

Equal Rights

**A Brief to the U.N.
Committee on the
Elimination of
Discrimination
Against Women on
The Occasion of the
Examination of the
Fifth Periodic Report
Submitted by Canada**

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INTRODUCTION

In every corner of the world, women and girls continue to face horrifying violence, systematic discrimination and other serious human rights abuses. They are beaten and killed in their homes; attacked in their communities, raped and brutalized in war, turned away as refugees, denied education and employment, and excluded from public life - simply because of their gender. International human rights standards apply equally to men and women. That guarantee of equality and protection against discrimination lies at the very heart of the international human rights system. However this great promise to the world's women lies sadly and largely unfulfilled.

Amnesty International welcomes this opportunity to lay out a number of concerns and recommendations with respect to Canada's record of protecting women from discrimination. The organization recognizes that Canada has adopted laws, policies and practices which go far in ensuring or promoting women's equality, both at home and abroad. In fact, in some areas Canada has demonstrated valuable international leadership. At the same time, some laws, policies and practices continue to expose women in Canada to discriminatory treatment, which can have grave consequences including death.

Amnesty International hopes that the review, by the UN Committee on the Elimination of Discrimination against Women (the Committee), of Canada's record of compliance with the *Convention on the Elimination of all forms of Discrimination against Women* (the Convention) will offer an important opportunity to further improve measures taken by governments in Canada to promote women's equality rights. Such measures stand to offer women in Canada greater safety and protection from discrimination and also to strengthen Canada's capacity to press for more meaningful reforms worldwide.

As a preliminary note, Amnesty International commends the Canadian government for having acceded to the Optional Protocol to the Convention on October 18, 2002. In doing so, Canada has opened up an important avenue for individuals or groups of individuals who believe that the government has not adequately protected their rights under the Convention. The Optional Protocol allows individuals or groups of individuals to bring complaints before the Committee, alleging violations of the Convention. Amnesty International hopes that in having taken that step, Canada will now actively encourage other governments to follow suit.

FEDERALLY SENTENCED WOMEN

Federally sentenced women (FSW) compose less than 3% of the federally sentenced prison inmate population in Canada. Minimum and medium security FSW are incarcerated in five regional institutions. Maximum security FSW are incarcerated in separate units in four men's medium security institutions. Over the last 20 years various reports, complaints to the Canadian Human Rights Commission, documents and articles have clearly established that FSW, particularly Aboriginal women or women with mental disabilities or illnesses, face discrimination. Three issues are of particular concern: security classification, facilities and programs.

Classification

To determine a prisoner's security classification, the Correctional Service of Canada (CSC) assesses each prisoner's probability of escape, level of risk to the safety of the public if/they were to escape, and the degree of supervision and control required in the penitentiary setting. Part of the assessment of risk conducted by the CSC involves the review of the prisoner's social history. Prisoners with a limited employment history, low education level, little or no vocational training, who have been victims of violence, have physical problems, mental illness and/or disabilities are

identified as having high needs.¹ "The greater number of identified needs, the higher the resulting security classification."²

In this system of classification, women who are most disadvantaged frequently received the highest security classification regardless of the crime committed. Notably many Aboriginal women are given a maximum security designation.³ It appears that rather than viewing the needs of these women as critical issues to be addressed, they are seen only as risks leading to more restrictive conditions for confinement.

Facilities

Currently, maximum security women are held in male medium security institutions. While this was to be a temporary arrangement, it has been noted that it is discriminatory.⁴ These FSW are incarcerated in institutions where they have limited access to gender specific programs and services. Many of these women may have suffered violence or abuse at the hands of men, yet are being held in close proximity to men.

The CSC is building maximum security units in regional institutions for women. These units will effectively place maximum security women in a prison within a prison. They will be housed in separate units from the minimum and medium security women. In order to access the programs and resources within the prison, maximum security women will be given a second level of security classification which will define by what means they can access the rest of the institution.⁵ As well, the static security surrounding these institutions has been heightened to ensure that prisoners with the highest security classification are secure. These measures will place minimum and medium security women in an unnecessarily highly secure environment.⁶ Organizations have expressed concern about the emphasis on 'higher security' and 'secure units' for a prisoner population that has the lowest rate of escape.⁷

¹ *Position of the Canadian Association of Elizabeth Fry Societies Regarding the Classification and Carceral Placement of Women Classified as Maximum Security Prisoners*, p. 2. <http://www.elizabethfry.ca/maxe.htm>. 11/19/02

² *ibid.*, 2.

³ "(I)t has been repeatedly recognized that the current system, which was designed by men, results in significant over classification when applied to federally sentenced women. ...41% of federally sentenced women who are classified as maximum security women are Aboriginal, whereas Aboriginal women represent only 18.7% of the total population of federally sentenced women, and less than 2% of the population of Canada." *Ibid*, p. 1.

⁴ "... such placements, despite the Service's identification of these women as "high risk, high need", were discriminatory and that regardless of the accommodations made it (housing maximum security women in co-located units) was in reality a form of segregation." *Correctional Investigator Annual Report 2000-2001* p. 38.

⁵ In an April 26, 2001 letter to Amnesty International, former Solicitor General Lawrence MacAulay said that "The Strategy (*Intensive Intervention Strategy*) provides a higher level of security, staffing and program intervention, as well as the development, in the regional women's institutions, of separate secure units for maximum-security women offenders."

⁶ "...installation in the new regional prisons of security and razor wire fences, additional alarms, cameras — including infra-red, 360 degree capability, zoom lens, eye-in-the-sky models, thereby eliminating minimum security prison conditions for federally sentenced women imprisoned in the regional prisons" p. 2, *50 Years of Canada's International Commitment to Human Rights: Millstones in Correcting Corrections/or Federally Sentenced Women* www.elizabethfry.ca/50years/50years.htm- 11/28/02.

⁷ *Position of the Canadian Association of Elizabeth Fry Societies Regarding the Classification and Carceral Placement of Women Classified as Maximum Security Prisoners*, p. 5 <http://www.elizabethfry.ca/maxe.htm>. - 11/19/02.

Programs

FSW often have little job training, little education, suffer from drug and alcohol abuse, have low incomes and have experienced significant traumas in their lives.⁸ Amnesty International is concerned that the services and programs available to federally sentenced women are designed primarily for male inmates and have been adapted to suit the needs of women. Programs including drug and alcohol abuse rehabilitation are often supported and delivered by CSC staff who have little if any expertise in supporting and rehabilitating women.⁹

Former FSW have also stated that many programs exist on paper only and are not actually available. Federally sentenced women need to have ready access to programs and services designed for women specifically. Given the sensitive nature of these programs and services, they may need to be supported and delivered by female staff and volunteers. All staff and volunteers that involved with FSW must be educated and trained to deliver women specific programs.

FSW with mental health illnesses or disabilities find themselves with higher security classifications because their illness or disability is seen as a risk. "Equating mental illness or disability with risk and assigning a higher security classification is discriminatory."¹⁰ Such discrimination has an impact on these women's access to resources for rehabilitation and health and may lead to further marginalization.

To be successfully rehabilitated and prepared for their return to their communities. Aboriginal FSW must have access to programs that are created and facilitated by people from their cultural communities. CSC has attempted to provide limited services for Aboriginal women prisoners but a recent report suggests that there is considerable room for improvement.¹¹

Amnesty International calls on the Canadian government to ensure that:

1. The recommendations made by the *Creating Choices* report¹², *Arbour Commission*¹³ and the Correctional Investigator's Annual Reports for 2000-2001 and 2001-2002, are implemented without delay, in cooperation with relevant organizations and cultural communities.

⁸ "Surveys of federally sentenced women in Canada indicate that the majority of inmates are survivors of (physical and/or sexual) abuse and trauma in their families of origin or with their intimate partners. Abuse was found to be

⁹ see Chapter 5. "Federally Sentence Aboriginal Women's Perspective" in Morin, Sky Blue *Federally Sentenced Aboriginal Women in Maximum Security: What ever happened to Creating Choices* (1999) http://www.csc-scc.gc.ca/text/prgrm/fsw/skyblue/toce_e.shtml - 12/2/02.

¹⁰ *Position of the Canadian Association of Elizabeth Fry Societies Regarding the Classification and Carceral Placement of Women Classified as Maximum Security Prisoners*, p.4 <http://www.elizabethfry.ca/maxe.htm>.— 11/19/02.

¹¹ Morin's report clearly states that Aboriginal FSW and their advocates have repeatedly requested increased access to family and communities, sweat lodges, group therapy particularly for survivors of physical and sexual abuse, cultural and spiritual items and events. Morin, Sky Blue *Federally Sentenced Aboriginal Women in Maximum Security: What ever happened to Creating Choicest* (1999) http://www.csc-scc.gc.ca/text/prgrm/fsw/skyblue/toce_e.shtml - 12/2/02.

¹² *Creating Choices: The Report of the Task Force on Federally Sentenced Women*, Correctional Service of Canada (1990) http://www.csc-scc.gc.ca/text/prgrm/fsw/choices/choice1e_e.shtml.

¹³ *Commission of Inquiry Into Certain Events at the Prison for Women in Kingston*. Public Works and Government Service (1996) http://www.justicebehindthewalls.net/resources/arbour_report/arbour_rpt.htm.

2. A greater number of alternative community facilities and community release programs are made available to minimum security women to prevent them from being negatively impacted by the high degree of security that will be implemented when maximum security FSW return to regional facilities.
3. FSW have reliable access to female doctors, mental health practitioners, and other program and service personnel, and also to women-centred and culturally sensitive programs and services.
4. FSW with mental illness and disabilities are incarcerated in facilities that enable safe interaction with others and are provided with women-centred and culturally sensitive support services.
5. A security classification system, solely for women, be created in consultation with experts in the field of female offenders, and the Aboriginal community.
6. CSC staff who work with FSW receive regular and intensive training on issues of gender sensitivity, racism, and supporting women with mental illnesses and disabilities.