Oral Intervention: “Effective Participation, Consultation and Consent of Indigenous Women and Girls in Political and Public Life”

Submission Prepared for: United Nations Committee on the Elimination and Discrimination Against Women

Day general discussion on “the rights of Indigenous women and girls”

Prepared by: Ontario Native Women’s Association (ONWA)

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# Introduction

Good afternoon, committee members. My name is Dawn Lavell-Harvard, and I am the President of the Ontario Native Women’s Association. I am pleased to be joining you from (insert location here), to offer guidance to Canada on the measures they must adopt to ensure full compliance with their obligations under the Convention to respect and protect the rights of Indigenous women and girls.

Established in 1971, ONWA is the largest and oldest Indigenous women’s organization in Canada.

Although Indigenous women in Canada are strong and resilient, we continue to face discrimination as evidenced by persisting social, economic, and political inequalities.

The root cause of discrimination, experienced by Indigenous women and girls, is directly linked to the historical and ongoing structures of colonialism. The impacts of colonization are deeply entrenched across all systems and institutions, including Canada’s policies, legislations, and practices.

My remarks this afternoon will focus on two separate yet related issues that impact Indigenous women’s ability to participate freely in political and public life at the community and national level. The first issue I will be speaking to and calling for immediate redress on is the Nation-to-Nation distinctions-based framework, and the second piece is Bill S-3 and the Indian Act.

In 2016, UNDRIP was adopted by the Government of Canada. The Government of Canada committed to achieving reconciliation with Indigenous peoples through a renewed, nation-to-nation, government-to-government, and Inuit-Crown relationship based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change. A concurrent commitment was made by the Government of Canada to achieve gender equality. This was to be accomplished through the inclusion of a Gender-Based Analysis plus tool to streamline a whole-of-government approach.

Through the Prime Minister’s commitments, a permanent bilateral mechanism was created to develop policy on shared priorities with the Assembly of First Nations, Inuit Tapiriit Kanatami, and the Métis National Council.

The Nation-to-Nation framework, as it exists, excludes Indigenous women’s organizations as legitimate partners in Nation-to-Nation discussions. This is a propagation of paternalistic (and systemically racist) tactics that have long contributed to Indigenous women's marginalization and silencing.

It is clear, from this, that despite Canada’s commitment to gender equality a GBA+ analysis was not applied to the Nation-to-Nation Policy Framework.

This lapse has real life consequences for Indigenous women. Most recently, ONWA was excluded from engaging in the development of the *Missing and Murdered Indigenous Women and Girls Inquiry (MMIWG)* National Action Plan because of the Nation-to-Nation framework.

The failure of the federal government to adopt a more inclusive framework for engaging and consulting with Indigenous women and the organizations that represent them is a violation of Indigenous women’s rights as Articles 3 and 7 of CEDAW.

To address this, ONWA is strongly calling on the Government of Canada to renew its relationship with Indigenous peoples to be based on a Nation-to-Nation plus relationship to allow for a full and fair representation of Indigenous women.

Second,traditionally, many Indigenous societies operated matrilineally, where women were well respected and held equal power and decision-making authority to men. Colonialization had particularly damaging consequences for Indigenous women as certain colonialist tactics, namely the *Indian Act*, dismantled the status of women as gender equals and the matrilineal organization of many Indigenous societies.

Under the *Act,* Indian women began to lose their participatory and leadership function in cultural roles, political and economic life. Section 12 of the *Indian Act* caused women to lose their status, band membership, property rights, health benefits, even the right to be buried on the reserve with their ancestors if they married a non-Indian man.

In 1985, Bill C-31 was passed and allowed individuals whose status had been revoked (including their children’s) to reapply for re-instatement. The Bill fell tremendously short and did not address all forms of discrimination and human rights violations, particularly related to Indigenous women and their children.

Most recently, after 143 years, Indigenous women’s tireless advocacy led to the long overdue passage of Bill S-3 in 2019, an *Act to amend the Indian Act* (elimination of sex-based inequities in registration). Following generations of gender bias and inequality, the Bill’s objective is to support First Nations women to attain equality by being treated the same as men under the Indian Act – enabling them to obtain the same status and category of membership as their male counterparts and their descendants.

ONWA is deeply concerned with the federal government’s persistent failure to provide a full and effective remedy for the egregious violations of Indigenous women's rights under international human rights law, identified by the Committee in Sharon McIvor’s petition.

In real time, registration of First Nations women to restore their Indian status has been stalled in the federal bureaucracy and many First Nation communities do not have capacity to welcome Indigenous women and children back home.

Article 2 of CEDAW, calls for ratifying countries*to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women*. To comply with CEDAW, ONWA has called on, and continues to call on, the Government of Canada to assume the following actions:

1. Immediately put the appropriate investments into the implementation of registration of women and their children under Bill S-3.

2. Immediately assume efforts to ensure effective Nation building that is inclusive of First Nations women. To achieve this, there would have to be immediate investments in addressing the residual discrimination in communities that continue to function within a legacy of colonization and embedded patriarchal values; and,

3. Develop a strength based educational campaign for First Nations communities and for women who may want to apply.

Despite clear and consistent recommendations and calls to action from ONWA, Canada has fallen short of upholding its obligation as outlined in Articles 2,3 and 7 of CEDAW. ONWA urges Canada to actualize the recommendations presented today and thereby protect and respect indigenous women’s human rights, free from discrimination.

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