A Comment: The UN CEDAW Committee’s Concluding Observations of Canada

Lara Koerner Yeo*

ABSTRACT

This comment provides a general background on the Concluding Observations of Canada issued by the United Nations Committee on the Elimination of Discrimination against Women in November 2016. It focuses on three recommendations made to Canada: a multi-juridical treaty implementation mechanism; a national gender equality plan; and improved state response to violence against Indigenous women and girls. The comment highlights gaps in Canada’s domestic implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the long-term Canadian civil society advocacy on these issues.

I. INTRODUCTION

In October 2016, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW Committee or Committee) conducted a periodic review of Canada. It released its Concluding Observations of this review in November 2016.¹ The Concluding Observations contain the CEDAW Committee’s views on Canada’s implementation of the international Convention on the Elimination of All Forms of Discrimination against Women (CEDAW or the convention), including recommendations for how Canada can improve its compliance

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* Steering Committee and Human Rights Committee (HRC) member of the Canadian Feminist Alliance for International Action. This comment’s analysis is informed by the author’s treaty body advocacy work on behalf of FAFIA as well by the guidance and insights of Shelagh Day, a fellow Steering Committee member and chair of the FAFIA Human Rights Committee.

¹ Committee on the Elimination of Discrimination against Women, Concluding Observations of the Combined Eighth and Ninth Periodic Reports of Canada, UN Doc CEDAW/C/CAN/CO/8-9 (18 November 2016) [2016 CEDAW Concluding Observations]. Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981) [CEDAW]. This protocol is provided for in the treaties (see e.g. art 21(1): “The Committee … may make suggestions and general recommendations based on the examination of reports and information received from the States Parties”), CEDAW is also referred to as the “Women’s Convention.”
with the convention.2 This comment provides background on the CEDAW Committee and focuses on three issues that feature in its recommendations to Canada: a coordinated federal, provincial and territorial treaty implementation mechanism; the need for a national gender equality plan; and inadequate governmental response to protect the rights of missing and murdered Indigenous women and girls. The final section connects the Concluding Observations’ recommendations to those made by the CEDAW Committee in its 2015 inquiry into missing and murdered Indigenous women and girls. The comment exposes gaps in Canada’s domestic implementation of CEDAW and examines how the CEDAW Committee’s recommendations interact with past treaty jurisprudence. The comment also highlights the persistent work of advocates to improve the domestic advancement of women’s rights in Canada in compliance with the convention.

II. CEDAW COMMITTEE BACKGROUND

CEDAW enshrines the principles of equality and non-discrimination3 and provides a framework to identify gendered human rights violations as forms of discrimination against women.4 It is the only women-specific UN treaty, setting out the obligations that states owe to women.5 The treaty is a binding source of international law6 upon ratification by state parties.7


3 CEDAW, supra note 1, arts 1-3; the first five articles with the preamble together set out that the standard of treatment is equality. Christine Chinkin, “Reservations and Objections to the Convention on the Elimination of All Forms of Discrimination against Women” in JP Gardner, ed, Human Rights as General Norms and a State’s Right to Opt Out (London: British Institute of International and Comparative Law, 1997) 64 at 66; see also Holtmaat, supra note 2 at 97.


5 State parties’ obligations under international human rights law are owed to individuals and collectives, not to other state parties.

6 See the sources of international law enumerated in Statute of the International Court of Justice, 26 June 1945, 33 UNTS 993 (entered into force 31 August 1965), art 38.

The CEDAW Committee is a quasi-judicial treaty body in the UN human rights system. Among its general functions, the CEDAW Committee monitors states’ compliance with CEDAW through the periodic review process resulting in the Concluding Observations of states parties and conducts inquiries under the Optional Protocol to CEDAW. It acts as the principal interpreter of CEDAW and develops its normative content through the output of jurisprudence, including Concluding Observations, general comments, inquiry reports, and individual communications.

The CEDAW Committee’s Concluding Observations reference and build on its past jurisprudence and focus exclusively on the state party under review. The Committee can also build on the recommendations made to the state party by other treaty bodies. Canada is a party to seven international human rights treaties that enshrine the principle of non-discrimination.

International human rights jurisprudence is developed in part by the output of UN treaty bodies (see e.g. Realizing Indigenous Women’s Rights, supra note 4 at 36).

It is common practice for treaty bodies to reiterate or build on recommendations in their previous Concluding Observations to a state party.


See e.g. 2016 CEDAW Concluding Observations, supra note 1; HRC, Concluding Observations on the Sixth Periodic Report of Canada, UN Doc CCPR/C/CAN/CO/6 (13 August 2015) at para 6 [2015 HRC Concluding Observations].
The Committee assumes an oversight role by way of its periodic review process and engages with state parties to review the extent to which existing domestic law, policy, and practice fulfill a State’s obligations under CEDAW. The Concluding Observations highlight areas that need improved governmental response. The detailed recommendations are informed by the expertise of the Committee’s members as well as by reports from government and civil society organizations.¹⁴

The CEDAW Committee’s 2016 Concluding Observations of Canada are nearly double the average length of eight to ten pages.¹⁵ This set of Concluding Observations represents the CEDAW Committee’s findings and recommendations from Canada’s eighth and ninth periodic review by the Committee.¹⁶ The Committee’s 2016 Concluding Observations cover myriad issues that are integral to women’s advancement, such as women’s access to legal aid, housing, and education; pay equity and the elimination of the gender pay gap in the workforce; unaffordable, inaccessible childcare; women’s sexual and reproductive health rights; and the treatment of women in detention. The Concluding Observations acknowledge the different positionalities of women by naming groups of women who are subject to multiple, intersecting forms of discrimination, including Indigenous, African-Canadian, migrant, asylum-seeking, and refugee women; women with disabilities; single mothers; and lesbian, bisexual, transsexual, and intersex women.¹⁷ They serve as the most current, comprehensive recommendations to Canada on how to improve


¹⁵ The CEDAW Committee’s 2008 Concluding Observations on Canada were eleven pages and the Human Rights Committee’s 2015 and 2006 Concluding Observations on Canada were seven pages each; the Committee on Economic, Social and Cultural Rights’s (CESCR) 2016 Concluding Observations on Canada were eleven pages.


¹⁷ See e.g. 2016 CEDAW Concluding Observations, supra note 1 at para 21(b) (see also Committee on the Elimination of Discrimination against Women, General Recommendation no 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, UN Doc CEDAW/C/GC/28 (16 December 2010) at para 18 [CEDAW Recommendation 28]).
federal, provincial, and territorial compliance with *CEDAW*. Three issues, in particular, deserve to be highlighted.

**III. A COORDINATED FEDERAL, PROVINCIAL, AND TERRITORIAL TREATY IMPLEMENTATION MECHANISM**

In its General Observations, the CEDAW Committee recommends that Canada develop a mechanism to ensure the “transparent, coherent and consistent implementation of the Convention” across provinces and territories.\(^{18}\) Some such mechanism is necessary to ensure compliance in a federal system. Article 2 of *CEDAW* requires states to “address all aspects of their legal obligations under the Convention to respect, protect and fulfil women’s right to non-discrimination and to the enjoyment of equality.”\(^{19}\) A breach of this obligation can flow from state party failures “to take necessary legislative measures to ensure the full realization of women’s rights … to adopt national policies aimed at achieving equality between women and men, and … to enforce relevant laws.”\(^{20}\)

There is no legislation in Canada that formally incorporates *CEDAW* into its domestic law.\(^{21}\) Canada has bound itself to comply with *CEDAW* through existing law and practice as well as through the interpretation\(^{22}\) and application of the *Canadian Charter of Rights and Freedoms*\(^{23}\) and statutory human rights codes.\(^{24}\) Yet, Canada has no domestic mechanism

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\(^{18}\) 2016 CEDAW Concluding Observations, supra note 1 at para 11.

\(^{19}\) CEDAW Recommendation 28, supra note 17 at para 9.


to ensure that its law and practice, in fact, meets its international obligations under CEDAW. While the CEDAW Committee reviews Canada’s status of implementation to check for compliance, this review is an external, independent check. Canada sorely lacks such a domestic mechanism to monitor and coordinate CEDAW’s implementation across federal, provincial, and territorial governments in a transparent, accountable way.\(^{25}\) There is also no routine public government reporting or information available that tracks the implementation of recommendations made by the CEDAW Committee, or any other treaty body, to Canada. Canadians have no information on whether and how (if at all) treaty body recommendations, such as the Committee’s Concluding Observations, are ultimately acted upon by federal, provincial, and territorial governments.

This lack of a domestic implementation mechanism with a public reporting function is tantamount to an implementation failure, as the CEDAW Committee recognized, which cuts against Canada’s obligations under Article 2 of the convention.\(^{26}\) Other treaty bodies, as well as Canadian civil society organizations, have urged Canada to create a domestic implementation mechanism.\(^{27}\) The lack of a domestic mechanism to monitor and narrow the treaty implementation gap exists for all of the human rights treaties to which Canada is party.

The CEDAW Committee’s 2016 recommendation reiterates previous recommendations.\(^{28}\) Civil society actors have been advocating domestically


for the development of an implementation mechanism for many years, speaking to the issue in international forums as well as in domestic forums, such as the Standing Senate Committee on Human Rights. There is broad consensus among civil society actors that Canada needs an implementation mechanism to ensure that governments are taking steps to improve compliance with Canada’s international human rights obligations. There is civil society pressure on the federal government to convene a meeting of federal, provincial, and territorial ministers responsible for human rights—a request that mirrors one of the 2010 Standing Senate Committee recommendations.

In December 2017, for the first time in twenty-nine years, the federal, provincial, and territorial ministers responsible for human rights met to discuss priorities for Canada in relation to the implementation of its human rights obligations. At this meeting, the ministers made a commitment in principle to a federal, provincial, and territorial senior-level human rights mechanism. This is a timid first step that requires follow-up, including annual ministerial meetings, budgetary commitments, and a transparent avenue for civil society involvement.

IV. THE NEED FOR A NATIONAL GENDER EQUALITY PLAN

A national gender equality policy is considered under international law to be a piece of national machinery for the advancement of women and gender mainstreaming. The CEDAW Committee suggests that such a policy should be comprehensive, action and results oriented, involve all

29 Empty Words, supra note 27 at 9; see also Amnesty International, Human Rights Agenda for Canada 2016 (2016) at 13, online: <https://www.amnesty.ca/sites/amnesty/files/CanadaHRAgendaDoc10December15_0.pdf> [Human Rights Agenda].

30 Standing Senate Committee on Human Rights, Promises to Keep: Implementing Canada’s Human Rights Obligations (December 2001), online: <https://sencanada.ca/Content/SEN/Committee/371/huma/rep/rep02dec01-e.htm>; Standing Senate Committee on Human Rights, Canada and the United Nations Human Rights Council: Charting a New Course (June 2010), online: <https://sencanada.ca/Content/SEN/Committee/403/huma/rep/rep04jun10-e.pdf> [Charting a New Course]; Standing Senate Committee on Human Rights, Thirteenth Report (June 2013), online: <https://sencanada.ca/en/Committees/ridr/Reports/41-1> (phrased as “the machinery of government dealing with Canada’s international and national human rights obligations”).

31 Empty Words, supra note 27.

32 Human Rights Agenda, supra note 29 at 13; Charting a New Course, supra note 30 at 61.

33 Charting a New Course, supra note 30.

levels of government and the private sector, and incorporate a range of different measures to advance women’s equality.\textsuperscript{35} While this type of policy does not yet exist in Canada, there have been two notable occasions when state and non-state actors have contributed to a strategy or recommendations to work towards the elimination of discrimination against women in Canada: the release of the Royal Commission on the Status of Women’s final report and the federal government plan, \textit{Setting the Stage for the Next Century: A Federal Plan for Gender Equality}.\textsuperscript{36}

Almost fifty years have passed since the Royal Commission on the Status of Women released its report in 1970 on the steps necessary to advance women’s equality in Canada.\textsuperscript{37} The Royal Commission made numerous recommendations on issues such as women’s socio-economic conditions, pay equity and the gender wage gap, the stereotyping and harassment of women in the workforce, and childcare. While there was concrete change in response to the Royal Commission’s report,\textsuperscript{38} some recommendations remain unimplemented and entrenched barriers to women’s substantive equality persist.\textsuperscript{39}

Prior to the fourth World Conference on Women in Beijing in 1995, Status of Women Canada released \textit{Setting the Stage for the Next Century: A Federal Plan for Gender Equality}.\textsuperscript{40} This is the closest thing to a national gender equality plan that has existed in Canada. The plan committed Canada to conduct gender-based analysis, work towards women’s economic autonomy and the reduction of violence against women, increase women’s perspectives in governance, and promote

\textsuperscript{35} CEDAW Recommendation 28, \textit{supra} note 17 at paras 24-6.


\textsuperscript{37} Privy Council Office, \textit{supra} note 36.


\textsuperscript{39} Neil Guppy and Nicole Luongo, “The Rise and Stall of Canada’s Gender-Equity Revolution” (2015) 50:3 Canadian Sociological Association 241 at 255-56; Kodar, \textit{supra} note 38 at 184: “[T]he question of how to address the effects of women’s caring responsibilities on their income and financial security in retirement has yet to be resolved”; see e.g. presentation at York University symposium entitled “Gender and the Regulation of Work: Reflections on the Legacy of the Royal Commission’s Report” (Shifting Paradigms, Enduring Legacies: the Royal Commission on the Status of Women at 50, York University, 16-19 April 2015).

\textsuperscript{40} \textit{Setting the Stage}, \textit{supra} note 36.
gender equality in all facets of cultural life.\textsuperscript{41} Its first objective was the implementation of gender-based analysis throughout federal departments and agencies.\textsuperscript{42} The plan was phased out in 2000 before being fully implemented. There has been no federal plan since then.\textsuperscript{43}

There is a recent renewed commitment to gender-based analysis by the federal government.\textsuperscript{44} However, there is not yet a standardized, mandatory protocol across federal departments and agencies.\textsuperscript{45} In 2016, for example, a Parliamentary Committee on the Status of Women reported that only twenty-nine of 110 federal departments and agencies have committed to conducting gender-based analysis.\textsuperscript{46} In 2017, the federal budget included for the first time a gender statement providing a gender-based analysis of some budgetary measures.\textsuperscript{47} The statement highlights a number of measures to reduce the wage gap, to make participating in the workforce more accessible for women, and to combat poverty and violence against women.\textsuperscript{48} While these initiatives are welcome, they are not part of a broader strategy to eliminate structural gender discrimination. Rather, they exemplify a consistent federal government approach of addressing gender discrimination in a piecemeal way.

For the first time, in the 2016 Concluding Observations, the CEDAW Committee recommended that Canada develop a national gender strategy, acknowledging intersectional experiences of gender inequalities.\textsuperscript{49} While

\textsuperscript{41} While subsequent policies have followed, such as the Agenda for Gender Equality, they have focused exclusively, or almost exclusively, on gender-based analysis.

\textsuperscript{42} Setting the Stage, supra note 36 at 7.

\textsuperscript{43} Status of Women, Introduction to GBA, The History of GBA, Domestic and International Milestones (28 March 2017), online: <http://www.swc-cfc.gc.ca/gba-acs/course-cours/eng/mod04/mod04_02_04.html>; Government of Canada, Budget 2017 Building a Strong Middle Class (22 March 2017) at 218, online: <http://www.budget.gc.ca/2017/docs/plan/budget-2017-en.pdf> [Budget 2017]: “Gender-based analysis is not new to Canada, but there have been consistent gaps in the level of analysis applied, and the understanding of the process itself.”


\textsuperscript{47} Budget 2017, supra note 43 at 217.

\textsuperscript{48} Ibid at 223.

\textsuperscript{49} 2016 CEDAW Concluding Observations, supra note 13 at para 21(d).
the recommendation is new in the context of the relationship between Canada and the Committee, it builds on a March 2016 recommendation made by the Committee on Economic Social and Cultural Rights (CESCR Committee) to Canada. The CESCR Committee recommended that the State party develop and implement a comprehensive national gender equality policy to address the structural factors leading to gender inequality, in close cooperation with provinces and territories, as well as in consultation with civil society organizations.\textsuperscript{50}

In addition to this recommendation, the CESCR Committee listed policy priorities that fall within the scope of removing structural gender inequalities in Canada, such as removing all sex discrimination from the federal \textit{Indian Act} and providing access to universal affordable childcare.\textsuperscript{51}

Treaty body recommendations are not binding upon state parties. They are a form of treaty body interpretation, indicating what a treaty body considers a state party should do in its domestic context to fulfill a treaty’s provisions.\textsuperscript{52} Recommendations are thus proposed strategies for how to better comply with human rights obligations. The CEDAW Committee’s recommendation for a national gender equality plan indicates that a holistic approach would be the most effective way to respond to the inadequacies of Canada’s current law and policy framework to eliminate gender discrimination. This stance aligns with civil society advocates who argue that Canada needs a national gender equality plan to coordinate the existing partial and siloed measures across different levels of government.\textsuperscript{53}

The federal government has not formally committed to devising a national gender equality plan in response to the CEDAW Committee’s call.\textsuperscript{54} Yet it is advancing strategies on issues integral to women’s advancement.\textsuperscript{55}

\textsuperscript{50} 2016 \textit{CESCR Concluding Observations}, \textit{supra} note 26 at para 22.
\textsuperscript{51} \textit{Ibid.} \textit{Indian Act}, RSC 1985, c I-5.
\textsuperscript{53} 2016 \textit{FAFIA Coalition Report}, \textit{supra} note 25 at 18.
\textsuperscript{55} See \textit{Budget 2017}, \textit{supra} note 43 at 227 (the federal government lists the childcare, housing, and gender-based violence strategies as the major initiatives that promote more
These include Canada’s national housing strategy, the beginnings of a national anti-poverty plan, a federal strategy to address gender-based violence, and childcare services. These initiatives are in varying stages of development, and it is unclear how they will function together. Any effective national gender equality plan would ensure that these strategies are mutually reinforcing, apply a gendered, intersectional lens, and coordinate with provincial and territorial initiatives on the elimination of women’s inequality.

V. INADEQUATE GOVERNMENTAL RESPONSE TO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

Since 2006, UN treaty bodies have issued repeated recommendations on violence against Indigenous women and girls, including the issue of missing and murdered Indigenous women and girls. The Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination, and the Committee on the Rights of the Child have all made recommendations to Canada on the violence. For instance, in 2015, the Human Rights Committee devoted two paragraphs to the issue of missing and murdered Indigenous women and girls, indicating its heightened concern about Canada’s failures to adequately address the root causes of the violence and improve the policing and criminal justice system’s response.

equal labour market participation and reduce poverty and violence, without also listing the anti-poverty strategy).

56 Canada, What We Heard, Shaping Canada’s National Housing Strategy (2016), online: <https://www.letstalkhousing.ca/pdfs/what-we-heard.pdf>.
64 2015 HRC Concluding Observations, supra note 13 at para 9; see also 2006 HRC Concluding Observations, supra note 26 at para 23.
reports have complemented these calls to action: the Human Rights Council’s 2013 working group report to Canada following Canada’s Universal Periodic Review\textsuperscript{65} and the UN special rapporteur on the rights of Indigenous peoples’ 2014 report following a mission to Canada.\textsuperscript{66}

The CEDAW Committee has been the most active UN body on this issue. In the Committee’s 2008 review, it required Canada to report on steps taken to respond to the violence by 2010.\textsuperscript{67} In 2010 and 2011, the Committee found Canada’s response to be inadequate.\textsuperscript{68} Subsequently, the Canadian Feminist Alliance for International Action and Native Women’s Association of Canada requested that the Committee initiate an inquiry under Article 8 of the \textit{Optional Protocol} to the convention.\textsuperscript{69} The \textit{Optional Protocol}, to which Canada is bound, provides for individual

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  \item[67] 2008 CEDAW Concluding Observations, supra note 16.
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communication and inquiry mechanisms.\textsuperscript{70} The Committee can initiate an inquiry where it has “reliable information indicating grave or systematic violations” of \textit{CEDAW} by the state.\textsuperscript{71} The Committee initiated the inquiry into missing and murdered Indigenous women and girls in Canada in 2012 and received permission from Canada to conduct an investigatory visit in 2013.\textsuperscript{72} This was the first time that a UN treaty body conducted an inquiry into allegations of grave or systematic human rights violations in Canada.\textsuperscript{73}

\textbf{A. Inquiry Findings under Article 8 of the Optional Protocol}

In March 2015, the CEDAW Committee released its inquiry report, finding Canada to be in violation of \textit{CEDAW}.\textsuperscript{74} According to its definition of discrimination under Article 1, interpreted in conjunction with other articles, the Committee found that Canada failed to:

- ensure the social and economic development and advancement of Indigenous women and girls under Article 3;\textsuperscript{75}
- sufficiently account for, and respond to, Indigenous women victims of violence in rural areas and on reserve under Article 14(1);\textsuperscript{76}
- take sufficient and appropriate measures to address gender stereotyping, including stereotyping in public institutions under Articles 2(f) and 5(a);\textsuperscript{77}

\textsuperscript{70} \textit{Optional Protocol}, supra note 9, art 8 at 83; see also \textit{Rules of Procedure}, supra note 9, Rules 76-91, 121-25.
\textsuperscript{71} \textit{Optional Protocol}, supra note 9.
\textsuperscript{73} There was the acceptance of an inquiry procedure under art 20 of the \textit{Convention against Torture}, supra note 12, on 24 June 1987, though there are no records of the inquiry’s completion and report.
\textsuperscript{75} 2015 \textit{CEDAW Inquiry Report}, supra note 69 at para 203 (in violation of art 3).
\textsuperscript{76} \textit{Ibid} at para 204 (in violation of art 14(1)).
\textsuperscript{77} \textit{Ibid} at para 205 (in violation of arts 2(f)).
act with due diligence to prevent, protect against, investigate and
punish violence, and provide reparations to victims of gender-based
violence as required under Articles 2(c), (e), and 15(1);78 and
ensure that Indigenous women and girls are not discriminated
against by public institutions under Article 2(d).79

In sum, the Committee declared that Canada had violated Articles 1, 2(c),
(d), (e), (f), 3, and 5 (a), read in conjunction with Articles 14(1) and 15(1)
of CEDAW.80 It concluded that these were grave violations pursuant to
Article 8 of the Optional Protocol.81 Canada’s protracted failure to
coordinate an adequate cross-jurisdictional response to the violence
contributed to this finding.82 The Committee made thirty-eight
recommendations to Canada to be implemented in a comprehensive,
holistic way in response to the violence.83

B. Canada Still in Violation of the Convention

The CEDAW Committee’s recommendations on murdered and missing
Indigenous women and girls in its November 2016 Concluding
Observations reinforce the recommendations made in the 2015 inquiry
report (“inquiry recommendations”).84 The federal government’s decision
to launch a National Inquiry into Missing and Murdered Indigenous Women
and Girls was recognized as a positive development and as fulfilling one of
the thirty-eight inquiry recommendations in the Committee’s inquiry
report.85 However, the Committee was concerned that there was no plan or
mechanism to implement the outstanding thirty-seven inquiry
recommendations.86 Additional, ongoing concerns include insufficient
police oversight mechanisms and inadequate supports for witnesses.87

The CEDAW Committee requested that Canada implement all of the
inquiry recommendations without delay.88 It made a number of requests
relating to law enforcement and police, including that the National Inquiry
investigate the role of police across jurisdictions and create a mechanism
for independent review of cases where investigations appear to have been

78 Ibid at paras 207-09 (in violation of arts 2(c), 2(e)).
79 Ibid at para 210 (in violation of arts 2(c), (d), (e)).
80 Ibid at paras 210-12.
81 Ibid at para 214.
82 Ibid.
83 Ibid at paras 215-20.
84 2016 CEDAW Concluding Observations, supra note 1 at para 26.
85 Ibid.
86 Ibid at paras 26-27 (see 2015 CEDAW Inquiry Report, supra note 69 at para 216(D)(i)).
87 Ibid at para 26(d)
88 Ibid at para 27.
inadequate.\textsuperscript{89} The Committee also called on Canada to strengthen its partnership with Indigenous women’s organizations and human rights bodies during the National Inquiry process.\textsuperscript{90} The Concluding Observations are the first formal communication to Canada on the status of its compliance with \textit{CEDAW} since the 2015 inquiry. The conclusion that Canada has not acted on thirty-seven of the thirty-eight inquiry recommendations underscores Canada’s disregard for complying with its international human rights obligations.

\textbf{C. Socio-Economic Marginalization as a Root Cause of Violence}

Until the inquiry report, recommendations on the issue of missing and murdered Indigenous women and girls tended to focus exclusively on failures in policing and the criminal justice system.\textsuperscript{91} For example, the CEDAW Committee’s 2008 Concluding Observations did not include recommendations to Canada to deal with the root causes of the violence.\textsuperscript{92} Instead, they focused on police failures, including inadequate investigations.\textsuperscript{93} Policing and criminal justice failures cause and perpetuate the violence. However, there are other critical root causes, including the socio-economic marginalization of Indigenous women and girls. In the 2015 inquiry report, the Committee affirmed that the realization of Indigenous women’s economic, social, political, and cultural rights is needed to decrease their vulnerability to violence.\textsuperscript{94} It explicitly found that Canada’s failure to secure Indigenous women’s social and economic rights, such as access to education and housing, contributed to their disproportionate subjection to violence.\textsuperscript{95} The inquiry report includes recommendations aimed at improving the socio-economic conditions of Indigenous women and girls.\textsuperscript{96}

The CEDAW Committee reiterated in 2016 that Canada should act on these inquiry recommendations without delay.\textsuperscript{97} The 2016 Concluding Observations expressly recommend that Canada address the socio-economic conditions that affect Indigenous women and girls on and off reserve,

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\textsuperscript{89} \textit{Ibid} at para 27.
\textsuperscript{90} \textit{Ibid}.
\textsuperscript{91} All treaty body recommendations to Canada with the exception of the 2006 HRC recommendation have not mentioned socio-economic marginalization. See 2006 \textit{HRC Concluding Observations}, supra note 26 at para 23.
\textsuperscript{92} 2008 \textit{CEDAW Concluding Observations}, supra note 16 at paras 31-32.
\textsuperscript{93} \textit{Ibid}.
\textsuperscript{94} 2015 \textit{CEDAW Inquiry Report}, supra note 69 at para 203.
\textsuperscript{95} \textit{Ibid}.
\textsuperscript{96} \textit{Ibid} at para 216(B)i-iv.
\textsuperscript{97} 2016 \textit{CEDAW Concluding Observations}, supra note 1 at paras 27, 29.
including their high rates of poverty, poor health, inadequate housing, low school-completion rates, and high unemployment rates. The Committee called on Canada to promote and apply the principles of the United Nations Declaration on the Rights of Indigenous Peoples in addressing the socio-economic marginalization of Indigenous women and girls.

VI. CONCLUSION

The CEDAW Committee’s 2016 Concluding Observations provide a comprehensive overview of the key women’s rights issues in Canada today. They address Canada’s continued inaction developing a treaty implementation mechanism and the need for a national gender equality plan. The Concluding Observations also provide the most recent commentary from UN treaty bodies on Canada’s response to missing and murdered Indigenous women and girls. The recommendations build on and overlap with its own jurisprudence as well as jurisprudence from other treaty bodies. Ultimately, the Committee’s recommendations demonstrate that the state is failing to use intergovernmental coordination and national machinery to adequately respond to the discrimination against women and girls in Canada today.

98 Ibid at para 29.