

Stolen Sisters

A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada

AMNESTY INTERNATIONAL

Cet article examine les facteurs trop longtemps négligés qui ont contribué à accroître—c'est inacceptable—les risques de violence contre les femmes autochtones au Canada. En dépit des assurances du contraire, la police canadienne a failli à la tâche de donner aux femmes autochtones un minimum de protection. Ce rapport fait état de la discrimination dans les actes de violence envers les femmes autochtones dans les villes et villages au Canada.

“It is important to honour the missing and murdered women. It is unacceptable to marginalize these women. The Creator did not create garbage. He created beauty.”

—Elder Dan Smoke, closing a healing ceremony for his sister-in-law, Deborah Anne Sloss who died in Toronto on August 24, 1997 under suspicious circumstances.

Introduction

Helen Betty Osborne was a 19-year-old Cree student from northern Manitoba who dreamed of becoming a teacher. On November 12, 1971, she was abducted by four white men in the town of The Pas and then sexually assaulted and brutally murdered. A provincial inquiry subsequently concluded that Canadian authorities had failed Helen

Betty Osborne. The inquiry criticized the sloppy and racially biased police investigation that took more than 15 years to bring one of the four men to justice. Most disturbingly, the inquiry concluded that police had long been aware of white men sexually preying on Indigenous women and girls in The Pas but “did not feel that the practice necessitated any particular vigilance.”¹

The murder of Helen Betty Osborne is one of nine case studies presented in this report. These stories of missing and murdered Indigenous² women and girls take place in three of the Western provinces of Canada over a period of three decades. In some cases, the crimes remain unsolved. In others, the perpetrators have been identified as acquaintances, strangers or men encountered in course of desperate efforts to earn a living. In every instance, it is Amnesty International’s view that Canadian authorities should have done more to ensure the safety of these women and girls.

This report examines the following factors which, too long neglected, have contributed to a heightened—and unacceptable—risk of violence against Indigenous women in Canadian cities:

- The social and economic marginalization of Indigenous women, along with a history of

government policies that have torn apart Indigenous families and communities, have pushed a disproportionate number of Indigenous women into dangerous situations that include extreme poverty, homelessness and prostitution.

- Despite assurances to the contrary, police in Canada have often failed to provide Indigenous women with an adequate standard of protection.

- The resulting vulnerability of Indigenous women has been exploited by Indigenous and non-Indigenous men to carry out acts of extreme brutality against them.

- These acts of violence may be motivated by racism, or may be carried out in the expectation that societal indifference to the welfare and safety of Indigenous women will allow the perpetrators to escape justice.

These are not new concerns. Indigenous women’s organizations, government commissions such as the inquiry into the murder of Helen Betty Osborne and the Royal Commission on Aboriginal Peoples, and United Nations human rights bodies have all called on Canadian officials to address the marginalization of Indigenous women in Canadian society and



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to ensure that the rights and safety of Indigenous people are respected and upheld by police and courts.³ Sadly, fundamental measures that could help reduce the risk of violence to Indigenous women remain unimplemented. This is only one example of the way Canadian authorities have failed in their responsibility to protect the rights of Indigenous women in Canada.

Scope, Methods and Limitations of This Study

This report examines the role of discrimination in acts of violence carried out against Indigenous women in Canadian towns and cities. This discrimination takes the form both of overt cultural prejudice and of implicit or systemic biases in the policies and actions of government officials and agencies, or of society as a whole. This discrimination has

played out in policies and practices that have helped put Indigenous women in harm's way and in the failure to provide Indigenous women the protection from violence that is every woman's human right.

Amnesty International acknowledges that there are many similarities between Indigenous women and non-Indigenous women's experiences of violence in Canada. More needs to be done to address violence against all women. This report is part of a larger, international campaign to stop violence against women.

This report focuses specifically on violence against Indigenous women because of indications of the scale of such violence in Canada, because the link between racial discrimination and violence against Indigenous women has not yet been adequately acknowledged or addressed, and because the victims of this violence are all too often forgotten.

Amnesty International reviewed published reports and the findings of inquests and government inquiries, interviewed survivors of violence and the family members of Indigenous women who have been murdered or who have gone missing, and met with key organizations and individuals who have worked on their behalf. Where possible, the researchers also spoke with police investigators or spokespersons.

The individual stories that form the major part of this report are retold with the permission of the families and friends. Many of the families of missing and murdered Indigenous women in Canada were unable to take this step. Some find it too emotionally difficult to talk about their loss. Others have had negative experiences with the way their stories have been told by reporters and academics. There are countless stories that remain untold.

This report focuses primarily on cities in the Western provinces of Canada where there is a large and growing Indigenous population and where there have been a number of highly publicized incidents of violence against Indigenous women. There were regions of Canada that Amnesty International did not have the opportunity to visit in the course of this research and as a re-

because of her Indigenous identity, those rights have been violated.

I. The International Human Rights Framework

This report addresses violence against Indigenous women as a human rights issue. The concept of human rights is based on the recognition of the inherent dignity

and Eradication of Violence against Women (Convention of Belém do Pará). Canadian ratification of this treaty would strengthen the legal and institutional framework for protecting Indigenous women in Canada. The treaty not only requires states to condemn, prevent, and punish violence against women, but also obliges them to undertake progressively specific measures to

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sult many specific experiences, such as those of Inuit and other northern Indigenous women, the experiences of rural Indigenous women, and Indigenous women living on reserves, unfortunately are not adequately reflected. As was stated by many interviewees, this report is still only 'scratching the surface.' However, Amnesty International hopes that it will contribute to a fuller understanding of the issue from a human rights perspective.

Violence against women, and certainly violence against Indigenous women, is rarely understood as a human rights issue. To the extent that governments, media and the general public do consider concerns about violence against women, it is more frequent for it to be described as a criminal concern or a social issue. It is both of those things of course. But it is also very much a human rights issue. Women have the right to be safe and free from violence. Indigenous women have the right to be safe and free from violence. When a woman is targeted for violence because of her gender or because of her Indigenous identity, her fundamental rights have been abused. And when she is not offered an adequate level of protection by state authorities because of her gender or

and worth of every human being. Through ratification of binding international human rights treaties, and the adoption of declarations by multilateral bodies such as the United Nations, governments have committed themselves to ensuring that all people can enjoy certain universal rights and freedoms.

Amnesty International's research demonstrates that violence experienced by Indigenous women gives rise to human rights concerns in two central ways. First, is the violence itself and the official response to that violence. When Indigenous women are targeted for racist, sexist attacks by private individuals and are not assured the necessary levels of protection in the face of that violence, a range of their fundamental human rights are at stake. This includes the right to life,⁴ the right to be protected against torture and ill treatment,⁵ the right to security of the person,⁶ and the right to both sexual⁷ and racial⁸ equality. Canada has ratified all of the key human rights treaties that guarantee these fundamental rights.

Notably Canada has not yet ratified the only international human rights treaty dealing specifically with the issue of violence against women, the Inter-American Convention on the Prevention, Punishment

and Eradication of Violence against Women (Convention of Belém do Pará). Canadian ratification of this treaty would strengthen the legal and institutional framework for protecting Indigenous women in Canada. The treaty not only requires states to condemn, prevent, and punish violence against women, but also obliges them to undertake progressively specific measures to deal with the root causes of gender-based violence, including, inter alia, the provision of specialized shelters and social services for the victims of violence; education and training programs for all those involved in the administration of justice; the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women; and specialized programs aimed at countering social and cultural patterns of conduct "which legitimize or exacerbate violence against women."⁹

The cases in this report and other cases of violence against Indigenous women that are already on the public record¹⁰ do not involve allegations of violence by police or other public officials. But that does not mean that the human rights obligations of governments are not engaged.

International law is clear; governments are of course obliged to ensure that their own officials comply with human rights standards. Governments are also obliged, though, to adopt effective measures to guard against private individuals committing acts which result in human rights abuses.¹¹ International human rights bodies have made it clear that when governments fail to take such steps, often termed the duty of

“due diligence,” they will be held accountable under international human rights treaties. The Inter-American Court of Human Rights has described the duty of due diligence as follows:

An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.¹²

The Court stressed that this duty of “due diligence” means that a state must take reasonable steps to prevent human rights violations, use the means at its disposal to carry out serious investigations, identify those responsible, impose the appropriate punishment and ensure that the victim receives adequate reparation.¹³ The UN Human Rights Committee, has stressed that the duty in Article 2 of the Covenant on Civil and Political Right to “ensure” the rights included in the Covenant requires appropriate measures be taken to prevent and investigate abuses perpetrated by private persons or entities, punish those responsible and provide reparations to the victims.¹⁴ This concept of due diligence does not in any way lessen the criminal responsibility of those who carry out acts of violence, including murder, against women. However, the concept does underline the inescapable responsibility of state officials to take action.

In her 2003 report to the UN Commission on Human Rights, Radhika Coomaraswamy, the first Special Rapporteur on violence against women clearly described the content of the duty of due diligence when it comes to preventing violence against women.¹⁵

States must promote and protect the human rights of women and exercise due diligence:

- (a) To prevent, investigate and punish acts of all forms of violence against women, whether in the home, the workplace, the community or society, in custody or in situations of armed conflict;
- (b) To take all measures to empower women and strengthen their economic independence and to protect and promote the full enjoyment of all rights and fundamental freedoms;
- (c) To condemn violence against women and not invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence;
- (d) To intensify efforts to develop and/or utilize legislative, educational, social and other measures aimed at the prevention of violence, including the dissemination of information, legal literacy campaigns and the training of legal, judicial and health personnel;
- (e) To enact and, where necessary, reinforce or amend domestic legislation in accordance with international standards, including measures to enhance the protection of victims, and develop and strengthen support services;
- (f) To support initiatives undertaken by women’s organizations and non-governmental organizations on violence against women and establish and/or strengthen, at the national level, collaborative relationships with relevant NGOs and with public and private sector institutions.

Second, the range of concerns, some historical and some continuing, which Amnesty International’s research has shown to be factors that put Indigenous women at heightened risk of experiencing violence

also directly engage a number of fundamental human rights provisions. For instance, past policies revoking the legal Indigenous status of Indigenous women who married non-Indigenous men¹⁶ have already been found by the UN Human Rights Committee¹⁷ to have violated minority cultural rights under article 27¹⁸ of the International Covenant on Civil and Political Rights. Certainly the decades long residential schools program raises a range of human rights concerns related to the physical, sexual and psychological abuse and ill-treatment of the children sent to the schools, but also such economic, social and cultural rights as the right to education.¹⁹

The UN Committee on Economic, Social and Cultural Rights has highlighted that the economic marginalization of Indigenous peoples in Canada is of concern with respect to Canada’s obligations under the Covenant on Economic, Social and Cultural Rights:

The Committee is greatly concerned at the gross disparity between Aboriginal people and the majority of Canadians with respect to the enjoyment of Covenant rights. There has been little or no progress in the alleviation of social and economic deprivation among Aboriginal people. In particular, the Committee is deeply concerned at the shortage of adequate housing, the endemic mass unemployment and the high rate of suicide, especially among youth, in the Aboriginal communities. Another concern is the failure to provide safe and adequate drinking water to Aboriginal communities on reserves. The delegation of the State Party conceded that almost a quarter of Aboriginal household dwellings required major repairs and lacked basic amenities.²⁰

These concerns engage a number of internationally protected human



Photo: Courtesy of Amnesty International

rights, including the rights to housing,²¹ work,²² health²³ and an adequate standard of living.²⁴

This report highlights some past and present concerns with respect to Indigenous children, such as residential schools and child protection policies as well as some cases involving violence against Indigenous girls. International human rights laws and standards recognize that children need and deserve special protection to ensure the full realization of their potential. The almost universally ratified United Nations Convention on the Rights of the Children establishes as an overarching principle that “in all actions concerning children ... the best interests of the child shall be a primary consideration.”²⁵ The Convention recognizes that there are instances where, in the best interests of the child, children must be removed from an abusive family situation. However, the Convention

asserts that, in general, parents or legal guardians have the primary responsibility for ensuring the welfare of their children and should be supported by the state in meeting this responsibility.²⁶ Notably, the Convention also recognizes that every child has a right to preserve his or her cultural identity and family relations and that Indigenous children, in particular, “shall not be denied the right ... to enjoy his or her own culture, to profess and practice his or her own religion, to use his or her own language.”²⁷

At the heart of the various human rights concerns documented in this report is discrimination. Amnesty International’s research has found that Indigenous women in Canada face discrimination because of their gender and because of their Indigenous identity. The research highlights that this is compounded by further discriminatory treatment that women face due to poverty,

ill-health or involvement in the sex trade.²⁸ Human rights experts have drawn attention to the interconnections between various forms of discrimination and patterns of violence against women.²⁹ Amnesty International’s research has been

In addition to these existing legal obligations, new and emerging international instruments, such as the UN’s draft Declaration on the Rights of Indigenous Peoples, seek to clarify the specific measures needed to ensure the protection and fulfillment of the rights of Indigenous peoples.

II. Understanding Violence Against Indigenous Women

Stolen Generations: Colonization and Violence Against Indigenous Women

The UN Declaration on Violence Against Women calls violence against women “a manifestation of



Photo: Courtesy of Amnesty International

historically unequal power relations between women and men” and a means by which this inequality is maintained.”³⁰ Around the world, inequality between men and women in terms of wealth, social status, and access to power has created barriers to women seeking protection of their rights. These barriers include economic dependence on abusive spouses, fear of having their children taken away if they report the abuse, or knowing that they will not be taken seriously by the police and courts.

Moreover, both the perpetrators of violence against women and those who administer the criminal justice system—judges, prosecutors, police—often hold the pervasive

view that women are responsible for violence committed against them or that they deserve to be punished for non-conforming behaviour. So even when a woman does overcome these barriers and report that she has been the victim of a violent attack, she may well meet with an unsympathetic or skeptical response. In the few cases in which a suspect is identified and brought to trial, cases of violence against women often founder unless there is clear and unavoidable evidence of force, illustrating to all that the victim “fought back”. The perpetrators of violence against women can thus commit their crimes safe in the knowledge that they will not face arrest, prosecution or punishment. Impunity for

violence against women contributes to a climate where such acts are seen as normal and acceptable rather than criminal, and where women do not seek justice because they know they will not get it.

For Indigenous women in Canada, violence often takes place in a context shaped, in the words of Canada’s Royal Commission on Aboriginal Peoples (RCAP), by the power that the dominant society has wielded “over every aspect of their lives, from the way they are educated and the way they can earn a living to the way they are governed.”³¹ Historically, in most of the Indigenous cultures that are now part of Canada, there were distinct gender roles for women and men but relative equality between them. Through policies imposed without their consent, Indigenous peoples in Canada “have had to deal with dispossession of their traditional territories, disassociation with their traditional roles and responsibilities, disassociation with participation in political and social decisions in their communities, disassociation of their culture and tradition.”³² Colonialism, which has had a profoundly negative impact on Indigenous communities as a whole, has also affected the relations between Indigenous women and Indigenous men, and pushed many Indigenous women to the margins of their own cultures and Canadian society as a whole.³³

While it is beyond the scope of this report to look at all the ways government policies have impacted on Indigenous women, two historic policies—the dispossession of Indigenous women who married outside their communities and the removal of children to be educated in residential schools—need to be examined because of their profound and lasting impact on social strife within Indigenous communities and on the marginalization of Indigenous women within Canadian society.

RCAP described the legislation governing Indigenous peoples in Canada as being “conceived and implemented in part as an overt

attack on Indian nationhood and individual identity, a conscious and sustained attempt by non-Aboriginal missionaries, politicians and bureaucrats—albeit at times well intentioned—to impose rules to determine who is and is not ‘Indian.’”³⁴ The first of these laws, passed in 1857, allowed Indigenous men to renounce their Indigenous status and the right to live on reserve lands in order to assimilate into non-Indigenous society. Women were not given the same choice: women’s status would be determined by the choices made by her husband or father. A second law passed in 1869, stripped women of their Indigenous status and their place in their community if they married a man from another community, even if he was also Indigenous. In addition, children born to an Indigenous woman who married a non-Indigenous man would also be denied status. These laws remained in place for more than a century. Finally, in 1985, after a long struggle by Indigenous women, which included bringing a successful complaint to the UN Human Rights Committee,³⁵ the policies were repealed for being incompatible with protections against discrimination in the new Canadian Charter of Rights and Freedoms.

Over the next decade, more than 130,000 people—mostly women—applied to have their rights and status restored.³⁶ For the tens of thousands of women who had been affected over the previous century, losing their status meant the loss of independent standing in their community and increased dependence on their spouses. In many cases, the laws led to women losing all ties to their home communities.

During the same period that so many Indigenous women were being uprooted, the federal government was removing large numbers of Indigenous children from their families and communities to attend schools in predominantly non-Indigenous communities. The explicit purpose of providing education out-

side of the community was to foster assimilation of Indigenous children into European Canadian culture. The first residential schools were opened in the mid-1870s. In the words of the architect of the system, Canadian Member of Parliament Nicholas Flood Davin, the goal was to remove Indigenous children from “the influence of the wigwam” and keep them instead “constantly within the circle of civilized conditions.”³⁷ The children attending residential schools were not allowed to speak their Indigenous languages or to practice their own customs, eroding their sense of identity and driving a wedge between the children and their parents.

Initially, the schools offered low quality education, geared to industrial trades for boys and domestic service for women. Beginning in the mid-twentieth century, they gradually became residences for Indigenous children attending schools in predominantly non-Indigenous communities. The school system was run in collaboration with Christian churches until 1969. Then, in a phase-out period that lasted through the mid-1980s, the system was run solely by the federal government.

Many children in the schools faced inhuman living conditions caused by chronic under-funding and neglect. Harsh punishments sanctioned by the school authorities included beatings, chaining children to their beds, or denying them food. Cloaked by society’s indifference to the fate of these children, individual staff carried out horrendous acts of physical and sexual abuse.³⁸ Summarizing the history of the residential school system, the RCAP points out “head office, regional, school and church files are replete, from early in the system’s history, with incidents that violated the norms of the day.”³⁹ Yet even the most alarming reports of abuse and neglect were largely ignored by the church and government officials responsible for the care of these children:

The avalanche of reports on the condition of children “hungry, malnourished, ill-clothed, dying of tuberculosis, overworked” failed to move either the churches or successive governments “to concerted and effective remedial action.” When senior officials in the department and the churches became aware of cases of abuse, they failed routinely to come to the rescue of children they had removed from their real parents.⁴⁰

In a climate of total impunity, staff carried out their crimes without fear of repercussion. However the consequences for many of the children exposed to repeated abuse stayed with them their whole lives and have impacted subsequent generations. Like other survivors of abuse, many of the residential school alumni have carried a sense of shame and self-loathing. Perhaps most harmfully, they were denied the opportunity to be exposed to good examples of parenting, and instead learned violence and abuse.⁴¹

With the end of the residential school system, survivors began to come forward to tell stories of abuse and demand justice. In the early 1990s, there were a number of prosecutions of staff who had abused children. Following the 1996 RCAP report the federal government established a \$350 million dollar fund to provide healing programs for the victims and their families. Applications for support, however, have greatly outstripped the available resources. Indigenous peoples’ organizations also argue that there has been inadequate redress for the loss of culture and identity and the inter-generational impacts of all the forms of abuse suffered in the schools. Although the federal government has apologized for the harm done by the residential school system, it has failed to act on RCAP’s recommendation that a public inquiry be held so that the injuries suffered by In-

Indigenous communities can be fully acknowledged.

Indigenous peoples' organizations have pointed out that the erosion of cultural identity and the accompanying loss of self-worth brought about, in part, through assimilationist policies like residential schools and the arbitrary denial of some women's Indigenous status, have played a central role in the social strife now faced by many Indigenous families and communities. In the course of researching this report, Amnesty International heard from many families who described the personal loss and hardship they have experienced as a consequence of these policies. Some described losing all contact with a sister or daughter who simply disappeared after being put into a foster home or marrying a man from another community. Other women described increasing desperate and dangerous lives shaped by loss of culture, community and self-esteem. These are two examples of the stories we have heard:

•Margaret Evonne Guylee's mother was from the Whitedog Reserve in northern Ontario but had been forced to give up her residence in the community in the early 1930s after getting involved with a non-Indigenous man. Margaret Guylee grew up in poverty in Toronto. She then raised six children herself while living on social assistance. She disappeared in 1965. No missing persons report was ever filed. Her daughter, Carrie Neilson, who was only four when her mother disappeared, says she still carries the pain and bewilderment caused by her mother's sudden and still unexplained disappearance. "We believed for years that we were not any good—after all, why would a mother abandon her children if they were good?"

•Edna Brass is a respected elder and counselor working with Indigenous women in Vancouver. As a child, Edna Brass spent 13 years in residential school. She remembers being teased by the other children about a cleft palate that left scars on

her face. She remembers worse abuse at the hands of the staff running the school: "I was sexually abused, I was raped, I was beaten." As a consequence of what she endured, Edna Brass says she lost her ties to her culture and lost her own way in life. She entered into a life of substance abuse and living on the streets. Although she was eventually able to pull her own life together, she says her family still suffers the scars of her own uprooting. Edna Brass says, "I, myself, didn't have a home. I felt like I didn't belong anywhere and my children have felt the same. They don't know my family. They don't know my community. I never felt like my reserve is my reserve. I just try to fit in where I can. My daughter suffered because of this."

These personal accounts illustrate one of the central conclusions of the Royal Commission on Aboriginal Peoples. "Repeated assaults on the culture and collective identity of Aboriginal people have weakened the foundations of Aboriginal society and contributed to the alienation that drives some to self-destruction and anti-social behaviour," RCAP concluded. "Social problems among Aboriginal people are, in large measure, a legacy of history."⁴²

It is important to emphasize that the disruption of Indigenous families and communities is not a thing of the past. Even as the residential school system was being transformed and eventually phased out from the late 1950s through the 1970s, provincial and territorial governments began to place a dramatically increased number of Indigenous children in foster homes and state institutions. One study found that the number of Indigenous children in state care in the province of British Columbia rose from 29 children in 1955 to 1,446 in 1965.⁴³ Despite many changes that have taken place in the field of Indigenous child welfare, the Canadian government recently estimated that Indigenous children are currently four to six times more likely than non-Indig-

enous children to be removed from their families and placed in the care of the state.⁴⁴

These children are being removed from their families and communities to protect them from abuse and neglect. There are clearly circumstances where such measures are needed to protect the rights and welfare of the child. Unlike the residential school system, child welfare institutions are not intending to break children's ties to their families and communities. In fact, since the early 1980s child services in Indigenous communities are increasingly provided by Indigenous organizations funded by the federal government. However, many Indigenous peoples' organizations and other commentators have noted that Indigenous children are often removed from families who want to care for them, but for reasons such as poverty, substance addiction and other legacies of past government policies, are unable to do so. And they question why there are not more resources available to help Indigenous families address situations of impoverishment, stress, and poor parenting before they reach the point where children are endangered.⁴⁵

A joint study completed in 2000 by the Department of Indian Affairs and Northern Development and Assembly of First Nations found that on average Indigenous run child services programs receive 22 percent less funding than provincially-funded counterparts serving predominantly non-Indigenous communities. The study also found that there was not enough emphasis on funding early intervention programs so that children's welfare and safety could be assured without removal from their families.⁴⁶

"You put a child into care and they get counseling immediately," one witness told a Parliamentary committee, "but when a biological parent is looking for those sources or that funding to maintain their own fam-

ily and keep it together, it's not available to them.⁴⁷

The painful loss of ties to family, community and culture is a common element of many of the stories of missing and murdered women that have been reported to Amnesty International, some of which are presented in the case studies that follow below. Such loss is not a necessary

Without adequate lands and resources, Aboriginal nations will be unable to build their communities and structure the employment opportunities necessary to achieve self-sufficiency. Currently on the margins of Canadian society, they will be pushed to the edge of economic, cultural and political extinction. The government must

require to meet their own needs.⁵³ In fact, many Indigenous women living in poverty not only have to look after themselves but also must care for elderly parents, raise children or tend to loved ones in ill-health, often with only a single income to live on. Homelessness and inadequate shelter are believed to be widespread problems facing Indigenous families in all settings.⁵⁴

There are significant gaps in how police record and share information about missing persons and violent crimes means that there is no comprehensive picture of the actual scale of violence against Indigenous women.

consequence of children being removed from their families, or even of being adopted into a non-Indigenous family. Some of these women were clearly raised with love and affection by caring foster or adoptive families. There are many ways that ties to their heritage and identity could have been maintained throughout their childhood or, if they had had the chance, rebuilt in later life. Nor is loss of culture a direct cause of violence. However, for young people in particular, a loss of a sense of identity, belonging and ultimately self-worth needs to be understood and addressed as a critical factor potentially contributing to self-destructive behaviour and in vulnerability to exploitation by others.⁴⁸

Indigenous Women in Canadian Cities: Displaced in Their Own Land

The Canadian government's Royal Commission on Aboriginal Peoples acknowledged in its 1996 report that there have been widespread violations of Indigenous peoples' land and resource rights—including the erosion of more than two-thirds of the land base of Indigenous communities—since the formation of the Canadian state.⁴⁹ The Commission warned:

act forcefully, generously and swiftly to assure the economic, cultural and political survival of Aboriginal nations.⁵⁰

With the loss of traditional livelihoods within Indigenous communities, the opportunities for education and employment in Canadian towns and cities have become a powerful draw for a growing number of Indigenous people. Almost 60 percent of Indigenous people in Canada now live in urban settings.⁵¹ Critically, however, the majority of Indigenous peoples in Canadian towns and cities continue to live at a disadvantage compared to non-Indigenous people, facing dramatically lower incomes and a shortage of culturally appropriate support services in a government structure that has still not fully adjusted to the growing urban Indigenous population.

In the 1996 census, Indigenous women with status living off-reserve earned on average \$13,870 a year.⁵² This is about \$5500 less than non-Indigenous women. Other groups of Indigenous women, such as Inuit and Métis women, recorded slightly higher average annual incomes, but all substantially less than what Statistics Canada estimated someone living in a large Canadian city would

The difficult struggle to get by is compounded by many Indigenous peoples' experience of racism, both subtle and overt, within the dominant society. As described by the Canadian Panel on Violence against Women: "most Aboriginal people have known racism first-hand—most have been called 'dirty Indians' in schools or foster homes or by police and prison guards. Aboriginal people have also experienced subtle shifts in treatment and know it is no accident."⁵⁵

As a whole, Indigenous people living off-reserve move frequently, more so than other people living in Canada.⁵⁶ For some, this is movement to and from their home communities as they try to maintain a connection with their families and cultures. For others, this movement may be a reflection of a kind of rootlessness stemming from the fact that their ties to family and community were severed long ago, perhaps by their loss of membership in their home community or perhaps due to their removal to a residential school or some other form of state care. One consequence of this "churn factor," as it is sometimes called, is that many Indigenous people are not aware of—or are unable to access—the services available to them where they live.

In Canada, the federal government is responsible for health and social services on reserve and in Inuit communities, while the provincial and territorial governments provide services elsewhere. This has led to a gap in services for Indigenous people living in Canadian towns and cities. While Indigenous people living off-reserve have access to programs and services designed for the general population, these programs and services are not necessarily aligned to the specific needs of Indigenous peoples, or delivered in a culturally appropriate way.

Over the last decade, the federal government has increasingly recognized the need for programs and services for Indigenous people in predominantly non-Indigenous communities. Funding, however, lags behind the growth in the urban Indigenous population and the delivery of services through various government departments is often uncoordinated. The Federal Interlocutor for Métis and Non-Status Indians pointed out in 2003 that almost 90 percent of the funding for programs designed for Indigenous peoples is spent on reserves, while off-reserve programs for Indigenous people are delivered through 22 federal departments, as well as provincial and territorial agencies.⁵⁷ Responding to these comments, a federal subcommittee on Indigenous child welfare described a “jurisdictional web” in which there is often little coordination or communication “within and between the municipal, provincial and federal levels of government.”⁵⁸

Indigenous people have formed a wide range of service organizations to help address the needs of the growing urban Indigenous population, including employment counseling, addiction services, health centers and shelters for women and girls escaping violence. However, most, if not all, report that their work is jeopardized by chronic under funding and the failure of government to provide funding on a stable, multi-

year basis. Being dependent on short-term funding diverts energy from vital services to fundraising, or to managing crises when funds don't arrive. Without stable funding, long-term projects are difficult to plan and organizations fear they won't be able to keep their commitments to the people they serve.

In 2000, the Ontario Federation of Indian Friendship Centres—organizations that represent and provide support to Indigenous people outside their own communities—surveyed Indigenous families about their lives in Ontario cities. All those interviewed described the psychological hardship of their struggle to provide for themselves with little support from the larger community. “Words such as low self-esteem, depression, anger, self-doubt, intimidation, frustration, shame and hopelessness were used to describe some of the crushing feelings of Aboriginal children and parents living in poverty. Families are feeling despair as they cannot see any way to ‘rise above’ their situations.”⁵⁹

Prostitution is one means that some Indigenous women have resorted to in the struggle to provide for themselves and their families in Canadian cities. A survey of 183 women in the Vancouver sex trade carried out by the PACE (Prostitution Alternatives Counseling and Education) Society found roughly 40 percent of the women said they got into the sex trade primarily because they needed the money, and an additional 25 percent referred to drug addiction as part of the reason they starting selling sexual services, while many others referred to pressure from boyfriends or family members.⁶⁰ Almost 60 percent said they continued working in the sex trade to maintain a drug habit.⁶¹ In the PACE study, more than 30 percent of sex workers surveyed were Indigenous women, although Indigenous people make up less than two percent of the city's population.⁶² Indigenous women are believed to be similarly over-repre-

sented among sex workers in other Canadian cities.

The UN Committee on the Rights of the Child has expressed concern about “Aboriginal children [in Canada] who, in disproportionate numbers, end up in the sex trade as a means of survival.”⁶³ The non-governmental organization, Save the Children Canada, spoke with more than 150 Indigenous youths and children being exploited in the sex trade. According to their report, almost all the youth and children interviewed described “the overwhelming presence of disruption and discord in their lives, accompanied by low self-esteem.”⁶⁴ Other factors common to many of the young peoples' lives included a history of physical or sexual abuse, a history of running away from families or foster homes, lack of strong ties to family and community, homelessness or transience, lack of opportunities, and poverty. The report comments:

Any trauma that detaches children from their families, communities and cultures increases the likelihood of involvement in commercial sexual exploitation. Once a child or youth loses such basic parameters as safety, shelter, and sustenance, their vulnerability forces them into situations whereby the sex trade can become the only viable alternative for survival.⁶⁵

III. Violence Against Indigenous Women: Widespread but Poorly Understood

According to a 1996 Canadian government statistic, Indigenous women between the ages of 25 and 44 with status under the federal Indian Act, are five times more likely than other women of the same age to die as the result of violence.⁶⁶ Indigenous women's organizations have long spoken out against violence against women and children within Indigenous communities—concerns

that have still not received the attention they deserve.⁶⁷ More recently, a number of advocacy organizations, including the Native Women's Association of Canada (NWAC), have drawn attention to acts of violence perpetuated against Indigenous women in predominantly non-Indigenous communities. A number of high profile cases of assaulted, missing or murdered Indigenous women and girls has also helped focus greater public attention—in some instances, very belatedly—on violence against Indigenous women in specific cities. For example:

- A joint RCMP/Vancouver City Police Taskforce is investigating the disappearance of 60 women and one transgender person from Vancouver, British Columbia over the last decade. Sixteen of the missing women are Indigenous, a number far in excess of the proportion of Indigenous women living in Vancouver. A British Columbia man, Robert Pickton, is currently awaiting trial for 22 murder charges related to this investigation. Police and city officials had long denied that there was any pattern to the disappearances or that women were in any particular danger.

- In two separate instances in 1994, 15-year-old Indigenous girls, Roxanna Thiara and Alishia Germaine, were found murdered in Prince George in eastern British Columbia. The body of a third 15-year-old Indigenous girl, Ramona Wilson, who disappeared that same year, was found in Smithers in central British Columbia in April 1995. Only in 2002, after the disappearance of a 26-year-old non-Indigenous woman, Nicola Hoar, while hitchhiking along a road that connects Prince George and Smithers, did media attention focus on the unsolved murders and other disappearances along what has been dubbed “the highway of tears.”

- In 1996, John Martin Crawford was convicted of murder in the killings of three Indigenous women, Eva Taysup, Shelley Napope, and

Calinda Waterhen, in Saskatoon, Saskatchewan. Warren Gouling, one of the few journalists to cover the trial, has commented: “I don't get the sense the general public cares much about missing or murdered aboriginal women. It's all part of this indifference to the lives of aboriginal people. They don't seem to matter as much as white people.”⁶⁸

- In May 2004, a former British Columbia Provincial Court judge, David William Ramsey, pleaded guilty to buying sex from and assaulting four Indigenous girls, aged 12, 14, 15 and 16, who had appeared before him in court. The crimes were committed between 1992 and 2001. In June, the former judge was sentenced to seven years in prison.

- In Edmonton, Alberta, police are investigating 18 unsolved murders of women in the last two decades. Women's organizations in the city estimate that a disproportionate number of the women were Indigenous.

NWAC believes that the incidents that have come to light are part of a larger pattern of violent assaults, murders and disappearances of Indigenous women across Canada. The organization has estimated that over the past twenty years more than five hundred Indigenous women may have been murdered or gone missing in circumstances suggesting violence.

Unfortunately, while there is clear evidence that Indigenous women in Canada face an extraordinarily high risk of violence, significant gaps in how police record and share information about missing persons and violent crimes means that there is no comprehensive picture of the actual scale of violence against Indigenous women, of who the perpetrators are, or in what circumstances the violence takes place. Reports of violent crimes or missing persons may be investigated by municipal police forces, provincial forces, Indigenous police forces or the national police force, the Royal Canadian Mounted Police (RCMP). Police have said that

they do not necessarily record the ethnicity of crime victims or missing persons when entering information into the Canadian Police Information Centre database, the principle mechanism for sharing information among police forces in Canada.⁶⁹ According to the Canadian Centre for Justice Statistics, in 11 percent of homicides in 2000, Canadian police did not record or report on whether or not the victim was an Indigenous person.⁷⁰

An RCMP task force is currently investigating 40 unsolved murders and 39 long term missing persons cases in the province of Alberta. All but three of the victims are women. These cases were identified in the course of what the RCMP describes as a “comprehensive analysis” meant to identify possible links and create a profile of common risk factors. A spokesperson for the project interviewed by Amnesty International was unable to say how many of the missing women are Indigenous saying there was “not a lot of focus on this.”

A 1999 report by the United States Department of Justice provides statistics on a range of violent crimes against Indigenous people in the U.S. According to this report, Indigenous women are more than twice as likely as white women to be the victims of violent crime overall and the rates of reported sexual assault are more than three times higher for Indigenous women than non-Indigenous women in the U.S.

Roughly 15 percent of all violent attacks against Indigenous people in the U.S., and 25 percent of sexual assaults, were reported as being carried out by intimates and family members, while the vast majority of perpetrators were either acquaintances or strangers. This is very close to the experience of all other ethnic groups. What is unique about Indigenous women's experience, according to this report, is that fully 70 percent of all violent crimes against Indigenous people in the U.S.—and 90 percent of sexual assaults—are reported to be carried

out by non-Indigenous people.⁷¹

To Amnesty International's knowledge, similar statistics are not available in Canada. This is one example of the kind of information that would help better inform efforts to educate about and prevent violence against Indigenous women. As one study on sexual violence against Indigenous women in Canada concluded:

Collection of race and crime statistics is encouraged on a larger scale than what is currently available in order that we may better understand trends in both Aboriginal offending and victimization patterns. Crime and victimization policy is often informed by such statistics in order to prevent crime and effect more efficient operation of the criminal justice system. Desperately needed, culturally sensitive and appropriate programming cannot be developed without the statistics to prove there is a need. Additionally, possible discrimination by criminal justice members cannot be pinpointed unless there are statistics that demonstrate there is overrepresentation within the system. By not collecting racial background information, Canadian policy may be reflecting an inherent bias of the racial majority, thereby potentially contributing to over-representation of Aboriginal peoples within the criminal justice system.⁷²

Violence Against Women in the Sex Trade

Whether or not prostitution is a criminal act, women in the sex trade are entitled to the protection of their human rights. Concrete and effective measures must be adopted to ensure their safety and to bring to justice those who commit or profit from violence against sex trade workers.

Working in the sex trade in Can-

ada can be extremely dangerous for women, whether Indigenous or non-Indigenous. This is especially true for women who solicit on the streets. In the PACE study, one-third of the women said they had survived an attack on their life while working on the street.⁷³

Women in the sex trade are at heightened risk of violence because of the circumstances in which they work, and because the social stigmatization of women in the sex trade provides a convenient rationale for men looking for targets for acts of misogynistic violence.⁷⁴

There are additional concerns around police treatment of Indigenous and non-Indigenous women in the sex trade. The threat of arrest makes many women reluctant to report attacks to the police or cooperate with police investigations. As a result, the perpetrators may be encouraged by the belief that they are likely to get away with their crimes.

Under Canadian law, the act of prostitution is not illegal, but communicating in public for the purpose of buying or selling sexual services, as well as buying or attempting to buy the sexual services of someone younger than 18, being found in a place maintained for prostitution, and procuring or living off the proceeds of someone else's prostitution are all criminal acts.⁷⁵ Many in the sex trade say that the threat of enforcement of these laws is used to drive sex trade workers from neighbourhoods where affluent residents are likely to complain, into less visible, and therefore more dangerous areas.⁷⁶

The threat of arrest places sex workers in an "adversarial relationship" with police.⁷⁷ Sex workers are reluctant to seek the protection of police for fear of being arrested. In turn, police tend to look on prostitutes with suspicion and mistrust, and may blame them for putting themselves in positions of risk.

The executive director of Regina's Sex Workers' Advocacy Project, Barb Lawrence, told Amnesty International about comments made by one

police officer. A sex worker missed an appointment with a Crown Prosecutor to give testimony in the case of a murdered Indigenous woman in Regina. Lawrence, who had set up the meeting, eventually received a call from the sex worker. It turned out that the woman was being held by city police who wanted her to provide evidence on a separate case. The police had refused to believe that she had a meeting with the prosecutor's office. When Lawrence and the prosecutors went to the police station to meet the woman, the arresting officer reportedly said he had no reason to believe the woman's claims, saying "she's just a hooker on the street."

The isolation and social marginalization that increases the risk of violence faced by women in the sex trade is often particularly acute for Indigenous women. The role of racism and sexism in compounding the threat to Indigenous women in the sex trade was starkly noted by Justice David Wright in the 1996 trial of John Martin Crawford for the murder of three Indigenous women in Saskatchewan:

It seems Mr. Crawford was attracted to his victims for four reasons; one, they were young; second, they were women; third, they were native; and fourth, they were prostitutes. They were persons separated from the community and their families. The accused treated them with contempt, brutality; he terrorized them and ultimately he killed them. He seemed determined to destroy every vestige of their humanity.⁷⁸

Racist Violence and Indigenous Women

The Manitoba Justice Inquiry said of the murder of Helen Betty Osborne:

Her attackers seemed to be operating on the assumption

that Aboriginal women were promiscuous and open to enticement through alcohol or violence. It is evident that the men who abducted Osborne believed that young Aboriginal women were objects with no human value beyond sexual gratification.⁷⁹

As the inquiry recognized, racism and sexism intersect in stereotypes of Indigenous women as sexually “available” to men. This intersection of sexism and racism contributes to the assumption on the part of perpetrators of violence against Indigenous women that their actions are justifiable or condoned by society.

Frontline organizations contacted by Amnesty International confirmed that racist and sexist attitudes toward Indigenous women continue to be a factor in attacks on Indigenous women in Canadian cities. Police, however, are inconsistent in their acknowledgement of this threat. Some police spokespersons told Amnesty International that they believe that “lifestyle” factors, such as engaging in the sex trade or illegal drug use are the most important risk factors, and that other factors such as race or gender are not significant enough to be considered in their work. Other police spokespersons told Amnesty International that they have seen that racism and sexism are factors in attacks on Indigenous women and that they consider Indigenous women as a whole to be at risk.

Over-Policed and Under-Protected

Numerous studies of policing in Canada have concluded that Indigenous people as a whole are not getting the protection they deserve.⁸⁰ This conclusion is supported by the testimony of many of the families interviewed by Amnesty International. A few described police officers who were polite and efficient and who, in a few cases, even went to extraordinary lengths to investi-

gate the disappearance of their loved ones. Other families described how police failed to act promptly when their sisters or daughters went missing, treated the family disrespectfully, or kept the family in the dark about how the investigation—if any—was proceeding.

A number of police officers interviewed by Amnesty International insisted that they handle all cases the same and do not treat anyone differently because they are Indigenous. However, if police are to provide Indigenous people with a standard of protection equivalent to that provided to other sectors of society, they need to understand the specific needs of Indigenous communities, be able to communicate with Indigenous people without barriers of fear and mistrust, and ultimately be accountable to Indigenous communities. As some police officers acknowledged to Amnesty International, this is clearly not the case today.

Across the country, Indigenous people face arrest and criminal prosecution in numbers far out of proportion to the size of the Indigenous population. The Manitoba Justice Inquiry suggested that the over representation of Indigenous people in the justice system may partly stem from the predisposition of police to charge and detain Indigenous people in circumstances “when a white person in the same circumstances might not be arrested at all, or might not be held.”⁸¹ The Inquiry explained that many police have come to view Indigenous people not as a community deserving protection, but a community from which the rest of society must be protected. This has led to a situation often described as one of Indigenous people being “over-policed” but “under-protected.”⁸²

Many Indigenous people feel they have little reason to trust police and as a consequence, are reluctant to turn to police for protection. Police forces were used to enforce policies such as the removal of children to

residential schools that have torn apart Indigenous communities. Today, many Indigenous people believe police are as likely to harm as to protect them. Amnesty International has previously drawn attention to incidents in which police in Canada have been responsible for, or are apparently implicated in acts of violence against Indigenous people or apparent reckless disregard for their welfare and safety. These include the 1995 killing of land rights protestor Dudley George by an Ontario Provincial Police officer and the concern that police may have been involved in a series of freezing deaths of Indigenous men on the outskirts of Saskatoon.⁸³

The Saskatchewan Justice Reform Commission noted that “mothers of Aboriginal youth have spoken about the apprehension they feel when their children leave the home at night. Their fears involve the possibility of police abusing their children.”⁸⁴ One Indigenous woman, herself a professor at a Canadian university, told Amnesty International that she has instructed her teenage son to never talk to the police unless she is present.

Protesting against the absence of any permanent police force in many Northern communities, the Inuit Women’s Association of Canada has said, “In order to serve all parts of the communities, the police have to know our communities, they must be a part of our communities.”⁸⁵ Many police forces in Canada now require officers to take courses in cultural sensitivity, cross cultural communication or Indigenous history to help improve their understanding of Indigenous communities. Despite such requirements, the Saskatchewan Justice Reform Commission concluded, “police officers continue to be assigned to First Nations and Métis communities with minimal knowledge of the culture and history of the people they serve.”⁸⁶

Despite the efforts of many police forces to hire more Indigenous

officers, Indigenous people are still underrepresented in police forces across Canada.⁸⁷ Greater effort must be made to hire more Indigenous officers, especially women.

More attention must also be made to integrate an understanding of Indigenous communities into core learning experiences of all officers. For example, the concerns, perspectives and needs of Indigenous communities should be reflected in the operational scenarios used in police training. Officers also need the time and the opportunity within their day-to-day duties to develop the necessary relationships of mutual understanding and trust with Indigenous communities. Unfortunately, many officers told Amnesty International that heavy workloads and frequent, often mandatory, rotations in and out of assignments, present real barriers to officers understanding and being trusted by Indigenous communities

Police forces should work with Indigenous organizations to establish practices and policies that can support not only the learning of individual officers, but also an improved relationship between Indigenous communities and the force as a whole. The Saskatchewan Justice Reform Commission pointed to a number of positive practices within the Saskatoon police force that it felt should be emulated elsewhere. These included the creation of an Indigenous liaison post and regular cooperation with community elders, including having elders accompany officers on some patrols in predominantly Indigenous neighbourhoods.⁸⁸

One of the critical areas for institutional reform highlighted by Amnesty International's research is the way police respond to reports of missing persons. Many Indigenous families told Amnesty International that police did little when they reported a sister or daughter missing and seemed to be waiting for the woman to be found. Police point out that the vast majority of people who are reported

missing have run away or chosen to break off ties with family or friends. Most people who have voluntarily "gone missing" in this way do quickly turn up on their own.

However, this does not excuse incidents recounted to Amnesty International where, despite the concern of family members that a missing sister or daughter was in serious danger, police failed to take basic steps such as promptly interviewing family and friends or appealing to the public for information. These steps are particularly urgent when the missing person is a girl, as the State has special obligations to find and protect children at risk. However, every missing person report needs to be carefully assessed to determine the risk to the missing person. Unfortunately, even in large cities, many Canadian police forces do not have specialized personnel assigned to missing person cases. Instead, the task of assessing the risk and the credibility of the family's fears may fall to individual officers with little or no specific training or experience related to missing persons.

To Amnesty International's knowledge, few police forces have specific protocols on actions to be taken when Indigenous women and girls are reported missing. The national police force, the RCMP, does require that a specialized liaison officer be involved in the case when the missing person is Indigenous. All forces should work with Indigenous communities to develop and put in place more specific protocols that are sensitive to the particular concerns and circumstances in which Indigenous women are reported missing.

Because of the vital role they play in society, and the power they wield, it is critical that police be held accountable. That must include accountability for failing to fulfill their duties, as spelled out in official policies, to fully and impartially investigate all reports of threats to women's lives. That issue emerged as a clear concern in the course of

research for this report. The families of missing and murdered women need to have greater formal access to the police, for example through the appointment of community ombudspersons, to ensure that their concerns are addressed in an appropriate manner.

The Healing Journey: Justice for Missing and Murdered Indigenous Women

All victims of violent crime have the right to justice. Under international human rights laws and standards, justice is not limited to the prosecution and punishment of the person who carried out the crime. Justice also includes a public acknowledgement of the crime, the opportunity and the ability for the victims of violence and their survivors to heal and to rebuild their lives, and assurance that the crime will not be repeated.

Although the formal court system cannot address all of these needs on its own, it nonetheless plays a vital role in assuring justice in the fullest sense of the word. The Saskatchewan Justice Reform Commission noted that the Canadian court system was imposed on Indigenous peoples without their consent and continues to be looked on with suspicion and mistrust by many.⁸⁹ To establish trust in the court system, and ensure that court proceedings reflect an awareness and appreciation of the specific circumstances of Indigenous peoples, the Commission recommended cross-cultural training for all judges and the appointment of Indigenous judges in every level of court.⁹⁰ The Manitoba Justice Inquiry had early recommended increased recruitment of Indigenous judges and prosecutors and urged cross-cultural training "for all those working in any part of the justice system who have even occasional contact with Aboriginal people."⁹¹

It is important as well that Indigenous people who come in contact

with the law, either as the accused or as victims, receive appropriate assistance in understanding the court system and having their voices heard. Amnesty International notes that in many jurisdictions across Canada a system of Indigenous court workers provides advocates to work on behalf of community members dealing with the justice system. Clear policies and protocols should also be established with respect to the timely provision of information, including autopsy results and coroners reports, to the families of missing and murdered persons.

Official Indifference

In 1999, the Canadian government itself told the UN Human Rights Committee that the situation of Indigenous peoples is “the most pressing human rights issue in Canada.”⁹² Despite this admission, Canada has been repeatedly criticized by UN treaty bodies, including the UN Committee on Economic, Social and Cultural Rights,⁹³ the UN Committee for the Elimination of Racial Discrimination,⁹⁴ the UN Committee on the Rights of the Child,⁹⁵ and the UN Human Rights Committee,⁹⁶ for its failure to implement comprehensive reforms identified as critical by its own Royal Commission on Aboriginal Peoples. Furthermore, the UN Committee on the Elimination of Discrimination against Women has expressed concern about “persistent, systematic discrimination faced by aboriginal women in all aspects of their lives.”⁹⁷

While the federal and provincial governments in Canada can point to numerous programs undertaken to fulfill the rights of Indigenous peoples, the seriousness of these concerns requires that government do more.

Many of the families and front-line organizations interviewed for this report expressed concern and anger at the seeming indifference of Canadian officials and Canadian

society for the welfare and safety of Indigenous women. This official indifference is well illustrated by the Canadian government’s response to one of the most notorious killings of an Indigenous woman from Canada.

Anna Mae Pictou Aquash was a Mik’maq woman from Indian Brook First Nation, Nova Scotia. On February 24, 1976, in the midst of a protracted and violent conflict involving the American Indian Movement (AIM) and the US Federal Bureau of Investigation (FBI), her body was found on the Pine Ridge Reservation in South Dakota. An autopsy concluded that she had been killed by a single gun shot to the back of her head. Despite the high profile of her death, and intensive FBI operations targeting members of AIM, almost 30 years passed before anyone was charged in her killing.⁹⁸

Anna Mae Aquash’s family have expressed frustration that the Canadian government has done little to support them in their three decade long call for justice. Anna Mae Aquash’s daughters, Denise and Deborah Maloney say they have sent several letters to all levels of the Canadian government but the only response they have ever received was a standard acknowledgement of receipt of their letters. Denise Maloney says, “Any direct contact from any Canadian authorities would be nice. The level of apathy from governmental authorities surrounding my mother’s case is disturbing and insulting.”

The case studies that follow illustrate some of the patterns of violence that threaten the lives of Indigenous women in Canadian towns and cities. Concrete measures that would reduce Indigenous women’s vulnerability to such violence have already been clearly identified by Indigenous women’s organizations and by official inquiries and commissions. What remains is for Canadian officials to acknowledge the seriousness of the problem and to commit

themselves to immediate action.

Excerpted from Amnesty International’s report, Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada (October 2004). Reprinted with permission.

¹Report of the Aboriginal Justice Inquiry of Manitoba: The Deaths of Helen Betty Osborne and John Joseph Harper, Commissioners A. C. Hamilton and C. M. Sinclair, 1991.

²The term “Indigenous” refers to all descendants of the original inhabitants of the territories that now make up Canada. This includes the First Nations, the Inuit and the Métis. In Canada, the word “Aboriginal” has the same meaning and is more widely used. This report uses the term “Indigenous” because of its use in international human rights laws and standards.

³See, for instance, RCAP, 1996 <http://www.ainc.inac.gc.ca/ch/rcap/sg/sgmm_e.html>; and the Concluding observations of the United Nations Committee on Economic, Social and Cultural Rights: Canada, 10/12/98, E/C.12/1/Add.31.

⁴International Covenant on Civil and Political Rights (ICCPR), article 6.

⁵Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, article 2. ICCPR, article 7.

⁶ICCPR, article 9.

⁷Convention on the Elimination of Discrimination Against Women (CEDAW), article 2, ICCPR, articles 2(1), 3.

⁸Convention on the Elimination of all Forms of Racial Discrimination (CERD), article 2, ICCPR, 2(1).

⁹Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará), article 8.

¹⁰Some of those cases are described in text found before and after footnote 68, *Infra*.

¹¹CEDAW, article 2(e): “States Parties ... undertake to take all appropri-

ate measures to eliminate discrimination against women *by any person, organization or enterprise.*" The United Nations' Declaration on the Elimination of Violence against Women requires states to "[e]xercise due diligence to prevent, investigate and ... punish acts of violence against women, whether those acts are *perpetrated by the State or by private persons.*" (ICCPR, article 2(1): "Each State Party ... undertakes to respect and to ensure to all individuals ... the rights recognized in the present Covenant ... " ICCPR, article 2(2): "... each State Party ... undertakes to take the necessary steps ... to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant." CERD, article 2(1): "States parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of *eliminating racial discrimination in all its forms....*" Emphasis added.

¹²Inter-American Court of Human Rights, Velásquez Rodríguez Case, Judgment, 29 July 1988, para. 172.

¹³Ibid, para. 174.

¹⁴Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13.(2004), para. 8.

¹⁵Radhika Coomaraswamy, Special Rapporteur on violence against women, Report to the Commission on Human Rights, UN Doc. E/CN.4/2003/75, 6 Jan. 2003, para. 85.

¹⁶See text at footnotes 34-36, *Infra.*

¹⁷*Sandra Lovelace v. Canada*, Communication No. R.6/24, U.N. Doc. Supp. No. 40 (A/36/40), at 166.

¹⁸Article 27: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

¹⁹The Convention on the Rights of the Child (CRC), article 29(c):

"...the education of the child shall be directed to ... the development of respect for the child's ... own cultural identity, language and values...." The Convention did not enter into force until 1990, by which time the residential schools, which had sought to deny Indigenous children their culture and language, had been closed. However the long-term and inter-generational impacts of residential schools continue to the present.

²⁰Concluding observations of the Committee on Economic, Social and Cultural Rights: Canada, *Supra*, footnote 3, para.17.

²¹International Covenant on Economic, Social and Cultural Rights (ICESCR), article 11.

²²ICESCR, article 6.

²³ICESCR, article 12.

²⁴ICESCR, article 11.

²⁵CRC, article 3(1).

²⁶CRC, articles 18, 19, 20.

²⁷CRC, article 30.

²⁸International law prohibits discrimination on the basis of gender and race. The protection against discrimination also extends to "social origin, property ... or other status," ICESCR, article 2(2), ICCPR, article 2(2).

²⁹Report of the Special Rapporteur on Violence against Women, Radhika Coomaraswamy, World Conference against Racism, Racial Discrimination, conducted within a framework that recognizes the intersections between various forms of discrimination, and supports these findings. Xenophobia and Related Intolerance, A/CONF.189/PC.3/5, 27 July 2001, para. 49.

³⁰United Nations Declaration on Violence against Women, 1993, fifth preambular paragraph.

³¹RCAP, *Supra*, footnote 3.

³²Beverly Jacobs, "Native Women's Association of Canada's submission to the United Nations Special Rapporteur investigating the Violations of Indigenous Human Rights," December, 2002.

³³Ibid.

³⁴RCAP, *Supra*, footnote 3.

³⁵*Sandra Lovelace v. Canada*, *Supra*, footnote 17.

³⁶RCAP, *Supra*, footnote 3.

³⁷Ibid.

³⁸Ibid.

³⁹Ibid.

⁴⁰Ibid.

⁴¹Ibid.

⁴²Ibid.

⁴³Ibid.

⁴⁴"Building a Brighter Future for Urban Aboriginal Children: Report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities," June 2003, p. 17.

⁴⁵Cindy Blackstock, Sarah Clarke, James Cullen, Jeffrey D'Hondt, and Jocelyn Formisma. *Keeping the Promise: The Convention on the Rights of the Child and the Lived Experiences of First Nations Children and Youth*. First Nations Child and Family Caring Society of Canada. Ottawa. 2004.

⁴⁶First Nations Child and Family Services Joint National Policy Review, June 2000.

⁴⁷Claudette DeWitt, Ben Calf Robe Society, Testimony to the Subcommittee on Children and Youth at Risk, March 19, 2003 in "Building a Brighter Future for Urban Aboriginal Children," *Supra*, footnote 44, p.18.

⁴⁸RCAP, *Supra*, footnote 3. Save the Children Canada, *Sacred Lives: Canadian Aboriginal Children and Youth Speak Out About Sexual Exploitation*, National Aboriginal Consultation Project, Ottawa, 2000.

⁴⁹RCAP, *Ibid.*

⁵⁰Ibid.

⁵¹Andrew J. Siggner. "Urban Aboriginal Populations: An Update Using the 2001 Census Results." In David Newhouse and Evelyn Peters, eds. *Not Strangers in These Parts: Urban Aboriginal Peoples*. Policy Research Initiative. Ottawa, 2003.

⁵²Indian and Northern Affairs Canada. *Aboriginal Women: A Profile from the 1996 Census*, Ottawa, 2001.

⁵³Statistics Canada. *Low Income Cut Offs from 1994-2003 and Low Income Measures from 1992-2001*, Ot-

tawa, 2003.

⁵⁴Mary Ann Beavis, Nancy Klos, Tom Carter and Christian Douchant. "Literature Review: Aboriginal Peoples and Homelessness." Institute of Urban Studies, The University of Winnipeg, January 1997.

⁵⁵Freeman Marshall, Pat and Marthe Asselin Vaillancourt. *Changing the Landscape: Ending Violence—Achieving Equality: Final Report of the Canadian Panel on Violence Against Women*, Ottawa: Supply and Services Canada, 1993.

⁵⁶*Aboriginal Women: A Profile from the 1996 Census*. Supra, footnote 52.

⁵⁷"Building a Brighter Future for Urban Aboriginal Children," Supra, footnote 45, p. 6.

⁵⁸Ibid. p. 7.

⁵⁹Ontario Federation of Indian Friendship Centres, *Urban Aboriginal Child Poverty: A Status Report on Aboriginal Children and Their Families in Ontario*, Toronto, Ontario, October, 2000.

⁶⁰PACE Society, "Violence against Women in Vancouver's Street Level Sex Trade and the Police Response," Vancouver, 2000, p. 82, pp. 32-3.

⁶¹Ibid. pp. 32-3.

⁶²Ibid. p. 6.

⁶³Concluding Observations of the Committee on the Rights of the Child: Canada, CRC/C/15/Add.215, 27/10/2003, para. 52.

⁶⁴Save the Children Canada, Supra, footnote 48, p. 33.

⁶⁵Ibid. p. 34.

⁶⁶*Aboriginal Women: A Demographic, Social and Economic Profile*, Indian and Northern Affairs Canada, 1996.

⁶⁷See, for example, Claudette Dumont-Smith and Pauline Sioui Labelle, *National Family Violence Abuse Study*, Aboriginal Nurses of Canada, 1991. Pauktuutit (Inuit Women's Association), *No More Secrets*, 1991.

⁶⁸"Serial killer who roamed Saskatoon met with indifference by police, media: Journalist-author accepts award for book about slain aboriginal women." *Edmonton Journal*, 29 November 2003.

⁶⁹Canadian Press, "Missing aboriginal women inspire national cam-

paign," 22 March 2004.

⁷⁰*Juristat*, Vol. 21, No. 9, Canadian Centre for Justice Statistics, Statistics Canada, 2001.

⁷¹*American Indians and Crime*. Bureau of Justice Statistics, U.S. Department of Justice. 1991 p. 6.

⁷²Hannah S. Scott and Rebecca L. Beaman. "Sexual Assault Among Aboriginal and non-Aboriginal Peoples in a Western Canadian City: A Case for Including Race when Collecting Crime Data." *Online Journal of Justice Studies*, Vol. 1, No. 1, January 2003, <http://ojjs.icaap.org/issues/1.1/scott-beaman.html>.

⁷³PACE Society, Supra, fn. 60, p. 6.

⁷⁴John Lowman. "Violence and the Outlaw Status of (Street) Prostitution in Canada," *Violence Against Women*, Vol. 6, No. 9, September 2000, pp. 987-1011, at p. 989.

⁷⁵Criminal Code of Canada, ss. 212, 213.

⁷⁶Pivot Legal Society. *Voices for Dignity: A Call to End the Harms Caused by Canada's Sex Trade Laws*, Vancouver, 2004.

⁷⁷Lowman, Supra, fn. 74, p.1008.

⁷⁸Transcript of trial, *R v Crawford*, May 31, 1996, p. 87. Warren Goulding. *Just Another Indian: A Serial Killer and Canada's Indifference*, Calgary: Heritage House Publishing Company, 2001, p.188.

⁷⁹Aboriginal Justice Inquiry of Manitoba, Supra, fn. 1.

⁸⁰See, for example: Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform (Saskatchewan Justice Reform Commission), Final Report, Regina, 2004. Aboriginal Justice Inquiry of Manitoba, Supra, footnote 1.

⁸¹Aboriginal Justice Inquiry of Manitoba, Supra, footnote 1.

⁸²The Aboriginal Justice Implementation Commission, Final Report, Manitoba, 2001.

⁸³Amnesty International, "The Police Killing of Dudley George: Eight Years On: Many Questions Remain Unanswered," Sept. 4, 2003, AMR 20/003/2003. Amnesty International, "Canada: Saskatchewan Needs an Independent Body to Investigate Police,"

May 19, 2003, AMR 20/C02/03.

⁸⁴Saskatchewan Justice Reform Commission, Supra, fn. 80, pp. 5-3, 5-4.

⁸⁵Pauktuutit (Inuit Women's Association of Canada), Inuit Women and Justice: Progress Report No. 1, Appendix, Violence Against Women and Children: The Concerns of Labrador Women pp. 5-6.

⁸⁶Saskatchewan Justice Reform Commission, Supra, fn. 84, pp. 5-8.

⁸⁷Ibid, pp. 5-10, 5-11. The Aboriginal Justice Implementation Commission, Supra, footnote 82.

⁸⁸Ibid., p. A-34.

⁸⁹Saskatchewan Justice Reform Commission, Supra, fn. 84, p. 6-3.

⁹⁰Ibid. p. 6-14.

⁹¹Aboriginal Justice Inquiry of Manitoba, Supra, footnote 1.

⁹²Concluding Observations of the Human Rights Committee: Canada, CCPR/C/79/Add.105, 07/04/99, para. 8.

⁹³Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada, Supra, footnote 3, para. 43.

⁹⁴Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada, A/57/18, 01/11/2002, para. 329.

⁹⁵Concluding Observations of the Committee on the Rights of the Child: Canada, Supra, fn. 63, para. 59.

⁹⁶Concluding Observations of the Human Rights Committee: Canada, Supra, footnote 92, para. 8.

⁹⁷Concluding Observations of the Committee on the Elimination of Discrimination against Women, A/58/38, 28th Session, 13-31 January, 2003, para. 361.

⁹⁸While this report was being prepared, charges were brought against two former members of AIM in the killing of Anna Mae Aquash. One man was convicted of murder on February 4, 2004. As of October 2004, the second man was awaiting a hearing to determine whether he will be deported from Canada to stand trial in the U.S. Both men say they are innocent.