lifted, which we deem significant progress, but argue that the presence of long-term drinking water advisories in a country as wealthy as Canada is clear indication of racial discrimination and is an ongoing human rights violation.

Concluding Remarks

26. Indigenous Peoples are the fastest growing population in Canada, and yet, face the most barriers to accessing their rights and basic needs.⁴¹ We also note that many of these recommendations are not new – and are renewed calls for action. We understand some action has been taken and that progress can take time when it is at the systemic level. Recent reports on progress on the Truth and Reconciliation Commission show promise, and we would appreciate more direct reporting from the government of Canada on the MMIWG2S+ calls for justice.
27. The government of Canada is encouraged to borrow from Indigenous teachings on seven generations – of thinking and planning for seven generations ahead. The COVID-19 pandemic demonstrated how quickly resources can be mobilized on a large scale. We would encourage this kind of urgency for the well-being of present and future generations of Indigenous Peoples. Without addressing the root causes of violence against Indigenous women and environmental racism, human rights violations will continue to proliferate.

Recommendations

We, CFUW, encourage the Government of Canada to:

- **Pass and Implement Bill C-226:** The National Strategy Respecting Environmental Racism and Environmental Justice Act and implement the national strategy with direct input from the affected communities and historically marginalized voices.
- **Ensure the involvement** of Indigenous communities in impact and environmental assessments of natural resource projects, with potential frameworks for Indigenous-led assessments to be normalized and funded.
- **Continue to work with** Indigenous nations to support agreements of self-governance and transfer the care of Indigenous children back to Indigenous communities.
- **Ratify** the right to a clean, healthy and sustainable environment - which was recognized by the UN Human Rights Commission in 2022 (HRC Resolution 48/13).⁴² This right would give more tools to Indigenous and the Canadian government to prevent and address environmental racism and injustice.
- **Increase and mobilize funds** for community-based, culturally appropriate mentorship and housing strategies for Indigenous women and youth, especially those involved in the criminal justice system, and aging out of care.

⁴⁰ ³⁸ Indigenous Services Canada. (2023).

⁴¹ Statistics Canada. (2022). Indigenous population continues to grow and is much younger than the non-Indigenous population, although the pace of growth has slowed. Retrieved from [Statistics Canada website](#).

⁴² United Nations Human Rights Council. (2022). The human right to a clean, healthy, and sustainable environment. Seventy-sixth session, Agenda item 74 (b). Retrieved from [United Nations digital library](#).

- **Invest in Indigenous justice systems** to prevent the ‘poverty-to-prison pipeline’ and the overrepresentation of Indigenous peoples, especially women and youth, in Canadian prisons.
- **Treat MMIWG2S+ like the emergency it is** and develop a “Red Dress Alert System” to amplify the message of missing Indigenous women and girls; in addition to increasing the transfer of federal funds for services for gender-based violence victims and survivors in Indigenous communities.⁴³

Word Count: 2,806

⁴³ Sanders, L. (22 February 2023). Implementation of Red Dress Alert will save lives says MP Leah Gazan. APTN News. Retrieved from [APTN News](#).