

EM09 Celeste 077

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Submitted by Native Women's Association of Canada and International Organization of Indigenous Resource Development to the Expert Mechanism on the Rights of Indigenous Peoples, 2nd Session, August 10th to 14th, 2009, Human Rights Council, United Nations, Geneva

Item 4. United Nations *Declaration on the Rights of Indigenous Peoples* (a) Implementation of the Declaration at the regional and national levels.

In the implementation of the UN *Declaration on the Rights of Indigenous Peoples* (the UN Declaration) at the regional and national level, we draw attention to the implementation of article 21 which calls for improvement to the economic and social conditions of Indigenous Peoples without discrimination, paying particular attention to the "rights and special needs of indigenous elders, women, youth, children and persons with disabilities" and article 22 which calls for measures "to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination."

We call on Canada to take specific measures to ensure the realization of these rights. The Native Women's Association of Canada (NWAC) through the Sisters in Spirit Initiative has documented the high levels of violence affecting Indigenous women and girls in Canada. Our statistics confirm that there are 520 known cases of missing or murdered Indigenous women and girls in the past 30 years. This is a shockingly high rate that has received international calls for action by the government of Canada, most recently from the Human Rights Council at the 2009 Universal Periodic Review of Canada as well as the Committee on the Elimination of Discrimination Against Women (CEDAW) in 2008. Based on the urgent needs for human rights protections for Indigenous women and girls, CEDAW took the unusual step of asking Canada to report back within one year on ... measure being taken to stop violence against Indigenous women and in particular to "urgently carry out thorough investigations of cases of Aboriginal women who have gone missing or been murdered in recent decades."

We respectfully urge Canada to take the necessary steps to effectively address violence against Indigenous women, including the adoption of a national action plan on violence against Indigenous women, making reforms to the justice system, collecting consistent statistical data, and improving requisite measures to close the standard of living gap. As part of the solution to this issue, we also urge all relevant Indigenous Peoples and representative organizations, states and UN agencies and bodies to apply a culturally relevant gender-based analysis to their work to advance the human rights of Indigenous Peoples and specifically, Indigenous women and girls.

In relation to children, we would like to draw particular attention to the Expert Mechanism's reference at paragraph 15 of the Study on Lessons Learned and Challenges to Achieve the Implementation of the Right to Indigenous Peoples to Education, A/HRC/EMRIP/2009/2, to the recent General Comment No. 11 (2009) CRC/C/GC/11

issued by the Committee on the Rights of the Child. This General Comment provides insight into the protection of Indigenous children. In particular, it states: "The primary objective of this general comment is to provide States with guidance on how to implement their obligations under the Convention with respect to Indigenous children (para. 12) and makes specific reference to the relevant paragraphs of the UN Declaration (particularly articles 15, 21, 22, 24, 30 and 31) and the preambular paragraph which states "Recognizing in particular the rights of Indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child". We urge the Expert Mechanism to integrate this General Comment into its work and urge states to implement these recommendations at a national and regional level.

The promotion of wellness and the protection of the family are integral to the implementation of the UN Declaration and the General Comment No. 11 of the Committee on the Rights of the Child. We continue to be very concerned about the numbers of Indigenous children being apprehended in Canada into state care. Indeed, the numbers in state care today are greater than those at the height of residential schools operating in Canada. We should not have to challenge a government through the national human rights commission in order to receive these protections, as we have done in Canada through the complaint launched with the Canadian Human Rights Commission by the Assembly of First Nations and the First Nations Child and Family Caring Society of Canada. The issue of apprehension and taking children away from the family must be addressed if the rights of the Indigenous child are to be upheld and respected as articulated in the UN Declaration and in the recent General Comment No. 11 of the Committee on the Rights of the Child.

We reiterate our recommendations presented to the Permanent Forum on Indigenous Issues on the human rights agenda item, in particular recommendations 3 and 4 which state, to the Expert Mechanism:

3. To call on the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples to encourage the government of Canada to report on any measures taken specifically to implement the recommendations contained in the report to the 2004 Mission to Canada; and
4. To encourage all States to develop open and transparent mechanisms in collaboration with Indigenous Peoples to consider and report on treaty-monitoring bodies, special mechanisms and the universal periodic review and the Expert Mechanism on the Rights of Indigenous Peoples so that such recommendations are duly considered and result in real change to the lives of Indigenous women, their families and their Nations.

We encourage all states, without exception, to endorse and implement the UN *Declaration on the Rights of Indigenous Peoples* as a universal and minimum standard to the protection and fulfillment of the human rights of Indigenous Peoples. In particular, we call on Canada and the United States of America to reverse their positions on the UN Declaration.