



Response to UN Periodic Review of Human Rights Fourth Cycle (2023)

This response has been prepared by Women's Declaration International Canada (WDI Canada), a grassroots group of women from across Canada who are signatories to the Declaration of Women's Sex-Based Rights.¹ The Declaration reaffirms the sex-based rights of women which are set out in the Convention on the Elimination of all Forms of Discrimination against Women adopted by the United Nations General Assembly on 18 December 1979 (CEDAW). WDI Canada opposes all forms of discrimination against women and girls that result from replacing "sex" with "gender identity" in law, policy, and social practice.

SUMMARY

I. The Government of Canada is systematically violating the human rights of women and girls under articles 7 (b), 7(c), and 10(g) of CEDAW:²

7(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

7(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country

10(g) The same Opportunities to participate actively in sports and physical education;

Canada ratified CEDAW in 1981 and its current flouting of that Convention invites rebuke from the OHCHR.

¹ <https://www.womensdeclaration.com/en/declaration-womens-sex-based-rights-full-text>

² <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>



II. The Government of Canada is systematically violating the UN “Standard Minimum Treatment of Prisoners” (also known as the “Nelson Mandela Rules”), Rule 11 (a):³

Rule 11 (a)

The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;

While the “Nelson Mandela Rules” are not binding on states, Canada’s violation of these minimum standards invites rebuke from the OHCHR.

DOCUMENTATION

PART 1: Violations of articles 7(b) and 7(c) of CEDAW have proliferated since 2018, the date of the last periodic review (Third Cycle).

The Government of Canada promulgated Bill C-16 in 2017, which created as protected categories under Canadian law “gender identity and gender expression”. This bill was passed with minimal public discussion and restricted input from women’s groups that objected to its foreseeable impacts on women’s rights. The Government of Canada has never released an unredacted version of the “gender-based analysis” (GBA) of the impacts of this bill on the rights of women and girls. In 2021, in response to a public records request, journalist Anna Slatz was sent a 40-page document, 28 pages of which were entirely redacted.⁴ This overwhelming lack of transparency suggests the negative impacts of Bill C-16 on Canadian women and girls were known to be significant, but ignored. Since 2017, the manifestly observable impact has been grim. A climate of fear and intimidation has been actively supported and fostered by the Government of Canada with the use of public funds.

³ https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

⁴ <https://4w.pub/canadian-government-redacted/>



For example, federal funding was supplied to “Wisdom2Action”⁵ in 2022, following the 2021 admission by its founder Fae Johnstone that when it comes to women who express concerns about the threat gender ideology poses to women’s rights: “I actually do want a political environment in which TERFS are so vilified they don’t dare speak their view publicly, let alone act on them. Shut. Them. Down.”⁶ Johnstone deployed the misogynist slur “TERF”, the usage of which to express fantasies of violent harm toward women is well documented.⁷ The Canadian government also funds an organization called the “Canadian Anti-Hate Network”. CAHN has utilized that public funding to slander feminist groups that speak and organize publicly about the threats that gender ideology poses to women’s rights.⁸

Individual Canadian women have also been subject to threats, harassment, and loss of employment in the course of attempting, as CEDAW has it, to *7(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; and 7(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.*

Meghan Murphy, who founded Canada’s leading feminist website in 2012, is only able to speak publicly in Canada if protected by private security⁹ and has since 2021 been living out of the country. Amy Eileen Hamm, a nurse from British Columbia, is currently the subject of a drawn-out disciplinary process¹⁰ triggered by her having helped to organize an “I heart JK Rowling” billboard in Vancouver; JK Rowling being the British author who is outspoken in her support of women’s sex-based rights. Kathleen Lowrey, an anthropology professor at the University of Alberta, was in 2020 dismissed from an administrative position by her employer for publicly supporting women’s sex-based rights.¹¹ These are cases that have received press attention. Behind them lie the experiences of enormous numbers of Canadian women who have

⁵ <https://ca.style.yahoo.com/government-canada-announces-funding-youth-150200903.html>

⁶ <https://twitter.com/BobOblaw504/status/1635990055377334272>

⁷ <https://terfisaslur.com/>

⁸ https://docs.google.com/document/d/1H2i4bN_513WxWkk6nmY2lZGtP_fkJhK_h41CErh2w/edit

⁹ <https://nationalpost.com/news/meghan-murphy-the-woman-behind-trans-wars-breaking-out-at-the-public-library>

¹⁰ <https://nationalpost.com/opinion/michael-higgins-amy-hamm-is-being-persecuted-for-believing-in-biology>

¹¹ <https://cfe.torontomu.ca/blog/2020/06/academic-freedom-and-perceptions-harm>



been made afraid to participate in public discussion about a suite of legislative and policy changes around gender identity and gender expression that have serious negative impacts on the lives of women and girls. This very successful campaign of intimidation has had the full backing, including financial backing, of the Canadian government. This situation merits strong rebuke from OHCHR.

PART 2: Violations of article 10(g) of CEDAW have proliferated since 2018, the date of the last periodic review (Third Cycle).

Item 10(g) of CEDAW states that women and girls should be given the same opportunities as men to participate actively in sports and physical education. Since 2018, sex discrimination against female athletes in Canada has been embedded within the sports policy framework of most sports associations thanks to an entity called the Canadian Centre for Ethics in Sport (CCES).

It is rather stunning that it should be the CCES promoting unfairness because the original reason for its existence was to focus on anti-doping to counter cheating. Yet, in 2016 the CCES suddenly began to intervene in the realm of sports eligibility, publishing a document¹² that recommended the inclusion of male athletes in women's sports based upon gender self-identity alone, with neither surgery nor hormonal mitigation required to counter overwhelming male advantages. Furthermore, the CCES insisted that since a personal sense of gender can be fluid, a male athlete should be allowed to identify as man sometimes and as a woman at other times.

In other words, a male athlete could enter female competitions at will. According to the CCES, it would be considered a violation of human rights for sports authorities to ask any questions or to seek verification regarding eligibility beyond self-declaration. Astonishingly, most Canadian sports federations have adopted the CCES recommendations without question, paving the way for:

- (a) Male athletes in women's competitions having an enormous biological advantage and taking away prizes, recognition, and team opportunities for female athletes.

¹² <https://cces.ca/sites/default/files/content/docs/pdf/cces-transinclusionpolicyguidance-e.pdf>



- (b) Men in women's locker rooms, toilets, and showers.
- (c) Men in women's team hotel rooms and/or training camp accommodations.

[See Boxing Canada policy, for example.]¹³

This situation is unfair and unsafe for women, on the playing field and off. Severe injury from high-speed collisions with male bodies is inevitable in contact sports and encountering men in female athlete private spaces can no longer be prevented.

That Canadian women in sports would not be comfortable or accepting of this new paradigm has been disregarded. From 2016 to present, the CCES has made no effort to review the impact of its radical policy recommendations. However, a survey of Canadian high performance female athletes funded by Sport Canada and recently released by the Macdonald Laurier Institute¹⁴ (written in 2022 by UK researcher, Cathy Devine, and Canadian Professor, Leslie Howe) has revealed extreme unhappiness, fear, and discouragement being experienced by Canadian women in sport. Up to 72% felt they could not ask questions or speak freely about inclusion of biological males in their female category without being maliciously accused of hateful intent.¹⁵

The authors point out correctly that this is not a “transgender” issue, but a female athlete issue. Many female-born athletes identifying as “trans” and/or “non-binary” are equally subjected to unfairness and sex discrimination by a male athlete joining the women's competition.¹⁶ Undermining sex-based rights of female athletes (no matter how they identify) is clearly a violation of their human rights under CEDAW to having equal access to sporting opportunities.

The authors concluded that their survey revealed “an unacceptable culture of silencing and fear for female high-performance athletes in Canada”¹⁷ and that the disregard for basic human rights of women amounts to “institutional discrimination” against the female athletes on the basis

¹³ <https://boxingcanada.org/wp-content/uploads/2022/02/Diversity-Equity-and-Inclusion-Policy-FINAL-EN.pdf>

¹⁴ <https://macdonaldlaurier.ca/wp-content/uploads/2023/02/Canadian-High-Performance-Female-Athletes-Voices-Project-Report-compressed.pdf>

¹⁵ *Ibid* p. 21

¹⁶ *Ibid* p. 56

¹⁷ *Ibid* p. 90



of sex.¹⁸ A synopsis of the context and findings of this ground-breaking survey of high-performance female athletes in Canada can be found in this article by Dr. Linda Blade.¹⁹

Again: This situation in Canadian women's sports merits a strong rebuke from OHCHR.

PART 3: Violations of the Minimum Standards for the Treatment of Prisoners (Nelson Mandela Rules) rule 11(a) have proliferated since 2018, the date of the last periodic review (Third Cycle)

According to a study²⁰ carried out in 2023 by the Correctional Service of Canada, among Canadian prisoners categorized as “gender diverse”, 1/3 are sexual offenders. 82% of these sexual offenders are classified by the CSC as “trans women” and among these “trans women” sexual offenders, “94% had committed their offences while living as their biological sex”: that is, as men. According to the CSC, “the highest proportion of victims were children or female. In addition, a majority of this sub-group caused death or serious harm to their victim(s)”.

Many of these violent male offenders are now being housed with women. Prison rights activist Heather Mason²¹ and journalists Jennifer Sieland, Shay Woulahan, Eva Kurilova,²² and Anna Slatz²³ have documented the terrifying conditions which Canadian women prisoners housed with these men currently endure.²⁴ A man who raped a baby; a man who raped the corpse of the woman he had murdered; a man preoccupied with sexually abusing young girls; a man who anally raped a vulnerable teenager; a man who participated in raping and beating to death a 13 year old Indigenous girl: all now housed with Canadian women, including in facilities with

¹⁸ [Ibid](#) p 79

¹⁹ https://macdonaldlaurier.ca/wp-content/uploads/2023/02/20230210_Female_athletes_Blade_COMMENTARY_FWeb.pdf

²⁰ <file:///C:/Users/17802/Downloads/Gender%20Diverse%20Inmates.pdf>

²¹ <https://reduxx.info/canada-female-prison-guard-diagnosed-with-ptsd-after-being-forced-to-monitor-a-trans-identified-male-in-a-womens-prison/>

²² <https://reduxx.info/canada-dangerous-male-pedophile-transferred-to-womens-prison/>

²³ <https://reduxx.info/canadian-bar-association-demanded-no-exception-to-male-transfers-to-womens-prisons/>

²⁴ <https://reduxx.info/violent-necrophiliac-transferred-to-womens-prison-in-canada/>



mother-child units in which children under the age of five are housed with their incarcerated mothers. This situation that can only be described no less than cruel, inhumane and degrading.

This is a cross-issue emerging as a multifaceted human rights disaster. According to a 2022 fact sheet from the Native Women's Association of Canada, a recognized UN Periodic Review (Third Cycle) stakeholder, despite accounting for less than four per cent of Canada's female population, Indigenous women in Canada make up 39% of the female prison population. In Manitoba and Saskatchewan, Indigenous women represent approximately 85% of female admissions to federal custody, a number that increases in territorial jurisdictions. Indigenous women account for 50% of maximum security placements.²⁵

As was noted in the Summary of the Third Cycle:

*The situation of Indigenous peoples was one of the most pressing human rights issues facing Canada. Across the country, many First Nations and Indigenous communities continued to live without equitable access to quality health, education and other social services, and without access to safe drinking water and suitable sanitation, food security, and adequate housing. Indigenous women experienced systemic discrimination and bore a disproportionate burden of violence...*²⁶

The serious harms to incarcerated women consequent upon housing male offenders in women's prisons, and the disproportionate harmful impact on Indigenous women of housing male offenders in women's prisoners, all merit strong rebuke from OHCHR.

²⁵ <https://nwac.ca/assets-knowledge-centre/PrisonIssues-fact-sheet-1.pdf>

²⁶ <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WG.6/30/CAN/3&Lang=E>



RECOMMENDATIONS

In the face of this devastating evidence regarding the deteriorating human rights situation for women and girls in Canada, WDI-Canada has two simple requests to make of the OHCHR in this Fourth Cycle. We ask that the OHCHR:

(1) Insist that Canada live up to its commitments as a ratified signatory of CEDAW. This means, at a minimum:

- releasing a full, unredacted GBA for Bill C-16 to the Canadian public
- cease providing public funding to organizations that harass, intimidate, discipline, dismiss or threaten to dismiss feminists and women's rights campaigners concerned with the impact of gender identity focused legislation and policy on women's rights.

(2) Insist that Canada abide by the Nelson Mandela Rules for the Minimum Standard Treatment of Prisoners. This means, at a minimum:

- immediately ceasing new transfers of biologically male offenders to women's prisons
- implementing programming that will allow for the safe housing of gender diverse prisoners according to sex, so that men who identify as gender-diverse can be safely housed with other men going forward just as women who identify in gender diverse ways are currently housed with other women.

Submitted by:

- Dr. Linda Blade, Coordinator, WDI Canada

Written Contributions by:

- Dr. Linda Blade, Coordinator, WDI Canada
- Dr. Kathleen Lowrey, Member, WDI Canada
- Other members of WDI Canada

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