University of Toronto – Feminist Equal Rights Alliance (FERA)

# **Broken Promises: Canada's Legacy of Systemic Discrimination Against Indigenous Women**

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The Victimization of Indigenous Women

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## **Executive Summary**

In Canada, Indigenous women are disproportionately victims of violent crimes for different reasons, such as colonization, poverty, intergenerational trauma, gender inequality, and systemic discrimination within social institutions. For decades, hundreds of Indigenous women have been murdered or disappeared, although these cases remain largely unrecognized by the federal government. That being the case, the National Inquiry into Missing and Murdered Indigenous Women and Girls has claimed that the federal government has committed genocide against the Indigenous community because of their negligence and ignorance for the rights and humanity of Indigenous women.

Over the years, there have been initiatives to raise awareness and enhance protection for Indigenous women, such as social media campaigns, cultural based prevention strategies, national inquiries, and legal advocacy groups. While these initiatives have contributed to addressing problems related to violence committed against Indigenous women, they have not adequately improved the safety or human rights of Indigenous women. Some of these initiatives have been plagued with racial biases, systemic inequality, and a lack of commitment from the federal government, therefore symbolizing an immediate need for reform and improvement.

On that account, we have recommended three ways to improve safety and protection for Indigenous women: (1) the development of cultural awareness training programs to educate social institutions on how to respond to violence against Indigenous women and improved communication between provincial and federal governments, (2) increased pressure from advocates and protestors towards the federal government to become more involved and

committed to engaging with the MMIWG National Action Plan, and (3) revisions to the *Criminal Code* to eliminate systemic discrimination and inequality targeted at Indigenous women.

# **Policy Problem**

## What is the historical context of the problem?

In the 16th century, Indigenous women were highly valued individuals who maintained positions of leadership and decision making within the Indigenous community (Heidinger, 2022). Unfortunately, colonization changed these traditional views and denied Indigenous women rights and excluded them from positions of authority and governance, therefore contributing to the normalization of violence and exclusion against Indigenous women (Heidinger, 2022). Between the 1800s, and 1900s, the federal government implemented florescolonial policies, such as the Indian Act and residential schools, that targeted Indigenous women by enforcing limitations on Indigenous status, restricting them from positions of authority, and normalizing extreme violence – physical and sexual violence – against them (Flores & Alfaro, 2023). These colonial policies were created to assimilate the Indigenous community and disempower generations of Indigenous women, therefore contributing to the loss of identity, dehumanization, and marginalization (McGuire & Murdoch, 2022).

In the 19th century, the federal government created the Northwest Mounted Police to control Indigenous people through colonial laws and surveillance, although they failed to protect Indigenous women from extreme violence because they viewed them as "prostitutes", "drug addicts", and "drunks" who were not deserving of being protected (Flores & Alfaro, 2023, p. 392). Even today, the criminal justice system represents "a form of ongoing colonial and

gendered racial state violence" because they continue to control and dehumanize the Indigenous community, especially Indigenous women (McGuire & Murdoch, 2022, p. 530). That being the case, Indigenous women believe that "nobody is listening... nobody seems to care... [there is] no wrongdoing of the police in this country" because the criminal justice system is not being held accountable for the Indigenous women who continue to be victims of extreme violence (McGuire & Murdoch, 2022, p. 534). These disproportionately high rates of violence and victimization against Indigenous women are connected to the impacts of colonialism and the social construction of Indigenous women not being "worthy" or "deserving" of protection and justice (McGuire & Murdoch, 2022).

## How do we know the problem exists?

There are significant differences between victimization rates of Indigenous and non-Indigenous women, which demonstrates the failures of the criminal justice system to adequately protect Indigenous women from extreme violence (Moral, 2024). In Canada, 56% of Indigenous women have encountered physical assault and 46% of Indigenous women have encountered sexual assault, whereas only 34% of non-Indigenous women have encountered physical assault and 33% of non-Indigenous women have encountered sexual assault (Heidinger, 2022). The Native Women's Association of Canada (NWAC) has determined that 662 Indigenous women were killed or disappeared between 1960 and 2013 (Moral, 2024). The Royal Canadian Mounted Police (RCMP) determined that 1,017 Indigenous women were murdered between 1980 and 2012 (Moral, 2024). These findings reflect that Indigenous women are not being adequately protected and prioritized by the criminal justice system, rather they are being dismissed and marginalized (Moral, 2024). Furthermore, these findings reflect Indigenous

women who have been reported to police departments – in reality police reports are subject to biases and the number of Indigenous women who are victims of extreme violence is significantly higher (Moral, 2024). Unfortunately, these biases remain because of historical racism and discrimination that influence police departments to not properly investigate missing and murdered Indigenous women, therefore placing Indigenous women at risk of being denied justice (Moral, 2024).

Since Indigenous women are commonly labelled as "runaways", "drunks", "prostitutes", and "drug addicts" it influences police officers to not respond to violence that is committed against them (Flores & Alfaro, 2023, p. 403). An Indigenous man stated that: "My sister [was a] victim to... racial profiling... she was in the process of having a stroke and they mistook her because they assumed that she was native, and she was a drunk... when they realized something was wrong it was too late, my sister was already lying dead" (Flores & Alfaro, 2023, p. 403). Furthermore, Indigenous people believe that police are indifferent to violence against women in their communities, which leads to "people [feeling] angry, fearful, shamed, abandoned, and abused... [because police officers] made them feel like... [their loved ones weren't] worth to go looking for" (Flores & Alfaro, 2023, p. 401). Between 2000 and 2010, the NWAC emphasized that 153 Indigenous women were murdered and represented 10% of the total number of female homicides in Canada, even though Indigenous women only compose 3% of the total female population (Moral, 2024). That being the case, the criminal justice system is intentionally failing to protect Indigenous women from extreme violence, specifically these numbers should not be significantly targeting an isolated community (Moral, 2024). When analyzing these numbers it is important to understand that these numbers represent individuals who have been brutally murdered and taken away from the world, therefore social change needs to happen to protect the Indigenous community (Moral, 2024).

#### Why is the problem significant?

In recent years, the National Inquiry into Missing and Murdered Indigenous Women and Girls accused the Canadian federal government of committing a "race-based genocide" as their negligence in protecting the rights of Indigenous women and girls violated international humanitarian and Canadian laws (Library of Congress, 2019). Unfortunately, there are no existing international laws specifically outlining the rights of Indigenous women and girls, even though they have fundamental rights enshrined in: (1) the Universal Declaration of Human Rights (UDHR), (2) the United Nations Declaration on the Rights of Indigenous People (UNDRIP), (3) the Declaration on the Elimination of Violence Against Women (DEVAW), (4) the Convention on the Elimination of Discrimination Against Women (CEDAW), and (5) the United Nations Convention on the Right of the Child (UNCRC). These international human rights committees demonstrate that Indigenous women *should* have the "right to life", "right to liberty", "right to security", "self determination", "freedom from violence", and "[freedom from any forms of] discrimination" (United Nations General Assembly, 2007).

For that reason, Canada has the legal obligation to ensure that Indigenous women have equal access to the same rights as their non-Indigenous counterparts as specified in these legal documents: (1) International Covenant on Civil and Political Rights, (2) International Covenant on Economic Social and Cultural Rights, (3) Canadian Human Rights Act (CHRA), (4) Charter of Rights and Freedoms, and (5) Missing and Murdered Indigenous Women and Girls National Action Plan. The existence of these legal documents demonstrates that Indigenous women

have safeguards that protect their fundamental human rights, although their application leads to systemic abuse that violates their ordained rights. In *R. v. Barton* and *R. v. Blanchard*, they reveal how the criminal justice system is instrumental in perpetuating and promoting the discrimination and dehumanization of Indigenous women, especially those working in the sex industry. Fundamentally, the deliberate human rights violations imposed on Indigenous women provides a legal precedent that undermines international humanitarian and Canadian law, therefore weakening the integrity and effectiveness of the criminal justice system to protect *all* Canadians, not only Indigenous women.

# **Policy Options**

#### Social Media Campaigns

Only recently have Indigenous women who are victims of extreme violence – murder and sexual assault – made national news headlines (Sauyaq & Roberts, 2021). This is only because of increased advocacy among Indigenous communities and their commitment to raising awareness of the issues surrounding violence against women (Sauyaq & Roberts, 2021). In 2012, Indigenous communities engaged with commemorative artwork – "Walking With Our Sisters" – on social media to honour missing and murdered Indigenous women across Canada (Watson, 2018, p. 207). The objects that created the commemorative artwork were more than just moccasins:

"Each pair of [moccasins] represents one missing or murdered Indigenous woman. The unfinished moccasins represent the unfinished lives of women whose lives were cut short. The children's [moccasins] are dedicated to children who never returned home

from residential schools. Together the installation represents all these women, paying respect to their lives and existence on their earth. They are not forgotten" (Watson, 2018, p. 207).

By 2014, there were over 1800 contributions to the project, which demonstrates how social media can be used to both raise awareness and engage with the Indigenous community (Watson, 2018).

Even though social media has contributed to raising awareness about missing and murdered Indigenous women, it is interconnected to biases and discrimination against Indigenous people (Watson, 2018). More specifically, mainstream media is overwhelmed with negative stereotypes against Indigenous women and Indigenous women who are victims of extreme violence are not provided with equal attention and respect from media corporations and the criminal justice system (Watson, 2018). Unfortunately, Indigenous women are positioned "in the lowest [members] of the social order, thereby making them expendable and invisible, if not disposable" which influences media corporations to exclude them from media coverage (Glichrist, 2010, p. 384). Furthermore, missing and murdered Indigenous women are viewed by media corporations "less as victims deserving rescue than as bodies that... do not matter", which means their stories remain untold, therefore contributing to a discriminatory cycle of systemic racism and neglect (Glichrist, 2010, p. 384). For that reason, it is important that mainstream media improves how they educate society, particularly they need to properly educate the general public about oppression and inequality among Indigenous women, because without this change Indigenous women will continue to be victims of extreme violence (Watson, 2018).

#### **Cultural Based Prevention Strategies**

Throughout Canada, active participation in Indigenous culture helps fight against crime and victimization within the Indigenous community (Sauyaq & Roberts, 2021). In 2011, the Community Guide To End Violence Against Aboriginal Women emphasized five principles:

- (1) **Protocols** respect for cultural forms of engagement
- (2) **Personal Knowledge** understanding one's own cultural identity
- (3) **Process** engaging in mutual learning
- (4) **Positive Purpose** ensuring to protect their values and lifestyle
- (5) **Partnership** promoting collaborative practice

These principles demonstrate that understanding culture is necessary to solving problems impacting an endangered community, specifically service providers need to understand the culture and the ongoing impacts of colonization among Indigenous people to properly help and protect them (Klingspohn, 2018). Klingspohn argues that:

"Cultural safety extends beyond cultural awareness and sensitivity within services and includes reflecting on cultural, historical and structural differences and power relationships within the care that is provided. It involves a process of ongoing self-reflection and organizational growth for service providers, and the system as a whole, to respond effectively to First Nations" (Klingspohn, 2018, p. 4).

This demonstrates that understanding culture is the only way to achieve reconciliation and protect Indigenous women against harms from the general public and the criminal justice system (Klingspohn, 2018). That being the case, the federal government has implemented a Family Violence Prevention Program to improve the safety and protection of Indigenous women

and children (Klingspohn, 2018). The Family Violence Prevention Program provides funding for "awareness campaigns, conferences, workshops, stress and anger management seminars, support groups, and community needs assessments on and off reserved", which illustrates how understanding culture enables the government to provide funds for services that are beneficial among the Indigenous community (Klingspohn, 2018, p. 4).

#### **National Action Plan**

Over the years, the federal government has been attempting to focus more on the human rights of diverse groups, especially Indigenous people. The National Inquiry into Missing and Murdered Indigenous Women and Girls has contributed to the development of the National Action Plan which understands "the importance and the urgency of [eliminating] and ending violence against Indigenous women" and that eliminating extreme violence is the primary objective (National Action Plan, 2021). The National Inquiry into Missing and Murdered Indigenous Women and Girls lead to the development of 231 Calls for Justice, which are social changes that need to be enacted to eliminate the cultural genocide committed against Indignous women (National Action Plan, 2021). In particular, the National Inquiry into Missing and Murdered Indigenous Women and Girls has called on the federal and provincial governments to develop an "enhanced, holistic, and comprehensive approach" to support Indigenous women who are victims of violent crimes and to address problems related to human trafficking and lack of health and social services among Indigenous women (Government of Canada, 2025). The National Inquiry into Missing and Murdered Indigenous Women and Girls is beneficial because it holds the federal government accountable to creating social change, specifically it declares that the federal government has failed to perform their duty to protect

Indigenous women and that social change needs to be achieved (National Action Plan, 2021).

On that account, the calls for justice explicitly reveal the social changes that need to happen to ensure that different forms of extreme violence committed against Indigenous women are eliminated.

Even though the development of the National Action Plan is beneficial for protecting Indigenous women from extreme violence, the federal government has failed to engage with these calls for justice. In 2023, the CBC News stated that "only two of 231 calls have been completed – and more than half [have not] even been started" which demonstrates the failure of the federal government to effectively implement the calls for justice and ensure protection of Indigenous women (Carreiro, 2023). Furthermore, the CBC News stated that "it must be understood that these recommendations, which we frame as calls for justice, are legal imperatives – they are not optional" which means the federal government has a legal obligation to implement all calls for justice (Carreiro, 2023). That being the case, the lack of action from the federal government is connected to how the National Action Plan is not legally binding, therefore the federal government is not legally obligated to complete these obligations targeted at helping and protecting Indigenous women (Walsh, 2017). Even though the National Action Plan is not legally binding, the federal government is still accountable for protecting all Canadians from violence – especially Indigenous women who are disproportionately victims of violent crimes – because without their help the lives of Indigenous people remain vulnerable to outcomes of life or death.

#### **Legal Advocacy Groups**

Many legal cases involving Indigenous women have contributed to the development of intervention groups, such as the Women's Legal Education and Action Fund (LEAF) and the Institute for the Advancement of Aboriginal Woman (IAAW), which ensures the criminal justice system remains accountable and does not violate the rights Indigenous women (Ontario Human Rights Commission, 2017). The Women's Legal Education and Action Fund (LEAF) and the Institute for the Advancement of Aboriginal Woman (IAAW) have been instrumental in upholding the rights of Indigenous women in the *R. v. Barton* case.

In 2011, Cindy Gladue, a 36 year old Cree and Métis woman, was murdered in an Edmonton hotel because of an assault that was inflicted against them by Bradley Barton (*R. v. Barton*, 2019). Throughout the trial at the Alberta Court of Appeal, the victim was dehumanized and humiliated by the defendant, the defence lawyer, the prosecutor, and the judge (*R. v. Barton*, 2019). The prosecutor and the judge failed to adhere to proper procedure under section 276 of the Criminal Code – the "rape shield" law – which establishes a sepearte hearing to consider the admissibility and permissibility of a defendant's submitted evidence (Silver, 2017). This neglectful behaviour performed in the criminal court proceeding allowed Bradley Barton to share the sexual history of Cindy Gladue, therefore violating and disrespecting their privacy and humanity (Silver, 2017). The prosecutor used a "piece of [Cindy] Gladue's preserved pelvic tissues" – which violates Indigenous laws concerning the deceased – as evidence to prosecute the defendant (*R. v. Barton*, 2019). Fundamentally, the defendant, prosecutor, and judge continually referred to Cindy Gladue as a "native girl" and "prostitute", therefore damaging their identity and implying that they are undeserving of justice (*R. v. Barton*, 2019).

The public outrage at the dehumanization faced by Cindy Gladue resulted in the case reaching the Supreme Court of Canada (*R. v. Barton*, 2019). In response, the Women's Legal Education and Action Fund (LEAF) and the Institute for the Advancement of Aboriginal Woman (IAAW) argued that the judge failed to instruct the jury on the law of consent and admitted evidence without proper due process (*R. v. Barton*, 2019). Furthermore, the Supreme Court of Canada failed to hold the defence lawyer, the prosecutor, and the judge accountable for the dehumanization of Cindy Gladue when they reached the final decision (*R. v. Barton*, 2019). On that account, the decision of the Supreme Court of Canada reflects that legal advocacy groups can only intervene when crimes have been committed and criminal proceedings are taking place (Kinley, 2019). More specifically, they are not able to file claims against dangerous offenders prior to incidents occurring, which limits the role of legal advocacy groups to effectively prevent violent crimes from occuring against Indigenous women (Kinley, 2019).

## Recommendations

## **Indigenous Perspectives And Cultural Awareness Programs**

To improve the safety and protection of Indigenous women, there needs to be culturally aware training programs to help educate police departments and social media corporations about how to respond to violence against Indigenous women. These culturally aware training programs should come from an Indigenous perspective – created through Indigenous voices and experiences – because it ensures that police departments and social media corporations are understanding and respecting of Indigenous needs. For decades, Indigenous communities have encountered colonization and intergenerational trauma that continue to threaten their safety

and protection against extreme violence, especially among Indigenous women. That being the case, these culturally aware training programs will ensure that police departments and social media corporations are educated about the historical injustices encountered by Indigenous women and understand how to deal with Indigenous women who are victims of extreme violence. Moreover, Indigenous communities are not the same as other social groups, rather they are disproportionately affected by biases and systemic discrimination that contribute to injustice and neglect against Indigenous people. On that account, these culturally aware training programs will ensure that police departments and social media corporations create safe environments for Indigenous women and improve responses towards Indigenous womens' safety and protection.

Furthermore, the provincial and federal governments need to communicate with each other to implement culturally aware training programs throughout both police departments and social media corporations. Since police departments and social media corporations are different across provinces, it is necessary that all social institutions align with federal regulations to ensure that culturally aware training programs are cohesive across the country. By not engaging with collaborative measures, there are risks of fragmentation and inconsistency that might lead to gaps in protecting Indigenous women against extreme violence. In addition, systemic discrimination against Indigenous people is a national issue – therefore provincial and federal governments need to work collectively to eliminate discriminatory regulations and ensure protection for the Indigenous community. That being the case, culturally aware training programs created through federal regulations ensures that all police departments and social media corporations are being educated effectively on how to respond to Indigenous women

who are victims of extreme violence. Ultimately, the standardization of culturally aware training programs – created through Indigenous voices and experiences – ensures that police departments and social media corporations can create real social change and help protect Indigenous women across the country.

#### Increased Government Commitment To The National Action Plan

Even though the Canadian federal government has attempted to help the Indigenous community and the MMWIG crisis through the development of the National Action Plan, they have not done enough and they have failed to reach their objectives. About five years from the development of the National Action Plan into the MMWIG crisis, only two initiatives have been completed, while hundreds of these objectives remain untouched and forgotten (Stefanovich, 2024). The CBC News stated that the federal government has prohibited their funding to the Public Prosecution Service of Canada (PPSC), which is funding used for supporting Indigenous victims of physical and sexual violence in connection to the National Action Plan (Lamberink, 2025). As a result, there has been a 25% decrease in funding among the Northern territories and legal programs targeted at helping victims of physical and sexual violence, therefore leaving hundreds of Indigenous women at risk of victimization (Lamberink, 2025). That being the case, it is evident that the federal government has no intention of helping the Indigenous community and Indigenous women are feeling hopeless and neglected (Beaulne-Stuebing, 2023).

Accordingly, the federal government needs to obtain more resources and funding to fight against the extreme violence that Indigenous women are enduring, specifically they need to provide Indigenous women with an equal level of protection as non-Indigenous women.

Some scholars state that "all governments have a responsibility to do everything in their power

to prevent violence against women" which means that the federal government needs to be accountable and fight for those who cannot fight for themselves, specifically those who are vulnerable and at higher risk of victimization (Amnesty International, 2021). A commissioner of the National Action Plan, Michèle Audette, is concerned that "[they] will have to go on the street again [to protest]" if the federal government fails to obtain more resources and funding to help Indigenous women (Stefanovich, 2024). The Native Women's Association of Canada (NWAC) was able to complete 40 initiatives – developed health and wealth programs, developed cultural and language programs, developed youth engagement programs, and developed safety programs through technology – with "very limited resources", whereas the federal government has only completed two initiatives (Native Women's Association of Canada, 2023). On that account, advocates and protestors need to continue putting pressure on the federal government to encourage them to obtain more resources and funding to complete more initiatives in connection to the National Action Plan.

#### Revisions To The Canadian Criminal Code To Protect Indigenous Women

Since the 1980s, the Canadian *Criminal Code* has been used as a tool of systemic oppression and discrimination towards Indigenous women. While the *Criminal Code* ensures that people are punished when when they commit murder, manslaughter, homicide, assault, sexual assault, aggravated sexual assault, kidnapping, theft, fraud, arson, bribery, perjury, and public incitement of hatred, it constantly fails to punish those who commit crimes against Indigenous women (Criminal Code, 1985). The Ontario Human Rights Commission declares that members of law enforcement, lawyers, and tribunals are complicit in violating the principles governing the *Criminal Code* (Ontario Human Rights Commission, 2017). More specifically, they

are enabling systemic discrimination against Indigenous women and violating their human rights and sense of belonging within democratic society (Ontario Human Rights Commission, 2017). That being the case, the following recommendations need to be enacted into the criminal justice system:

- (1) A revision of the *Criminal Code* in section 718.2 (e) to prevent the existence of systemic discrimination, especially against Indigenous women (Criminal Code, 1985). The failure of due process in court systems when dealing with situations involving Indigenous women has led to overrepresentation in the system, disproportionate bail denials, and lack of culturally sensitive legal services (Clark, 2019). Furthermore, Bill S-125 needs to be adopted by the Parliament because it requires court systems to acknowledge the background of the victim being an Indigenous woman as an "aggravating circumstance" (Parliament of Canada, 2019). This will ensure that offenders who commit violence crimes against Indigenous women are punished proportionally, therefore ensuring they are not released or acquitted (Parliament of Canada, 2019).
- (2) A revision to the *Corrections and Conditional Release Act* specifically in compliance with the United Nations Declaration on the Rights of Indigenous Peoples to address the inherent human rights of Indigenous women. The ongoing discrimination and violence committed against Indigenous women based on their characteristics culture, race, and gender continues to undermine their Indigenous self-determination. This revision will ensure that the correctional programs and policies concerning Indigenous offenders account for cultural and historical rehabilitation (Corrections and Conditional Release Act, 1992).

(3) The prosecution of individuals within the criminal justice system – police officers, prosecutors, defence lawyers, and judges – that have failed to protect all Canadians, especially Indigenous women, from extreme violence and discrimination. These individuals fail to recognize Indigenous women as "equals" who deserve protection and allow their biases to influence their decisions, leading to disproportionate numbers of Indigenous women becoming victims to violent crimes (Long & Hollands, 2014).

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