

## **Expert Engagement to Address and Prevent Gender-Based Violence Final Report (NA20431)**

A Report to Guide the Implementation of a National Action Plan on Violence Against  
Women and Gender-Based Violence

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Women's Shelters Canada (WSC) is based in Ottawa, Ontario. Bringing together 14 provincial and territorial shelter organizations, we represent a strong, unified voice on the issue of violence against women on the national stage. Through collaboration, knowledge exchange, and adoption of innovative practices, we advance the coordination and implementation of high-quality services for women and children accessing VAW shelters and transition houses.

Women's Shelters Canada acknowledges that the location of our office and the work that we do in Ottawa is on the traditional, unceded territories of the Algonquin Anishnaabeg people.



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## List of Abbreviations

- BIPOC**—Black, Indigenous, People of Colour
- CEDAW**—The Convention on the Elimination of All Forms of Discrimination Against Women
- CERB**—Canada Emergency Response Benefit
- CIRNAC**—Crown-Indigenous Relations and Northern Affairs Canada
- CFOJA**—Canadian Femicide Observatory for Justice and Accountability
- CRB**—Canada Recovery Benefit
- CRIAW**—The Canadian Research Institute for the Advancement of Women
- CW**—Child Welfare
- Cos**—Concluding Observations
- CSO**—Civil Society Organization
- FMG**—Female Genital Mutilation
- FPT**—Federal, Provincial/Territorial (pertaining to jurisdictions of government)
- GBA+**—Gender-Based Analysis Plus
- IC**—Independent Commission
- ICT**—Information and Communications Technology
- IRCC**—Immigration, Refugees and Citizenship Canada
- ILO**—International Labour Organization
- LGBTQI2S+ / 2SLGBTQQIA+**—Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Two-Spirited, Intersex, Asexual
- MEAL**—Monitoring, Evaluation, Accountability and Learning
- MMIWG**—Missing and Murdered Indigenous Women and Girls
- NAP**—National Action Plan to End Violence against Women and Gender-based Violence
- NHS**—National Housing Strategy
- PHAC**—Public Health Agency of Canada
- SDG**—Sustainable Development Goals (UN)
- SOGIE**—Sexual Orientation, Gender Identity and Expression
- SRHR**—Sexual and Reproductive Health Rights
- STI**—Sexually Transmitted Infection
- TOR**—Terms of Reference
- UND RIP**—United Nations Declaration on the Rights of Indigenous Peoples
- UFC**—Unified Family Court
- UPR**—Universal Periodic Review
- VACR**—Violence Against Women Advocate Case Review
- WG**—Working Group
- VAW/GBV**—Violence Against Women/Gender-Based Violence
- VT**—Vicarious Trauma
- WAGE**—Women and Gender Equality
- WSC**—Women’s Shelters Canada

## Note on Terminology

Throughout this report, we define violence against women (VAW) and gender-based violence (GBV) as inclusive of cis women, trans women, and people of all marginalized genders, including Two-Spirit, trans, and non-binary people.

## Executive Summary

Canada is at cross-roads when it comes to violence against women and gender-based violence (VAW/GBV): a perfect storm of colliding pandemics—COVID-19, and the pre-existing WHO declared pandemic of VAW/GBV<sup>1</sup>—has created both the conditions for escalating harms of violence, and the aperture for real and lasting change. This report lays the groundwork for answering the question: What will real change require?

Women's Shelters Canada (WSC) was funded by the federal department of Women and Gender Equality (WAGE) to develop a strategic engagement process with anti-violence leaders across Canada to inform the development of a National Action Plan to End Violence against Women and Gender-Based Violence (NAP).

For the purposes of our work, the project adopted the United Nations' broad definition of what constitutes VAW/GBV. Stemming from the 1993 Declaration on the Elimination of Violence against Women,<sup>2</sup> adopted by the UN General Assembly, we considered violence to mean:

any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. (Article 1, p.3).

Following global practice, we regard it as both a human rights and public health crisis of pandemic proportions.<sup>3</sup>

This report follows a significant period of research and development by WSC and its many partners, from first tabling the case for a NAP in 2013.<sup>4</sup> In 2015, we issued a Call for a NAP and crafted a Blueprint.<sup>5</sup> In 2020, we released a Reissued Call for a NAP<sup>6</sup> that was endorsed by more than 250 organizations and entities.

On March 31, 2021, we submitted an Interim Report. In the main, the findings of that report are echoed in this Final Report. The primary distinction between the Interim Report and the Final Report is the level of detail we were able to explore in providing recommendations for whichever government ministries, entities, or network of advocates picks up this mantel next.

Both reports were generated using the same processes and methodologies. In this Final Report, some areas of our findings remain the same. Others have been elaborated in greater detail. Others still emerged and make a debut here.

Principally, both reports were organized around the four pillars of social policy focus that characterized the WAGE agreement for the project. These pillars and their scope and meaning are the result of an interplay between community's call for action in these policy areas,<sup>7</sup> and government's shaping of those calls into succinct "pillars" of the plan's outline (see Project

Background Material for Working Group Members, [Appendix G](#)). They are explored in greater detail in the full report that follows.

Notably, a fifth pillar, on Indigenous Women’s Leadership, was assigned to a process outside this project and rests with the WAGE Indigenous Women’s Circle. Given the shocking levels of violence against Indigenous women, our project was keen to make connections with both this fifth pillar of work and with the separate but related process of developing a national action plan in response to the findings of the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG).<sup>8</sup>

The leadership of our project made considerable effort to coordinate our priorities with these two processes in the hope of ensuring a respectful amplification of their findings. It was our intention that the leadership of Indigenous women and Indigenous women’s organizations would shape the link between the separate processes so that they were harmonized in some way, ensuring that Indigenous women’s voices could be heard in all frameworks to address VAW/GBV. While we were able to schedule a single meeting with the MMIWG Commission,<sup>9</sup> and our pillars had Indigenous women participating in the determination of the NAP recommendations you find herein—as well as starting from a template of recommendations that included the Calls for Justice<sup>10</sup>—a formal collaboration between the two initiatives was not possible in the time we had. This is an area of distinct and important work for the team that moves this report forward to structure the NAP.

We conducted additional extensive background research, including legal and document review, as well as interviews with NAP proponents in other jurisdictions, including the United Kingdom (UK) and Australia.

The four Working Groups (WGs)—with two co-chairs and eight members—are rooted in a variety of communities, identities, and geographic locations, organized around the four public policy pillars defined in the following manner:

- ***Enabling Environment and Social Infrastructure***

Broadly speaking, these will be social policy responses. The NAP must address all policy areas that may affect women’s vulnerability to violence and their ability to access services and protections. It must strive to achieve full substantive equality for all women to prevent and eventually end VAW/GBV.

- ***Prevention***

Prevention work must be community-specific, adequately funded, and based on a gendered, feminist intersectional analysis of violence. The focus has to be on educating children, youth, and adults on human rights and VAW/GBV. This must be done through promoting understanding of healthy relationships, consent and rape culture, breaking

down sexual assault myths, encouraging bystander interventions, offering programs to foster self-esteem, and working with men and boys to change attitudes and behaviours.

- ***Promotion of Responsive Legal and Justice Systems***

The NAP must address police, legal, court, and prison systems to ensure they reflect and are responsive to the lived realities of women facing violence. It must also work to both prevent and reduce the impacts of violence and ensure women's safety from an intersectional perspective.

- ***Support for Survivors and Their Families***

Broadly speaking, these will be service responses. Ideally, a universal, coordinated, and integrated system of support services must be adequately funded, offered across all geographic locations, and accessible to all women who have experienced any form of VAW/GBV. This should include the development and implementation of service and practice standards and guidelines for all sectors that respond to violence against women, such as health, child protection, social assistance, and housing, to name a few.

These are further elaborated in the [Recommendations](#) that follow.

Working with the existing compendium of 646 recommendations collected and shared with us by WAGE, each WG in the four pillars reviewed, sorted, analyzed, and did significant homework on the implications of the recommendations we supplied them.

What follows is divided from highest level overview, to a digestible narrative report in the main body of the document, to appendices that allow for an unsynthesized exploration of the narrative reports from the WGs for future use. As such, the report is presented in the following manner:

- The Executive Summary presents a snapshot of our work together over three months. This provides a brief narrative on some matters of general context and concern that frame the recommendations that immediately follow.
- We requested each working group to provide 20 recommendations, understanding that this prioritizing was both difficult and practical, allowing a manageable list of actions to enter public discourse in advance of the 10-year horizon's full map for a way forward. In the end, the recommendation table represents the priorities of the expert WGs and took us slightly over the 20 per pillar we had anticipated. In preparing this report, the writing team determined that collecting all the recommendations in one place for ease of future use was preferable to imposing the limit of 20 originally conceived.
- Speaking to the 10-year NAP horizon in particular, it is our intention that these pressure-tested recommendations—discussed and vetted by eight experts per pillar area—will provide an important basis for the 10-year planning horizon.

- Our project team also realized that each thematic area of public policy could present complexities for practical application, which the three months allotted to this project would not be sufficient to resolve. In a few cases, we were able to commission discussion papers to explore the matters to be considered and the next steps for the NAP framing and implementation process. To this end, [Appendix E](#) (Gender-Based Violence, Economic Security, and the Potential of Basic Income) and [Appendix F](#) (National Legislation on VAW/GBV) provide “deeper dives” on topics our WGs in the Infrastructure and Legal pillars felt needed elaboration.

Each pillar provided narrative justifications and explanations for their recommendations. These narrative accounts of each pillar’s role in the NAP, the benefits and pitfalls of the recommendations for change that have been fashioned by the WGs, and the hoped-for outcomes of the change that is called for, are critical context for the development of a full NAP and implementation process. These have been condensed and compiled into the text of the Executive Summary, at a high level, and in the main body of the report as introductions to the pillar-specific recommendations. The narrative reports prepared by each of the WGs appear in alphabetical sequence in [Appendix C](#).

All of this material was vetted and submitted by the co-chairs of each pillar and based on the intensive work done with the 40 members of the WGs assembled between February and April 2021. They, together with WSC’s Executive Director and the team of researchers, writers, and the Strategic Engagement Specialist, represent approximately 1,000 person-years of VAW/GBV experience and knowledge. They also, crucially, deeply inform the Monitoring, Evaluation, Accountability, and Learning (MEAL) framework we are calling for as an integral aspect of the NAP.

Briefly stated, lessons learned via the United Nations (UN) on various countries’ experiences on implementing NAPs clearly point out that an early investment in MEAL is crucial to successful implementation. As noted in our findings—especially from our research into the case of Australia, where multiple and consecutive three-year NAPs have been implemented—the lack of a robust MEAL strategy in place from the beginning was identified as a major weakness.

Therefore, to ensure that evidence is generated to support effective implementation of a NAP that is transparent, accountable, and that takes an inclusive, intersectional, and rights-based approach, it is crucial to put in place an intersectional feminist MEAL strategy. In the narrative report, we present discussion on the importance of an intersectional feminist approach to MEAL for the NAP, and outcomes and considerations for measurements for the recommendations from each pillar. The work on VAW/GBV is dynamic and often engages the formal realm of law, policy, institutions, and resources, as well as patriarchal, racist, and other oppressive social structures, cultural beliefs, and practices that are held up as neutral and “givens.” A feminist approach to MEAL challenges us to think differently about what is considered evidence. It pushes the boundaries of how this evidence is gathered and questions who gives it meaning and relevance.

To that end, the report also includes a commissioned paper ([Appendix D](#)) that draws on evidence from peer-reviewed and grey literature, as well as reported lessons learned and international best practices on integrating MEAL into coordinated responses such as NAPs. This area of our work has been significantly deepened subsequent to the Interim Report. Four specific recommendations related to MEAL are related to funding, structure, composition, and methodology of the accountability process for the NAP over 10 years.

One aspect of strong congruence between the two reports, separated by only an additional month of work, is agreement that the Final Report is not the fulfillment of the state's obligation to implement a NAP. We continue to emphasize that the NAP requires sustained and escalating investment through budgets that prioritize women's lives; it requires structural support that will maintain focus through and beyond individual election cycles and government mandates; it will require the oversight and evaluation of grounded experts; and it will require an initial investment of dollars and political will to get at both root causes and urgent, life-threatening conditions. This is envisioned as part of a 10-year planning arc with substantial fiscal commitment and structures of guidance and accountability outside of government.

Without exception, all WGs identified that the recommendations we were furnished with required significant re-analysis and updating in light of the intersectional impacts of VAW/GBV. Placing ill-considered recommendations on this foundation without reconsideration would have potentially created greater harm than good. We therefore initiated this review and it is reflected in the recommendations found in this report.

While intersectionality is a term now used widely in activist circles, it has also come into government and social policy lexicons. It is therefore worth setting out the meaning to be inferred in this summary, as well as the full report.

#### [What is meant by an intersectional approach?](#)

The term intersectionality was first coined by Kimberlé Crenshaw, an American critical race feminist activist and legal scholar. The term in her writing was a metaphor for how discrimination works in real life:

Discrimination, like traffic through an intersection, may flow in one direction, and it may flow in another. If an accident happens in an intersection, it can be caused by cars traveling from any number of directions, and sometimes from all of them.<sup>11</sup>

In this analogy, the accident is the human rights harm that is caused to an individual, and the intersections are all the different "grounds" or identities/situations that are forms of discrimination. Crenshaw's work began at the intersection of Black women and the separate protections for race and gender in labour law, which left their unique and compound forms of discrimination and experiences of violence unaccounted for and unremedied. Her work has since come to express the possibility of a nearly infinite entanglement of human experience as impacted by systems of governance and regulation. In an interview marking the 20<sup>th</sup>

anniversary of her first use of the term, Crenshaw had the following to say about the applicability of the term:

Intersectionality is a lens through which you can see where power comes and collides, where it interlocks and intersects. It's not simply that there's a race problem here, a gender problem here, and a class or LGBTQ problem there. Many times, that framework erases what happens to people who are subject to all of these things.<sup>12</sup>

Most crucially, for the purposes of understanding our approach to the recommendations regarding a NAP, Crenshaw's vision of intersectionality is structural in nature, and thus not merely identity-based. As such, intersectionality "allows us to elaborate the specifically structural histories of exclusion from the distributional benefits of equality," and indeed "the distributional inequalities of feminism's successes" until now.<sup>13</sup> That is, when deployed accurately to its birthright, intersectionality identifies pre-existing inequalities that challenge the claims of formal legal equality to have achieved its goal of "equality for all." As one of our WG members has aptly stated:

Given the inter-constitutive nature of multiple and distinct experiences of structural oppression and violence, we need to be alert to the 'interlocking systems of oppression'<sup>14</sup> that occur. We thus would benefit from seeking deeper understandings of how these different systems of oppression interact, and to be careful of our assumptions in centring one experience of marginalization over another.<sup>15</sup>

While we use the word here with this meaning, throughout the public policy space its deployment needs to be better understood to pose and explore the question of whether its adoption effectively "moves intersectionality from critical social theory to critical social policy technique that advances the claims of the most marginalized."<sup>16</sup>

For the purposes of the work on the NAP policy pillars, intersectionality's origins in the human rights legal context, and its advancement as part of the international legal obligations of the Canadian state (explored further below), recede into the background. Its use with respect to recommendations for the NAP has less to do with the grounds of discrimination per se and more with the best way to avoid violation of the rights covered in law in the first place. In this sense, our WGs were seized with the understanding that discrimination is a social process, wherein "an individual's experience is unintelligible without the context of complex systemic and group disadvantage and exploitation."<sup>17</sup>

Nevertheless, intersectionality does harbor legal obligations, which we have also explored. While we have undertaken the work of collating the intersections of harm to be addressed by the recommendations in circulation, and by bringing our expertise to imagining new paths forward for each pillar, work remains for those who follow and use this report to continue this crucial practical engagement.

In our narrative section in the main report tracing state obligations to human rights norms ([see cross-cutting theme 3](#)), we call on government first to fulfill its existing obligations, but also to advance Canada's participation in the global human rights compact, and to keep it in the leadership pack of human rights players on the world stage through the following recommendations:

- Make good on promises to ratify and implement the Treaty of Belém do Pará on VAW/GBV.
- Ratify the International Labour Organization Convention 190 on Violence and Harassment (ILO C-190).
- Invest in leadership of Indigenous women to meaningfully participate in discussions of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to balance the discussions underway.

The WGs noted that intersectionality must not be merely scattered throughout public policy speak without careful attention to its implications. As one intersectionality scholar has emphasized:

Intersectionality's institutional incorporation ... requires attending to both continuities and breaches between the ways that intersectionality has been understood and practiced at different stages of its development in different national and institutional contexts.<sup>18</sup>

Principally, the WG members emphasized that the populations most affected by violence are those that are consequently most affected by our failure to reduce rates of violence through our interventions to date, including people living in rural and remote areas, Indigenous people, Black people, people with disabilities, racialized people, non-binary and trans people, LGBTQI2S+ people, and migrant people. Without adequate consideration of the ways in which violence is experienced differently, and to a greater extent by some people and populations, the recommendations in circulation may simply redistribute harms across social systems and populations.

We have initiated a re-examination of recommendations based on these criteria in the time allotted. What follows gives some direction for what is needed in the design and implementation of a truly intersectional NAP that is grounded in the current context.

We have tapped into the groundswell of support for reform of VAW/GBV response systems in light of anti-Black and anti-Indigenous racism, ableism, transphobia, and the issues facing those in Canada's most violently affected and least served communities. This desire for re-examination and reform includes, perhaps most especially, a reconsideration of the role of policing in VAW/GBV response; for this too we have not had the investment of time necessary to establish the recommendations that would stage the change that is needed, although we

have tackled the issues through discussions of redistributive community investments and system-wide education and training.

Given the depth and extent of what could be accomplished over the 10 years of the NAP, we emphasize that we lacked the time to find agreement on whether we were building or dismantling in areas requiring substantial reform. Our report captures this unresolved dilemma with recommendations and narratives that attend to possibilities and the attendant intricacies as we see them.

Following from the intersectional lens we provided to the analyzed and vetted recommendations, we have identified numerous cross-cutting themes that did not neatly confine themselves to one pillar or another. The lives of those we intend the NAP to positively impact are multifaceted, and thus, so are the policy areas we organized ourselves into. The recommendations collide and intersect, and they influence and, at times, contradict or mutually support one another. Each pillar tackles these themes from a slightly different angle, based on the types of outcomes, activities, or processes that public policy requires. We indicate levels of government responsible for enacting the change required—making special note of their public commitments to the principles a specific recommendation fulfills—and we group measurable outcomes according to broad results. We additionally capture context, considerations, and nuances not yet resolved or not necessarily evident in the sheer statement of the recommendation itself.

Recognizing the richness in this, and the need to leave a legacy for the next phase of NAP development and implementation, we have not removed duplication in what follows. Instead, we have compiled these “overlaps” into thematic narratives with a summary of their origins and implications. This provides context for the detailed recommendations that appear at the end of this Executive Summary.

Overall, our work in this report should be seen as the beginning of a longer process. These are complex issues that require more thought and deliberation than our time allowed. Our hope is that the NAP will be used as a starting point for change and as a way to keep governments accountable into the future while also implementing urgent change. The Executive Summary, by definition, flies over the details that follow. To tap into the benefits of the work represented in this report, it should be read in its fullness.

This report and the work that informs it was undertaken in advance of the tabling of the 2021 Federal Budget.<sup>19</sup> Our Interim Report was also filed in advance, with the intention of providing guidance for the budget process. We applaud the federal government for making VAW/GBV a central consideration in Budget 2021, which makes an overall investment of \$600 million in initiatives that anti-violence experts have been calling for as part of the NAP. This investment will need to be allocated strategically so that future budgets can meet the broad scope of change that curbing VAW/GBV requires.

Fourteen million dollars for establishing and implementing the NAP is a significant first step. Alongside our partners, Women's Shelters Canada looks forward to continuing to work closely with the federal government in the coming months to ensure the NAP gets off the ground with community-based, anti-violence expertise. Specifically, we want to ensure that this investment, in what the budget document terms a Secretariat, conforms to our expectation that framing, oversight, implementation, and accountability for the NAP remain in the hands of the experts who have the skills to guide it.

As we have said in our public responses to the budget, the future of the NAP will take billions, not millions.<sup>20</sup> Likewise, while we applaud Budget 2021 for making an overall \$400 million investment on data—primarily to Statistics Canada, to address various data gaps, especially around gender, racism, and unequal power relations, to improve on evidence-based decision-making—it is simply not enough. Investment towards better data over the next five years is only the first step. What is required, as voiced by the WGs, is better monitoring and accountability; data that goes beyond disaggregated numbers, applies an intersectional lens, and is collected in ways that are inclusive, honour lived realities, and go beyond the traditional, narrow, number-driven methodologies; that is, not just surveys, not just statistical analysis, and not just larger sampling.

We need ways to systematically ensure participation and collaboration from VAW/GBV survivors, gender-justice sector experts, and anti-VAW/GBV advocates—upholding the principle of “nothing about me, without me.” We must allow evidence generated that honours the narratives from Indigenous survivors, LGBTQI2S+ survivors, and from Black and racialized survivors of VAW/GBV—data gathering that centres on safety, healing, and justice. The core report and the commissioned paper on MEAL ([Appendix D](#)), contain more detailed descriptions of what it means to take an intersectional and feminist approach to monitoring, evaluation, accountability, and learning, including key recommendations that have emerged from our WGs, discussion on what counts as evidence, and who gives it meaning.

We note that the external limitations on this process—the short timeframe, the pandemic-imposed inability to gather in person, the limited number of recommendations each WG could bring forward to create a digestible and effective report—required us to provide largely broad-brush recommendations. We hope these will be seen as focused on long-term systemic change that will occur in increments, without ignoring those changes that require attention in the short-term. Our Recommendations Tables indicate the timeframes required where we were able to determine so.

What follows is a foundational contribution to the design and implementation of a 10-year NAP with leadership, increased and ongoing budgetary investment from the federal government, and collaboration and commitment from all other levels of government, according to existing platforms,<sup>21</sup> mandates,<sup>22</sup> commitments already made,<sup>23</sup> and the evident need to tackle this issue with all available means. Again, it will take billions, not millions to advance a truly coordinated and measurable impact on VAW/GBV.

In general, we have proposed long-term approaches with some short- to medium-term measures that would bring us closer to the desired outcomes. The overarching goal is to build resilient, sustainable systems that can withstand pressures from economic instability, shifts in government, or other factors.

We submit this report from the WSC Strategic Engagement Project to answer the call we made many years ago: to follow global best practice and create a National Action Plan to end VAW/GBV that can be held up as a global standard. We trust this report and its background research will inform this process moving forward.

## Recommendations

As set out in the Executive Summary, in addition to the recommendations from the four WGs, there were several cross-cutting themes that emerged as high priorities among all working groups. These themes do not account for all the separate identities captured in an intersectional approach, but the list below groups policy themes that appear in more than one place. They are elaborated in the main body of the report.

1. [Cross-cutting themes: An intersectional approach](#)
2. [The heightened risks of the COVID-19 context](#)
3. [The role of human rights legal norms and protections](#)
4. [Harmonizing and addressing the responses to MMIWG](#)
5. [Acknowledging the complexities and approaches of transformative Justice](#)
6. [Addressing police and state violence, colonialism and racism](#)
7. [Education and training](#)
8. [Grassroots as a central part of the response](#)
9. [Advancing wrap-around services](#)
10. [Ensuring a stable VAW sector](#)
11. [Advancing safe workplaces](#)
12. [Realizing the right to housing](#)
13. [Childcare](#)
14. [Healthcare](#)
15. [Safe, affordable public transportation and transit](#)
16. [Information and communications technology](#)
17. [Providing for data and MEAL](#)

From our perspective, addressing VAW/GBV in a lasting and meaningful way starts with a long view: ten years provide the horizon to make real impact. The inclusion of the pillar on infrastructure and the enabling environment, for example, invites consideration of a range of social and economic policies—from income security and decent work, to housing and childcare, to transportation, healthcare, and digital infrastructure—that can help advance the objectives and principles of the NAP. Fundamental to our vision are the principles of universality, public funding and management, and consistency across jurisdictions, through the establishment of national standards and federal-provincial/territorial (FTP) cooperation. The principles of universal design and GBA+ should drive the review and restructuring of systems, putting the needs of the most marginalized at the centre and ensuring access for everyone.

## Table Key/Codes

<b>Timeframe</b>
- Immediate, 6 months (I)
- Short-term, 1-2 years (S)
- Medium-term, 3-5 years (M)
- Long-term, 5-10 years (L)
<b>Stakeholder</b>
- Federal (F)
- Provincial/Territorial (P/T)
- Municipal (M)

**Vision:** Canada fulfils its state obligation to ensure that all individuals within its borders are free from VAW/GBV and from threats of such violence. Canada is a place where everyone is safe to pursue their human rights and fundamental freedoms irrespective of their citizenship or geography.

**Ultimate Outcome:** Elimination of VAW/GBV and threats of such violence for all, regardless of where they live.

Table 1: Enabling Environment and Social Infrastructure Rationale

We believe that universal basic services are at the heart of social infrastructure and preferable to programs that provide cash alone. The value of social infrastructure is infinitely higher to low-income households than the cash equivalent. Vouchers or cash transfers do not address supply-side deficits, nor do they guarantee quality. The realities and practicalities of Canadian federalism pose considerable barriers to the objective of the NAP to ensure consistency in access to any social infrastructure across the country. Efforts to ensure a Canada-wide approach to many systems must take into account jurisdiction, as well as the specific place of Quebec in the federation, and relationships with First Nations, Inuit and Metis peoples and the need for Indigenous-led solutions. While these dynamics are complicated, we do not believe they should be a barrier to progress, particularly if the federal government shows leadership within its own jurisdiction, and provides the incentive of long-term, sufficient funding to provinces and territories. Privatization of infrastructure and public services means higher costs from higher long-term financing costs for building infrastructure, more risk, the need for admin and legal oversight, and less transparency and accountability. Privatization creates increased user fees and tolls, shifting control of public facilities to unaccountable, private, for-profit corporations. It also diverts public funds from core services, needed by people, to corporate profits. Keeping infrastructure and services public is a wise investment of public funds and provides greater local control, flexibility and efficiency in operations, lower costs, accessibility, and quality services for members of the public.

**GOAL:** *Elimination of systemic barriers to gender equality and economic justice, including those that hinder access to and use of social protection and public services by VAW/GBV survivors, putting the needs of the most marginalized at the centre while ensuring access for everyone.*

**OVERALL OUTCOME:** Improved enabling environment for economic security and equitable access to the public services and social infrastructure necessary to deal with the impacts of VAW/GBV, leave violent situations, and promote health, well-being, and resilience.

#	Recommendation, Rationale, and Action	Timeframe	Stakeholder	Considerations for outcome measurements
<b>Theme 1: Income Security</b>				
<b>PROPOSED OUTCOME:</b> Improved income security and social protection for women and gender-diverse individuals in crisis, especially the most marginalized and those experiencing elevated rates of poverty.				

1E	<b>Extend financial support to low-income CERB recipients most impacted by COVID-19 employment losses, and now facing heightened financial insecurity related to large tax bills and/or the requirement to pay back benefits.</b>	I	F	<ul style="list-style-type: none"> <li>○ Analysis on income security must take into consideration poverty, and, particularly, how poverty increases marginalization for those who are already marginalized because of SOGIE, race, Indigeneity, immigration and migrant status, disability, or homelessness.</li> </ul>
2E	<p><b>Improve income security supports and social protection for women in crisis by strengthening provincial/territorial social assistance systems and federal income support to lift individuals and families out of poverty and provide a minimum income guarantee for (working-age) people experiencing violence. Actions must specifically prioritize groups experiencing elevated rates of poverty and/or the deepest rates of poverty, advancing reforms to enhance benefit take-up and impact. Actions shall include:</b></p> <p class="list-item-l1">a) <b>Federal / Provincial / Territorial</b></p> <ul style="list-style-type: none"> <li>• Remove immigration status eligibility criteria for all income support benefits for people facing VAW/GBV at all levels of government to support people with no/precarious immigration status with options to enhance safety (e.g. ability to leave a situation of violence).</li> <li>• Ensure reforms respond to the unique needs of women at high risk of poverty, including those trying to re-establish their lives after experiencing violence. Indigenous women living off-reserve, immigrant and refugee women, women with disabilities, and street-involved young women all face specific barriers that need to be centred in reform efforts.</li> </ul> <p class="list-item-l1">b) <b>Federal</b></p> <ul style="list-style-type: none"> <li>• Increase funding to the Canada Social Transfer (CST) by \$4 billion, and provide sufficient, stable, and predictable funding that recognizes regional economic variations. As part of this initiative, establish minimum standards for income benefits and social services funded through the CST in collaboration with provincial/territorial governments.</li> <li>• Strengthen existing income support programs including the Canada Child Benefit, Canada Workers Benefit, Employment Insurance, and Canada's patchwork of disability programs to reduce Canada's rate of</li> </ul>	S/M/L	F/P/T	<ul style="list-style-type: none"> <li>○ Perspective of VAW/GBV survivors, especially Indigenous women, immigrant and refugee women, Black and racialized women, women with disabilities, street-involved young women, individuals with other SOGIE and other intersecting identities on the impacts of income security (or lack thereof) in their ability to leave a violent situation.</li> </ul>

	<p>poverty by 50% by 2025. Actions must specifically prioritize groups experiencing elevated rates of poverty and/or the deepest rates of poverty, advancing reforms to enhance benefit take-up and impact.</p> <p><b><i>To this end:</i></b></p> <ul style="list-style-type: none"> <li>• Take action to lower barriers to income support programs for women fleeing violence, (e.g., facilitate access to needed documentation, such as birth certificates, expand the circle of people able to attest to residency, etc.) as well as offer alternative delivery systems to the tax system.</li> <li>• Take immediate action as emergency benefits are wound down to reform Employment Insurance (EI) to facilitate expanded access for premium payers currently excluded, extended access to new enrollees, a permanent reduction of qualifying hours, and an increase to the benefit rate.</li> <li>• Create a Canada Disability Benefit—in collaboration with the disability community and provincial/territorial governments—that ensures that people with disabilities can live with dignity and fully participate in community life.</li> </ul> <p>c) <b>Provincial:</b></p> <ul style="list-style-type: none"> <li>• Establish a lump-sum payment (e.g., 3-4 months of social assistance benefits) for people fleeing violence to help them get established (e.g., Alberta's Escaping Abuse benefit). This program would be offered outside of the social assistance system and be subject to an appropriate income test.</li> <li>• Establish dedicated caseworkers to liaise with shelters and other services to provide wrap-around supports (e.g., transportation, emergency housing, childcare, health services, related community supports).</li> <li>• Provide help to apply for social assistance, if needed, and other available income and service supports (e.g., social housing, housing benefits, drug benefits, childcare subsidies).</li> </ul>		
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	<ul style="list-style-type: none"> <li>• Eliminate the asset eligibility threshold for women fleeing violence to ensure women's financial and social security are not jeopardized in the aftermath of violence.</li> <li>• Replace the "shortest route to work" principle with an emphasis on upgrading skills and finding decent and sustainable work, removing barriers to all FTP education and training programs for victims of VAW/GBV seeking supports.</li> </ul>			
<b>Theme 2: Decent Work</b>				
	<p><b>PROPOSED OUTCOME:</b> Improved employment standards and government accountability mechanisms to prevent, address, and respond to violence and harassment at work for all workers across the formal or informal economy and in all jurisdictions</p> <p><b>3E Improve employment standards and occupational health and safety protections for workers in all jurisdictions. Actions shall include:</b></p> <ol style="list-style-type: none"> <li>a) Increasing the federal minimum wage immediately to \$15.00 per hour and working with provinces/territories to raise the minimum wage across Canada and index it to inflation. Legislate increases to the minimum wage on an annual basis, based on existing data on the increases to cost of living. Strongly encourage all provinces/territories to also increase provincial/territorial minimum wage.</li> <li>b) Ensuring that employment standards and occupational health and safety legislation apply equally to workers in non-standard employment (e.g. gig economy) and migrant workers.</li> <li>c) Immediately ratifying and implementing ILO Convention 190. Initiate a tripartite process with employers and trade unions to review all FTP employment legislation to ensure consistency with measures outlined in the convention. Legislation on violence and harassment should meet the comprehensive definition of employee in the Convention and apply to all situations arising in the course of, linked with, or arising out of work, including when home is a place of work.</li> <li>d) Recognizing domestic violence as a workplace safety hazard, expand access to domestic violence leave to a minimum of 10 paid days and 10</li> </ol>			<ul style="list-style-type: none"> <li>o Statistics on VAW/GBV and harassment at work and remedy/action taken. In particular, data collection on incidents should not be limited to official filing of complaints. Safe and anonymous data collection portals or other mechanisms should be established for individuals who do not wish to proceed with formal complaints procedures. Any data collected through these anonymous systems should be cumulated towards</li> </ul>

	<p>unpaid days across the country. Require employers to develop workplace policies and to provide supports, including risk assessments and safety planning. The federal government should provide leadership by negotiating these provisions or better into its collective agreements.</p> <p>e) Ensuring access to paid sick days and other forms of leave to support reconciliation of work and family responsibilities for all workers.</p>			<ul style="list-style-type: none"> <li>o national statistics on prevalence.</li> <li>o Perspective of survivors on the quality of support provided.</li> <li>o Perspective of workplace leadership on their role in promoting a safe and respectful workplace.</li> <li>o Audit of workplaces with highest incidence of workplace violence and harassment reported.</li> <li>o Creating low-barrier reporting mechanisms for those involved in the informal economy to report on abuse and harassment without being further victimized and further marginalized.</li> <li>o Enforcing and tracking mandatory workplace risk assessment as set out in C-190.</li> <li>o Tracking government reforms around employment legislation, including health and safety; applies to all workers in the world of work, including part-time, temporary and contract</li> </ul>
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				<ul style="list-style-type: none"> <li>workers, migrant workers, and others.</li> <li>○ Assessing government legislations across all jurisdictions to monitor if legislations have been reformed to include the right to equality and non-discrimination in employment and occupation for all, including women, migrants, people with disabilities and multiple and intersecting identities—whether race, ethnicity, Indigenous status, sexual orientation, and gender identity</li> <li>○ Tracking employers to ensure their workplace policies meet legislative requirements, especially around DV.</li> </ul>
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### Theme 3: Making Work Better and Safer

**PROPOSED OUTCOME:** Improved opportunities for women and gender-diverse people to access work that is inclusive, provides fair income and safe working conditions, and promotes equality

4E	Enhance pathways for access to decent work for women and gender-diverse people. Actions shall include:			<ul style="list-style-type: none"> <li>○ Statistics on employment and work to measure progress in achieving the</li> </ul>
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	<p>a) Introducing a designated training fund for women and others with barriers to employment who need to re-train due to post-pandemic industry restructuring and new workforce demands, such as digital literacy.</p> <p>b) Adopting a range of training-to-employment initiatives within federal programs and shared jurisdictions to improve gender equality outcomes, supports for VAW/GBV survivors, and help reduce the gender wage gap.</p> <p>c) Addressing discriminatory Skills Accreditation processes that increase vulnerabilities among immigrant women.</p> <p>d) Developing and implementing a national plan for a federally-managed but regionally-defined strategy that requires women's training and employment in all new social and physical infrastructure projects funded by the federal government. Regionally-defined community-based agreements must include training/employment opportunities with wrap-around holistic supports for women and require reporting on progress.</p> <p>e) Launching a federal task force on care work and care jobs in Canada that is tasked with examining paid and unpaid care work; develop a federal strategy to meet the increasing demands for care and create a labour market strategy for care jobs.</p> <p>f) Expanding access to high quality, publicly funded education and training by restoring, to 1996 levels (accounting for enrolment growth and inflation), federal transfers to the provinces/territories for post-secondary education, and establishing national standards for post-secondary education, upholding the principles of universality, accessibility, comprehensiveness, public administration, and freedom of expression.</p>			<p>ILO's decent work framework and its indicators while applying an intersection, anti-oppressive/anti-racist lens in data collection and analysis.</p> <ul style="list-style-type: none"> <li>○ Review of the Skills Accreditation process especially for immigrant women.</li> <li>○ Using feminist women empowerment indices (such as IFPRI's women empowerment in agriculture index (WEAI), OXFAM's 'How To' guide on measuring women empowerment, compendium on measuring women's economic empowerment by CGD and Data2X), and other models to assess how supported women and gender-diverse individuals, especially the most marginalized and survivors of VAW/GBV, feel about access to decent work</li> <li>○ Systematic post-training assessment on the perspectives of duty</li> </ul>
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				bearers and employers' knowledge, attitudes on decent work and their capacity to enforce decent work standards
<b>Theme 4: Housing</b>				
<b>PROPOSED OUTCOME: Improved, consistent, responsive, and inclusive access to permanent, affordable, and supportive housing—including emergency and transitional housing for women, girls, and gender-diverse individuals</b>				
5E	<p><b>Immediately implement the right to housing for all women, girls, and gender-diverse individuals taking into consideration the needs of different groups (e.g. people living in rural and remote communities, newcomers, seniors, youth, Black, Indigenous, racialized communities, people with precarious immigration status, LGBTQI2S+ people, victims of human trafficking, persons with disabilities). Actions shall include:</b></p> <ul style="list-style-type: none"> <li>a) Immediately appointing the Federal Housing Advocate. Fully budget staff, and resource the Office of the National Housing Advocate without further delay.</li> <li>b) Developing an accountability mechanism that measures the impact of Canada's National Housing Strategy (NHS) on people facing VAW/GBV.</li> <li>c) Redefining homelessness and collect better and disaggregated data to understand how women, girls, and gender-diverse individuals across all social identities experience homelessness.</li> <li>d) Allowing women, girls, and gender-diverse individuals to apply for subsidized housing options while they are still living in violence.</li> <li>e) Auditing existing spending under the NHS to confirm whether it aligns with the 25% commitment made, develop an action plan to meet the 25% requirement if it is not met, and set a new target % for funding in NHS based on needs of women, girls, and gender-diverse individuals, with particular consideration of those experiencing VAW/GBV.</li> </ul>	I/S	<input type="radio"/> F/P/T <input type="radio"/> /M	<ul style="list-style-type: none"> <li>○ Formation of an independent oversight body that tracks and evaluates the implementation of Canada's National Housing Strategy (NHS) on people facing VAW/GBV.</li> <li>○ Robust intersectional data collection on homelessness, including participatory qualitative data collection to better track the impact of homelessness amongst women, girls, and gender-diverse individuals in regard to VAW/GBV.</li> <li>○ Perspectives of VAW/GBV survivors on right to housing in relation to their ability to leave violent situations, including the</li> </ul>

6E	<p><b>Increase funding for the expansion of, and reduction of barriers in access to emergency shelters, second stage (transitional) housing, and accompanying wrap-around services to meet the unmet needs of people facing VAW/GBV, with attention to the needs of different groups (e.g. people living in rural and remote communities, newcomers, seniors, youth, Black, Indigenous, racialized communities, people with precarious immigration status, LGBTQ2S+ people, victims of human trafficking, sex workers, and persons with disabilities). Actions shall include:</b></p> <ul style="list-style-type: none"> <li>a) Formal Services—Emergency shelters/safe spaces for those seeking immediate safety from violence, with particular emphasis on under-resourced communities (e.g. the North) to i) Ensure that every community has 24/7 access to a safe place to shelter from violence, addition of strategies to support safe access to services for these communities/ individuals e.g., mobile programs, local dispatch, access to services in local languages; and ii) Ensure transportation to safe shelters as required.</li> <li>b) Second stage housing—increasing capacity of second stage housing as well as core (ongoing operating) funding.</li> <li>c) Target funds in an expanded Rapid Housing Initiative—allocating \$7 billion to significantly expand the Rapid Housing Initiative by no less than 24,000 units over the next 2-3 years) for the most marginalized, including those fleeing violence.</li> <li>d) Remove time limits on stays in shelters and transitional housing—recognizing that shelters and transitional housing spaces will require enhanced funding and resources to support longer short-term stays for people facing complex VAW/GBV and working towards long-term housing options.</li> <li>e) Removing barriers for eligibility for housing services (e.g. immigration status).</li> </ul>	S/M	F/P/T/M	<p>elimination of barriers to housing.</p> <ul style="list-style-type: none"> <li>o Data collection—both quantitative and qualitative—from survivors of VAW/GBV on their experiences in accessing (or inability to access) emergency shelters, and second stage housing.</li> <li>o Perspectives of survivors of VAW/GBV on the access, availability, and quality of wrap-around support and services.</li> </ul>
7E	<p><b>Permanent, affordable, and supportive housing units are necessary to address Canada's housing and homelessness crisis for women, girls, and gender-diverse people facing VAW/GBV. Increase public and low-cost private housing options for people facing VAW/GBV. Actions shall include:</b></p>	S/M/L	F/P/T/M	

	<ul style="list-style-type: none"> <li>a) Significant investment in public housing options to significantly increase the number of public housing units, including dedicated units for Indigenous housing and supportive housing options.</li> <li>b) Enhancing portable housing benefits (e.g., Canada Housing Benefit) and ensuring availability across jurisdictions.</li> <li>c) Removing barriers for eligibility for housing services (e.g. immigration status requirements).</li> <li>d) Setting a target for an increase in affordable housing (e.g. 25%), and establish a tool to measure effectiveness.</li> <li>e) Develop concrete pathways to home ownership for people facing VAW/GBV.</li> </ul>			
8E	<b>Immediately begin development of an Urban Indigenous Housing and Homelessness Strategy—developed by and for Indigenous people—that meets the unique needs of urban Indigenous women, girls, and Two-Spirit people.</b>	I	F	
9E	<b>As we expand the Canada Housing Benefit, also implement immediately a Residential Tenant Support Benefit that preserves tenancies during COVID-19, and for a reasonable time thereafter, seeking to ensure no one loses their housing because of lost income due to the pandemic.</b>	I	F	
<b>Theme 5: Childcare</b>				
<b>PROPOSED OUTCOME:</b> Increased availability and access to affordable early learning and childcare services, including recognizing that early learning and childcare are critical social infrastructures				
10E	<b>Immediate recommendation—\$2 billion in immediate one-time COVID-19 relief spending to support the safe and full recovery of regulated early learning and childcare, and to respond to the immediate care needs of school-age children through the pandemic.</b>	I	F	<ul style="list-style-type: none"> <li>○ Perspectives of women and gender-diverse people, especially survivors of VAW/GBV on the impacts of availability of affordable early-learning and childcare and their ability to access</li> </ul>
11E	<b>Accelerate and institutionalize the Multilateral Framework Agreement, by boosting on-going early learning and childcare spending by \$2 billion annually, to speed up national progress. These new federal funds should be used by the federal government to move Canada towards a fully publicly funded and publicly managed system, in partnership with the</b>	S	F	

	<b>provinces/territories and Indigenous governments. The MFA should be made a permanent (not time-limited) program, with long-term and committed funding. The MFA should be managed by the Early Learning and Childcare Secretariat to oversee funding and policy, research, and evaluation.</b>			support to address abuse, violence or workplace harassment.
12E	<b>Support Indigenous communities with dedicated funding. A full 20% of all new and existing funding should be earmarked to support the Indigenous Early Learning and Childcare Framework, with a long-term and stable commitment. The distribution and use of funds for Indigenous Early Learning and Childcare should be decided by the Indigenous peoples responding to the distinct needs of First Nations, Inuit and Métis Nations.</b>	S	F/P/T	<ul style="list-style-type: none"> <li>○ Tracking unmet needs of early-learning and childcare services nationwide especially amongst racialized, Black, and Indigenous communities and parents of children with disabilities.</li> </ul>
13E	<b>The federal government should require the provinces /territories to use federal investment to fund the supply of not-for-profit and public licensed early learning and childcare services. Each province/ territory should be required to develop a plan, in full consultation with the sector and other stakeholders, to improve simultaneously the availability, affordability and quality of the supply of licensed early learning and childcare programs, and to ensure that programs are inclusive, flexible, and responsive. All expansion of childcare services should be limited to the not-for-profit and public early learning and childcare sectors.</b>	S/M	F	
14E	<b>Develop an early learning and childcare workforce strategy that includes raising the wages and improving employee benefits of early childhood educators, leaders, and others in the sector. The workforce strategy must also include measures to raise the formal qualifications of early childhood educators and provide for on-going professional development.</b>	S/M	F/P	
<b>Theme 6: Healthcare</b>				
<b>PROPOSED OUTCOME:</b> Strengthened healthcare system that is able to provide timely, trauma- and violence-informed, inclusive, and equitable service for survivors of VAW/GBV regardless of their geography, immigration status, Indigeneity, SOGIE, disability, or other grounds				
15E	<b>Increase access to primary care, recognizing the public health crisis of VAW/GBV and the devastating impact of traumatic brain injury (TBI), particularly for those facing the largest health disparities (e.g. people living in rural and remote communities, northern communities, newcomers, Black, Indigenous, racialized communities, incarcerated women, people with</b>	I/L	F/P/T	<ul style="list-style-type: none"> <li>○ Evidence gathering on nine key areas championed by SRHR advocates: contraception,</li> </ul>

	<b>precarious immigration status, LGBTQ2S+ people, persons with disabilities), and work with the provinces/territories to ensure uniform coverage across Canada for gender-affirming surgeries and other medical care for trans people</b>			sexual and reproductive health service availability, knowledge about SRHR, adolescent fertility, quality of care (including respect for rights), prevention of STIs, abortion, comprehensive sexuality education and gender equality in SRHR. Further co-relational analysis should be done to see how these are related to SDG goals on Education, Health and Gender Equality especially around Canada's commitment to these SDGs.
16E	<b>Allocate \$3.5 billion to initiate the implementation of universal single-payer Pharmacare immediately (or \$15.3 billion for full universal single-payer Pharmacare). Ensure that any national formulary includes all prescription medications that relate to sexual and reproductive health and rights, gender-affirming care, and other issues of critical concern.</b>	I	F	
17E	<b>Improve mental health services and access to comprehensive, gender-responsive addictions supports in all areas of Canada, targeting resources for those in greatest need and with a particular focus on trauma- and violence-informed care.</b>	S/L	F/P/T	
18E	<b>Ensure access to sexual and reproductive health and rights for all by:</b> <ul style="list-style-type: none"> <li>a) Enforcing the Canada Health Act by withholding funding transfers from provinces/territories failing to ensure the availability and accessibility of abortion services, and work to narrow access gaps for abortion services in rural and remote regions.</li> <li>b) Holding consultations with intersex people and stakeholders on subsection 268(3) of the Criminal Code, which allows for surgeries on intersex people. Consider the postponement of genital normalizing surgeries on children until the child can meaningfully participate in the decision, except where there is immediate risk to the child's health and medical treatment cannot be delayed.</li> <li>c) Thoroughly investigating all allegations of forced or coerced sterilizations of Indigenous women in Canada. Establish policies and accountability mechanisms across Canada that provide clear guidance on how to ensure sterilizations are only performed with free, full, and informed consent. Provide access to justice for survivors and their families.</li> </ul>	I/S/M/L	F/P/T	<ul style="list-style-type: none"> <li>○ Systematic post-training assessment on the perspectives of healthcare workers' capacity/expertise for when they are handling cases of VAW/GBV, especially for cases of sexual assault and rape, and assessment of their sensitivity to the challenges faced by survivors of VAW/GBV</li> <li>○ Formation of independent task force of civilians and</li> </ul>
19E	<b>On-going and in-depth training on VAW/GBV for all healthcare professionals, including workers in long-term care, home care, and workers providing care services for people with disabilities. Training must integrate a consideration</b>	S/M	F/P/T	

	<p>of the factors impacting the experiences of VAW/GBV, the experiences of those suffering from TBI, barriers to support for people with multiple and intersecting identities, and support for trauma-informed responses.</p>			sector experts on the violence perpetrated by systems intended to support—especially towards Indigenous women allegations of forced or coerced sterilization.
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#### Theme 7: Transportation and Public Transit

**PROPOSED OUTCOME:** Increased safety, affordability, and accessibility of public transportation systems across Canada, especially in northern and remote regions

20E	<p><b>Build a pan-Canadian safe, accessible, and affordable transportation system. Actions shall include:</b></p> <p>a) Establishing a federal task force to tackle VAW/GBV in transportation and transit to provide direction for building a pan-Canadian transportation system that prevents and mitigates VAW/GBV.</p> <p>The task force will:</p> <ul style="list-style-type: none"> <li>• Bridge the gap between the understanding of women's needs and the implementation of policies that address these needs, by incorporating the diversity of women's lived experience into the planning process.</li> <li>• Identify the greatest needs related to domestic and VAW/GBV in urban, rural, and northern locations, and develop action plans to address them.</li> <li>• Research and conduct cross-jurisdictional scans of each province/territory transportation infrastructure, including description of municipal bylaws, provincial/territorial legislation related to transportation, map of funding/budgets currently allocated to</li> </ul>	I/S/M/L	F/P/T/M	<p>Considerations for outcome measurement:</p> <ul style="list-style-type: none"> <li>○ Using participatory and inclusive approaches, assess the effectiveness of measures/mechanisms taken/established to reduce VAW/GBV in transportation.</li> <li>○ Using time and cost as key variables in assessing effectiveness of transportation as key factor for VAW/GBV victims to access the support they need.</li> <li>○ Measuring rates of VAW/GBV occurring</li> </ul>
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	<p>transportation, and identification of areas and domains related to transportation that are implicated in VAW/GBV</p> <ul style="list-style-type: none"> <li>• Use a GBA+ lens and advice from the task force to direct spending on transit to prevent and reduce VAW/GBV by improving access to safe, affordable, accessible public systems of transportation, and by improving design and taking other measures to reduce VAW/GBV in transit. Reducing VAW/GBV should be a condition for receiving federal funds for transit.</li> <li>• Improve data collection on VAW/GBV in transportation to measure effectiveness of reduction measures.</li> <li>• Provide funding for research projects for women's groups to identify, advocate for and work with governments to eradicate VAW/GBV related to local, provincial, inter-provincial, and national transportation.</li> <li>• Attach meaningful conditions to social transfer to provinces/territories for transit and transportation that are consistent with building a pan-Canadian transportation system that prevents and mitigates VAW/GBV.</li> </ul>			<p>during the use of transportation systems</p> <ul style="list-style-type: none"> <li>○ Monitoring actions taken in response to VAW/GBV incidences during the use of transportation.</li> <li>○ Mapping of unmet need for safe, affordable, and reliable transportation, and tracking actions taken by different levels of government across all jurisdictions to reduce gaps in access.</li> </ul>
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#### Additional Recommendations

##### Theme 8: Digital Infrastructure

21E	<b>As supports, services, and the justice system move online, access to information and services via ICT are critical to support people facing VAW/GBV. Implement universal access ICT, including infrastructure (e.g. high-speed internet and cellular service), services (e.g. cell phone and data plans), and hardware (e.g. cell phones, computers, laptops, tablets, and other devices).</b>	I/S/M/L	F/P/T/M	
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	<p><b>Actions shall include:</b></p> <ul style="list-style-type: none"> <li>a) Completing of a cross-jurisdictional scan and needs assessment of the current gaps in Canada's ICT infrastructure and ICT device access (e.g. people in the North face some of the highest rates of VAW/GBV and have some of the lowest availability to much-needed ICT supports).</li> <li>b) Amending legislation (e.g. Telecommunications Act) to move away from the provision of ICT via the private sector to a publicly funded and accessible system for people facing VAW/GBV.</li> <li>c) Enabling affordable access to services and hardware in the identified under-resourced areas (e.g. rural and remote areas).</li> <li>d) Creating a system to provide access to ICT services to low-income and vulnerable populations, including people facing VAW/GBV.</li> <li>e) Immediately providing a monetary benefit for people facing VAW/GBV as a means to access current private ICTs options while working towards a public system.</li> <li>f) Work toward creating universal free access to internet services across all jurisdictions (e.g. noting examples such as universal access for all school-aged children in Uruguay).</li> </ul>	S  M  M  I  L		
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Table 2: Prevention Rationale

Within Canada, there are important specific prevention needs related to different communities and geographies. In rural and northern areas, transportation and cell phone service are factors for prevention. Where these are not available, women are in more danger. Many safety concerns are exacerbated in the context of the pandemic. Canada's rising housing prices and crisis of availability are factors everywhere, manifesting differently in the North, where overcrowding and expense lead to intergenerational family violence, vs urban centres, where women often have to choose between housing or safety. To make an impact in the prevention of VAW/GBV, people of all genders need to be involved. Men and boys have a significant role and meaningful opportunity to affect change, both on the individual level and as a group that has been afforded structural and institutional power. Any successful efforts towards reducing VAW/GBV must include a plan to address harmful norms around masculinities. Punitive action and carceral responses have been the standard answer, but in order to change existing power dynamics, new approaches are needed. Exactly how they can be applied without causing further harm must be considered, so that the needs of those harmed are centred. Although existing prevention has a considerable focus on youth work, either in schools or at the community level, the context demands transformation of all ongoing work in the community and beyond—in terms of language, power dynamics, punitive approaches, ableist systems, trauma-informed care etc. There are important educational needs that are age-appropriate and fit into most provincial education plans. There is also a need to ensure that VAW/GBV knowledge is included in training for state and institutional actors (police, health, education, armed forces, etc.) for both prevention and the purpose of overhauling institutions. Prevention, data, and legislation have not kept pace with increased and now habitual use of social media for personal interactions. It has been well-documented that online and offline behaviour are indistinguishable, but that women are subject to particular kinds of harms online. All these must be met, avoiding the one-size-fits-all measures that have not worked in the past.

**GOAL:** *VAW/GBV is actively and effectively negatively sanctioned at the personal, interpersonal, community, and societal levels*

**OVERALL OUTCOME:** Transformed cultural, social, and institutional norms and narratives that underpin VAW/GBV across the lifespan of women and gender-diverse people

#	Recommendation, Rationale, and Action	Timeframe	Stakeholder	Consideration for outcome measurement

1P	<p><b>Provide safe drinking water to everyone living in Canada.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Access to safe water is an alarming problem facing many people in Canada, particularly in First Nations communities.</li> <li>Having access to clean drinking water will keep people safe because they do not need to put themselves in precarious situations to access water (e.g., going on long trips to potentially dangerous locations to access water). Additionally, water is essential for sanitation, so having access to clean water will be essential for basic health needs. Such needs can be exacerbated by violence and then lead to a cycle of additional violence (e.g., an abusive partner may cause a wound that then becomes infected because it can't be properly treated, preventing someone from performing household duties, thus inducing more violence from the partner).</li> </ul>	S/M	F	<p><b>Proposed outcome:</b> Improved government resourcing and accountability on community-based VAW/GBV prevention and early response mechanisms, such as feminist organizations, youth-run safe houses, national hotlines, and access to clean drinking water nationwide.</p> <ul style="list-style-type: none"> <li>Improved knowledge, attitudes, and practices amongst trained duty bearers, community leaders, and anti-VAW/GBV advocates on gender transformative approaches to policy making, advocacy, campaigning, and programming.</li> <li>Ensuring data collection for GBA+ analysis focuses on participatory data collection approaches and includes sector and community experts, front-line service providers, and survivors, with a focus on gender transformation.</li> <li>An indicator for the outcome should focus on the number of annual effectiveness studies</li> </ul>
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			<p>conducted by federal, provincial/territorial, and municipal government departments on their meaningful implementation of GBA+.</p> <ul style="list-style-type: none"> <li>○ Mapping of underserved communities'/geographies' access to clean, safe, and sustainable sources of drinking water.</li> <li>○ Tracking of the percentage of the population having access to and using improved drinking water sources.</li> <li>○ Indicators of access to safe drinking water require greater refinement to reflect the large, continuing gaps in access to safe drinking water among Canada's poorest populations, and measure progress towards attainment of the universal right to water.</li> <li>○ Monitoring access to adequate climate-resilient water and sanitation systems is particularly critical in light of the increasing impacts of temperature change and</li> </ul>
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			<p>extreme weather on water sources, sanitation systems, and human health.</p> <ul style="list-style-type: none"> <li>○ Greater inclusion of public health agencies in Integrated Water Resource Management (IWRM) will accelerate the broader application of IWRM, which provides a comprehensive and multi-sectoral approach for the identification and management of water-related health risks, such as VAW/GBV.</li> <li>○ Using anti-oppressive, anti-racist, and intersectional lens in holding government to account on their approach to address anti-Black and anti-racist policy and legislations, service provision, and campaigning.</li> <li>○ Holding the government accountable, especially for violence perpetrated within government support systems, such as the police.</li> </ul>
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			<p><b><i>Proposed outcome:</i></b> Improved availability, access, and use of data on VAW/GBV across all levels of government and communities for evidence-based policy making and programming.</p> <p>Considerations for outcome measurement:</p> <ul style="list-style-type: none"> <li>○ Tracking of sustained government investment towards data and evidence gathering.</li> <li>○ Tracking timely and free access to data by community-based organizations, educational organizations, and the public.</li> </ul> <p><b><i>Proposed outcome:</i></b> Increased and sustained core funding for community-based organizations to implement programs best suited for their local contexts.</p> <p>Considerations for outcome measurement:</p> <ul style="list-style-type: none"> <li>○ Improved tracking of investments towards education, income security, employment opportunities, access to</li> </ul>
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			<p>health care (including mental health care), and in all of the fundamental social services in marginalized and underserved communities.</p> <ul style="list-style-type: none"> <li>○ Tracking education sector curriculum reforms (including assessing educators' capacity and expertise) on the inclusion of content geared towards education, including supporting educators in taking action on racism, systemic oppression, transphobia, homophobia, Islamophobia, LGBTQI2S+ rights, rights of Indigenous community, and unequal gender and power relations.</li> <li>○ Nationwide tracking of government investment in youth-led programming and programming for youth focused on safety, healing, and justice in the aftermath of violence.</li> <li>○ Indicators to track sustained funding and improved resourcing of VAW/GBV prevention hotlines.</li> </ul>
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			<p><b><i>Proposed outcome:</i></b> Improved investments by government in youth-led action and prevention strategies in order to strengthen the ability of youth to recognize and take responsibility for and be protected from violence.</p> <p>Considerations for outcome measurement:</p> <ul style="list-style-type: none"> <li>○ Assessing the expertise/capacity of educators to educate on issues related to VAW/GBV, gender and power relations, comprehensive sexuality education, addressing disclosures, educating on identifying risk, de-escalation strategies, and bystander intervention.</li> </ul> <p><b><i>Proposed outcome:</i></b> Increased promotion of positive masculinities among men and boys.</p> <p>Considerations for outcome measurement:</p> <ul style="list-style-type: none"> <li>○ Adapting the International Men and Gender Inequality (ICRW/Promundo) survey</li> </ul>
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			<p>to measure and monitor behaviours and attitudes regarding gender equality and VAW/GBV in the Canadian context applying a feminist intersectional lens.</p> <ul style="list-style-type: none"> <li>○ Using lessons learned from international best practices in engaging men and boys (Promundo, UNFPA, WHO, MenEngage Alliance) to develop performance indicators for assessing government strategies to address toxic masculinities and on positive norm modelling.</li> <li>○ Using innovative and inclusive, participatory, and community based social engagement strategies for narrative- and storytelling-based analysis on the perspectives of youth (especially youth living in precarious situations, LGBTQ2S+ youth, Black youth, racialized youth, youth with disabilities, immigrant, and non-status youth) and educators on healthy relationships,</li> </ul>
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				VAW/GBV, gender and power inequalities, and aspects of comprehensive sexuality education. In particular, space should be created to allow Indigenous storytelling as evidence.
2P	<p>We call upon the FPT governments to sustain funding commitments—with a focus on core funding rather than project-based funding—to local, regional, and national Canadian feminist and women's organizations; marginalized feminist and women's organizations and programs (e.g., racialized, refugee, other migrant status and non-status, Black African, 2SLGBTQQIA+, Deaf and dis/ability, youth, elders); and Indigenous feminist and women's communities, organizations and programs. We also call upon the FPT governments to ensure all funding programs and relevant research are accessible in terms of literacy levels, class and education biases, multilingual and ASL/LSQ; available in accessible formats and online technologies for diverse experiences of dis/ability; are reaching the most marginalized populations of women; and recognize and support capacity issues for applying for funding.</p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Presently, many funds given to community organizations are minimal and limited to single projects. This is rarely helpful for long-term impacts and empowering organizations to implement multiple strategies to help their communities in a variety of ways. Violence prevention cannot be one-size-fits-all, and so community organizations need many strategies that enable them to effectively provide support. Additionally, Black, Indigenous, and other marginalized feminist organizations rarely receive the funding they need, so they must be prioritized, because these communities are most at risk for</li> </ul>	M	F/P/T	

	<p>experiencing violence. Further, providing accessible resources for those with disabilities also requires additional support, so this needs to be accounted for in fund distribution.</p> <ul style="list-style-type: none"> <li>• Providing community organizations with stable funding will enable them to implement programs that are long-lasting and therefore more likely to be useful and effective. This will also enable these organizations to effectively evaluate and improve upon these programs, further establishing their efficacy. Additionally, as many funds will be earmarked for marginalized and Indigenous organizations, we can be sure that these funds will be distributed to the communities which need it most, while allowing these groups to implement the programs that they feel they most need (as opposed to what governments might think they need)</li> </ul>		
3P	<p><b>Develop youth workshops on accountability, including workshops that strengthen ability of youth to recognize, end and take responsibility for violence. This includes: learning how to stop harmful behaviour; learning how to listen to the people impacted by the harm and acknowledging the impacts of the harm to the individual and community; apologizing for the harm and making reparations to individuals and the community; being open to receive requests for accountability; and healing and addressing the root causes of violence.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Understanding how to respond to and prevent violence is complex and challenging. Similarly, knowing how to apologize for the harm one has caused, to listen, to make reparations, and to contribute to healing is far from easy. However, these skills are essential for the healing process and future violence prevention. Using restorative and transformational justice approaches will better help heal individuals and communities than the punitive and carceral structures currently used when harm occurs. Teaching youth early on how to prevent and address violence will increase safety in communities and promote healing when violence does occur.</li> </ul>	I/S	P/T/M

	<ul style="list-style-type: none"> <li>These workshops will develop youth (and adults) who know how to stop harmful behaviour when they see it, appropriately listen to those who have been impacted by harm, and to apologize for harm that they may cause. These skills will help strengthen and heal both individuals and communities. Accountability is essential for making reparations and rebuilding after individual and structural harms have been committed. This will be beneficial for many individuals who have experienced violence and are seeking healing reparations, as well as for individuals who have caused violence in the past, as they will learn strategies that will prevent them from being violent again.</li> </ul>		
4P	<p><b>Invest in accessible and safe housing for youth (especially 2SLGBTQQIA+ youth) involved in the sex trade. Invest in healthcare and mental health care services for youth. Create and fund open, youth-run safe houses in every neighbourhood, where youth can congregate, sleep, eat, bathe, and get assistance with community resources. These harm reduction services must be deemed safe by youth, and not engage in carceral and punitive practices, such as calling the police or requiring youth to register as social, legal, or psychological “cases.” Many youth involved in the sex trade do not seek health or social services because they are afraid of the system. Many times, they visit pop-up clinics in community centres that are safe for 2SLGBTQQIA+ young people who are homeless and involved in the sex trade. We need to fund and create more of these resources.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Presently, youth involved in the sex trade face a great deal of social stigma and punitive responses from carceral systems. Social supports for these individuals are highly limited, and when they do exist, they can deny youth their agency and often refer them to carceral systems. To ensure that youth involved in the sex trade are supported, these individuals need to guide the creation of the systems that will aid them. Otherwise, they will fear accessing systems that they cannot trust, which will lead to them experiencing further harm and alienation.</li> <li>Investing in key social supports, such as housing and health care for youth involved in the sex trade, will ensure that youth have a safe place</li> </ul>	M/L	P/T/M

	<p>to live (and, if desired, work) and to access medical support when needed. Involving youth in the creation of these resources will also help ensure that they are used, as present supports are often avoided by youth involved in the sex trade because they fear a punitive response. Having access to these resources will also provide youth with more agency, which will enable them to determine for themselves whether they want to continue working in the sex trade or transition to a different type of work.</p> <ul style="list-style-type: none"> <li>Safe houses will ensure that youth (especially those involved in the sex trade) have a safe place to go where they can access resources and connect with other youth. A non-punitive location to rest and heal will help keep these individuals away from law enforcement and other people or structures that may pose a threat to them. Safe houses will also enable youth to connect with each other, to share resources and information, and to help keep them safe when they are outside of the safe house.</li> </ul>			
5P	<p><b>Engage with boys, young men, and men from a feminist lens to promote critical thinking about gender socialization (empower them to choose what kind of man they wish to be), acknowledge and prevent violence (including normalized forms of violence and microaggressions, sexual harassment, use of humour): to promote positive and healthy masculinities—including skill for de-escalation of male/male verbal and physical violence, empathy training and creating enough safety for boys to be open and vulnerable with each other and foster connection in order to counter profound feelings of isolation, and encourage broader and more inclusive gender expressions; to deconstruct and challenge gender norms; binary, socialization, and entitlement; to understand (from personal and legal perspectives), value, and practice consent; to manage emotions of fear, anger, and rejection; bystander skills to intervene within their peer groups in instances of oppression, to recognize and act against misogyny, transphobia, homophobia and other oppressions. Recognize that empowerment work with women and girls is still critical; however, working with boys and men is key to ending VAW/GBV. Also recognize that working towards gender transformation involves non-binary approaches, practices, and sharing. Challenge boys and young men around</b></p>	S/M/L	F/P/T/M	

	<p><b>entitlement issues and the upsurge of INCELS. Education on and deconstruction of “misandry” movement.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Patriarchy and toxic forms of masculinity are key contributors to violence, but many men and boys do not believe that violence prevention is relevant to them, or they feel excluded from prevention efforts. Helping men and boys understand gender socialization, empathy expression, and oppression recognition will enable them to identify and address potential violent tendencies in themselves and to prevent violent acts in others. Further, current societal norms around masculinity are profoundly isolating and harmful, so showing men and boys that there are other ways to express masculinity which can involve empathy, compassion, and connection will be essential in helping men lead happier and healthier lives, which is also relevant for violence prevention.</li> <li>• Educating men and boys will enable them to understand and address many of the complex privileges they possess, which uphold patriarchal elements of our society. Showing men and boys how to perform masculinity in a way that is not harmful will simultaneously strengthen their identities and keep others safe. Teaching men and boys how to de-escalate violence will also keep people safe, as men and boys are often involved in violent situations, so knowing how to prevent violence in the moment is essential to harm reduction and prevention. This combination of practical skills and personal understandings will further the development of a society in which gender is no longer a contributing factor to violence.</li> </ul>			
6P	<p><b>We call upon the federal government to build a national data collection framework on VAW/GBV in Canada. This includes data collection on all manifestations of VAW/GBV, including (but not limited to): family violence, intimate partner violence, domestic violence, adolescent dating violence, femicide, hate crimes, elder abuse, sexual violence, sexual exploitation, child abuse, harassment, stalking, technology-facilitated violence, workplace violence, and police violence. Data collection and analysis are critical to</b></p>	S/M	F	

	<p><b>understanding and ending VAW/GBV in Canada. To this end, these types of data should also be publicly accessible so that they can be used by local communities. Finally, we call for oversampling in all national survey data collection for socio-demographic categories, including but not limited to: Indigenous women, girls and non-binary individuals; visible minority women, girls and non-binary individuals; women, girls and non-binary individuals experiencing dis/abilities; youth with dis/abilities; women, girls and non-binary individuals experiencing homelessness; women, girls and non-binary individuals living in rural/remote locations; and 2SLGBTQQIA+ populations, in order to allow sufficient sample size for intersectional analysis.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Being able to easily access data is essential for violence prevention work, especially at the community level. Currently, community organizations often struggle to access national data or acquire their own local data. Additionally, the data that do exist are rarely disaggregated, which means that learning how to help marginalized individuals who are most in need is further complicated. Oversampling these populations and disaggregating their data will help us better understand their needs and keep them safe.</li> <li>• This framework will ensure that everyone at all levels of government and within communities has easy access to knowledge about violence which they can then use in whatever way is most useful for them. For example, governments may use this data to determine how to best allocate resources, while communities may use the data as part of the development of a violence prevention program. As data will be disaggregated with underrepresented populations over-sampled, we will be able to better help those who have previously been neglected in research (e.g., we may learn more about health and wellness needs of trans individuals).</li> </ul>		
7P	<b>Engage with school systems from pre-primary to post-secondary (as well as teachers' colleges) to teach or enable the teaching of (and improving school policies around): healthy relationships; consent and coercion; accountability; gender equality and equity; body and bodily autonomy and power;</b>	M/L	F/P/T/M

<p><b>boundaries (own and others); sexual harassment and sexual assault; gender norms, binary, socialization, and entitlement (gender transformative); emotions of fear, anger, and rejection; domestic violence; sexual assault; child sexual violence and abuse; identify and report abuse, grooming, and exploitation; bystander intervention; recognizing and acting against misogyny, transphobia, and homophobia and other oppressions; normalized forms of violence and microaggressions; sex ed (update curricula and capacity in line with the 2019 Canadian Guidelines for Sexual Health Education); pornography; media and digital literacy (on-line bullying, sexual harassment, coercion); pleasure—with leadership from community-based, anti-violence feminists. Community-based, anti-violence feminists sitting at department of education tables with regard to curriculum development and outcomes, and at policy and practice tables with post-secondary institutions.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Schools and other educational systems (e.g., community-based youth workshops) are crucial for informing youth of topics that will influence them throughout their lives. Present education systems are severely lacking in their ability to teach youth about subjects that will enable them to lead safe and healthy lives, and to also recognize and prevent violence. A lack of understanding of subjects such as gender, sexuality, entitlement, emotions, and oppression can hinder youth in their ability to understand themselves, others, and experiences of violence. Additionally, schools can be used to teach practical skills such as bystander interventions, responding to disclosures of abuse, identifying and reporting abuse, and other methods of responding to acts of violence. Finally, schools are inherently rooted within communities, so communities must be involved in the development of such curricula, to ensure that the needs of the community as a whole are being addressed, as youth are, and will continue to be, key community members.</li> <li>• Teaching these programs will lead to youth, and eventually adults, having a solid understanding of sex, sexuality, gender, social roles, and strategies to identify and prevent violence. This education will allow</li> </ul>			
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	<p>people to better understand themselves and others, enabling happier and healthier lives. Practical skills taught via curricula such as bystander intervention programs will help prevent violence in the moment, and broader recognitions of systemic issues like toxic gender roles will help address root causes of violence, which is another essential form of prevention. The community involvement element of this recommendation will ensure that all these programs are tailored and therefore applicable to those involved, rather than standardized to the point that they are not relevant (e.g., for marginalized populations).</p>		
8P	<p><b>Fund a network of community-based, anti-violence feminists (and core/organizational funding for their organizations) across Canada to lead and create standards and adaptations to support the sharing of knowledge and resources and “making even” prevention education efforts across jurisdictions via a 10-year project. All work should be accountable to community-based, anti-violence feminists and their specialized expertise and work on these issues over decades and currently (shown via leadership, funding, and references to, etc.). All work is feminist, critical, intersectional, and human-rights based. Community-based includes but is not limited to independent organizations not directed (financially or administratively) by large institutions and governments, at arms length from funders support, and ultimately responsible to local grassroots movements and community members at large. Funding for schools K-12 for implementing programs.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Anti-violence feminists live throughout Canada and have countless ideas to address and prevent violence. However, these individuals do not have equal access to funding and resources, which can limit their ability to enact their ideas. Additionally, they are not always connected to each other, which hinders their ability to share and build upon ideas that could prevent violence. We therefore need a system that will build connections between individuals and organizations seeking to prevent violence (especially educational systems), and to ensure that resources are equally distributed (with a particular focus on people and groups from marginalized backgrounds, who are especially underfunded).</li> </ul>	S/M/L	F/P/T/M

	<ul style="list-style-type: none"> <li>An easily accessible network will allow individuals from many backgrounds to connect and share knowledge and resources, which will further prevention education in many different ways. For example, perhaps a group of individuals in a school in Alberta develops an educational program about healthy sexuality that was helpful for their students. They could then share this program via this network, enabling schools in other provinces/territories to implement the program and make adjustments as needed for their populations. The diversity within the network would also help ensure that the resources being shared are useful and effective for people (esp. youth) from all backgrounds, not just those with specific identities.</li> </ul>		
9P	<p><b>Prevention must take a gender-transformative approach. The aim of this approach is to transform the prevailing social systems and structures that produce and maintain gender inequality and drive gender-based violence. In order to be gender transformative, prevention work must actively challenge and change (rather than inadvertently reinforce or perpetuate) those harmful gendered social norms, structures, and practices. Gender transformative prevention work therefore deliberately questions and challenges rigid and hierarchical gender roles, stereotypical constructions of masculinity and femininity, and promotes alternative norms, structures, and practices that are based on gender equality and respect.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Challenging structures (e.g. patriarchy, colonialism) that cause harm is essential for violence prevention. A gender-transformative approach will ensure that we are not only addressing violence at the individual level but also at systemic levels. Violence prevention necessitates transforming social norms, structures, and practices, which is why we believe this recommendation should be accounted for when implementing all recommendations.</li> </ul>	M/L	F/P/T/M
10P	<p><b>That specific work is done in the context of anti-Black racism and the intersections of VAW/GBV, including but not limited to public awareness campaigns, sustainable funding to Black community-based organizations, and equity for Black-owned businesses.</b></p>	M	F/P/T/M

	<p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Anti-Black racism is a root cause of VAW/GBV in Canada. All recommendations must be implemented with this in mind.</li> <li>• In particular, public awareness campaigns will ensure that the public is informed about origins of anti-Black racism, its relation to VAW/GBV, and how to address both these issues.</li> <li>• Providing funding to Black community-based organizations and business will ensure equity for Black people in Canada. Economic precarity, lack of access to resources, and routine structural violence (e.g. police violence, racism) are factors that further contribute to VAW/GBV. Resourcing and supporting Black communities will help prevent future harms.</li> </ul>			
11P	<p><b>Reallocate a portion of the police funding budget in all provinces to distribute to public housing, education, and community centres.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• We write this recommendation amidst an urgent, growing conversation about police violence in Canada and globally. In many circumstances, police do not adequately respond to violent situations, and they often escalate or even cause harm. Even when not responding to violence, police regularly respond in harmful ways (e.g. when interacting with disabled people). Historical and modern traumas have created a valid fear of the police, particularly in Black, Indigenous, and other marginalized communities. Further, police responses are almost always reactive (i.e. after violence has already occurred). Instead of funding institutions that respond to harm, we must fund organizations that will prevent harm from occurring, thus eliminating the need for a response in the first place. We recognize that systems must still be in place to respond to violence, but our other recommendations prioritize a transformative and restorative justice approach, rather than one that is carceral and punitive. Because we seek to transform the way we approach both violence and violence prevention, we recommend that</li> </ul>	S/M	P	

	<p>money be redirected from the police that respond to violence, to organizations that will prevent violence from occurring.</p> <ul style="list-style-type: none"> <li>• Investment in public housing, education, and community centres will help prevent violence because these will enable people to live in safer environments, learn about systems that perpetuate violence so that they can be addressed (e.g., developing healthy gender roles, sexualities, and relationships), and access resources that will ensure not only basic health and safety, but also the ability to thrive within supportive and connected spaces.</li> </ul>			
12P	<p><b>That the government of Canada works towards data collection, public education campaigns, and increased VAW/GBV sector funding in connection with VAW/GBV and the COVID-19 pandemic for the purpose of sharing information with the public (public awareness campaigns, data for gender-based violence sector, and resources for prevention around violence including social and mental effects of COVID-19) that educates on the shadow pandemic of VAW/GBV and its interrelatedness.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• We are already well aware that VAW/GBV has increased during the COVID-19 pandemic, and this needs to be addressed swiftly and strategically.</li> <li>• Data will help us learn more about the relationship between COVID-19 and VAW/GBV. Understanding these dynamics via data collection will enable us to help people who are at increased risk for violence by better understanding the origins of violence, as well as the needs of those who are being harmed by it. Having a deeper understanding of violence is key to preventing it.</li> <li>• Public awareness campaigns will ensure that all members of the public are knowledgeable about the increased risk for violence associated with COVID-19, which could help them protect themselves and their loved ones. For example, a campaign could be developed that offers people strategies on how to check in on their loved ones, and to provide them with resources to share if they believe someone is in danger. Having more people aware of violence and its warning signs</li> </ul>	I/S	P	

	can help decrease the risk of violence and provide support more rapidly to those who have been harmed.			
13P	<p><b>Using a GBA+ lens, we call upon the federal government to coordinate the implementation of population-specific Acts.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Using a GBA+ lens is essential to collecting data, monitoring and evaluating initiatives, administering funds, and implementing policies. The GBA framework will enable us to assess how research, programs, and policies might affect relevant individuals (especially those who are marginalized) with the goal of reducing and preventing harm.</li> <li>• The consideration of intersecting identities (e.g. gender, sexual orientation, race/ethnicity, age, and disability) during development will ensure that programs and policies are not harmful. For example, someone seeking to collect qualitative data on rural Indigenous individuals could use a GBA+ lens to ensure that their method of collecting and using the data is not harmful (e.g. by determining whether the interview is accessible to people with all abilities, considering whether it accounts for colonial trauma, empowering the community to guide the research).</li> <li>• Using tools such as the gender equality intersectional analysis toolkit from CRIAW.<sup>24</sup></li> </ul>	M/L	F	
14P	<p><b>Establish/develop transformational youth action prevention strategies that address the disinvestment in marginalized urban and rural neighbourhoods—specifically, the compounding factors associated with poverty, under-resourced schools, and high levels of all types of violence. Racial inequities that exist in areas such as schooling, income, access to health care and mental health care, and in all of the fundamental social services that will make or break the wellbeing of a community.</b></p>	S/M/L	P/T/M	

	<p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Historically and presently, marginalized communities, both urban and rural, receive little attention and resources, and these problems are exacerbated by racial inequities present in key structures such as schools and health care. To prevent violence currently perpetuated by these systems, we must transform them and ensure that these marginalized communities are given the support that they need. We must particularly invest in youth, as violence experienced early on and harmful lessons about social norms (e.g. toxic gender roles) will profoundly affect them throughout their lives and ripple over generations.</li> <li>Investing in marginalized communities—particularly in key structures like schools, health care, and other social services—will lead to better educated and healthier communities that are less likely to experience violence. Present lack of supports lead to stress, tension, and unhealthy norms; eliminating these and empowering marginalized folks will allow these groups to thrive.</li> </ul>			
15P	<p><b>Establish/ develop transformational youth action prevention strategies that engage youth in critical analysis of socio-historical antecedents, power analysis and examination of policies, laws, organizations, and cultural practices that affect their lives and perpetuate VAW/GBV. Develop anti-oppression workshops that engage students and facilitators in critical analysis of power, dominance, and oppression.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Many factors contribute to violence, including existing systems with social-historical contexts that disadvantage certain groups. Teaching youth to recognize and understand the policies, laws, and practices that impact themselves and their communities will help them to understand the root causes of violence, which is a key step in violence prevention.</li> <li>Workshops that teach youth and adults to identify and critically analyze systemic sources of power, dominance, and oppression will empower these individuals to not only understand these root causes of violence, but also develop methods of addressing violence. Different</li> </ul>	S/M/L	P/T/M	

	communities and individuals with different intersecting identities are impacted by these power structures in different ways. Learning about them will enable people to then develop means of addressing them in ways that are most beneficial to their own unique circumstances. For example, if trans youth were to learn about how and why trans issues are often neglected in sex education classes, this may help them to see how they can transform school systems to include trans issues in classes in the future.		
16P	<p><b>Promotion of positive individual and group development of youth by enhancing resiliency and agency to ensure that youth have the autonomy, capacity, and skills to manage their decisions and negotiate environments that ignore or devalue their race, socioeconomic background, or culture. This can be done through the arts, by engaging youth on these issues through music, writing, engagement with land and nature, etc. Implement strategies that create and cultivate the very things we know help to prevent violence, such as resilience, safety, healing, connection.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Although we are striving for a world free of violence, we acknowledge that the road ahead is long and far from easy. Given this, we must empower youth to navigate the many environments they will encounter which will not be welcoming to them. We must also allow youth to engage in activities that bring them joy (e.g. art, nature), as this is an important goal in and of itself, but also one that further promotes resiliency and healing during hardship.</li> <li>• Fostering agency and resiliency will give youth and adults strength when they encounter challenging situations and will also help them, and their communities heal when violence occurs. Investing in activities that bring fulfillment and connection will strengthen communities, thus empowering them to endure the hardships they will face from the systems we seek to address in other recommendations.</li> </ul>	S/M/L	P/T/M
17P	<b>Conduct research to facilitate the eventual establishment of a fully accessible, national, text/call-in hotline for people who want to take pro-active measures to prevent harm they want to cause. Individuals will be directed to immediate</b>	L	F

	<p><b>and community-based prevention and intervention tools/options, referrals, and/or resources (e.g. community safe hubs). Responses will be non-punitive and separate from law enforcement, and they will enable individuals to develop knowledge and skills to build healthy relationships. Research must be conducted to determine how to use a restorative approach in a one-on-one context. Additionally, the best way to handle duty-to-report obligations must be addressed.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• People who are aware that they want to cause harm, know that they should not, but are not sure how to address these feelings, have limited (if any) options. Without access to resources and alternative outlets for feelings such as fear, anger, sadness, isolation, disempowerment, and loss of control, people may act violently, causing harm to others and themselves. Developing a national hotline that people can text, or call would help them feel less isolated and help them cope with their emotions in a healthy and non-violent way. Not only would this help prevent violence, but it would also reduce the need for responses to violence. Additionally, being provided with someone to speak to and strategies for coping with violent feelings would enable people wanting to cause harm to eventually become happier and healthier individuals, thus further reducing the chances of them wanting to be violent. However, given how something like this has never been developed before (to our knowledge), we would want to ensure its safety and effectiveness via thorough research prior to implementation.</li> <li>• Although this hotline will need to be well researched before it is developed, it will eventually directly stop perpetration by providing resources to those who are considering causing harm. For example, someone thinking of hurting their girlfriend could call the hotline and be directed to a community safe hub where they could stay the night and access resources to help them better understand why they want to cause harm and learn non-violent alternative responses. This would not only keep their girlfriend safe in the moment, but it would help the</li> </ul>		
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	person wanting to cause harm build relational skills that would protect her and others in the future.			
18P	<p><b>Engage with and fund Indigenous peoples to develop and deliver community-oriented and culturally based action based in Indigenous knowledge, ways of and approaches of knowing and learning, connected to understanding consent pre-colonization, treaties, the Indian Act, Residential Schools, Sixties Scoop, Millennial Scoop, Missing and Murdered Indigenous Women and Girls, and other histories and present forms of colonialism, resistance, and resilience. Creating and maintaining reciprocal channels for Indigenous and non-Indigenous sharing towards reconciliation work is necessary to decolonizing our conceptions around and about VAW/GBV. This work will inform other prevention education work.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Indigenous peoples have experienced countless historical traumas and remain extremely under-resourced and at risk for violence. Many attempts to support Indigenous individuals come from outside their communities, and, while they may be well-intentioned, are not always what they need. Indigenous communities know what they need, and their own methods for educating themselves and sharing knowledge should be supported. Historical colonial trauma is closely tied to VAW/GBV; helping both Indigenous and non-Indigenous people better understand this root cause of violence will further our ability to prevent it in all communities in Canada.</li> <li>• Empowering Indigenous communities to educate themselves using their own means of knowledge sharing will help combat the oppressive colonial systems that continue to perpetuate violence. Promoting sharing between Indigenous and non-Indigenous communities will help resource these under-supported communities (without imposing anything unwanted on them), while simultaneously helping non-Indigenous people to decolonize their own ways of thinking about topics related to VAW/GBV (e.g. settler gender roles). These deeper understandings of the root causes of violence, particularly in a colonial</li> </ul>	S/M/L	F/P/T/M	

	context, will aid in the development of violence prevention programming.			
19P	<p><b>Invest in initiatives that provide job training, life skills development, leadership guidance, and critical education about social injustice for youth (especially those involved in the sex trade). Initiatives should provide youth the opportunity to lead and take part in task forces, research units, boards, and decision-making tables.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Youth (especially those involved in the sex trade) need to have access to job and general life skills in order to survive and thrive in society. Youth are often denied agency, but we need to shift society's understanding of how youth are viewed in order to better support them and help them develop into adults. Denying youth skills that will enable them to advance in society prevents them from using their agency and from accessing opportunities that could help them leave violent circumstances.</li> <li>• Teaching youth skills to help them enter the workforce while also trusting and empowering them to be members of their community by letting them participate in decision-making processes will reduce their economic and social precarity, which are related to violence. Increasing employment and community involvement are effective means of violence prevention.</li> </ul>	M/L	P/T/M	
20P	<p><b>Invest in intervention and training to increase knowledge of adults across the board, but especially in key caring economy roles (health, education, early learning, community organizations, frontline workers etc.), on VAW/GBV. The purposes of interventions and training are to change social norms and behaviours that underpin VAW/GBV and to identify and support individuals, families, communities etc. when VAW/GBV is identified.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Prevention must be life-long and include explicit means by which to change norms, addressing areas where this is most needed. Most prevention focuses on youth and there is a need to include this as part</li> </ul>	S/M/L	P/T/M	

	<p>of professional training, ongoing training, and workplace training so that knowledge on VAW/GBV becomes normalized. Everyone should know what to do if they see VAW/GBV.</p> <ul style="list-style-type: none"> <li>• Adults shape and role model gender norms in our society. They also have significant control over decision and policy making. In order to shift norms, attitudes, and behaviour significantly, adults need to be engaged.</li> </ul>			
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#### Additional Recommendations

21P	We call upon the FPT and municipal governments to ensure that the policy development process for VAW/GBV ensures an increase in participation and support for the leadership of marginalized women and gender non-binary peoples (e.g. women and gender non-binary peoples with dis/abilities, Indigenous, racialized, low-income, rural, 2SLGBTQQIA+ people, refugees, Blacks/Africans, youth) in all stages of policy making, as well as prioritizing policy issues that are important to those groups.	M/L	F/P/T/M	
22P	In regard to evaluation and monitoring of prevention initiatives, we call upon the FPT governments to instruct their departments and agencies to conduct evidence-based evaluations to ensure that funding programs are working to identify and meaningfully serve the needs of persons experiencing VAW/GBV, frontline services, community organizations, and their employees in order to address VAW/GBV. There also need to be clear targets and measurable outcomes for the NAP that ensure that relevant measurement and evaluation is meaningful to those groups it is measuring, and allows for understanding of what works, for whom, and in what contexts. Finally, it is important that evaluation is holistic in terms of outcomes and methods, and emphasizes depth over breadth, to ensure that strategies are meaningfully meeting the needs of target communities.	M	F/P/T	
23P	Create and fund open youth-led programs and projects that are culturally competent, gender specific, and trauma-informed. Appoint youth to boards, task forces, and research units—anywhere that decisions are made about this topic.			
24P	Engage with and fund diverse and marginalized groups of youth to address the intersectional nature of VAW/GBV among other forms of violence (and oppressions) and of identities experiencing violence, including, but not limited			

	<b>to people living with disabilities, Deaf people, newcomers, and migrants (immigrants and refugees), and 2SLGBTQQIA+ communities. This work will inform other prevention education work, see #1.</b>			
25P	We call upon the FPT and municipal governments to conduct historical and political contextual analyses of all data (including evaluation and monitoring data) in relation to Canada's relationship with Indigenous peoples, Black/African peoples, racialized peoples, migrant peoples, older adults, people with dis/abilities and 2SLGBTQQIA+ communities.	S/M/L	F/P/T/M	
26P	The Government of Canada needs to grant the right to stay in Canada to individuals who have precarious citizenship or are stateless, including all children and individuals currently and thereafter in immigration detention centres.	I/S	F	
27P	Create local and provincial campaigns around childhood sexual violence among BIPOC girl and boys, children who identify as 2SLGBTQQIA+, and girls and boys with disabilities.	S/M	P/M	
28P	Canada to develop a public awareness campaign to educate the violent harm of sexualized racism, hyper-sexualization, and invisibilizing of BIPOC women, girls, and trans, non-binary individuals.	M	F/P	
29P	Repeal sex work-specific criminal laws as a first step to address the state repression that increases sex workers' vulnerability to violence. Decriminalize sex work across Canada, in each province, and in consultation with sex working peoples, to allow them agency to exercise their rights about how they work; create safety and minimize harm using their own strategies (as opposed to criminalizing their safety strategies) from a perspective of decriminalization of poverty. Support community-based efforts of sex workers' rights campaigns and advocacy for decriminalization of sex work as a necessary step to protecting the health, safety, and human rights of sex workers.	M/L	M/P	
30P	Increase funding supports and promote the mobilization of prevention efforts in university and college setting including Sexual Violence and Education Centres and support student-led directives on campus, including funding the creation of anti-sexual assault policies in administration and student unions.		P/M	
31P	Prioritize that funding prevention programs tailor their content and approach to be universally accessible, culturally sensitive, and secure and relevant to	S/M/L	F/P/T/M	

	<p>participants. This can only be effectively accomplished through the direct involvement of diverse community members/stakeholders in the planning of a program. Prioritize developing prevention programs that centre a disability justice framework.</p>			
32P	<p><b>Implement strategies that foster the development of community norms and supports that contribute to the ability of individuals who identify as 2SLGBTQI2S+ and their communities to thrive while addressing risks associated with hate crimes and violence originating outside their communities</b></p>	S/M/L	M/P/T	
33P	<p><b>Develop strategies that move non-protective bystanders towards taking protective actions to stop violence, to create a culture of accountability, and to engage in shifting power towards more equity.</b></p>	M/L	P/T/M	
34P	<p><b>Develop strategies that provide security through community accountability frameworks by strengthening social networks, and increasing community members' willingness to address VAW/GBV as a community issue.</b></p>	M	M/P/T	
35P	<p><b>Develop transformational youth action strategies to address the societal conditions that perpetuate VAW/GBV within a community.</b></p>	M	M/P/T	
36P	<p><b>Fund accessible and multiple options for services, supports, healing, and accountability in parallel to or complementary of prevention education efforts—e.g. disclosure and trauma training—with a focus on underserved areas and communities, rural and remote areas.</b></p>			
37P	<p><b>Acknowledge that youth exist within families and communities (their lives apart from school). Engage with the adults in the lives of youth (parents/guardians/caregivers, coaches, etc.) who need to be supported to amplify prevention education messages. Create parallel or complementary programming for the adults in the lives of youth.</b></p>			
38P	<p><b>Review and overhaul of youth apprehension systems and child protective services</b></p>			
39P	<p><b>Create a child sexual violence and abuse action plan</b></p>			
40P	<p><b>Create a childhood and youth poverty (multiple, accessible, and safe educational and employment opportunities) and housing plan</b></p>			
41P	<p><b>Centre strategies that support youth agency, their ability to identify options, to access material assistance and skills, and that support ongoing healing and</b></p>	S/M/L	P/T/M	

	accountability. Implement strategies that centre the understandings of trauma and healing			
42P	Strategies and programming must be inclusive, and address the experiences of all genders.			
43P	Ensure all initiatives for youth are youth-positive—youth positive includes, but is not limited to: no criminalization of youth; no stigma or shaming of youth; meeting youth where they are (their range of experiences, questions, and concerns; and their strengths and resiliencies); small groups and skills (critical thinking and analysis about social justice/injustice, power, privilege, oppression, empowerment/ability/agency, decision-making); discussion and conversation; sex positive; body positive; gender inclusive content and delivery; peer-to-peer (facilitators are part/leaders of the in-group); arts/sports-based/nature-based programming; youth leadership; youth are at the tables that are about youth; all youth have multiple, accessible, and safe educational and employment opportunities			
44P	We need to reframe and differentiate the issue of youth in the sex trade. Increase public awareness on youth in the sex trade through the understanding that human trafficking and youth in the sex trade are not synonymous. The commercial sexual exploitation of children and youth who exchange sex for money or other survival needs are distinct. These distinctions must be addressed. Law enforcement, social service personnel or the youth themselves do not share definitions of each. There is great variation among the conditions of youth in the sex trade. Attempting a “one-size fits all” approach to determining the unique needs of myriad youth is failing.			
45P	<b>LANGUAGE:</b> When dealing with youth prevention strategies, avoid terms such as perpetrator, perps, abusers, offenders, rapists, and criminals. These terms assume that people who have committed harm will always carry that label. Include language and terminology to describe violence that is inclusive of 2SLGBTQQIA+ people. For example, use of “gendered violence” or “domestic and sexual violence,” where “violence against women” is used. Prevention educators should be knowledgeable about, and comfortable with, discussing the complexities of sexuality and gender, including trans identities, and implications for violence prevention. Violence prevention programs incorporate examples of 2SLGBTQQIA+ sexual violence in all exercises.	S/M/L	F/P/T/M	

<b>Table 3: Promotion of Responsive Legal and Justice Systems Rationale</b>				
<p>Legal and justice structures play an important role in setting precedents that have impacts across other systems—a contextual reality that influenced which recommendations to bring forward. These structures are also the mechanisms by which societal norms, state agendas, and rules are enforced. Survivors of VAW/GBV look to justice and legal systems from different perspectives. Often, those who are already the privileged turn to those systems, assuming they will provide justice. They are often disappointed. Those who have been marginalized often reject those systems, assuming they will cause further harm. Their fears are often proved correct. If legal and justice systems are to have meaning and be truly responsive, they must be developed through trauma-informed, strengths-based, and ground-up strategies in a way that reflects this. Our recommendations are intended to reflect the reality we see that survivors of VAW/GBV, whatever their privilege or lack thereof, are seldom served well by existing justice and legal systems, and that those with less privilege are often actively harmed by their interactions with those systems. We were informed by both international and domestic human rights frameworks, as they impact both migrant and non-migrant communities, understanding that without a strong human rights foundation, strategies to respond to and eliminate VAW/GBV across the spectrum of lived experiences of those affected by it would be incomplete, unsustainable, and fleeting. Building on this it was crucial that our recommendations reflect the notion that lifting those who are most vulnerable will lift us all.</p>				
<p><b>GOAL:</b> <i>Ensure anyone facing VAW/GBV has access to justice that is equitable, consistent and takes into account their lived realities and provides protection from further harm</i></p>				
<p><b>OVERALL OUTCOME:</b> A transformed justice system that is inclusive, responsive, and equitable for survivors of VAW/GBV</p>				
#	Recommendation, Rationale, and Action	Timeframe	Stakeholder	Considerations for outcome measurement:
<b>Theme 1: Education</b>				
<p><b>PROPOSED OUTCOME:</b> Improved perspectives and outcomes for survivors of VAW/GBV who engage with legal and justice system</p>				
1L	To ensure equitable access to justice for survivors of VAW/GBV, we recommend ongoing, mandatory education and training for all legal and justice actors who work or could work with VAW/GBV survivors in their respective roles. Education and training for all legal and justice actors is an important component of working towards equitable access to justice for survivors of VAW/GBV. However, education without accompanying anti-oppression work, positive and identifiable outcomes and a commitment to	I/M/L	F/P/T/M	<ul style="list-style-type: none"> <li>○ Perspective of survivors on the responsiveness of the support received. With special considerations for anti-oppression and anti-racist work, positive and identifiable outcomes, and</li> </ul>

	<p><b>meaningful accountability is inherently limited and will have only limited success in achieving the desired goals.</b></p> <ul style="list-style-type: none"> <li>a) Stable, sustainable, and adequate funding for such education and training shall be provided by FPT governments and, where appropriate, by professional governing bodies such as law societies.</li> <li>b) All such education shall be grounded in the intersectional experiences of bias and discrimination faced by people living in poverty, with mental health and/or substance use challenges, disabilities, Indigenous, Black, racialized, cis-women, gender non-conforming, trans, and migrant people (including those who are precariously employed or who have precarious immigration status or no status), those living in rural and remote communities, and others who have been historically excluded. There shall be emphasis on the experiences of marginalization and historical oppression of Indigenous peoples, including the impacts of colonialism, and the legacy of the trans-Atlantic slave trade that results in anti-Black racism and its continued adverse impact on Black people in the justice system.</li> <li>c) By way of example, the following is a non-exhaustive list of those who should be required to receive this education and training: <ul style="list-style-type: none"> <li>• Candidates seeking to be eligible for appointment as a judge in either criminal or family courts; Crown Attorneys; Defence lawyers; Family law lawyers; Refugee and Immigration lawyers; Lawyers employed by legal aid services; All law students (law schools); Staff Lawyers employed by clinics or not-for-profit organizations; Lawyers employed by all ministries in family law and justice programs; All law enforcement personnel to include police and Correctional Services of Canada employees, provincial correctional and any third parties hired to run detention or corrections facilities; Administrative Tribunal Adjudicators (pursuant to all income security, labour, human rights, employment standards, occupational health and safety, refugee and immigration legislation); All officers with adjudication and enforcement mandates pursuant to all income security, labour, human rights, employment</li> </ul> </li> </ul>		<p>meaningful accountability. Specifically, data collection should enable honouring Black and Indigenous lived experiences.</p> <ul style="list-style-type: none"> <li>○ Measuring changes on knowledge, trauma- and violence-informed and supportive attitudes and practices amongst trained legal and justice actors.</li> <li>○ Systematic post-training assessment on the perspectives of police, court, and other legal and justice actors' capacity/expertise for when they are handling cases of VAW/GBV, and assessment of their sensitivity to the challenges faced by survivors of VAW/GBV.</li> </ul>
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	<p>standards, occupational health and safety, refugee and immigration, border security (CBSA) safety, intelligence services (CSIS), Landlord and Tenant, child protection legislation; All public facing workers, officers and first responders pursuant to all income security, labour, human rights, employment standards, occupational health and safety, refugee and immigration, housing, CBSA, CSIS, child protection legislation.</p> <p><b>Using the intersectional lens identified above, this training shall address, among other topics:</b></p> <ul style="list-style-type: none"> <li>• implicit bias with respect to the intersectional issues identified above and how that bias affects or impacts the individual's work or practice;</li> <li>• the need for trauma-informed services;</li> <li>• the full spectrum of sexual harassment and violence, intimate partner violence (including coercive control), trafficking in persons for the purpose of labour, sexual exploitation and economic coercion, with special attention to identifying indicators and adequate remediation measures;</li> <li>• VAW/GBV and harassment in the world of work; and</li> <li>• first-stage training for screening of signs of trauma and risk of gender-based violence.</li> </ul> <p><b>For those involved with post-separation cases in family and criminal law systems, training and education shall focus on:</b></p> <ul style="list-style-type: none"> <li>• dynamics of abuse, including post-separation abuse;</li> <li>• an understanding of coercive control;</li> <li>• the impact of trauma on family court litigants who have survived family violence;</li> <li>• the importance of giving priority to family violence when weighing the best-interests-of-the-child criteria;</li> <li>• the role of family violence in determining appropriate court processes; and</li> <li>• an understanding of litigation abuse and strategies for responding to it.</li> </ul>		
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	All education and training programs shall be developed in consultation with survivors of IPV and the groups and organizations that support them, and shall contain an evaluation and review component to ensure trainings are completed as required and are kept current.			
<b>Theme 2: Human Rights Law Recommendations</b>				
<b>PROPOSED OUTCOME: Improved accountability of the Government on Canada's international human rights obligations</b>				
2L	<p><b>The Chief Commissioner of the Canadian Human Rights Commission and their office should be established as an independent officer of Parliament (akin to the Auditor General, or Parliamentary Budget Office), responsible for reporting directly to parliament rather than to the government or a federal minister. This shall include requirements for annual reporting to standing parliamentary committees and the creation of a human rights advisory council that engages civil society as part of the overarching mechanism for oversight, transparency, and accountability to the Canadian public.</b></p> <p>a) Essential to ensure the independence of the Human Rights Commission and its accountability and transparency to the Canadian public, allowing for the Commission to work on issues of particular significance to combat human rights violations without political interference or influence.</p>	S/M	F	<ul style="list-style-type: none"> <li>○ Statistics, including qualitative analysis from survivors, in regard to law and its enforcement with international and regional human rights standards, as set forth in various conventions, agreements, and mechanisms.</li> <li>○ Online violence against women, gender-diverse people, and the LGBTQI2S+ community should be recognized as a human rights violation and a form of discrimination and VAW/GBV. All levels of government should duly apply core international human rights instruments.</li> <li>○ Analysis on the impacts of poverty and co-relation to VAW/GBV and including poverty as a key variable</li> </ul>

				for policy and legislative analysis as it is an exacerbating condition with respect to other grounds of discrimination.
3L	<p><b><u>Amendment to the Canadian Human Rights Act and to all provincial/territorial human rights legislation to recognize “social condition” as a ground of discrimination.</u></b></p> <p>a) Responding to the Committee on Economic, Social, and Cultural Rights (CESCR) recommendation that social and economic rights be expressly incorporated into human rights legislation, addresses how poverty is itself a source of serious disadvantage in Canada, as well as an exacerbating condition with respect to other prohibited grounds of discrimination, frequent intersection of poverty and gender, disability, race, etc.</p>	M	F/P/T/M	
<b>Theme 3: Sentencing/Incarceration</b>				
<p><b>PROPOSED OUTCOME:</b> Improved accountability by the government in addressing racial bias within the justice system particularly in relation to sentencing and incarceration.</p>				
4L	<p><b>The FPT governments shall commit to eliminating the overrepresentation of racialized, Indigenous, and Black women and girls in custody in Canada, both in youth custodial facilities and in adult correctional facilities. While recognizing the racial bias that can happen at all levels of the justice system, as a first step towards fulfilling this commitment, the federal government shall immediately amend the <i>Criminal Code</i> to allow judges to exercise their discretion, upon giving reasons, to depart from all mandatory minimum sentences (MMPs) and restrictions on the use of conditional sentences, particularly for those most affected by overrepresentation in Canada’s prison system, including racialized, Indigenous and Black women. The federal</b></p>	S/M	F/P/T/M	<ul style="list-style-type: none"> <li>○ Number of laws/policies/tools amended to address systemic racial bias.</li> <li>○ Using narratives of racialized, Indigenous, and Black women and gender-diverse persons in custody on their experiences in</li> </ul>

	<p><b>government shall also commit to take steps to amend the <i>Criminal Code</i> to remove all MMPs and restrictions on the use of conditional sentences.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Lengthy sentences of imprisonment in penitentiaries and jails are the starting point for many BIPOC women, girls, and persons of marginalized genders to experience state-sanctioned and state-committed VAW/GBV and institutionalization, which perpetuates a cycle of violence, harm and dehumanization.</li> <li>Data show significant overrepresentation of Black and Indigenous women in Canada's prisons and also leads to intergenerational harms, as women are taken away from their children. (Referred to as today's residential schools in the context of Indigenous women).</li> <li>Over-incarceration leads to distrust of police.</li> <li>Judicial discretion should not just be exercised in favour of privileged white people who have the means to put together "good plans" for serving their sentences safely in the community.</li> </ul>			<p>regard to trust of the justice system as a means of assessment. Particularly in the case of Indigenous women and Indigenous peoples with diverse gender-identities, enabling participatory and qualitative data collection approaches like this will honour their ways of storytelling.</p> <ul style="list-style-type: none"> <li>Robust, disaggregated, intersectional, statistical and qualitative data collection and analysis. Data collection needs approaches beyond standard reporting mechanisms and needs to create options for safe and anonymous sharing of lived experiences.</li> </ul>
5L	<p><b>The federal government shall take immediate steps to eliminate systemic biases in Correctional Service Canada's (CSC) risk assessment tools that disproportionately impact racialized, Black, and Indigenous women. This must include a review of how Gladue factors and/or Impact of Race and Culture Assessments (IRCAAs) are being misused when determining risk.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>The current tools used by CSC have been shown to be unreliable for Indigenous people. <a href="#">CSC – Ewert v. Canada</a></li> <li>The Custody Rating Scale that is used by CSC fails to provide accurate security classifications for all people in prison because of the systemic bias inherent in the tool, resulting in Indigenous and Black people being classified at higher security classifications levels than their white counterparts. The higher security classification affects access to programming, and can result in longer time spent in prison because of delayed parole. <a href="#">Senate Report</a></li> </ul>	M/L	F	<ul style="list-style-type: none"> <li>Meta-analysis of the use of judicial discretion in cases, especially for BIPOC and people with diverse-gender identities to examine how privileged standing such as race, class, status, etc. affect sentencing and incarceration.</li> </ul>

	<ul style="list-style-type: none"> <li>The Custody Rating Scale was not validated for women and unjustly turns a need (which is identified at sentencing with Gladue reports) into risk resulting in systematic bias against Indigenous and Black women. A <a href="#">2004 study</a> showed that the CRS had no predictive validity.</li> </ul>			
6L	<p><b>The FPT governments shall end the use of solitary confinement, segregation, intensive psychiatric care, strip searching, and all other related forms of physical isolation of women in detention, including immigration detention, specifically for those with no status, which includes but is not limited to young women, women with mental health issues, trans women and men, non-binary people, Two-Spirit people, racialized and Indigenous and Black women, as well as non-status women.</b></p> <p>a) The federal government shall immediately order and fund an independent public inquiry with a mandate to examine the issue of staff-to-prisoner sexual coercion, violence, and abuse, with clear mechanisms in place to support and protect the people who come forward—including the state sanctioned sexual violence experienced by those subjected to strip searches—in order to understand the full scope of the issue and to prevent such harm from continuing or happening in the future.</p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Need to address state-sanctioned and state-committed violence and to meet Canada's obligations not to commit torture and inhuman conditions of detention, etc.</li> <li>There is a lack of data on the subject of staff-on-prisoner violence. It is also a difficult topic because people who have experienced sexual assault often do not feel comfortable or safe coming forward in the most supportive of environments. Prisons are places where people fear reprisal for minor issues, and it follows that coming forward to report a sensitive topic like sexual assault (especially given that most people in the prisons designated for women have experienced prior trauma related to sexual violence) would elicit similar fears.</li> </ul>	I/S/M/L	F/P/T/M	

	<ul style="list-style-type: none"> <li>As recommended 25 years ago in The Commission of Inquiry into Certain Events at the Prison for Women - <a href="#">The Arbour Report</a></li> </ul>			
<b>Theme 4: Family Law</b>				
<b>PROPOSED OUTCOME:</b> Enhanced equitable protection for survivors of VAW/GBV under family law, regardless of family status and geographic location.				
7L	<p><b>That all levels of government work together to ensure that all family laws—federal, provincial/territorial—align with one another in responding to family violence, in particular:</b></p> <ul style="list-style-type: none"> <li>a) in the context of post-separation parenting arrangements to ensure that family violence is prioritized in weighing the best interests of the child criteria;</li> <li>b) in the recognition and enforcement of restraining/protection orders, including between jurisdictions; and</li> <li>c) in ending distinctions in some jurisdictions in the manner in which property division and exclusive possession of the family's home are dealt with for people in married vs common-law relationships.</li> </ul> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Canadian society is a mobile one, with individuals and families often moving from one part of the country to another. Survivors of IPV often wish or need to relocate for reasons of safety, employment, or to find the supports they need.</li> <li>• The rate of partners living in common-law rather than married relationships is growing steadily throughout the country.</li> <li>• With the exception of the <i>Divorce Act</i>, family laws are a matter of provincial/territorial jurisdiction, and, at the present time, there are a number of differences in how those laws address such issues as post-separation parenting of children, safety, and property division.</li> <li>• A number of jurisdictions differentiate between people who have lived in a common-law relationships and people who are married with</li> </ul>	S	F	<ul style="list-style-type: none"> <li>○ Harmonization of legal provisions under family law across provinces and territories</li> <li>○ Perspectives of survivors on the justice system's effectiveness in safeguarding their rights in order for them to leave abusive situations</li> </ul>

	<p>respect to property division regimes, and the ability of one partner to obtain an order for exclusive possession of the family home.</p> <ul style="list-style-type: none"> <li>As well, family court orders falling under provincial/territorial laws are not automatically enforceable if either party relocates to another jurisdiction within Canada.</li> <li>To ensure that survivors of VAW/GBV, regardless of where they live or their family status, have access to equitable protection of family law, it is necessary to ensure that FPT laws align with one another in their responses to family violence.</li> </ul>		
8L	<p><b>That FPT Ministers of Justice work together to ensure a rapid and smooth transition to a properly resourced unified family court system in all jurisdictions in Canada. Unified Family Courts (UFC) must:</b></p> <ol style="list-style-type: none"> <li>be staffed by legal and non-legal professionals, including judges, with specialized training in family violence;</li> <li>provide continuity on family cases, which will help address litigation abuse; and</li> <li>reflect, in the physical courthouses, and their processes and procedures, the gendered and differential impacts of family violence.</li> </ol> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Implementation of UFCs has been uneven across provinces and territories. Research has established that a UFC system reduces confusion and delay by bringing all family court proceedings under the umbrella of one court. Especially in a time when so many family court litigants are unrepresented, any steps to simplifying the process are important in increasing access to justice.</li> <li>Survivors of VAW/GBV are especially vulnerable in jurisdictions without a UFC, because their former partner may try to take advantage of the confusion between the two systems to slow down proceedings and increase the legal costs to the survivor.</li> </ul> <p><a href="#">Unified Family Court Summative Evaluation, Department of Justice</a>  <a href="#">Unified Family Courts, The Canadian Bar Association</a></p>	I/S	F/P/T

<b>Theme 5: Legal Representation</b>			
<b>PROPOSED OUTCOME: Improved and sustained resourcing across a wide spectrum of legal advice and representation services to allow survivors of VAW/GBV access to timely, responsive, and equitable services.</b>			
9L	<p><b>All levels of government shall coordinate and commit to ensuring that survivors and targets of VAW/GBV have adequate access to effective legal representation and supports. Specifically:</b></p> <ul style="list-style-type: none"> <li>a) the federal government shall provide adequate, stable, long-term funding for legal aid services, inclusive of the wide variety of civil, family, criminal, immigration, refugee, and administrative proceedings with which a survivor of VAW/GBV may engage;</li> <li>b) all levels of government shall provide long-term funding for legal aid programs to ensure universal access to legal aid across the country;</li> <li>c) provinces and territories shall ensure that sufficient funding be allocated so that survivors of VAW/GBV—including sexual violence, human trafficking, and IPV/DV—can obtain at least four hours of independent legal advice to assist them in navigating criminal justice processes;</li> <li>d) this funding shall extend to trauma-informed, survivor-centred systems navigators to support access to justice by survivors of VAW/GBV. In appropriate situations, the legal representation and system navigation can be provided through or assisted by technology using best practices learned over the COVID-19 pandemic; and</li> <li>e) given the access to justice challenges for survivors of VAW/GBV, when there are language barriers or interpretation needs based on disability FPT governments must provide funding for interpretation and translation services in legal proceedings, including court and administrative hearings, procedures, and preparation for the same.</li> </ul>		<ul style="list-style-type: none"> <li>o Canada has undertaken consultations on the Canada 2030 Agenda Strategy as well as the Canadian Indicator Framework (CIF). The proposed new CIF includes a stand-alone ambition on access to justice and a related indicator that is people-focused.</li> <li>o All federal departments will be accountable for implementing the 2030 Agenda, including examining policies and programs to identify gaps and areas where action is needed.</li> <li>o Nation-wide tracking of government funding on a wide spectrum of legal services.</li> <li>o Interviews with legal service providers (across all levels and jurisdictions) who specialize in</li> </ul>

	<p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Survivors of VAW/GBV who seek redress through the justice system soon come to realize that the system that they are told is there to support them is frequently yet another site of violence and trauma. In the midst of an access to justice crisis that threatens faith in all systems of justice, survivors are disproportionately harmed by patchy, ineffectual, underfunded, and inequitable justice system access.</li> <li>• Many also are led to believe that certain justice system participants—such as Crowns—are their advocates, when they are not. They require their own advocates and system navigators to ensure that their constitutionally protected rights are given due consideration at all stages of the process.</li> <li>• Canada has undertaken consultations on the Canada 2030 Agenda Strategy, as well as the Canadian Indicator Framework (CIF). All federal departments will be accountable for implementing the 2030 Agenda, including examining policies and programs to identify gaps and areas where action is needed. The proposed new CIF includes a stand-alone ambition on access to justice and a related indicator that is people focused. <a href="#">Open Justice Commitment for Canada: Discussion Paper</a></li> </ul>			supporting VAW/GBV survivors
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#### Theme 6: Labour

**PROPOSED OUTCOME: Improved government accountability mechanism to monitor and negatively sanction violence and harassment in all workplaces for all workers whether in formal or informal economy.**

10L	<p>The Government of Canada should immediately ratify and implement International Labour Organization Convention 190 (C-190) with consideration of Recommendation 206. All levels of government must adopt an inclusive, integrated, intersectional, and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work by strengthening their laws to include an expansive definition of harassment and violence that includes VAW/GBV and harassment; provides comprehensive coverage of workers (e.g. interns, volunteers and job seekers along with employees); includes incidents in the course of, linked with, or arising out of</p>			<ul style="list-style-type: none"> <li>○ Statistics on workplace VAW/GBV and harassment and remedy/action taken. In particular, data collection on incidents should not be limited to official filing of complaints. Safe and anonymous data collection portals or other</li> </ul>
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	<p><b>work; addresses third party violence; supports and addresses the impact of domestic violence in the world of work.</b></p> <p><b>To be effective, the laws must prohibit violence and harassment in the world of work; ensure policies address violence and harassment including recognition of particular factors that increase the likelihood of violence and harassment, including psychosocial hazards and risks; adopt a comprehensive strategy to prevent and address violence and harassment; establish enforcement and monitoring mechanisms; ensure effective access to remedies and supports for victims; provide for sanctions; develop tools, guidance, education and training, raise awareness in accessible formats; and ensure effective means of inspection and investigation of cases of violence and harassment.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• ILO Convention 190, Recommendation 206 ensures that the harassment and violence that takes place in the hiring, training, and working conditions for women in the world of work and the way domestic violence enters the workplace is not missed.</li> <li>• The new Convention affirms everyone's right to a world of work free of violence and harassment. It takes an inclusive and integrated approach, extending protection to all workers whether in the formal or informal economy, and irrespective of their contractual status and including jobseekers, trainees, interns, apprentices, and volunteers. The Convention also makes it clear that violence and harassment involving third parties—whether they are clients, customers, patients, or members of the public—must be considered and addressed. This recognition is extremely important for workers whose jobs involve dealing with the public and in public space.</li> <li>• <a href="#">International Labour Organization</a>, R 206</li> <li>• <a href="#">International Labour Organization</a>, Guidance on Ratification</li> <li>• Often, people working in VAW/GBV use the filter of intimate partner/domestic violence and sexual violence. This can miss the particular gendered sexual harassment and violence that takes place in</li> </ul>			<p>mechanisms should be established for individuals who do not wish to proceed with formal complaints procedure. Any data collected through these anonymous systems should be cumulated towards national statistics on prevalence.</p> <ul style="list-style-type: none"> <li>○ Perspectives of survivors on the quality of support provided.</li> <li>○ Perspectives of workplace leadership on their role in promoting a safe and respectful workplace.</li> <li>○ Audit of workplaces with highest incidence of workplace violence and harassment reported.</li> </ul>
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	<p>the world of work, including in hiring, training, and working conditions. There is also a lack of awareness about the way domestic violence enters the workplace, and the preventative and responsive role the workplace can play.</p> <p><b>Domestic Violence and the Workplace</b></p> <ul style="list-style-type: none"> <li>• A <a href="#">2009 Stats Can report</a> found Canadian employers lose \$77.9 million annually due to the direct and indirect impacts of DV. The pan-Canadian study <a href="#">Can Work Be Safe When Home Isn't?</a> found that one-third (33.6%) of respondents reported ever experiencing DV from an intimate partner, and there were differences by gender. Aboriginal respondents, respondents with disabilities, and those indicating a sexual orientation other than heterosexual were particularly likely to have reported experiencing DV in their lifetime. Sixty-five percent of trans respondents reported experiencing DV. Of those who had experienced DV, 53.5% said it continued at work. Among all respondents 91.5% think that DV impacts the work lives of workers. Among those exposed to DV, 38% reported that DV affected their ability to get to work and 8.5% had lost a job due to DV.</li> <li>• In a study of <a href="#">perpetrators</a>, one-third of respondents were in contact with their (ex)partner during work hours to engage in abusive or monitoring behaviours. Of these, 25% used workplace time to drop by her home or workplace. Nearly 1 in 10 reported that they caused or almost caused a work accident as a result of being distracted or preoccupied by these issues. About 25% of respondents indicated that violence issues led to difficulties getting to and staying at work, and about 25% reported taking paid time off work to deal with DV issues.</li> <li>• The <a href="#">impact of DV on the workplace</a> has been seen <a href="#">internationally</a>. And studies have shown that workers often work in the <a href="#">same workplace</a> as their abuser.</li> <li>• High profile domestic murders at work have identified ways in which employers and other workplace actors <a href="#">could have intervened</a>. In the case of Lori Dupont, the inquest found 84 separate missed opportunities.</li> </ul>		
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	<ul style="list-style-type: none"> <li>Working from home has now increased without the safeguards that can come from an external workplace.</li> <li>Concrete tools, such as paid leave, protection against discipline, specific enumeration of DV in OH&amp;S legislation, DV training for management and coworkers, and a workplace support person increase safety for women.</li> </ul> <p><b>Gendered Violence/ Harassment and the Workplace</b></p> <ul style="list-style-type: none"> <li>New labour standards increasingly use an integrated definition of <a href="#">harassment and violence</a> in the workplace. <a href="#">Canadian studies</a> illustrate that women face an elevated risk relative to men for almost all types of workplace violence, not just sexual assaults. These sex/gender differences have important implications for primary prevention activities.</li> <li>Recent <a href="#">federal government surveys and consultations</a> found high levels of sexual harassment and VAW/GBV in Canadian workplaces, and demonstrated the importance of looking at harassment from the perspective of VAW/GBV and other forms of discrimination.</li> <li><a href="#">International Labour Organization Convention 190 and Recommendation 206</a> provide a comprehensive roadmap to addressing harassment and violence in the world of work that includes a specific consideration of the gender as well as the identities and status that makes women and others more vulnerable to violence.</li> </ul>		
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#### Theme 7: Immigration

**PROPOSED OUTCOME:** Improved immigration pathways that protect vulnerable immigrants, especially women, from precarious living conditions, exploitation, and abuse regardless of their status, race, and SOGIE.

11L	<p><b>The federal government shall announce regularization of status for all and prioritize permanent residency for survivors of VAW/GBV in Canada.</b></p> <p>a) The federal government shall immediately commit to convert all of the temporary pilot programs for temporary resident permits and other</p>	I/S/M	F/P/T	<ul style="list-style-type: none"> <li>Perspectives of new immigrants, especially racialized immigrants, immigrants with</li> </ul>
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	<p>precarious status holders into permanent policy-based solutions for protecting vulnerable people. The permanent solution will apply to temporary foreign workers, sponsored spouses, in-land spouses and common-law partners of permanent residents or citizens, undeclared family members, survivors of labour trafficking, forced marriages, and international students, so they can feel safe to leave abusive work or family relationships and/or reunite with immediate family members.</p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Canada's immigration system disadvantages and actively marginalizes women seeking to migrate to Canada. Women with intersecting identities related to factors such as gender<sup>1</sup>[1]; sexual orientation; race; religion; Islamophobia; disability<sup>2</sup>[2]; and class, among many others, experience multiple layers of discrimination while navigating Canadian immigration processes. Immigrants of colour; immigrants with disabilities; and trans, queer, and non-binary immigrants in particular experience discrimination.</li> <li>• The current flow of global human migration is a direct result of histories of racism, colonialism, and imperialism<sup>3</sup>, and instability fueled by extractive industries that Canada is connected to as an international actor. Indeed, the majority of people who migrate to Canada are racialized.<sup>4</sup> Specifically, China (14%), India (24%), and the Philippines (5.2%) were the largest sources of origin for new migrants to Canada in 2018 and together provide more than one-third of all Canada's incoming residents. For this reason, it is essential to centre the issues of racialized women, along with non-binary people, in formulating</li> </ul>			<p>disabilities, trans, queer, and non-binary immigrants on their immigration journey.</p> <ul style="list-style-type: none"> <li>○ Tracking of pilot projects that become permanent programs.</li> </ul>
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<sup>1</sup> In discussing gender-based discrimination, it is important to note that gender is a self-identification that does not necessarily correspond with assigned sex at birth. For example, the gender “woman” represents all those who self-identify as women, including but not limited to cisgender women, transgender women, intersex women and Two-Spirit women. It also recognizes the ways in which non-binary individuals experience misogyny.

<sup>2</sup> There is no accessibility support in the asylum process for people who are deaf or living with disabilities.

<sup>3</sup> Avtar Brah. *Cartographies of Diaspora: Contesting Identities* (London: Routledge, 1996,); Sunera Thobani. *Exalted Subjects: Studies in the Making of Race and Nation in Canada*. (Toronto, Buffalo, London: University of Toronto Press, 2007), 71.

<sup>4</sup> “Migration flows”, Canadian International Development Platform, November 28, 2019. <https://cidpsi.ca/migration-flows/>

	<p>recommendations aimed at achieving gender equality in the Canadian immigration system.</p> <ul style="list-style-type: none"> <li>Women engaged with the immigration system who are physically or psychologically abused may hesitate to leave, seek assistance, or report to authorities for fear of jeopardizing their status. This can also occur when women are economically insecure from not being able to fully participate in the labour market at a level commensurate with their qualifications and experience. Many such vulnerable women fear deportation even if they have the right to remain in Canada. Their partner may keep them uninformed of their full rights, withhold financial information, and hold hostage their immigration documents.</li> <li>The coercive control that immigrant women face because of their status relative to their relationships with spouses, employers and/or families is further heightened by the isolation they face. This control could be lessened if newcomer women had the support of their extended families, but many newcomer women do not. It is difficult for them to sponsor their extended family members to come to Canada and impossible to bring in their undeclared or adopted children.</li> <li>Special measures need to be taken to ensure that all immigrant women, regardless of their status, race, gender identity, and sexual orientation, are supported by our immigration system and not ignored or rejected. This includes permanent residents, temporary residents, migrant workers, live-in caregivers, and non-status women in Canada. The creation of permanent immigration pathways would protect migrants from precarious working and living conditions, exploitation, and abuse.</li> </ul>			
12L	<b>Immediate measures need to be taken to ensure that all immigrant women, regardless of their status, race, gender identity, and sexual orientation are supported by our immigration system by creating permanent immigration pathways that would protect them from precarious working and living conditions, exploitation, and abuse. These measures must include:</b>	S/M	F	

	<p>a) providing clear and timely pathways to permanent residency for temporary residents, migrant workers, live-in caregivers, and non-status women in Canada;</p> <p>b) elimination of immigration detention including the detention of children and women and implement alternatives to detention;</p> <p>c) ending the practice of deportation based on criminality to eliminate any differential treatment based on hierarchy status; and</p> <p>d) immediate decriminalization and removal of expectation of cooperating with the criminal justice system for survivors of trafficking, forced marriages, migrant workers, and labour exploitation.</p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• See 12L above</li> </ul>			
<b>Theme 8: Community-Based Responses and Supports</b>				
	<p><b>PROPOSED OUTCOME:</b> Enhanced measures by government to allow safety planning and wrap-around-access to equitable, culturally appropriate, and trauma-informed support services for survivors of VAW/GBV regardless of their status and geographic location.</p>	I	F/P/T	<ul style="list-style-type: none"> <li>○ Indicators for this outcome should focus on tracking funding for advocacy organizations, funding to rural and remote communities.</li> <li>○ Nationwide service quality assessment of support services providers to ensure adequate funding is provided for equitable and comparable levels of service across geographies.</li> </ul>

	<p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• We are providing copies of a number of references that confirm the important protective role that advocates play in supporting people who have experienced VAW/GBV.<sup>25</sup> This is not surprising since advocates bring to the legal process the very expertise, experience, and training in VAW/GBV that lawyers and judges so often lack.</li> <li>• Survivors of VAW/GBV, including sexual assault, do not often avail themselves of protections provided by the law and when they do, they often report re-victimization and/or re-traumatization. Since the services that are available are usually underfunded and piecemeal (i.e., legal aid lawyers frequently have strict limits on their hours and cannot complete all aspects of a file) survivors also require continuity of support. In the criminal law context, unless victims are also the accused, they do not have their own lawyer. Survivor Advocates can play a critical role in supporting and advocating on behalf of survivors throughout legal proceedings, including administrative proceedings.</li> <li>• Neither the criminal nor family law systems have served survivors of VAW/GBV well. The <i>Criminal Code</i> was amended in 1992 to include amongst other things the so-called “rape-shield” provisions in section 276. Section 276 stipulates that prior sexual activities is not admissible to support the “twin myths” that the complainant is more likely to have consented or less worthy of belief. Much of criminal law uses objective “reasonable person” standard in addition to subject tests; it is unusual in criminal law (unique we think?) to have to have provisions aimed directly at curtailing the biases of judges and decision makers, which tells us something about how pervasive these biases are. Notwithstanding these changes, the myths are so pervasive that we are still dealing with them (for example in <a href="#">R v Barton</a>, as well as high profile instances of judges deploying outdated stereotypes such as in the Judge Camp hearing). Crown counsel is not the victim’s lawyer. Victims have no representation in criminal proceedings, and advocates are the only people who are there for the victims’ benefit.</li> <li>• Women can seek to have lawyers in child protection cases (against the state) or in family cases (private), but legal aid is underfunded in these</li> </ul>			
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	<p>areas and there are fewer resources spent for family than in the criminal area, leading to women receiving proportionately fewer legal aid resources. West Coast LEAF did a <a href="#">study</a> specifically in BC demonstrating the disproportionate spending. Rise did a recent report on the ways in which BC family law system continues to rely on stereotypes and myths (<a href="#">Rise Women's Legal Centre 2021</a>).</p> <ul style="list-style-type: none"> <li>• The failure of legal aid and the fact that governments do not want to provide enhanced legal aid with lawyers specializing in representing survivors is all the more reason why it's necessary to have community-based services providing expertise and continuity.</li> <li>• Survivor Advocates also can be trained to perform case reviews of sexual assault, domestic violence, and gender-based violence using the Philadelphia Model.</li> </ul>			
14L	<p><b>That all levels of government work together to ensure a continuum of services, including transition housing, second stage housing, counseling, interpretation, and advocacy within provinces/territories and across Canada to ensure women and gender-diverse people in rural and remote communities, and communities on and off reserve, receive comparable levels of service.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Women and gender-diverse people in all parts of the country should be able to receive similar levels of support and services when facing VAW/GBV. Your postal code should not dictate your safety. Achieving this consistency will require coordination and funds from all levels of government. Deficits in remote and smaller communities are particularly evident and should be prioritized.</li> <li>• The holistic services that are required to meet the complex needs of people experiencing violence are overlapping. One of the critical factors in connecting small communities to services in larger centres is internet, which will require federal input (<a href="#">CBC 2020</a>). Leaving aside the issue of whether police are a good idea, many small communities do</li> </ul>	S/M	F/P/T	

	<p>not have their own police and contract RCMP. The territories, which have small populations and are geographically remote get unconditional transfer payments from the federal government to be able to deliver services. Unlike the provinces the federal Crown conducts criminal prosecutions in territories. Many women and gender-diverse people experiencing violence have intersecting family and immigration issues, which means they require access to both provincial and federal systems. Transition houses may be funded provincially or territorially but may still require consent from municipal governments for safety features on buildings or exemptions from bylaws to operate in some neighbourhoods. It will require coordination between all levels of government to pave the way for consistent levels of service.</p> <ul style="list-style-type: none"> <li>• The federal government also shows through this project the importance of pan-Canadian funding for bringing together women's organizations to discuss national standards and share information.</li> </ul>			
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#### Theme 9: Systems Accountability

15L	<p><b>We call on municipal, provincial/territorial, and federal levels of government to establish a robust, stable, and well-funded interjurisdictional and independent civilian body, comprised of expert community members and survivors, representative of diverse communities in Canada (particularly those from Indigenous and Black communities), with authority to investigate complaints related to gender-based violence experienced by women, girls, and other marginalized genders. This body shall have the authority to investigate complaints within corrections and policing, including municipal, provincial/territorial, Indigenous police, and the RCMP. Specifically, this body shall have the authority to:</b></p> <ol style="list-style-type: none"> <li>a) investigate and/or oversee all complaints received related to VAW/GBV, including but not limited to rape and other sexual offences;</li> <li>b) investigate incidents of any decisions and/or failures to investigate complaints of gender-based violence;</li> </ol>	S/M	F/P/T	<p><b>N.B.:</b> The two recommendations in relation to Systems Accountability have also emerged from other WGs. As such, it will also be listed as an overlap/cross-cutting theme/recommendation. To that end, no specific outcome for this theme has been proposed.</p>
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	<p>c) investigate misconduct and/or negligence, and all forms of discriminatory practices and mistreatment as a result of intersections related to VAW/GBV;</p> <p>d) observe and oversee investigations of cases involving VAW/GBV against Indigenous peoples;</p> <p>e) have independent representatives authorized and available to accept complaints within municipal, provincial/territorial correctional institutions, and across police forces so as to ensure access to a complaint system for those impacted by VAW/GBV;</p> <p>f) have the authority to accept, review, and use for the public interest, disaggregated data collected by municipal, provincial, territorial and federal levels of government related to gender-based violence;</p> <p>g) make publicly available all its issued reports; and</p> <p>h) ensure government budget allocations for this body shall be publicly available.</p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• A civilian body is necessary, as there are systemic biases regarding VAW/GBV within the current justice system structures that preclude the appropriate and unbiased administration of complaints related to VAW/GBV. Furthermore, there is an inherent conflict of interest in the current systems available, where a complaint involves law enforcement or corrections officers. Lastly, a civilian body comprised of experts and survivors aims to ensure that the complaint mechanism will be based on an understanding of trauma.</li> <li>• The scope of authority aims to encompass the range of issues that may exist within the current system. As such, not only will the body be authorized to deal with complaints, but it will be authorized to investigate when there is the potential for concealment of complaints (or a failure to investigate, or as a result of negligence). The authority will also ensure that complaints within Indigenous police forces are dealt with by experts in trauma and VAW/GBV violence, thereby ensuring transparency.</li> </ul>		
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	<ul style="list-style-type: none"> <li>• The placement of representatives within or across municipal, provincial/territorial correctional institutions and police forces endeavours to ensure access to justice for victims of VAW/GBV. It also aims to encourage victims to feel comfortable knowing that a complaint, where it involves law enforcement, will not result in reprisal. Further, it aims foster confidence in a system that has typically failed survivors of VAW/GVB, or failed to take their concerns seriously.</li> <li>• This is linked to the previous recommendation. The goal of access to disaggregated data is to ensure transparency and accountability.</li> <li>• The aim of making reports publicly available is to ensure transparency and accountability.</li> <li>• Public budget allocations will reinforce the goal of a stable and well-funded authority. The failure of government to adequately fund a civilian body aimed at dealing with VAW/GBV sends a message that VAW/GBV is not a priority.</li> </ul>		
16L	<p><b>We call upon municipal, provincial, territorial, and federal levels of government to design and implement coordinated systems for the collection of, and to collect, disaggregated data related to VAW/GBV experienced by women, girls and other marginalized genders across the criminal justice system, including in policing and corrections. This data must be publicly available and must include information related to:</b></p> <ol style="list-style-type: none"> <li>a) the number of complaints received;</li> <li>b) disaggregated anonymous data related to the identity of the complainant;</li> <li>c) the number of investigations launched into complaints and the outcomes of such complaints;</li> <li>d) the number of complaints where there is a refusal to investigate and reasons why;</li> <li>e) the steps taken to assist with trauma experienced by the survivors of violence; and</li> <li>f) disciplinary measures implemented on offenders.</li> </ol>	M	F/P/T

	<p><b>Further, that the design and implementation of the data collection must be conducted in partnership with expert community members and survivors who are representative of diverse communities in Canada.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Without disaggregated data about VAW/GBV that reflects the reality of intersectional experiences of violence, we have no pathway for properly understanding and addressing the extent of and inequalities in experiences of VAW/GBV. We cannot understand structural inequities without disaggregated data. Good data will lead to better policy development; it supports a human rights framework to understanding VAW/GBV and allows for compliance with international obligations.</li> </ul> <p><a href="#"><u>BC Office of the Human Rights Commissioner (2020).</u></a></p>		
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#### Theme 10: Other (Criminal Law, Gun Control, Policy and Legislation, and Technology)

**PROPOSED OUTCOME:** Improved systematic use of GBA+ analysis on criminal justice proceedings, all federal and provincial legislative and policy making, and for the implementation and enforcement of effective systems of gun control, including Bill C-71.

17L	<p><u>Criminal Law</u></p> <p>The federal, provincial/territorial governments shall strike an expert advisory group, drawing on community experts, frontline service providers, and survivors, to examine how the criminal law could better address the context of persistent patterns of controlling behaviour that lie at the core of VAW/GBV, including DV/IPV. The group shall examine the possible benefits—and potential unintended negative consequences—of creating a new offence of coercive control. The group shall also review how existing offences, such as criminal harassment, uttering threats, or the non-consensual distribution of intimate images, could be better used to address the types of controlling behaviours experienced in intimate or domestic relationships. This would include looking at how the criminal law has typically failed to recognize that survivors experience DV/IPV as a pattern of controlling behaviour and not something that is confined to specific or discrete incidents of violence. This</p>	S/M	F/P/T	<ul style="list-style-type: none"> <li>Implementation of GBA+ analysis to assess the best criminal response to IPV, including the possible criminalization of persistent coercive behaviour of abusers in the cases of IPV and DV, as well as consideration of possible unintended negative consequences.</li> <li>Ensuring data collection for GBA+ analysis focuses on participatory data</li> </ul>
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	<p><b>could include examination of the type of evidence, circumstantial and direct, that could be used in prosecutions of these existing offences, with an eye to improving police investigations and criminal prosecutions in cases involving domestic/intimate partner violence.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Intimate Partner Violence remains a pervasive and widespread problem in this country. One in 3 women in Canada experience IPV and other forms of VAW/GBV. On average, a woman or girl is killed every other day in Canada. In Quebec alone, a woman is the victim of an attempted murder every 10 days. The risks are greatest for women who live with multiple intersecting inequalities, including Indigenous, Black and racialized women, women with disabilities, and migrant women.</li> <li>• The criminal justice system has struggled to deal effectively with IPV /DV, which has led to significant distrust in the system for survivors. The system focuses on investigating, charging, and prosecuting individuals for isolated incidents of criminal conduct and is less well suited to dealing with the patterns of persistent controlling behaviour. The course of intimidating, degrading, and regulatory practices that abusers use to instill fear and threat into the lives of their victims are often dismissed by police as not worthy of charges. The cycle of violence is known to escalate dramatically at the time of separation.</li> <li>• This behaviour, which lies at the core of DV/IPV, and is known by front-line workers and academics as “coercive control” is a highly gendered practice that often seeks to maintain or expand the gender-based privilege of a male partner, while destroying the freedom of partners. There is a need to examine both whether there are existing offences in the Criminal Code that could be better used to target this type of conduct (and what evidence might be marshalled in those investigations and prosecutions), or whether it would be worth creating a new offence to criminalize coercive control, as has been done in jurisdictions such as the UK in recent years. Three US states—California, New York, and Texas—have either already implemented or are actively considering legislative reform to address coercive control.</li> </ul>			<p>collection approaches and includes sector and community experts, front-line service providers, and survivors.</p> <ul style="list-style-type: none"> <li>○ An indicator for the outcome should focus on the number of annual effectiveness studies conducted by federal departments on their meaningful implementation of GBA+.</li> </ul>
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18L	<p><u>Gun Control</u></p> <p>The impact of gun violence is highly gendered. Accordingly, federal, provincial/territorial, and municipal governments must enforce existing laws, and implement additional measures and/or laws to address harm that is the result of firearms access and use against women, girls, and other marginalized genders, particularly those living in rural communities while respecting Indigenous sovereignty regarding land rights, including the right to hunt. The federal government must immediately implement Bill C-71, which received royal assent June 21, 2019. Steps must also be taken to strengthen the protections enacted in Bill C-71, instead of seeking to pass Bill C-21, which is too flawed in its current form to warrant enactment. This would include drawing on a GBA+ analysis to:</p> <ul style="list-style-type: none"> <li>a) restore transparent firearms data collection and analysis of use of firearms in crime, death, and injury as well as evidence-based policies, and education about the public health and safety risks of firearms;</li> <li>b) require licensed firearm dealers to record sales details including the firearm license number as well as the number, make, model, and serial number of firearms, and make those records available to police on request;</li> <li>c) enact a national ban on the import and sale of handguns, instead of proposing that individual municipalities or cities impose their own bans, which will have little meaningful impact;</li> <li>d) make handguns that are currently in circulation in Canada prohibited weapons;</li> <li>e) subject individuals and dealers who are owners of multiple firearms to greater scrutiny to mitigate the risk of those firearms being misused or mishandled, including through stronger application of existing powers to conduct annual inspection of storage facilities;</li> <li>f) support the prohibition of military assault weapons with a mandatory buyback; and</li> </ul>	I/S/M	F/P/T	
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	<p><b>g) ensure resources are in place to properly screen firearm license owners, and to remove firearms and licenses expeditiously when a potential risk is identified to the firearm owner or any other person.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>Access to a firearm in the context of DV increases the likelihood of femicide by 500%; the presence of a gun in the home is the primary risk factor for lethality in DV (<a href="#">Toronto Star 2020</a>). Firearm ownership is a critical factor in whether VAW/GBV or IPV results in death, and is the cause of horrific psychological threats, coercion, and intimidation of women and girls (<a href="#">Canadian Women's Foundation 2018</a>). Women living in rural and remote communities, and particularly Indigenous women, are especially vulnerable to gun violence. Most firearms used to kill women—or their children—are legally owned rifles and shotguns. Between 2006 and 2010, all the firearms used in domestic homicides were obtained legally.<sup>5</sup></li> </ul>		
<b>19L</b>	<p><u>Policy and Legislation</u></p> <p><b>The federal government shall take concrete actions to identify and address barriers that prevent the systematic conduct of rigorous GBA+.</b></p> <ul style="list-style-type: none"> <li>a) Such actions shall address barriers that prevent departments and agencies from taking gender-based analysis into consideration during the development, renewal, and assessment of policy, legislative, and program initiatives, so that they can inform decision makers about existing or potential gender considerations in their initiatives.</li> <li>b) Women and Gender Equality, with the support of the Privy Council Office and the Treasury Board of Canada Secretariat, to the extent of their respective mandates, shall periodically assess and report on the</li> </ul>	I/S/M/L	F

<sup>5</sup> Taken from NAWL submissions re Bill C-71: “[i]n Canada, the majority of the firearms used to kill women are not smuggled or illegally owned – they are legally owned rifles and shotguns. In cases reviewed by the Ontario Domestic Violence and Death Review Committee, most of the firearms used were legally acquired.” In Ontario alone, from 2006 to 2010, all of the firearms used in domestic homicides were legally obtained. The presence of a gun in a house is the top risk factor in determining lethality in cases of domestic violence. This risk factor could be eliminated, or at least mitigated, by more gun control. Therefore, helping to put more safeguards in place in relation to legally purchased weapons is an incredibly meaningful way to help prevent violence against women, and their children.

	<p>implementation of gender-based analyses in all federal departments and agencies and their impacts on policy, legislative, and program initiatives. This reporting shall be done annually to the Standing Committee for Status of Women to ensure greater public accountability and transparency.</p> <p>c) All federal departments shall be provided with the capacity to implement and assess annually their effectiveness on meaningful GBA+ implementation.</p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• A meaningful <a href="#">GBA+</a> is an analytical process that policymakers use to examine the potential impacts (both intended and unintended) and opportunities of a policy, plan, program, or other initiative on diverse groups of people, taking into account gender and other identity factors. The plus (+) indicates that gender-based analysis goes beyond considerations of sex and gender to include a range of intersectional identity characteristics, such as Indigenous heritage, age, education, language, religion, culture, ethnicity, geography (urban, rural, remote, Northern), socio-economic status, family status, sexual orientation, and mental or physical disability.</li> <li>• <a href="#">Iceland</a> has embellished GBA+ throughout all facets of their government including ensuring on-going policy assessments, and the research, development, and implementations of programs and services that are distinct processes, which build a systematic approach across all government within Iceland to address gender equality.</li> </ul>			
20L	<p><u>Technology-based violence</u></p> <p><b>We demand that all levels of government address this violence and harassment, and ensure inclusion of the world of work in any definitions and responses (including an expansive definition), recognition of the impact of domestic violence on the workplace, innovative investigation techniques and reporting processes (including anonymous reporting), international collaboration to ensure greater responsibility by technology corporations (including social media platforms) for reducing online sexual harassment,</b></p>	I/S/M/L	F/P/T	

	<p><b>online stalking, and the non-consensual sharing of intimate images.</b>  <b>Online violence against women, gender-diverse people and the LGBTQI2S+ community should be recognized as a human rights violation and a form of discrimination and VAW/GBV, and all levels of government should duly apply core international human rights instruments. Such laws should be grounded in international women's human rights law and standards, as outlined in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Declaration on the Elimination of Violence against Women, and in other global and regional women's human rights instruments. Furthermore, all levels of government should ensure that their legal frameworks adequately protect human rights online, including the right to a life free from violence, freedom of expression and access to information, and the right to privacy and data protection.</b></p> <p><b>Context:</b></p> <ul style="list-style-type: none"> <li>• Work and education using online spaces has accelerated globally during a pandemic and is expected to continue post-pandemic. These are also the spaces for sexual harassment and VAW/GBV. Online and technology-facilitated violence also enters traditional workplaces, as well as the recruitment and training environment.</li> <li>• The pan-Canadian study, <a href="#">Can Work Be Safe When Home Isn't</a> found that of those who had experienced domestic violence 53.5% said it continued at work. It continued in a series of ways, including 40.6% reporting abusive phone calls and text messages, and 15% reporting abusive emails.</li> <li>• <a href="#">Unifor, Can Work Be Safe When Home Isn't: Initial Findings</a></li> </ul>			
<b>Additional Recommendations</b>				
21L	<b>It is recommended that federal, provincial/territorial governments commit to engaging in stakeholder consultations to discuss the effectiveness, limitations, and challenges related to mandatory charging, in particular the unanticipated negative impacts on victims and survivors of VAW/GBV such as dual and counter-charging and reluctance of victims to call police out of fear of being</b>	S/M/L	F/P/T	

	<p>charged, as well as the possibility of other approaches that would increase the safety of victims/survivors and their children while also holding perpetrators accountable for their behaviour. The outcome of such consultations would be the development of an appropriate criminal law response to VAW/GBV that would ensure the safety of those affected by VAW/GBV, including children, in the short, medium and long term.</p>			
22L	<p>In 2015, the federal government of Canada passed the <i>Zero Tolerance for Barbaric Cultural Practices Act</i>, criminalizing the participation in and support of forced marriage. The government's statements focused on the need to "protect women" from polygamy and forced marriage dubbed "barbaric cultural practices." However, criminalization became a tool to further target and over-police racialized communities. Survivors of VAW/GBV are reluctant to come forward with experiences of forced marriage or trafficking when it means criminal sanctions or deportation for their families. We recommend that this law be revoked. In addition, we recommend that the federal government and all the provinces should change the minimum age of marriage to 18 years, with or without parental consent, and bring forward meaningful civil protection for people affected by forced marriages. While a change in law is essential, a multi-sectoral approach coupled with an intersectional education strategy is the most effective preventative tool.</p> <p><b>Context:</b>            "Often, conversations about culture exclusively evoke 'stereotyped roles [that] perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision'. These practices are, to be sure, real, and discriminatory, but require some perspective and context to avoid a descent into racist stereotypes. Such commentary has 'reinforced the notion that metropolitan of the West contains no tradition or culture harmful to women, and that the violence which does exist is idiosyncratic and individualized rather than culturally condoned.'"<sup>26</sup> European or North American forms of violent discrimination against women seldom receive the same international attention,</p>	M	F	

	and the preoccupation with the lurid and with “alien and bizarre” forms of gender persecution among human rights advocates and Western states, such as Canada, echo former colonial arrogance, and protect states against any national reckoning with the forms of violence that are systemic and condoned within its borders.			
<b>23L</b>	<b>The impact of VAW/GBV against Black women is significant and must be identified throughout the action plan.</b>	S/M/L	F/P/T	
<b>24L</b>	<b>We call upon the FPT and Indigenous governments to commit to eliminating the overrepresentation of Indigenous youth in custody over the next decade.</b>	L	F/P/T	
<b>25L</b>	That the FPT ministers of justice work together to review the use of technology in delivering legal services to survivors in rural and remote communities, and rapidly transition to make long-term use of technological solutions piloted during the COVID-19 pandemic. In using technology to advance access to justice it is critical that they consult with community advocacy organizations to ensure that the use of technology does not become a further barrier to accessing justice and does not create additional safety concerns for users. Increased access to support, prevention measures, legal processes and protections for isolated, rural, and remote communities can be realized through gathering best practices that existed prior to the pandemic and those that were developed in response to requirements to physically distance. Funding for technological solutions must be provided by all levels of government, and must be evaluated to ensure technology doesn't become a further barrier or create safety concerns for survivors.	L	F/P/T	
<b>26L</b>	Develop a cross-ministerial strategy to address VAW/GBV online and technology facilitated VAW/GBV focused specifically on the creation of expeditious, accessible, and meaningful remedies/relief for survivors. This strategy should explore regulation of internet intermediaries, platform responsibility and accountability around the manipulation, ranking, filtering, moderating, and taking down of content or user accounts. This strategy should be trauma-informed and survivor-centred in both its development and implementation.	S/M/L	F/P/T	
<b>27L</b>	We recommend that the FPT governments shall strike an advisory group, drawing on frontline service providers, women’s advocacy groups, survivors of DV and the Correctional services to i) examine and evaluate mandatory	S/M/L	F/P/T	

	<p>programs designed to reduce recidivism among DV perpetrators, with an eye to replicating successful programs across the country; ii) examine and evaluate the potential use of electronic monitoring devices for perpetrators of DV, with an eye to reducing the safety risks for women; iii) review best practices in terms of risks assessment or evaluation of the dangers posed by DV perpetrators; and iv) standardize best practices and requirements to ensure victims are consulted and informed about the perpetrator's conditions of release on bail or parole. This advisory group should have an ongoing mandate to ensure the efficiency of those programs and to coordinate the update of monitoring mechanisms/tools across the country.</p>			
28L	<p>The abuse of temporary and migrant workers by employers, <u>agencies</u>, and recruiters who bring them into the country are <u>well documented</u> and <u>longstanding</u>. Federal immigration and provincial employment law and policy are typically developed separately leading to gaping holes for decent work. Addressing and reducing these abuses include <u>actions</u> to:</p> <ul style="list-style-type: none"> <li>a) ratify Convention 189 (Domestic Workers) and 190 (Violence &amp; Harassment in World of Work);</li> <li>b) implement recruitment regulation including a recruiter registry;</li> <li>c) improve labour market reviews that undermine decent work;</li> <li>d) make pathways to permanent residency available for all migrant workers;</li> <li>e) remove closed permits tying workers to a specific employer;</li> <li>f) legislate protections built into job offers or the contract of employment;</li> <li>g) provide effective access to the right to unionize and collectively bargain;</li> <li>h) improve enforceability that does not lead to over policing of migrant communities; and</li> <li>i) remove requirement that caregivers live with their employer and support community organizations that are working with migrant workers to collaborate on identifying rights violence.</li> </ul>	S/M/L	F/P/T	

	<p><b>Context:</b>  Canadian programs aimed at filling labour shortages in Canada often lead to the exploitation of workers and have a particular <a href="#">gender and racial dimension</a>. The structure of the programs increases women's precarity and vulnerability to <a href="#">sexual harassment and assault</a>. It can also undermine the wages and working conditions of the existing labour force, further setting back women's economic security and access to decent work. These programs cover work in all sectors of the economy not just <a href="#">domestic</a> and agricultural work. They can also mask the existence of workers trafficked for labour.</p>			
29L	<p><b>Define and implement a process for women trafficked/exploited for the sex trade, labour, or forced marriage to become permanent residents if they so choose.</b></p> <ul style="list-style-type: none"> <li>a) Stop investigating women for misrepresentation and fraud when a sponsorship breaks down due to VAW/GBV.</li> <li>b) In the case of VAW/GBV, suspend the enforcement of the sponsorship undertaking.</li> <li>c) For women without status fleeing VAW/GBV, put in place an expedited humanitarian and compassionate process and an expedited temporary residence permit, and issue an open work permit at the start of their application process. Waive all related fees for these applications.<sup>6</sup></li> <li>d) Create a visitor visa process for family members coming to support a woman facing VAW/GBV that specifically exempts income criteria from the visitor visa process and prioritizes VAW/GBV within the processing framework.</li> <li>e) Develop a detailed guideline applicable to all types of hearings for Immigration, Refugees and Citizenship Canada (IRCC) officers for dealing with cases involving women and their children, including a focus on women from equity-seeking groups, who are victims of domestic or sexual violence.<sup>7</sup></li> </ul>			

<sup>6</sup> This recommendation applies to those who have experienced VAW/GBV anywhere in the world.

<sup>7</sup> Guideline should be comparable to Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution Guidelines and should include procedural accommodations as well as substantive issues or, alternatively, should be cross-referenced with Guideline 8. Guidelines on Procedures with Respect to

30L	The FPT governments must take steps to ensure that the bail system operating in all jurisdictions—including rural, remote, and northern communities—is sufficiently well resourced and staffed to ensure the rights of accused persons to not be denied reasonable bail without just cause (s. 11(e)) and to be presumed innocent until proven guilty (s. 11(d)) are properly respected. In addition to properly resourcing the bail system, education is needed to ensure that the conditions imposed as part of a judicial interim release order are reasonable and manageable given the personal circumstances of the accused, including their economic circumstances, addiction, or mental health challenges.	S/M/L	F/P/T	
31L	Formulate a definition of what constitutes “hate” or “hatred” that is consistent with Supreme Court of Canada jurisprudence. It is critical that this definition acknowledges persons who are disproportionately targeted by hate speech including but not limited to racial, Indigenous, ethnic, linguistic, sexual orientation, gender identity, and religious groups.	S	F	
32L	Respect, protect, and fulfil sex workers’ rights to health and safety by engaging in a review of the Criminal Code in order to ensure compliance with the Supreme Court of Canada’s 2013 <i>Canada v. Bedford</i> decision.	M/L	F	
33L	Coordinated inter-ministerial (WAGE, Public Safety/ Department of Justice) leadership at the federal level and FPT leadership that includes a structured and transparent process for collaboration and consultation with feminist community-based advocates from across the country to advance policy and practice in the justice system response to sexual assault and violence	S/M/L	F/P/T	
34L	In consultation with grassroots, frontline VAW/GBV workers, feminist legal experts, and survivors of violence, develop mechanisms to ensure that this information flows more readily between criminal and family courts.	M/L	F/P/T	

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Vulnerable Persons Appearing Before the IRB should be revised to include specific reference to victims of domestic or sexual violence. Any additional procedural guidelines developed should include reference to the need for interpreters for all official IRCC matters.

<b>Table 4: Support for Survivors and Their Families Rationale</b>				
<p>We write this report as the third wave of the COVID-19 global pandemic merges with the ongoing and persistent “shadow pandemic” of VAW/GBV, creating some of the most precarious and lethal situations for survivors and their families that have been documented in recent years. In addition, the COVID-19 pandemic impacts are falling hard on those providing VAW/GBV services. These impacts are in effect amplifying the already heightened vulnerability for VAW/GBV. So far in 2021, Indigenous women continue to go missing with more women, including more Black women, killed due to femicide than in the previous three years. While reflecting on recent police killings of Black people in the US, Canada appears to have furthered a reckoning with colonization, white supremacy, and the enslavement of Africans on its own lands. Our recommendations lean into the establishment of a full continuum of VAW/GBV services designed and delivered “by and for” communities who continue to be systemically and institutionally excluded and disenfranchised. “By and for” is one approach that would enable services and supports to help address this legacy. Originally coined by South African disability rights advocates in the 1980s “nothing about us without us” is a self-determination call that continues by others who advocate for inclusion and intersectionality in VAW/GBV service delivery.</p>				
<p><b>GOAL:</b> <i>Survivors of VAW/GBV have access to timely, reliable, inclusive, formal and informal support services that meet their primary needs for safety, healing, and justice.</i></p>				
<p><b>OVERALL OUTCOME:</b> Strengthened support system for survivors of VAW/GBV that allows reliable, timely, trauma- and violence-informed, and culturally appropriate support and services that are delivered in a rights-based manner honouring their lived experiences/realities.</p>				
#	Recommendation, Rationale, and Action	Timeframe	Stakeholder	Considerations for outcome measurement:
<p><b>Theme 1: Support and Services for Survivors</b></p> <p><b>Proposed outcome:</b> Improved and consistent funding, including focused investments to ensure timely, responsive, and equitable access to core support services, including informal and community-based responses for survivors of VAW/GBV.</p>				
1S	<p><b>Core Services for Survivors &amp; Families: Safety, Healing and Justice.</b> Assure adequate and consistent provincial/territorial and federal budgets including consistent operational funding to ensure the availability and accessibility of core services for VAW/GBV survivors.</p> <p>a) Shelters/safe place/second stage housing.</p>	S	F/P/T	<ul style="list-style-type: none"> <li>○ Assessing quality of core support services for VAW/GBV survivors by taking into account the distinct needs of the different survivors based</li> </ul>

	<p>b) Sexual assault centres/rape crisis centres; survivor-led, frontline feminist independent community sexual assault centres/rape crisis centres which allow frontline, survivor-directed advocates to expand autonomous SACs/RCCs into areas without current access.</p> <p>c) Campus-based sexual assault response programs and centres.</p> <p>d) 24/7 Helplines staffed by those with training in trauma-informed and violence-specific interventions.</p> <p>e) Specialized services in hospitals; also accessible via referral from health care providers and settings (these may include abortion access, forensic examination kits, STI testing, harm reduction).</p> <p>f) Services (including counselling and safe childcare) for children experiencing sexual abuse, exposure to domestic violence; training for practitioners in recognition and safe response.</p> <p>g) Peer-to-peer programs on VAW/GBV.</p> <p>h) Specialized, feminist, violence-specific crisis, and long-term counselling for all survivors, including children, and their families. This includes access to long-term, trauma-specific, individual counselling and group counselling options available at no cost to survivors.</p> <p>i) Emergency Fund to meet the basic needs of survivors and families in emergency situations including transportation, childcare, and other costs for accessing services.</p> <p>j) The need for better supported community-based first response.</p> <p>k) Ensure appropriate services including counselling and safe childcare for children affected by domestic violence.</p>			<ul style="list-style-type: none"> <li>o on the form of violence as well as their lived experience (e.g., the needs of survivors of human trafficking will be different than survivors of DV).</li> <li>o Taking into account child protection, safety, and ethical considerations especially for survivors under 16.</li> <li>o Tracking through statistics, as well as narrative accounts of survivors who select alternate justice system, especially in underserved areas such as rural, remote, and northern regions.</li> <li>o Using narratives as a form of evidence and evaluative approach in assessing how survivors of VAW/GBV, especially LGBTQI2S+ youth, racialized and Black survivors, and Indigenous survivors are supported. Especially in the case of Indigenous survivors, space should be created to honour Indigenous storytelling as a form of evidence.</li> </ul>
2S	<p><b>To ensure accessibility and equity in all survivors' access to core services on VAW/GBV. These must be integrated and coordinated so services and systems are easy to navigate and based on promising or efficient practices at all levels through embedding a feminist intersectional, anti-oppression analysis. Embedding the understanding of the intergenerational and lifelong cycle of violence experienced by girls, women, and gender-diverse individuals that is rooted in historical and ongoing oppression. The analysis draws on the historic, legal, social, and global contexts that contribute to the marginalization of people of specific groups rendering survivors from these</b></p>	S/M	F/P/T/M	

<p><b>identified groups vulnerable to VAW/GBV in the context of state violence including colonization in Canada and throughout the world, genocide, immigration policies, heteronormativity, the discrimination of and social prejudice against people with disabilities.</b></p> <p><b>To ensure equity and access to the above core services, specific communities require focused investments to develop tailored strategies and supports. We recommend identifying, through community-led and transparent consultations, gaps in services for under-resourced communities (rural, remote, Northern, Indigenous); Black and other racialized communities; gender-diverse people; people with disabilities; people with precarious/no immigration status; sex workers; older adults; LGBTQI2S+ communities; male survivors of childhood sexual abuse; criminalized women; and gender-diverse people. Developing an equitable and responsive funding model, within five years, for these communities.</b></p> <ul style="list-style-type: none"> <li>a) One initial focus should be to reduce wait times by providing new resources for feminist, trauma- and violence-informed counselling services.</li> <li>b) A second focus should be on high-risk cases, via coordinated, survivor-centred risk management and crisis units, to prevent death and serious injuries.</li> <li>c) Ensure that every community in the North has 24/7 access to a safe place to shelter from violence and access to sexual violence services; ensure strategies to support safe access to services for these communities/individuals (e.g. mobile programs, local dispatch, access to services in local languages).</li> <li>d) Emphasis on sexual and domestic violence services, rather than generic or police-based/victim services. Funding and resourcing that reflect the specificity of sexual violence, domestic violence, and other anti-violence work and service delivery. This is different from generic police-based/victim services.</li> </ul>			<ul style="list-style-type: none"> <li>○ Using an intersectional and equity focused lens in tracking and assessing how core support services for GBV survivors are funded, especially in northern regions.</li> <li>○ Allow non-traditional forms of evidence gathering that are healing and transformative for those involved in sharing their experiences for evaluative purposes.</li> <li>○ Taking into account the inter-generational nature of violence in assessing adequacy of support services.</li> <li>○ Taking into consideration that the impact of violence is not isolated within a timeframe and can have lifelong impact in the lives of survivors.</li> <li>○ Ensuring all statistics are collected using an intersectional lens.</li> <li>○ Using perspectives of the families of survivors of VAW/GBV, including families of those whose deaths resulted from</li> </ul>
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	<ul style="list-style-type: none"> <li>e) Develop accountability measures to assess performance of the new finding model.</li> <li>f) Ensure services are designed for the specific needs identified by and centred in a service model that includes “delivered by and for.”</li> <li>g) Ensure Indigenous, First Nation, Inuit and Metis survivors can access cultural- and linguistic-appropriate services run by and for Indigenous communities. This work requires the Inclusion of medicine, culture, ceremony language in all services.</li> <li>h) Ensure Francophone and Anglophone survivors in minority communities can access culturally and linguistically appropriate services run by and for these communities and ensure access to interpreters.</li> <li>i) Ensure funding to community-based organizations that assist new immigrants and refugees who have experienced or are experiencing VAW/GBV.</li> </ul>			VAW/GBV to ensure adequacy equity and responsiveness of support services.
3S	<p><b>Apply a trauma- and violence-informed care analysis to all VAW/GBV services to expand the concept of trauma-informed care to account for the overlapping impacts of interpersonal violence and systemic, structural, and institutional inequities affecting a survivor’s life. To develop and deliver services that are responsive to trauma and violence, including substance use and poor mental health. View this impact as a predictable consequence of highly threatening events recognizing that for many survivors, inequity and system-induced trauma are ongoing.</b></p> <ul style="list-style-type: none"> <li>a) Interpersonal violence, including VAW/GBV should be understood within broad social circumstances, as well as systemic forms of violence and inequity.</li> <li>b) We must also consider that structural forms of violence filter down to everyday experiences, including interactions with health and social services. Because of this, funding and resourcing must recognize the intersectional and intersectoral needs of all survivors, including areas of health, justice, and public safety. Funding should reflect the reality that anti-violence frontline services, including sexual assault centres,</li> </ul>	S/M/L	F/P/T/M	

	shelters, transition housing, and other core services, provide “wrap around” support that often goes beyond addressing violence.			
4S	<b>Public awareness—sustained, VAW/GBV-specific, using the lifecycle approach inclusive of sexualized violence, community-based resources, how to help a friend info, challenging societal norms, raising awareness of VAW/GBV, warning signs, risk factors, and ways to intervene to allow bystanders to support survivors—that is developed on the aforementioned principals</b>	S/M/L	F/P/T	
5S	<b>Emergency Fund to meet the basic needs of survivors and families in emergency situations including:</b> a) transportation, childcare, and other costs associated with accessing services; b) the need for compensation for family members and/or a healing fund for survivors and families; and c) provide comprehensive and consistent victim compensation programs.	S	F	
6S	<b>Ensure that informal supports and peer supports have necessary resources, information, and training to effectively support survivors in a trauma- and violence-informed way.</b>	S	F/P/T	
<b>Theme 2: Support for the Sector</b>				
<b>Proposed outcome: Improved recognition and support for VAW/GBV/anti-violence workers and community-based VAW/GBV advocates to address their psychosocial wellbeing and ensure they are fairly compensated</b>				
7S	<b>We recommend the following protections and supports for VAW/GBV/anti-violence workers:</b>  a) A recognition of impacts of providing care on the anti-violence work force (e.g., burn out, vicarious trauma). b) Ensuring adequate wages comparable to public service sector doing similar work. Ensuring adequate wages, benefits, and pensions comparable to public service sector doing similar work. c) Access to ongoing general and multi-sectoral training. d) Dedicated funding to support community-based VAW/GBV advocates and workers to share their expertise, including in the advocate case	S/M/L	F/P/T	<input type="radio"/> Tracking the implementation of recommendations put forward by the Federal Ombudsman for Victims of Crime and outlined in the report <a href="#">Community-Based Anti-Violence Worker Wellness: A Review of the Literature and Recommendations for the</a>

	review processes, policy development, training for law enforcement and justice system workers, and other forms of consultation.			<a href="#">Office of the Federal Ombudsman for Victims of Crime.</a>
8S	<p><b>Ensuring that all broader health and social services sector workers, including psychosocial, legal, and medical workers, receive general training on how to recognize and respond to VAW/GBV and offer appropriate referrals as well as multi-sectoral training. Ensure that organizations and professional bodies training future professionals who will potentially intervene with victims of VAW receive adequate and ongoing training to identify violence and risk factors. We recommend:</b></p> <ul style="list-style-type: none"> <li>a) training for law enforcement, prosecutors, and other in the legal system. Training must include components of sexual assault law, myths and stereotypes, structural violence, sexual assault trauma, and communicating with survivors of sexual violence;</li> <li>b) training must be developed and implemented in consultation with frontline advocates; and</li> <li>c) the establishment of clear mechanisms for oversight on internal training for police and other institutions, such as the Canadian Armed Forces, Corrections, and the RCMP.</li> </ul>	S/M/L	F/P/T/M	<ul style="list-style-type: none"> <li>○ Using narratives to gain perspectives of VAW/GBV/anti-violence workers and advocates on their psychosocial well-being and how they feel supported (or not).</li> <li>○ For any training provided, the post-training assessment should assess the capacity, sensitivity and expertise of VAW/GBV advocates and anti-violence workers and other relevant social workers to provide responsive support for survivors of VAW/GBV, especially for Black, Indigenous, and racialized survivors, and survivors of sexual assault and human trafficking. Particular attention should be given to assess their capacity to identify violence and risk factors.</li> <li>○ Tracking wages and presence of benefits, such as health plans and pensions, in comparison</li> </ul>

				with public sector workers doing similar work.
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### Theme 3: Supportive System/System Transformation

#### PROPOSED OUTCOMES:

**(1) Enhanced coordination and collaboration amongst VAW/GBV core service providers and community-based services to ensure wrap-around inclusive support for VAW/GBV survivors irrespective of their family status, immigration status, and geography**

**(2) Improved mechanisms, such as culturally responsive and independent civilian oversight body for provinces/territories to hold government accountable, especially for violence perpetrated within government support systems**

9S	VAW/GBV experts to oversee the implementation of the NAP.	S/M/L	F	<ul style="list-style-type: none"> <li>○ Assessing the effectiveness of different strategies to incentivize provinces and territories to take action on NAP recommendations.</li> <li>○ Using narratives as a form of evidence and evaluative approach in assessing how government support systems have perpetrated violence. Using anti-oppressive/anti-racist lens especially for survivors of VAW/GBV who are LGBTQI2S+ youth, racialized and Black survivors, and Indigenous survivors. Especially in the</li> </ul>
10S	Core VAW/GBV services, including community-based VAW/GBV organizations, should work collaboratively and promote information sharing across systems to ensure proper support and safety of survivors, particularly in high-risk cases. <ul style="list-style-type: none"> <li>a) Development of integrated service delivery model (drawing on existing good practice) that strengthens relationships and referrals across service providers.</li> <li>b) Ensure cross-sector coordination, collaboration, and information-sharing on safety planning. The development and fostering of integrated service models should include resourcing to support dedicated community-based System Navigators, whose role is to develop expertise in identifying the needs and gaps for survivors within and between various systems, and to provide long-term support to survivors as they navigate these systems</li> </ul>	S	F/P/T/M	
11S	Use the National Inquiry's Principles for Systemic Change as a guiding framework and link to the MMIWG National Action Plan.	S	F/P/T/M	

12S	<p><b>Establishing a VAW/GBV Ombudsperson, who is outside of policing system, for survivors and families to be able to report people and institutions that do harm within systems.</b></p> <p>a) Explore with advocates the potential for multiple Ombudspersons to respond to the distinct needs of different survivors within different systems.</p> <p>b) For example, a Sexual Assault Ombudsperson who is outside of policing system for marginalized survivors (i.e. sex workers, incarcerated people) to be able to report harm within systems. Therefore, they would be ensuring accountability of the actors in the educational, medical, and judicial system (i.e. nurses, doctors, police officers, judges, social workers, correction officers), while also establishing local, culturally-responsive and independent civilian oversight body to monitor response to VAW/GBV across the country, especially for Indigenous women and girls. They would also ensure efficient and effective cross-jurisdictional enforcement of protection and other court orders, while enforcing the rights and remedies provided by the Canadian Victims Bill of Rights and the Canadian Charter of Victims' Rights.</p>	M/L	F/P/T	<p>case of Indigenous survivors, space should be created to honour Indigenous storytelling as a form of evidence.</p> <ul style="list-style-type: none"> <li>○ In assessing government accountability, taking into consideration that colonial, patriarchal, ableist, racist, and heteronormative systems create the conditions within which violence against those with the least power in these systems has been and continues to be ignored, accepted, and in some cases encouraged</li> <li>○ Using mixed method approaches that range from statistics and interviews to participatory and inclusive mapping of changes (or lack thereof) to policy, legislation, practice and programming by</li> </ul>
13S	<b>Examine options for alternative, restorative, or transformative justice.</b>	M/L	F/P/T	
14S	<b>Address the issue of criminalization of survivors.</b>	S/M	F/P/T	
15S	<b>Develop a health sector response to VAW/GBV, ensuring integration with and access to all areas of care, including primary care, emergency services, reproductive and sexual health services, as well as mental health, including PTSD.</b>	S/M	F/P/T	
16S	<b>Stop unnecessary revictimization and systemic violence by creating a coordinated inter-ministerial and interprovincial permanent council that includes a structured and transparent process for collaboration and consultation with feminist, community-based advocates from across the country to advance policy and work toward systemic change.</b>	M/L	F/P/T	<ul style="list-style-type: none"> <li>○ Taking into consideration the colonial violence perpetuated towards</li> </ul>

	<p>a) There is a lack of an integrated access points for frontline advocates to feed information, make coordinated asks, and get coordinated answers from the federal government on issues related to VAW/GBV.</p> <p>b) There is also a need to ensure that what is happening federally is implemented consistently across the country at the provincial/territorial level.</p>			<ul style="list-style-type: none"> <li>○ Indigenous communities, especially First Nations women through the Indian Act.</li> <li>○ Using longitudinal studies with survivors of VAW/GBV to assess the quality, adequacy, responsiveness, appropriateness, and inclusivity of wrap-around services or lack thereof</li> <li>○ Taking into consideration that supportive system goes beyond just individualistic support. Envisioning support as systemic change, such as creation of presence of information sharing agreements among government systems (law enforcement, social services, health, and community-based services) for high-risk cases. This information-sharing should include data exchange mechanisms across jurisdictions.</li> </ul>
17S	<b>Make changes to regulations in subsidized housing and emergency shelters to allow survivors of VAW/GBV to stay united with their companion animals.</b>	M/L	P/T/M	
18S	<b>VAW/GBV exerts to oversee the implementation of the NAP.</b>	S/M/L	F	
<b>Additional Recommendations</b>				
19S	<b>There is a need for virtual support services to augment traditional services (e.g., crisis lines, online peer support), especially for those individuals and</b>	S		

	<b>communities who would most benefit from additional accessible options (e.g., youth, northern/rural and remote communities). These must be supported by appropriate infrastructure (e.g. Wi-Fi access) and not replace traditional, face-to-face services.</b>			
<b>20S</b>	<b>Formal Services (see 6E): More availability of Victims' Assistance programs and more funding to Victim's Fund. Enhancement of adequate formal support (including counselling and practical support) for families experiencing disappearance and death.</b>	M		
<b>21S</b>	<p><b>Addition to 2S</b></p> <p><b>Specific groups:</b></p> <ul style="list-style-type: none"> <li>a) LGBTQ2S+ youth and adults—community gatherings, peer support programs, counselling services, and sexual violence support services; LGBTQ2S+ youth in rural communities require peer-driven programming; arts-based programs.</li> <li>b) Those working in the sex industry—programs designed and delivered in partnership with people who have lived experience.</li> </ul>			
<b>22S</b>	<b>Oversight body holding government account for government systems—Using federal transfer funds to incentivize provinces/territories to take action on NAP.</b>			
<b>23S</b>	<p><b>Addition to 1S</b></p> <ul style="list-style-type: none"> <li>a) Provide continual and accessible healing programs built on the foundation of promotion of safety and security designed and delivered in partnership with people who have lived experience.</li> <li>b) Fund and implement mechanisms of concerted intervention (crisis units) aimed at preventing homicides or serious injuries.</li> <li>c) Implement a pilot project for an integrated service centre for victims of VAW/GBV.</li> </ul>			
<b>24S</b>	<b>Provide financial support for community-based service integration initiatives while also implementing a pilot project for an integrated service centre for survivors and families of VAW/GBV across Canada. The mission of these centres would be to provide high quality, intersectional, and trauma-informed</b>	S/M/L		

	<b>services in both the immediate and longer term while responding to all of survivors and families' complex needs.</b>			
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## Call to Action: Expert Engagement to Address and Prevent VAW/GBV

### 1. Cross-cutting themes: An intersectional approach

Many people in Canada have violence committed against them and continue to experience violence every day because of gender, gender identity, gender expression, or how others perceive their gender. As we have written here, systemic issues require systemic responses. But they are also importantly rooted in individual experiences, and these personal experiences must inform our efforts to make change. The recommendations we offer have tried to walk a balance between creating the conditions for individual dignity while at the same time attending to the broad measures required to create systemic change. VAW/GBV is one of the most pervasive, deadly, and deeply rooted human rights violations. It is a significant barrier to the expression of individual freedom and societal and collective development. We explore this human rights perspective on VAW/GBV further below, placing Canada in the global context.

As laid out in the Executive Summary, and underscored by the working group reports, a NAP must be rooted in the lived realities of people affected by violence; from the intersectional perspectives of Indigenous, Black, racialized, cis-women, LGBTQI2S+ people, gender-diverse people, people living with disabilities, people living in poverty, and migrant and refugee communities. This framework acknowledges the historical and current systemic harms perpetuated by existing systems towards survivors. From Crenshaw we have learned that an important aspect of the intersectional turn in policy development is that it requires us to consider the structural and group identity aspects of discrimination, in addition to the vulnerabilities that attract overt discrimination and marginalization of individuals. To Crenshaw, these form the background systems that sustain and maintain systems of subordination in a dynamic and ongoing way.<sup>27</sup>

We are particularly concerned that our recommendations recognize the history and impact of the genocide against Indigenous peoples in this country, its impact on Indigenous women and girls, and the current and ongoing realities of VAW/GBV perpetrated against Indigenous women and girls.<sup>28</sup> Thus, we strove to create recommendations that would be consistent with and amplify those made by the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG).

We are informed by both international and domestic human rights frameworks, as they impact both migrant and non-migrant communities, understanding that without a strong human rights foundation, strategies to respond to and eliminate VAW/GBV across the spectrum of lived experiences of those affected by it would be incomplete, unsustainable, and fleeting. We return to the international human rights framework in some detail below.

It is crucial for the eventual NAP to reflect the message of this strategic engagement process: *lifting those who are most vulnerable will lift us all.*

An unequal backdrop forms the basis on which the COVID-19 pandemic hit. While the pre-COVID context required a NAP on VAW/GBV, the timing of this report, setting an initial framework for one, begs acknowledgement of the increased urgency the context requires.

## 2. The heightened risks of the COVID-19 context

Canada reported its first cases of COVID-19 in late January 2020. Numbers of infections rose rapidly and alarmingly over the next several months, forcing FPT arms of government to respond to a public health crisis by introducing restrictions in almost every sphere of public and private life. The consequences for people at risk of GBV/VAW were forecast to be unprecedented, with women forced to “isolate” at home with their abusers, opportunities to reach out for help limited to online and phone contacts, and perpetrators taking advantage of pandemic restrictions to further abuse, coerce, and control women. According to data collected by Statistics Canada over two months early in the pandemic, one in 10 women were “very or extremely concerned about the possibility of violence in the home...”<sup>29</sup> Furthermore, a national survey of 375 VAW/GBV service providers across Canada found that uncertainty about the sector’s capacity to meet the needs of the widely expected increase in the number of women seeking help as COVID-19 restrictions lift was among one of the most frequently cited concerns held by service providers.<sup>30</sup>

Numbers from within and outside Canada show that violence is increasing in the wake of COVID measures. Indeed, “the COVID-19 pandemic has co-existed alongside a far less visible ‘shadow pandemic’ of violence against women, with COVID-19 impacting the number and complexity of domestic violence cases and enabling new tactics for coercive control.”<sup>31</sup>

Pre-COVID-19 research shows that the levels of violence that women, girls, and gender-diverse people experience in Canada have changed little over the past two decades. The current systems of response to violence have failed to significantly lower the levels of violence they experience. Moreover, people with the least access to services—living in rural and remote areas, Indigenous, those with disabilities, racialized, Black, gender non-conforming, trans, and migrant people—experience the highest rates of violence.<sup>32</sup>

Findings by the Canadian Femicide Observatory for Justice and Accountability (CFOJA) add weight to the argument that when it comes to VAW/GBV, Canada continues to fail women, girls, trans and gender-diverse people.

Before COVID-19 hit, the Canadian Femicide Observatory for Justice and Accountability (CFOJA) released its third report,<sup>33</sup> based on 2019 numbers. In January 2021, it released its report based on 2020 numbers.<sup>34</sup> From these two reports, we know that:

- in 2020, 160 women and girls were killed by violence in Canada. Thirteen of these deaths occurred during the Nova Scotia killings. These tragedies, and subsequent renewed attention on domestic homicide and gender-based killings add urgency to calls for a NAP;
- on average, every 2.5 days, one woman or girl is killed in this country—a consistent trend for four decades. Where an accused has been identified, 91% are male, consistent with national and international patterns; and
- Indigenous women and girls were overrepresented as victims, comprising about five percent of the population in Canada but 23% of those women and girls who were killed by a male accused. Approximately 38% of women and girls were killed in rural areas, whereas only about 16% of the population in Canada lives in rural areas.

**Additional developments, research, and reports show that:**

- the preliminary numbers for 2021 informally discussed with CFOJA appear to mark an increase in femicides (M. Dawson, personal communication, March 16, 2021);
- in 2021, seven women were killed in seven weeks in both BC<sup>35</sup> and Quebec;<sup>36</sup>
- women with a disability were nearly twice as likely as women without a disability to have been sexually assaulted in the past 12 months;
- about one-quarter of women with a cognitive disability (24%) or a mental health-related disability (26%) were sexually abused by an adult before they were 15 years of age;<sup>37</sup>
- 1 in 3 women in Canada experience intimate partner violence and other forms of gender-based violence. Risks are heightened for women with a disability; Indigenous, Black, and racialized women; trans, non-binary, and gender non-conforming people; migrant women; women targeted by Islamophobia; and sex workers;<sup>38</sup>
- the Nova Scotia massacre has made people living in Canada more aware of the elevated risk and impact that domestic and intimate partner violence has, not only on the person experiencing it, but also on the public,<sup>39</sup> workplace staff, and colleagues;<sup>40</sup>
- a national survey of 375 VAW/GBV service providers across Canada found that uncertainty about the sector's capacity to meet the needs of the widely expected

increase in the number of women seeking help as COVID restrictions lift was among one of the most frequently cited concerns,<sup>41</sup> and

- tech-facilitated violence (referred to as cybermisogyny<sup>42</sup>) has become an increasing concern as the world lives more of its public life online. The NAP on VAW/GBV needs to have adequate resources and expertise to address familiar forms of violence taking place in digital environments.

A report released in November 2020 by WSC noted disturbing trends including “an increase in physical attacks (specifically stabbing, strangulation, and broken bones), forced confinement, sexual violence, emotional and financial abuse, increased human trafficking, and an overall higher frequency of abuse in all forms.”<sup>43</sup> The same report indicated that “[Shelters/THs] were seeing women admitted who scored higher on danger risk assessments and with higher indicators of lethality.”<sup>44</sup>

The WSC survey also highlighted how the COVID-19 pandemic presents significant deterrents to women seeking to leave an abusive home. For example, isolating with an abuser may make it difficult to call for help or leave the home because of the abuser’s increased opportunity to monitor devices and movements. Fear of COVID-19 itself, of contracting the virus in a shelter setting, and of the potential for housing insecurity and homelessness during a pandemic may also dissuade women from leaving. The spectre of financial insecurity that often accompanies a woman leaving a relationship looms under already inequitable circumstances. It is now widely acknowledged that the status quo for most women in Canada is one of inequity. More than 1.5 million live on low income, and “women who leave a partner to raise children on their own are five times more likely to be poor.”<sup>45</sup> Systemic barriers are heightened for Indigenous and racialized women, those who are LGBTQI2S+, living with disabilities or as newcomers. Women are also the majority of minimum/low-wage and part-time workers in Canada. Conditions resulting from COVID-19 put precarious livelihoods in retail, travel, and hospitality, for example, even more at risk.<sup>46</sup>

There have been widespread calls for a “Shecovery” to answer to the “Shesession.”<sup>47</sup> The pillar working group focused on social infrastructure and the enabling environment for addressing VAW/GBV, took account of this reality. They reminded us that facilitating women’s economic independence is fundamental to eliminating the prevalence of VAW/GBV and supporting individual women’s exit from abusive situations. An adequate standard of living and access to quality public services, social protection, and social infrastructure are fundamental to achieving gender equality, and to providing an enabling environment for women and gender-diverse people to leave a violent situation and address the impacts of VAW/GBV. This ensures a strong foundation of systems and supports to enable economic security and decent work, health and well-being, mobility, and connection—all essential for the prevention and elimination of violence.

Access to justice and legal mechanisms for promoting safety have been further impacted during the COVID-19 pandemic. A recent sampling of court directives and decisions showed that:

...survivors' ability to prove domestic violence and secure court orders that would help to ensure their safety was hampered not only by procedural complexity but also by the reduced availability of a range of services—health, counselling, housing, and supervised access centres, for example...<sup>48</sup>

In addition to the common tendency of the courts to focus on the incidents of physical violence rather than the patterns inherent to coercive control, survivors are forced to navigate a judicial system that shows little awareness of the increased risks to their health and safety as a result of COVID-19.

In this context, our legal WG reminds us that this COVID-19 exacerbation is founded on the inequities we have been delineating in the report thus far. Survivors of VAW/GBV look to justice and legal systems from different perspectives. Some, often those who are already the privileged, turn to those systems assuming they will provide justice. They are often disappointed. Others, often those who have been marginalized, reject those systems, assuming they will cause further harm. Their fears are often proved correct.

The recommendations are intended to reflect the reality the experts contributing to this report know: that survivors of GBV, whatever their privilege or lack thereof, are seldom served well by existing justice and legal systems, and that those with less privilege are often actively harmed by their interactions with those systems.

Boarder closures enacted in the name of public health measures have deepened the risks faced by migrant women and women seeking refuge from violence. Often undocumented, and not matching the andro-centric criteria of the legal definition of refugee,<sup>49</sup> women fleeing violence globally have had most of their means of immigrating and emigrating cut off.

The VAW/GBV response system itself has shouldered an increasing burden under pandemic restrictions, resulting from the curtailment of services and community supports, such as libraries, schools, and community centres. Sexual assault centres, drop-ins, settlement services, healthcare settings, domestic violence shelters, homeless shelters, counselling services and many more across Canada have had to restrict or significantly modify their normal outreach and intake services, moving to online video conferencing and phone chats and, in many cases, retrofitting existing infrastructure to meet public health requirements.

### 3. The role of human rights legal norms and protections

In this section, we explore Canada's obligations in some detail in an effort to steer the national discussion from a groundless discourse of human rights to an acknowledgement of the legal

obligation it represents between duty bearer (the state) and rights holders (women and gender-diverse people, irrespective of their legal citizenship) in the Canadian context.

As laid out in the Executive Summary, for the purposes of our work the project adopted the United Nations broad definition of what constitutes VAW/GBV. Stemming from the 1993 Declaration on the Elimination of Violence against Women<sup>50</sup> adopted by the UN General Assembly, we considered violence to mean:

any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. (Article 1, p.3).

The standards upheld by the Convention to End all Forms of Discrimination Against Women (CEDAW) have now redefined VAW to include GBV. Following global practice, we regard this as human rights and public health crises of pandemic proportions.<sup>51</sup>

Canada's VAW/GBV statistics are consistent with global levels. Globally, as many as 38% of all murders of women are committed by intimate partners,<sup>52</sup> and overall, "35% of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence."<sup>53</sup> Intimate partner violence is the most common form of violence against women in Canada with eight in 10 victims who are women and girls.<sup>54</sup> In 2017, 84% of police-reported homicide victims killed by an intimate partner were women.<sup>55</sup> Yet, these numbers do not tell the whole story. The VAW/GBV discourse is often limited to intimate or familial relationships that are encountered largely in the private sphere and occur in person. We must remember that VAW/GBV also occurs in the public sphere, including people's work lives and in institutions of learning. It can extend into the workplace and be perpetrated by clients, customers, and members of the public. It can also be facilitated through technology as is increasingly being witnessed in domestic violence cases and student harassment/violence cases.

In sum, factors such as age, race, disability, immigrant status, and sexual orientation all intersect and can impact risk and protective factors, as well as access to support services. Previous research indicates that women with disabilities, Indigenous women, girls, and young women, lesbian, and bisexual women, trans women, and gay and bisexual men are more at risk of experiencing violence.<sup>56</sup>

### 3.1 Intersectionality as a global human rights standard

This factual basis emphasizes the decision of this project to apply the globally recognized intersectional approach to women's human rights framing in the recommendations we examined.<sup>57</sup> We view discrimination against women as inextricably linked to other factors that affect their lives. These include race, Indigenous or minority status, ethnicity, colour, disability, socioeconomic status and/or caste, language, religion or belief, political opinion, national origin, marital and/or maternal status, age, urban/rural location, health status, property

ownership, being lesbian, bisexual, transgender or intersex, literacy, trafficking of women, seeking asylum, being a refugee, statelessness, migration, heading households, living with HIV/AIDS, deprivation of liberty, informal sector work, geographical remoteness, and stigmatization of women fighting for their rights. Because women experience varying and intersecting forms of discrimination, which have an aggravating negative impact on their enjoyment of their rights, VAW/GBV may affect some women to different degrees, or in different ways. We therefore determined that appropriate legal and policy responses that account for differential impacts are needed.

This definition of the range of *types* of violence is expanded through an examination of the *contexts* in which different *groups of women* experience violence. In this sense, we have adopted the expressly intersectional legal framework used across many human rights treaties, and endorse its expansive coverage to the broad protections envisioned through the work of the CEDAW Committee. Following the global consensus on VAW/GBV, and Canada's legal obligations with respect to the same (more on this below), we adopted an approach that considers violence as:

- a social, rather than an individual, problem requiring comprehensive responses, beyond specific events, individual perpetrators, and victims/survivors;<sup>58</sup>
- affecting women throughout their life cycle;
- including girls;
- multiple forms, including acts or omissions intended or likely to cause or result in death or disability;
- physical, sexual, psychological, or economic harm or suffering to women;
- threats of such acts;
- harassment, coercion, and arbitrary deprivation of liberty;
- affected and often exacerbated by cultural, economic, ideological, technological, political, religious, social, and environmental factors;<sup>59</sup>
- taking place in the contexts of displacement, migration, increased globalization of economic activities—including global supply chains, extractive and offshoring industry—militarisation, foreign occupation, armed conflict, violent extremism, and terrorism;
- also affected by political, economic, and social crises, civil unrest, humanitarian emergencies, natural disasters, destruction, or degradation of natural resources; and
- harmful practices, such as female genital mutilation (FGM) or genital cutting, and crimes against women human rights defenders, politicians, activists, or journalists.<sup>60</sup>

Gender-based violence against women may amount to torture or cruel, inhuman, or degrading treatment in certain circumstances, including in cases of rape, domestic violence, or harmful practices, amongst others. In some cases, some forms of GBV against women may also constitute international crimes.<sup>61</sup>

### 3.2 Beyond definitions: state obligations and VAW/GBV

Against this definitional backdrop, Canada prides itself on its role as a strong state supporter of international human rights, the rule of law, and the international human rights regime. Canada has been a particularly strong voice in the international system on the importance of gender equality and freedom from violence, through its role in the development and promotion of CEDAW, the mandate of the UN Special Rapporteur on VAW (UNSRVAW), and more recently its domestic commitments to the Feminist Foreign Assistance Policy, active role in the Women Peace and Security agenda, and investment in equality-promoting international grant-making through the Equality Fund.

However, Canada has also been reminded of its obligations by those bodies it officially supports. In her report on her country visit, the UNSRVAW drew attention to Canada's obligations under CEDAW, specifically to protect all women within its borders, regardless of formal citizenship, and to its leadership responsibilities within the federation as a matter of compliance with its international legal obligations.<sup>62</sup>

The UN CEDAW treaty, doctrine, and jurisprudence details the state's obligations most fully. According to both CEDAW and the UNSRVAW, protection of women against the violence against them is now a matter of international customary law: "For over 25 years, the practice of States parties has endorsed the Committee's interpretation. The *opinio juris* and State practice suggest that the prohibition of gender-based violence against women has evolved into a principle of customary international law."<sup>63</sup>

This means that the standard of due diligence to fulfill this obligation is binding on all states in the world, regardless of formal agreements. In this sense Canada has as much duty to fulfill this obligation as it does to refrain from torture, slavery, genocide, and racial discrimination.

**3.3 Practical expressions of Canada's international legal obligations: Some recommendations**  
Through CEDAW's so-called individual communications, or individual cases brought to the treaty body from individuals claiming rights violation within Canada, certain patterns emerge. A nexus of public policy failures has been noted at the intersections of Indigeneity, race, and VAW/GBV.<sup>64</sup> These failures have propelled both the recommendations arising from individual breeches and from the reports that result from Canada's regular reporting cycles, or the Concluding Observations (COs).

An examination of these reveals that there have been specific directives to Canada that remain unfulfilled. We highlight these below as recommendations of the NAP. One of these, repeated across several COs, documents, and parallel human rights processes, such as the Universal Periodic Review (UPR), is the directive to create the NAP itself.<sup>65</sup> **The CEDAW and the UNSRVAW have also been at pains to point out Canada's obligation to advance and promote both the state's and the public understanding of its obligations under CEDAW.**<sup>66</sup>

While fulfilling Canada's current obligations and COs from the treaties it has already ratified is the first priority, our WGs view further adherence to the advancing world of global protections for women to be a live state of play in which women in Canada cannot afford to fall behind.

At the conclusion of the VIII Summit of the Americas held in Lima, Peru in April 2018, Prime Minister Justin Trudeau announced that Canada would begin the process to join the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (also known as the Convention of Belém do Pará).<sup>67</sup> **Canada should make good on this pledge and ratify and support the implementation of the Treaty of Belém do Pará, the regional Inter-American treaty on violence against women.**<sup>68</sup>

In 2019 the ILO Conference adopted a set of comprehensive and visionary international labour standards to prevent and address violence and harassment in the world of work. The ILO Convention 190 (ILO C-190),<sup>69</sup> along with its accompanying recommendation 206, provide minimum standards to guide legislation and regulation. The Convention clearly establishes the human right to a world of work free from violence and harassment.

**Ratifying the Convention means Canada pledges to apply it in law and practice and is required to report on its application to the ILO regularly. Ratification offers a process through which workers can hold governments accountable for their commitments. Although many Canadian jurisdictions already have legislation on violence and harassment, the ILO Convention offers a minimum standard that will help fill gaps in current legislation and regulations.**

We also advance the recommendation that because Indigenous women experience ongoing human rights violations, including the intersectional discrimination based on race, gender, ability, and sexuality that impacts both their individual and collective rights, that **Indigenous women and girls be meaningfully engaged to ensure their active input for the development of a federal, gendered, national legislative framework for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).**<sup>70</sup>

#### 4. Harmonizing and addressing the responses to MMIWG

The impact of genocidal social system destruction of First Nations, Inuit and Metis peoples in Canada has led to rates of violence against women and girls and LGBTQ2S+ communities that have drawn the condemnation of the international community as well as domestic human rights mechanisms. The violence has implicated law enforcement, justice systems and carceral practices, as well as healthcare, religious institutions, and education systems.

Despite this commonality of impact, it is worth underscoring the findings of the Calls for Justice that:

while many Indigenous women, girls, and 2SLGBTQQIA people share experiences of violence in common, the distinctions among these communities are important in understanding some of the specific ways ... in which their rights to safety can be upheld by all governments, institutions and service providers.<sup>71</sup>

This means the work that follows this report will need to ensure a distinctions-based approach “in relation to particular Indigenous communities—Inuit, Métis and First Nations as well as to Indigenous 2SLGBTQQIA people—whose distinctive needs must be addressed.”<sup>72</sup>

Understanding that this project is one of many streams contributing to the development and implementation of a NAP, to which Budget 2021 makes a foundational contribution, it is worth recalling that to date, with respect specifically to the relationship with the crisis of violence against Indigenous women and girls:

- The Minister has an Advisory of Indigenous women that is the Indigenous Women's Circle, as of 2018 known as The Minister's Indigenous Circle,<sup>73</sup> which advises WAGE on all things and is now in charge of the “Indigenous Pillar” of the NAP. In the time it took to complete this project, we were unable to formally meet with this Circle.
- Additionally, there is the MMIWG National Action Plan Core Working Group, working through Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), responsible for advising on the MMIWG National Action Plan.<sup>74</sup> We had a meeting with a senior public servant from this process, but were unable to gain guidance on how our report should support and echo their priorities.

The relationship between the NAP and the plans to tackle violence against Indigenous women and girls remains an area of great potential for the next phase of planning and implementation.

Our WGs were loath to pre-empt any findings led by Indigenous women that were contributing to this future collaboration, but they nonetheless reminded us that Indigenous laws and legal traditions pre-existed colonial ones, and that solutions to all our experiences of violence could and may lay in a careful dialogue with these.

Within an overall examination of the past and present response to gendered violence in Indigenous communities within Canada, Snyder, Napoleon, and Burrows (2015) have offered the following insight that affirms this observation: “There are significant intellectual legal resources that exist within Indigenous communities for thinking about and challenging social problems.”<sup>75</sup> They go on to say that a reclamation process offers us a unique opportunity to turn to Indigenous methods of dealing with violence, but only if we critically engage with fixed notions of culture.

The historic accounts of and responses to [...] violence provide Indigenous peoples with legal resources for dealing with similar issues of violence today. These resources can be accessed [...] through precedent in the form of Indigenous stories, songs, dances,

teachings, practices, customs, and kinship relationships. These resources can be used to reason collaboratively within Indigenous communities (and beyond), to discover and create standards and criteria for discussion, debate, and judgment when addressing violence against women.<sup>76</sup>

In a process of true engagement with the role of the state and colonial systems in the design and perpetuation of violence against Indigenous women, a frank reckoning with how to mobilize Indigenous knowledge for creating new systems based on old knowledge of prevention and response could start here. Importantly, however, it must not homogenize or westernize Indigenous legal practices. As set out clearly in the Calls for Justice:

Understanding how Indigenous laws and the values they contain shape the roles and responsibilities of First Nations, Inuit, and Métis women, girls, and 2SLGBTQQIA people is particularly important so that we can use these values to create healing encounters today. In addition, understanding the distinctions among Nations and communities in key areas is important in understanding that there is no one solution to implementing measures to promote safety and justice.<sup>77</sup>

As our legal WG states in its report, VAW/GBV is a complex and multifaceted issue that requires action by all governments according to their respective responsibilities, as well as cross-sector collaboration, traditional division of powers notwithstanding. Federal, provincial/territorial governments have acknowledged the urgency of addressing the multiple, complex, and deeply rooted factors contributing to VAW/GBV. There is a need for immediate commitments to continue to work together and with other departments, agencies and ministries, partners, stakeholders, experts, survivors, families, and people with lived experience to create a Canada free of VAW/GBV, where victims, survivors and their families are supported no matter where they live. The WG also felt challenged knowing that law as an instrument is not the only solution, but rather one of the pieces of the puzzle we are putting together. They were equally concerned that, in many cases, law is weaponized against the survivors who seek protection from legal institutions that are designed within the legacy of colonization.

## 5. Acknowledging the complexities and approaches of transformative justice

Building on the insights mentioned above, all of our pillars spent time debating traditional state and alternative visions of justice for VAW/GBV.

For the small percentage of survivors who go to the police, reporting is a painful retelling of trauma even if it is in the presence of an advocate. Victims who make a police report may also experience secondary victimization that can be more harmful than the victimization itself. Despite the predominance of carceral justice, many survivors want their offenders to be rehabilitated rather than incarcerated. People of colour are disproportionately charged,

convicted, and imprisoned. Incarceration doesn't always or often address survivors' other needs for healing, or the structural root causes of VAW/GBV.

Our prevention pillar was also at pains to describe how a continuum from victim/survivor to perpetrator uses a western framework of *us vs them*. It separates us from each other and rejects the idea that we are all in this together. In many world views, our well-being, our health, and our safety are intrinsically tied together. In this vision, we need to support healthier values and attitudes, healthier individuals, healthier communities, healthier institutions, and healthier relationships. This requires us to see primary prevention not as a method of changing individual hearts and minds one-by-one, but as part of a multi-pronged approach to addressing the systemic and cultural conditions that have brought us to this place and see us struggling to change the reality of VAW/GBV across the country.

This is not an approach that asks for less accountability but seeks to find accountability that takes into consideration the myriad intersectional harms that people face in their communities. Understanding this better allows us to address these issues with greater cultural competence, with a more trauma-informed and anti-colonial approach, and to reduce the dehumanization that ensures further harm will occur.

While restorative justice practices vary widely, they shift the focus from an adversarial binary of victim and perpetrator to one that acknowledges the impact of harm on individuals and communities. Restorative justice offers a collective forum elevating the voice of the survivors, recognizing the impact of violence on community, and allowing the person who caused harm to understand the impact more fully. Unlike the retributive criminal justice system, the aim is restoration, rehabilitation, and the healthy reintegration of all parties back into the community.

While there was no uniform call across the pillars, our Prevention pillar went the farthest in delineating what elements would ensure that a transformative justice approach, should it be deployed, could offer a truer form of justice. To this end, it should:

- be grassroots- and community-focused.
- emphasize transformative and restorative justice centred on decision-making by the person who has been harmed.
- seek to rehabilitate and engage people who have caused harm.
- include men and boys in violence prevention work with a recognition that not all men and boys experience patriarchy and privilege in the same ways. Recognizing multiple masculinities and the experiences of BIPOC men and boys, LGBTQI2S+ men, men with disabilities and other intersecting identities.
- address root causes of violence; and
- recognize that VAW/GBV is rooted in the cyclical and mutually dependent relationship between historically entrenched inequalities, resulting in the perpetuation of unequal relations and poor living conditions, compounded by layers of marginalization, (i.e., patriarchy, colonization, a racialized labour

- market, pre-migration experiences of war and natural disasters, segregation, and devaluation due to disability)—that have resulted in higher rates of violence.
- acknowledge the power of language (e.g., recognize that labels can become identities and that people should always be given space to self-identify); and
  - focus on prevention strategies rather than reactionary strategies to address violence, particularly moving away from carceral models.

This approach starts from the premise that to make an impact in the prevention of VAW/GBV, people of all genders need to be involved, and that men and boys have a significant role and meaningful opportunity to affect change, both on the individual level and as a group that has been afforded structural and institutional power. Any successful efforts towards reducing VAW/GBV must include a plan to address harmful norms around masculinities. Funding for and focusing on education, prevention, and intervention for men—as part of services and programs that are destined for women, girls and non-binary people—often fragments response to an already under-resourced crisis. The evidence points to a serious need to address men’s harms, but this must be considered carefully and with adequate resources.<sup>78</sup> How men are engaged also matters, so programs that are gender-transformative and that tackle harmful norms of masculinity are needed.<sup>79</sup>

Transformation is also about shifting remedies, perceptions, and language about people who use violence. Punitive action and carceral responses have been the standard answer, but to change existing power dynamics, we need to consider if new approaches are needed. Exactly how they can be applied without causing further harm must be considered, so that the needs of those harmed are centred.<sup>80</sup>

It is impossible to ignore the criticisms that the process may be unsafe, subjecting survivors to further victimization, the possible cooptation by the legal system, which may result in unsatisfactory treatment not unlike that in the adversarial system. Restorative justice requires the offender to admit responsibility before a conference. This is a challenge in dealing with sexual violence, which is associated with high rates of denial. There are remaining concerns that a non-criminal process could entrench public perceptions that VAW/GBV is not a serious crime, underscored by the fact that in a restorative process, survivors must be willing to engage face-to-face with the person who harmed them. Additionally, in order to implement a restorative process safely, it requires significant investments. Half measures would not meet the standard contemplated here.

Largely initiated by grassroots movements, transformative justice signifies opposition to the criminal justice system and reforms that legitimize the existing system of crime control. Rejecting the criminal justice system as primarily responsible for the violent oppression of marginalized communities, transformative justice responses seek resolutions within more intimate systems of community or civil society.

Transformative justice remains exploratory and flawed, and in its current form, it is a still young practice. We cannot ignore that many survivors want the criminal legal system to work for them; they want to see those that harmed them punished, and as a society, we need to consider where further distancing ourselves from criminal accountability and response might lead.

## 6. Addressing police and state violence, colonialism, and racism

As we reported in our interim submission, we have tapped into the upsurge in calls for reform of most VAW/GBV response systems in light of racism, ableism, and transphobia. As set out in our Executive Summary, this desire for re-examination and reform also reconsiders the role of policing in VAW/GBV response. As with other areas of our deliberations, we have not had the investment of time to establish a definitive approach to achieve the change that is needed.

One of our pillars, Prevention, made a clear and specific call for police defunding, but this area of policy reform, while a common concern and impetus, was not the subject of a consensus in the form of a specific recommendation for the project as a whole.

Prevention points out that social movements<sup>81</sup> and institutions are calling for serious reform, restructuring, and abolition of police forces, and these calls are carried to all levels of government. Policing is contested, not only because of its history in colonizing Indigenous peoples<sup>82</sup> and enforcing enslavement and ongoing discrimination against Black people,<sup>83</sup> but also because of its lack of capacity or willingness to address VAW/GBV from a trauma-informed perspective. Policing is mired in controversy over the racism and misogyny of individual officers<sup>84</sup> and the lack of accountability from the institution as a whole concerning the harms it causes. While it has long been suggested that increased levels of community collaboration with police forces would improve their response, this has not been successful overall.<sup>85</sup> Concerns about violence within and by other male-dominated institutions, such as the Canadian Armed Forces, were raised and considered in the light of how to engage men and boys in ending violence. Indeed, this latter arena was addressed in Budget 2021 through investments that aim to support survivors within the military as well as supporting the forces to transform their cultures of misogyny.

The National Inquiry into MMIWG Calls for Justice recommendations<sup>86</sup> underscore the role police have played in perpetuating—not protecting from—the genocidal gendered violence Indigenous women experience in Canada. We are in the midst of an overdue reckoning with police brutality, over-policing, and under-protection of Black communities in Canada.<sup>87</sup> Both Indigenous and Black people, as well as those with mental health issues, are most at risk to be killed at the hands of police in Canada due to ongoing structural and systemic violence.<sup>88</sup> Additionally, we are seeing new layers and levels of a police culture defined by sexual harassment and sexual assault, and their subsequent cover-up.<sup>89</sup>

While reflecting on recent police killings of Black people in the US, the Supports for Survivors and their Families pillar amplifies this context, pointing out that Canada appears to have advanced a reckoning with colonization, white supremacy, and the enslavement of Africans on its own lands. But to what degree can reform rectify these responses for VAW/GBV survivors? This begs the question of the role of training and education, to the extent that the current system is, as our legal WG stated it, what we have to work with. They point out that the Canadian social infrastructure exists in a highly regulated environment; therefore, engagement with a solid legal and justice framework is essential to a 10-year NAP to end VAW/GBV. In light of these considerations, all pillars addressed the question of education and training as part of the NAP's purview; that is, in terms of the education and training required for the reform of existing institutions, the development of receptivity to new institutional responses altogether, and the education of individuals in terms of both responses to and prevention of VAW/GBV.

## 7. Education and training

Education and training for all legal and justice actors was a concern for each of our WGs and an important component of working towards equitable access to justice for survivors of VAW/GBV. Training must address racism, myths and stereotypes of sexual violence and domestic violence—including risk to victims and their children after separation—and be developed and implemented in consultation with frontline advocates.

Furthermore, over the 10 years of the NAP implementation, all broader health and social services sectors, including psychosocial, and medical workers should receive general training on how to recognize and respond to VAW/GBV and offer appropriate referrals.

The plan could contemplate working with professional bodies to ensure that the organizations training professionals who interact with survivors of VAW/GBV receive adequate and ongoing training to identify intersectional violence and risk factors.

Notwithstanding the concerns expressed in the crosscutting theme above, our groups have called for the NAP to encourage the establishment of training for police and other institutions—such as the Canadian Armed Forces, Corrections, and the RCMP—that includes a trauma- and violence-informed practice.

However, education without accompanying anti-oppression work, positive and identifiable outcomes, and a commitment to meaningful accountability is inherently limited and will have only limited success in achieving the desired goals. Education and training can be bottomless pits without results-based attention to institutional change. To ensure equitable access to justice for survivors of VAW/GBV, we recommend ongoing, mandatory education and training for all legal and justice actors who work or could work with VAW/GBV survivors in their respective roles. Stable, sustainable, and adequate funding for such education and training

could be provided by FTP governments and, where appropriate, by professional governing bodies such as law societies.

Two of our pillars also called for public education campaigns (and commensurate increased VAW/GBV sector funding to ethically respond to increased demand that results from increased awareness) in connection with VAW/GBV and the COVID-19 pandemic. They also called for education with a longer view using a gender-transformative approach to transform the prevailing social systems and structures that produce and maintain gender inequality and drive VAW/GBV. Violence prevention is an ongoing process and the various timelines involved in our recommendations reflect that.

## 8. Grassroots as a central part of the response

Our WGs made the point throughout their work that the NAP will be accountable to grassroots, community-based, anti-violence feminists, LGBTQI2S+ activists, human rights and equity-seeking groups, as well as women's anti-violence leaders, acknowledging their specialized expertise and past and current work on these issues for decades. Centring the role of these forms and locations of knowledge in the effort to scale up will be a delicate balance to achieve the change we are envisioning. At its heart, this recommendation goes back to the call in our Interim Report to institute a non-governmental entity, including those with public policy experience, to guide the 10-year framework and implementation, complete with accountability measures.

This cross-cutting theme also entails crediting and advancing successful, informal responses to addressing and preventing VAW/GBV. Survivors and their families have a right to safety, healing, and justice. As such, "supporting survivors" means not only creating accessible individual services, but also ensuring that survivors have their health, emotional, financial, and spiritual needs met in the aftermath of violence. Formal VAW/GBV services need to be trauma- and violence-informed, as well as intentionally anti-racist and anti-oppressive. Services and systems response must be evidence-based while also recognizing and integrating multiple ways of knowing. Listening to the voices of survivors and their families, and acting on their recommendations, lays the groundwork for a deep intersectional response to harms experienced.

## 9. Advancing wrap-around services

The Supports pillar WG looked at this reality and the pre-existing deficiencies. They offered their insight that an overall plan to reduce and ultimately end VAW/GBV will require a multi-sector/multi-system, all-of-society approach.

Enhanced coordination, collaboration, and information sharing between VAW/GBV core service providers and systems such as policing, mental health, and education are needed to increase safety for victims. They recommend the creation of an independent civilian oversight body for provinces/territories to hold government accountable, especially for violence perpetrated within government support systems. They also emphasized that those who work on the frontlines with victims and survivors are at risk of adverse outcomes due to vicarious trauma.

Until shifts in attitude, and appropriate responses from the justice and legal systems and social supports are widely available and adequate, victims/survivors and their families need specialized supports. Currently, specialized supports are limited by geography and lack adequate funding. Those experiencing VAW/GBV may not be aware of formal services or may feel unwelcome in those spaces. It is crucial that formal services and support be trauma-informed, violence-informed, and culturally appropriate, and delivered in a rights-based manner.

Survivors require access to timely, reliable, inclusive support services that meet their needs based on their lived experiences. Because many survivors do not reach out to formal support services, efforts must be made to ensure that natural supports, such as community groups, cultural groups, faith communities and the general public, can identify warning signs and risk factors for those vulnerable to VAW/GVB, and know how to respond in an effective and safe manner.

In our demand for a robust, long-term investment in VAW/GBV prevention at all levels of government, we insist, in keeping with the very purpose of the NAP, that this is not pitted against other actions taken to address these issues. For instance, resourcing for prevention cannot be taken away from other areas of gender-justice investments.

Prevention can be difficult to measure in ways that are recognized by dominant institutions, and is often viewed as less politically valuable. But without meaningful, long-term, and robust prevention efforts VAW/GBV will not diminish because the underlying, root causes and unequal conditions that uphold it won't be addressed. In fact, Canadian data indicates that crime is decreasing in Canada except for sexual assault, which continues to increase.<sup>90</sup> A vision as well as a plan to prevent and eradicate VAW/GBV is essential.

## 10. Ensuring a stable VAW/GBV sector

As noted in the Executive Summary, this report and the work that informs it was undertaken in advance of the tabling of the 2021 Federal Budget.<sup>91</sup> Our Interim Report was filed in advance, with the intention of providing guidance for the budget process. We are pleased to see evidence of our guidance there. After campaigning for 10 years for a NAP, we called on the federal government to show it takes the escalating VAW/GBV we have delineated here seriously, by investing in establishing a NAP, funding a diverse and sustainable women's movement, and allocating sustainable and escalating funds for prevention, education, and attitude change. Our working groups have reiterated here that funding should reflect the reality that anti-violence frontline services provide "wrap-around" support that often goes beyond addressing violence. Such services also engage in activities of prevention, advocacy, and awareness-raising, but these essential and lifesaving activities are seldom included in operational funding agreements.

We call for the continued stabilization of supports for survivors and their families, and for changing systems that perpetuate and maintain the conditions for violence not covered elsewhere in the budget, or where significant coordination is required to make an investment elsewhere that is responsive to VAW/GBV. As we set out in the Executive Summary, we want to ensure that this investment conforms to our expectation that framing, oversight, implementation, and accountability for the NAP remain in the hands of the experts who have the skills to guide it, and that the sector is stabilized beyond the first two years contemplated by the budget.

Likewise, those at highest risk of violence must be central in the redesign of how funding is allocated. Focus on people living in rural and remote areas, Indigenous women, Black women, women with disabilities, women of colour, gender non-conforming, and 2SLGBTQQIA+ people—and not a per capita funding formula—would follow the evidence as to where the investments would have the greatest impact.

Seldom mentioned in discussions of the vicarious trauma (VT) experienced by first responders—who are almost exclusively seen to be those in male-dominated professions, such as firefighting, police, and paramedics—anti-violence frontline workers are for the most part, poorly paid and inadequately supported for the VT that characterizes their work. During COVID-19, the rapid and dramatic shifts in how services are rendered at ground level have impacted not only service users—the people in crisis—but also service providers, the many whose daily labour ensures that systems of care and programs of support are managed, maintained and, during COVID-19, transformed, to help women escape violence safely and “stay safe” during a pandemic.

Frontline workers shoulder much of this burden, while dealing with their own anxieties about childcare, safety, job security, and other workplace issues. Accumulated stress leading to

burnout is not uncommon in this type of work, with the changed and common experience of COVID-19 giving further rise to deeper consideration of integrating trauma-informed practises into the workplace. Distinct from burnout or stress, the impact of witnessing a steady diet of the traumatic experiences can trigger VT, where “helpers begin to display an array of symptoms comparable to their traumatized clients.”<sup>92</sup> Digging deeper into this topic area as a means to practical transformation and increased resiliency is on the minds of many service providers. Recognition of shelters as a vital service during COVID-19 further advances consideration of adequate support to those who deliver these services.

## 11. Advancing safe workplaces

The majority of workers rely on employment standards legislation for basic rights at work—including wages, hours of work, vacation and sick leave, termination, and severance rights. It is the only source of workplace rights and protections for roughly two-thirds of non-union workers without a collective agreement, including many women experiencing DV. Employment standards are crucial for workers, many of whom are immigrant and racialized women, in the growing number of precarious jobs. There is evidence of deteriorating conditions of work for those who rely on employment standards. The ‘Uberization’ of jobs, where workers are deemed independent contractors, excludes them from the basic work rights provided through employment standards. The federal government should strengthen, enforce, and extend employment standards to cover all workers.

Increased minimum wage for low-waged women facing VAW/GBV will provide better labour market outcomes, and better options to address individual cases of VAW/GBV. Black and Indigenous women who have lower employment rates, lower savings, and reduced incomes on average, would benefit from increasing the minimum wage. This would also boost the income of 56% of all working women concentrated in the 5C jobs—caring, cashiering, catering, cleaning, and clerical work—many who work at or just above minimum wage. Raising the minimum wage is the most important measure to address the pay equity gap for low-waged women.

The ILO C-190 on violence and harassment in the world of work sets out clear, gender-responsive policies for governments and employers to implement towards the elimination of all forms of violence and harassment at work. It requires specific action to address VAW/GBV, including domestic violence, as well as efforts to reduce risk in sectors, occupations, and work situations with a particular vulnerability to violence. The ILO C-190 becomes legally binding once a country ratifies it. Canada requires the agreement of all provinces and territories to ratify the convention, and once ratified, would benefit from a tripartite approach to planning and monitoring its implementation.

Currently, Manitoba and British Columbia provide access to five paid days of domestic violence leave, with an additional 10 unpaid days. All other provinces/territories and federal government provide fewer total paid and unpaid days, while Alberta provides no paid days. Domestic violence leave allows workers who are experiencing violence the flexibility and time during the workday to do what they need to do to keep themselves and their children safe, without fear of losing their job or their paycheque. There should be consistency in access to domestic violence leave across all jurisdictions, with 10 paid days as a standard.

### 11.1 Improving access to decent jobs

Violence against women/gender-based violence shapes labour markets in ways that disadvantage and discriminate against women and girls by limiting opportunities, reinforcing subordination, and perpetuating stereotypes—thereby condoning violence and increasing vulnerability to it. Efforts to increase the numbers of women in a wide range of occupations have been only marginally effective in meeting equality goals and the future demand for workers. Research indicates main causes are due to poor coordination/resourcing within existing programs, employer intransigence resulting in isolation, lack of opportunities, violence, and lack of flexibility for family support. Barriers continue to response and prevention of the real/perceived hostile work and/or training environments that drive women out of jobs and contour career decisions.

Decades of austerity-driven fiscal policies and a market-based approach to the delivery of care have created inequities and gaps in access to care services for children, the elderly, and people with disabilities. The lack of access to quality, affordable care contributes to the disproportionate burden of unpaid care for women in Canada. Paid care work is undervalued and often precarious, marked by low wages, difficult working conditions, poor job security and understaffing. Care workers are overwhelmingly women, many of whom are racialized, recent immigrants, or migrants.

The underfunding and privatization of post-secondary education in Canada has compromised quality, accessibility, universality, and affordability—key principles for post-secondary education. Women have less access to EI training funds and therefore less access to privately-run programs.

### 12. Realizing the right to housing

The lack of adequate shelter and housing options is one of the most significant barriers preventing women, girls, and gender-diverse individuals being able to leave situations of violence and rebuild their lives.

The number of women, girls, and gender-diverse individuals experiencing homelessness in Canada is dramatically underestimated and misunderstood. When women leave their homes

because of VAW/GBV, they become homeless. However, women are significantly over-represented in the population of the “hidden homeless” at the same time that homelessness policies continue to be aimed predominantly at addressing visible homelessness. Across Canada, 13% of homelessness shelter beds are dedicated to women, while 68% are co-ed or dedicated to men. Shelters for women experiencing VAW/GBV are at or over capacity in many communities, while other communities have no facilities, particularly in some of the most vulnerable and heavily affected communities in the north and in rural Canada. In other cases, the options that are available create unacceptable barriers for the women who are using them.

Even where women can avail themselves of the services, significant barriers prevent them from accessing stable, permanent housing. Women face disproportionately higher levels of housing need, at the same time as they experience higher levels of poverty, childcare responsibilities, and intimate partner violence. The feminization of poverty makes it difficult for many women and women-led families to afford rent. This inequality is compounded for racialized women, who experience higher levels of poverty and discrimination.

All of this is a direct result of the fact that the right to housing for women, girls, and gender-diverse individuals has not been realized in Canada. Ensuring the implementation of the right to housing of women, girls, and gender-diverse individuals therefore must be a top priority, with emphasis placed on appointing the Federal Housing Advocate who can be a champion for the needs of women, girls, and gender-diverse individuals fleeing VAW/GBV, collecting and critically analyzing data on the unique housing needs of women, and the extent to which government programs and policies are meeting those needs. An emphasis must be placed on ensuring that new builds respond to the standards of universal designs to meet the needs of women with children with disabilities. A new definition of homelessness must also be developed, recognizing the unique ways in which women, girls, and gender-diverse individuals experience homelessness. Policies and programs must be designed to specifically address their needs with particular attention to Indigenous women, girls, and gender-diverse peoples who experience the most egregious housing conditions throughout Canada and remain the most underserved in both the VAW/GBV and homelessness sectors.<sup>93</sup>

### 13. Childcare

Budget 2021 made childcare a centrepiece of its social investment. Nevertheless, the implementation of this promise may partly depend on mobilizing the commitments to the NAP made by the provinces/territories and will likely engage further monitoring and advocacy by the NAP implementation process over several years.

The absence of quality, affordable, and accessible Canada-wide early learning and childcare services has negative consequences on women, children, and families and is also a barrier to women and gender-diverse people seeking to rebuild lives free from violence and poverty.

The UN CEDAW observes that “disadvantaged socioeconomic conditions and a lack of social services increase women’s vulnerability to violence, since the lack of access to such resources reduces the choices available to women in situations of risk and prevents them from escaping violence.”<sup>94</sup> CEDAW further points out that “Indigenous women, immigrant women, racialized women, women with disabilities and queer and trans women experience disproportionate rates of violence,”<sup>95</sup> affirming the importance of childcare in redressing and preventing VAW/GBV.

A lack of accessible childcare makes it exceedingly difficult to find and retain employment that can enable greater financial independence. Lack of childcare also constrains the ability to seek counselling and legal supports required to heal from the trauma of VAW/GBV and to rebuild women’s and children’s lives.

Canada does not have enough regulated childcare spaces for children aged 0-12 years. In 2019, 5,076,000 children competed for just over 1,500,000 regulated childcare spaces. This means there were enough spaces for less than 30 percent of Canada’s children, while the number of children with employed mothers was at the highest level since 1995. These figures precede the onset of the COVID-19 pandemic in March 2020. Women have borne the brunt of the economic and social impacts of the pandemic. It is having a staggering impact on women’s employment, with mothers exiting employment at alarming rates. COVID-19 has also affected childcare provision, with many facilities at risk of closure due to financial losses as they operate under public health guidelines yet without sufficient government funding. According to Child Care Now, Canada’s national childcare public education and advocacy organization, COVID-19 exposed all the problems with market-based childcare, and the absence of a fully publicly funded and publicly managed childcare system.

The Social Infrastructure NAP working group joins with Child Care Now to call on the federal government to recognize early learning and childcare as critical social infrastructure. We call for a fully universally inclusive, fully publicly funded and managed high-quality system that all parents can afford. This will be essential in preventing and ending VAW/GBV in Canada.

#### 14. Healthcare

Canada’s healthcare system must be equipped to respond to the health outcomes of VAW/GBV, to provide timely, trauma- and violence-informed support and care to people experiencing violence. However, significant gaps in access exist, particularly for those living in rural, remote, and Indigenous communities, or those who face barriers because of race,

immigrant or migrant status, Indigeneity, sexual orientation and gender identity, disability, or other grounds.

Many people in Canada do not have access to drug coverage through workplace policies—especially women, recent immigrants, and racialized Canadians—people who are more likely to be unemployed or employed in precarious and part-time work. Access to prescription medicines, including birth control and gender-affirming treatments, is necessary to promote health and wellness, as well as address the physical and emotional impacts of VAW/GBV.

Access to sexual and reproductive healthcare is essential to preventing, mitigating, and responding to VAW/GBV, including reproductive coercion. Women who face intimate partner violence and reproductive coercion are twice as likely to experience an unintended pregnancy. However, considerable barriers in access to abortion services and other sexual and reproductive health care exist, particularly for those living in rural and remote communities. Measures are also needed to investigate, prevent, and address VAW/GBV perpetuated by the state, including the forced sterilization of Indigenous women and surgical procedures performed on intersex children.

## 15. Safe, affordable public transportation and transit

Safe, affordable, accessible public transportation systems are crucial for women to find and maintain employment, and to live independently and away from VAW/GBV. Transportation and transit systems are a mechanism to prevent, respond, and mitigate VAW/GBV, but are also a space where violence occurs. The needs in rural and remote locations compared to urban settings also demonstrates the complexity of developing solutions.

Safe, affordable, accessible transportation is needed to exit a violent environment/circumstance, and to access the services and supports available to people experiencing VAW/GBV. In Canada's north, where distances between small communities and larger city centres are vast, and a dearth of affordable, accessible transportation between communities means mobility is restricted, and therefore security and services are hard to access. Some of these remote, northern communities are where levels of VAW/GBV are highest. Women in these communities are forced to use taxis, ride-sharing apps, Uber, a private vehicle or hitch-hiking to get out of town. In some northern communities and work camps, where there is no road, air transport is needed to get to safety or to a hospital.

The report on Murdered and Missing Indigenous Women and Girls called attention to how the absence of safe and affordable transportation systems contributes to violence and murder of Indigenous women. For Indigenous women in Saskatchewan, “the summary removal of public transportation systems as an avenue for escape”<sup>96</sup> means that survivors without access to a vehicle must disclose to their band council or the government their reasons for needing to

leave the community and receive approval before they can access treatment. For some survivors, especially those who want to protect their anonymity or avoid retaliation by the perpetrator, this is an insurmountable obstacle to accessing care.<sup>97</sup>

Violence against women/gender-based violence also occurs in transportation spaces—in public transit, private taxis, Uber, and ridesharing. Women make up the majority of transit riders, often out of necessity and lower incomes. Expensive fares, reduced service routes, and high fines disproportionately affect persons of low socio-economic status.

Sexual harassment and assault in public transportation is a known problem but there is no large-scale, systematic data collection to demonstrate its extent or intersectional nature. A Statistics Canada national survey on VAW/GBV shows that about one in three women (32%) were subjected to unwanted sexual behaviour while in a public place in 2018. Of those targeted, one in eight—or 629,000 women—said the most serious instance was on public transit.<sup>98</sup>

## 16. Information and communications technology

In 2016, the UN General Assembly passed a non-binding resolution declaring internet access a human right.<sup>99</sup> Access to communications services and devices, such as a cell phone, should also be considered a basic human right. Information and communications technologies, or ICTs, is a term used to refer to all communication technologies, including infrastructure providing access to the internet or wireless networks, hardware such as cell phones, tablets, and computers, and software and applications that allow people to send, transmit, store, and create information. Such infrastructure, services, and devices are critical to a person's ability to document, prevent and respond to VAW/GBV. People use ICTs to document VAW/GBV (taking pictures, audio, or video recordings of violence, for example), to report VAW/GBV, to respond to violence, access resources and supports, maintain social safety networks, and plan for their safety. These ICTs are also essential to manage finances, access government benefits, and find new housing or childcare.

The places in Canada with the highest rates of VAW/GBV also have the lowest levels of access to ICTs, as the capacity to connect is contingent on the availability of infrastructure, like cell phone towers or fibre optic cable. Device affordability and accessibility is often a barrier for many people who are preventing, responding to, or needing to document VAW/GBV. Canada has generally taken a market-based approach to internet and communications access, and the monopolized nature of the industry has created substantial gaps and inequities in access.

The patchwork of Canada's ICT infrastructure capacity and ICT plan provision is highly variable and therefore requires a granular analysis based on specific needs from each jurisdiction.

## 17. Income support

Expedited access to social assistance is often critical to help women flee violent situations. Ideally, social assistance would function as a key pillar of wrap-around supports, designed to respond to the unique needs and circumstances of victims of violence in ways that are trauma-informed and culturally appropriate (e.g., flexible work requirements, rules around disclosure of violence, asset, and income thresholds, etc.). While all provinces/territories extend financial aid, women continue to face significant barriers accessing needed support.

Targeted reforms of Canada's income security system of the type we propose will not succeed unless the foundational system itself is reorganized to meet the needs of the most marginalized. This includes reforms to the general stream of social assistance, increasing benefits, re-orienting administrative processes to highlight dignity and respect, and building out effective education and employment programming. It also requires a fundamental overhaul of other programs—notably disability benefits—to reduce the complexity and gross disparities in level of support offered, establishing a minimum income guarantee for all.

The reliance on Canada's tax system to deliver income security benefits creates significant barriers for the poorest of the poor, including Indigenous peoples, those with precarious immigration status, and vulnerable young people. The limitations of Canada's unemployment insurance system have been evident for years, with coverage rates of about 40% pre-pandemic. When COVID-19 hit, EI could not reach enough people, pay them enough or dispense the money quickly enough. Large groups of workers did not have access to paid sick leave.

COVID-19 has exposed long-standing structural and systemic ableism. This includes high levels of poverty (about twice the rate of people without disabilities) and high levels of violence (45% of all female victims of crime were women with disabilities). See Appendix E for a more in-depth discussion.

## 18. Providing for data and monitoring, evaluation, accountability, and learning (MEAL)

As noted in the Executive Summary, international best practices on coordinated response, such as NAPs, clearly reflect that MEAL is crucial to the successful implementation. Our findings, as endorsed by our WGs, call for the establishment of an independent oversight body to monitor the implementation of Canada's 10-year NAP to end VAW/GBV.

An independent institutional mechanism—with one of its core responsibilities being monitoring the progress of implementation—is frequently seen as a core component of NAPs and allows responsibility for MEAL to be clearly resourced and located. This can take many forms and mandates. Sometimes it can be that the monitoring body is the same as that which leads implementation of the NAP, such as in Cambodia, where their NAP<sup>100</sup> was both implemented and monitored by their Ministry of Women’s Affairs. It can be that an independent oversight body is formed to both implement and monitor the NAP, such as Guyana’s National Policy on Domestic Violence (2009),<sup>101</sup> which mandated that an oversight committee lead the implementation of the policy and monitor its progress. In other countries, the mechanism that monitors the NAP is independent of the plan’s lead implementation mechanism. This independence clearly strengthens perceptions of validity of results, and can support implementing states’ claims to accountability, evidence-based practice, and continuous improvement.

For example, Mexico’s National Action Plan for Preventing, Addressing and Eradicating Violence against Women (2007–2012) calls for the creation of an independent coordination mechanism for monitoring and evaluation. While in other countries, such as Australia (ANROWS)<sup>102</sup> and Argentina (Observatory on VAW),<sup>103</sup> independent bodies not only monitor the implementation of their state’s coordinated response, but also have the powers to conduct data collection, evaluations, and undertake research, thereby providing de-facto coordination of the evidence base and evidence-building facet of the plan’s implementation. The advantages to this approach lie in the centralization of research, data, and evaluation expertise, which can then be brought to bear on the monitoring process in a relatively seamless fashion. It also has the potential to strengthen shared understanding of VAW/GBV and promote coherent programming across sectors and different forms of practice.

Therefore, we call for the formation and funding of an independent oversight body to systematically monitor the overall progress towards the development and implementation of the NAP; to undertake evaluations of the government’s actions towards the NAP goals; provide regular timely and publicly available reporting on the implementation of the NAP; and generate evidence that is available to all, to deepen knowledge and understanding about exactly what is working and why, or why not. This emerged as a high priority recommendation across all four WGs.

Globally, while coordinated responses, such as NAPs to end VAW/GBV, have been developing for the past three decades, the evidence base remains relatively weak—particularly, the evidence on the many manifestations of oppression and abuse of individuals based on their sexual orientation, gender identity and expression (SOGIE). The evidence on effective strategies to prevent such violence, and to provide support, enabling environments and social infrastructure for victims, survivors, and their families is even weaker. To date, for many countries, the success of coordinated responses like NAPs to end VAW/GBV often has been measured in terms of achievement of coordination itself, rather than outcomes. However, to

simply have a NAP in place is not evidence of improvement in the quality of life, or a life free from violence, particularly for cis women, trans women, Black women, Indigenous women and people of all sexual orientations, gender identities and expressions (SOGIE).

To ensure that evidence is generated to support good governance on the NAP in Canada—meaning governance that is transparent, accountable, and that takes an inclusive, intersectional, and rights-based approach—it is crucial that an intersectional feminist lens is applied to the MEAL process. Although the Government of Canada renewed its mandate to support GBA+ across all federal departments—including the new Results directive to “consider” GBA+ in all government-led evaluations across Canada—it is simply not enough when it comes to a NAP to end VAW/GBV. Applying an intersectional feminist lens also acknowledges that evidence needs to be seen beyond the traditional approach to data collection. Where surveys and datasets are used, they must include the broadest possible accounting of situated social categories and locations. Hence, an intersectional feminist approach to MEAL challenges us to think differently about what is considered evidence. It pushes the boundaries of how this evidence is gathered, and questions who gives it meaning and relevance.

An intersectional feminist MEAL strategy supports:<sup>1</sup>

- learning about how change happens (and what works), both in real-time and through periodic evaluations;
- analyzing the role of the government, the sector, the survivors of VAW/GBV and the public in the change process;
- acknowledging that there are multiple ways of knowing, and evidence gathering cannot be done without the inclusion of survivors of VAW/GBV (honouring the principle of “nothing about me, without me”—not just as the target respondents, but also as collaborators involved in the process from the beginning).
- empowering victims, survivors, and their families, as well as other key stakeholders, to ensure change in improving transparency and accountability is sustained.
- advancing advocacy for social justice.

It will be a step toward creating accountable and measurable progress on this crucial area of social policy investment. To that end, we recommend:

- 1. Providing adequate funding to create an intersectional feminist MEAL strategy, framework and processes.** The 2021 federal budget has allocated \$14 million to WAGE over the next five years for the development of a NAP to end VAW/GBV. We recommended that at between 5% and 15% of that budget be allocated to develop an intersectional feminist MEAL strategy, accompanying framework(s), and processes. Going forward, 5%–15% of any budget allocated to implementation of the NAP itself must be allocated towards MEAL processes.
- 2. Creating an independent civilian oversight body to monitor, evaluate, hold the state to account on the implementation of the NAP and generate knowledge for informed and**

**evidence-based policy making.** This independent civilian oversight body must be comprised of expert community members and survivors of VAW/GBV, representative of diverse communities in Canada, particularly those from Indigenous, Black, and racialized communities. Canada has a patchwork of initiatives regarding collecting, synthesizing, and actioning VAW/GBV-related information, with some areas (jurisdictions, groups, types of VAW/GBV) better covered than others. A national organization would map these and promote ways to bridge gaps. Specifically, the independent civilian oversight body must focus on building a national data collection framework on VAW/GBV across Canada. This includes data collection on all manifestations of VAW/GBV, including (but not limited to): family violence, IPV, DV, adolescent dating violence, femicide, hate crimes, elder abuse, sexual violence, sexual exploitation, child abuse, human trafficking, harassment, stalking, technology-facilitated violence, workplace violence, and violence perpetrated by systems meant to support, such as policing.

Furthermore, all data should be publicly accessible so that local communities can use it. Finally, with more than \$300 million in the 2021 federal budget going to Statistics Canada over the next five years to generate better data, we call for oversampling in all national survey data collection for socio-demographic categories, including but not limited to Indigenous women, girls and non-binary individuals; visible minority women, girls and non-binary individuals; women, girls and non-binary individuals experiencing dis/abilities; youth with dis/abilities; women, girls and non-binary individuals experiencing homelessness; women, girls and non-binary individuals living in rural/remote locations; and 2SLGBTQQIA+ populations. This will allow sufficient sample size for intersectional analysis. We must be able to evaluate the success of the NAP-recommended actions using appropriate and diverse metrics generated by and for the sector, its unique constituents, and the survivors of violence themselves.

**3. Honouring the principle, “nothing about us, without us” on data and evidence-gathering.** Evidence gathering cannot be done without the inclusion of survivors of VAW/GBV—not just as target respondents, but also as collaborators involved in the process from the beginning. Therefore, WAGE and Statistics Canada must consult VAW/GBV survivors, gender-justice sector experts and anti-VAW/GBV advocates. We must allow evidence generated that honours the narratives from Indigenous survivors, 2SLGBTQQIA+ survivors and from Black and racialized survivors of VAW/GBV.

**4. Creating space to amplify the voices of survivors of VAW/GBV to tell their stories.** It begins with the acknowledgement that there are multiple ways of knowing and that some are more privileged than others. In line with the principle of “nothing about us, without us,” we must also strive to include ways that honour lived realities, and the contexts VAW/GBV survivors. This means prioritization of qualitative methodologies, primarily participatory approaches—such as ethnographies, Indigenous storytelling and truth gathering, and community-based action research, among others—in which survivors are able to share their experiences in a manner that ensures safety, justice, and healing.

## Conclusion: Moving forward

Our project, to guide the framing and implementation of Canada's first National Action Plan on VAW/GBV starts and finishes with a bold, ambitious, and intersectional vision. Rooted in vibrant activism, a network of services, leaders and experts, and a context calling for radical system change, this report is offered as one building block to achieve that vision.<sup>104</sup> Our intense and productive strategic engagement with some of Canada's leading VAW/GBV advocates under punishing timelines held nothing back.

Viewing this moment as the rarest of all moments—a once-in-a-generation opportunity for real change in the lives of millions of women and gender-diverse people who experience VAW/GBV—we took our responsibility to heart and gave all that we had: for many of us, it is a lifetime of work on this issue; for others, it is the beginning of a career devoted to bringing a fresh perspective for the work ahead. We are all motivated by a realistic ambivalence about the possibility of engaging the project of governance and still being able to radically transform existing harms; and yet, we woke each day to this work filled with radical, irrational optimism.<sup>105</sup>

Throughout this report, we have tried to reflect these twin imperatives: realism and optimism; reform and transformation. We are guided by the weight of twin global crises—one viral the other man-made—shaped by international norms and human rights obligations and reminded of the daily terror suffered by individuals theoretically protected by those rights to whom this report is dedicated. We offer this work to help create a more egalitarian, inclusive, peaceful, just, and redistributive Canada, where the state fulfills its obligations to ensure that all individuals within its borders are free from VAW/GBV and from threats of such violence; and where Canada is a place in which everyone is safe to pursue their human rights and fundamental freedoms irrespective of citizenship or geography.

We have dared to imagine that one day this will lead to the elimination of VAW/GBV and threats of such violence for all, regardless of where they live. We hope that you, the reader of this report, accept this challenge and find the base we have provided helps you achieve this daring goal.

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## Appendices

## Appendix A: Methodology

In addition to extensive background research, including legal and document review, interviews with NAP proponents in other jurisdictions, including the UK and Australia, our project set up an exchange with the Core Working group of the National Action Plan on Missing and Murdered Women and Girls (MMIWG).

We established four Working Groups (WGs) with two co-chairs and eight working group members (see [Appendix B](#)). Working Group members came from a variety of expertise, communities, identities and geographic locations organized around the four public policy pillars of:

- Enabling environment, and social infrastructure
- Prevention
- Promotion of Responsive Legal and Justice Systems
- Support for survivors and their families

Women and Gender Equality (WAGE) ministry of the federal government provided us with an excel file with more than 646 initial recommendations on the NAP gathered from a variety of sources (government papers, NGO reports, policy papers, etc.). We then divided the recommendations according to each pillar. Working groups reviewed, sorted, analyzed, and did significant homework on the implications of the recommendations we supplied them. To tackle the extensive list of recommendations, WG's created subgroups to organize around specific themes as identified by the researchers and co-chairs. The sub committees were tasked with evaluating their sub-group of recommendations, editing them if needed, and creating new ones where gaps existed.

Working Groups and sub-committees were able to accomplish this work with the support of a number of tools, summary background research, and technical support (collected in the appendices of this report), as well as a pillar-specific note taker, researcher, the WSC Research Manager and the Strategic Engagement Specialist. Through this process, the WGs identified and shared where significant overlap existed between pillars, where recommendations were mis-assigned, and where recommendations needed to be elevated to overarching recommendations that serve at a meta level to guide the NAP, rather than resulting in a specific or single outcome in policy.

In addition to these tools and supports, a MEAL expert attended working group meetings, provided support and a guidance to integrate key outcomes into the recommendations using a MEAL framework. The MEAL expert worked one-on-one with WGs to ensure that outcomes and rational were clear and achievable, providing the Final Report with a roadmap for moving

forward with the development of the NAP GBV over the next 10 years. The MEAL framework is an integral aspect of the NAP.

Working with the original list of recommendations for each pillar, WGs were provided an excel template (see [Appendix G-8](#)) to assist in their review of the recommendations as well as a MEAL template (see [Appendix G-9](#)) to capture pertinent information on: Timelines, rational, stakeholders, FPT principles, intersectional considerations, gaps, overlap with other pillars, outcomes, risks, and assumptions.

The researchers helped WGs by finding evidence, existing practices, policy, laws, legislation and any other relevant information that could support the WG on prioritizing and drafting their recommendations and narrative report. Each WG was provided with four questions to frame their narrative report and provide rationale and context for the recommendations that they approved (see [Appendix G-8, p. 404](#)). WG's were not confined to just these four questions in their report, however, having these questions ensured that each group would cover some key areas including: rational, socio-political contexts, contested areas, and unintended harms. These narrative accounts of each pillar's role in the NAP, the benefits, and pitfalls of the recommendations for change that have been fashioned by the WGs, and the hoped-for outcomes of the change that is called for, are critical context for the development of a full NAP and implementation program.

As referenced in the executive Summary, all of this material was vetted and submitted by the co-chairs of each pillar and based on the intensive work done with the 40 members of the working groups assembled between February and April 2021. They, together with the team of researchers, writers, and coordinators, represent approximately 1,000 person years of VAW/GBV experience and knowledge.

The WSC Research Manager compiled all the verbatim notes from all four working groups over the duration of the project as well as the weekly summaries from the research team. They reviewed, coded, and analyzed the key themes emerging from each pillar individually and across all pillars as a whole. This was essential for the report writing as it captures and reflects the depth and complexities of the conversations of the expert working groups. After the notes were coded and analyzed, the writing team were able see the key findings across hundreds of hours of discussion and reflection of GBV experts from across the country.

## Appendix B: Working Group Members

NAP VAW/GBV CONTRIBUTORS		
COORDINATION TEAM		
Name	Role	Organization
Lise Martin	Executive Director	Women's Shelters Canada
Amanda Dale	Strategic Engagement Specialist/Project Lead	Women's Shelters Canada
Anuradha Dugal	Co-Chair/Coordinating Committee	Canadian Women's Foundation (CWF)
Vicky Smallman	Co-Chair/Coordinating Committee	Canadian Labour Congress (CLC)
PROJECT SUPPORTS		
Name	Role	Organization
Krys Maki	Research & Policy Manager	Women's Shelters Canada
Cyndia Mondésir	Operations Coordinator	Women's Shelters Canada
Rotbah Nitia	Gender Equality MEAL Specialist	
Pam Kapoor	Facilitator	
Nicolyn Charlot	Researcher for Prevention	
Asra Milani	Researcher for Survivors	
Shanzaeh Hameed	Researcher for Justice	
Charlene Campo	Researcher for social infrastructure	
Rosalyn Martin	Notetaker for Survivors & Social infrastructure	
Maitland Shaheen	Notetaker for Prevention & Justice	
WORKING GROUP 1 – PREVENTION		

Name	Role	Organization
Anuradha Dugal	Co-Chair	Canadian Women's Foundation (CWF)
Tuval Dinner Nafshi	Co-Chair	Consultant
Annie Chau	Working Group member	Antigonish Women's Resource Centre & Sexual Assault Services Association (AWRCSASA)
Suzie Dunn	Working Group member	University of Ottawa
Deinera Exner-Cortens	Working Group member	University of Calgary
Marlihan Lopez	Working Group member	Simone de Beauvoir Institute / Fédération de femmes du Québec (FFQ)
Deb Singh	Working Group member	Ontario Coalition of Rape Crisis Centres
Tinika Sampson	Working Group member	Girls Action Foundation
Doris Rajan	Working Group member	Institute for Research and Development on Inclusion and Society (IRIS) institute
Anita Roberts	Working Group member	Safeteen
Jody Chamberlain	Working Group member	Prince George Sexual Assault Centre

#### WORKING GROUP 2 – SUPPORT FOR SURVIVORS AND THEIR FAMILIES

Name	Role	Organization
Angela Marie MacDougall	Co-Chair	Battered Women's Support Services (BWSS)
Jo-Anne Dusel	Co-Chair	Provincial Association of Transition Houses and Services of Saskatchewan (PATHS)

Mélanie Lemay	Working Group Member	Québec contre les violences sexuelles
Erin Whitmore	Working Group member	Ending Violence Association Canada (EVA)
Maïra Martin	Working Group member	Action Ontarienne contre la Violence faite aux femmes (AOCVF)
Angie Hutchinson	Working Group member	Survivor's Hope Crisis Centre
Lyda Fuller	Working Group member	YWCA NWT
Nadine Wathen	Working Group member	Professor, Western University
Jenn Richard	Working Group member	Sexual Violence New Brunswick (SVNB)
Josie Nepinak	Working Group member	Awo Taan Healing Lodge Society
Samantha Michaels	Working Group member	Pauktuutit Inuit Women of Canada

#### **WORKING GROUP 3 – PROMOTING RESPONSIVE LEGAL AND JUSTICE SYSTEMS**

Name	Role	Organization
Pamela Cross	Co-Chair	Luke's Place
Deepa Mattoo	Co-Chair	Barbra Schlifer Clinic
Raji Mangat	Working Group member	West Coast LEAF
Kim Hawkins	Working Group member	Rise Women's Legal Centre
Emilie Coyle	Working Group member	Canadian Association of Elizabeth Fry Societies
Maud Pontel	Working Group member	Alliance des maisons d'hébergement de 2e étape pour femmes et enfants victimes de violence conjugale

Megan Stephens	Working Group member	Megan Stephens Law
Ruth Goba	Working Group member	Human Rights Lawyer
Viola Thomas	Working Group member	Indigenous Rights Advocate
Lisa Kelly	Working Group member	Unifor

#### **WORKING GROUP 4 – ENABLING ENVIRONMENTS AND SOCIAL INFRASTRUCTURE**

Name	Role	Organization
Vicky Smallman	Co-Chair	Canadian Labour Congress (CLC)
Shalini Konanur	Co-Chair	South Asian Legal Clinic of Ontario (SALCO)
Katherine Scott	Working Group member	Canadian Centre for Policy Alternatives (CCPA)
Susan Prentice	Working Group member	Professor, University of Manitoba
Aja Mason	Working Group member	Yukon Status of Women Council (YSWC)
Jane Stinson	Working Group member	The Canadian Research Institute for the Advancement of Women (CRIAW)
Alyssa Brierley	Working Group member	Centre for Equality Rights in Accommodation (CERA)
Brenda Grzetic	Working Group member	Keepers of the Circle/Temiskaming Native Women's Support Group
Anita Khanna	Working Group member	United Way Centraide Canada

## Appendix C: Narrative reports from Working Groups

### C.1 Enabling Environment and Social Infrastructure Working Group Narrative Report

**Q1: Pitch for your Pillar. What is your group's vision of the role this pillar as a crucial and effective part of the VAW/GBV 10-Year National Action plan for Canada? [max 400 words]**

An adequate standard of living and access to quality public services, social protection and social infrastructure are fundamental to achieving gender equality and provide an enabling environment for women and gender-diverse people to leave a violent situation and address the impacts of VAW/GBV. This pillar of the NAP ensures a strong foundation of systems and supports to enable economic security and decent work, health and well-being, mobility and connection, essential for the prevention and elimination of violence.

Investing in social infrastructure – both funding and re-visioning – acknowledges that at every level of society, gender inequalities have a profound influence on violence against women and their children. Building greater equality across our institutions can reduce the development of attitudes that support or justify violence and provide an enabling environment for response and recovery.

Without an adequate income, affordable housing and the supports necessary to engage in meaningful employment such as childcare and attendant care, women are consigned to the margins of society, living at heightened risk of violence, “constantly struggling to survive economically, psychologically and sometimes even physically.” Facilitating women’s economic independence is fundamental to upending this equation, eliminating the prevalence of gender-based violence and supporting individual women’s exit from abusive situations.

This pillar addresses a range of social and economic policy that can help advance the objectives and principles of the NAP, from income security and decent work to housing and childcare, to transportation, health care and digital infrastructure. Fundamental to our vision are the principles of universality, public funding and management, and consistency across jurisdictions through the establishment of national standards and federal-provincial-territorial cooperation. The principle of universal design and GBA+ should drive the review and restructuring of systems, putting the needs of the most marginalized at the centre and ensuring access for everyone.

In general, we have proposed long-term approaches with some short to medium term measures that would bring us closer to our desired outcomes. Our overarching goal is to build resilient, sustainable systems that can withstand pressures from economic instability, shifts in government or other factors.

**Q2: What are the wider, evidence-based, social, political, and/or situational contexts that are crucial to this pillar and your recommendations? Be creative and interpretive and use this space to address any contextual realities that may not be addressed elsewhere in your answers. [max 600 words]**

We write this report at a time of crisis, when a global pandemic has exposed and exacerbated tremendous gaps in Canada's social infrastructure - particularly care infrastructure - and set women's labour force participation back three decades. The pandemic has had a disproportionate impact on populations that were already marginalized and underserved in a society marked by growing inequality and deepening poverty. Lockdowns and financial insecurity have led to increased rates of GBV, and increased risk.

There has been considerable consensus for the need for a gender-responsive recovery and for investments in the care economy and social infrastructure to help communities weather future crises. At the same time, others have cautioned against government spending and push for austerity measures.

Austerity has been clearly shown to negatively impact women and equity-seeking communities. Indeed, the defunding and privatization of public services marked by the last few decades left some sectors unable to cope with the impacts of the COVID-19 pandemic. A different approach is clearly needed to recover from this crisis and to create an enabling environment to prevent, address and eliminate GBV.

We believe that universal basic services are at the heart of social infrastructure,<sup>8</sup> and is preferable to programs that provide cash alone. The value of social infrastructure is infinitely higher to low-income households than the cash equivalent. Vouchers or cash transfers do not address supply-side deficits, nor do they guarantee quality.

Privatization of infrastructure and public services means higher costs from higher long-term financing costs for building infrastructure, more risk, the need for admin and legal oversight, less transparency and accountability. Privatization creates increased user fees and tolls, shifting control of public facilities to unaccountable, private, for-profit corporations. It also diverts public funds from core services needed by people to corporate profits.

Keeping infrastructure and services public is a wise investment of public funds that provides greater local control, flexibility and efficiency in operations, lower costs, accessibility, and quality services for members of the public.

The realities and practicalities of Canadian federalism pose considerable barriers to the objective of the NAP to ensure consistency in access to any social infrastructure across the

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<sup>8</sup> Coote, A. (2019). "Investment in public services is an investment in social infrastructure." Blog. New Economic Foundation. <https://neweconomics.org/2019/05/investment-in-public-services-is-an-investment-in-social-infrastructure>

country. Efforts to ensure Canada-wide approach to many systems must take into account jurisdiction as well as the specific place of Quebec in the federation, as well as relationships with First Nations, Inuit and Metis peoples and the need for Indigenous-led solutions. While these dynamics are complicated, we do not believe they should be a barrier to progress, particularly if the Federal government shows leadership within its own jurisdiction, and provides the incentive of long-term, sufficient funding to provinces and territories.

**Q3: What divergent views and contested areas did you grapple with in your working group, and what does it tell us about approaches to effective policy/action in this pillar? Please highlight who and how these measures would benefit and who it might potentially or unintentionally harm [max 800 words]**

Based on considerable evidence we reject market-based and private sector solutions. Providing cash to citizens to purchase services on the market is not the way to address social infrastructure needs of childcare, long term care, or housing for example. Childcare in Canada currently operates under a market-based model, and past tax benefits and transfers to parents have done nothing to increase supply, address affordability or guarantee quality care.

We also disagree with the current mandate of federal government's Canada Infrastructure Bank to encourage the private ownership and operation of infrastructure through long-term, expensive, and risky public-private partnerships (P3) contracts. Federal support for P3s is especially important since it influences the pace at which provinces will adopt the approach, given the acute shortage of infrastructure funds and the desire for cost sharing with the federal government (Loxley & Loxley, 2010).

The most cost-effective, transparent, and reliable way to address social infrastructure needs is through public investment in public services and public infrastructure. However, social infrastructure itself needs re-imagining to enable a more effective carrying out of its responsibilities to broader Canadian society, to ensure that it is gender-responsive and meeting the needs of those most marginalized by discrimination, inequality, and violence.

We also discussed the benefits and disadvantages of universal versus targeted approaches to social infrastructure. In general, we believe that while a targeted initiative may be less costly in the short term, universality offers a better chance at lasting, transformative change, higher quality services, and less likelihood of some people falling through the cracks.

Our group also struggled with the recommendation regarding the minimum wage. Although the \$15 wage has long been a recommendation of many groups, we do not believe it reflects an adequate living wage in most of the country. A higher number may be warranted, however \$15 could be a starting point as long as a process for indexing or gradual increases is also adopted.

Finally, our working group examined the prospect of a universal basic income, which is currently being touted as a key strategy for achieving economic security – and in particular – a

key strategy for extending support for those fleeing violence. [Basic income advocates](#) argue that a “universally accessible, income-tested basic income would increase women’s bargaining power related to employment; facilitate access to more options in housing and childcare; provide financial security for women to leave abusive relationships; and lead to improved physical and mental health.”<sup>9</sup> A guaranteed source of income would also, it is argued, give women a greater measure of economic freedom to either engage in or opt out of childrearing. Such a policy has the potential of correcting the paid work bias of existing income security systems that are ill-equipped to support women in crisis situations.

At the same time, there are concerns about the potential model of a basic income and whether investment in a benefit at the scale needed to ensure economic security would lead to future funding cuts for community infrastructure and social services. This is very important for women fleeing violence, especially those facing intersecting forces of discrimination. The value and protective capacity of community infrastructure and support services is exponentially higher for vulnerable women.

Some also argue that a basic income—without explicit efforts to tackle intersectional gender inequalities—would \ work to reinforce the existing gendered division of labour, encouraging women to exit the labour market with all of the negative economic consequences this path entails within our current society. Still others argue that a basic income will effectively institutionalize low-waged labour, making it more difficult for the large numbers of women working in these sectors of the economy to exit poverty.

The ongoing debate about a basic income reflects the fundamental tension in many of the discussions of income security and care between strategies that, on the one hand, promote women’s employment through the provision of services such as childcare and efforts to improve the quality of “women’s work”, and on the other hand, strategies that aim to put “caregiving” or other “non-market activities” on par with “breadwinning” typically through cash for care programs. Do we lean into employment? Do we lean into care?

Thirty years of empirical evidence tells us that neither strategy has moved the needle for women, and particularly for marginalized women, because neither strategy has been implemented in a manner that would ensure positive outcomes for all women. For instance, caregiving allowances, set at marginal levels by those governments that have introduced them, have predictably served to strengthen a traditional/patriarchal division of labour rather than to advance women’s autonomy or reduce women’s poverty. There has been more success with employment policies – but we have made little progress in reducing gender segregation in the labour market and reducing the economic penalties attached to “women’s work”.

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<sup>9</sup> Smith-Carrier, T., & Halpenny, C. (2020). ‘Executive Summary’, Basic Income: Making the case for women and gender equity. p. 2.

[https://d3n8a8pro7vhmx.cloudfront.net/obin/pages/143/attachments/original/1604721893/BASIC\\_INCOME\\_Status\\_of\\_Women\\_FINAL.pdf?1604721893](https://d3n8a8pro7vhmx.cloudfront.net/obin/pages/143/attachments/original/1604721893/BASIC_INCOME_Status_of_Women_FINAL.pdf?1604721893)

Bringing a VAW/GBV lens to the question of income security, a mix of strategies is clearly necessary to move forward immediate reforms to deeply flawed programs in order to ensure ample and adequate supports are available to women in their moment of crisis, while setting a long-term course for greater economically autonomy and security. To explore this issue further, our group recommended further study and a commissioned paper will be attached to the Final Report.

**Q4: Please share the rationale for the top recommendations you want us to highlight and their sequencing over the 10-year period. Include references where appropriate. Try your best to consider: Intersectional experiences of violence; practicality; potential for impact; evidence basis; measurability; creativity. [1200 words]**

The Social Infrastructure pillar is complicated, crossing many areas of social policy and levels of government, with programs and services often operating in siloes. This poses considerable challenges in coordination, and barriers to achieving consistency and equity in access, particularly for people with multiple and intersecting identities. An All of Government approach and a commitment to cooperative federalism is essential to this pillar of the NAP.

Economic dependence is driven by systemic factors. These include women's disproportionate responsibility for domestic work and caregiving, the gendered wage gap, employment precarity, and discrimination on the basis of gender, sexuality race, class, immigration status, disability, and other factors. Such economic dependence contributes to, and worsens, GBV perpetrated by intimate partners, family members, landlords, and employers, among others who exercise power and control over the circumstances of women and gender-diverse people's lives. Financial concerns are among the most common reasons cited when women are asked why they did not leave abusive situations sooner. Many of our recommendations are aimed at improving access to economic security and financial independence.

### **Income Support**

Expedited access to social assistance is often critical to helping women flee violent situations. Ideally, social assistance would function as a key pillar of wrap-around supports, designed to respond to the unique needs and circumstances of victims of violence in ways that are trauma-informed and culturally appropriate (e.g., flexible work requirements, rules around disclosure of violence, asset, and income thresholds, etc.). While all provinces and territories extend financial aid, women continue to face significant barriers accessing needed support.

Targeted reforms of Canada's income security system of the type we propose will not succeed unless the foundational system itself is reorganized to meet the needs of the most marginalized. This includes reforms to the general stream of social assistance, increasing benefits, re-orienting administrative processes to highlight dignity and respect, and building out effective education and employment programming. It also requires a fundamental overhaul of

other programs—notably disability benefits—to reduce the complexity and gross disparities in level of support offered - establishing a minimum income guarantee for all.

The reliance on Canada's tax system to deliver income security benefits creates significant barriers for the poorest of the poor, including Indigenous peoples, those with precarious immigration status, and vulnerable young people. The limitations of Canada's unemployment insurance system have been evident for years, with coverage rates of about 40% pre-pandemic. When the pandemic hit, it could not reach enough people. It could not pay them enough nor dispense the money quickly enough. Large groups of workers did not have access to paid sickness leave.

COVID-19 has exposed long-standing structural and systemic ableism. This includes high levels of poverty (about 2x the rate of people without disabilities) and high levels of violence (45% of all female victims of crime were women with disabilities).

### **Making work better and safer**

The majority of workers rely on employment standards legislation for basic rights at work, including wages, hours of work, vacation and sick leave, termination, and severance rights. It is the only source of workplace rights and protections for roughly two-thirds of non-union workers without a collective agreement, including many women experiencing domestic violence. Employment standards are crucial for workers in the growing number of precarious jobs, many of whom are immigrant and racialized women. There is evidence of deteriorating conditions of work those who rely on employment standards. The 'Uberization' of jobs, where workers are deemed independent contractors, excludes them from the basic work rights provided through employment standards. The federal government should strengthen, enforce and extend employment standards to cover all workers.

Increased minimum wage for low-wage women facing VAW/GBV will provide better labour market outcomes, and better options to address individual cases of VAW/GBV. Black and Indigenous women who have lower employment rates, lower savings, and reduced incomes on average, would benefit from increasing the minimum wage. This would also boost the income of 56% of all working women concentrated in the 5 C jobs—caring, cashiering, catering, cleaning, and clerical work, many who work at or just above minimum wage. Raising the minimum wage is the most important measure to address pay equity gap for low-paid women.

The ILO C-190 on violence and harassment in the world of work sets out clear, gender-responsive policies for governments and employers to implement in order to work towards the elimination of all forms of violence and harassment at work. It requires specific action to address gender-based violence, including domestic violence, as well as efforts to reduce risk in sectors, occupations, and work situations with a particular vulnerability to violence. The ILO C-190 becomes legally binding once a country ratifies it. Canada requires the agreement of all

provinces and territories in order to ratify the convention, and once ratified, would benefit from a tripartite approach to planning and monitoring its implementation.

Currently, Manitoba and British Columbia provide access to five paid days of domestic violence leave, with an additional 10 unpaid days. All other provinces, territories and federal government provide fewer total paid and unpaid days, while Alberta provides no paid days. Domestic violence leave allows workers who are experiencing violence the flexibility and time during the workday to do what they need to do to keep themselves and their children safe, without fear of losing their job or their paycheque. There should be consistency in access to domestic violence leave across all jurisdictions, with 10 paid days as a standard.

### **Improving access to decent jobs**

GBV shapes labour markets in ways that disadvantage and discriminate against women and girls by limiting opportunities, reinforcing subordination, and perpetuating stereotypes, thereby condoning violence and increasing vulnerability to violence. Efforts to increase the numbers of women in a wide range of occupations have been only marginally effective in meeting equality goals and the future demand for workers. Research indicates main causes are due to poor coordination/resourcing within existing programs, employer intransigence resulting in isolation, lack of opportunities, violence, and lack of flexibility for family support. Barriers continue in terms of response/prevention of real/perceived hostile work/training environments that drive women out of jobs and contour career decisions.

Decades of austerity-driven fiscal policies and a market-based approach to the delivery of care have created inequities and gaps in access to care services for children, the elderly, and people with disabilities. The lack of access to quality, affordable care contributes to the disproportionate burden of unpaid care for women in Canada. Paid care work is undervalued and often precarious, marked by low wages, difficult working conditions, poor job security and understaffing. Care workers are overwhelmingly women, many of whom are racialized, recent immigrants or migrants.

The underfunding and privatization of post-secondary education in Canada has compromised quality, accessibility, universality, and affordability—key principles for post-secondary education. Women have less access to EI training funds and therefore less access to privately-run programs.

## **Realizing the right to housing<sup>10</sup>**

The lack of adequate shelter and housing options is one of the most significant barriers preventing women, girls and gender-diverse individuals being able to leave situations of violence and rebuild their lives.

The number of women, girls and gender-diverse individuals experiencing homelessness in Canada is dramatically underestimated and misunderstood. When women leave their homes because of gender-based violence, they become homeless. However, women are significantly over-represented in the population of the “hidden homeless” at the same time that homelessness policies continue to be aimed predominantly at addressing visible homelessness.

Across Canada, 13% of shelter beds are dedicated to women, while 68% are co-ed or dedicated to men. VAW shelters are at or over capacity in many communities, while other communities have no facilities, particularly in some of the most vulnerable and heavily affected communities in the north and in rural Canada. In other cases, the options that are available to them create unacceptable barriers for the women who are using them.

Even where women are able to avail themselves of the services where they exist, significant barriers prevent them from establishing themselves in stable, permanent housing. Women face disproportionately higher levels of housing need, at the same time as they experience higher levels of poverty, childcare responsibilities, and intimate partner violence. The feminization of poverty makes it difficult for many women and women-led families to afford rent and this inequality is compounded for racialized women, who experience higher levels of poverty and discrimination.

All of this is a direct result of the fact that the right to housing for women, girls and gender-diverse individuals has not been realized in Canada. Ensuring the implementation of the right to housing of women, girls and gender-diverse individuals therefore must be a top priority, with emphasis placed on appointing the Federal Housing Advocate who can be a champion for the needs of women, girls and gender-diverse individuals fleeing gender-based violence, collecting and critically analyzing data on the unique housing needs of women and the extent to which government programs and policies are meeting those needs. A new definition of homelessness must also be developed, recognizing the unique ways in which women, girls and gender-diverse individuals experience homelessness and policies and programs must be designed to specifically address their needs with particular attention to Indigenous women, girls, and gender-diverse

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<sup>10</sup> Much of this came from: Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan, Chaleshtari, T. (2020). *The State of Women’s Housing Need & Homelessness in Canada: Key Findings*. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Canadian Observatory on Homelessness Press.

peoples who experience the most egregious housing conditions throughout Canada and remain the most underserved in both the VAW and homelessness sectors.

### **Childcare**

The absence of quality, affordable, and accessible Canada-wide early learning and childcare services has negative consequences on women, children, and families and is also a barrier to women and gender-diverse people seeking to rebuild lives free from violence and poverty.

The UN CEDAW observes that “disadvantaged socioeconomic conditions and a lack of social services increase women’s vulnerability to violence, since the lack of access to such resources reduces the choices available to women in situations of risk and prevents them from escaping violence.” CEDAW further points out that “Indigenous women, immigrant women, racialized women, women with disabilities and queer and trans women experience disproportionate rates of violence,” affirming the importance of childcare in redressing and preventing GBV.

A lack of accessible childcare makes it exceedingly difficult to find and retain employment that can enable greater financial independence. Lack of childcare also constrains the ability to seek counseling and legal supports required to heal from the trauma of GBV and to rebuild women’s and children’s lives.

Canada does not have enough regulated childcare spaces for children aged 0-12 years. In 2019, 5,076,000 children competed for just over 1,500,000 regulated childcare spaces. This means there were enough spaces for less than 30 percent of Canada’s children, while the number of children with employed mothers was at the highest level since 1995. These figures precede the onset of the COVID-19 pandemic in March 2020. Women have borne the brunt of the economic and social impacts of the pandemic. It is having a staggering impact on women’s employment, with mothers exiting employment at alarming rates. COVID has also affected childcare provision, with many facilities at risk of closure due to financial losses as they operate under public health guidelines yet without sufficient government funding. According to Child Care Now, Canada’s national childcare public education and advocacy organization, COVID-19 exposed all the problems with market-based childcare and the absence of a fully publicly funded and publicly managed childcare system.

The Social Infrastructure NAP working groups joins with Child Care Now to call on the federal government to recognize early learning and childcare as critical social infrastructure. We call for a fully universally inclusive, fully publicly funded and publicly managed high-quality system that all parents can afford. This will be essential in preventing and ending GBV in Canada.

## **Healthcare**

Canada's healthcare system must be equipped to respond to the health outcomes of gender-based violence, to provide timely, trauma and violence-informed support and care to people experiencing violence. However, significant gaps in access exist, particularly for those living in rural, remote, and Indigenous communities, or those who face barriers because of race, immigrant or migrant status, Indigeneity, sexual orientation and gender identity, disability, or other grounds.

Many people in Canada do not have access to drug coverage through workplace policies - especially women, recent immigrants and racialized Canadians who are more likely to be unemployed or employed in precarious and part-time work. Access to prescription medicines, including birth control and gender-affirming treatments, is necessary to promote health and wellness as well as address the physical and emotional impacts of GBV.

Access to sexual and reproductive health care is essential to preventing, mitigating and responding to gender-based violence, including reproductive coercion. Women who face intimate-partner violence and reproductive coercion are twice as likely to experience an unintended pregnancy. However, consider barriers in access to abortion services and other sexual and reproductive health care exist, particularly for those living in rural and remote communities. Measures are also needed to investigate, prevent and address GBV perpetuated by the state, including the forced sterilization of Indigenous women as well as surgical procedures performed on intersex children.

## **Safe, affordable public transportation and transit**

Safe, affordable, accessible public transportation systems are crucial for women to find and maintain employment in order to live independently, away from gender-based violence. Transportation and transit systems are a mechanism to prevent, respond and mitigate GBV, but is also a space where GBV occurs. The needs in rural and remote locations compared to urban settings also demonstrates the complexity of developing solutions.

Safe, affordable, accessible transportation is needed to remove oneself from VAW/GBV and to access services, health care and supports. In Canada's north, where vast distances exist between small communities and larger city centres, and there is no affordable, accessible transportation between communities, mobility is restricted and therefore access to security and services is hard to achieve. Some of these remote, northern communities are where levels of gender-based violence are highest. Women in these communities are forced to use taxis, ridesharing apps, Uber, a private vehicle or hitch-hiking to get out of town. In some northern communities and work camps, where there is no road, air transport is needed for access to safety or a hospital.

The report on Murdered and Missing Indigenous Women and Girls called attention to how the absence of safe and affordable transportation systems contributes to violence and murder of Indigenous women. For Indigenous women in Saskatchewan, “the summary removal of public transportation systems as an avenue for escape” means that survivors without access to a vehicle must disclose to their band council or the government their reasons for needing to leave the community and receive approval before they can access treatment. For some survivors, especially those who want to protect their anonymity or avoid retaliation by the perpetrator, this is an insurmountable obstacle to accessing care (Umereweneza et al., 2020).

Gender-based violence also occurs in spaces for transportation, in public transit, private taxis, Uber and ridesharing. Women make up the majority of transit riders, often out of necessity and lower incomes. Expensive fares, reduced service routes, and high fines disproportionately affect persons of low socio-economic status.

Sexual harassment and assault in public transportation is a known problem but there is no large-scale, systematic data collection to demonstrate the extent or the intersectional nature of it. A Statistics Canada national survey on gender-based violence shows that about one in three women (32%) were subjected to unwanted sexual behaviour while in a public place in 2018. Of those targeted, one in eight – or 629,000 women – said the most serious instance was on public transit.

## **Information and Communications Technology**

As per the United Nations' access to internet is a basic human right. Access to a communications services and devices such as a cell phone, we assert, should also be considered a basic human right. Information and communications technologies or ICTs is a term used to refer to all communication technologies, including infrastructure providing access to the internet or wireless networks, hardware like cell phones, tablets and computers, software and applications that allow people to send, transmit, store and create information. ICT infrastructure, services and devices are critical components of a person's ability to document, prevent and respond to GBV. People use ICTs (like cell phones, the internet, social networks and specific apps to document GBV (taking pictures, audio or video recordings of violence, for example), to report GBV, and to respond to violence, access resources and supports, maintain social safety networks and plan for their safety. ICTs are also essential to accessing livelihood, manage finances, access government benefits and find new housing or childcare.

The places in Canada with the highest rates of GBV also have the lowest levels of access to ICTs, as the capacity to connect is contingent on the availability of infrastructure, like cell phone towers or fibre optic cable. Device affordability and accessibility is often a barrier for many people who are preventing, responding to or needing to document GBV. Canada has generally taken a market-based approach to internet and communications access, and the monopolized nature of the industry has created substantial gaps and inequities in access.

The patchwork of Canada's ICT infrastructure capacity and ICT plan provision is highly variable and therefore requires a granular analysis based on specific needs from each jurisdiction.

## C.2 Prevention Narrative Report

### **Q1: Pitch for your Pillar. What is your group's vision of the role this pillar as a crucial and effective part of the VAW/GBV 10-Year National Action plan for Canada? (400 words)**

Violence against women and girls is so prevalent in our communities that it is deemed a pandemic by the World Bank and United Nations. In order to be genuine and honest about addressing GBV in a meaningful way we have to reduce the amount of violence that is happening, not just respond to the harm already caused.

Prevention can be difficult to measure in ways that are recognized by dominant institutions and is often viewed as less politically valuable. But without meaningful, long-term and robust prevention efforts the GBV will not diminish because the underlying, root causes and unequal conditions that uphold GBV won't be addressed. In fact, Canadian data indicates that crime is decreasing in Canada except for sexual assault which continues to increase.<sup>11</sup> A vision **and** a plan to prevent and eradicate GBV is essential.

In our demand for a robust, long-term investment in GBV prevention all levels of government we insist that this is not pitted against other actions taken to address these issues. Resourcing for prevention cannot be taken **from** other areas of gender justice investments.

All work in this section is accountable to grassroots, community-based anti-violence feminists, LGBTQI2S+ activists and human rights and equity seeking groups as well as marginalized women's anti-violence work, acknowledging their specialized expertise and past and current work on these issues for decades.

Prevention involves everyone! It requires societal and cultural change. And it uses an intersectional feminist, gender-based and rights-based lens.

Our prevention pillar was also at pains to describe how a continuum from victim/survivor to perpetrator uses a Western framework of **us vs them**. It separates us from each other and rejects the idea that we are all in this together. Our wellbeing, our health, and our safety are intrinsically tied together. We need to support healthier values and attitudes, healthier individuals, healthier communities, healthier institutions, and healthier relationships. This requires us to see primary prevention not as a method of changing individual hearts and minds one-by-one, but as part of a multi-pronged approach to addressing the systemic and cultural

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<sup>11</sup> Statistics Canada. (2015, Nov 23), "Self-reported victimization, 2014" *The Daily*.  
<https://www150.statcan.gc.ca/n1/daily-quotidien/151123/dq151123a-eng.htm>.

conditions that have brought us to this place and see us struggling to change the reality of VAW/GBV across the country.

This is not an approach that asks for less accountability but seeks to find accountability that takes into consideration the myriad intersectional harms that people face in their communities. Understanding this better allows us to address these issues with greater cultural competence, with a more trauma-informed and anti-colonial approach and to reduce the dehumanization that essentially ensures further harm will occur.

**Recommendations in the Prevention Pillar will:**

- Be grassroots- and community-focused
- Emphasize transformative and restorative justice centred on decision-making by the person who has been harmed.
- Seek to rehabilitate and engage people who have caused harm
- Include men and boys in violence prevention work with a recognition that not all men and boys experience patriarchy and privilege in the same ways. Recognizing multiple masculinities and the experiences of BIPOC men and boys, LGBTQI2S+ men, men with disabilities and other intersecting identities.
- Address root causes of violence
- Recognize that GBV/VAW is rooted in the cyclical and mutually dependent relationship between historically entrenched inequality, resulting in the perpetuation of unequal relations and poor living conditions, compounded by layers of marginalization, (i.e., patriarchy, colonization, a racialized labour market, pre-migration experiences of war and natural disasters, segregation, and devaluation due to disability)—have resulted in higher rates of violence
- Acknowledge the power of language (e.g., recognize that labels can become identities and that people should always be given space to self-identify).
- Focusing on prevention strategies rather than reactionary strategies to addressing violence, particularly moving away from carceral models

Involve the creation of a national data collection framework, as understanding the scope of gender-based violence across Canada on an on-going basis is critical to designing meaningfully and effective prevention strategies. [612 words]

**Q2: What are the wider, evidence-based, social, political, and/or situational contexts that are crucial to this pillar and your recommendations? Be creative and interpretive and use this space to address any contextual realities that may not be addressed elsewhere in your answers. [600 words max]**

The following ongoing social and political contexts produce, reproduce and maintain the conditions that perpetuate GBV/VAW for specific populations of women and gender non-binary peoples:

1. Colonialization and genocidal project towards the first peoples of Turtle Island in what we now call Canada. We need to acknowledge the fights for rights-based healthcare, recognition of lands claims and treaty rights and improved living conditions on and off reserve for First Nations, as rights-based housing and living for all Indigenous peoples.
2. Segregation and eugenic practices toward people with disabilities. The recent passing of Bill C-7 on Medical Assistance in Dying demonstrates persistence of these practices. People with disabilities' rights to accessible housing, inclusive education and employment must be recognized and realized.
3. Colonial and imperialist projects of war, destruction and displacement resulting in structural racial oppression of racialized migrant peoples and the descendants of enslaved African peoples. This includes increased surveillance, structural poverty due to racial stratification in the organization of labour and immigration policies.

We focus on primary, secondary, and tertiary prevention efforts. This means preventing the harm of violence before it happens, addressing the impacts as soon as violence takes place and dealing with ongoing long-term effects in order to improve quality of life. This requires changes in attitudes, norms, and behaviours.

Although existing prevention has a considerable focus on youth work, either in schools or at the community level, the context demands transformation of all ongoing work in community and beyond – in terms of language, power dynamics, punitive approaches, ableist systems, trauma-informed care etc. There are important educational needs that are age appropriate and fit into most provincial education plans (UNESCO International Technical Guidance on Sexuality Education). There is also a need to ensure that VAWG / GBV knowledge is included in training for state and institutional actors (police, health, education, armed forces, etc) for both prevention and the purpose of overhauling institutions.

Social movements (<https://defund.ca/>; <https://defundthepolice.org/canada/>), and institutions are calling for serious reforming, restructuring and abolishing police forces, and these calls are carried to all levels of government. Policing is contested, not only because of its history in colonizing Indigenous peoples ([source](#)) and enforcing enslavement and ongoing discrimination against Black people (Robyn Maynard), but also because of its lack of capacity or willingness to address violence against women and gender-based violence from a trauma-informed perspective. Policing is mired in controversy over the racism and misogyny of individual officers ([source](#) / [source](#)) and the lack of accountability for the institution as a whole concerning the harms it causes. While it has long been suggested that increased levels of community collaboration with police forces would improve their response, this has not been successful overall ([source](#)). Concerns about violence within and by other male-dominated institutions like

the Canadian Armed Forces were raised and considered in the light of how to engage men and boys in ending violence.

To make an impact in the prevention of GBV, people all genders need to be involved. Men and boys have a significant role and meaningful opportunity to affect change, both on the individual level and as a group that has been afforded structural and institutional power, etc. Any successful efforts towards reducing VAWG / GBV must include a plan to address harmful norms around masculinities. There is tension around including funding for and focusing on education, prevention and intervention for men as part of services and programs that are destined for women, girls and non-binary people. The evidence points to a serious need to address men's harms, but this must be considered carefully and with adequate resources (see paper Walter DeKeseredy & Martin Schwartz, Thinking sociologically about image-based sexual abuse- The contribution of male peer support theory (2016) Sexualization, Media & Society 1. / [source a](#) ; [source b](#) ) The how also matters – programs that are gender-transformative and that tackle harmful norms of masculinity are needed. ([source](#))

Transformation is also about shifting remedies, perceptions and language about people who use violence. Punitive action and carceral responses have been the standard answer, but in order to change existing power dynamics, new approaches are needed. Exactly how they can be applied without causing further harm must be considered, so that the needs of those harmed are centred. ([source a](#) ; [source b](#) ; [source c](#) )

Prevention, data and legislation have not kept pace with increased and now habitual use of social media for personal interactions. It has been well-documented that online and offline behaviour are indistinguishable, but that women are subject to particular kinds of harms online. Prevention work must recognize, respond to and end the harms of online violence ([source](#) and this [report by special rapporteur](#) on violence against women)

Within Canada, there are important specific prevention needs related to different communities and geographic (as well as social) location. These must be met, avoiding the one-size-fits-all measures that have not worked in the past. In rural and northern areas, transportation and cell phone service are factors for prevention. Where these are not available, women are in more danger ([source](#)). Many safety concerns are exacerbated in the context of the pandemic ([source](#)). Canada's rising housing prices and crisis of availability are factors everywhere, manifesting differently in the North, where overcrowding and expense lead to intergenerational family violence, versus urban centres, where women often have to choose between housing or safety. ([source](#))

**Q3: What divergent views and contested areas did you grapple with in your working group, and what does it tell us about approaches to effective policy/action in this pillar? Please highlight who and how these measures would benefit and who it might potentially or unintentionally harm (Again, these gaps will consider intersectional harms caused by gaps in**

**consideration of the experiences of Indigenous, Disabled, racialized, Black, gender non-conforming, trans, migrant people and undocumented and migrant workers). [800 words]**

- We need to be careful about recommending standardized prevention approaches (e.g., pushing programs in Indigenous communities without considering intergenerational trauma and colonialism). We need community-led initiatives. However, there are also advantages to national efforts. Community-based programs for youth are particularly important for children who do not go to school.
  - *Benefit:* Small/rural/Indigenous communities would particularly benefit from a community-based approach
  - *Harm:* There may be harms caused by a lack of consistency in how violence is approached in different communities (e.g., confusion for people trying to work in different settings, confusion for people who move, communities that lack resources to build programs from scratch)
- There was some debate over interventions that are gender blended/mixed versus segregated. Separating people by gender may reinforce gendered norms and stereotypes and alienate non-binary and genderfluid individuals, but gender blended spaces may make some people (esp. girls and women) uncomfortable and hesitant to speak out. Gender-blended groups can also be uncomfortable for boys and men – making it more difficult for them to be vulnerable and open and more likely for them to act out. Also, boys and men may target girls and women who talk about abuse they've experienced after the session. Mixed spaces may be better for non-binary/gender-fluid people and separated spaces may be better for those who want to have their voices heard (esp. survivors; *benefit*). However, within gender separated or mixed spaces, some people may still be nervous about talking (e.g., Black girls; *harm*). A combination of the two approaches may be appropriate (e.g., starting out separated and later bringing everyone together). Creating a perfectly safe place for all people may not be possible.
  - *Benefit:* A combination approach would benefit people who only feel comfortable speaking in gendered spaces, while also not reinforcing the idea that men and women should be separated
  - *Harm:* Gender-fluid/non-binary individuals will still be harmed in separated spaces, and anyone may be harmed who still doesn't feel safe speaking out in gendered spaces because of other identities (e.g., race/ethnicity). Gender-segregated groups can also be harmful to other trans individuals and encourage TERFs. More research and input from non-binary people on how this could work best is needed.
- There is tension between having gender-based and intersectional language and developing recommendations for specific populations (“distinction-based” language). Note, this is more of an issue in the recommendations themselves, rather than a

divergent view amongst group members, but this should still be considered when developing policy.

- *Benefit:* Population-specific language brings those most in need to the front of the conversation.
  - *Harm:* Population-specific language may be (or be perceived as) exclusive to other marginalized groups.
- Programs like Bad Date Reporting are clearly valuable in the sex work community, and there was discussion of how this could be implemented in schools and universities to help identify those who otherwise have not been held accountable for harms because institutions have protected them, or the systems in place were not adequate or effective.
    - *Benefit:* Provide students with more information to keep themselves safe.
    - *Harm:* The program could be misused and allow for slander and libel.
  - There may be backlash from feminists supporting carceral approaches if we do not clearly define transformative and restorative justice and be clear about when the justice system will be involved and when non-traditional methods of addressing harm should be used. Additionally, there are circumstances in which transformative and restorative justice practices can be integrated within the court system. Although this can be convoluted, it can also be used in a way that benefits the person who experienced harm, depending on what they want. This is an area for further exploration and discussion.
  - All of our Working Group members supported the concept of defunding the police and redistributing those resources to better serve communities and address GBV in different ways. But the extent of defunding did not find full consensus in our group. One member in particular clearly articulated that they believed a 50% reduction would be too great and create harm. The participant shared that funding cuts to police would lead to reductions in community-oriented policing and would not reduce the amount of weapons police forces have or the type of policing communities are most concerned about.
  - Data should be accessible, transparent, and disaggregated, but must never identify participants (as per Canadian ethics framework).
  - Research needs to define outcomes broadly and be based on community need and use holistic data collection methods. As such, research and evaluation must not be used to penalize community-based work that might not meet certain metrics as defined by systems, and that those being researched do not become seen as the problem themselves, as they identify problems in institutions or systems. Research needs to be about finding the RIGHT metrics to measure how things are working for communities rather than whether metric measurement is being met or not.

- People often conflate sex work with human trafficking, and these are not the same thing. We need more clarity around terms like sex work, sex trafficking, exploitation, etc. This is particularly relevant in the context of youth involved in the sex trade. Ongoing conversations need to be had regarding agency, exploitation (in general), language, and the fundamental ways our society views children in general.

**Q4: Please share the rationale for the top recommendations you want us to highlight and their sequencing over the 10-year period. Include references where appropriate. Try your best to consider: Intersectional experiences of violence (defined elsewhere in this document above); practicality; potential for impact; evidence basis; measurability; creativity. [1200 words]**

Our list of recommendations contains a variety of strategies and approaches for addressing GBV/VAW in Canada that are creative, evidence-based, impactful, and recognize gendered and intersectional experiences of violence. Our discussions over the past month and a half have demonstrated that there can be no “one size fits all” approach to preventing violence. Our list contains recommendations that are concrete with clear and singular outcomes, such as *providing clean drinking water to everyone living in Canada*. We also include recommendations that call for a variety of efforts to be made that we intentionally have left open for interpretation, as we believe they should be implemented by the communities and populations most closely involved with these issues. For example, *we call for the establishment of transformational youth action prevention strategies that address the disinvestment in marginalized urban neighbourhoods...*; each marginalized community will have its own needs and therefore approaches to handling this issue, and we have structured this and similar recommendations to allow groups such flexibility. We know that communities know what is best for themselves, and our recommendations reflect this.

Violence prevention is a goal that will span generations, and while we hope that the government and relevant organizations will begin work to implement all our recommendations immediately, we acknowledge that most of our proposals will only come to fruition in the medium and long term. However, many of our recommendations are essentially timeless, as they provide more general guidance on *how* prevention strategies should be implemented (e.g., *Centre strategies that support youth agency, their ability to identify options, to access material assistance and skills, and that support ongoing healing and accountability...*). Others can and must be implemented quickly (e.g., *That the government of Canada work towards data collection, public education campaigns and increased gender-based violence sector funding in connection with gender-based violence and the Covid-19 pandemic for the purpose of sharing information with the public*), while others necessitate a longer view (e.g., using a gender-transformative approach *to transform the prevailing social systems and structures that produce*

*and maintain gender inequality and drive gender-based violence).* Violence prevention is an ongoing process, and the various **timelines** involved in our recommendations reflect that.

Our recommendations and prefacing language recognize and emphasize the **intersectional harms** that disproportionately affect individuals who are women, girls, gender-diverse, 2SLGBTQQIA+, Indigenous, Black, racialized, disabled, refugees or other migrant status or non-status, youth, elders, those living in rural areas, and many others with both visible and invisible identities that increase their risk of experiencing violence and limit their ability to access support. For example, *we call upon the federal, provincial and territorial governments to sustain funding commitments – with a focus on core funding rather than project-based funding – to local, regional, and national Canadian feminist and women’s organizations...* with a focus on marginalized and Indigenous organizations and programs. This clear, **practical** demand will provide communities and individuals who have experienced intersectional harms to decide how they can be best supported, while also giving the government (at all levels) a well-defined objective. An adaptable, intersectional approach is the best way to ensure all needs are met.

Each of our recommendations has incalculable **potential for impact**. Many focus on youth, as youth are individuals with agency that is so often denied them by systems beyond their control. By focusing on young people, we are beginning a process that will prevent violence both in the present, as well as the future, as these individuals grow into adults with a deep understanding of essential topics such as *healthy relationships; consent and coercion; accountability; gender equality and equity; body and bodily autonomy and power*. Additionally, our recommendations address not only those who have experienced violence, but also those who have caused harm.

Preventing violence means involving those who have harmed or want to cause harm, and recommendations such as *establishing a National text/call-in number for people who want to take pro-active measures to prevent the harm they want to cause and engage with boys and young men from a feminist lens to promote critical thinking about gender socialization...* will ensure that all members of the public are engaged in harm prevention strategies. Further, our recommendations take a transformational and restorative justice approach and recognize that there is a great need for responses that are not punitive, stigmatizing, or disempowering, especially for youth.

Violence prevention is most impactful when everyone is involved and understands their role in systems of harm and oppression. Our recommendations ensure that those most at risk of experiencing harm will be empowered, while those most at risk of causing harm will be educated and supported in a way that allows them to reintegrate with their communities without putting others at risk (and always with the needs and desires of those they harmed prioritized).

Although our recommendations do not always explicitly include **measurable outcomes**, we believe that these could easily be developed for each recommendation, but that many of these outcomes should be decided upon by the relevant communities. For example, we call to *invest*

*in accessible and safe housing for youth (especially 2SLGBTQQIA+ youth) involved in the sex trade... which could, for example, be quantified as a certain number of safe houses established within a certain community. However, whether each community wishes to use number of safe houses or some other metric (e.g., qualitative accounts of youth who have used the safe houses) should be left to the communities. In addition to such flexible measures, we anticipate that our recommendations around data collection, evaluation, and monitoring could involve more well-defined outcomes at all levels of government (e.g., the development of a national data collection framework on gender-based violence in Canada...).*

Finally, many of our recommendations include **creative** approaches to addressing GBV/VAW while remaining **evidence-based**. For example, *providing clean drinking water to everyone living in Canada* may not initially be seen as a violence prevention strategy, but the United Nations has stated that it is harder for women and girls to lead safe and healthy lives without access to clean drinking water and adequate sanitation ([source](#)), and studies have shown associations between violence and access to drinking water ([source](#)). The members of our working group also have combined decades of experience in violence prevention, and the personal and professional knowledge they brought in drafting these recommendations could never be quantified. Their creativity and knowledge base are the foundation upon which these recommendations are built.

Ultimately, we feel that many of these recommendations speak for themselves. Much time and energy has been dedicated to showing that marginalized groups need support, so we are confident in our recommendations to do all of the crucial work that we know – and have known for years – needs to be done. We know how to prevent violence, and the recommendations we have put forward will enable us to act on that knowledge.

### C.3 Responsive Justice and Legal Systems Narrative Report

#### **Q1: Pitch for your Pillar. What is your group's vision of the role this pillar as a crucial and effective part of the VAW/GBV 10-Year National Action Plan for Canada? 400 Words**

The legal and justice systems pillar's role is crucial for the National Action Plan (NAP); there cannot be a NAP without a legal and justice framework. This framework, in tandem with the other pillars, needs to be responsive to the complex, systemic causes of gender-based violence. The Canadian social infrastructure exists in a highly regulated environment; therefore, a solid legal and justice framework is essential to a VAW/GBV 10-Year National Action Plan's success.

A National Action Plan must be rooted in the lived realities of people affected by violence from the intersectional perspectives of Indigenous, Black, racialized, cis-women, LGBTQIS2+, women

and gender-diverse people living with disabilities, people living in poverty, migrant and refugee communities and acknowledge the historical and current systemic harms perpetuated by existing systems towards survivors. This pillar is critical to the sustenance, success, and longevity of strategies to combat gender-based violence; therefore, it shall require ongoing transparency, accountability, standardization, equitable access to justice, and consistency of the processes, from all system actors.

The legal and justice framework of a National Action Plan for Canada shall include the continuum of violence in all its manifestations and responses to the inter-jurisdictional challenges of systems that create inequities. Legal and justice system actors are frequently not drawn from communities facing multiple, intersecting, and overlapping barriers, and so can perpetuate harmful myths and stereotypes about survivors. Any legal and justice system, to be just towards all marginalized and equity-seeking groups, shall move away from the punitive methodology of the criminalization of survivors and their communities and, instead, commit to systemic change, regardless of the type of law. This would include reforming laws, policies, police and the administration of justice. The legal and justice framework will create a roadmap for a meaningful anti-racist, intersectional, GBV+ framework by everyone in the system's executive, legislative, and judicial branches.

The framework should recognize the importance of inquiry and the application of transformative justice and restorative justice options for communities, but it should emanate and evolve as well as stand outside the existing systems' paradigm, as we believe that they would, otherwise, replicate harms already existing in the systems. There needs to be a meaningful dialogue and community consultation to make sure co-opting of transformative justice and restorative justice practices does not happen or continue in our legal and justice systems.

**Q2: What are the wider, evidence-based social, political, and/or situational contexts that are crucial to this pillar and your recommendations? Be creative and interpretive and use this space to address any contextual realities that may not be addressed elsewhere in your answers [600 words].**

The development of our recommendations is deeply rooted in the broader social, political and situational contexts within which we did our work. While, as we have noted above, we see law and justice as having a unique position of privilege and authority in Canadian society, to be effectively and appropriately responsive to the issue of gender-based violence, any changes to those systems must reflect the broad range of realities of all of our communities.

We brought an understanding that gender-based violence is rooted in patriarchy, misogyny and oppressions that are based in the many intersectionalities of people living in poverty, with mental health and/or substance use challenges, disabilities, Indigenous, Black, racialized, cis-women, gender non-conforming, trans and migrant people (including those who are precariously employed or who have precarious immigration status or no-status), those living in

rural and remote communities and others who have been historically excluded. These oppressions actively cause harm in ways that speak to common experiences as well as in ways that are unique to specific communities.

For these reasons, we see it as essential to bring an intersectional lens to our recommendations. GBV is framed in myriad discriminations and other factors faced by and often marginalizing to people affected by violence. If legal and justice systems are to have meaning and be truly responsive, they must be developed through trauma-informed, strengths-based, and ground-up strategies in a way that reflects this.

We were particularly concerned that our recommendations recognize the history and impact of the genocide against Indigenous peoples in this country, its impact on Indigenous women and girls, and the current and ongoing realities of gender-based violence perpetrated against Indigenous women and girls. Thus, we strove to create recommendations that would be consistent with and amplify those made by the National Inquiry into Missing and Murdered Indigenous Women and Girls.

We were informed by both international and domestic human rights frameworks, as they impact both migrant and non-migrant communities, understanding that without a strong human rights foundation, strategies to respond to and eliminate GBV across the spectrum of lived experiences of those affected by it would be incomplete, unsustainable, and fleeting.

Because of their privileged position in Canadian society, legal and justice structures play an important role in setting precedents that have impacts across other systems, a contextual reality that influenced which recommendations to bring forward. These structures are also the mechanisms by which societal norms, state agendas and rules are enforced.

We saw it as crucial to present recommendations that were hopeful, perhaps even idealistic, while also being pragmatic. We felt there was little point in advancing recommendations so audacious as to be immediately rejected by those with the power to implement them, but we also did not want to shy away from presenting recommendations that would challenge the status quo.

We also fear that, especially in the pandemic and post-pandemic environments, as we are truly living and working in unique times, this will have an impact on government priorities with respect to both policy and budget. We strove to create recommendations reflective of this.

Survivors of gender-based violence look to justice and legal systems from different perspectives. Some, often those who are already the privileged, turn to those systems assuming they will provide justice. They are often disappointed. Others, often those who have been marginalized, reject those systems, assuming they will cause further harm. Their fears are often proved correct.

Our recommendations are intended to reflect the reality we see: that survivors of GBV, whatever their privilege or lack thereof, are seldom served well by existing justice and legal

systems, and that those with less privilege are often actively harmed by their interactions with those systems. It was crucial that our recommendations reflect the notion that lifting those who are most vulnerable will lift us all.

**Q3: What divergent views and contested areas did you grapple with in your working group, and what does it tell us about approaches to effective policy/action in this pillar? Please highlight who and how these measures would benefit and who it might potentially or unintentionally harm. [800 words]**

It is not surprising that the justice and legal systems working group grappled with many ideas where our opinions diverged. This was sometimes based on differing philosophical or political perspectives and sometimes on the different areas in which each of us has some measure of expertise.

In some cases, we were able to reach a place of common understanding that allowed us to move ahead with a recommendation; in others, we realized quickly that we would need more time than we had to reach consensus.

We wished for enough time to unpack and analyze the question of whether we should make recommendations to overthrow current legal systems and replace them with something entirely new or whether we should focus on reforming those systems, thus potentially giving them a legitimacy many of us felt they do not deserve. Should we make recommendations that address the current legal systems or make truly transformative recommendations?

Examples of this dilemma include improving the present system of incarceration vs recommending a de-carceral approach and reforming police vs defunding the policing system. We also struggled with the challenges associated with the demand for universal approaches. While we want to address systemic causes and responses, requiring broad brush recommendations undermines the distinctions and needs-based approaches that will address regional and community differences.

We wondered, but did not have the time to determine, whether some systems are irredeemable or whether there might be a way to identify and transform the foundations of those institutions through incremental change. We worked hard not to privilege the position of criminal, family, and civil systems over others, including administrative processes—that also create conditions of vulnerability for people affected by gender-based violence. We lacked the time to find agreement in whether we were building or dismantling over the 10 years of a national action plan on gender-based violence.

There were other legal and justice system issues where we simply did not have the time for the conversations necessary to come to coherent and meaningful recommendations: for example, the nature and role of transformative justice, whether or not UNDRIP offers Indigenous women what they deserve, how to speak to sex work vs sex trafficking, the importance of finding the right language to describe the problem (violence against women vs gender-based violence:

what is gained and lost with each term?). We also did not have enough time to have in-depth conversations about the ways in which historic and ongoing realities play a significant role in the impact of gender-based violence on Black communities.

We acknowledge that an effective policy/action needs to respond to the lived realities of communities, which shifts with social/political environments. A prime example of that is that we did not spend much time on specificity of issues related to Islamophobia or anti-Asian racism. It is challenging to ensure no community is left out.

We struggled with how to address the desperate need for education and training across all legal and justice institutions and personnel to ensure it would be meaningful, impactful, and ongoing while also acknowledging that without transparency and accountability, even the best education would have only a limited impact. Education needs to be seen not as a means to an end but as a process of learning that offers the potential for a systems-wide paradigm shift.

We concluded that the external limitations on this process—the short timeframe, the pandemic-imposed inability to gather in person, the extreme limit on the number of recommendations each working group could bring forward—required us to provide largely broad-brush rather than detailed recommendations. We hope our recommendations will be seen as focused on long-term systemic change that will occur in increments without ignoring those changes that require attention in the short term.

Our work should be seen as the beginning of a longer process. These are complex issues that require more thought and research than time allowed us to have. Our hope is that the National Action Plan will be used as a starting point for change and as a way to keep governments accountable into the future, while also addressing urgent needs immediately.

**Q4: Please share the rationale for the top recommendations you want us to highlight and their sequencing over the 10-year period. Include references where appropriate. Try your best to consider: Intersectional experiences of violence; practicality; potential for impact; evidence basis; measurability; creativity. [1200 words]**

The group received more than 247 recommendations and received a few passbacks for immigration recommendations. The material we received included links and references to evidence and research for framing the group's recommendations. The challenge it posed for the WG was that the existing body of work covered vast areas, and many of the recommendations were dated or lacked current context (e.g., bills pending or already passed, some legislative schemes applied and causing harm etc.)

Based on the task at hand and the challenges posed by the existing materials, the co-chairs divided the recommendations into four categories for the convenience of WG members:

- i. **Universal Statements:** These were recommendations identified for the National Action Plan's universal content; beyond the justice pillar, these statements were agreed to impact overarching thematic discussions and not only our pillar. A few universal statements were identified after this document was shared, and some were already incorporated in the Interim Report by the writing team.
- ii. **Pass backs:** These were recommendations shared back for other pillars to consider as they were better suited for those themes.
- iii. **Outtakes:** These were recommendations removed from the thematic document, because they were lower priority, repetitive, fit better with other pillars' mandates or better suited for universal statements. WG members engaged with the document in-depth, reviewing the outtakes as well the higher priority recommendations. It was agreed that if any thematic group wanted to consider returning any of the outtakes into their top recommendations, they would make that decision in their small group. This document with comments will be submitted to the writing team.
- iv. **Themed Recommendations:** Since this project had tight timelines and ambitious aims, the co-chairs divided the high priority recommendations into themes as set below and WG members worked on them in sub-groups:

Education

Legislation, Policy, Regulation

Family Law

Labour Law

Human Rights Law

Immigration and Refugee Law

Criminal Law/Police and enforcement

Sentencing/Incarceration

Systems Accountability/Cross-system coordination

Legal Representation

Community-Based Responses & Supports

Transformative Justice

### **The highlights of some of the discussions for recommendations**

1. Many people in Canada have violence committed against them and continue to experience violence every day because of gender, gender identity, gender expression, or how others perceive their gender. While systemic issues require systemic responses, they are rooted in individual experiences, and we can't lose those connections. This form of violence constitutes gender-based violence, and it is one of the most pervasive, deadly, and deeply rooted human rights violations. Gender-based violence is a significant barrier to the expression of individual freedom and societal and collective development.
2. Gender-based violence discourse is often limited to intimate or familial relationships that is encountered largely in the private sphere and occurs in person. We must remember that it also occurs in the public sphere, including people's work lives and in institutions of learning. It can extend into the workplace and be perpetrated by clients, customers, and members of the public. It can also be facilitated through technology as is increasingly being witnessed in domestic violence cases and student harassment/violence cases.
3. Legal and justice frameworks, while addressing gender-based violence, routinely lack consistency in their application for equity-seeking and racialized populations. Justice and legal systems are laced with implicit and explicit bias against people who experience violence. The reality remains that, while violence affects people of all genders, ages, religions, cultures, ethnicities, geographic locations, and socio-economic backgrounds, some populations are more at risk of experiencing violence because of historical and ongoing oppression, such as sexism, homophobia, transphobia, colonialism, ageism, classism, racism, ableism. To this day, women and girls continue to be the primary victims and survivors of gender-based violence. Indigenous women; Black and racialized women; non-binary, gender-diverse and LGBTQ and Two-Spirit people; those living in northern, rural, and remote communities; those with disabilities; non-status and temporary status migrants, immigrants, and refugees; children and youth; and seniors experience high rates of gender-based violence. The intersection of any two or more identity factors compounds a person's risk and vulnerability to violence. For the purpose of the process, the WG agreed on universal content to include and emphasize the need of the NAP to centre the intersectional experiences of marginalized and historically discriminated communities.
4. Gender-based violence is a complex and multifaceted issue that requires action by all governments according to their respective responsibilities, as well as cross-sector collaboration, traditional division of powers notwithstanding. Federal, provincial, and territorial governments have acknowledged the urgency of addressing the multiple, complex, and deeply rooted factors contributing to gender-based violence. There is a need for immediate commitments to continue to work together and with other

departments, agencies and ministries, partners, stakeholders, experts, survivors, families, and people with lived experience to create a Canada free of gender-based violence, where victims, survivors and their families are supported no matter where they live. The WG also felt challenged knowing that law as an instrument is not a solution but rather one of the pieces of the equation and were equally concerned that, in many cases, law is weaponized against the survivors who seek protection from legal institutions that are designed within the legacy of colonization.

5. In many ways, all the recommendations in this pillar are urgent, immediate, and critical to the success of the National Action Plan. It is clear that the legal and justice system in its current form is failing people affected by violence on many levels and, therefore, there is a need for a transparent, consistent, and accountable systems for this planning process.
6. Many factors, such as education and legal representation, are relevant for all thematic areas; for example, trauma-informed service provision needs to be part of the training of both first responders and decision makers. Therefore, they are consolidated in one more enormous ask, making sure that the WG can still come up with a list of top 20 asks.
7. The rationale and evidence for the recommendations were based on the research already done and, for some recommendations, additional research was also requested. For many recommendations, service providers and advocacy experience in the room informed the group, and the subject matter expertise of specific WG members also benefited the process.
8. The reality of the pandemic has highlighted the lack of necessary resources to meet the needs of those subjected to gender-based violence. There is a looming fear that if the legal responses are not considered for immediate attention in the NAP planning process, we will see a reduction in protections for survivors of violence, specifically those with intersectional experiences of oppression.

#### **TIME FRAME**

In most cases, the WG members were balancing idealism and pragmatism. As mentioned before, although all the recommendations could be identified as needing immediate action by the government, most of the top recommendations presented a pragmatic approach in terms of a time-frame. Many are for immediate, short-term and medium-term time frames, there are very few in the long-term section, and most require an ongoing commitment of resourcing, review and meaningful engagement with civil service organizations and survivors.

## **ONGOING ADVOCACY**

The WG agreed that the long list of recommendations that did not make in the top 20 should all go in the appendix. The group agreed that no thought, whether consented to by the group or contentious, should be left behind. In some discussions, it was agreed that this document could be an advocacy tool for us, regardless of what the government does or does not do with the recommendations. There was an awareness that the WG is working through this document in the shadow of the pandemic, which has a new reality, but other issues that may not seem so topical right now are still important, and many are emerging as we discuss the future.

### C.4 Support for Survivors and their Families Narrative Report

#### **Q1: Pitch for your Pillar. What is your group's vision of the role of this pillar as a crucial and effective part of the VAW/GBV 10-Year National Action Plan for Canada? [400 words]**

An overall plan to reduce and ultimately end GBV, will require a multi sector/multi-system, all of society approach. Until shifts in attitude, appropriate responses from the justice and legal systems and social supports are widely available and adequate, victims/survivors and their families need specialized supports. Currently specialized supports are limited by geography and lack adequate funding. Those experiencing GBV may not be aware of formal services or may feel unwelcome in those spaces. It is crucial that formal services offer trauma- and violence-informed and culturally appropriate support and services that are delivered in a rights-based manner.

Survivors require access to timely, reliable, inclusive support services that meet their needs based on their lived experiences. Because many survivors do not reach out to formal support services, efforts need to be made to ensure that natural supports, such as community groups, cultural groups, faith communities and the general public can identify warning signs and risk factor for those vulnerable to GVB and know how to respond in an effective and safe manner.

Enhanced coordination, collaboration and information sharing between VAW/GBV core service providers and systems—such as policing, mental health, and education—are needed to increase safety for victims. We recommend the creation of an independent civilian oversight body for provinces/territories to hold government accountable, especially for violence perpetrated within government support systems. Those who work on the frontlines with victims and survivors are also at greater risk for vicarious trauma.

There is a need for increased recognition and support for GBV/anti-violence workers and community-based GBV advocates who, like law enforcement and other first responders, are at risk of adverse outcomes due to vicarious trauma. Funding and programs are needed to address the psycho-social well-being of these workers. Supports for survivors and their families must

include consistent funding, including focused investments to ensure timely, responsive, and equitable access to core support services for GBV survivors to ensure a continuum of inclusive support for GBV survivors irrespective of their family status, immigration status and geography.

**Q2: What are the wider, evidence-based, social, political, and/or situational contexts that are crucial to this pillar and your recommendations? Be creative and interpretive and use this space to address any contextual realities that may not be addressed elsewhere in your answers. [600 words]**

We write this report as the third wave of the COVID-19 global pandemic merges with the ongoing and persistent “shadow pandemic” of GBV creating some of the most precarious and lethal situations for survivors and their families that have been documented in recent years. In addition, the COVID-19 pandemic impacts are falling hard on those providing GBV services. These impacts are in effect amplifying the already heightened vulnerability for GBV faced by Indigenous, Black, and racialized women; non-status, immigrant, refugee, and newcomer women; women with disabilities; trans, non-binary, and gender non-conforming people; and others who are rendered to the margins by historic and ongoing oppression at the root of the social and economic impacts of the pandemic. So far in 2021, Indigenous women continue to go missing with more women, including more Black women, killed due to femicide than in the previous three years.

While reflecting on recent police killings of Black people in the US, Canada appears to have furthered a reckoning with colonization, white supremacy, and the enslavement of Africans on its own lands. Our recommendations were developed to deepen intersectional outcomes drawing on a thorough understanding of complex historical community experiences of racialized colonialism and its impact on present-day levels of racist discourse, impoverishment, and residential and labour market segregation, and service delivery models. Specifically, there are historical reasons for the contemporary concentration of Indigenous and Black survivors at the dangerous intersection of GBV. Both colonialism and racialization are recursive processes through which political, economic, social, and interpersonal connections are systemically produced and reproduced. Our recommendations urged incorporating this understanding as part of any successful amelioration of GBV.

Originally, coined by South African disability rights advocates in the 1980’s “nothing about us without us” is a self-determination call that continues by others who advocate for inclusion and intersectionality in GBV service delivery. Our recommendations lean into the establishment of a full continuum of GBV services designed and delivered “*by and for*” communities who continue to be systemically and institutionally excluded and disenfranchised. “*By and for*” is one approach that would enable services and supports to help address this legacy. For instance, services for Indigenous, Inuit, First Nation and Metis people must be developed through each

specific lens and grounded in specific ways of knowing, lived experiences, knowledge, language, culture, and ceremony. This escalation is capacity building for GBV service providers of historically excluded groups to expand their reach specifically and should not be read as a reason for mainstream GBV to expand their reach in these areas.

Since 2014, men who call themselves “involuntary celibates” and blame women for their own lack of sexual and social status, 2020 saw a string of INCEL-related violence including a machete attack at a Toronto massage parlor. What was once seen as an isolated incident, such as the 1989 École Polytechnique massacre that claimed fourteen engineering students’ lives, INCEL-related attacks have multiplied, the ideology has begun to get more attention from both law enforcement and counterterrorism researchers, and we recommend that there is continued attention paid to this version of misogyny and its lethal consequences.

Pornography, in various forms, has existed throughout human history. Different concerns about the content of pornography have periodically emerged over history as social and sexual norms shift. With consideration of its nearly ubiquitous nature, pornography is argued to influence the sexual socialization of its viewers, affecting upon beliefs of what is normal and desirable in sexual contexts. Many individuals have expressed concerns that with the rise of the internet, pornography is becoming more extreme as well as more accessible. The relationship between sexual aggression perpetration and intentional exposure to pornographic material appear to be stronger for violent pornography compared with nonviolent pornography. Pornography use has also been associated with stronger attitudes supporting violence against women. We support the furthering of research and services that make space for the inclusion of the impacts violent pornography may be in effect for survivors and their families.

**Q3: What divergent views and contested areas did you grapple with in your working group, and what does it tell us about approaches to effective policy/action in this pillar? Please highlight who and how these measures would benefit and who it might potentially or unintentionally harm.**

#### Legal Justice, Transformative and Restorative Justice: Debating Traditional and Alternative Visions of Justice for Gender-Based Violence

For the 5% of Canadian survivors who go to the police, reporting involves a painful retelling of trauma even in the presence of an advocate. Victims who make a police report may also experience secondary victimization that can be more harmful than the victimization, itself. Despite the predominance of carceral justice, many survivors want their offenders to be rehabilitated rather than incarcerated. People of colour are disproportionately charged, convicted, and imprisoned. Incarceration doesn’t address survivors’ other needs for healing, or the structural roots causes of GBV.

While *restorative justice* practices vary widely, they shift the focus from an adversarial binary of victim and perpetrator to one that acknowledges the impact of harm on individuals and communities. Restorative justice offers a collective forum elevating the voice of the survivors, recognizing the impact of violence on community, and allowing the person who caused harm to understand the impact more fully. Unlike the retributive criminal justice system, the aim is restoration, rehabilitation, and the healthy reintegration of all parties back into the community.

It is impossible to ignore the criticisms that the process may be unsafe, subjecting survivor to further victimization, the possible cooptation by the legal system, which may result in unsatisfactory treatment like that in the adversarial system. Restorative justice requires the offender to admit responsibility before a conference. This is a challenge in dealing with sexual violence which is associated with high rates of denial. The concern of entrenching public perceptions that GBV is not a serious crime if the survivors are willing to engage face-to-face with the person who harmed them and that it is an expensive process given the preparation required to ensure process safely.

Largely initiated by grassroots movements, *transformative justice* signifies opposition to the criminal justice system and reforms that legitimize the existing system of crime control. Rejecting the criminal justice system as primarily responsible for the violent oppression of marginalized communities, transformative justice responses seek resolutions within more intimate systems of community or civil society.

Transformative justice remains exploratory and flawed, and in its current form, it is a still young practice. We cannot ignore that many survivors want the criminal legal system to work for them; they want to see those that harmed them punished.

#### Sex work/Sex Economies/Sexual Exploitation/Human Trafficking

Whether a woman may ever choose to exchange sex for financial compensation is widely debated among feminists, academic and legal scholars alike. Globally, discussions about sex work focus on exploitation. Positions on sex work are primarily divided between those who consider that selling sexual acts is legitimate work and those who consider it a form of exploitation. Our discussions with regard to sexual exploitation or sex work, the working group was loosely divided into two opposing groups: a) one condemning all forms of voluntary and involuntary sex for compensation as a form of oppression against women; b) the other viewed women the right to exchange of sex for money or other things and forms of sex work as a form of employment or even as a career.

We briefly discussed the exchange of sex for money and other things in the context of racial and gender capitalism and to review the philosophical, legal, and political perspectives on a sex economy continuum between sexual exploitation and enterprise.

Feminist theories and contrasting views significantly impact service delivery, as direct service providers also disagree. In general, the brief discussion about the “sex economies” was to

advance long-term commitments toward social change and eradicate systemic issues that create and perpetuate inequities so that individuals can make safe, healthy, and informed decisions in their lives.

### Resource Extraction Projects

The link between resource extraction projects and violence against Indigenous women is a 'serious problem' that demands attention. The national inquiry's report finds resource development projects, and the worker camps that make them possible, a threat to Indigenous women specifically and more broadly for all women due to the toxic masculinity that thrives in these environments. The impacts on women and girls have never been a part of the decision-making process when it comes to deciding the fate of projects.

The MMIWG NI recommendations: a) for all industries to consider the safety and security of Indigenous women, while ensuring their equitable benefit from development, at all stages of project planning, assessment, implementation, management, and monitoring; b) calling on governments and bodies mandated to evaluate, approve, and/or monitor development projects to develop and monitor a gender-based analysis throughout the entire life of a project and; c) calling for all impact-benefit agreements to include provisions addressing the impact the project will have on Indigenous women and girl, finally; d) call on federal, provincial/territorial governments to fund more inquiries into the relationship between resource extraction and violence against Indigenous women.

**Q4: Please share the rationale for the top recommendations you want us to highlight and their sequencing over the 10-year period. Include references where appropriate. Try your best to consider: Intersectional experiences of violence; practicality; potential for impact; evidence basis; measurability; creativity. [1200 words]**

GBV survivors and their families have a right to safety, healing and justice. As such, "supporting survivors" means not only creating accessible individual services but also ensuring that survivors have their health, emotional, financial, and spiritual needs met in the aftermath of violence. Formal GBV services need to be trauma and violence informed and intentionally anti-racist and anti-oppressive. GBV services and the systems' response must be evidence-based while also recognizing and integrating multiple ways of knowing. Listening to the voices of survivors and their families and acting on their recommendations lays the groundwork for a deep intersectional response to harms experienced.

## **Support for Survivors and Their Families: Recommendations:**

The work of supporting survivors and their families who have experienced gender-based violence must be rooted in actions that work toward systemic change. Ensuring free and timely services to individual survivors that are reflective of their distinct needs and identities is imperative. However, supporting survivors and their families is about much more than ensuring the availability of shelter beds and trauma counselling. For our purposes, “support” is a multi-layered, politicized act that resists individualizing, pathologizing, or de-contextualized understandings of the causes and impacts of gender-based violence.

As such, “supporting survivors” means not only creating accessible individual services that ensure survivors have their safety, health, emotional, financial, and spiritual needs met in the aftermath of violence. “Supporting survivors” also involves the ongoing work of positioning gender-based violence as the inevitable consequence of colonial, patriarchal, ableist, racist, and heteronormative systems that create the conditions within which violence against those with the least power in these systems has been and continues to be ignored, accepted, and in some cases encouraged.

In our definition, supporting survivors—whether at the individual service delivery-level or within larger systems, such as justice and healthcare— involves the complex and intensive work of reckoning with systemic oppression and gender inequality, including the ongoing reality of colonial violence, anti-Black racism, and other forms of discrimination. This means that government and other decision-makers who are aligned with supporting survivors must be committed to deepening their own understanding of what support in the context of gender-based violence involves and provide adequate resources and efforts to enact the complex, systemic change that is necessary.

Supporting survivors and their families encompasses formal services and informal supports that address three primary needs: Safety, Healing and Justice. Some of these will overlap with those identified in other working groups, requiring additional synthesis.

These services and supports must be provided in certain ways.

### *Intersectionality.*

Safety, Healing, and Justice must integrate a deep intersectional analysis. The intersectionality theory emphasizes the experiences of GBV within interlocking and converging identities that survivors present based on race, age, social class, sexual orientation, abilities, religion, spirituality, ethnicity, citizenship status, physical characteristics, history, geographical location, and language. The convergence of these identities interacts with the larger social systems creating a unique GBV lived experience. The intersectionality approach gives us a clearer view of the complexity and dynamic of all points of intersections, and structures that impact survivors’ abuse experiences, but also their access to rights, resources, and opportunities.

### *Anti-oppressive, Anti-racist and Culturally Safe*

Safety, Healing, and Justice must be *anti-oppressive, anti-racist, and culturally safe*. Oppression is the use of power to disempower, marginalize, silence or otherwise subordinate one social group, often in order to further empower and/or privilege the oppressor. Anti-Oppression work

seeks to recognize the oppression that exists in our society and attempts to mitigate its affects and eventually equalize the power imbalance in our communities. Anti-racism, anti-oppressive framework confronts all aspects of injustice and inequity within society's institutions, structures, systems and practices, and is intended to understand and eradicate racism and oppression in all its forms.

Cultural safety is about acknowledging the barriers to service effectiveness arising from the inherent power imbalance between provider and survivor. This concept rejects the notion that services should focus on learning the diversity of different survivor populations. Instead, cultural safety seeks to provide service through being cognizant of difference, decolonising, considering power relationships, implementing reflective practice, and by allowing the survivor to determine whether the services are safe. Cultural safety requires service providers to examine themselves and the potential impact of their own culture on clinical interactions. This requires the service providers to examine their own biases, attitudes, assumptions, stereotypes, and prejudices that may be contributing to underutilization of services

*Harm Reduction Philosophy.*

Safety, Healing, and Justice must be underpinned by a harm reduction philosophy, which reflects our goal of ensuring that survivors receive respect, care, and access to the services they require. All survivors have unique stories and needs, and every form of assistance must be survivor-centred and trauma-informed to reduce health and social harms associated with seeking help, be it from shelters, treatment centres, or any other care-providing organization. Harm reduction is evidence-based, gives survivors options, and does not force or coerce them to engage in any actions with which they are not comfortable, such as interacting with the legal system or ceasing substance use. This principle empowers survivors to regain control and help alleviate and prevent future harms.

The Figure below outlines these service/support domains and the principles of service delivery.

## Survivors & Their Families Must Have...

Safety

Healing

Justice

These Must Be Provided  
in Ways That:

- Are Trauma- & Violence-Informed
- Are Anti-oppressive, Anti-racist and Culturally Safe
- Integrate Multiple Ways of Knowing
- Are Data and Evidence-Informed
- Integrate a Deep Intersectional Analysis
- Are Underpinned by a Harm Reduction Philosophy

### Intersections of Themes

While each theme requires its respective strategies and planning, each theme intersects with other themes and there is reciprocal interactions among the themes. For example, resourcing research and improving practices related to alternative justice systems could increase the safety of survivors, who choose not to pursue their cases within the criminal justice system but hope to restore justice through other legitimate options. Similarly, survivors experience higher risks and are more prone to harm when criminal justice system fails to protect survivors. Another example is the interaction between “healing” and “safety” which can occur wherein survivors who are not experiencing safety and are in survival mode can not move towards healing and recovery and be back to their normal social functioning. Furthermore, if the healing received from mainstream services are not informed by the above principles, they can re-traumatize survivors leading to secondary victimization, which will in turn interrupt survivors’ experiences of safety.

All recommendations listed below are based on this foundation: the ‘what/why’ of needed services and supports, and the ‘how’ of design and delivery.

In addition, each recommendation, when implemented, will need to account for, and address, systemic inequities, therefore considerations for specific groups are highlighted. Finally, there are overarching or cross-cutting considerations that apply to All recommendations – the are outlined first, so as not to repeat them in each recommendation.

## **Overarching/Cross-Cutting Requirements - All Recommendations**

- 1.** Recognition and response to historical and ongoing oppression
- 2.** Sufficient and sustained long-term funding to services and programs, allocated with an equity lens to ensure that those with greatest need (by group, area, etc.) receive additional supports as required.
- 3.** Accessible, integrated, coordinated service system(s) that is/are easy for survivors and their families to navigate. Augment (but do not replace) traditional services with virtual/online service options to increase access for remote communities (requires infrastructure investments).
- 4.** Intergenerational/lifespan approach to understanding GBV and designing appropriate services and supports.

### **Recommendation #1—Core Services for Survivors & Families: Safety, Healing and Justice**

Implement adequate and consistent provincial/territorial and federal budgets including consistent operational funding to ensure the availability and accessibility of core services for GBV survivors. Recognize the following as core services for GBV survivors that require provincial / territorial and federal budgets to provide financial resources that are adequate enough to allow for the provision of these services when and to the extent that survivors need them. The required funding amounts should be determined in collaboration with service providers, and should be substantial enough to ensure immediate availability and accessibility. We emphasize the need for consistent operational funding to support service delivery not just grant or project funding.

- a. Shelters/safe places.
- b. Second-stage housing.
- c. Sexual assault centres/rape crisis centres.
- d. Survivor-led, frontline feminist independent community sexual assault centres/rape crisis centres which allows frontline survivor-directed advocates to expand autonomous SACs/RCCs into areas without current access.
- e. Campus-based sexual assault response programs and centres.
- f. 24/7 Helplines staffed by those with training in trauma-informed and violence-specific interventions.
- g. Specialized services in hospitals; also accessible via referral from health care providers and settings (these may include abortion access, forensic examination kits, STI testing, harm reduction).
- h. Services (including counseling and safe childcare) for children experiencing sexual abuse, exposure to domestic violence; ensure appropriate services including counselling and safe childcare for children affected by domestic violence; specialized, feminist, violence-specific crisis and long-term counselling for all survivors, including children, and their families. This includes access to long-term, trauma-specific individual counselling and group counselling options available at no cost to survivors.
- i. Training for practitioners in recognition and safe response.

- j. Peer-to-peer programs on GBV.
- k. Specialized, feminist, violence-specific crisis and long-term counselling for all survivors, including children, and their families. This includes access to long-term, trauma-specific individual counselling and group counselling options available at no cost to survivors.
- l. Emergency Fund to meet the basic needs of survivors and families in emergency situations including transportation, childcare and other costs for accessing services.
- m. The need for better supported community-based first response.

### **Recommendation #2—A Focus on Equity-Deserving Groups**

Ensure accessibility and equity in all survivors' access to core services on GBV, which are integrated and coordinated so services and systems are easy to navigate and based on promising or efficient practices through embedding practice guidelines at all levels a feminist and intersectional, anti-oppression analysis. Embed the understanding of the intergenerational and lifelong cycle of violence experienced by girls, women, and gender-diverse individuals that is rooted in historical and ongoing oppression. Implement an analysis that draws on the historic, legal, social and global contexts that contributes to the marginalization of people of specific groups rendering survivors from these identified groups vulnerable to GBV in the context of state violence including colonization in Canada and throughout the world, genocide, immigration policies, heteronormativity, the discrimination of and social prejudice against people with disabilities.

Ensure equity and access to the above core services, specific communities require focused investments to develop tailored strategies and supports.

We recommend:

Identifying through community-led and transparent consultations to close gaps in services for under-resourced communities (rural, remote, Northern; Indigenous; Black and other racialized communities; gender-diverse people; people with disabilities; people with precarious/no immigration status; sex workers, older adults, and LGBTQ2S+ communities, male survivors of childhood sexual abuse; criminalized women; and gender-diverse people).

Develop and implement an equitable and responsive funding model, within 5 years, for these communities.

- n. One initial focus should be to reduce wait times by providing new resources for feminist, trauma- and violence-informed counselling services.
- o. A second focus should be on high-risk cases, via coordinated, survivor-centred risk management and crisis units, to prevent death and serious injuries.
- p. Ensure that every community in the North has 24/7 access to a safe place to shelter from violence and/or access to sexual violence services; ensure strategies

- to support safe access to services for these communities/individuals e.g., mobile programs, local dispatch, access to services in local languages.
- q. Emphasis on sexual and domestic violence services, rather than generic or police-based/victim services. Funding and resourcing that reflects the specificity of sexual violence, domestic violence, and other anti-violence work and service delivery. This is different from generic police-based/victim services.
  - r. Funding and resourcing should be equitable with other sectors. The sexual violence sector has been long neglected. Funding and resourcing that reflects the specificity of sexual violence work and the difference provided in sexual violence support as compared to other types of support.
  - s. Develop accountability measures to assess performance of the new funding model.
  - t. Ensure services are designed for the specific needs identified by and centred in a service model that includes "*delivered by and for*."
  - u. Ensure Indigenous, First Nation, Inuit and Metis survivors can access culturally and linguistically appropriate services run by and for Indigenous communities. This work requires the inclusion of medicine, culture, ceremony language in all services.
  - v. Ensure Francophone, deaf and hard of hearing and survivors speaking languages other than English can access culturally and linguistically appropriate services run by and for these communities, and ensure access to interpreters.
  - w. Ensure funding to community-based organizations that assist new immigrants and refugees who have experienced or are experiencing GBV with access to interpreters and translation services.

### **Recommendation #3—Trauma- and violence-informed care**

Implement and apply a trauma- and violence-informed care analysis to all GBV services to expand the concept of trauma-informed care to account for the overlapping impacts of interpersonal violence and systemic, structural and institutional inequities affecting a survivor's life. Develop and deliver services that are responsive to trauma and violence, including substance use and poor mental health and to view this impact as a predictable consequence of highly threatening events recognizing that for many survivors, inequity and system-induced trauma are going.

Redress how structural forms of violence filter down to everyday experiences, including interactions with health and social services. Funding and resourcing must recognize the intersectional and inter-sectoral needs of all survivors, including areas of health, justice, and public safety. Funding should reflect the reality that anti-violence frontline services, including sexual assault centres, shelters, transition housing, and other core services, provide "wrap around" support that often goes beyond addressing violence.

### **Recommendation #4—Support for the GBV Sector/Protections and Supports for GBV/Anti-violence Workers**

Community-based GBV workers are routinely exposed to trauma, which puts them at risk of work-related stress such as post-traumatic stress injuries, vicarious trauma, and secondary traumatic stress. The GBV sector lacks access to adequate wages and benefits, workplace supports, post-trauma related workplace injury supports, and training opportunities to build resilience to the impacts of this work, especially when compared to system-based first responders, such as police, firefighters, and paramedics. Furthermore, GBV workers are often called upon to provide their expertise and input in systems-based attempts to improve GBV knowledge and response. While the inclusion of frontline expertise is crucial, GBV workers are often called upon to provide this input without being compensated for their time and effort.

We recommend:

- Implementing a full recognition of impacts of providing care on the anti-violence work force (e.g., burn out, vicarious trauma).
- Ensure adequate wages comparable to public service sector doing similar work. Ensuring adequate wages, benefits, and pensions comparable to public service sector doing similar work.
- Implementing the recommendations put forth by the Federal Ombudsman for Victims of Crime and outlined in the report: Community-Based Anti-Violence Worker Wellness: A Review of the Literature and Recommendations for the Office of the Federal Ombudsman for Victims of Crime
- Providing dedicated funding to support community-based GBV advocates and workers to share their expertise should be available, including in the advocate case review processes, policy development, training for law enforcement and justice system workers, and other forms of consultation.

### **Recommendation #5—Training**

Ensure that all broader health and social services sector include psychosocial, legal and medical workers receive general training to recognize and respond to GBV, offer appropriate referrals, as well as multi-sectoral training

Ensure that organizations and professional bodies responsible for training future professionals who will potentially intervene with victims of VAW/GBV receive adequate and ongoing training to identify violence and risk factors.

We recommend:

- Training for law enforcement, prosecutors, and other in the legal system. Training must include components of sexual assault law, myths and stereotypes, structural violence, sexual assault trauma, and communicating with survivors of sexual violence.
- Training must be developed and implemented in consultation with frontline advocates.
- The creation of clear mechanisms for oversight on internal training for police and other institutions, such as the Canadian Armed Forces, Corrections, and the RCMP.

\*\* For all of the recommendations for this pillar see [Table 4 beginning on page 96.](#)

## Appendix D: Commissioned Discussion Paper: MEAL as a Crucial Aspect of a 10-Year NAP

### **Capturing the Realities of Survivors of Gender-based Violence: Applying an intersectional and feminist lens for Monitoring, Evaluation, Accountability, and Learning (MEAL) in Canada's National Action Plan to End VAW/GBV**

**Rotbah Nitia<sup>12</sup>**

**May 14, 2021**

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<sup>12</sup> Women's Shelters Canada (WSC) retained Rotbah Nitia as a feminist MEAL expert (consultant). She submitted this paper to the National Action Plan on Gender-based Violence core project team at WSC. The author thanks Amanda Dale for her helpful comments and suggestions and the members of the working groups for their insights and inputs towards the key recommendations, particularly Deneira Exner-Cortens, Suzie Dunn, and Doris Rajan from the Prevention working group and Nadine Wathen from Support for Survivors and Their Families working group. All inferences, opinions, and conclusions drawn in this paper are those of the author. They do not reflect the opinions or policies of WSC or of any organizations with which the author is currently or was previously affiliated. The author declares that she has no competing interests, either financial or community in nature.

## **Introduction**

The report to which this paper is appended has established that violence against women/gender-based violence (VAW/GBV) is among the most pervasive of human rights violations. It is omnipresent—at all levels of society, including in the personal, interpersonal, community, and public realm. The rates of VAW/GBV in Canada are nothing less than shocking. The current global pandemic has exacerbated these circumstances further. While lockdowns and stay-at-home orders are crucial in limiting and preventing the spread of COVID-19, they have a devastating impact that triggers and perpetuates VAW/GBV, and preventive confinement measures further compound this. For this reason, UN Women refers to VAW/GBV as the “shadow pandemic” (Mlambo-Ngcuka, 2020). Meanwhile, Canada has shown little to no progress in combatting domestic and sexual violence against women and gender-diverse people. To date, monitoring and accounting for the factors that can positively change these numbers has eluded policymakers.

Monitoring, evaluation, accountability, and learning (MEAL) strategies, through an intersectional, feminist lens, form the basis of strengthening understanding of the many and multi-layered factors underlying VAW/GBV. Women and people with diverse sexual orientation, gender identity and expression (SOGIE) experience violence differently and differentially, and feminist MEAL can assist in monitoring the effectiveness of the response for these populations in particular, at the municipal/local, provincial/territorial, and national levels (UN Women, 2010), with the aim of contributing to progressive and sustainable change

Crucial to Canada’s 10-year National Action Plan to end VAW/GBV (NAP) is a MEAL strategy with a feminist underpinning that prioritizes collaboration, honours contexts and complexities, and prioritizes building the evidence base for informed decision making. Feminist MEAL challenges us to think differently about what is considered evidence, pushes the boundaries of how we capture this evidence, and questions who assigns meaning and relevance to data and experience. It emphasizes the need to shift power relationships in MEAL processes, encourages collective knowledge generation and values lived realities of survivors of VAW/GBV. If the NAP is to deepen gender equality and contribute to the transformative changes necessary to end VAW/GBV, an intersectional feminist MEAL strategy must be at its core.

## **Why is MEAL crucial for Canada's 10-year National Action Plan?**

Monitoring, Evaluation, Accountability and Learning is critical for building a strong, national and global evidence base to advance prevention, response, and remedy to VAW/GBV (UN Women, 2010). It is key to tracking and monitoring the diverse range of actions that the government will implement to address this pervasive social harm.

As a foundation for this work, the following agreed-upon definitions can support a common understanding of MEAL:

**Monitoring** refers to an ongoing program management activity that involves the systematic collecting and analyzing of data to assess progress made towards outcomes or milestones. It is done on a more frequent and systematic basis to track whether the work is progressing as planned and, if not, what adjustments need to be made to proceed towards the intended goals or objectives (DFID 2012).

**Evaluation** is a systematic process to judge the merit, worth, or significance of an intervention by combining evidence and values. The objective of the evaluation is typically to assess or examine the overall impact of social interventions against an explicit set of goals or objectives. It is done less frequently than monitoring as it aims to capture robust, big picture impact at particular moments in time. Evaluation can take place before work begins (formative, needs analysis, ex-ante impact evaluation), during (developmental or process evaluation), or after (summative evaluation, outcome evaluation, evaluation on value for money, ex-post impact evaluation). Evaluations can also be a synthesis of data from multiple evaluations, such as meta-evaluation (Better Evaluation, n.d.).

**Accountability** can take many forms. Simply put, it is an obligation to demonstrate that work has happened based on agreed-upon terms. Transparency is a core component of accountability; it is about being open about what an entity does, why it does it, and what it achieves. Doing so may involve making data, information, or knowledge products from monitoring and evaluation publicly available. There are four levels of accountability:

- upward accountability—where an entity or government program is accountable to the public, regulatory bodies, or donors;
- downward accountability—whereby an entity or program is accountable to their beneficiaries or the people for and with whom they work;
- horizontal accountability—where an entity is responsible to any coalitions, partnerships, or networks they belong to; and
- self or strategic accountability—whereby the entity is accountable towards their members or employees.

In the case of MEAL systems, upward and downward accountability play critical roles. Upward accountability is most commonly used amongst those in charge of

allocating budgets as it focuses on reporting requirements, transparency of results/outcomes achieved, and reporting on how money was spent. Downward accountability is less prioritized and is rooted in feminist values of collaboration, participation, and reflexivity (Simister & Hayman, 2018).

**Learning** is an iterative, interactive, and ongoing process and takes place throughout the life of an undertaking. It promotes evidence-based decision making, improves effectiveness, and fosters knowledge generation. Within a MEAL system, learning can be deliberately planned, such as:

- using specific methodologies that enable learning (e.g. Outcome Harvesting<sup>13</sup> or Most Significant Change);<sup>14</sup>
- identifying learning questions as part of MEAL system development that would be explored throughout the life cycle of a program;
- sensemaking exercises that create spaces for different stakeholders to come together to give meaning to data;
- evaluations with a focus on learning rather than accountability or outcome measurement, such as real-time evaluations;
- including periodic self-assessments to improve ways of working; and
- building a MEAL framework based on mutual accountability and shared learning (Simister & Scholz, 2018).

Regardless of how learning happens, it is important to note that building trust is an essential aspect. It is about being open to questioning and critique, and creating a safe space to acknowledge mistakes or incorrect assumptions. It is about creating an environment of trust and transparency and not about assigning blame (Adams, 2007).

Holding government accountable is one of the cornerstones of NAP programs in democratic societies (Holvoets & Rombouts, 2008). An adequate MEAL system must provide the necessary elements to check that the commitments are implemented. However, a well-functioning MEAL system can uphold the principles of results-orientation, iterative learning, evidence-based policy making, and accountability. For learning to be effective—that is, to advance improved policy making and feed into broader changes to social norms—MEAL can be perceived as “uncomfortable” because it highlights both negative and positive experiences (Holvoets &

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<sup>13</sup> Outcome Harvesting is an evaluation approach whereby key stakeholders identify, formulate, verify, analyse, and interpret ‘outcomes’ in programming contexts where relations of cause and effect are not fully understood. [https://www.betterevaluation.org/en/plan/approach/outcome\\_harvesting#OH\\_what\\_is\\_OutcomeHarvesting](https://www.betterevaluation.org/en/plan/approach/outcome_harvesting#OH_what_is_OutcomeHarvesting)

<sup>14</sup> The Most Significant Change (MSC) approach involves generating and analyzing personal accounts of change and deciding which of these accounts is the most significant. MSC is not just about collecting and reporting stories but also about having processes to learn from these stories—in particular, to learn about the similarities and differences in what groups and individuals value.

[https://www.betterevaluation.org/en/plan/approach/most\\_significant\\_change](https://www.betterevaluation.org/en/plan/approach/most_significant_change)

Rombouts, 2008). In addition to learning, MEAL is also about accountability. When results are not met or policies not implemented as promised, this may have implications for the responsible public offices.

As such, MEAL has a critical role in effectively designing, implementing, and delivering public policies and services. Intersectional evidence must inform policy making, as it is vital in achieving long-term objectives. MEAL has a strategic use throughout the policy cycle as it can:

- support strategic planning and policy making by improving the links between policy interventions and their outcomes and impacts;
- enhance accountability and provide legitimacy for the use of public funds and resources; and
- promote learning and strengthen policies' efficiency and effectiveness (OECD, n.d.).

For initiatives addressing VAW/GBV, MEAL is more than a costing or cost-effectiveness exercise. It is a way of ensuring women, girls, and people of all SOGIE can live their lives free from violence and abuse.

Globally, while there is a solid evidence base on the rates of VAW/GBV, evidence on strategies effective in the prevention of such violence, and support to victims, survivors, and their families are still weak. This is particularly true in policy making, public infrastructure, and support services, where duty bearers make complex funding decisions. To ensure that government investments are transparent, accountable, and take an inclusive, intersectional, and rights-based approach, it is paramount that Women and Gender Equality (WAGE) sets up a MEAL strategy and framework, resources it, and ensures it is implemented from the inception of NAP strategic planning. This will help to assess the effectiveness of interventions and track progress towards milestones. It also forms the basis for evaluating the quality of activities conducted and for course corrections needed. (UN Women, 2010)

As noted in the main report, specifically, in order not to redistribute harms within unequal social structures, what we measure and how we measure it must be guided by a grounded intersectional framing that considers the differential impact of race, disability, migration status, Indigeneity, gender expression, as well as gender identity and sexual orientation on how harms are experienced and where solutions lie.

We can learn answers to the following from MEAL initiatives:

*From a Prevention perspective:*

- What policy actions and strategies are effective at preventing and responding to VAW/GBV?
- What puts women and people of diverse SOGIE at greater risk than others?
- What could be the role of different sectors in addressing and preventing violence?

*From a Support perspective:*

- What services are needed to help survivors recover from violence?
- Are services accessible? Is the quality adequate? Is the target population being reached?
- What services are provided, to whom, when, how often, for how long, in what context?

*From a Social Infrastructure perspective:*

- What other factors (social, economic, political, cultural, etc.) play a role in perpetuating vulnerability to violence or hindering access to services?

*From a Legal-Justice perspective:*

- Does the NAP take into account the various forms of VAW/GBV?
- Do existing policies and programs take a holistic and multi-sectoral approach?
- Are existing laws and national legislations adequate and aligned with international conventions on VAW/GBV and human rights standards?

*From a Financial perspective:*

- What kinds of investments produce more promising results/ how much do they cost?
- Are investments affordable and cost-effective within the context of the severity of the harm, rather than simply on a per capita basis?
- Are interventions replicable in other settings? Where are they replicable? Where are they not replicable?
- Can interventions be scaled up? That is, can interventions be adapted, replicated, or built on to increase their reach or scope (for a larger population or a different region)? If yes, how can they be scaled up? What aspects can be scaled up?

*From an Accountability perspective:*

- Are the proposed activities being carried out in the manner outlined? Why/ why not?
- Are activities leading to expected results?
- What are the outcomes?
- To what extent are the interventions responsible for the measured or observed changes?
- Are the results credible?
- Are the results likely to be generalizable?

*From a Learning perspective:*

- Are women being further harmed or endangered because of any intervention?
- Have there been any unforeseen consequences as a result of the activities?
- Do the interventions or assumptions need to be amended in any way?
- Are the interventions making any difference? If yes, what actual differences are the interventions making, how are they making these differences, and for whom?
- Are there unforeseen consequences that resulted from the different interventions?
- Are interventions feasible and acceptable? Did they have an impact? Why or why not? How and for whom did they have an impact?

(Adapted from UN Women, 2010)

## What is a feminist approach to MEAL and how does it differ from traditional MEAL?

Most governments adopt a traditional approach to MEAL. They focus their attention on developing a water-tight monitoring and evaluation system that focuses exclusively on technical matters including such things as creating a strong statistical office (as evident through the 2021 federal budget allocations towards Statistics Canada); installing good data collection and management information systems (typically focused on quantitative/survey-based data only); and strengthening mechanisms for sound analyses (generally limited to statistical and econometric analysis), checking budgets, and creating tracking systems. While these are essential aspects of good evidence gathering, the focus is primarily on monitoring, and upward accountability, and does not complete the MEAL picture. As such, evaluations focus on finance or value for money instead of achievement of outcomes or learning. Furthermore, a technocratic focus, such as the one described, often omits the perspectives of beneficiaries (Holvoets and Rombouts, 2008).

Within a traditional MEAL system such as this, the way gender analysis is incorporated can be varied within the Gender Equality Continuum, as demonstrated in Figure 1.

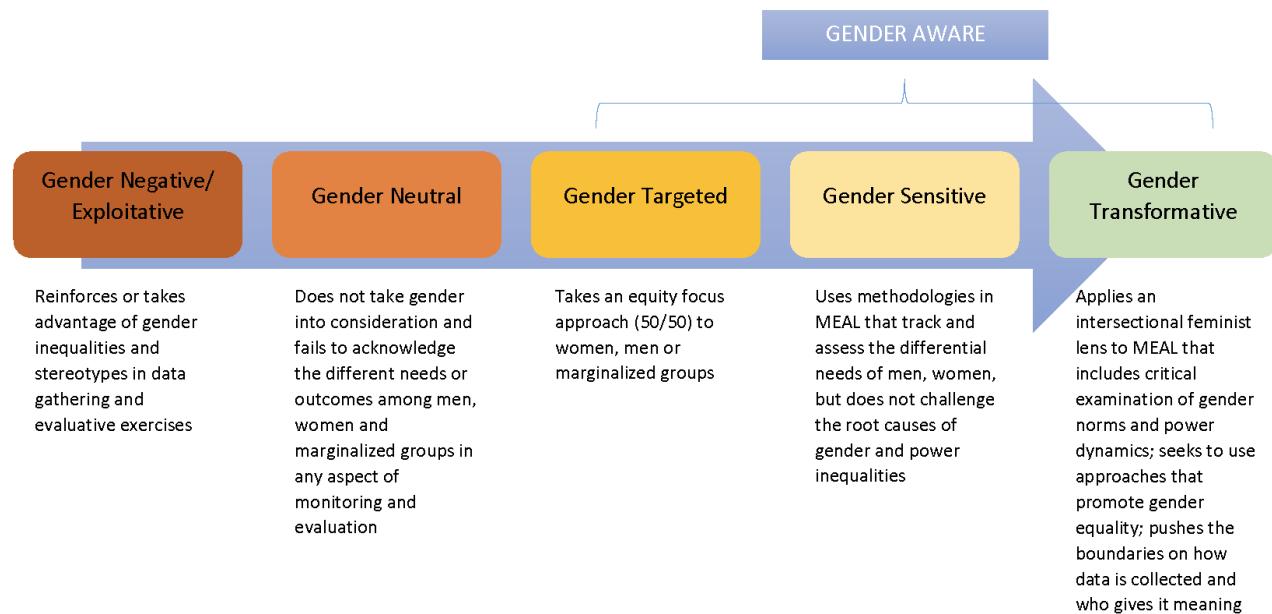


Figure 1: Gender Equality Continuum (Adapted from Interagency Gender Working Group (IGWG) [https://www.igwg.org/wp-content/uploads/2017/05/Gender-Continuum-PowerPoint\\_final.pdf](https://www.igwg.org/wp-content/uploads/2017/05/Gender-Continuum-PowerPoint_final.pdf))

Globally, over the past decade, we have progressed towards MEAL systems that are gender-sensitive. However, there are further limitations to this. Depending on a country's legislation or prevailing socio-cultural norms, gender-sensitive data gathering for NAPs to end VAW/GBV or other public programs and policies may not recognize—and thus not take into consideration—the experiences of people with diverse SOGIE, or certain minority or ethnic groups.

Below are the key differences between a gender-sensitive approach and an intersectional feminist approach:

- Gender-sensitive approaches identify the differences between women and men. Feminist approaches explore why these differences exist.
- Gender-sensitive approaches do not challenge the position in society of a woman or individual with diverse SOGIE, but rather map it, document it, and record it. Feminist approaches challenge women's and people with diverse SOGIE.
- Gender-sensitive approaches often view women as a homogenous group, without distinguishing other factors such as race, income levels, family status, for example. Therefore, they do not consider intersectionality. Feminist approaches acknowledge and value differences and do not consider women or people with diverse SOGIE as a homogenous category.
- Gender-sensitive approaches assume that equality of women and men is the end goal, and design MEAL framework with this understanding. Feminist approaches acknowledge that women may not want the same things as men or people with diverse SOGIE may not want the same things as cis-gender individuals, and thus design MEAL framework accordingly.
- Gender-sensitive approaches do not encourage the practice of reflecting on one's values or implicit bias. Feminist approaches emphasize the need to be reflexive and open, and recognize that no one is value free.
- Gender-sensitive approaches often do not take into consideration analysis beyond "men" and "women." Feminist approaches recognize and take into consideration SOGIE, in addition to male and female in their analysis.
- As such, gender-sensitive approaches are limited in their level of collection and disaggregation, typically gathering comparators of just women vs. men. Feminist approaches value different ways of knowing, seek to hear and represent different voices, and provides space for women or disempowered groups within the same context to be heard in their data collection processes.

(Adapted from Podems & Negroustoueva, 2016)

The Canadian government has had a mandate to apply Gender-based Analysis Plus (GBA+) in all aspects of policy making by all departments and at all levels since 1995 (WAGE, 2021). GBA+ takes into account multiple identity factors that define a person as well as social relationships between men and women at each stage of the development of government programs, public services and other initiatives. Despite the GBA+ mandate being close to three decades old, its application has been varied across departments and, in some cases, it has not been applied at

all. The government's relatively new *Directive on Results* (2016) specifies that GBA+ must also be applied in all government evaluations. In regard to MEAL, where gender-sensitive approaches do not take intersectionality into consideration, GBA+ is a step forward, but it is not sufficient.

## Principles of intersectional feminist MEAL

Intersectional feminist MEAL processes emphasize participatory, empowering, and social justice agendas. An intersectional feminist approach to MEAL challenges us to think differently about what is considered evidence; it pushes the boundaries of how we gather this evidence and questions who gives it meaning and relevance. Unlike most gender approaches, intersectional feminist MEAL does not provide a framework or advocate a precise approach. Instead, it is guided by a set of principles, set out as follows:

- Intersectional feminist MEAL is rooted in the principle of “do no harm.”<sup>15</sup> This requires us to look at the broader context and mitigate any potential adverse effects resulting from our interventions on individuals, groups, the social fabric, economy, and environment. Centrally, this includes the principle of not simply redistributing social harms through interventions that benefit only a few.
- Feminist MEAL is not a set of tools or indicators. It is an approach, or lens, based on feminist research ethics. It surfaces how gender is experienced differently through other intersecting forms of oppression.
- The feminist MEAL process itself should seek to bring about positive social change led by those involved. As such, feminist MEAL aims to be part of the change process and not something punitive, not a checklist, or something that happens separately from the overall change process. It is an integral part of the overall social transformation.
- Feminist MEAL seeks to shift power to community, collaborators, and people with and for whom we work. It is about re-visioning the role of an evaluator from being an external expert to a facilitator; to being one who focuses on reflexivity to re-balance the power dynamics, and who recognizes that individuals are the agents of their own lives, holders of knowledge, and actors in their community.
- Feminist MEAL seeks to generate knowledge that honours community wisdom and experiential knowledge, and evidence-based decision making that reflects the priorities of affected communities. It is about acknowledging that there are “many ways of knowing,” and some of these are more privileged than others. As such, feminist MEAL is rooted in intersectionality.
- Lastly, feminist MEAL fosters a learning orientation to evaluative exercises and promote evidence-based decision making.

(Adapted from Haylock and Nitia, 2020)

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<sup>15</sup> Both UN and WHO have extensive guides and literature on safe and ethical approaches to data collection and research with survivors of VAW/GBV, including specialized resources for survivors of human trafficking, sexual assault, in humanitarian/emergency settings, and for minor/child survivors of violence.

An intersectional feminist approach helps generate better evidence, amplify the voices of those often left unheard, and challenge injustices in the process. Applying an intersectional feminist lens allows us to see how different communities and different survivors of VAW/GBV are battling various interconnected issues, all at once. Taking an intersectional feminist approach to MEAL allows us to stand in solidarity with survivors of VAW/GBV and question unequal gender and power structures. As the renowned critical race theorist Kimberlé Crenshaw reminds us:

*If you see inequality as a “them” problem or “unfortunate other” problem, that is a problem. We’ve got to be open to looking at all of the ways our systems reproduce these inequalities, and that includes the privileges as well as the harms.* (Columbia Law School, 2017)

Typically, key decision-making moments for setting up and implementing a MEAL system can be categorized into four areas: the institutional set-up, capacity building, the identification of indicators and setting targets, and the reporting or feedback loop (Holvoets and Rombouts, 2008). In the recommendations for the NAP that follow, these four areas are discussed using an intersectional feminist lens.

## Recommendations

The recommendations listed below include the five key recommendations highlighted in both the interim and final reports in greater detail, and other key recommendations based on international best practices/lessons learned.

### **1. Provide adequate funding to create an intersectional feminist MEAL strategy, framework, and processes<sup>16</sup>**

Global lessons learned in implementing NAPs to end VAW/GBV recommend that early MEAL investment is crucial to successful implementation. For instance, as research for the NAP final report identified, Australia implemented multiple and consecutive three-year NAPs. The lack of a robust MEAL strategy in place from the beginning was a significant weakness. In Canada, the 2021 federal budget allocated \$14 million to WAGE over the next five years to develop a NAP. This gives us an opportunity to learn from the Australian example.

***We recommend WAGE allocate at least five (5) to 15 percent of the budget allocation to create an intersectional feminist MEAL strategy, accompanying framework(s), and processes. Going forward, five to 15 percent of any budget allocated to the implementation of the NAP itself must also ensure adequate funds for MEAL processes.***

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<sup>16</sup> This recommendation was noted as a key ask in both the interim report and the final report under the MEAL-related sub-section.

This does not mean setting aside the funding for evaluative exercises only. Twenty-five percent of the total budget should be set aside for evaluations and the remainder used for setting up intersectional feminist MEAL processes that:

- allow real-time tracking of results based on intersectional analysis of what is working and what isn't in order for timely course corrections to be implemented as needed to enhance the goals and related outcomes set out in the NAP;
- honour evidence-based decision making that is reflective of priorities of the affected communities;
- generate knowledge rooted in intersectionality with regards to how data is collected and analyzed, and who gives it meaning; and
- deliver knowledge translation in diverse formats that are accessible, plural, and collaborative. (Batliwala & Pittman, 2010)

## **2. Create an independent oversight body to oversee the implementation of the NAP<sup>17</sup>**

As mentioned above, independent MEAL processes are cornerstones of human rights-based policy making and democratic principles.<sup>18</sup> An independent institutional mechanism—with one of its core responsibilities as monitoring progress on expected outcomes—is frequently seen as a core component of NAPs (UN Women, 2012). As noted in the final report, establishing an independent oversight body to monitor the implementation of Canada's NAP is a key recommendation endorsed by all the participating working groups.

Evidence- or data-gathering and analysis processes ideally should be free of bias, otherwise they lose their function for learning and accountability. The institution or entity leading the NAP implementation should be distinct from the one leading the MEAL process. The role of the former should be limited to involvement in the initial set-up and being consulted as a stakeholder. The success of the NAP-recommended actions should be evaluated using appropriate and diverse metrics generated by and for the sector, its unique constituents, and the survivors of violence themselves. Without this knowledge, we will be unable to assess “value for money.”

Canada has a patchwork of initiatives regarding collecting, synthesizing, and actioning VAW/GBV-related information, with some areas (jurisdictions, groups, types of GBV) better covered than others. An independent national organization would map these and promote ways to bridge gaps. For example, Mexico's National Action Plan for Preventing, Addressing, and Eradicating Violence against Women (2007–2012) calls for creating an independent coordination mechanism for monitoring and evaluation. Other states invest the independent

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<sup>17</sup> All four working groups endorsed this recommendation, and it was also highlighted in the MEAL-related subsection of the final report.

<sup>18</sup> This is a crucial element noted under the section on “Evaluation, monitoring, and reporting” in the report of the expert group meeting submitted to UN Women (2010) titled *Good Practices in National Action Plans on Violence Against Women*.

body with additional powers to conduct data collection and undertake research, thereby providing de facto coordination of the evidence-based and evidence-building facets of the plan's implementation. The main advantage of having an independent organization is to centralize research, data, and evaluation expertise, ensuring a relatively seamless monitoring process. It also can strengthen the shared understanding of VAW/GBV and promote coherent programming across sectors and different forms of practice. For instance, in Argentina and Australia, governments respectively created research-based organizations (Observatory on VAW in Argentina and ANROWS in Australia) to evaluate and monitor the NAP. These research-based organizations have several other complementary functions, including collecting and disseminating data, evaluation, independent research, training, and providing technical advice.

***We recommend establishing an independent national organization made up of sector experts, anti-VAW/GBV advocates, and survivors of VAW/GBV. This organization would have connections to, among others, academia, equality-based think tanks, community-based youth, Indigenous groups, LGBTQ2S+ groups, and women's organizations with the primary purpose of holding government to account on their objective to implement the NAP. As such, this would include developing, collecting, synthesizing, and mobilizing a broad range of evidence about preventing and responding to VAW/GBV.***

Considerations:

- The government should include women's groups, LGBTQ2S+ groups, Indigenous groups, youth groups, local community groups, other CSOs, and survivors of violence to inform whether the policies, programs, and investments are being implemented and operating as originally intended. Roles and membership might change as tasks change, but coordination would need to remain consistent.
- This scale of national feminist MEAL efforts should also be aligned with Canada's commitments and responsibility to report on compliance with international treaties/conventions such as CEDAW.
- In line with the Government of Canada's mandate on transparency and accountability, the independent organization should engage media partners to disseminate information on progress, respond to any challenges in implementing the NAP, and any evolution(s) required of the NAP.
- The government must develop evaluation tools and processes to support the VAW/GBV sector in assessing existing and new programs, services, or other strategies to support quality improvement and best practices for broader synthesis and mobilization.
- The government should support building both organizational and individual capacities on intersectional feminist MEAL.

### **3. Set VAW/GBV-relevant and equity sensitive indicators**

As feminist geographer Joni Seagar (in D'Ignazio & Klien, 2020) asserted, “What gets counted, counts.” Without appropriate GBV-relevant and equity-sensitive indicators, we are unable to examine existing and emerging needs.

***As part of the MEAL development process, we recommend that the government clearly define indicators and targets closely linked to the outcomes identified in the 10-year NAP.<sup>19</sup> Furthermore, there has to be a framework for accountability, and this must include goals, actions, timelines, and implementing entities associated with each activity. The government must identify indicators to measure both output (the actions taken to implement specific recommendations or policy asks) and outcomes (the extent to which the various actions prompt measurable changes in knowledge, skills, behaviour, practices, and service delivery).***

For instance, Dominican Republic’s Second National Action Plan for Gender Equality and Equity (2006–2016) includes an implementation matrix with indicators under each objective. Each indicator is defined according to the situation or activity to be monitored and includes a description of the method used to measure it. The plan also considers the level of disaggregation of each indicator, the institution or agency that will provide the base information on the indicator, and the period intervals required to gather another round of data. The Dominican Republic’s NAP also has a digital system to register data under each indicator and shares that data among all the actors involved (UN Women, 2012).

### **4. Honour the principle, “nothing about us, without us”**

***We recommend that the development of the entire MEAL system and its accompany processes must include—from the outset—the gender justice sector, anti-VAW/GBV advocates, relevant CSOs, and survivors of VAW/GBV.***

### **5. Create spaces to amplify the voices of survivors of VAW/GBV to tell their stories**

This begins with acknowledging that there are multiple ways of knowing, and some are more privileged than others.

***In line with the principle of “nothing about us, without us,” we recommend that the government must also strive to include ways that honour the lived realities and the contexts of VAW/GBV survivors.***

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<sup>19</sup> In the final report, goals and outcomes were identified in collaboration with the working group co-chairs based on the recommendations that emerged from the four working groups. Notes for the government to consider for measuring outcomes further supplement these. As a crucial aspect of the feminist MEAL system for Canada’s NAP, an essential task for WAGE will be to develop goals, outcomes, and indicators in consultation with the key stakeholders such as WSC and members of the original Blueprint group. Furthermore, WAGE should also ensure that the survivors of VAW/GBV validate these outcomes and indicators.

Evidence is not limited to surveys. Using surveys and datasets must include the broadest possible accounting of situated social categories and locations. For instance, consulting with LGBTQ2S+ organizations, researchers, and LGBTQ2S+ individuals hired to develop and ensure all national survey data collection includes appropriate questions regarding SOGIE. This means prioritizing qualitative methodologies—primarily participatory approaches—such as ethnographies, Indigenous storytelling, truth gathering, decolonizing practices, and community-based action research, where survivors can share their experiences in a manner that ensures safety, justice, and healing. Furthermore, it means working together with Indigenous feminists and researchers to honour Indigenous forms of knowledge acquisition and communication, such as ceremony and storytelling, and celebrating languages. Creating spaces to allow data collection beyond Western methods of scientific evidence will allow Indigenous survivors to share their lived realities in a manner most comfortable for them, thus empowering Indigenous individuals and communities as well as others who seek to learn from their experience.

## **6. Invest in baseline studies and situational analysis**

***To ensure the development of a strong NAP—one that considers the many manifestations of oppression and abuse of individuals based on their gender expressions—we recommend that government invests in intersectional baseline data gathering and situational analysis.***

Although undertaking a baseline situational analysis is one of the first steps to establish a feminist MEAL framework, implementing programs and services usually takes priority over conducting baseline studies (Batliwala, 2011). An intersectional feminist baseline process typically begins with taking stock of what data is already available and what more is needed. This can include mapping of existing services and responses, capacity gaps analysis, gaps in policy and legal/justice recourse, data-gathering, research on forms of VAW/GBV, and assessment of the knowledge, attitudes, and practices to understand the intersectional impact of social norms (UNIFEM, 2010).

## **7. Establish an evaluation timeframe**

***We recommend that in line with an intersectional feminist MEAL framework, the government must establish an evaluations timeframe*** (at three or five years, and the end of 10 years), based on a clear baseline, indicators linked with outcomes, and specific time-bound, and realistic targets. The evaluation processes and reports undertaken by countries such as Australia, Spain, and India, among others, also provide examples to learn and draw from (UNIFEM, 2010).

## **8. Set accountable reporting procedures on implementation and progress. Require these reports be made available to civil society and the general public**

Reporting is a critical element of the feedback loop. It allows for the compilation of monitoring data across ministries/departments and ensures accountability and communication in respect

of the plan's progress. The lead implementation mechanism will typically also report to ministers and back to stakeholders, civil society, and the general public through the publication of progress reports (UN Women, 2012). For instance, in the early stages of implementation of Liberia's National Gender-based Violence Plan of Action (2006-2011), all stakeholders reported on progress monthly to ensure rapid start-up and addressed any obstacles or delays in the implementation process. Once the implementation of all activities was well underway, the Liberian government then reported the progress every three months. Reports included analysis of information to identify trends, problems, issues, and best practices and were distributed to all stakeholders, including communities and local authorities (UN Women, 2012).

A similar structure will need to be established for Canada's NAP. Through the 2021 budget, the government has allocated \$14 million to WAGE to develop the NAP. As noted under the first recommendation, at least five to 15% of the budget must be allocated to develop an intersectional and feminist MEAL system. A vital aspect of this system is accountability and transparency.

***We recommend that WAGE provide monthly updates on NAP implementation through bulletins or formal reports accessible to all key stakeholders, including civil society and the general public. These monthly updates should continue until the implementation is well underway. In providing updates, WAGE must also make available data or reports generated (including their objectives and methodology) to civil society—especially anti-VAW/GBV advocates, allies, and grassroots/community-based organizations.***

## **9. Invest in an intersectional feminist knowledge system**

The government can use knowledge of the scale and costs of VAW/GBV and appropriate anti-racist/anti-oppressive responses to ensure that strategies for ending VAW/GBV consider promising practices with proven effectiveness.

***We recommend that the government consider investing in an intersectional feminist knowledge system that will promote learning from global best practices as well as tailored solutions rooted in intersectionality for local contexts.***

Considerations for an intersectional feminist knowledge management system include:

- developing knowledge mobilization strategies between local, regional, and national coordination bodies;
- partnering with related efforts to reduce duplication and provide a comprehensive approach to collecting and sharing knowledge (e.g., WAGE's GBV Knowledge Centre, PHAC-funded knowledge hub for family violence);
- supporting existing learning groups, communities of practice, civil society organizations, or policy/research institutes focused on specific issues related to VAW/GBV, specifically ensuring timely and free access to data;

- issuing briefing notes or guidance documents on promising practices and proven intersectional strategies and approaches;
- convening or sponsoring targeted conferences, workshops, and/or seminars where representative stakeholders across Canada along with international stakeholders and sector experts can learn from one another about practical intersectional approaches to addressing VAW/GBV;
- strengthening links between service providers, policy actors, and researchers—including academia, research centers, and other NGOs and advocacy groups; and
- providing a platform for knowledge sharing.

## **Conclusion**

International best practices on coordinated public policy responses, such as national action plans, indicate that MEAL processes are crucial to successful implementation. Our findings, as endorsed by our working groups, call for the establishment of an independent oversight body to monitor the performance of Canada’s 10-year NAP to end VAW/GBV. An independent institutional mechanism with a core responsibility for monitoring the progress of the NAP itself can house the MEAL functions outlined in this paper.

It must be stressed that this is not an add-on, but rather, a core function of the state’s responsibility for the NAP. In order to generate evidence that supports good governance of the NAP, with the goal of ending VAW/GBV in Canada—and doing so in a way that is transparent, accountable, and takes an inclusive, intersectional, and rights-based approach—the government must apply an intersectional feminist lens to the MEAL process.

Some insights adapted from Srilatha Batliwala’s 2011 paper on strengthening MEAL systems for advancing women’s rights are relevant when developing an intersectional feminist MEAL system for Canada’s NAP:

- Consider MEAL a critical ingredient in generating evidence for building a knowledge base, promoting policy making, and holding the state to account.
- Invest in building capacities with regards to understanding intersectionality (and more specifically the application of an intersectional feminist lens), decolonization, and anti-oppression/anti-racism.
- Remember there is no one-size-fits-all process. There is not only one MEAL framework, process, survey tool, data gathering approach, reporting format that can capture all aspects of change, impact, and results.
- Work on VAW/GBV is complex and non-linear. For every two-steps forward, we move one step back, so it is essential to track reversals and hold ground.
- Just as we need to consider combining multiple approaches in preventing and responding to VAW/GBV, we also need to combine quantitative and qualitative MEAL tools and evidence for an appropriate balance. There needs to be a balance between hard statistics and soft data, such as narratives and storytelling.

- While understanding attribution to change is important, we must be mindful that no one actor or activity leads to change. The focus should be on how we contribute to the transformative change process.
- Less is more—the purpose is not to generate mountains of data and end up unable to meaningfully analyze it all, much less build a convincing picture of the achievements. It is not the quantity, but quality of information generated through fewer but more sensitive and intelligent indicators. For all its limitations, the SMART framework<sup>20</sup> for setting indicators was an attempt to do precisely this—to identify a small but effective set of specific, measurable, achievable, relevant, and time-appropriate indicators. We need to focus on developing MEAL systems that can make a more convincing case with high-quality evidence.
- MEAL systems must be agile and flexible because the evidence shows that even the most carefully chosen approaches and measures might have to be changed midstream if the realities on the ground shift radically in the course of program or policy implementation. Of course, we must not misuse this flexibility to hide, for instance, our own mistakes or strategic errors. It should be applied only when it is clear that the trajectory of our change intervention has been altered by external factors beyond our control, or as a result of new information that suggests a change in course.
- Create baselines. Generating periodic baseline data is a powerful but underutilized tool in accurately assessing our role and achievements in the change process, and in locating the most strategic directions for the next phase of our work.

Research in this area indicates that if you make a MEAL system that works for the NAP, it will likely positively impact other government efforts. Therefore we must take the time, effort, and make resources available to design and implement the best MEAL system possible for tracking and assessing the work. The chances are that it will also serve the needs of other stakeholders to whom we are accountable.

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<sup>20</sup>[https://www.betterevaluation.org/sites/default/files/EA\\_PM%26E\\_toolkit\\_module\\_2\\_objectives%26indicators\\_for\\_publication.pdf](https://www.betterevaluation.org/sites/default/files/EA_PM%26E_toolkit_module_2_objectives%26indicators_for_publication.pdf)

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## Appendix E: Commissioned Discussion Paper: Gender-Based Violence, Economic Security, and the Potential of Basic Income

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## **Executive Summary**

In Canada, diverse people face violence and abuse at alarming rates as a result of their gender, perceived gender, or gender expression. This phenomenon is referred to as gender-based violence (GBV). Gender-based violence has many manifestations, including sexual assault, femicide, and intimate partner violence (IPV), as well as dowry-related violence, early or forced marriage and pregnancy, female genital mutilation, elder abuse, human trafficking, sexual harassment, cyber abuse, and many other forms, both visible and invisible. Crucially, GBV does not simply occur in the context of inter-personal relationships or as the result of perpetration by ‘bad men’; rather, GBV is a systemic issue that seizes upon and operates through longstanding pathologies and power dynamics—patriarchy, racism, colonialism, and transphobia to name few—rendering diverse people more vulnerable to victimization on the basis of their identity.

Strategies, policies, and programs focused on ensuring victims and survivors can achieve economic security will form a vital component of any serious plan to address GBV. On this point there is notable consensus. Less agreement exists, however, when debate begins on the question of *which* strategies, policies, and programs ought to be implemented. In this discussion paper, we weigh in on this debate through an evaluation of an economic security tool over which there has been much fanfare in recent years: the basic income model. Two questions guide our analysis: (1) to what extent could a basic income disrupt the material conditions and forms of oppression which drive GBV, and thus reduce both risk *and* prevalence? and (2) to what extent would basic income be an effective support for those encountering/recovering from various forms of GBV? Our analysis is driven by two definitional assumptions about economic security and basic income. That is, we consider economic security to be a state in which criteria for financial security, stability, and continuity are fulfilled, and conceive of basic income as a *class* of policies that share principles of simplicity, respect, economic security, and social inclusion.

### **Key findings and policy considerations**

1. Gender-based violence is best conceptualized as a multi-faceted phenomenon, or the result of the interplay among various levels of analysis, including the personal, inter-personal, institutional/community, and societal (i.e., the pathologies and norms which permeate society at large, such as patriarchy and other systems of domination). From a policy perspective, then, interventions to address GBV must be multi-pronged, account for heterogeneity of need, and attend to both the systemic and multifaceted nature of GBV.
2. Economic insecurity and GBV are closely intertwined. Economic vulnerability and lack of economic independence increase GBV risk and limit an individual’s ability to exit and recover from violent situations; contexts of poverty and financial stress also contribute to perpetration. Further, economic abuse is a distinct type of GBV. Moreover, GBV carries with it economic consequences, such as loss of savings and assets and inability to earn an income following an abusive experience. These processes are mutually reinforcing, creating cycles of economic vulnerability, risk, and abuse. Thus, it will be insufficient to focus solely on

providing women the material resources to exit and recover from violence: addressing GBV will also require strategies that attend to economic insecurity on a broader scale—including among men.

3. While basic income is, in theory, a tool through which to support economic security, key design and implementation trade-offs mean that adopting such an approach will require sacrifices to be made—that is, certain principles and design elements will need to be weighted against one another—and this will inevitably impact the extent to which the policy can deliver economic security to diverse people, if at all. Design considerations particularly important in the context of GBV are beneficiary unit (i.e., household/individual), delivery mechanism (e.g., refundable tax credit through the tax system), sufficiency, and conditionality.
4. To the extent that risk and prevalence of GBV is a result of economic insecurity, a basic income could render economically disadvantaged women of diverse backgrounds—including low-wage workers, gig workers, sex workers, migrant workers, and mothers and caregivers,—less vulnerable to abuse by improving their material conditions and offsetting the economic consequences produced at the intersections of identity. Further, a basic income has the potential to reduce situations of financial stress which have been proven to drive IPV. That said, some theorists remain skeptical of the benefits of a basic income approach, suggesting that such a program could have the unintended effects of subsidizing low wage work, as well as solidifying the gendered division of labour and gender asymmetries.
5. Policymakers must also consider with care the unintended consequences that could arise as a result of a basic income. For example, several studies—and evidence related to the roll-out of stimulus cheques in the U.S.—indicate that cash benefits can have the effect of increasing risk of IPV. Policymakers must also be mindful of the power imbalances and dynamics of economic control that exist within many abusive relationships. For example, while a household-based basic income could result in the exacerbation of power imbalances within households and thus reinforce dynamics of dependency, payment to the individual could be in vain, as it is atypical for a person living in an abusive context to hold any financial power or control of resources, and thus it is unlikely that they would be able to access the benefit.
6. Though the simplicity of basic income is difficult to resist, additional limitations of a cash transfer in supporting survivors of GBV, as well as in reducing poverty more broadly, must be acknowledged. Those exiting abuse require comprehensive supports—access to safe and affordable housing, childcare, and legal services—and thus basic services are in many ways better suited to supporting exit and recovery than cash payments. Investments to significantly increase the stock of affordable and safe housing are especially vital given high risk of homelessness following an abusive experience, as well as strong correlation between housing insecurity and GBV risk. The same is true of physical and mental health supports, given high prevalence of addiction, PTSD and suicidality, and traumatic brain injury among survivors.

7. In the short-term, introducing reforms that improve existing systems of income and social supports might be more effective in addressing immediate crisis and barriers related to GBV. Such reforms could include modifications to eligibility adjudication processes to expedite income support assessments for persons fleeing violence; ensure immigration status is not a factor in determining eligibility; automatically exclude income and assets of an abuser, as well as those jointly owned; eliminate all requirements to contact perpetrators; remove all requirements regarding verification of abuse; and remove work-search requirements for at least six months. Further, programs could be built into existing systems to provide persons fleeing violence a one-time lump sum payment sufficient to enable the individual to secure housing and set up a basic living situation.

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## Introduction

In January 2021, Canada’s Federal, Provincial, and Territorial Ministers responsible for the Status of Women endorsed a Joint Declaration for a Canada free of Gender-Based Violence (GBV), and set out a 10-year vision to both address the “multiple, complex, and deeply rooted factors that contribute to gender-based violence,” as well as support “victims, survivors and their families, no matter where they live” (Women and Gender Equality Canada, 2021b). Alongside this vision, the Joint Declaration articulates a series of guiding principles and goals, as well as five pillars (or areas of focus), one of which is Social Infrastructure and Enabling Environment. Social infrastructure refers to the suite of foundational services, structures, and programs—from public transportation to early learning and childcare centres—which support quality of life, stability, and well-being among all members of a given community.

Programs which promote economic security—whether they are social insurance mechanisms like Employment Insurance or income-based benefits like provincial social assistance—constitute a vital component of the social infrastructure. Indeed, and for reasons we explore in detail below, supporting economic security is an important factor, both in rendering diverse women and non-binary individuals less vulnerable to GBV, as well as in improving outcomes (i.e., supporting escape, recovery, and long-term stability) for those experiencing abuse. Yet, and as is the case with other components of the social infrastructure, existing economic security mechanisms must be strengthened to better serve those who may need to access them. In recent years, the idea of basic income has re-emerged in both policy circles and the public imagination as one way of doing so.

A basic income has long been promoted as a policy solution for a raft of social problems, among them GBV. In this paper, we seek to gather, evaluate, and discuss the implications of the evidence regarding this claim, providing a comprehensive backgrounder on the question of gender-based violence, economic security, and the potential of basic income. We approach our analysis from two different yet complementary perspectives. One mode of inquiry is focused on understanding the extent to which GBV and economic insecurity are both products of systemic issues and pathologies—things like wage stagnation, precarious work, and poverty, but also racism, patriarchy, anti-queerness, and colonialism—as well as whether a basic income could disrupt these material conditions and forms of oppression, so as to reduce both risk *and* prevalence of GBV. The other approach builds on the analysis developed in the first mode to evaluate from a technocratic perspective whether a basic income could support those encountering and recovering from various forms of GBV. This technocratic discussion acknowledges the practical barriers diverse people face in the context of GBV—particularly in exit and recovery from situations of domestic violence (DV) and intimate partner violence (IPV)—and not only considers the potential role of basic income, but also evaluates whether a basic income could produce unintended consequences or erect new barriers. From this perspective, we also consider basic income design and implementation, as well as what insights the basic income model offers existing modes of provision and support.

We begin the paper with a discussion of basic income—an approach, we argue, is better understood as a class of policy proposals that share certain principles, rather than as a singular policy idea—in the context of economic security. After providing a comprehensive definition of economic security, we first present an overview of basic income principles and design elements, and then delineate and consider the trade-offs that must be made among these features in moving the concept from theoretical model to implementable policy. In the second section, we set out definitional information and then engage with feminist, integrated, and intersectional frameworks to detail the systemic pathologies and power structures which underpin and perpetuate GBV, and thus shape risk for diverse people. Building on this, we illustrate the linkages between GBV and economic insecurity with the aim of establishing criteria against which to evaluate the potential of a basic income. The third section of the paper contains our analysis of the basic income approach and is structured in two parts: in the first, we consider the extent to which a basic income could intervene in systems—particularly those which produce material deprivation and economic vulnerability—to effect the change needed to reduce GBV prevalence and risk; in the second, we evaluate whether a basic income would be an effective tool for supporting victims and survivors of GBV, highlighting areas of both potential and concern. In the fourth section, we introduce a discussion of two alternatives to basic income in the context of the stated policy objective: reforms to the current system and the basic services model. We conclude by summarizing the strengths and weaknesses of these three approaches to addressing GBV and supporting those experiencing it.

## **Basic Income: An Economic Security Policy**

### **Defining economic security**

One of the main arguments in support of a basic income is its potential to support economic security, particularly when compared to existing modes of income provision. As detailed in Tedds, Crisan, and Petit (2020), economic security can be defined as the *assurance* of an *adequate* income. Economic security depends on three things: financial security, financial stability, and financial continuity. Mapping this back to the definition of economic security, adequacy is achieved through both financial security and financial stability, while assurance is achieved through financial continuity. Financial security is the ability of a person or household to secure a *basic quality of life*. Financial stability is the ability of households to *weather unexpected income shocks*, such as unexpected expenses or declines in income. Financial continuity is a *reasonable expectation* that a base level of income will continue in both the near term and the future.

Economic insecurity thus arises when people face limited financial resources, an inability to cover basic expenses, or uncertainty in income. Vitally, insecurity is linked not simply to a lack of income, but also the absence of assets, which can serve as an important cushion in the case of an unexpected shock. Lack of economic security has significant effects on mental health, including fear, worry, anxiety, frustration, and depression. Dealing with economic instability requires constant juggling, which adversely affects decision-making. People who are distressed

and distracted by their financial burdens may be more likely to err on the job, increasing their chances of being fired. Investing in human capital also becomes more difficult: attending training programs requires overcoming the recurring inclination to skip a class as one deals with day-to-day struggles, like finding childcare or solving the challenges of long commutes. Even learning becomes more difficult when dealing with economic insecurity (Gennetian & Shafir, 2015).

It merits mention that the definition of economic security we offer above is concerned with income and assets alone—and this focus should be challenged. Given economic security hinges on one's ability to cover essential expenses and afford a basic quality of life, it is important to acknowledge that publicly provided services can be effective substitutes for cash-based benefits. This insight is particularly salient in instances of market failure—that is, when the market is unable to provide services in an efficient manner. By this logic, it is possible to offset, through government provision of essential services such as housing, childcare, broadband, public transportation, pharmacare, legal services, and more, the need for higher income-based benefits, as public provision of services means that individuals no longer need to spend money to procure them. As a result, one must not overlook the vital role of basic services—alongside that of cash-based benefits—in systems of social provision. It follows that analyses must be centred on an evaluation of the appropriate combination or policy mix of income and services in welfare states to best consider the role of each in supporting economic security.

### **Defining basic income**

What is a basic income? At its core, it is a cash payment made to people regardless of their social status or ability to work. However, a basic income means different things to different people, as evidenced by the range of policy proposals which orbit the basic income idea. The design differences in these policy proposals are demonstrated by the myriad terms used to describe them: guaranteed basic income, negative income tax, livable income, citizen's income, participation income, and universal basic income. The common theme across these proposals is that they guarantee members of a society a minimum amount of income in a period. In some cases, the minimum income level is secured by the individual through work or other endeavors; in others, it is obtained, in whole or in part, through the basic income itself. In this paper, we use the term 'basic income' to refer to the full range of proposals, taking the position that basic income describes a class of policy proposals which share certain principles (Tedd et al., 2020). It is these principles which differentiate a basic income from other income support programs.

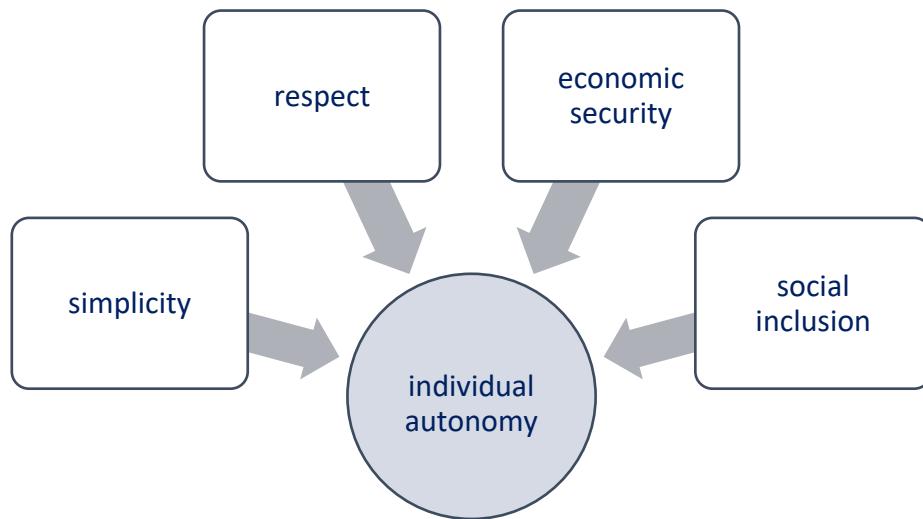
### **Basic income principles**

Tedd, Crisan, and Petit (2020) review the voluminous literature related to basic income and synthesize it into a 'guiding principles framework' (see Figure 1) for understanding basic income. As shows in Figure 1, basic income approaches are those which involve a cash-benefit program that is **simple**, treats its beneficiaries with **respect**, improves **economic security**, and supports **social inclusion**. Taken together, these principles illustrate the humanizing nature of a basic income, rooted in the notion that beneficiaries have the right to dignity, subsistence, security, and the freedom to make choices, and should be able to access this right in a way that

is both simple and fair. In essence, a basic income is about advancing social justice through a model which has at its heart individual autonomy.

What is clear from these principles is that a basic income is not just another cash transfer program, but a markedly different approach to delivering support to—and thus interacting with—recipients. Put differently, the basic income approach is situated at the opposite end of the spectrum of social provision from the current social assistance system. Whereas the basic income approach centres individual autonomy, the current social assistance system is fundamentally paternalistic: through strict eligibility criteria, social assistance frameworks effectively enforce how people use their time (in pursuit of paid work) and stipulate what they can do with their money on the assumption that individuals will be better off or protected from harm under this state interference.

Figure 1: Guiding principles framework for a basic income



### Basic income principles: theory vs. reality

While a basic income is, in theory, guided by core principles, design and implementation of the policy forces trade-offs among these principles. In other words, it is difficult to implement a basic income that is simultaneously pure to each one of these principles. Consider simplicity. As detailed in Petit and Tedds (2020b), provincial systems of income support (that of British Columbia, in the authors' analysis) are composed of nearly 200 federal and provincial programs, and are far from simple. Instead, such systems are large and complex, with multiple points of access and varying eligibility criteria, depending on the program. One consequence of this structure is that accessing programs is a cumbersome and confusing process. The only way a basic income would address this complexity is by streamlining such programs, either through elimination or alignment of eligibility and application criteria. In many Canadian proposals for a basic income, however, the basic income is simply layered on top of the existing suite of programs, meaning that while the basic income itself may be simple, the system remains

complex. In such cases, where only one support program in a complex system fulfils the principle of simplicity, one has to wonder whether simplicity has really been achieved. Further, simplicity is often at odds with heterogeneity—the idea that diverse people experience different barriers, types, and levels of need, as well as distinct preferences—and thus simple programs can have the unintentional outcome of impeding individual autonomy.

Second, as outlined in Tedds (2017), there is a firmly held notion that receiving support through the existing income assistance system is shameful and demeaning. Stigma arises from negative social attitudes toward benefit recipients, as well as negative self-perceptions (i.e., feeling like a failure, shame), which together have the effect of characterizing recipients as ‘less than’ those who do not require support—a status which is sometimes referred to as ‘undeserving poor.’ Addressing stigma is an important aspect of alleviating poverty: the higher the stigma associated with a program, the lower the benefit take-up—and, thus, the less effective the program is (Celhay et al., 2017; Friedrichsen et al., 2017; Geiger, 2015; Moffitt, 1983; Ribar, 2014). Whether a basic income—or any cash-transfer, for that matter—reduces stigma depends on several factors. For example, the Canada Child Benefit (CCB) and the GST/HST benefit are both cash transfer programs associated with low levels of stigma, particularly when compared to the Canada Emergency Response Benefit (CERB). In the case of the CERB, recipients have faced rising stigma since Fall 2020, driven in part by the false notion that recipients had to have filed taxes in 2019 and that there was a high degree of fraud associated with the program. Here it is apparent that stigma arises not only from the design and implementation of a program, but also societal values. To the extent that members of society do not ‘buy-in’ to the overarching benefits and principles of a basic income program, stigma will simply be recreated by society itself.

Third, there is little argument that the current social assistance system does not support economic security. However, whether a basic income can provide economic security is dependent on program design, as well as other factors, such as political climate. For example, a basic income program is only as permanent as the legislation which institutes it, and thus can be revoked at any time—a lesson that Canadians learned through the abrupt cancellation of the Ontario Basic Income pilot. Further, many basic income programs—Finland’s pilot, the Stockton and Y Combinator experiments, the Alaska Permanent Fund dividend, and even Mincome (Simpson, 2020)—do/did not provide income sufficient to cover basic needs. In addition, no basic income experiment has guaranteed permanent provision or long-term benefits: in all cases, the benefit was known to end.

Finally, existing social assistance systems generally promote social inclusion through mandatory activation or employment (or work search). However, this focus on paid work often ignores the well-being of the recipient, as beneficiaries are encouraged—and in some cases forced—to apply for and accept paid work as quickly as possible, without consideration of its quality, sufficiency, or permanency. Additionally, it merits mention that paid work is not the only path to social inclusion, and indeed a focus on paid work can have the effect of decreasing participation in other socially beneficial activities. For example, job search requirements such as job training or monthly reporting may reduce a recipient’s ability to pursue other activities that

may be both personally and socially beneficial, such as volunteering, training, caregiving, and engagement in traditional activities (e.g., community-level subsistence hunting and fishing, upholding of cultural practices). However, most social assistance programs across Canada have exemptions from paid work search for precisely these reasons, along with mitigating factors such as disability. In B.C., for example, only between seven and eight per cent of Income Assistance clients at any given point in time are in the “Expected to Work” category (Petit and Tedds 2020). That said, the existence of these exemptions is not akin to acknowledgement of the full value of such activities, as they remain uncompensated.

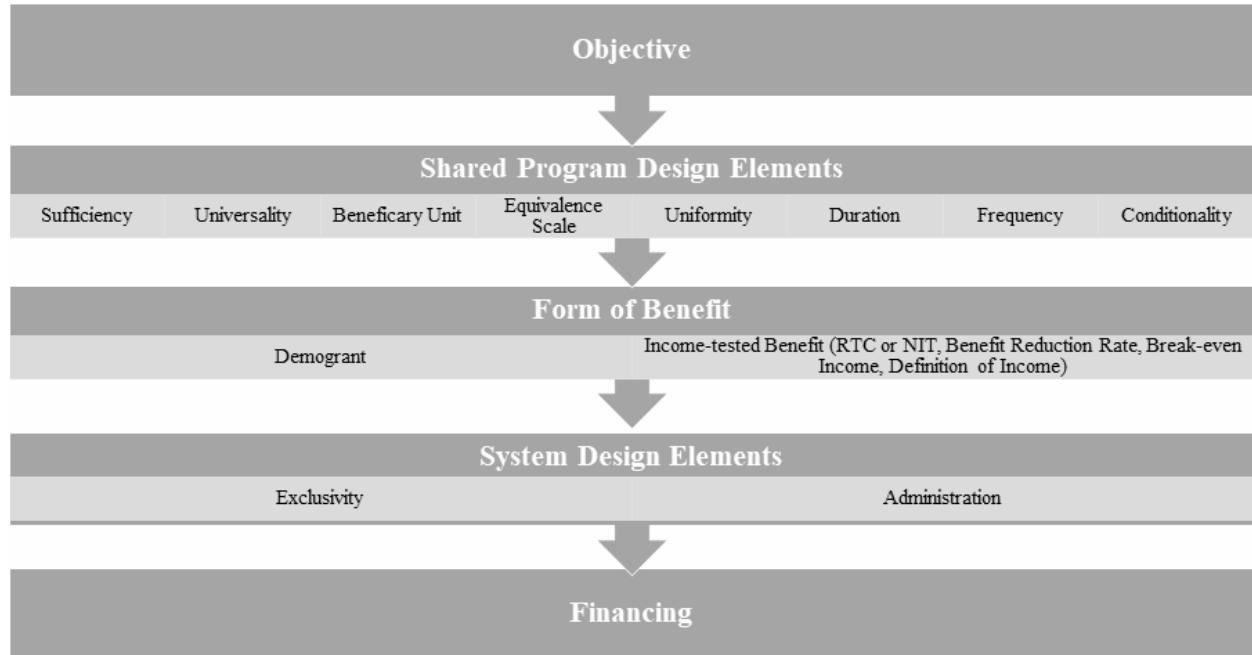
While it may seem that a basic income—which is generally delivered without the imposition on recipients of behavioural conditions—does not undermine social inclusion, there are two challenges to this notion. First, a basic income does not itself dismantle many of the barriers to social inclusion: improving participation in society, particularly for the disadvantaged, does entail improving access to resources, but it is just as important to promote enhanced opportunities, voice, and respect of rights. Second, a basic income that is not delivered as a demogrant—that is, a basic income that is means tested, and thus reduced and then eliminated as additional income is reported—naturally requires the application of a benefit reduction rate (BRR) and the establishment of an income threshold beyond which no basic income benefit is paid. This naturally penalizes the generation of additional income—what is often termed a welfare wall—thereby undermining social inclusion. We return to this aspect in the next section on basic income design elements.

What becomes clear in examining these basic income principles in the context of existing income and social support systems in Canada is that there is substantial room for improvement within existing structures. At the same time, it is clear that the introduction of a basic income does not automatically lead to a situation in which all four principles are fulfilled. Adherence to these principles within the basic income context, or even within the existing system of supports, is not a given, and instead depends heavily on design elements and program implementation.

### **Basic income design elements**

While basic income principles provide an overarching framework from which to develop a basic income policy, basic income design elements are the implementation features that turn a policy idea into an implementable program. Figure 2 is a visualization of basic income design elements.

Figure 2: Design Elements of a Basic Income



Before considering the details of each element, it is important to note a few things. First, these design elements interact with and influence both the basic income program, as well as the larger system, ultimately determining whether the program is aligned (or mis-aligned) with the basic income principles discussed above. Moving from principles to program design and implementation is complicated, and it is during this process that trade-offs must be made between full or partial fulfillment of the principles laid out in Figure 1. Second, it becomes clear in considering the basic income elements listed in Figure 2 that such elements are also present within any cash benefit program. This means that the main distinguishing feature of a basic income is the integration of design elements with the basic income principles. Thus, the distance between a basic income program and a typical cash transfer scheme is a function of the extent to which core principles are sacrificed in design. Third, to design and implement a basic income, many elements and details must be determined, and these decisions require one to make important trade-offs among both elements and principles. Finally, what is clear from Figure 2 is that, in the absence of a clear basic income proposal, it is difficult to make specific arguments or estimations about the ability of a basic income to address any one issue. This is because there are countless potential program designs that can arise from the presented choice set. What follows is a brief description of each of the elements.

### ***a. Objective***

Traditionally, a basic income is proposed as a means of either eliminating or, more modestly, reducing poverty. However, a basic income has also been proposed as a tool to address structural changes in the labour market resulting from increased automation, and as a mechanism for delivering a social dividend, to recognize the value of unpaid caregiving, for example. While these objectives may appear similar, they have fundamental differences. A basic income designed with the objective of reducing poverty is aimed at supporting people through enabling and maintaining attachment to the labour market. When the objective is support in the face of structural labour market transformation, however, the policy is aimed at catching people on their way down, with there being no possible actions that can or should be taken to address the underlying labour market phenomenon. The first objective is proactive, whereas the second objective is passive: in the latter case, basic income is a response to inevitable transformations that may render people redundant. A basic income conceptualized as a social dividend is aimed at addressing important gender imbalances, including through redressing economic power imbalances rooted in gender norms, a gender pay gap, and the fact that unpaid reproductive labour is largely performed by women. In this case, however, there are concerns that the dividend could reinforce gender asymmetry in the performance of unpaid care work.

### ***b. Shared program design elements***

Regardless of the form of the benefit, all basic income programs must choose among options within eight design categories, which are:

**Sufficiency:** To what degree does the basic income address or cover a person's essential living costs? That is, is the basic income sufficient to cover a moderate standard of living (as defined by the Market Basket Measure poverty thresholds)? Linking back to economic security, this is the degree to which a basic income provides an adequate income.

**Universality:** What portion of the population is to be covered by the basic income program? Does a person have to be a citizen or a resident? Is the interest in targeting specific groups like children, seniors, or people with disabilities?

**Beneficiary Unit:** Will the basic income be delivered to the individual or targeted to the household? If the latter, how will a household be defined?

**Equivalence scale:** If the basic income is targeted to the household, should it be scaled such that it is proportional to the household's needs, where a common approach is to use a square root equivalence scale?

**Uniformity:** To what degree do beneficiary units with similar income levels and household compositions receive similar benefit levels, and what happens if they have differing abilities or barriers to accessing opportunities?

**Duration:** For how long can a beneficiary receive the basic income benefit? Is the benefit seen as permanent, or is it intended to support someone for a specific length of time—that is, through an unexpected shock (e.g., a pandemic) or life transition (e.g., escaping abuse)?

**Frequency:** How frequently is the basic income benefit paid? Will the benefit be delivered annually or sub-annually (e.g., weekly, monthly), or paid as a one-time, lump sum payment (also known as a basic asset), or through a mixed design (e.g., lump sum payment plus a regular stream of payments)?

**Conditionality:** Is eligibility for, or the amount of benefit received, conditional on technical conditions like income, assets, or employability, or on behavioural conditions like looking for work, engaging in caregiving, or filing taxes?

#### *c. Form of benefit*

As detailed by Green, Kesselman, and Tedds (2021) the various basic income designs can be classified as belonging to one of two categories: a demogrant or an income-tested benefit. A demogrant is a form of basic income where everyone receives the same amount of cash transfer with no conditions and minimal eligibility requirements (perhaps only residency in the jurisdiction, however defined). An income-tested basic income is where the benefit is reduced as other income is earned and there is an established level of income above which basic income payments are no longer made. There are two main types of income-tested basic income benefits: a refundable tax credit (RTC) and a negative income tax (NIT). An RTC provides a set level of benefits for a year at a point time based on income earned in the previous year. Refundable tax credits are ubiquitous in Canada, and include the CCB, the GST/HST credit, and the Canada Worker Benefit (CWB). An NIT is a form of basic income that adjusts benefits in real time on the basis of income earned in the previous reporting period. Currently, Canada's tax system cannot support an NIT (Petit et al., Forthcoming).

An income-tested basic income then requires additional elements to be specified. First, the income against which the benefit will be tested must be defined. As detailed by Tedds (2017), defining income is no simple matter, especially since not all forms of income are reported on the annual tax form against which income can be verified (e.g., cash gifts, windfalls, prescribed prizes). Second, a benefit reduction rate (BRR) must be established, given that the benefit will be reduced as additional income is earned (Kesselman, 2020). Most existing proposals for a basic income envision a BRR of between 50 and 100 per cent (Tedds & Crisan, 2020a) for every dollar of earned income. However, defining the BRR leads to direct trade-offs between the principles of simplicity and social inclusion. BRRs are complex and are difficult for people to understand, even more so when the basic income BRR interacts with BRRs of other programs (should other programs continue to exist in tandem with the basic income). Such interactions among programs can lead to total BRRs that vastly exceed 100 per cent.

BRRs also influence the pursuit of employment, as they not only establish the cost of participating in paid work, but also shape the intensity with which someone engages. Most discussions about the effect of a basic income's BRR neglect the behavioural differences in paid

work participation on the extensive versus intensive margin, and the heterogeneity in estimates in the responsiveness in the participation in paid work to additional income. Heterogeneity in labour supply elasticities at the participation margin—which are very high, especially for women, meaning the higher BRR leads to less income from work—disincentivizes participation in paid work. This demonstrates the extent to which the details matter in crafting a basic income, for undesirable features of the existing income and support system can quickly be replicated in the basic income approach if care is not taken to avoid them.

#### ***d. System design elements***

**Exclusivity:** To what degree does the basic income complement or replace existing cash or in-kind programs? How, if at all, will the basic income be integrated with the programs that remain?

**Administration:** What administrative structure would be used to deliver the basic income? Will it be the tax authority, existing social assistance administration, non-governmental organizations, or something else?

#### ***e. Financing***

As the program and system design features are considered, so too must be their associated cost, as well as potential financing mechanisms. Evidently, programs with higher costs will require more financing. Will these costs be funded by raising rates on existing tax sources; by shifting current taxes to lean more on higher earners; by eliminating government programs or cutting spending; through cost savings due to decreased pressure on health and justice systems; or through a combination of these? Many existing proposals for a basic income suggest the funds for a basic income should come from repurposing existing refundable and non-refundable tax credits into one refundable tax credit delivered as a basic income. However, the funds that can be generated through such an approach are well below the level required to meet the funding needs of a full basic income (Tedd & Crisan, 2020a).

#### **Basic income elements: theory vs. reality**

To design a basic income, policymakers will need to choose among the elements outlined above, as well as make further choices within each element. This both confirms the countless possibilities that exist for any basic income program, as well as illuminates the confusion and complexity that can exist in relation to the policy. Moreover, it is important to note that while we present the elements as an organized set of steps and options above, a policy designer would not have to choose among elements in the order presented. Indeed, while many of the elements are independent of each other, others are closely connected and interdependent, such that moving through design options may cause a policymaker to revisit previous choices. Choices within each element also result in the policy designer assigning weights to the basic income principles, as in reality, all four cannot be equally achieved.

As detailed in Tedds and Crisan (2020b), most basic income proposals put forward in the Canadian context are designed around a chief objective of reducing or eliminating poverty,

where poverty is defined according to one of the three measures produced by Statistics Canada. However, the ability of a basic income to produce dramatic reductions in poverty is directly related to the size of the benefit, which in turn is related to the cost and the benefit reduction rate. Further, no basic income proposals acknowledge, let alone discuss, interactions with the cycle of poverty—a matter which is about much more than income alone. Put another way, while a basic income will reduce poverty and is likely to stimulate human capital formation, significant work would remain to ensure that the most vulnerable are socially included and to address additional vulnerabilities, such as systemic discrimination, barriers to accessing capital and financial services, and the prevalence of GBV, among other factors. This also suggests that the dream of a basic income replacing the so-called ‘poverty industry’ may be a utopian one. As a result, whether a basic income can fully replace the existing system of social supports—that is, whether it can achieve true simplicity—must be carefully considered.

Existing proposals for a basic income also lack a shared vision for what the basic income benefit amount should be, as well as whether everyone should get the same amount. For example, basic benefit amounts across proposals range from \$1,000 to \$22,000 annually, and while some proposals provide all recipients the same benefit, others deliver much more to seniors (if they are included in the proposal in the first place) or provide a small top-up for people with disabilities. Some proposals also vary their benefit by province. Given the heterogeneous needs of individuals, whether in terms of their ability to earn additional income or their specific living costs, how realistic is a uniform benefit? If governments were to offer a uniform benefit, the policy would clearly produce winners and losers: while some would have many more of their needs covered, others would not receive enough to account for basic needs. Varying the benefit by group or geographic region, however, creates pressure on individuals to be classified in a group with a higher benefit. This, in turn, necessitates the application and adjudication of eligibility conditions, and would also require authorities to address inter-provincial migration concerns. Whether a benefit could or should vary may also depend on the existing social and income support system in a given region. Thus, detailed knowledge of any jurisdiction is needed to be able to analyze the full complement of benefits and supports available, the interactions among them, and how this might align with a basic income approach. These are complex issues and are not easy to resolve—indeed, they undermine the simplicity of the basic income approach, and resolving them also requires a complex administrative apparatus, which raises the potential for stigma.

These are just a few of the design trade-offs that policymakers face when moving the idea of basic income beyond the theoretical and into an implementable program. It is easy to see that these implementation challenges are particularly salient when considering heterogeneity of experience and need. As a result, it is nearly impossible to envision one homogenous, universal program that addresses on its own the complexity that characterizes society, and it is clear that the more heterogeneity that is introduced through the basic income program, the closer we get to returning to the existing income support system.

With a firm understanding of what economic security and a basic income truly are, we now turn to detailing the interplay of economic security and basic income with gender-based violence.

We turn first to understanding the extent to which both GBV and economic insecurity are products of systemic issues and pathologies. We then build on this to consider how contexts of economic security intersect and even shape the issue of GBV, and more specifically, why questions of economic vulnerability and need are salient when both developing approaches for supporting victims and survivors, as well as addressing the broader systems of oppression within which GBV thrives.

## **Gender-Based Violence and Economic Insecurity: Roots and Intersections**

We begin by exploring GBV from an intersectional perspective to uncover what drives it, in its various forms—that is, to better understand the mechanisms by which GBV is perpetuated, the systemic pathologies which underpin it, and, ultimately, how these realities contribute to differing levels and degrees of risk for diverse women and non-binary individuals.

### **Defining gender-based violence**

The Government of Canada understands gender-based violence to be any form of violence, whether physical, economic, sexual, emotional/psychological, or otherwise, that is rooted in gender norms and unequal power dynamics, and perpetrated against someone based on their gender, gender expression, gender identity, or perceived gender (Women and Gender Equality Canada, 2021a). This conception of GBV builds on the definition articulated by the United Nations in the Declaration on the Elimination of Violence against Women, wherein ‘violence against women’ encompasses violence of various forms—battering, rape, financial or broader economic abuse, sexual harassment and intimidation in the workplace and educational institutions, dowry-related violence and forced marriage, as examples—occurring in the family or community, or perpetrated or condoned by the state (UN General Assembly, 1993).

Taken together, these definitions are instructive for a few key reasons. First, they highlight that GBV extends beyond sexual assault and physical violence in the home to also include economic, emotional, and psychological abuse, violence in the form of female genital mutilation and dowry- and honour-based violence<sup>2</sup>, harassment in places of employment and schooling, human trafficking, mechanisms of control less prevalent in heteronormative contexts, such as HIV-related abuse, and more. Thus, to address GBV in its myriad forms—even when containing focus to a particular aspect or risk factor, such as economic insecurity—it will be necessary for policymakers to design approaches which are nuanced and multi-pronged. This insight is of particular importance when weighing the merits of instituting a large but singular policy shift, such as a basic income approach.

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<sup>2</sup> It is important to note that while such practices do exist, the tendency to frame such violence as occurring as the result of ‘harmful cultural practices’—and thus as solely located in either non-Western contexts or within minority communities in the West—must be avoided, as it “essentializes certain cultures” as the source of violence and “reduces violence against women to a problem of culture.” Peroni, L. (2016). Violence Against Migrant Women: The Istanbul Convention Through a Postcolonial Feminist Lens. *Feminist Legal Studies* 24(1), 49-67. <https://doi.org/10.1007/s10691-016-9316-x>.

Further, these definitions locate GBV as not merely occurring in the home or the street, but also within core institutions, including those designed to offer support, such as a government or medical office. Equally important is the recognition that institutions, even if they are not perpetrators of violence, are often complicit in condoning it or normalizing patterns of abusive behaviour and forms of interaction. This has considerable implications from a policy perspective, for example in terms of the willingness of survivors or those at heightened risk of GBV to access public services—even when such services are designed to serve and support them—or of a person’s ability to rejoin the workforce or reengage in training and education following an abusive or violent experience.

Finally, the definition of GBV offered by the Government of Canada allows one to conceptualize violence as rooted in systems of gender. Understanding gender as system—one that is characterized by unequal power dynamics and social hierarchies, and reinforced by language, norms, and modes of expression and interaction—is important if we are to move beyond understandings of GBV which speak strictly of women and girls as victims of male-perpetrated violence, where individual men are considered to be ‘bad actors.’ This frame also aligns with understandings of gender identity as neither inherent or biological nor fixed, but instead, as a construct and something that is ‘done’—that is, as something socially constituted and performed repeatedly through action and interaction, and itself productive of a series of effects (Butler, 1988). Importantly, this approach can also account for heightened GBV risk among LGBTQ2SIA+ persons, for example, as well as the particular abuse faced by trans persons—groups that are often left out of GBV discourse as well as policy solutions—since it brings into focus the ways in which violence is often enacted as a form of gender enforcement or as a way to establish or reinforce gendered dominance (Peretz & Vidmar, 2021, p. 2). Ultimately, such understandings cast light on the pathologies that underpin levels of risk and need, centring not only the types and outcomes of GBV, but also the systems and mechanisms through which GBV operates. Such insights are integral to the development of policy that does not simply deal with effects or consequences, but which also drives systemic or transformative change.

### **The roots of gender-based violence: drivers, mechanisms, and systems of oppression**

In Canada, as is the case around the world, women face violence and abuse at alarming rates on the basis of their female identity. In 2018, one in three women living in Canada were subjected to unwanted sexual behaviour in a public place, and 39 per cent of women reported having experienced sexual assault since the age of 15 (Cotter & Savage, 2019). For women employed in Canada, risk of workplace violence is higher than it is for men, even when adjustments are made to account for differences in work characteristics: women in Canada are at increased risk of sexual violence at work, regardless of their workplace, and the majority of perpetrators of workplace-based violence are male (Lanthier et al., 2018). Women are also over-represented as victims of intimate partner violence (IPV)—the most common form of violence faced by women in Canada—and account for roughly eight in ten of those having experienced IPV (Conroy et al., 2019, p. 24). Further, in 2020 alone, at least 160 women and girls in Canada were lost as a result of femicide; 90 per cent of cases in which a perpetrator was identified involved a male accused (Dawson et al., 2020).

Given the extent and persistence of the violence and abuse faced and reported by women, many scholars have sought to understand such violence through a feminist lens. Feminist theories explain violence against women and girls as intrinsically linked to the historical existence and persistence in the present day of patriarchal systems—that is, social arrangements, structures, and power dynamics that reinforce domination on the basis of gender, and which are themselves deeply gendered. In such systems, power operates through discourse, norms, and practices, all of which effectively limit the rights, agency, independence, and well-being of women and gender-diverse individuals. For example, when considering the issue of IPV, feminist models understand gendered abuse to be the result of male oppression within a system that normalizes and upholds the subordination and dependence of women, and ultimately drives the use of strategies of control, abuse, isolation, and intimidation (McPhail et al., 2007). Such conceptualizations of violence against women are important because they ‘anchor the problem’ in social conditions, systems, and institutions, rather than focusing on bad actors and individual characteristics or decisions (Hunnicutt, 2009). Conceiving of GBV in this way makes manifest the extent to which policy solutions and strategies must address the roots of violence, including the extent to which systems of patriarchy and misogyny come to bear upon men.

Over the past century, the feminist lens has been instrumental in theorizing gender-based violence. Building on these theories through the advancement of multi-dimensional frameworks—those which seek to situate gendered violence within broader social contexts by accounting for the various and overlapping factors and systems of oppression which contribute to prevalence of violence—is crucial if we are to better understand heightened risk among diverse groups of women and non-binary individuals. Conceptualizations of GBV, its origins, and associated risk that are constructed based on the application of an integrated, ecological framework (Heise, 1998), for example, reflect an important evolution in the way we have come to think about violence in both practical and academic circles. In such frameworks, violence is conceptualized as a multi-faceted phenomenon, or the result of the interplay among or intersection of various levels of analysis, including the personal, inter-personal, institutional and community, and macro or societal (i.e., the pathologies and norms which permeate society at large). Such models seek to uncover the ways in which socialization, power relations and norms, human capital development and employment, and life cycle effects (Morrison et al., 2007), as well as a host of physiological, neurological, and personal factors intersect or exist alongside systems of patriarchy (McPhail et al., 2007).

Such definitions and frameworks align well with, and indeed borrow from, the concept of intersectionality (see Crenshaw, 1989; Crenshaw, 1991), which emphasizes both the “multiple dimensions and modalities of social relations and subject formations” (McCall, 2005)—the ways in which identities are both multifaceted and socially constituted—as well how overlapping systems of oppression and privilege shape not only these identities, but also inter-personal relationships, institutional arrangements, and experiences of the world. Hunnicutt (2009) is drawing on the insights of intersectionality theory when they suggest that to explain common patterns of violence perpetrated against people on the basis of their race, Indigeneity, class, ability, and age, in addition to their gender, one must develop an understanding of the

varieties of patriarchy within a broader hierarchical framework—that is, one must attend to the myriad forms patriarchy can assume across time, place, and contexts as a result of intersections with other systems of domination. Importantly, Hunnicutt also emphasizes that other systems of dominance, such as culture, race, and class, can serve to not only transform experiences of patriarchy or sustain patriarchal relations and ideologies, but also reinforce them and thus render them more salient.

Accordingly, though the statistics presented above paint a dire picture of the extent and persistence of GBV in Canada, the reality is that risk and prevalence among diverse women and non-binary individuals—Indigenous women, girls, and Two-Spirit people; those living in poverty; those living with a disability; members of Black and racialized communities; new immigrants; migrant workers; sex workers; and those who identify as queer or trans—is even higher. Indeed, risk levels are closely correlated with other identity factors and systems of oppression, reflecting an intersection of patriarchy, on the one hand, with the existence of both cultural and structural inequality (Abraham & Tatsoglou, 2016) as well as dynamics of financial insecurity, class privilege, colonialism, and racism.

Two groups that experience heightened risk of GBV, but which are currently underserved by existing GBV support systems, are those who live in rural, northern, and remote communities and migrant workers. For example, female migrant or temporary foreign workers experience structural violence at multiple levels as a result of the global inequalities which require them to migrate to secure resources adequate to support their families; the discriminatory and exclusionary policy and legal frameworks of the countries in which they work; and the gender- and race-based discrimination and violence they encounter in and beyond the employment context (Robillard et al., 2018). Geography also places certain groups of women at higher risk of GBV. Indeed, rates of DV and domestic homicide are higher in Canada's rural and northern communities than anywhere else in the country (Jeffrey et al., 2019). Women living in rural, remote, and northern areas have heightened vulnerability to DV and domestic homicide as a result of isolation (e.g., weather, inaccessible road systems, long distance to supports, limited access to services such as transportation and broadband); economic context; prevalence of traditional and patriarchal social values (including as a result of prominent role of the church); barriers to DV support services; public visibility and lack of anonymity or confidentiality; traditions and values regarding firearms; and farming responsibilities (*Ibid*).

Making mainstream such understandings of GBV is vital if we are to understand the processes and mechanisms which both render various groups more vulnerable to GBV, as well as erect barriers in exiting abusive contexts and rebuilding following a violent experience. If they are to be effective, interventions must be sensitive to these differences. Further, our examination of the drivers of GBV illustrates the systemic mechanisms through which violence and abuse function, underscoring the need for a host of structural responses alongside policy interventions.

## **Intersecting phenomena: linking gender-based violence and economic insecurity**

Given the above analysis, it is evident that both responding to systemic GBV and supporting victims and survivors will require a comprehensive and multi-faceted strategy, of which improving economic security is but one lever. That said, economic insecurity and GBV are deeply intertwined, which is a reality that underscores the importance of initiatives focused on improving the material conditions of not only victims and survivors, but also diverse women and gender-diverse people writ large, as well as men. In this analysis, we make three key links between GBV and economic insecurity. First, economic vulnerability, including poverty and/or lack of economic independence, increase GBV risk and limit an individual's ability to exit and recover from violent situations. Second, economic or financial abuse is a particular form of GBV and is often used by perpetrators alongside other forms of violence and abuse to maintain control. And third, GBV carries with it economic consequences, such as loss of assets and inability to earn an income following an abusive experience. Importantly, these processes are mutually reinforcing, creating cycles of abuse, economic vulnerability, and heightened risk.

In the following section, we consider each of these reasons to construct criteria against which to evaluate the promise of a basic income. Put another way, by uncovering the connections between economic insecurity and GBV, and in particular the mechanisms through which both phenomena are produced and perpetuated, we can begin to delineate which issues a basic income must address, the areas in which it might fall short, and potential risk factors or unintended consequences of the policy.

### ***a. The material roots of gender-based violence***

A considerable body of research confirms a close link between economic insecurity and prevalence of gender-based violence. This notion can be considered and explained from several angles. First, economic vulnerability increases one's risk of experiencing GBV, as abusers often seek out and exploit dynamics of economic insecurity and dependence, while experiences of poverty and lack of resources can also be accompanied by dangerous contexts such as precarious housing and lack of transportation, or force individuals into taking unsafe work. Second, economic vulnerability is not natural, nor does it occur in a vacuum: systemic pathologies such as patriarchy, racism, anti-queerness, transphobia, colonialism, ageism, ableism, and others are not only themselves productive of economic insecurity, but also overlap and intersect to produce contexts and risk of vulnerability among diverse women and non-binary individuals. It is this fact that explains both phenomena such as the feminization of poverty, as well as the significant barriers that diverse groups face in terms of income generation, asset development, and economic independence. And third, it has been demonstrated that contexts of poverty and financial stress are also productive of increased instances of abuse—that is, scarcity can have behavioural effects, particularly in driving abuse among perpetrators. We consider each of these links below.

### **Economic insecurity and risk of gender-based violence**

In Canada, women experience higher rates of poverty than men, and both poverty rates and risk of poverty increase at the intersections of identity. That is, single women, lone mothers, single female seniors, women with disabilities, Indigenous, Black, and racialized women, and LGBTQ2SIA+ individuals all experience overlapping oppressions that place them at greater risk of poverty and economic insecurity—and which render them more vulnerable to gender-based violence.

For example, while persons with disabilities experience worse outcomes relative to other Canadians—higher rates of poverty, greater costs to perform basic activities in the day-to-day, and unique barriers to full participation in society, including in the realm of employment—all of which undermine economic security, disability is also a gendered and intersectional issue.

Nearly one in four women live with a disability and are more likely to be impoverished than disabled men (Morris et al., 2018), while disability rates among Indigenous women living off-reserve are also comparatively high (Hahmann et al., 2019). Further, census data indicates that over 20 per cent of all racialized Canadians were living below the poverty line (LIM-AT) in 2016; poverty rates of racialized women were marginally higher than those of men, both within individual ethnic groups, as well as across all groups (Block et al., 2019). Further, the LGBTQ2SIA+ community continues to experience marginalization, higher rates and risk of poverty, and considerable social and health inequities; such disparities are heightened for Indigenous, Black, racialized, youth, and older LGBTQ2SIA+ persons (Kia et al., 2020).

Economic insecurity increases one's risk of experiencing gender-based violence in a number of ways. First, many abusers deliberately seek out and nurture relationships with individuals who are financially vulnerable, including those with limited finances, those experiencing poverty or housing insecurity, and those at greater risk of financial hardship, such as single mothers and women with tenuous immigration status (Conner, 2014). In the case of intimate partner violence in particular, abusers target individuals with whom they can establish dynamics of provision and reliance, such that victims—and in some cases the child(ren) of victims, as well—come to depend on abusers to meet basic needs, thus rendering them bound to a context from which the stakes of exit are considerable.

Relatedly, financial insecurity and precarious housing also increase the likelihood of a person *returning* to an abusive relationship, as women in particular often justify re-entering an abusive context as a short-term survival mechanism (Klein & Pulkingham, 2008; Martin & Walia, 2019). This point is particularly salient in contexts which involve children, as mothers and caregivers are forced to weigh their safety with the ability to continue to feed and house a child. Given the lack of supports that exist in shelter contexts, including an absence of childcare options, women are often forced into such decisions. For example, one study reports a woman having to take her young son with her to medical and legal appointments given the absence of childcare supports in the transition house in which she was staying, as well as other cases in which women experienced stress related to providing 24-hour care while processing trauma (Milne, 2016, pp. 33-34).

Finally, poverty, material deprivation, and economic insecurity are associated with contexts which place diverse people at risk of GBV. For example, women who are precariously housed experience high rates of sexual assault and IPV due to overlapping contexts of material need, lack of safety, and misogyny. As Flynn et al. (2018) find in a study focused on the experiences of street involved young-women in Quebec City, the visibility of such women in the street—and the misogyny pervasive in such spaces—places them at greater risk of sexual assault in a number of ways. For one, such women describe being confronted with the choice between two unsafe options—sleeping ‘rough’ or in a hidden place or being ‘taken in’ by a passerby—which in some cases results in the use of sex work as a survival strategy (*Ibid*). In addition, street-involved women note being approached frequently for sex on the assumption that their presence in the street signifies their engagement in sex work, and explain how these dynamics not only reinforce their objectification and a lack of safety, but also have the effect of making them feel as if their bodies do not belong to them (*Ibid*). In Canada, female sex workers encounter high levels of sexual and physical violence, as well as contexts of economic insecurity and housing insecurity. For example, in a study focused on the experiences of female sex workers in Vancouver, Shannon et al. (2009) observed a relationship between street living and enhanced likelihood of both rape and physical violence, a finding which the authors note to be consistent with previous studies that show increased likelihood of physical violence among women experiencing homelessness who also use drugs.

Financial insecurity is also linked to an inability to refuse undignified or unsafe work. Among female migrant workers—a group with little bargaining power, as well as significant dependence on their employers for both a wage and continued stay in the country—violence often enters employment relationships given unequal power relations rooted in a number of overlapping oppressions. Such women often work and live in poor and degrading conditions, and usually lack legal protections or access to standard labour practices, such as minimum wage, paid leave, and time off (True, 2010, p. 52). Those trafficked for prostitution or employed in the sex sector face even greater vulnerabilities (*Ibid*, p. 53). However, such individuals are in the impossible position of risking loss of employment—and thus work visas and immigration status—if they were to report such abuses. Robillard et al. (2018, p. 592) describe how, for many women, foreign work is a vital source income that is used to support family members in their country of origin; in such cases, reporting violence could not only undermine their ability to send home remittances to family, but also threaten their continued presence in Canada or longer-term immigration aspirations

As we note above, the economic insecurity that occurs along gender and intersectional lines is not naturally occurring. Rather, several forces and systems of oppression *produce* contexts of vulnerability and material need for diverse women and non-binary individuals. As summarized in Cameron and Tedds (2020b), these include longstanding inequalities in the workplace, such as pay inequity and over-representation in low-wage work, which only worsen when gender intersects other aspects of identity, such as race; greater constraints (when compared to men) on labour force participation and human capital development; responsibility for unwaged care work and reproductive labour; and systemic discrimination, bias, and violence on the basis of various aspects of identity.

Consider the example of labour force participation, human capital development, and reproductive labour. Biological differences and systems of gender produce distinct patterns of both labour force participation and human capital development throughout the life course for men and women. Gendered consequences do not exist in terms of general workforce participation or educational attainment alone: these dynamics also impact women's earning potential, performance, career advancement, entrepreneurial decisions, and flexibility to take a promotion or relocate for work or education. This produces consequences which extend to retirement, as many older women experience heightened vulnerability to poverty and dependency if they have not had the opportunity to amass retirement savings over the life course through paid work (Ivanova, 2017). Compounding these factors are the systems of gender that further structure dynamics within the private realm. Since reproductive work—caregiving, cooking, cleaning, and keeping house, as well emotional labour—remains undervalued and largely uncompensated,<sup>3</sup> the gendered division of labour directly undermines the economic security (or perhaps more accurately, the economic independence) of diverse groups of women and those who take on caregiving responsibilities. Indeed, though labour market participation rates of women and mothers have increased over the past fifty years, women, regardless of their education level, continue to perform more reproductive labour, as well as emotional labour and household management functions (Baker, 2009; McKay & Vanevery, 2000).

### **Contexts of poverty and financial instability**

Considerable research suggests that contexts of life stress—including financial stress and risk of financial instability—contribute to heightened incidences of violent behaviour toward intimate partners.<sup>4</sup> For example, in a U.S.-based study, researchers found links between higher rates of IPV and factors such as male job instability, lower household income security levels, and financial strain: women were three times more likely to have experienced IPV if their male partners had undergone two or more periods of unemployment over the five-year study, the rates of IPV among couples reporting extensive financial strain were three times those of couples reporting low levels of strain, and women were at greater risk of IPV if their household was experiencing financial insecurity (Benson & Fox, 2002). Additional American research has established an association between particular financial stressors and perpetration of physical IPV, connecting utilities non-payment, housing non-payment, food insecurity, and disconnected phone service with increased odds of perpetrating IPV of all degrees of severity (Schwab-Reese et al., 2016).

Importantly, gendered expectations can also become more salient in contexts of poverty, which is a reality that underscores the ways in which class dynamics intersect patriarchal systems to produce particular effects. For example, Fodor (2006) finds gender differences in the way in which Hungarian men and women experience contexts of scarcity, suggesting that men living in

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<sup>3</sup> In Canada, forms of income support designed to provide parents or caregivers recompense for the cost of raising a child do exist (e.g., the Canada Child Benefit). However, such programs do provide direct compensation for the performance of care work.

<sup>4</sup> For an overview of the literature, see Weatherburn, D. (2011). *Personal stress, financial stress and violence against women*. Sydney: State of New South Wales Retrieved from <https://www.bocsar.nsw.gov.au/Publications/CJB/cjb151.pdf>.

poverty find themselves confronted by a gender role crisis as a result of the contestation of their ability as successful breadwinner, while women often feel their roles as caretakers intensified, and as a result, do not experience the same threats to their femininity. Such disparate experiences of poverty could serve to reinforce patriarchal gender norms and drive abusive behaviour. As suggested by Abraham and Tastsoglou (2016), shifts in gender roles resulting from changes in perceived status and workforce participation, for example, could also serve as a source of strain for immigrant families post-migration.

Summarizing research concerned with economic status changes and resultant impacts on IPV incidence, Fahmy et al. (2016) contend that life events such as male job loss, as well economic precarity and low-wage work in general, serve to undermine traditional male roles like breadwinning, thereby creating status conflict for men. The emergence of this conflict has been shown to be a precipitator of IPV and may indeed result in unemployed males attempting to exert more coercive control and physical aggression—particularly in cases when his partner has maintained employment (*Ibid*).

### ***b. Economic abuse***

Often hidden or ‘invisible’(Postmus et al., 2018)—particularly given a public and media discourse which can lead to the perception that intimate partner violence largely occurs through physical, sexual, or psychological harm—economic abuse is a distinct and common form of GBV. Involving a control of a person’s “ability to acquire, use, and maintain economic resources, thus threatening [their] economic security and potential for self-sufficiency” (Adams et al., 2008, p. 564), economic abuse spans at least three constructs: economic control, economic exploitation, and employment sabotage (Stylianou et al., 2013). Economic control refers to activities aimed at monitoring and restricting a person’s ability to use resources in their life; economic exploitation involves the depletion of economic resources by an abuser, as well as acts aimed at creating debt or ruining credit; and employment sabotage involves activities such as blocking employment opportunities or restricting the ability to maintain resources through employment (*Ibid*, p. 3189). Thus, economic abuse extends beyond financial abuse to include control of basic resources, such as access to childcare, housing, electronics (e.g., telephone, internet, etc.), or a vehicle, as well as limitations on self-improvement, human capital development, and self-sufficiency.

In cases of economic control, a woman’s access to financial resources is restricted, monitored, or controlled completely by the abuser, not only undermining her agency and independence, but limiting considerably her ability to exit the abusive context. As summarized in (Sharp-Jeffs, 2015, p. 9), this can extend to being forced to have a salary paid directly to the abuser; handing over benefit money; or switching family-based benefits, such as child benefits, to be applied for in his name. In the longer term, such dynamics can have significant implications for future economic security. For example, as a result of economic control, women often become ‘unbanked,’ meaning that they lack a basic chequing or savings account as the abuser has not included their name on or has removed their name from the account (Sanders, 2015, p. 23).

As noted above, economic exploitation involves depletion of resources and the creation of debt. This includes instances of what Littwin (2012, p. 954) has termed “coerced debt,” or any instance of “non-consensual, credit-related transactions that occur in a violent relationship,” including an abuser applying for credit cards in their partner’s name or forcing partners to obtain loans. Economic exploitation can also take the form of refusal to make mortgage payments or pay rent or utilities, deliberate attempts to structure financial dynamics so that neglect of household bills or irresponsible spending would fall on the victim, or even the destruction of personal property (Sanders, 2015).

Summarizing the research related to employment sabotage, Adams et al. (2008) note abusers employ a range of strategies to interfere with their partner’s ability to maintain employment, including harming cars, stealing keys, or refusing to give a ride to work; threatening and physically restraining them; failing to show up to care for children; withholding medication and preventing sleep; and using a range of appearance-focused tactics, such as cutting hair, hiding clothes, and inflicting injuries. Others have documented instances of abusers interfering with a person’s ability to gain employment, including by instigating conflict prior to a job interview (Sanders, 2015, p. 17). It is also important to acknowledge the impacts of IPV more generally on a victim or survivor’s ability to maintain employment, given that abusive contexts—whether they involve deliberate employment sabotage or not—impact an individual’s ability to get to work, influence their work performance, and often spill over into the workplace, often through abusive phone calls or text messages, as well as harassment near the workplace (Wathen et al., 2014).

Finally, economic abuse is also correlated with or occurs alongside other forms of abuse, such as psychological, physical, and sexual abuse (Adams et al., 2008; Stylianou et al., 2013), suggesting that many forms of gender-based violence contain an element of economic abuse and thus directly undermine economic security. Below, we explore in further detail the material implications of GBV.

### ***c. The material implications of gender-based violence***

As we outline above, economic insecurity and lack of resources render diverse women and non-binary individuals more vulnerable to GBV, particularly in terms of the extent to which such individuals are targeted by abusers. However, experiences of abuse also *produce* devastating economic impacts for survivors (Coker et al., 2003), which can lead to poverty, heightened financial risk, and threaten financial and economic insecurity, in some cases for many years after a survivor leaves an abusive context (Braff & Meyering, 2011).

First, to the extent that IPV in particular is often accompanied by some form of financial abuse, victims and survivors often exit abusive context with depleted income levels as a result of the economic control and exploitation described above. Vitally, such contexts often leave survivors in positions from which it is incredibly difficult to transition, given decimated credit scores, patchy financial histories (including fraught relationships with financial institutions), poor tenancy records, and few to no assets.

In addition, the psychological consequences of sexual assault, for example, can diminish a victim or survivor's ability to perform on the job, disrupt their ability to earn an income, and ultimately create situations of scarcity, particularly in the absence of an asset cushion (Loya, 2014). Additional research indicates that survivors of IPV experience more disruptions over the course of their careers (Showalter, 2016), resulting in lower incomes, higher job-change frequency, and the need to take more part-time or casual work, often without access to benefits and long-term savings mechanisms (Wathen et al., 2014).

Following cases of nonfatal physical violence, a survivor's ability to secure a livelihood is impacted considerably; this only amplifies the material implications of the abusive experience. According to Giannakopoulos and Reijnders (2015) intimate partner violence is one of the most common causes of nonfatal injury in women, and as detailed in Capaldi et al. (2009), the forms of injury are many and varied. Recent research has sounded the alarm about the incidence of a hidden form of nonfatal injury: traumatic brain injury (TBI). For persons who experience IPV, it is estimated that anywhere between 30 and 74 per cent have sustained a traumatic brain injury (the actual incidence is hard to pinpoint as most go undiagnosed, which is an unknown factor reducing quality of life and preventing recovery) (Owen, 2019). The TBI injuries are not only the result of physical blows, but also oxygen deprivation due to strangulation. Navigating financial support systems, seeking employment, or returning to work—activities already made difficult following escape from an abusive context or in the aftermath of a violent incident—only becomes more difficult in such instances.

Considerable research also establishes a link between experiences of GBV and homelessness, such that the path to homelessness or housing precarity for many women is often associated with an abusive event or life context. One study in particular found that women with histories of IPV are four times more likely to experience housing instability when compared to the general population (Pavao et al., 2007). In addition, among Indigenous women in Canada, paths to homelessness were found to be associated with incidence of sexual assault, post-traumatic stress disorder, and high levels of suicidality, to the extent that such factors were considered predictive, whilst for men, pathways more often reflected patterns of substance abuse and job loss (Bingham et al., 2019). Further, a host of research suggests that street-involved youth often have histories of family dysfunction and abuse, whether in the form of neglect, physical violence, sexual abuse, as well as further abusive experiences within foster care systems, which led directly to housing insecurity and homelessness (Wingert et al., 2005).

## The Potential of Basic Income in the Face of Gender-Based Violence

Regardless of which provincial or territorial system is being analyzed, it is easy to see how existing social assistance frameworks do not support economic security. For one, social assistance does not provide sufficient income for recipients to cover basic needs, while earning additional income can result in either a reduction in or revocation of benefits—or fear of such a consequence. Many programs also apply asset tests, which often result in individuals having to deplete financial reserves to simply qualify for support. Furthermore, few of the existing

programs in the assistance system provide assurance of a permanent income, as support under many of these programs is neither guaranteed nor fully continuous.<sup>5</sup> Moreover, provincial, territorial, and federal governments provide very few services designed specifically for persons fleeing violent contexts or recovering from abuse. At present, the majority of the targeted programs that do exist are transition houses or shelters and hotlines, not income-based supports focused on the material drivers and consequences of gender-based violence.

Given this longstanding failure of existing income and social support systems to provide economic security both in a general sense, as well as in specific contexts of GBV, alternative approaches to provision have again captured the attention of policymakers, activists, and everyday people. Basic income is one such approach. In this section, we build on previous insights and considerations to evaluate whether the basic income model (as conceptualized above) might be effective in the face of gender-based violence—or more specifically, whether a basic income type program could form an effective component of an economic security strategy in the face of GBV.

Importantly, there are two modes of inquiry at play in our analysis of the potential of the basic income approach. The first is focused on systems and longer-term change, and the extent to which both GBV and economic insecurity are products of systemic issues (e.g., poverty, precarious work, etc.) and pathologies (e.g., patriarchy, racism), which place at a disadvantage those whose identities and ways of being do not squarely reflect masculinity, heteronormativity, whiteness, the notion of being able-bodied, etc. This mode of inquiry enables us to raise questions about the effectiveness of a basic income in, for example, disrupting the power structures that both underpin gender asymmetries and place diverse women and non-binary individuals at greater risk of GBV, but also which lead to abusive behaviour. The second mode of inquiry is more technocratic in nature. In considering the practical barriers facing diverse people as they encounter GBV throughout the life course and seek to exit and/or recover and rebuild, it considers whether a basic income is the best tool or an effective component of a broader approach to address the economic security component of GBV recovery. This approach also evaluates, to the extent that is possible, the unintended consequences or barriers that a basic income approach to economic security could produce, particularly for survivors of GBV.

### **The transformative potential of basic income: changing systems, reducing risk**

In the previous section, we established a close link between economic insecurity and gender-based violence, illustrating how economic insecurity provides a context for, heightens risk of, is leveraged within a key form of, and is a consequence of, abuse. We now focus on these connections in assessing the transformative potential of a basic income. Specifically, we consider how a basic income might contribute to economic security for diverse women in contexts of labour market barriers, lower wages, and responsibility for unpaid reproductive

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<sup>5</sup> There are, however, smaller programs that are continuous for a year—once assessed and deemed eligible, you qualify for 12 months of support—such as the CCB and GST/HST credit. Individuals can sometimes also be guaranteed lifetime access to disability assistance, depending on the nature of the disability as well as the program.

labour; alter bargaining structures between men and women or employees and bosses; begin to correct gender asymmetries; and contribute to raising material welfare—including among men—so as to limit instances of GBV which result from contexts of poverty and financial stress.

***a. Ensuring economic security for diverse women***

Basic income type programs exhibit the potential to improve financial security in a society where engagement in paid employment does not guarantee a basic standard of living for all—particularly diverse women. In the absence of policy changes that raise minimum wages or render earnings supplements such as the Canada Workers Benefit more generous and responsive, a basic income may represent the best policy approach for providing a top-up to income earned through low-wage work. Better suited to supplementing wages than current income support systems, a basic income could be a means for supporting longer-term stability and independence, providing individuals a better chance to chart a path out of poverty and dependence on assistance, or beyond low-wage work.

A basic income as top-up for wages would be particularly significant for women and individuals who belong to marginalized groups. This is because women—mothers and racialized women especially—are over-represented in part-time and low-wage work (Block et al., 2019; Zhang, 2009). Administrative data also indicate that gig work in Canada is more common among women than men, and more prevalent among recent immigrants when compared to Canadian-born residents (Jeon et al., 2019). Gig work is also typically associated with low annual incomes: nearly half of gig workers in Canada belong to the lowest two income quintiles (*Ibid*).

Importantly, a basic income does not directly address the reasons for gendered and racialized over-representation in low-wage and precarious work; instead, it represents a mechanism by which the economic effects of these realities could be offset. As a result, the potential exists for a basic income program to produce unintended consequences for marginalized groups. For example, some contend that the basic income would simply subsidize low/poverty wages and undesirable work, and thus has less positive potential than policies focused on shifting the legal balance between employer and worker, minimum wage increases, or improved employment standards. Moreover, as basic income is a tool for increasing individual bargaining power, it is insufficient as a means for worker emancipation: it does nothing to promote a collective sense of struggle (Gourevitch, 2016). Further, additional income to top-up earnings from gig work or a low-wage job cannot be considered a replacement for the benefits that accompany good jobs, such as job security, employer-paid benefits, and insurance. That said, the implementation of a basic income ought not preclude continued advocacy for strong labour laws, and vice versa.

***b. Compensating reproductive labour and other socially beneficial activities***

Some contend that a basic income is the best available option for responding to the inadequacy of an “incomplete system of income allocation,” in which various forms of labour—care work, reproductive labour, and housework, but also the time and effort spent to accumulate education and skills and develop networks—are not remunerated at all, despite the fact they are crucial to economic development (Weeks, 2015). In the Canadian context, this suite of

activities could also include community subsistence activities, such as fishing and hunting, as well as the preservation of cultural practices. Compensating a broader range of activities has significant implications for the economic security of diverse women.

Perhaps unsurprisingly, a key argument in support of basic income made by those focused on gender equality is that it would provide a wage to offset the financial penalty faced by women as a result of engagement in unpaid care and domestic work, and thereby recognize the value of reproductive labour (Baker, 2008; McKay & VanEvery, 2000; Zelleke, 2008, 2011). Zelleke (2008) compares several models of provision—income support conditional upon engagement in employment-related activities, increased provision of care through the market or a government scheme, caregiver income, basic income—and finds that the basic income approach best compensates care work in a way that is also favourable for gender equality, and shows the most potential to disrupt the gendered division of labour. This view is reinforced by Baker (2008), who suggests that a basic income can contribute to undoing existing (and unequal) structures of care, in a way that is preferable to both a caregiver wage (which represents payment for care work, and thus requires adjudication of deservedness and could reinforce traditional divisions of labour, as well as the pre-eminence of Western/settler notions of care) and commodification (which some argue can, at best, act as a complement to relations of love and care outside of the market). Instead, a basic income would serve as a universal support for individuals of all genders to engage more flexibly in a range of ‘worthwhile’ activities, among them reproductive labour, while supporting—not merely commodifying—relations of love and care (*Ibid*).

Some scholars reject this optimism, warning that barring significant changes to existing gendered social norms, such a policy could further entrench the gendered division of labour (Gheaus, 2008). Put another way, until it is expected that all genders are to take on roles of both caregiver and breadwinner, the risk of a basic income—which would enable more ‘choice’ free from economic constraints about if and how to enter the workforce—is that more women would withdraw from the labour market, either of their own accord or as a result of household power dynamics (Rubery, 2018). Relatedly, Orloff (1990, pp. 149-150) contends that a basic income does less to contest the gendered division of labour than would programs that challenge directly how paid and unpaid work are structured, as well as the ways in which the workforce is hostile to those who wish to combine earning and caring.

Others still have offered arguments that tread a middle ground. For example, Robeyns (2001) suggests that a basic income would lead to a revaluation of unpaid work, which could in turn produce an increase in societal respect for reproductive labour, positive psychological effects on housewives and those who perform such work, as well as greater choice between engaging in different kinds of work. However, agreeing that a basic income would likely perpetuate a gendered division of labour and traditional gender roles, she argues that the policy ought to be supplemented with additional measures to “liberate individuals from gender role expectations” (*Ibid*, 103). Building on this notion, Uhde (2018) positions basic income and a public model of care as two complementary parts of a process which she dubs a caring revolutionary transformation. In the model, the basic income expands the definition of meaningful work, thus

“changing the implications of the gendered division of labour,” while the public model of care shifts the institutional context by challenging the individualized notion of responsibility for care (*Ibid*, p. 3).

Such debates make clear the potential risks of offering compensation for engagement in reproductive labour, particularly for gender equality projects—a reality which renders necessary an engagement with other forms of policy that could shift the institutional and societal context within which various genders both allocate their time and relate to one another. That said, it is important to note that, questions of gender equality aside, a basic income—particularly one that is both paid and calculated on an individual basis—would make it so responsibility for care work in its myriad forms does not result in destitution, particularly for those who experience more imposing constraints on how time is balanced across participation activities (e.g., lone mothers, individuals with culturally-distinct notions of ‘household,’ family, child rearing, and care, etc.). To the extent that economic insecurity is connected to greater risk of gender-based violence, this must be considered a positive.

### ***c. Correcting gender asymmetries***

To assess whether a policy might have positive gender implications and promote gender justice—that is, disrupt gender asymmetry, not merely compensate those who are disadvantaged by it—Gheaus (2008) developed the concept of gender-symmetrical lifestyles. She notes that “a society is gender just when the costs of engaging in a lifestyle characterized by gender symmetry (both in the domestic and the public sphere) are, for both men and women, less or equal to the costs of engaging in a lifestyle that is gender asymmetrical” (*Ibid*, p. 2). The notion of gender symmetry is significant not only because it problematizes the existing division of labour between men and women that hinders women in pursuing paid employment (and economic security and independence), but also because it removes the hierarchy of value assigned to paid and unpaid work which makes the gendered division of labour economically problematic for women in the first place. Indeed, it is also this hierarchy of value which underpins many patriarchal structures, and which continues to drive dynamics of female subordinance and dependence.

As Pateman (2004) argues, an adequate basic income, delivered to all as a right of citizenship, democratizes the ability to participate how one wishes by severing the link between a basic standard of life and engagement in paid employment. This could produce, she argues, a “critical reassessment of the mutually reinforcing structures of marriage, employment, and citizenship and open the possibility that these institutions could be remade in a new, more democratic form,” (*Ibid*, p. 97) which could, in turn, support Gheaus’ notion of gender symmetry by contesting free-riding by male partners. Succinctly, a basic income shows the potential to disrupt the domestic and the market spheres by acting on the conditioning which occurs within them, and as a result, could democratize them (Vollenweider, 2006, p. 33).

Though some are optimistic about the potential for a cash transfer to challenge current notions of gendered time allocation, and thus weaken the constraints that currently structure women’s lives and the opportunities to which they have access, many are less hopeful. Scholars note that

the provision of an income separate from engagement in paid work is not sufficient to recast the balance of power between men and women toward a more equal distribution of labour, and thus might actually serve to reinforce existing constraints on a woman's ability to pursue opportunities in the public realm. Further, to fixate on gender inequality is to fail to attend to the additional inequalities that exist among diverse groups of women—between married and single mothers, for example, or white, middle class women and Black and racialized women—as well as among individuals who share some social locations (e.g., class, Indigeneity) but have distinct gendered experiences of the world.

#### ***d. Changing resource-based power dynamics in the household and beyond***

Some note that a basic income shows potential to not simply improve the economic security of diverse women, but also to restructure power dynamics within the household and the workplace—that is, to weaken the power of “bosses and boyfriends” (McLean, 2016, p. 287). If paid to the individual, a basic income could offer recipients a sense of security independent of household earnings (i.e., those of a partner or spouse) or wage labour, and therefore increased bargaining power, more autonomy, and even the possibility of exit/refusal of unsafe or degrading work. However, the research is unclear as to whether a basic income would actually produce such an effect.

Inequalities of power within the household have historically placed women in positions of dependency—positions from which they have limited bargaining and decision-making power, and in which they could be considered to be living in ‘invisible’ poverty. Though early analyses linked such power differentials to differences in earnings and material contribution, more recent research conducted following increases in the labour force participation of women indicate that a shift in the earnings balance has had little impact on women’s power, whether in terms of control over financial decision making or in the gendered division of labour (Tichenor, 1999, p. 638). Building on this literature, Cantillon and McLean (2016) explore the claim that a basic income could reduce gender inequality within households, and note that—based on evidence from basic income experiments and proxies—the effects are ambiguous. However, they do find that a basic income, through the guarantee of an independent income, is likely to reduce intra-household inequalities by boosting the economic welfare (and autonomy) of women, as well as their psychological health and feelings of control. That the authors are less convinced that a basic income could alter the gendered differences in bargaining power and roles underscores additional research, which shows that intra-household power imbalances persist, even when women engage in paid employment.

Vogler (1998) notes that theories which focus squarely on earnings ignore the ways in which intra-household power relations, as well as cultural and societal norms, ideologies (e.g., of class, gender, etc.), and discourses (e.g., breadwinning) structure intra-household dynamics. For example, *many immigrant women actually find full-time employment faster than their male counterparts because of their willingness to accept low-wage or precarious work (at first) to provide for their families; however, they are often limited in their advancement beyond this position (Liu, 2019). This is because traditional/cultural power relations that produce a gendered division in domestic labour, regardless of participation in paid work, ultimately limit the extent*

*to which immigrant women pursue training, work, and career advancement in the long term (Ibid). Such dynamics are potentially institutionalized and exacerbated by the Canadian immigration system—and the Immigration and Refugee Protection Act in particular—which has the subjectification effect of deeming women entering Canada as immigrants the legal dependents of male sponsors (Abraham & Tastsoglou, 2016, p. 573). Further, a recent Swedish study (Ericsson, 2019) finds that when women increase their earnings, it produces a male backlash response, amplifying the risk of destructive behaviour—stress, anxiety, substance abuse, and assault—on the part of the husband.*

*Beyond general labour market participation effects, some contend that a basic income has the potential to further disrupt the domestic service sector, and thus the gender, racial, and class inequalities it upholds. One argument is that a basic income could either shrink the pool of domestic workers willing to engage in such work or increase their bargaining power to negotiate better salaries and working conditions, while at the same time decrease demand for domestic service work (given higher prices and compensation for care work, or even place pressure on states to adopt and fund a public model of care (Vollenweider, 2006).*

#### **e. Reducing poverty and contexts of scarcity**

As we summarize above, considerable research suggests that contexts of life stress—including financial stress and risk of financial instability—contribute to heightened incidences of violent behaviour toward intimate partners.<sup>6</sup> It can be argued that—all other things held constant—a basic income could reduce instances of domestic violence by removing financial stress. One recent analysis of Mincome data in the context of crime statistics found that the payment of the guaranteed income likely reduced the prevalence of IPV, given a strong negative association between Mincome payments and violent crime, which the authors presume consisted mainly of domestic assaults (Calnitsky & Goncalons-Pons, 2020). The authors posit that such a decline could be associated with decreased financial stress, as well as a shift in the balance of power within relationships given the ‘threat’ of exit available to partners (Ibid). Setting aside whether such findings are applicable in the context of a present-day basic income, it is important to note that such an effect is highly contingent upon the basic income delivering a level of financial security that is great enough to counterbalance existing stressors and material need. As we discuss below, accomplishing such a task through the basic income would be a tall order, particularly within reasonable fiscal bounds.

#### **Basic income: a mechanism to support victims and survivors?**

##### **a. Existing contexts of IPV**

Certainly, the evidence shows that economic empowerment, particularly of women, is a means to reduce violence; however, there are important caveats to this finding, which policymakers and activists should consider before recommending a basic income approach. A recent study

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<sup>6</sup> For an overview of the literature, see Weatherburn, D. (2011). *Personal stress, financial stress and violence against women*. Sydney: State of New South Wales Retrieved from <https://www.bocsar.nsw.gov.au/Publications/CJB/cjb151.pdf>.

showed that women are more likely to be subject to domestic violence if they earn more than their male partner (Zhang & Breunig, 2021). It is also important to remember the degree to which income benefits can increase the risk of incidents of domestic violence (Abramsky et al., 2019). Benefits that increase or decrease with the size of a household can increase the risk that an abuser will actively prevent other members of the household from leaving. Further, as was seen in the U.S. with the delivery of stimulus cheques, incidence of domestic violence increased following the distribution of the cheques (Wong, 2021).

Additional questions regarding benefit design emerge when considering basic income as a tool for supporting individuals to exit abusive situations, particularly contexts of IPV. For example, most basic income proposals designate the household as the beneficiary unit. Despite this, it is important to consider this design feature more closely, particularly from an intersectional perspective. For one, the decision to base the beneficiary unit on a definition of ‘household’ is rooted in assumptions about income and asset sharing within the household that may not hold in all circumstances. Indeed, household-based basic income programs may result in the exacerbation of power imbalances within households, thereby reinforcing dynamics of dependency and abuse—a core reason why many women’s groups support basic income approaches in which the individual is the designated beneficiary.

That said, delivering income benefits to the individual offers no panacea either. It is atypical for a person in an abusive household to hold any financial power or control of financial resources, and thus it is unlikely that such individuals would benefit from the income transfer (Jagannathan & Keshner, 2021); indeed, in many cases individuals do not even have access to or control over a bank account. In addition, basing a basic income program on the individual would inevitably provide benefits to many low-earning individuals who live in otherwise high-income households. This could increase statistical inequality and would potentially undermine a poverty reduction objective. Finally, individual-based basic income programs with no adjustment for family/household size are more costly (for a set individual amount).

### ***b. Recovering following abuse***

Economic abuse nearly always accompanies physical, sexual, and emotional abuse (MacDougall, 2014). As we outline above, economic abuse has significant implications for a victim or survivor’s future economic security, as it does not only describe an abuser controlling bank accounts and all forms of income, but often also involves the depletion of assets, damage to credit, refusal to pay bills or rent, among other things. As a result, when those experiencing abuse decide to leave, they do so with little to no financial resources—and often with little knowledge and skills they need for economic empowerment. In addition, they often have no financial resources, credit, assets, or financial history that can be leveraged to access independent housing, loans, or lines of credit, or meet basic needs, like clothing and personal care items. As a result, any program focused on supporting persons escaping violence must be responsive to these unique circumstances.

Further, it is unclear how a basic income payment would fit within such approaches: throughout the period of economic abuse, it is unlikely that the individual would have any

access to the payment, and at the point of emergency need, it is likely that a basic income transfer would be insufficient. In addition, if a basic income program did exist and was being paid to the household throughout the period of abuse, additional implications would exist for the victim during their exit and recovery. This is because delivering a basic income to a household means further monitoring and adjudication of household formation and dissolution. As detailed by the Auditor General in a recent report, there are many lessons to be learned in this area from Canada Child Benefit delivery—particularly with regard to household dissolution and benefit access (Office of the Auditor General of Canada, 2021). Parents and caregivers fleeing violence—most of them women—face a high administrative burden not only to have the benefit modified due to a change in household income, but also to have the benefit redirected to them from a bank account shared jointly with their abuser. This process not only results in delays in benefit modification and receipt, but it also puts the individual at risk of having to either reveal information to their abuser or contact them to obtain approval for the changes. This significantly undermines the benefit’s responsiveness to changes in circumstance. That said, integrating certain basic income principles and design features in existing or new systems to support survivors during periods of recovery and rebuilding could significantly improve such programs and should be considered.

### ***c. Other considerations in the context of GBV***

Delivery through the tax system

For the most part, existing basic income proposals envision the benefit in the form of a refundable tax credit, meaning that the focus of the program is on tax filers. However, many proposals do not acknowledge the extent to which tax filing is far from a universal activity in Canada. While knowledge about the degree of filing rates in Canada is murky, there is some evidence that raises concerns—particularly in the context of GBV, given what is known about risk among diverse women, particularly those who belong to multiple marginalized groups. Stapleton (2018) notes that one-third of single Ontario works recipients do not file a tax return; (Turner Strategies, 2018) find that only three per cent of homeless individuals receive the GST/HST credit, eligibility for which is automatically assessed when filing taxes; Bajwa (2015, p. 7) suggests that upwards of 26 per cent of marginalized families do not file a tax return; recent estimates put tax non-filing rates in First Nations on-reserve communities at 25 per cent, on average, though significant variation exists across communities (Brascoupé & Mulholland, 2019, pp. 22-23); and other groups, such as sex workers, have expressed hesitancy in applying for government benefits, including the CERB, as they do not wish to report employment to the state or the tax authority for fear of criminalization and arrest (Benoit, 2020; Wright, 2020).

If a basic income is delivered through the tax system, do these filing rates mean that universality is only achieved notionally? If the basic income benefit is big enough, will more of these vulnerable groups file tax returns? Or are there institutional, cultural, and indirect cost barriers that would continue to affect filing rates? If a basic income is to be delivered through the tax system—particularly as an economic security measure in the face of GBV—addressing filing rates must be a priority. Barriers to tax filing can be removed through the implementation of pre-populated tax forms, as is done the United Kingdom, or through automatic tax filing for

vulnerable groups with tax forms filed with the CRA (e.g., T5007) (see (Petit et al., Forthcoming) for more information on auto-filing).

#### Responsiveness in the face of immediate need

How often a benefit is paid impacts how income is used, and this has implications for the effectiveness of the policy in the context of GBV. While regular streams of income tend to be used to support the consumption of nondurable goods (e.g., food), less-regular streams of income often go to support the acquisition of durable goods (e.g., vehicles). Payment frequency also interacts with the basic income principle of economic security: whereas a regular stream of income provides the beneficiary financial security, a lump sum payment can support financial stability by allowing the recipient to build up financial reserves. These nuances only gain significance when considering heterogeneity of need. They also raise important questions about economic security. A basic income payment designed and delivered to address economic security will be subsumed into regular consumption. While this is intentional, it also means that the recipient may, as a result, lack the financial resources to respond to an extreme income shock or exit an abusive situation quickly, thereby necessitating the existence of emergency income support programs. Again, this brings into question the ability of a basic income to truly replace the existing system of supports.

Delivering a basic income as a refundable tax credit also raises critical timing and responsiveness concerns. The advantage of the existing social support system is that applications are taken throughout the year on a rolling basis and include specific crisis support programs—which could be expanded to include targeted supports for victims and survivors of GBV. Currently, tax returns are only filed once a year in Canada. As noted in Simpson and Stevens (2019) and Tedds (2017), a basic income delivered through the tax system, without changes to its current form, cannot be responsive to critical shocks, meaning additional programs would still be required to supplement the tax-system-based basic income. This is not a problem in and of itself, but it does call into question the potential of a basic income in the context of GBV, as well as the assertion made by some advocates that the basic income would eradicate the poverty industry. Further, this feature inevitably makes the system more complex, and attention would need to be paid to system interactions.

#### Other limitations

Finally, it is vital to note the limitations of any form of cash transfer in supporting victims and survivors of GBV. In most cases, the existence of a basic income program would not eliminate the need for comprehensive supports—safe and adequate housing, ongoing medical and mental health supports, and childcare options—particularly given that such individuals often end up without shelter (Hunter, 2017; Pavao et al., 2007; Sandor & Dutton, 2020), and experience greater instances of addiction and mental health issues, such as PTSD and suicidality (see Bingham et al., 2019; Sandor & Dutton, 2020; Sit & Stermac, 2017), as well as traumatic brain injury (Valera & Berenbaum, 2003). In the case of TBI, victims and survivors require considerable recovery supports, including physical therapy, in order to recover and rebuilt following abuse.

People fleeing violence also have unique housing needs, both in the short- and long-term. Transition houses are turning people away at an alarming rate, and those who have completed their stay in a transition house must find a longer-term rental, move in with family/friends, move back with their abuser, or become homeless. Of those who leave a transition house, 21 per cent move back into a residence where their abuser lives (Moreau, 2019). Providing more short-term and long-term housing for people fleeing violence can help end the cycle of abuse. Linking to the above, people fleeing violence are unlikely to have not only the financial means in which to secure long-term housing but also the necessary history (credit, housing, and references) to secure housing in the private market. In addition, those fleeing violence are likely to have unique housing needs, including in terms of accessibility. Since many will also have children, they will need to access housing that is of sufficient size and quality. Further many will not have access to private modes of transportation.

It is also important to consider how the existing system might be reformed to improve economic security among those facing abuse or those seeking to exit violent contexts—including in how basic income principles or design features might be used to strengthen programs and policies. We do so in the following section.

## **Additional Policy Approaches for Consideration**

### **Reforming the existing system**

With the above in mind, it is also possible to consider ways in which the existing system could be reformed to better support both people with histories of GBV, as well as those currently experiencing abuse. Many community-based organizations (NGOs) exist across Canada whose goal is to help individuals—particularly women and their children—seeking exit from situations of intimate partner violence. Such organizations deliver programming and services centred on providing support, information, referrals, counselling; a large number also engage in advocacy. Although these services constitute a vital piece of the broader system of supports, we focus in this section on government-delivered programs.

In Canada, few to no government-provided income support programs exist which are designed specifically for persons fleeing violence.<sup>7</sup> Regardless, persons fleeing violence do have access to provincial and territorial social assistance programs, which is the largest and most responsive income and social support system at the subnational level. How can these programs be modified to better serve the needs of those escaping violence? Petit and Tedds (2020a) offer a

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<sup>7</sup> The Government of Alberta offers an application based ‘Escaping abuse benefit’ for individuals over the age of 18 who are living in or have escaped an abusive family situation and who do not have enough money to leave or start over. Importantly, those who qualify for ongoing benefits such as Income Support are not eligible. The amount of financial support offered is adjudicated on a case-by-case basis but could include the equivalent of a damage deposit for a new home or supports to stay in a hotel if shelter space is not available. In Nova Scotia, tenants facing intimate partner violence now have the option of ending year-to-year and fixed-term leases early without financial penalty.

number of recommendations, many of which integrate basic income principles alongside particular design elements.

According to the authors, any income support program should first be modified as follows:

- In all cases, persons fleeing violence should be assessed for eligibility for income support programs through an expedited process to ensure that their immediate needs are met. Some provincial and territorial programs, but not all, have such a process already.
- Eligibility for support should not be based on immigration status.
- Assessments should automatically exclude the income and assets of the perpetrator or jointly owned with the perpetrator, including any foreign-owned property, in evaluating the eligibility of the applicant. No system should require the perpetrator to be contacted to assess eligibility.
- Abuse/violence should not have to be verified at the time of application; it must only be disclosed.
- Persons fleeing violence should not have to meet work-search requirements for a period of at least six months.
- To help those fleeing violence to transition into their own homes, a one-time lump sum payment should be provided. This payment should be sufficient to enable the individual to not only secure housing, but also acquire items to support their household, including clothing, basic personal items, toys, pantry items, and durables such as a vacuum, ironing board, and the like.
- Wrap around supports specific to the person's situation and which address immediate needs should be provided. Such supports should include, but ought not be limited to, information on and assessment for TBI; emergency transportation (either within a town/city or to another town/city, dependent on the person's preferences); help with access to safe and secure housing, including transition houses or a short-term rental; a dedicated caseworker with knowledge of community- and government-provided supports (so as to have one-on-one support and guidance in accessing programs and services), who is understanding of the systemic issues which intersect GBV (and IPV in particular) and is of the same cultural or ethnic background (so as to create a safe and culturally-sensitive space).

More generally, the government should provide more funding for both short- and long-term housing facilities for persons fleeing violence. In the short term, transition houses are turning women and children away at a high rate; in the long term, women who have completed their stay in a transition house must find a longer-term rental, move in with family or friends, move back with their abuser, or become homeless. Of those who leave a transition house, 21 per cent move back into a residence where their abuser lives (Moreau, 2019). Providing more short- and

long-term housing for persons fleeing violence can help prevent survivors from returning to their abusers or from living in other precarious situations. Particular focus should be placed on providing housing in areas where there is currently undersupply, such as rural areas. In cases in which travel is necessary to escape an abuser, individuals are at considerable risk of being trapped due to a lack of transportation. In some cases, it may be appropriate for the government to use short-term rental platforms (such as Airbnb) to provide short-term housing for persons fleeing abuse. Due to the COVID-19 pandemic, many short-term rentals are unoccupied (O'Sullivan, 2020) and there are a large number of them in urban areas, making them well suited to providing a measure of safety for persons fleeing violence. Crisan (2020) details how the government and non-governmental organizations can partner with short-term rental platforms to meet this need.

While several provincial governments in Canada have enacted programs that require employers to provide employees with job protected paid or unpaid domestic or sexual violence leave, these programs all require the person to then report to their employers that they have been victimized. While the intent is respectable, this is an invasion of privacy and has the potential to lead to revictimization. Employment insurance sickness benefits only extend to those who are unable to work due to medical reasons, but access EI sickness benefits are not responsive and does not extend job protection. Instead, all workers in Canada need access to job protected paid sick leave.

Finally, numerous studies have shown that persons with disabilities—particularly those who identify as women—experience high risk of GBV, whether in terms of economic abuse, sexual abuse, family-based, or intimate partner violence. As a result, the existing system of disability supports must be reviewed and tweaked with these factors in mind, as well as integrated with supports and systems for victims and survivors of GBV.

### **The potential of the basic services model**

As we note above, economic security is often framed in terms of one's access to financial resources, or in some cases, both income and assets. More recent contributions, however, make a connection between economic security and the existence of a suite of adequate and accessible basic services. We explore this idea in the following section.

#### ***a. Understanding basic services***

According to Kesselman and Mendelson (2020), basic services—or what they term “in-kind benefits”—can be distinguished from cash benefits such as income support based on policy intent. While basic income and cash transfers allow for freedom of conversion, in-kind benefits are structured to influence spending on or use of a target item (e.g., adequate housing, medical equipment) by altering its price relative to that of other goods and services. Whether delivered as a public subsidy (e.g., a child-care subsidy), target good or service provided directly (e.g., eye exams, wheelchairs), or voucher (e.g., food stamps), in-kind benefits support access to necessities and are dependent upon consumption choices. Provincial and territorial governments in Canada already provide a range of essential supports in the form of services

and in-kind benefits, particularly to those who qualify for social assistance or meet other eligibility criteria.

As detailed in Cameron and Tedds (2020a), while basic income has received more public and policy attention in recent years, there are growing calls for the introduction of universal basic services schemes—a policy idea that is rooted in the notion of in-kind benefit provision we describe above. Universal basic services proposals advance the idea that the best path to poverty reduction is through a strengthening and extension to all—regardless of one’s identity, work status, or ability to pay—of essential services such as shelter, education, sustenance/food, health care, transportation, legal and democratic services, childcare, and adult social care, rather than simply providing cash transfers with which people can then navigate the private market to secure essential services. Basic services models also favour shared ownership and local provision—two characteristics that have the potential to render systems less stigmatizing and delivery more attuned to heterogenous needs and in line with cultural approaches.

Such approaches to service-based provision are sometimes referred to as offering a ‘social wage,’ which is a notion that illustrates the value of replacing the individualized cost of services with public goods, free at the point of use and accessible to all by virtue of residency or citizenship. Considered another way, the concept of basic services as social wage aligns with—but is the inverse of—the notion of a social dividend provided in the form of an income: here, the social divided, or universal entitlement, is delivered in the form of services. The idea of a social dividend builds upon the notion of shared needs and collective responsibility, emphasizing both that all members of society have needs that must be satisfied to ensure well-being and enable participation in society, and that the welfare of the population is a collective endeavour (Coote et al., 2019).

### ***b. Strengths and benefits of basic services***

Proponents of the basic services model suggest services offer the following benefits:

- Redistribution: Basic services are of greater value to—and thus have a larger impact on the well-being of—those with the greatest need or those who are worse off.
- Targeting of need: Basic services can better provide for heterogenous needs, including where means-tested supports can miss specific aspects of need or deprivation.
- Cost-efficiency: As noted above, basic services constitute a more efficient use of public funds, due especially to the economies of scale that result from government procurement.
- Solidarity: Basic services have the potential to increase social cohesion and reduce stigmatization of beneficiaries, given that public services respond to shared interests, and the consumption of “merit goods” like childcare have positive social externalities and “spillover effects.”

- Increased participation: Certain services, such as childcare and transportation, are supportive of—or have complementarity with—societal participation (e.g., work, training, volunteering).

Further, basic services models are relatively cost-effective: in contrasting the basic services and basic income approaches, Yalnizyan (2017) found that for \$15 billion—half the cost of raising all incomes above the poverty line—the Canadian government could permanently expand affordable housing, transportation, and childcare, and nearly eliminate the cost of prescriptions, going to the dentist, and attending post-secondary. However, it bears repeating that though basic services have often been presented as an antithesis to a basic income in the public discourse, realistic proposals for both are built around their complementarity: proponents of universal basic services recognize that some form of income support ought to remain in place in a society with basic services, while basic income advocates assume the preservation of a range of services, such as health care, transportation, and specific in-kind benefits. It merits mention—but will be of no surprise to experts and advocates—that this policy mix is particularly vital in the context of gender-based violence.

### ***c. Basic services through a gender and intersectional lens***

As noted in Cameron and Tedds (2020a), evaluating the merits of the basic services model through a gender-based analysis+ lens—including in the context of GBV—requires that one acknowledge that relationships between feminist and intersectional movements and the state has historically been fraught with tension. On the one hand, advocates recognize the state—and state provision—as a source of discrimination and violence for many marginalized groups; on the other, most are central proponents of greater investments in government services, with the caveat that programs and services be administered in a less stigmatizing and oppressive way. Further, basic services approaches are built upon ideas of what members of society have in common, and by extension, of what types of services are universally necessary. Yet the universalism of basic services should not be confused with a claim to neutrality: it must still be determined which services to include, and this selection is often highly subjective, as well as a function of who is at the decision table. Thus, a key challenge confronting basic services models is how to account for complexity and variance in both need and experience, particularly in terms of service design and access features. The language of shared or collective needs can easily be confused with universality of experience, and thus risks ignoring the differences that exist at the intersections of identity factors, and which not only shape experiences of poverty, but also reveal different aspects of need within system design and delivery. Thus, those responsible for implementing basic services must be attuned the ways in which systems are themselves sites of power, privilege, and oppression, and, as importantly, how individual access and experience of services is situated within (and shaped by) this context.

If we consider provision of public transportation, for example, the focus is usually on providing the service in urban areas where demand is high. However, public transit also has a very important harm reduction element. In the context of BC, for one example, years of lack of public transportation in rural and remote areas, particularly along Highway 16—the Highway of Tears—contributed to a reliance on hitchhiking, the result of which was the disappearance of

many Indigenous women and girls. It took a significant amount of pressure to get the Province of British Columbia to address this service gap which occurred in 2018 through the launch of BC Bus North (BC Bus North, 2020).

Finally, to the extent that basic services are designed and delivered without recognition of these issues—and especially to the degree to which one-size-fits-all is assumed—what is deemed to be a universal program may not, in fact, be universal at all. For example, most proposals for a universal childcare program neglect the fact that parents and children are diverse and thus have diverse needs. ‘Universal’ programs that are designed and delivered on the assumption that all parents work a standard workday, that children will meet the provider’s criteria for attendance (e.g., being potty trained), that parents live or work in a jurisdiction that is not supply constrained (as many rural areas are), and that the services offered by the accessible provider are culturally relevant, to name a few factors, challenge the notion of true universality. Another example is universal health care, where levels of access and service are not the same in all areas (particularly in rural and remote areas, which are traditionally poorly served). While it can be argued that low service provision could be simply addressed by increasing public investment to ensure better access, this again can be challenged on the notion that specialty services, where the supply of providers is limited, can be universally available and accessible. Further, expanding services to address heterogeneity in need increases the cost of providing the services, which then causes a confrontation with fiscal capacity of the jurisdiction providing the service and leads to trade offs in the bundle of goods, services, and income supports being provided by said government. We return to the concept of fiscal capacity below.

#### ***d. The importance of housing for victims and survivors of gender-based violence***

For many women, lack of safe and affordable housing increases risk of violence to a considerable degree. For example, testimony and research highlighted throughout the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls explains how risk of violence among Indigenous women, girls, and Two-Spirit persons is directly linked to housing insecurity and overcrowding, particularly in rural, remote, and northern regions (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019). Among those who have relocated to urban centres—sometimes as a result of housing and infrastructure (e.g., clean water) issues, in other cases as a result of pressure to leave stemming from homophobia and transphobia—many continue to face risk of abuse living in low-income, high-crime neighbourhoods, an example of violence being “rearticulated through geography” (*Ibid*, p. 541); in some instances, forced urban migration has also created the conditions for Indigenous women, girls, and Two-Spirit people to go missing and be murdered .

Consistent with the notion of housing as integral to successful life transitions, research also indicates that access to basic housing is the central factor in enabling the sustainable exit of IPV survivors from abusive contexts. Thus, it follows that the need for safe housing and the economic resources to maintain it are among the most pressing concerns among those seeking exit. Importantly, adequate, long-term housing is not only critical to ensuring the safety of survivors and their families, but also consistently viewed as a vital component of health stabilization (Daoud et al., 2016) and recovery (Hetling et al., 2018), and thus can serve as a

bridge to a new life. Further, many IPV survivors—particularly single mothers—note that housing support, and subsidized housing in particular, was integral to facilitating safety, self-sufficiency, and stability, as well as stress reduction, work search, and child rearing (Jeffrey & Barata, 2017, p. 919).

However, for many survivors of IPV, long-term exit and recovery is complicated by a paucity of appropriate short- and long-term housing options (i.e., from emergency shelter availability to transitional and second-stage housing to permanent housing); housing choice is further diminished for those with additional access barriers (e.g., children, drug use, the existence of discrimination within systems). This dearth of options is also amplified in both rural and on-reserve contexts, where IPV risk is also more prevalent as a result of several overlapping forces, including limited services and supports, isolation as a result of lack of mobility, values systems, and greater presence of firearms (Groening et al., 2019). To avoid losing access to shelter within such contexts, Indigenous mothers must navigate the additional barriers associated with colonial systems, inter-generational trauma and racism, motherhood, and institutional history of child apprehension (*Ibid*). These dynamics explain findings in the Canadian literature (Bingham et al., 2019; Fotheringham et al., 2014) of close connections between IPV and housing insecurity. Though survivors of IPV are often given priority status on waiting lists, proving abuse to obtain quicker access can be complicated, demoralizing, and also result in re-victimization (Maki, 2017, pp. 20-21). In the face of inadequate supports and long waitlists for social housing, the long-term effects of abuse on mental health, PTSD, and other psychological issues risk worsening by the time it can take a woman to find adequate housing (Jategaonkar & Ponic, 2011).

Accordingly, housing is an area in which basic services models—that is, those which expand the existing housing stock through large-scale investment in social and non-market housing—are preferred over cash-focused approaches like basic income. This is due to both the importance of shelter to life outcomes as well as the supply failures present in the market. In such cases, an infusion of cash through a basic income will not correct the supply and housing discrimination issues which stand in the way of diverse women, non-binary individuals, and their children.<sup>8</sup> Indeed, much of the IPV literature recommends increased investment in long-term housing supports for survivors of IPV—that is, supports beyond immediate services, shelters, and transition homes—specifically through an increase in the supply of social, non-profit, and co-operative housing units on and off reserve, including supply appropriate for families and

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<sup>8</sup> Some studies focus on the promise of emerging IPV interventions, such as flexible funding programs. For example, Sullivan, Bomsta, and Hacskaylo Sullivan, C. M., Bomsta, H. D., & Hacskaylo, M. A. (2019). Flexible Funding as a Promising Strategy to Prevent Homelessness for Survivors of Intimate Partner Violence. *Journal of Interpersonal Violence*, 34(14), 3017-3033. found that flexible funding grants enabled survivors to maintain housing six months after receipt. Such approaches do offer recipients more autonomy in developing an exit strategy and recovery plan and recognize heterogeneity of circumstance and need. As significant, however, is the reality that such policy interventions do nothing to address the issues of low, inadequate, and unsafe supply in the broader rental market. Thus, barring additional government initiative to drive an expansion of the supply of private rental stock, effectiveness is likely contingent upon the recipient merely needing to maintain their existing housing situation.

persons with disabilities (Jategaonkar & Ponic, 2011; Little, 2015; Maki, 2017). Location of social housing builds also emerges as an important factor in supporting transitions for survivors of IPV.

A basic services approach to housing is particularly useful in designing solutions for those with heightened risk and experience of GBV. Those fleeing intimate partner violence—particularly mothers and children—have the requirement that housing be in a safe neighbourhood that is also unknown to their abuser and proximate to social support networks (Clough et al., 2014); single mothers also report focusing on a number of criteria beyond affordability in their housing search, such as neighbourhood amenities and services, access to childcare, and nearby social supports (Jones & Teixeira, 2015). Indeed, many of the decisions made by persons fleeing IPV are rooted in caretaking and perceptions of what was best for their children, including in terms of how a decision could minimize the effects of instability on their lives (*Ibid*). Further aspects of need include the existence of safety systems and restricted access, both of which may not exist across all affordable or social housing options (Maki, 2017). Meeting these criteria is a significant challenge, particularly in contexts of low vacancy rates and high rents, and in light of research that points to housing discrimination on the basis of family composition and the existence of children in the home.

Perhaps unsurprisingly, Jategaonkar and Ponic (2011) find that in the B.C. context, experiences of survivors of IPV in private market housing were often negative, characterized by unacceptable and unsafe conditions, including overcrowding, poor maintenance, discrimination, abuse, and lack of affordability. This reality produces situations in which women and their families may require longer shelter stays, remain in core housing need, or in some cases, opt to return to an abusive context. In addition, persons with disabilities experience significant difficulty in accessing private rentals which suit their physical or cognitive needs, or which are situated close to public transit and other services. Builds that are supportive of a range of medical needs associated with physical or cognitive disability are likely not prioritized in the private market, and thus housing stock that is accommodating is in short supply. Housing experts also highlight gaps in housing for larger-sized families (i.e., units with three or more bedrooms), rendered more salient given an expected increase in immigration, as well as seniors (Lee, 2019, p. 10). Further, women living in single-room occupancy hotels, for example, report issues related to gendered violence and lack of safety, as well as rules, strictness, and surveillance of behaviour, lifestyle, and identity. Collins et al (2018) find that among women who use drugs who are living in single-room accommodation—some of the only accessible housing for such women—gendered forms of violence and control are normalized, and as a result, women experience a lack of security and increased vulnerability.

Crucially, and as is the case with the basic income model, the basic services approach is not the answer for all needs. While basic services proposals are often positioned in contrast to basic income, instead services and income have to be properly balanced. There are many personal needs that exist for which some distribution in monetary form is necessary to preserve autonomy (Portes et al., 2017). Sustenance is one area in which a basic income or cash-focused

approach is preferred over basic service models that include food banks and school food programs.

## **Considering the Strengths and Weaknesses of Any Approach**

Every basic income with a benefit level set high enough to significantly reduce poverty will have a substantial budgetary cost. That cost can be covered by increasing revenues, reducing spending or, more commonly, both. These cost considerations raise questions about fiscal capacity, potential funding sources, and how using those funding sources would interact and combine with a basic income, especially in terms of incentives. This leads to the necessity of confronting the fiscal capacity of the jurisdiction in question, not only in the short term, but also in terms of long-term capacity and how it relates to the long-run sustainability of a basic income program.

Tombe (2018, 2020) tackled this question in the British Columbian and Albertan contexts. Specifically, he examined data to determine the scope for a new large-scale spending initiative in the province, such as a basic income. He found that there already exists a persistent gap between future revenue and spending in both provinces, and that this gap increases overtime, indicating that even with status quo spending, these provinces would have to tackle significant fiscal policy changes for current spending to be sustainable. This matches the findings of a recent report from the Parliamentary Budget Office, which indeed came to similar conclusions for all subnational governments in Canada (Parliamentary Budget Officer, 2020). The gap in the fiscal capacity of subnational governments in Canada is predominantly driven by an aging population, which results in lower revenues and increased health-care costs.

This fiscal capacity then suggests gradual changes in both spending and revenue are a prudent approach to fiscal policy to both ensure fiscal sustainability over the long-term, while also allowing governments to consider expanding program spending responsibly. It was this lack of consideration for fiscal sustainability that contributed to the cancellation of the Ontario Basic Income Pilot. While the federal government certainly had fiscal capacity to take on new spending prior to the COVID-19 pandemic, it is now highly questionable whether it has the fiscal capacity to take on a large basic income program as it tackles the debt burden from responding to and recovering from the COVID-19 pandemic—especially in the short run (Department of Finance Canada, 2020). Constrained fiscal capacity means that there are real and tangible trade-offs that must be made should a government decide to take on a large spending initiative such as a basic income. Further, these trade-offs have real implications for the survival of the goods, services, and income supports currently being delivered.

When speaking about basic income implementation, many argue that the government's fiscal capacity is a non-issue because a basic income program can simply be funded by taking all existing tax expenditures (refundable and non-refundable tax credits) and repackaging them into a basic income benefit. However, how much funding is obtained from doing so depends on the jurisdiction. The majority of the funding from such an exercise comes from the elimination

of the basic personal exemption, which is the income amount that every person can earn tax-free. The amount of tax savings from the basic personal exemption depends on the size of the exemption and the tax rate applied. For example, in 2019 the federal personal exemption was \$12,069 and the tax rate applied is the lowest statutory tax rate of 15 per cent, for a tax savings per person of \$1,810.35. In B.C., however, the personal exemption is set at \$10,682 and the tax rate applied is the lowest statutory tax rate of 5.06 per cent, for a tax savings per person of \$540.92. Indeed, focusing on the province of B.C., Crisan et al. (2020) show that if B.C. eliminate all its tax credits, along with its provincial social assistance programs, doing so would provide roughly four billion dollars in funds to redirect to a basic income program. That could support an annual UBI benefit of \$1,000 delivered to the individual, or an annual RTC basic income benefit of \$5,000 delivered to the individual with a BRR of 15 per cent. The resulting poverty reduction from these benefits is marginal at best.

It is also important to note that some of the tax credits that would be slated for cancellation under such an approach serve specific purposes. The medical expense tax credit, for example, allows those with significant medical expenses that are not covered under the public health system— dental, physical, and psychological therapy, medical equipment, and related—to have such costs recognized under the tax system, as these are essential costs that reduce one's ability to pay taxes, and must be recognized in any progressive tax system. The same is true of such tax credits as the disability tax credit, adoption tax credit, caregiver tax credit, education tax credits, and so forth. Replacing these tax credits, which all acknowledge heterogeneity in need in specific circumstances, with a flat benefit for everyone, regardless of atypical costs, undoes equity considerations in order to achieve equality. Those who benefit from such a system are those without such costs, while those who lose out are must still incur those abnormal costs. Some of these considerations could be addressed through a more robust system of basic services, including pharmacare, dental care, and expanded basic medical services; however, the ability to expand the offerings of basic services along with a basic income in the face of real fiscal capacity constraints is not realistic.

Not only does fiscal capacity contribute to policy stability, so too does political capacity. As noted by Green et al. (2021), only policies that have sufficiently broad support—including in terms of economic sustainability—can stand the test of the next political cycle. Further, the authors identified reciprocity to be an important part of policy stability: those who are mainly paying into the system must be assured that those withdrawing from the system are engaged fully and actively in society and the economy, as they can. Policies will not be stable if the implications for the provincial budget or voter tax burdens are perceived to be negative by a large portion of society, if perceived as inducing perverse or inefficient responses by beneficiaries, or if they are not administered efficiently and effectively, since such waste will be seen by taxpayers as not properly respecting what is being asked of them financially. Certainly, while there is a growing base of advocates for a basic income, there is also a growing base of those who would not support a basic income because they feel a lack of reciprocity.

Taking into account the information presented in this discussion paper, it becomes clear that the best way forward to achieve competing objectives while ensuring policy stability is to move

incrementally, albeit radically. First, instead of getting caught on either end of the spectrum of potential reforms—one end being a basic income or bust, the other being small tweaks to the current system achievable in the short-term—focus should be on ‘big’ or ‘radical’ reforms that would move the system more in line with (or towards) a basic income. Second, money is not everything: not all programs can be replaced with a simple cash transfer, as many in-kind benefits and additional programs and supports are vital, particularly in targeting specific needs. Third, people have different needs at different points in their life cycle. Persons with disabilities require extra supports to engage in basic activities of daily living, and those navigating transitions—youth ageing out of care, workers facing sector declines, women fleeing violence, etc.—benefit from supports that are tailored to their unique contexts. Fourth, the current system is complex, and much can be done to improve delivery of and access to existing benefits. At present, local organizations, NGOs, and public service providers play a central role in supporting people to access programs. We must recognize this key role and better support them as integral pieces of the system. In addition, failing to fix access and delivery will limit the impact of any program or benefit reforms. At the same time, any reforms to benefit delivery must address a legacy of institutional discrimination, colonialism, and violence, which cannot be discounted in addressing barriers to access, particularly for Indigenous populations. Fifth, a paramount factor in considering reforms is addressing the cycle of poverty and how to create a society where all people are included and respected.

## Conclusion

As detailed here, GBV does not simply occur in the context of inter-personal relationships or as the result of perpetration by ‘bad men’; rather, GBV is a systemic issue that seizes upon and operates through longstanding pathologies and power dynamics—patriarchy, racism, colonialism, and transphobia to name few—rendering diverse people more vulnerable to victimization on the basis of their identity. This is why the Joint Declaration for a Canada free of Gender-Based Violence (GBV) commits to addressing the multiple, complex, and deeply rooted factors that contribute to gender-based violence. The analysis presented here details this complexity and concludes that, from a policy perspective, interventions to address GBV must be multi-pronged, accounting for heterogeneity of need, and attending to both the systemic and multifaceted nature of GBV.

We outline how and why economic insecurity and GBV are closely intertwined. Economic vulnerability and lack of economic independence increase GBV risk and limit an individual’s ability to exit and recover from violent situations; contexts of poverty and financial stress also contribute to perpetration. Moreover, GBV carries with it economic consequences, such as loss of savings and assets and inability to earn an income following an abusive experience. These processes are mutually reinforcing, creating cycles of economic vulnerability, risk, and abuse. This means that address GBV will require more than policies that focus on providing women the material resources to exit and recover from violence, it also requires strategies that attend to economic insecurity on a broader scale—including among men.

However, it is important to note that to the extent that the risk and prevalence is the result of economic security, income supports, such as a basic income, could play a role. A basic income could not only improve material conditions, but it could also reduce situations of financial stress which have been proven to drive IPV, a prevalent form of GBV. That said, as we outline here, such a program could have the unintended effects of subsidizing low wage work, as well as solidifying the gendered division of labour and gender asymmetries. In addition, we outline how a household-based basic income could exacerbate power imbalances within households and thus reinforce dynamics of dependency, and an individual-based basic income could be in vain, as it is atypical for a person living in an abusive context to hold any financial power or control of resources, and thus it is unlikely that they would be able to access the benefit.

Instead, we outline alternatives to a basic income; notably, we detail how the existing system of basic services and targeted income supports could be radically changed to begin to address the twofold causes of GBV. Such reforms include modifications to eligibility adjudication processes to expedite income support assessments for persons feeling violence; ensure immigration status is not a factor in determining eligibility; automatically exclude income and assets of an abuser, as well as those jointly owned; eliminate all requirements to contact perpetrators; remove all requirements regarding verification of abuse; and remove work-search requirements for at least six months. Further, programs could be built into existing systems to provide persons fleeing violence a one-time lump sum payment sufficient to enable the individual to secure housing and set up a basic living situation.

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Appendix F: Commissioned Discussion Paper: National Legislation on  
VAW/GBV

**A Comparison of Gender-Based Violence Laws in Canada: A Report for the National Action Plan on Gender-Based Violence Working Group on Responsive Legal and Justice Systems**

**Jennifer Koshan, Janet Mosher, and Wanda Wiegers\***

**April 30, 2021**

## Part I: Introduction <sup>1</sup>

This report undertakes a comparison of laws related to gender-based violence across Canada with a view to identifying promising practices.<sup>2</sup> We use the definition of gender-based violence from the United Nations as our frame, analyzing laws relating to “any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>3</sup> While the UN definition includes both intimate partner violence and sexual violence, our focus is largely on violence in the context of intimate relationships (including intimate partner sexual violence).<sup>4</sup> We are guided by a broad conception of access to procedural and substantive justice that encompasses equal protection of the law, equal access to legal rights and remedies, and safety for women and children.<sup>5</sup>

We consider the potential for national uniformity of laws through a comparison of provincial, territorial, and federal laws pertaining to gender-based violence to identify gaps and best practices, including an examination of how various forms of status (marital and immigration for example) impact relevant legal entitlements.<sup>6</sup> Because our focus is on a comparison of legislation,

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<sup>1</sup> Funding for this mapping research is provided by the Social Sciences and Humanities Research Council and the Law Foundation of Ontario Access to Justice Fund. We rely on our work in the following publications: “The Costs of Justice in Domestic Violence Cases” in Trevor Farrow and Les Jacobs, eds, *The Justice Crisis: The Cost and Value of Accessing Law* (Vancouver: UBC Press, 2020), available online: <<https://ssrn.com/abstract=3598277>>; Domestic Violence and Access to Justice: A Mapping of Relevant Laws, Policies and Justice System Components Across Canada (2020 CanLII Docs 3160), online: <<https://canlii.ca/t/szxl>>.

<sup>2</sup> Throughout this report we use “gender-based violence” (GBV) as the broadest term, while domestic / family / intimate partner / sexual violence are used in more specific contexts. Frequently we use the term “women.” This term—particularly because it invokes a rigid gender binary of women and men—runs the risk of obscuring the experiences of gender-diverse people, including trans women and men, non-binary folks, and two-spirited individuals. Much of the data and research we rely upon reports on the experiences of those who identify as “women,” and women continue to be disproportionately victimized by GBV, in comparison to men. See Statistics Canada, Intimate partner violence in Canada, 2018 (26 April 2021), online: The Daily, <<https://www150.statcan.gc.ca/n1/daily-quotidien/210426/dq210426b-eng.htm>>. However, many gender-diverse folks—especially trans women and men—experience significantly higher rates of GBA, online: The Daily, <<https://www150.statcan.gc.ca/n1/daily-quotidien/200909/dq200909a-eng.htm>>. We also use the term “survivor” where possible, though in some cases “victim” is used in reference to specific legislation.

<sup>3</sup> *Declaration on the Elimination of Violence against Women*, GA resolution 48/104 (20 December 1993), art 1.

<sup>4</sup> We exclude child sexual abuse and its implications in the family law / child protection and other contexts.

<sup>5</sup> For further discussion of access to justice and gender-based violence see Costs of Justice, *supra* note 1.

<sup>6</sup> Our focus is also on comparison within Canada rather than with other jurisdictions. We excluded laws where GBV is less directly engaged (e.g. insurance laws, adult guardianship laws). We have also not included forms of federal income support (for example, Employment Insurance) available in some circumstances. While we include an examination of some policies (for example in relation to social housing and legal aid), we do not include all government policies pertaining to GBV (for example, we exclude policies related to Crown / police practices and

one limitation of this report is that we have not considered case law interpreting the various laws we discuss here. Judicial interpretation of laws related to gender-based violence can also create barriers to the safety of women and children and their access to legal rights and remedies, but a consideration of case law was beyond our scope.<sup>7</sup> Neither have we examined how laws translate into equal and accessible protections for the safety of women and children on the ground through the actions or inactions of other legal actors such as police, Crown, child welfare workers, or immigration officials. The (in)actions of these actors may also result in adverse consequences for members of marginalized groups such as racialized, migrant and Indigenous women, and while we have tried to flag those concerns in connection with specific laws, the practical application of these laws was again beyond our scope. One overarching observation from our research is that governments do not routinely monitor and evaluate the implementation and enforcement of their legislation and policy related to gender-based violence, which is an important site for further research.

Part II examines and compares provincial/territorial and federal laws and where relevant, highlights intersections between provincial/territorial and federal laws, identifying inconsistencies (for example between provincial/territorial family law and federal divorce law) and promising practices. Part II also reviews the impact of different forms of legal status on access to legal entitlements (for example Indigeneity and access to protection orders; marital status and family property; immigration status and social assistance) and will identify promising statutory initiatives related to status. Part III is our conclusion, which includes a brief review of a specific jurisdiction, Alberta, to illustrate why common definitions and eligibility for remedies across legal domains, systems, and jurisdictions are important.

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information sharing protocols). We also do not review preventive strategies, such as education / healing or treatment programs or services for survivors and their partners (or former partners).

<sup>7</sup> For a discussion of case law in several realms—family law, child protection, criminal law, and protection / restraining orders—during the initial months of the COVID-19 pandemic, see Jennifer Kosan, Janet Mosher and Wanda Wiegers, “COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence” (2021) 57(3) Osgoode Hall LJ 739, online: <<https://digitalcommons.osgoode.yorku.ca/ohlj/vol57/iss3/8/>>.

## Part II: A Comparison of Gender-Based Violence Laws in Canada

### A. Protection Orders

Legislative protection orders for gender-based violence exist in all Canadian provinces and territories except Ontario.<sup>8</sup> In most jurisdictions the scope of the legislation is restricted to protection against intimate partner violence, though in Québec, the *Code of Civil Procedure* allows for protection orders in situations of violence more broadly.<sup>9</sup>

Under these statutes, survivors are able to obtain both emergency and non-urgent protection orders where violence or abuse has occurred, or the victim has a reasonable fear that it will occur. Protection orders typically include provisions for no contact or communication with the survivor and sometimes, children, and may also include orders for exclusive possession of the family home and other remedies.<sup>10</sup> All jurisdictions define violence to include actual and threatened physical and sexual violence either explicitly or implicitly, and most include threats to damage property as well.<sup>11</sup> One key difference across jurisdictions is whether emotional, psychological, and financial abuse and/or stalking are included, with some combination of these forms of violence in most provinces and territories:

- British Columbia, New Brunswick, Newfoundland and Labrador and Nunavut include psychological / emotional / mental and financial abuse and stalking / harassment.
- Manitoba includes psychological / emotional abuse and stalking, and also creates a tort of stalking, as does Nunavut.
- Alberta, Saskatchewan, and Nova Scotia include stalking or harassment but not psychological or emotional abuse.
- Prince Edward Island and Yukon include emotional abuse but not stalking.

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<sup>8</sup> *Family Law Act*, SBC 2011, c 25, Part 9 (BC FLA); *Protection Against Family Violence Act*, RSA 2000, c P-27 (AB PAFVA); *The Victims of Interpersonal Violence Act*, SS 1994, c V-6.02 (SK VIVA); *The Domestic Violence and Stalking Act*, CCSM c D93 (MB DVSA); *Code of Civil Procedure*, CQLR c C-25.01, arts 509, 510 (QB CCP); *Intimate Partner Violence Intervention Act*, SNB 2017, c 5 (NB IPVIA); *Domestic Violence Intervention Act*, SNS 2001, c 29 (NS DVIA); *Victims of Family Violence Act*, RSPEI 1988, c V-3.2 (PEI VFVA); *Family Violence Protection Act*, SNL 2005, c F-3.1 (NL FVPA); *Family Violence Prevention Act*, RSY 2002, c 84 (YK FVPA); *Protection Against Family Violence Act*, SNWT 2003, c 24 (NWT PAFVA); *Family Abuse Intervention Act*, SNu 2006, c 18 (NU FAIA). In Ontario, restraining orders are available as an alternative to civil protection orders. See the *Family Law Act*, RSO 1990, c F.3, s 46 (ON FLA) and *Children's Law Reform Act*, RSO 1990, c C.12 (ON CLRA). Restraining orders also continue to be used in other jurisdictions, as discussed in Section C.

<sup>9</sup> QB CCP, *ibid*, arts 509, 510.

<sup>10</sup> Some statutes also provide for warrants permitting entry into premises for survivors who are being forcibly confined, but anecdotal evidence suggests this type of order is rarely used. See AB PAFVA, s 10; SK VIVA, s 11; YK FVPA, s 11 (all *supra* note 8).

<sup>11</sup> Québec does not include threats to property. See QB CCP, *supra* note 8, arts 509, 510.

- Northwest Territories includes psychological, emotional, and financial abuse but not stalking.<sup>12</sup>

The broadest and therefore most protective definitions are found in British Columbia, Manitoba, and New Brunswick, which also include coercive controlling behaviour.<sup>13</sup> Given what we know about the harms of coercive control, including its links to serious physical and lethal violence, this is a promising practice that should be considered in other jurisdictions.<sup>14</sup> Manitoba's definition of stalking also provides a useful model, as it includes specific reference to stalking by electronic means, a concerning form of gender-based violence.<sup>15</sup>

Another best practice is found in British Columbia, Nova Scotia, Newfoundland and Labrador, and Nunavut, which explicitly exempt reasonable use of defensive force from the definition of family violence.<sup>16</sup> This is an important recognition that survivors who use force to defend themselves or their children should not be subject to protection orders.

Another key difference across jurisdictions is whether protection orders are available to survivors who have not cohabited or parented children together. In some provinces and territories, orders are also available to persons in dating / romantic relationships (Manitoba, New Brunswick, and Nunavut) and intimate companions (Yukon).<sup>17</sup> Again, broader definitions of the relationships included will offer the most protection to survivors.

Jurisdictions also differ in terms of the procedures for obtaining and confirming protection orders. Emergency protection orders are typically issued *ex parte* by courts, and in some jurisdictions, by justices of the peace. In many jurisdictions, applicants may rely on a designated person such as a police officer or lawyer to apply on their behalf by telecommunication. During the COVID-19 pandemic Alberta extended the ability to apply by telecommunication to survivors.<sup>18</sup> This practice has some advantages in ensuring the accessibility of protection orders, and in Alberta, there is a safeguard against the potential abuse of this process — including against survivors — by requiring a review of all EPOs, as discussed below. Alternatively, legislation should

<sup>12</sup> See BC FLA (s 1, also including threats respecting pets); AB PAFVA, s 1(1)(e), also excluding reasonable force applied by a parent to discipline a child; SK VIVA, s 2(e.1); MB DVSA, ss 2(1.1), 26; NB IPVIA, s 2; NS DVIA, s 5(1); PEI VFVA, s 2(2)(e); NL FVPA, ss 3(1)(f), (f.1), (f.2); YK FVPA, s 1; NWT PAFVA, s 1(2)(e); NU FAIA, ss 3(1)(e), (g), 24. Québec defines violence to include threats to life, health or safety and violence based on a concept of honour (QB CCP, art 509). Some other jurisdictions include deprivation of the necessities of life, which could cover some cases of financial abuse (see e.g. SK VIVA, s 2(e.1); PEI VFVA, s 2(2); YK FVPA, s 1) (all *supra* note 8).

<sup>13</sup> BC FLA, ss 1, 184(1)(c); MB DVSA, s 6.1(1)(d); NB IPVIA, ss 2(a), 4(3)(d) (all *supra* note 8).

<sup>14</sup> Most recently see the Report of the Standing Committee on Justice and Human Rights, *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour In Intimate Relationships* (2021), online: <<https://www.ourcommons.ca/DocumentViewer/en/43-2/JUST/report-9/>> (JUST Report).

<sup>15</sup> MB DVSA, ss 2(2), 2(3), *supra* note 8.

<sup>16</sup> BC FLA, s 1; NS DVIA, s 5(1)(a); NL FVPA, s 3(1)(a); NU FAIA, s 3(2) (all *supra* note 8).

<sup>17</sup> See MB DVSA, s 2(1)(d); NB IPVIA, s 1; YK FVPA, s 1; NU FAIA, ss 2(3), (4) (all *supra* note 8).

<sup>18</sup> Ministerial Order No 2020-011 (Alberta Community and Social Services) (April 7, 2020); *Protection Against Family Violence Regulation*, Alta Reg 80/1999, s 4.

include the option of allowing a broad range of authorized persons to apply on behalf of survivors with their consent, including shelter workers and other service providers, as New Brunswick does, for example.<sup>19</sup>

Another procedural difference is whether EPOs are automatically reviewed by a court or only reviewed where one of the parties applies. The latter approach, used in British Columbia, Manitoba, and Newfoundland and Labrador, is preferable as it lessens the possibility of multiple court appearances for survivors.<sup>20</sup> Manitoba also provides for an evidentiary burden on respondents at the review, which is another more favourable approach for survivors.<sup>21</sup> One issue on review in some jurisdictions is the use of mutual protection orders or restraining orders to replace initial emergency protection orders.<sup>22</sup> British Columbia has a provision requiring courts to consider specific factors before imposing mutual protection orders, including the history of violence and respective vulnerability of the parties.<sup>23</sup> This approach is recommended for other jurisdictions given the negative consequences that can flow from survivors being bound by unwarranted protection orders.

Also differing across jurisdictions is the duration of protection orders. Some jurisdictions provide for the length of the order to be within the judge's discretion, with a default period if none is specified<sup>24</sup> or discretion up to a certain maximum period, sometimes with the explicit possibility of extensions.<sup>25</sup> Other jurisdictions provide for different duration periods depending on the nature of the order—for example, Nunavut places a maximum period of 90 days duration on orders for exclusive possession of personal belongings and the family home and surrender of firearms and permits, with other conditions having a maximum duration of one year.<sup>26</sup> Still others do not provide any default or maximum length of time for protection orders.<sup>27</sup> An outlier is Nova Scotia, where protection orders can only be made for periods of 30 days, though applications for renewal are possible (in contrast to Newfoundland and Labrador, where orders of up to 90 days can be made but are explicitly not renewable). Longer orders—such as the three years provided for in Manitoba and Québec, or the non-expiring orders in Saskatchewan and Yukon—are in the best interests of survivors from the standpoint of accessibility and safety, as they do not require

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<sup>19</sup> *General Regulation*, NB Reg 2018-34, s 3(2).

<sup>20</sup> See BC FLA, s 187; MB DVSA s 11(1); NL FVPA, ss 10, 12 (all *supra* note 8).

<sup>21</sup> MB DVSA, s 12(2) (providing that the onus is on the respondent to demonstrate, on a balance of probabilities, that the protection order should be set aside). This section was read down following a *Charter* challenge in *Baril v. Obelnicki*, 2007 MBCA 40, to create an evidentiary burden only.

<sup>22</sup> This is common practice in Alberta. See e.g. *SL v AAHI*, 2020 ABCA 172; *DCM v TM*, 2021 ABCA 127.

<sup>23</sup> BC FLA, s 184(2), *supra* note 8.

<sup>24</sup> BC FLA, 1 year (s 183(4)); MB DVSA, 3 years (s 8.1); PEI VFVA, 90 days (s 4(4)) (all *supra* note 8).

<sup>25</sup> AB PAFVA, 1 year (s 7, extendable); QB CCP, 3 years (art 509); NB IPVIA, 180 days (s 5); NS DVIA, 30 days, extendable (ss 8(2), 12(4)); NL FVPA, up to 90 days, no extensions (s 7(2) and (4)); NWT PAFVA, 90 days, (s 4(5)) (all *supra* note 8).

<sup>26</sup> NU FAIA, ss 7, 10, *supra* note 8.

<sup>27</sup> SK VIVA (silent on this issue); YK FVPA (s 4(5) (expiry date must be recorded but none specified)), *supra* note 8.

repeated applications for renewal or extension. Even though police might lay charges with no contact orders in some cases, protection orders can still be an important backup if the criminal orders expire or are overturned, and this sort of layering of orders is most effective where protection orders have a reasonably lengthy duration period.

At the same time, breaches of protection orders are not at all uncommon. They may be dealt with explicitly in the legislation with provisions permitting arrest and creating offences and penalties, which is the case in Alberta, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, and the Northwest Territories.<sup>28</sup> Québec provides for civil contempt for breaches of protection orders, and in the jurisdictions where the legislation is silent on breaches, section 127 of the *Criminal Code* will apply.<sup>29</sup> There are benefits to and challenges with all of these approaches, but this can only be assessed by evaluation of how protection order legislation is implemented in practice. For example, concerns have been raised that the criminalization approach of using section 127 may deter police from enforcing breaches, and some survivors may not wish to see their partners face criminal sanctions.<sup>30</sup> There is also anecdotal evidence that protection order legislation is used much more in some jurisdictions than in others, or even inconsistently within jurisdictions. The best practice here is to ensure that protection order legislation is evaluated regularly to ensure it is being used, applied, and enforced as intended. In particular, whether protection orders benefit or have adverse consequences for members of marginalized communities should be monitored by governments.

Protection orders are also available federally under the *Family Homes on Reserves and Matrimonial Interests or Rights Act* (FHRMIRA) for survivors of family violence who reside on First Nations reserves.<sup>31</sup> This legislation authorizes First Nations to develop their own laws for the possession of family homes and the division of property interests on reserves. It also creates provisional rules that apply in the interim, including provisions for emergency protection orders (EPOs) that are similar to those discussed above. EPOs are available to spouses and common law partners under FHRMIRA only if at least one of them is a First Nation member or an “Indian” as defined under the *Indian Act*.<sup>32</sup>

Emergency protection order applications under FHRMIRA are made to “designated judges” and to date, only three provinces—New Brunswick, Prince Edward Island, and Nova Scotia—have designated judges to hear applications.<sup>33</sup> Although it is unclear to what extent FHRMIRA EPOs

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<sup>28</sup> See AB PAFVA, ss 13.1–13.2; NB IPVIA, s 17; NS DVIA, s 18; PEI VFVA, ss 16–17; NL FVPA, s 18; YK FVPA, s 16; NWT PAFVA, s 18 (all *supra* note 8).

<sup>29</sup> QB CCP, *supra* note 8, art 62; *Criminal Code*, RSC 1985, c C-46, s 127.

<sup>30</sup> See Jennifer Kosan and Wanda Wiegers, “Theorizing Civil Domestic Violence Legislation in the Context of Restructuring: A Tale of Two Provinces” (2007) 19 Can J Women & L 145.

<sup>31</sup> *Family Homes on Reserves and Matrimonial Interests or Rights Act*, SC 2013, c 20.

<sup>32</sup> FHRMIRA, *ibid*, s 6; *Indian Act*, RSC 1985, c I-5.

<sup>33</sup> Indigenous Services Canada, Matrimonial real property on reserve, online: <<https://www.sac-isc.gc.ca/eng/1100100032553/1581773144281>> (accessed April 12, 2021).

are being sought, other provinces should designate judges so that EPOs are uniformly available to Indigenous women on First Nations reserves across Canada. This is especially important because provincial protection orders granting exclusive possession of the family home will not apply on reserves for jurisdictional reasons.<sup>34</sup> At the same time, FHRMIRA does provide for exclusive occupation orders (EOOs) for the family home in circumstances that include family violence, and applications for EOOs do not rely on judges designated by the provinces.<sup>35</sup> Ongoing evaluation of the accessibility of the legislation for First Nations women is also recommended.<sup>36</sup>

FHRMIRA could also include a more encompassing definition of family violence, as it currently omits emotional and financial abuse and coercive control for the purposes of EPOs.<sup>37</sup> Psychological abuse is included as a consideration for EOOs, however, which may cause confusion and contribute to a lack of accessibility of remedies under FHRMIRA.<sup>38</sup> Any changes to FHRMIRA would of course require full consultation with Indigenous women.

A final issue is whether protection orders obtained in one jurisdiction are explicitly recognized as enforceable in another. This is currently the case in British Columbia and Manitoba.<sup>39</sup> There is case law indicating that protection orders from one Canadian jurisdiction cannot be enforced in another absent such provisions,<sup>40</sup> so other jurisdictions should follow suit and provide for recognition and enforceability of protection orders obtained in another province or territory. This would align with the interjurisdictional enforcement of custody and access/parenting orders as discussed in Section C below. A related issue is with respect to the possibility of inconsistency or conflict between particular protection orders, whether within one province or territory or amongst different jurisdictions. Several provinces and territories provide for the resolution of such conflicts,<sup>41</sup> and given the multiplicity of different orders that are available for no-contact/communication and exclusive possession of the family home, other jurisdictions should do so as well.

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<sup>34</sup> Provincial legislation providing for exclusive possession orders does not apply on First Nations reserves. See *Derrickson v Derrickson*, [1986] 1 SCR 285; *Paul v Paul*, [1986] 1 SCR 306.

<sup>35</sup> FHRMIRA, *supra* note 31, s 20.

<sup>36</sup> Some evaluative work has been done by the Centre of Excellence for Matrimonial Real Property, but it is dated. See online: COERMP, <<https://www.coemrp.ca/resources/the-family-homes-on-reserves-matrimonial-interests-or-rights-act>>. See also Elysa Darling, Assessing Matrimonial Real Property Law on First Nation Reserves: Domestic Violence, Access to Justice, and Indigenous Women (LLM thesis, University of Calgary, 2019), online: <http://hdl.handle.net/1880/111047>.

<sup>37</sup> FHRMIRA, *supra* note 31, s 16(9).

<sup>38</sup> FHRMIRA, *ibid*, s 20(3).

<sup>39</sup> BC FLA, *supra* note 8, s 191 (noting the application of the *Enforcement of Canadian Judgments and Decrees Act*, SBC 2003, c 29, to protection orders made in another jurisdiction of Canada); *The Enforcement of Canadian Judgments Act*, CCSM c E116, Part 3, Canadian Civil Protection Orders. In Alberta, the *Children First Act*, SA 2013, c C-12.5, s 19(5) would have amended the AB PAFVA, *supra* note 8, to allow the Minister to make regulations for the recognition and enforcement of protection orders from other jurisdictions, but that section never came into effect.

<sup>40</sup> See e.g. *DH v TH*, 2018 ABQB 147.

<sup>41</sup> BC FLA (s 189); NB IPVIA (s 12); NS DVIA (s 8(4)); NL FVPA (s 13); NU FAIA (s 9(1)) (all *supra* note 8).

## B. Domestic Violence Disclosure Laws

A few provinces have introduced domestic violence disclosure laws, often called “Clare’s Laws” after predecessor legislation in England and Wales, but to date only Saskatchewan and Alberta have developed the regulations and protocols that give effect to the legislation.<sup>42</sup> These jurisdictions permit individuals who believe they are at risk of interpersonal violence, and other authorized persons, to apply to the police for “disclosure information” regarding the intimate partner of the person at risk (the “right to ask”).<sup>43</sup> Police may also proactively initiate the process when they have reason to suspect that domestic violence is reasonably likely to occur (the “right to know”).<sup>44</sup> Interpersonal violence is defined in the Saskatchewan Protocol identically to Saskatchewan’s protection order legislation and does not include emotional or psychological abuse or coercive control.<sup>45</sup> Alberta takes a different approach by defining domestic violence more broadly than in its protection order legislation, adding threats to harm children, other family members or pets; control over movements, communications or finances; and emotional or psychological abuse.<sup>46</sup> Alberta’s broad definitional approach is preferable in light of the aims of the legislation in identifying and disclosing risks of future violence.

In both Saskatchewan and Alberta, the Protocols indicate that disclosure information is limited to the level of risk faced by the person at risk (high, medium/moderate, low), and additionally in Alberta, the context surrounding the risk. Saskatchewan police will also provide information about relevant criminal convictions, if applicable.<sup>47</sup> Both Protocols also require police to provide safety planning information and referrals for support and services to persons at risk.<sup>48</sup> The Protocols mandate that persons to whom disclosure is provided must keep the information confidential and must sign confidentiality agreements.<sup>49</sup> Although the legislation itself permits

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<sup>42</sup> *Disclosure to Protect Against Domestic Violence (Clare's Law) Act*, SA 2019, c D-13.5 (Alberta Act); *Disclosure to Protect Against Domestic Violence Regulation*, Alta Reg 66/2021; *The Interpersonal Violence Disclosure Protocol (Clare's Law) Act*, SS 2019, c I-10.4 (Saskatchewan Act); *The Interpersonal Violence Disclosure Protocol (Clare's Law) Regulations*, RRS c I-10.4 Reg 1; *Interpersonal Violence Disclosure Protocol Act*, SNL 2019, c I-18.1. In Ontario, a Private Member’s Bill, Bill 274, *Intimate Partner Violence Disclosure Act, 2021*, online: <[https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2021/2021-04/b274\\_e.pdf](https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2021/2021-04/b274_e.pdf)> was introduced in April 2021 but was defeated at Second Reading to allow for further consultations.

<sup>43</sup> Other authorized persons include parents and guardians of persons at risk who are under 18 years old or who lack capacity.

<sup>44</sup> Government of Alberta, Justice & Solicitor General, “Disclosure to Protect Against Domestic Violence (Clare’s Law) Protocol” (April 2021), online: <<https://open.alberta.ca/publications/disclosure-to-protect-against-domestic-violence-clares-law-act-protocol>> (Alberta Protocol); Saskatchewan Association of Chiefs of Police, “Interpersonal Violence Disclosure Protocol” (November 25, 2019), online: <<https://pubsaskdev.blob.core.windows.net/pubsask-prod/114796/Approved%252BProtocol%252Band%252BAppendices-%252Bfinal.pdf>> (Saskatchewan Protocol).

<sup>45</sup> Saskatchewan Protocol, *ibid* at 20; see also SK VIVA, *supra* note 8, s 2(e.1).

<sup>46</sup> *Disclosure to Protect Against Domestic Violence Regulation*, Alta Reg 66/2021, s 1(a).

<sup>47</sup> Alberta Protocol, *supra* note 44 at 6; Saskatchewan Protocol, *supra* note 44 at 5.

<sup>48</sup> Alberta Protocol, *ibid* at 5, Saskatchewan Protocol, *ibid* at 8, 11.

<sup>49</sup> Alberta Protocol, *ibid* at 18 (requiring that a confidentiality agreement be signed by the person at risk and anyone else police permit to attend the disclosure interview); Saskatchewan Protocol, *ibid* at 10 (requiring that a confidentiality agreement be signed by the applicant and any third party involved in the process).

disclosure that is otherwise authorized under the Act or the law more broadly, it is unclear what this will mean in practice.<sup>50</sup> In addition, the Alberta Protocol states explicitly that disclosure information cannot be used and will not be considered in any court proceedings or litigation.<sup>51</sup> At the same time, if the process uncovers information that could amount to a criminal offence, police may be required to investigate and may not be able to maintain the applicant's confidentiality.<sup>52</sup>

Although the legislation purports to balance safety and confidentiality/privacy, it should explicitly enable persons at risk to disclose the information they receive to lawyers and service providers to allow them to obtain legal advice and undertake safety planning. Further, the ban on providing disclosure information to courts, and on courts using this information, raises concerns. Parties to court proceedings should be able to provide evidence that is relevant to the protection of themselves and their children, for example in family litigation or protection order review proceedings. At the same time, in light of the documented occurrence of litigation harassment against survivors of violence, as well as the potential to deter or inhibit use of the legislation, information that persons at risk did or did not apply for, receive, or act on disclosure information should not be permitted to be used as evidence against them, which was recognized in Ontario's proposed legislation.<sup>53</sup>

More broadly, whether this type of legislation will protect women from violence remains to be seen, and training of police and other justice personnel is necessary to ensure there are no adverse consequences such as blaming survivors who fail to apply or fail to act on disclosure information.<sup>54</sup> This is a particular concern for marginalized survivors given the disproportionate use of child protection legislation against families that are racialized and Indigenous. Ontario's proposed legislation addressed this concern by stating that "No police force and no government agency or office may deny access to services or protection for an applicant or person at risk who receives disclosure information and remains in their relationship on the basis that the applicant or person at risk remained in the relationship."<sup>55</sup> Other jurisdictions should adopt this approach as well.

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<sup>50</sup> Alberta Act, *supra* note 42, s 8 (otherwise authorized by law); Saskatchewan Act, *supra* note 42, s 6 (otherwise authorized under the Act). For a discussion of privacy legislation see Section P.

<sup>51</sup> Saskatchewan does not permit the applicant to share disclosure information (except with the permission of the police), which effectively means that the information cannot be used in court (see Saskatchewan Protocol, *supra* note 44 at 10, 34).

<sup>52</sup> Alberta Protocol, *supra* note 44 at 19 (also noting that outstanding warrants concerning the person at risk may be executed because of police duties), Saskatchewan Protocol, *supra* note 44 at 6-7.

<sup>53</sup> Bill 274, *supra* note 42, s 13.

<sup>54</sup> Jennifer Koshan and Wanda Wiegers, "Clare's Law: Unintended Consequences for Domestic Violence Victims?" (October 18, 2019), online: ABlawg, <[http://ablawg.ca/wp-content/uploads/2019/10/Blog\\_JK\\_WW\\_Bill17.pdf](http://ablawg.ca/wp-content/uploads/2019/10/Blog_JK_WW_Bill17.pdf)>. Bill 274 requires that the Minister develop a training program (*supra* note 42, s 14).

<sup>55</sup> Bill 274, *ibid*, s 9.

## C. Family Laws

### Restraining and Exclusive Possession Orders

In addition to civil protection statutes, most provinces and territories allow for orders restraining contact or communication between parties in statutes that govern parenting or spousal relationships. Typically, such orders restrain a person from “annoying, molesting, harassing or communicating with” an applicant or a child in their care under legislation that determines custody and access or parenting issues<sup>56</sup> and/or that governs family property division or support.<sup>57</sup> A statute may also authorize orders that restrain a spouse from attending or coming near one or more locations.<sup>58</sup>

Under their family or matrimonial property legislation or under legislation providing for support or parenting orders, all jurisdictions allow for orders for exclusive possession or occupation of a family home and its contents. Such orders directly restrain the other party from entering the family home or from removing any of its contents. However, as with family property statutes generally, differences exist between federal, provincial, and territorial jurisdictions as to who qualifies for relief:

- In six jurisdictions, Ontario, Québec, New Brunswick, Prince Edward Island, Newfoundland and Labrador and the Yukon, only married persons or those who have entered into a marriage in good faith that is void or voidable may apply for exclusive possession of a family home.<sup>59</sup>

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<sup>56</sup> *The Children’s Law Act*, 2020, SS 2020, c 2, s 38 (where an applicant has decision-making responsibility) (SK CLA) and see also, *The Queen’s Bench Act*, 1998, SS 1998, c Q-1.01, s 100 (would apply to unmarried, non-parents) (SK QBA); *The Child Custody Enforcement Act*, CCSM c C360, s 8 (MB CCEA) and *The Child and Family Services Act*, CCSM c C80, s 80(1) (MB CFSA); ON CLRA, *supra* note 8, s 35(1) (on application, against any person); *Family Law Act*, SNB 2020, c 23, s 81 (NB FLA); *Children’s Law Act*, RSPEI 1988, c C-6.1, s 72 (PEI CLA); *Children’s Law Act*, RSNL 1990, c C-13, s 42 (NL CLA); *Children’s Law Act*, RSY 2002, c 31, s 36 (YK CLA); *Children’s Law Act*, SNWT 1997, c 14, s 59 (NWT CLA); *Children’s Law Act*, SNWT (Nu) 1997, c 14, s 59 (NU CLA); BC FLA, *supra* note 8. In Alberta, common law restraining orders are available, see *Lenz v Sculptoreanu*, 2016 ABCA 111 at paras 25-30.

<sup>57</sup> *The Family Maintenance Act*, CCSM c F20, s 10(1)(j), 14(2) (MB FMA); ON FLA, *supra* note 8, s 46 (applies where applicant has reasonable grounds to fear for their safety or that of a child in their lawful custody as against a spouse or former spouse or anyone the applicant is cohabiting with or has cohabited with for any period of time) and *Child Youth and Family Services Act*, SO 2017, c 14, Sched 1. (ON CYFSA); NB FLA, *ibid*, s 81 (on application for support, a parenting or contact order); *Family Law Act*, RSPEI 1988, c F-2.1, ss 29, 45 (if married, cohabiting conjugal for 3 years or if the natural or adoptive parents of a child) (PEI FLA); *Family Law Act*, RSNL 1990, c F-2 (married) s 81 (NL FLA); *Family Law Act*, SNWT 1997, c 18, s 59 (if married, lived in a conjugal relationship for at least 2 years or in a relationship of some permanence if the biological or adoptive parents of a child) (NWT FLA).

<sup>58</sup> ON FLA, *supra* note 8, s 46(3) applies to spouses defined in this section to include unmarried persons who have cohabited continuously for at least three years or in a relationship of permanence, if they are the parents of a child.

<sup>59</sup> ON FLA, *supra* note 8, s 24; *Civil Code of Québec*, CQLR c C-1991, arts 401, 409, 500 (QB CCQ); QB CCP, *supra* note 8, art 158; NB FLA, *supra* note 56, s 1, 21(2)(d),(f) and *Marital Property Act*, SNB 2012, c 107, s 1, 23, 27 (NB MPA); PEI FLA, *supra* note 57, s 25; NL FLA, *supra* note 57, s 15; *Family Property and Support Act*, RSY 2002, c 83, s 27(2)(a) (YK FPSA).

- Other jurisdictions extend relief beyond married persons to those who have lived in a marriage-like or conjugal relationship continuously for a certain period of time. The time limits vary from one year, as in provisional rules under the *Family Homes on Reserves and Matrimonial Interests or Rights Act*,<sup>60</sup> to two<sup>61</sup> and three years.<sup>62</sup> Orders may also be available to persons who have cohabited or lived in a relationship of “some permanence” where they are the parents of a child<sup>63</sup> or to partners who have registered their relationship or union with a prescribed authority.<sup>64</sup> Alberta’s legislation is unique in that it extends to those who may not be in a conjugal relationship but have entered into an adult interdependent agreement.<sup>65</sup>
- Applicants may also be required to apply within a specific time period and these periods vary by jurisdiction.<sup>66</sup>
- The burden of proving that an exclusive possession order should be made typically falls on the claimant. Relevant factors, where specified, usually include the needs or best interests of the children and the availability of other shelter but violence is also an explicitly relevant consideration in six jurisdictions;<sup>67</sup> others identify “danger of injury” to an applicant or child as a result of the respondent’s conduct.<sup>68</sup> Most of these statutes do not define violence specifically to include coercive and controlling violence or intimidation or emotional abuse.

Obtaining the benefit of the above protections will generally depend upon being a parent or a spouse as this is variously defined across jurisdictions. Those who lack such status in their

<sup>60</sup> FHMIRA, *supra* note 31; provisional rules apply to married persons or those who have in good faith entered into a void or voidable marriage, and common law partners who are defined under the *Indian Act*, RSC 1985, c I-5 as persons who have cohabited in a conjugal relationship for at least one year. These rules apply where the First Nation has not enacted its own laws pursuant to this Act, or the *First Nation Land Management Act*, SC 1999, c 24, or have not done so under a self-government agreement.

<sup>61</sup> BC FLA, *supra* note 8, ss 3, 88, 90; *The Family Property Act*, SS 1997, c F-6.3 ss 2, 7, 17 (SK FPA); *Parenting and Support Act*, RSNS 1989, c 160, s 2, 7 (NS PSA); NWT FLA, *supra* note 57, s 1; *Family Law Act*, SNWT (Nu) 1997, c 18, s 1 (NU FLA).

<sup>62</sup> *Family Law Act*, SA 2002 c A-4.5, s 3 where proceedings for child or spousal support to apply to a spouse or adult interdependent partner, ss 68, 69 (AB FLA) and *Family Property Act*, RSA 2000, c F-4.7 (AB FPA) ss 19-22; *The Family Maintenance Act*, CCSM c F20, ss 2, 4, 10(1) (MB FMA).

<sup>63</sup> NWT FLA, *supra* note 57, s 1; NU FLA, *supra* note 61, s 1; MB FMA, *ibid*, s 1 (one year); NS PSA, *supra* note 61, ss 2, 7 (must have cohabited with each other and have a child).

<sup>64</sup> MB FMA, *supra* note 62, s 2 (those registered under *The Vital Statistics Act*, CCSM c V60, s 13.1); QB CCQ, *supra* note 59, arts 500, 521.6; NS PSA, *supra* note 61, ss 2, 7.

<sup>65</sup> AB FLA, *supra* note 62, s 7.

<sup>66</sup> E.g. SK FPA, *supra* note 61, s 3.1 (applications under the Act must be commenced before a divorce or within 2 years after the parties have ceased to cohabit), see note 127.

<sup>67</sup> FHRMIRA, *supra* note 31, psychological abuse against a partner, child or family member is relevant, s 20(3) as is the “collective interests of First Nation members in their reserve lands”; Other statutes simply reference any violence committed by a spouse against the other spouse or children, see ON FLA, *supra* note 8, s 24(3)(f); PEI FLA, *supra* note 57, s 25(4)(f); NWT FLA, *supra* note 57, s 55(3); NU FLA, *supra* note 61, s 55(3)(f) or reference a finding of domestic violence, NS PSA, *supra* note 61, s 7(3)(d) without defining the terms.

<sup>68</sup> AB FLA, *supra* note 62, ss 19-22; SK FPA, *supra* note 61, s 17 (without notice).

province or territory may have to depend on bail conditions that restrain attendance near a family residence where criminal charges have been laid, on peace bonds or on protection or occupation orders, if these are available. Relative to these orders, exclusive possession orders may also allocate expenses between the parties and provide greater security for a longer period of time. In Saskatchewan, for example, a court may also deem the spouse with exclusive possession to be a tenant under a lease of the family home.<sup>69</sup> Residential security is important in maintaining safety and to minimizing disruptions in the lives of survivors and their children in relation to schools, neighbourhoods and support systems.<sup>70</sup>

### Parenting Orders

In determining parenting arrangements, courts are to consider only the best interests of a child in almost all jurisdictions within Canada.<sup>71</sup> As of March 1, 2021, the *Divorce Act* provides that the primary objective in identifying the best interests of a child in a parenting dispute is to achieve physical, emotional and psychological safety, security and well-being for a child.<sup>72</sup> As well, judges are now required to consider family violence and its impact on the willingness and ability of the party responsible for the violence to care for and meet the needs of the child and the appropriateness of requiring cooperation between the parties.<sup>73</sup> Family violence is also defined broadly under s 2(1) to include behaviour that “constitutes a pattern of coercive and controlling behavior” or that causes fear for one’s safety or that of another and the “direct or indirect exposure” of a child to such behaviour. A number of different forms of family violence and threatening behaviour are identified including physical and sexual abuse, psychological or financial abuse, harassment, failure to provide necessities and threats of or conduct that harms or kills an animal or damages property. In assessing the impact of family violence, judges must consider a number of factors including the nature, seriousness, frequency and when it occurred/whether coercive and controlling/whether directed at child or child exposed directly or indirectly; the physical, emotional and psychological harm or risk of harm to children; compromise to safety or whether causes fear for safety; steps taken to address behaviour; any other relevant factor, s 16(4). These changes are consistent with research that has consistently documented harm or an elevated risk of harm to children who are exposed directly or indirectly to family violence and that can consist of: a higher risk of physical and sexual harm or cross-fire violence; emotional and psychological disturbances (such as anxiety and PTSD); developmental

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<sup>69</sup> SK FPA, *supra* note 61, s 5(2)(j). Note though that the rights of the spouse with exclusive possession are limited by and dependent upon the rights of the other spouse under the lease, s 13.

<sup>70</sup> See sections on Spousal Support and Family Property Division for a discussion of distinctions based on marital status.

<sup>71</sup> Manitoba and Nova Scotia provide that the best interests is the “paramount” rather than sole consideration, MB FMA, *supra* note 57, s 2(1); NS PSA, *supra* note 61, s 18(5). QB CCQ, *supra* note 59, arts 514, 521.7 provide that where a civil union dissolves or there is separation from bed and board, the court is to decide “as to the custody, maintenance and education of the children, in their interest and in the respect of their rights, taking into account, where appropriate, any agreements made between the spouses”.

<sup>72</sup> *Divorce Act*, RSC 1985, c 3 (2nd Supp), s 16(2).

<sup>73</sup> *Ibid*, s 16(3)(j).

and neurological harm (from prolonged exposure to a toxic environment), and impaired attachments with abused mothers, among other adverse outcomes.<sup>74</sup>

Most provincial and territorial jurisdictions in Canada now also require consideration of family or domestic violence in determining parenting arrangements. Four jurisdictions have substantially replicated the amended provisions of the *Divorce Act*.<sup>75</sup> British Columbia had included mandatory consideration of family violence in amendments that came into force in 2013, defining it broadly to include sexual abuse, unreasonable restrictions on or prevention of a family member's financial or personal autonomy and in assessing its impact, taking account of "any psychological or emotional abuse [that] constitutes, or is evidence of, a pattern of coercive and controlling behaviour"; whether a child was exposed to family violence (directly or indirectly) and harm to the child's safety, security and well-being as a result.<sup>76</sup> Two other jurisdictions had previously incorporated requirements to consider domestic or family violence and defined it to include sexual abuse and emotional or psychological abuse.<sup>77</sup> Four jurisdictions require consideration of family violence but do not define it or do not define it in terms that include coercive or controlling behaviour.<sup>78</sup> Alberta limits the definition to physical harm, forced confinement and sexual abuse or acts that cause a reasonable fear for one's safety but excludes "acts of self-protection or protection of another" as well as "reasonable" corrective force used by a parent or guardian against a child.<sup>79</sup> Provisions in two jurisdictions still do not appear to require consideration of family or domestic violence.<sup>80</sup> All jurisdictions should not only mandate consideration of family violence but also define it to include coercive and controlling behaviour, which is a common form of violence that can cause serious harm to mothers and children.

Many jurisdictions now also require courts to consider whether there have been civil or criminal proceedings that are relevant to the safety, security and well-being of the child when making parenting orders.<sup>81</sup> While court rules or forms may require the parties to provide an affidavit that discloses whether they have been or are now involved in child protection or criminal

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<sup>74</sup> See Linda C Neilson, Responding to Domestic Violence in Family Law, Civil Protection & Child Protection Cases, Canadian Legal Information Institute, 2<sup>nd</sup> ed (2020), 2017 CanLII Docs 2, online: <<https://canlii.ca/t/ng>>.

<sup>75</sup> SK CLA, *supra* note 56, ss 2(1), 10(2), 10(3)(j); ON CLRA, *supra* note 8, ss 18(1), (2), 24(3)(j), 24(4); NB FLA, *supra* note 56, ss 1, 50(2)(j), 50(4); PEI CLA, *supra* note 56, ss 36(2) 33 but references the PEI VFVA, *supra* note 8, s 2 in defining family violence to include emotional abuse and the deprivation of necessities.

<sup>76</sup> BC FLA, *supra* note 8, ss 38, 37(2).

<sup>77</sup> MB FMA, *supra* note 57, s 1 references the definition in the MB DVSA, *supra* note 8, s 2(1.1) which includes conduct that "reasonably, in all the circumstances, constitutes psychological or emotional abuse"; NS PSA, *supra* note 61, ss 18(7), 2(da) includes "psychological or emotional abuse that constitutes a pattern of coercive or controlling behavior" and "unreasonable restrictions on financial or personal autonomy."

<sup>78</sup> AB FLA, *supra* note 62, s 18(3) (conduct that causes physical harm, including forced confinement and sexual abuse or causes reasonable fear for safety); NL CLA, *supra* note 56, s 31(3) (not defined); NWT CLA, *supra* note 56, s 17(3) (not defined); NU CLA, *supra* note 56, s 17(3) (not defined).

<sup>79</sup> AB FLA, *supra* note 62, s 18(3).

<sup>80</sup> YK CLA, *supra* note 56; QB CCQ, *supra* note 59, arts 514, 521.7.

<sup>81</sup> E.g. *Divorce Act*, *supra* note 72, s 16(3)(k); AB FLA, *supra* note 62, s 18(2)(viii)(B); SK CLA, *supra* note 56, s 10(3)(k); ON CLRA, *supra* note 8, s 33.3; *Regulation of the Superior Court of Québec in family matters*, CQLR c C-25.01, r 0.2.4, s 16; NB FLA, *supra* note 56, s 7; PEI CLA, *supra* note 56, s 5.

proceedings,<sup>82</sup> many jurisdictions lack the capacity to verify accounts provided by the parties. This places an onus on victims to attempt to access such records through applications to courts or through freedom of information applications to police or child protection authorities. In British Columbia, applicants for guardianship must agree to a child protection record check in addition to disclosing in an affidavit any incidents of family violence.<sup>83</sup> In Ontario, non-parents who apply for a parenting order must provide criminal record and child protection checks and a clerk of the court may be required to provide information regarding such proceedings.<sup>84</sup> A court is also empowered to inquire of the parties and to review information “that is readily available and that has been obtained through a lawful search.”<sup>85</sup> Respondents, who have personal knowledge of such events and can more readily access their records, should be required to produce such record checks whenever family violence and criminal or child protection involvement is alleged.

Several jurisdictions include a provision in their legislation that allows each parent as much contact as is consistent with the child’s best interests.<sup>86</sup> In the *Divorce Act*, this provision is now situated in the section dealing with best interests and the previous reference to “maximum contact” has been removed. As well, the friendly parent provision has been removed from the previous section and now appears in a modified form as one of many factors that must be considered relevant to a child’s best interests.<sup>87</sup> These changes were intended to address concerns that the previous provisions were being interpreted as a presumption of equal time and were failing to adequately protect children and parents in cases of family violence. It is questionable whether these changes go far enough in protecting children in such circumstances. In particular, concerns persist that ‘friendly parent provisions’ and claims of parental alienation may be used to undermine and sideline the significance of family violence. Studies of case law have found that domestic violence allegations are often met with counter-claims of alienation and that victims of domestic violence are less likely to be believed in such circumstances.<sup>88</sup> In a

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<sup>82</sup> For example, in Saskatchewan, see online: <[www.qp.gov.sk.ca/documents/gazette/part1/2017/G1201709.pdf](http://www.qp.gov.sk.ca/documents/gazette/part1/2017/G1201709.pdf)> page 400.

<sup>83</sup> *Family Law Act Regulation*, BC Reg 347/2012, s 26.1, Form 5 and *Provincial Court (Family) Rules*, BC Reg 417/98, Form 34.

<sup>84</sup> ON CLRA, *supra* note 8, ss 21.1, 21.2, 21.3 and for the affidavit provided by the parties, see s 21(2); see also PEI CLA, *supra* note 56, which authorizes a court to require an investigation and report by the Director of Child Protection in some circumstances, s 37.

<sup>85</sup> ON CLRA, *ibid*, 33.3(3).

<sup>86</sup> *Divorce Act*, *supra* note 72, s 16(6); ON CLRA, *ibid*, s 24(6); NB FLA, *supra* note 56, s 50(6); NS PSA, *supra* note 61, s 18(8) (though specific reference is made in the section to “consideration of the impact of any family violence, abuse or intimidation;” PEI CLA, *supra* note 56, s 40(1)). Jurisdictions that do not include such a provision, QB CCQ, *supra* note 59, art 514; BC FLA, *supra* note 8; AB FLA, *supra* note 62; SK CLA, *supra* note 56; MB FMA, *supra* note 57; NL CLA, *supra* note 56; YK CLA, *supra* note 56; NWT CLA, *supra* note 56; NU CLA, *supra* note 56. In Alberta, such a provision was read into the Act, *DAF v SRG* 2020 ABCA 25 at para 21.

<sup>87</sup> *Divorce Act*, *supra* note 72, s 16(3)(c) (willingness to support a child’s relationship with the other parent and s 16(3)(i), ability and willingness to communicate and cooperate with the other spouse).

<sup>88</sup> Neilson found that about 42% of 357 reported cases involving parental alienation in Canada between 2007 to 2017 also involved allegations of intimate partner violence and child abuse, with about 77% of the former advanced by alleged perpetrators of intimate partner violence and 23% by alleged victims, who were overwhelmingly fathers and mothers respectively. In 40 cases or 36.7% of the 109 cases in which PA was claimed by an alleged perpetrator, the court made a positive finding of alienation against the alleging parent. In 39 of these cases, children were removed

study by Boyd and Sheehy, courts paid more attention to parental alienation claims than to domestic violence and where the latter was established, mothers were still required to cooperate and speak positively of fathers or run the risk of being seen as alienating parents.<sup>89</sup> The recent amendments were intended to bring greater attention to family violence and its outcomes and to prioritize the safety and emotional security and well-being of children. The various provisions of the *Divorce Act* should now be interpreted in light of such objectives.<sup>90</sup>

The amended *Divorce Act* continues to lack any presumptions in favour of any particular parenting arrangement.<sup>91</sup> British Columbia, however, is the only jurisdiction to provide explicitly that no particular parenting arrangement is presumed to be in the best interests of a child.<sup>92</sup>

A number of other trends are evident across jurisdictions in relation to parenting disputes:

- Notice of an intention to relocate should be given or a judicial exemption from the notice provisions should be obtained including where there is a risk of family violence. Failure to do so will be taken into account in authorizing any relocation.<sup>93</sup> Such provisions may be difficult to meet for survivors of domestic violence depending on their ability to access legal counsel in a timely way;
- Provisions for the enforcement of parenting orders are common in most jurisdictions and typically include the search for and apprehension of a child by police where authorized by a court order.

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and placed with the allegedly abusive parent and in 24 of these, contact was limited to supervised access or denied entirely. By contrast, courts granted unsupervised parenting time in the vast majority of cases to alleged perpetrators, Linda C Neilson, “Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights?” (2018: Fredericton: Muriel McQueen Fergusson Centre for Family Violence Research and Vancouver: The FREDA Centre for Research on Violence Against Women and Children. Neilson also found that courts were more apt to restrict contact with mothers than with fathers where alienation was found, *ibid* at 34. In another study of 90 Canadian cases involving claims of both intimate partner violence and parental alienation between 2014 and 2018, intimate partner violence was usually seen as irrelevant, left unresolved, discounted or neutralized i.e. seen as a one-off occurrence or as part of a high conflict relationship; and found relevant in only 10% of the cases, Elizabeth Sheehy & Susan B. Boyd, “Penalizing women’s fear: intimate partner violence and parental alienation in Canadian child custody cases” (2020) 42 *J Social Welfare and Family Law* 80. These findings are consistent with those of an extensive study of US cases involving intimate partner violence or child abuse and parental alienation where a cross-claim of alienation by a father was found to be significantly correlated with reduced acceptance of abuse claims by mothers and increased by three times the odds of a father obtaining primary custody from mothers, see Joan S. Meier, “U.S. child custody outcomes in cases involving parental alienation and abuse allegations: what do the data show?” (2020) 42:1 *Journal of Social Welfare and Family Law* 92. See also Suzanne Zaccour, “Parental Alienation in Quebec Custody Litigation” (2018) 59 *Cahiers de Droit* 1073; BJ Fidler & N Bala “Concepts, Controversies And Conundrums Of “Alienation.” Lessons Learned In A Decade And Reflections On Challenges Ahead” (2020) 58:2. *Family Court Review* 579.

<sup>89</sup> Sheehy and Boyd, *ibid* at 88.

<sup>90</sup> See an interpretative guide that takes account of such concerns, , Linda C Neilson and Susan B Boyd, *Interpreting the New Divorce Act, Rules of Statutory Interpretation & Senate Observations*, online: FREDA Centre, <<https://www.leaf.ca/wp-content/uploads/2020/03/Interpreting-the-New-Divorce-Act.pdf>>.

<sup>91</sup> Note however that the burden of proof may shift in cases involving relocation, s 16.93.

<sup>92</sup> BC FLA, *supra* note 8, s 40(4); Saskatchewan’s Act now includes a clause that bars any presumptions or inferences as to a preferred parent, but it is unclear how this will be interpreted: SK CLA, *supra* note 56, s 11.

<sup>93</sup> E.g. *Divorce Act*, *supra* note 72, ss 16.8, 16.9, 16.92(1)(d); BC FLA, *supra* note 8, ss 65-71

The legislation in British Columbia provides specifically that denial of parenting time or contact is not wrongful where it is reasonably believed that a child might suffer family violence if parenting time or contact is exercised.<sup>94</sup> Such a provision might assist survivors in resisting claims of parental alienation while attempting to protect their children.

As for jurisdiction and the inter-jurisdictional enforcement of court orders, most provinces and territories allow courts to assume jurisdiction if a child is habitually resident there. If the child is not habitually resident there, courts in most jurisdictions may assume jurisdiction in some specified situations, among them where a child is physically present and would suffer “serious harm” if they were forced to remain with or be returned to the other parent or if removed from the province or territory.<sup>95</sup> However, in several provinces, there are no statutory references to a “serious harm” threshold in establishing jurisdiction.<sup>96</sup> While extraprovincial or extraterritorial orders are normally recognized in each jurisdiction, courts in many jurisdictions may also override or supersede such orders in limited situations, including again where a child is physically present in the jurisdiction and would suffer “serious harm” as a result of compliance with such an order.<sup>97</sup> Here also, some jurisdictions do not include a “serious harm” test.<sup>98</sup> To assist with consistency and to ensure that the risks of domestic violence for mothers and children are taken into account, the threshold for the assumption of jurisdiction and for non-compliance with extra-jurisdictional orders should be standardized across all Canadian jurisdictions to include the risk of serious harm to the child.

All jurisdictions have adopted the Hague Convention on international child abduction.<sup>99</sup> Under the Convention, a child is to be returned to a signatory country if the child has been habitually resident there prior to a wrongful removal or retention of the child. However, this provision is subject to an exception under Article 13 where a child would then be exposed to a “grave risk”

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<sup>94</sup> BC FLA, *ibid*, s 62.

<sup>95</sup> BC FLA, *ibid*, s 74(2)(c); ON CLRA, *supra* note 8, s 23; NB FLA, *supra* note 56, s 69; PEI CLA, *supra* note 56, s 35(2); NL CLA, *supra* note 56, s 29; YK CLA, *supra* note 56, s 38; NWT CLA, *supra* note 56, s 26; NU CLA, *supra* note 56, s 26. In Ontario, New Brunswick, Prince Edward Island, the Yukon, Northwest Territories and Nunavut, a court also has discretion to decline jurisdiction if better or more appropriately exercised elsewhere.

<sup>96</sup> In case law, Alberta has applied a substantial connection test in determining jurisdiction, see *JB v JPC*, 2005 ABQB 99 at para 28. A Saskatchewan court will have jurisdiction if a child is habitually resident or physically present in Saskatchewan and their habitual residence cannot be determined. Removal or retention of the child does not change habitual residence unless there is an agreement between the parties or failure to bring an action for return of the child for at least year after they knew or should have known of the child’s whereabouts and the child is settled in the new jurisdiction, SK CLA, *supra* note 56, ss 6-7. Common law rules apply in Manitoba and require a child to present, resident or domiciled in Manitoba at the time of the application. Québec courts will assume jurisdiction if a child is domiciled in the province but may decline jurisdiction in exceptional cases where another state is in a better position to decide the matter, CCQ, Arts 3142 and 3135. In Nova Scotia jurisdiction is also subject to common law principles.

<sup>97</sup> BC FLA, *supra* note 8, s 76(1)(a); *Enforcement of Custody Orders Act*, SA, s 4; MB CCEA, *supra* note 56, s 5; ON CLRA, *supra* note 8, s 42 (and if material change in circumstance, s 43); NS PSA, *supra* note 61, s 4(1); PEI CLA, *supra* note 56, s 57; NL CLA, *supra* note 56, s 51 (and if material change in circumstance or contrary to public policy, s 50); YK CLA, *supra* note 56, s 52; NWT CLA, *supra* note 56, s 36; NU CLA, *supra* note 56, s 36.

<sup>98</sup> Saskatchewan, as an exception, does not reference “serious harm” but does allow for non-compliance in some circumstances including where an order is “manifestly contrary to public policy in Saskatchewan”, SK CLA, *supra* note 56, s 24(6). Québec and Alberta do not have such a test in their governing legislation.

<sup>99</sup> *Hague Convention on the Civil Aspects of International Child Abduction*, October 25 1980.

of physical and psychological harm or be placed in an “intolerable situation.” This standard has been held to include exposure to domestic violence, but the Ontario Court of Appeal has also held that the standard is more stringent than the “serious harm” threshold under Ontario law.<sup>100</sup> To rely on this exception, a claimant may also have to establish that the country of the child’s habitual residence would be unwilling or unable to protect the child from further harm, even with undertakings in place.<sup>101</sup>

In summary, it is extremely important that judges, lawyers and other professionals working in this field understand the different forms that family violence can take, particularly the dynamics and the tactics that are employed to effect coercive control in family relationships both before and after separation of the parties and further, fully understand how family violence affects and harms children.

### Child and Spousal Support

Child support is generally available under the federal *Divorce Act* and under all provincial/territorial statutes for children under the age of majority and at or over the age of majority if they remain dependent on the claimant and under their charge for reasons such as disability, illness or attendance at a post-secondary educational institution. However, six jurisdictions identify the age of majority as 18 (Alberta, Saskatchewan, Manitoba, Ontario, Québec, Prince Edward Island) and seven as 19 (Newfoundland and Labrador, Yukon, Northwest Territories, Nunavut, British Columbia, New Brunswick, Nova Scotia).

In some jurisdictions, a child who has withdrawn from a parent’s charge may lose the right to support unless they did so because of family violence or for similar reasons.<sup>102</sup> All jurisdictions apply the federal *Child Support Guidelines* or some variation thereof (in Québec and Manitoba) in determining the amount of child support payable. A promising development or trend in some jurisdictions is the establishment of Child Support Recalculation Services that will in some situations help parents to recalculate support with updated information and, in some jurisdictions, help to establish child support payments from the outset.<sup>103</sup> These services may help to both minimize contact with abusive spouses and avoid the cost of litigation.

There are more significant variations between jurisdictions in terms of entitlement to spousal support. Women, who are more likely to have primary care of children, to perform more domestic labour and earn less in the labour market, are the claimants in the vast majority of spousal support cases. Spousal support is generally intended to relieve hardship or needs flowing from a spousal relationship or its breakdown, and to compensate for economic disadvantage arising from the roles assumed during the relationship. Under the *Divorce Act*, only those married

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<sup>100</sup> *MSS v DEME*, 2020 ONCA 486

<sup>101</sup> See e.g. *DR v AAK*, 2006 ABQB 286; *JP v TNP*, 2016 ABQB 613, and see *Achakzad v Zemaryalai*, 2010 ONCJ 318, where undertakings were found insufficient to control the risk of harm.

<sup>102</sup> E.g. BC FLA, *supra* note 8, s 147(1)(b); ON FLA, *supra* note 8, s 31(2) (child 16 or older).

<sup>103</sup> See Department of Justice, “Inventory of Government-Based Family Justice Services”, online: <<https://www.justice.gc.ca/eng/fl-df/fjs-sjf/sch-rch.aspx?typeID=6>>.

spouses who are seeking a divorce can claim spousal support. In the common-law provinces and territories, however, spousal support is also available to those who have registered their relationship in a prescribed manner<sup>104</sup> or to those who have lived in a conjugal or marriage-like relationship continuously for 2 years,<sup>105</sup> or 3 years,<sup>106</sup> or for a lesser period of time (generally where the parties are parents of a child).<sup>107</sup> In some jurisdictions, claims may also have to be made within a certain time-frame.<sup>108</sup> In some, support may be available for mothers who would not otherwise be eligible in order to address a loss of income or other costs associated with giving birth to a child but only for a limited period of time before and after the birth.<sup>109</sup>

In Québec, an unmarried cohabitant is not entitled to spousal support at all unless the relationship has been solemnized as a civil union or spousal support has been agreed to under a cohabitation or separation agreement.<sup>110</sup> Four judges of the Supreme Court of Canada in 2013 found that this exclusion of unmarried cohabitants did not violate a claimant's rights to equality or constitute discrimination on the basis of marital status because it did not perpetuate prejudice or stereotyping. A fifth judge, McLachlin CJ, found that in any case, such a violation was a reasonable limit under the *Canadian Charter of Rights and Freedoms*.<sup>111</sup> In upholding the exclusion, the plurality emphasized autonomy and a *de facto* spouse's freedom to choose whether to opt into the protections of marriage or of a civil union. By contrast, Abella J, in dissent, found that the purpose of the legal regimes as they applied to married and civil union spouses in Québec was to protect economically vulnerable spouses, who were disproportionately women,

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<sup>104</sup> AB FLA, *supra* note 62, s 1(n), 7; MB FMA, *supra* note 57, ss 1, 4(1); NS PSA, *supra* note 61, s 2(m).

<sup>105</sup> BC FLA, *supra* note 8, s 3; *The Family Maintenance Act, 1997*, SS 1997, c F-6.2, ss 2, 5 (SK FMA); NS PSA, *supra* note 61, s 2(m); NL FLA, *supra* note 57, s 35; NWT FLA, *supra* note 57, s 1(1); NU FLA, *supra* note 57, s 1(1).

<sup>106</sup> AB FLA, *supra* note 62, s 3; MB FMA, *supra* note 62, s 1; ON FLA, *supra* note 8, s 14(2); NB FLA, *supra* note 56, s 14(2)(a) (if the claimant has been “substantially dependent” on the other for support); PEI FLA, *supra* note 57, s 29(b)

<sup>107</sup> BC FLA, *supra* note 8, ss 3(1); AB FLA, *supra* note 62, s 3; SK FMA, *supra* note 105, s 2; MB FMA, *supra* note 62, s 1 (at least one year if parents of a child); ON FLA, *supra* note 8, s 29; NB FLA, *supra* note 56, s 14(2); NS PSA, *supra* note 61, s 2(m); PEI FLA, *supra* note 57, s 29(b); NL FLA, *supra* note 57, s 35; NWT FLA, *supra* note 57, s 1(1); NU FLA, *supra* note 61, s 1(1); YK FPSA, *supra* note 59, 37 (available to those who have cohabited in a relationship “of some permanence”).

<sup>108</sup> E.g. PEI FLA, *supra* note 57, ss 49, 38.1(4) (2 years from date of separation or default in payment of support); BC FLA, *supra* note 8, s 198(2) (2 years after divorce judgment, declaration of nullity or date of separation); YK FPSA, *supra* note 59, s 37 (if unmarried, can apply during cohabitation or not later than 3 months after); NWT FLA, *supra* note 57, s 32 (within 2 years of separation or default in payment of support under a domestic contract); NU FLA, *supra* note 61, s 32 (within 2 years of separation or default in payment of support under a domestic contract).

<sup>109</sup> E.g. SK FMA, *supra* note 105, s 9(1)(f); NB FLA, s 15.

<sup>110</sup> QB CCQ, *supra* note 59, arts 501-02, 585. A civil union is defined as a commitment by two persons 18 years of age or over who consent to live together and contract openly before an official competent to solemnize marriages in front of two witnesses in accordance with formalities that include prior publication, art 521.1-.5. Parties to a civil union have rights similar to those who are married, art 521.6. The total number of civil unions between 2002 and 2019 has been only 4277, see Québec, Banque de données des statistiques officielles sur le Québec, *Mariages et unions civiles selon le sexe des conjoints*, Québec, online:

<[bdso.gouv.qc.ca/pls/ken/ken213\\_afich\\_tabl.page\\_tabl?p\\_iden\\_tran=REPERWIYZS0571704364686286\\*2P~&p\\_1\\_ang=1&p\\_id\\_ss\\_domn=817&p\\_id\\_raprt=814](http://bdso.gouv.qc.ca/pls/ken/ken213_afich_tabl.page_tabl?p_iden_tran=REPERWIYZS0571704364686286*2P~&p_1_ang=1&p_id_ss_domn=817&p_id_raprt=814)>

<sup>111</sup> See *Québec v A*, 2013 SCC 5.

upon the breakdown of relationships of interdependence. According to her and three other judges, the failure to provide a right to spousal support, given the functional similarities between marriages and many unmarried relationships, perpetuated a historic disadvantage based on marital status and could not be justified as a reasonable limit under s 1.

The claimant in *Québec v A* did not claim to be a victim of domestic violence and no one in the judgment referenced the situation of spouses who have experienced domestic violence. However, rates of spousal violence, including homicides, are known to be higher among cohabiting couples who are unmarried.<sup>112</sup> Women in coercive and controlling common-law relationships may also be forced to surrender their salaries, abandon jobs, or sacrifice promotions and be subjected to many other forms of financial abuse. As with married spouses, the economic disadvantages experienced by unmarried cohabitants as a result of the roles they assume in these relationships should be capable of being addressed through spousal support. The inability to obtain spousal support in cases of domestic violence affects not only unmarried survivors but also their children who will have access to less economic support than they would have had if their mother had been married or in a civil union.

Violence or abuse also undermines the conditions that would support the exercise of free and voluntary choice to enter into a civil union or agreement. Madam Justice McLachlin stated that the claimant in *Québec v A* did not choose to forgo the protection of marriage: “A’s real choice was of a different nature: she could either remain in a *de facto* relationship with B, or walk away from it after having become accustomed to the lifestyle she shared with him.”<sup>113</sup> In relationships involving domestic violence, well documented barriers to leaving include an escalation of retaliatory violence, the psychological impact of abuse and the potential for increased risk to children in the post-separation period, along with structural barriers such as traditional gender roles, unpaid child care, inadequate social assistance, unaffordable alternative housing, precarious employment, and immigration uncertainties. In *Fraser v Canada*, the Supreme Court recently held that ‘choice’ should not be unduly emphasized to undermine equality concerns in the employment context, and similar reasoning could be applied in the context of claims by unmarried cohabitants.<sup>114</sup> Québec has undertaken a review of the legal status of conjugal relationships but has not released a report as yet. It is hoped that the province will choose to embark on reforms.

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<sup>112</sup> Maire Sinha, “Intimate partner violence” in Homicide in Canada, 2012, online: <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2013001/article/11805/11805-3-eng.htm>> suggesting that women were four times more likely to be killed by a common-law partner than a married spouse between 2007 and 2011. Rates of spousal violence may generally be higher because individuals in common-law unions are more likely to be younger and have lower socio-economic status: Holly Johnson 2006, *Measuring Violence Against Women: Statistical Trends 2006*. Statistics Canada Catalogue no 85-570-X.

<sup>113</sup> *Supra* note 111 at para 428.

<sup>114</sup> 2020 SCC 28 at para 91 per Abella J (for the majority of six judges).

Differences in the requirements for and definitions of spousal status as between jurisdictions have also been found not to violate the *Charter*.<sup>115</sup> However, enhanced eligibility and greater consistency within and between jurisdictions would be desirable not only to provide greater relief for the mothers and children subjected to domestic violence, who need time to recover and heal from their experiences<sup>116</sup> but also to minimize confusion for claimants as to their legal entitlements. Common-law partners may lack accurate information as to their rights as definitions of status can change depending on the right or benefit in question. Spousal definitions may differ as between private and public benefits and between federal and provincial benefits as well as change as one moves across jurisdictions, giving rise to substantial confusion.

For those who are entitled to claim spousal support in their jurisdiction, domestic violence may be relevant to the amount of support ordered as it may cause, prolong or increase the need for support i.e. the capacity of the claimant/victim to achieve self-sufficiency. Several statutes explicitly recognize that misconduct may be relevant in this way<sup>117</sup> or have allowed for consideration of a “course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship.”<sup>118</sup> None explicitly identify domestic violence.

Domestic violence may also be relevant to the impact of domestic contracts or separation agreements that waive or limit the payment of spousal support. Under the *Divorce Act*, courts will generally look at whether the agreement was fairly negotiated; whether it substantially complies with the objectives of spousal support and whether there are new circumstances not reasonably anticipated at the time of the agreement.<sup>119</sup> Several jurisdictions provide that domestic contracts will be binding unless they are unconscionable, or the claimant qualifies for or is dependent upon social assistance, or there has been default in the payment of support.<sup>120</sup> The test of unconscionability in the commercial arena of contract law is a stringent test to meet. In British Columbia, an agreement may be overturned in what appear to be broader circumstances such as significant non-disclosure, taking improper advantage of vulnerability including ignorance, need or distress; lack of understanding of the nature of the agreement or its consequences; other circumstances that would cause the agreement to be voidable (e.g. duress); or where the agreement is “significantly unfair” in light of conditions since the agreement or in

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<sup>115</sup> See *Brebec v Niksic*, 2002 CFLG para 25.814 (OCA) where the 3-year prerequisite in the Ontario act was found to be a justifiable “attempt to target only those relationships of sufficient duration and demonstrated permanence as to justify the imposition of ongoing support obligations after the termination of the relationship.”

<sup>116</sup> While civil claims for damages arising from domestic violence may be launched, drawbacks include more substantial emotional and legal costs, relatively low awards and a reduced chance of enforcing awards. Civil claims are discussed more fully in Section I.

<sup>117</sup> BC FLA, *supra* note 8, s 166; AB FLA, *supra* note 62, s 59; ON FLA, *supra* note 8, s 33(9); YK FPSA, *supra* note 59, s 34(4) (but may refuse support if dependent has remarried or is cohabiting in another relationship of some permanence, s 34(5)); NB FLA, *supra* note 56, s 23(2).

<sup>118</sup> E.g. NL FLA, *supra* note 57, s 39(10); NWT FLA, *supra* note 57, s 16(10); NU FLA, *supra* note 61, s 16(10).

<sup>119</sup> See *Miglin v Miglin*, 2003 SCC 24.

<sup>120</sup> NB FLA, *supra* note 56, s 27; PEI FLA, *supra* note 57, s 32(4); NL FLA, *supra* note 57, s 46; YK FPSA, *supra* note 59, s 34(3); NWT FLA, *supra* note 57, s 19 (in default for 3 months); NU FLA, *supra* note 61, s 19 (in default for 3 months); MB FMA, *supra* note 62, s 9(3) (only if in default, if amount inadequate given circumstances at the time of the agreement, or if claimant receiving public assistance);

light of the objectives of spousal support.<sup>121</sup> These are still high thresholds to meet; however, courts should be sensitive to the distinctive experiences and vulnerabilities of survivors, particularly those who are experiencing coercive control and who enter into agreements to waive or limit support.<sup>122</sup>

### Family Property Division

Provincial and territorial statutes allowing for claims to property division generally aim to recognize that there is joint contribution in a spousal relationship that presumptively entitles each spouse to an equal share of family property upon the breakdown of the relationship.<sup>123</sup> Again, women are more likely to be claimants for the distribution of family property given their primary role in the rearing of children and the greater chance that assets are held or controlled by male partners.

As with spousal support and claims to exclusive possession, however, there are significant differences based on marital status across jurisdictions in terms of entitlement to a share of family property. All recognize that married persons or those who have entered into a marriage that is void or voidable in some circumstances may apply for division of family property. However, claims by unmarried persons are limited in some jurisdictions to those who have registered their relationship in a prescribed manner<sup>124</sup> or have cohabited in a conjugal or marriage-like relationship continuously for two years<sup>125</sup> or three years.<sup>126</sup> In most jurisdictions, claims must be

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<sup>121</sup> BC FLA, *supra* note 8, s 164(5).

<sup>122</sup> Among other reasons, mothers may agree to such waivers as a result of a fear of retaliation, pressure or intimidation, or the normalization and psychological impact of abuse or in an effort to secure custody or primary residence of children or end the abuse as soon as possible.

<sup>123</sup> See also the discussion of FHRMIRA, below.

<sup>124</sup> *The Family Property Act*, CCSM c F25, s 1(1) (MB FPA); QB CCQ, *supra* note 59, arts 521.1ff.

<sup>125</sup> BC FLA, *supra* note 8, s 3; SK FPA, *supra* note 61, s 2(1); NWT FLA, *supra* note 57, s 1(1) (or have lived in a conjugal relationship of “some permanence” and are the biological or adoptive parents of a child); NU FLA, *supra* note 61, s 1(1) (or have lived in a conjugal relationship of “some permanence” and are the biological or adoptive parents of a child).

<sup>126</sup> AB FPA, *supra* note 62, s 7 (must also be divorced or have lived separate and apart for one year unless seeking order to restrain dispositions under s 34); MB FPA, *supra* note 124, s 1(1).

made within a limited time frame.<sup>127</sup> An equal sharing of family property is typically presumed, subject to some exceptions or equitable considerations.<sup>128</sup>

Misconduct between spouses is generally relevant only if a spouse has intentionally or recklessly dissipated, squandered, or transferred property in an attempt to defeat the claim of the other spouse. Most jurisdictions allow for orders that restrain such conduct or take account of it in making an equalization order.<sup>129</sup> Misconduct may also be relevant to the validity of agreements with respect to a division of assets entered into before, during or after separation. However, agreements are generally binding subject to fairly narrow exceptions, none of which explicitly identify domestic violence.<sup>130</sup> This is particularly true if agreements have been negotiated with adequate disclosure and the assistance of legal counsel<sup>131</sup> although the Supreme Court of Canada has held that courts should not assume that “the mere presence of professional assistance automatically [has neutralized] vulnerabilities.”<sup>132</sup> Courts must be attentive to trauma and the impact of coercive control on survivors, particularly those in long term relationships, when deciding whether to set such agreements aside. These outcomes also underscore the importance of screening by lawyers and FDR professionals along with measures to ensure safety and support survivors in their recovery from abuse in order to achieve substantively fair agreements.

In six jurisdictions, unmarried partners have no statutory rights<sup>133</sup> or have rights only if they are able to, and have, registered their relationships in a prescribed manner.<sup>134</sup> They may be able to

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<sup>127</sup> E.g. BC FLA, *supra* note 8, s 198(2) (within two years after divorce judgment, declaration of nullity or date of separation for unmarried cohabitants); AB FPA, *supra* note 62, ss 5-6 (includes 2 years after divorce judgment or after cohabitation ceases, whichever occurs first); SK FPA, *supra* note 61, s 3.1 (prior to divorce or within 2 years after cohabitation ceases for unmarried claimants); MB FPA, *supra* note 124, ss 19, 19.1 (within 60 days of divorce taking effect or from dissolution of partnership or 3 years of separation, subject to possible extensions); *Matrimonial Property Act*, RSNS 1989, c 275, s 2 (prior to divorce or declaration of nullity) (NS MPA); PEI FLA, *supra* note 57, s 7(3) (earlier of 2 years after divorce or judgment of nullity; six years after separation); NL FLA, *supra* note 57, s 21(3) (earliest of 2 days after divorce or judgment of nullity, 6 years after separation); see also, ON FLA, *supra* note 8, s 7(3); NB MPA, *supra* note 59, ss 3(2), (4); YK FPSA, *supra* note 59, s 22; NWT FLA, *supra* note 57, ss 38(3), 51; NU FLA, *supra* note 61, ss 38(3), 51. Different limitation periods apply to claims made by after the death of a spouse.

<sup>128</sup> E.g. SK FPA, *supra* note 61, s 20. Some statutes distinguish between the family home and other assets or between family and commercial assets and apply different presumptions to each, e.g. MB FPA, *supra* note 124; NB MPA, *supra* note 59 (marital and non-marital property).

<sup>129</sup> E.g. BC FLA, *supra* note 8, s 91; YK FPSA, *supra* note 59, s 42.

<sup>130</sup> E.g. BC FLA, *ibid*, s 93 (where “improper advantage” was “taken of other spouse’s vulnerability” such as ignorance, need or distress); SK FPA, *supra* note 61, s 24 (unconscionable or grossly unfair if an interspousal contract); NS MPA, s 29 (if “unconscionable, unduly harsh on one party, or fraudulent”); PEI FLA, *supra* note 57, s 55(4) (e.g. failure to disclose significant assets or debts); ON FLA, *supra* note 8, s 56(4) (may set aside if failure to disclose significant assets, failure to understand nature or consequences of the contract when entered into or otherwise according to contract law).

<sup>131</sup> See e.g. *Hartshorne v Hartshorne*, 2004 SCC 22 and see BC FLA, *ibid* (amended in 2013).

<sup>132</sup> *Rick v Brandsema*, 2009 SCC 10 at para 60.

<sup>133</sup> ON FLA, *supra* note 8, applies only to married spouses upon a breakdown of their marriage; NB MPA, *supra* note 59, s 1 (only married parties); NL FLA, *supra* note 57, s 21(1) (if getting a divorce, marriage a nullity or have separated with no reasonable prospect of resuming cohabitation); YK FPSA, *supra* note 59, s 1.

<sup>134</sup> The QB CCQ, *supra* note 59, provides rights in relation to the family patrimony and a sharing of gains through a partnership of acquests but only for parties who are married or have registered their relationship as a civil union, arts

advance claims under the law of unjust enrichment for a constructive trust<sup>135</sup> but lacking presumptions of equal sharing, such claims are much less predictable in terms of outcomes, often generate lower awards, and are more difficult to prove and costly to litigate.

Exclusions arising from marital status to the statutory regime governing the distribution of family property have been upheld in two Supreme Court of Canada challenges, including the *Québec v A* decision previously discussed.<sup>136</sup> In both cases, a majority or plurality of the Supreme Court emphasized autonomy and freedom of choice in relation to spousal obligations and dissenting judges emphasized the need for protection of vulnerable women and the lack of informed choice and equal bargaining power in situations of cohabitation. However, three judges who had found the exclusion of spousal support to be unjustifiable because of its failure to meet the basic needs of a common-law partner were unwilling to make a similar finding in relation to property division. This left only Abella J finding both exclusions to be unjustified in *Québec v A*. The right of unmarried cohabitants to property division is far more controversial than the rights to spousal support, largely because of perceived differences in the nature and impact of the obligation and the diversity of cohabiting relationships. The lack of access to family property legislation, however, can pose significant hardships, particularly for cohabiting spouses with children who are experiencing violence. Arguably, heterogeneity in the population affected can be reduced by imposing threshold requirements of cohabitation for a set period of time, as most jurisdictions have done, and by allowing parties to opt out of the legislation by way of contract, with appropriate safeguards in place.

In addition to constraints arising from marital status, the ability of First Nations women to obtain a division of family property on reserves has been a longstanding concern. The FHRMIRA recognizes the authority of First Nations to enact their own laws regarding interests in land or structures on reserves as between married and common law partners (those who have lived together for one year) and until such time, provides provisional default rules for the division of rights and interests. These rules set out a presumptive half interest in the family home and a share of additional interests if they are a First Nation member or Indian.<sup>137</sup> Applications must be made within 3 years after the parties have ceased to cohabit, subject to an extension in some circumstances.<sup>138</sup> The depletion of assets may be restrained.<sup>139</sup> Given the many barriers to usage by Indigenous women of Canadian courts, more research is needed to determine whether this Act has been at all effective in improving their access to a division of family property on reserves.

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<sup>135</sup> 396, 432, 414ff, 521ff; NS MPA, *supra* note 127, s (applies to married persons or those in a registered partnership upon breakdown of the spousal relationship).

<sup>136</sup> See *Peter v Beblow*, [1993] 1 SCR 980; *Kerr v Baranow*, 2011 SCC 10 and QB CCQ, *supra* note 59, arts 1493-1496.

<sup>137</sup> *Nova Scotia (Attorney General) v Walsh*, 2002 SCC 83; *Québec v A*, *supra* note 111.

<sup>138</sup> FHRMIRA, *supra* note 31, s 28 subject to factors set out in s 29.

<sup>139</sup> FHRMIRA, *ibid*, s 30.

<sup>139</sup> FHRMIRA, *ibid*, s 32.

## Family Dispute Resolution (FDR)

Legislatures and courts have for some time encouraged dispute resolution of family law cases through processes other than court-based adjudication. Such processes may include negotiation, mediation, collaborative law services, parenting coordination, arbitration, and judicial dispute resolution. The amended provisions of the *Divorce Act* now impose a duty on the parties to try to resolve conflict through family dispute resolution processes “to the extent it is appropriate.”<sup>140</sup> Legal advisors also have a duty to advise their clients of dispute resolution processes and encourage their use, unless “clearly” inappropriate.<sup>141</sup> Several provinces had either before the amendments or have, in their wake, incorporated some or all of these duties in their family legislation.<sup>142</sup>

A number of issues arise in this context: are such processes being mandated at some stage of the litigation process and how does mandatory FDR affect women experiencing violence? Are family dispute resolution professionals required to be adequately trained in and screen for domestic violence? Is independent legal advice being provided before parties are required to engage in such processes? What costs are being imposed on parties to family disputes?

Under the *Divorce Act*, a judge may order a DR process<sup>143</sup> and under most provincial and territorial statutes, judges may also be empowered, on the request of a party or on their own initiative, to order a mediation session and/or adjourn family proceedings for such a purpose.<sup>144</sup> In some of these instances, it appears that mediation may occur without the consent of both

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<sup>140</sup> *Divorce Act*, *supra* note 72, s 7.3.

<sup>141</sup> *Ibid*, s 7.7(2)(a).

<sup>142</sup> E.g. AB FLA, *supra* note 62, s 5(1)(b) (duty on lawyers to inform clients of types of DR); SK FPA, *supra* note 61, s 44.1(1); SK FMA, *supra* note 105, s 16; SK CLA, *supra* note 56, s 20 (lawyers must advise of mediation and collaborative law services); ON CLRA, *supra* note 8, s 33.1, 33.2; QB CCP, *supra* note 59, art 2; NB FLA, *supra* note 56, ss 5(3), 6; NS PSA, *supra* note 61, s 54C(1) (lawyers must advise of negotiation and alternative dispute resolution); PEI CLA, *supra* note 56, ss 3(3), 4

<sup>143</sup> *Divorce Act*, *supra* note 72, s 16.1(6).

<sup>144</sup> E.g. AB FLA, *supra* note 62, s 97; SK QBA, *supra* note 56, s 96; SK FMA, *supra* note 105, s 15; SK CLA, *supra* note 56, s 18; *The Court of Queen's Bench Act*, CCSM c C280, s 47(1) (MB QBA); ON CLRA, *supra* note 8, s 31(1); QB CCP, *supra* note 8, art 420; NB FLA, *supra* note 56, ss 8, 52(4)(d); *Nova Scotia Civil Procedure Rules*, Royal Gaz Nov 19, 2008, ss 59.18, 59.30, 59A.040 (NS SC Rules); *Family Court Rules*, NS Reg 20/93 as amended, ss 6.14-6.16 (court-based ADR) (NS PC Rules); PEI FLA, *supra* note 57, s 3; PEI CLA, *supra* note 56, ss 13(2), 39(6); NL CLA, *supra* note 56, s 37, NL FLA, *supra* note 57, s 4; YK CLA, *supra* note 56, s 42; NWT CLA, *supra* note 56, s 71, NWT FLA, *supra* note 57, s 58; NU CLA, *supra* note 56, s 71, NU FLA, *supra* note 61, s 58. In BC, a party may give notice of mediation to the other party and each must attend a pre-mediation meeting, sign an agreement to mediate and attend a mediation session, *Law and Equity Act*, RSBC 1996, c 253, s 68; *Notice to Mediate (Family) Regulation*, BC Reg 296/2007 (BC Notice), s 16, subject to some exemptions such as where a protection order has been obtained or a peace bond or the mediator finds it inappropriate or likely to be unproductive, ss 23, 26 (court may exempt where not likely to succeed or for any other appropriate reason).

parties.<sup>145</sup> In only a few of these are courts expressly required by statute to consider whether there has been an equal balance of power between the parties or family or spousal violence.<sup>146</sup>

While the *Divorce Act* stops short of generally requiring parties to engage in FDR, several provinces and territories in their family legislation or rules of court do generally mandate participation in family dispute resolution at some stage of the proceedings.<sup>147</sup> For example, the Rules of Court may require that triage and case conferences be held before parties can proceed with their claims.<sup>148</sup> In Manitoba, these conferences normally explore the possibility for settlement but applicants may request an “emergent hearing” where there is “immediate or imminent risk of harm to a party or a child of a party”, the loss or destruction of property or removal of a child from the province.<sup>149</sup> Legislation in some provinces has recently encouraged the arbitration of family disputes<sup>150</sup> and also allowed for the appointment of parenting coordinators who will have the authority to determine minor parenting disputes between the parties.<sup>151</sup>

In Alberta and Saskatchewan, parties are further required to certify that they have participated in an FDR process or obtain an exemption from or waiver of such a requirement.<sup>152</sup> In both jurisdictions, a FDR process appears to be defined narrowly to exclude conventional negotiations between lawyers.<sup>153</sup> Exemptions from or waivers of such requirements entail a court application

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<sup>145</sup> AB FLA, *supra* note 62, s 97; SK QBA, *supra* note 56, s 96; MB QBA, *ibid*, s 47(1), QB CCP, *supra* note 8, art 420; NB FLA, *supra* note 56, ss 8, 52(4)(d); NS SC Rules, *ibid*, ss 59.18, 59.30, 50A.040 and NS PC Rules, *ibid*, ss 6.14-6.16.

<sup>146</sup> QB CCP, *supra* note 8, art 420; PEI CLA, *supra* note 56, ss 31(2), 39(6); *Rules of the Supreme Court, 1986*, SNL 1986, c 42, Sch D F24.01(2)(f) (NL SC Rules).

<sup>147</sup> Parties may also be required to attend parenting education sessions, e.g. SK QBA, *supra* note 56, s 44.1, though a party may be exempted if they have sought interim custody incidental to an *ex parte* application for a restraining order where there has been domestic violence, where a child has been kidnapped or abducted, or where a judge finds “extraordinary circumstances,” s 44.1(9). Parties may be exempt from mandatory parenting education sessions. In Québec if they file a certificate verifying that they have sought help at a victim assistance association as a victim of domestic violence, QB CCP, *supra* note 8, art 417.

<sup>148</sup> E.g. *Court of Queen’s Bench Rules*, Man Reg 553/88, ss 70, 70.24(12) (MB QB Rules). In Ontario, at least one case conference is required at the beginning of each proceeding and parties are to attend unless the court orders otherwise (*Family Law Rules*, O Reg 114/99, Rules 17(1), 15). A judge may also require the parties to attend an intake meeting with a court-affiliated mediation service (Rule 8(b)(iii)).

<sup>149</sup> MB QB Rules, *ibid*, s 70.24(12). In Ontario, a motion for a temporary order may proceed without a conference if the court finds that “there is a situation of urgency or hardship or that a case conference is not required for some other reason in the interest of justice”, *ibid*, Rule 14(4.2).

<sup>150</sup> *The Arbitration Act*, CCSM c A120 s 31.1; e.g. SK CLA, *supra* note 56, s 19. In both Manitoba and Saskatchewan arbitral awards must accord with provincial and federal law to be enforceable, *The Arbitration Act, 1992*, SS 1992, c A-24.1, s 32(2); see also *Arbitration Act, 1991*, SO 1991, c 17 but see QB CCQ, *supra* note 59, art 2639 which prohibits the use of arbitration in family matters.

<sup>151</sup> BC FLA, *supra* note 8, ss 14-19; SK CLA, *supra* note 56, ss 30-36; PEI CLA, *supra* note 56, s 14(1).

<sup>152</sup> Alberta Court of Queen’s Bench, “Notice to the Profession & Public - Enforcement of Mandatory Alternative Dispute Resolution Rules 8.4(3)(A) and 8.5(1)(A) (July 2019), extended indefinitely in Sept 2020 by a Notice to the Profession, online: <<https://albertacourts.ca/qb/resources/announcements/extension-mandatory-ADR-rule>>; SK QBA, *supra* note 56, s 44.01 (in prescribed judicial centres). Parenting education or information sessions have also been mandated in some jurisdictions, see SK QBA, *ibid*, s 44.

<sup>153</sup> *Alberta Rules of Court*, Alta Reg 124/2010, s 4.16(2) (includes mediation, arbitration, court-based DR process, a collaborative law process or judicial dispute resolution) (AB Rules); SK QBA, *supra* note 56, s 44.01(1) (includes the

and proof of a “compelling reason” in Alberta<sup>154</sup> or in Saskatchewan, among other circumstances, proof of a restraining order against one party or a “history of interpersonal violence.”<sup>155</sup> In Manitoba, a Family DR (Pilot Project), when in effect, will require that a resolution officer first assist parties in reaching agreement on support, parenting and property issues and failing settlement, that an adjudicator recommend an order before a court hearing.<sup>156</sup> These requirements will not apply to proceedings under the *Divorce Act* and a party can request an expedited order where circumstances would justify an emergent hearing, or where there is a no contact order in effect.<sup>157</sup> Problematically, these requirements force a survivor to either disclose violence or participate in the process, both of which options can place her at risk. Short of abandoning mandatory FDR entirely and in light of the serious consequences for survivors in failing to obtain an exemption, all jurisdictions should exempt cases from the FDR process whenever allegations of family violence are advanced, and an exemption sought.

In terms of the FDR process itself, some jurisdictions explicitly require that FDR professionals screen for domestic violence<sup>158</sup> and/or receive training in the dynamics of domestic violence.<sup>159</sup> However, screening and training does not appear to be required in Alberta, where participation in an FDR process is mandatory, and in Manitoba, resolution officers and adjudicators need only ask the parties questions regarding a history of domestic violence and contact with law enforcement agencies and training is not required. In all jurisdictions, thorough screening for family violence should be mandatory before a FDR process is undertaken and training in family violence and power imbalances should also be required.

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services of an arbitrator, family mediator, family arbitrator or parenting coordinator, other collaborative law services or any other process or service prescribed by the regulations). A failure to participate may result in the striking out of pleadings, denial of submissions, an order to participate or costs and other relief, s 44.01(5).

<sup>154</sup> AB Rules, *ibid*, s 4.16(2).

<sup>155</sup> SK QBA, *supra* note 56, s 44.01(6).

<sup>156</sup> *The Family Law Modernization Act*, SM 2019, c 8 contains *The Family Dispute Resolution (Pilot Project) Act* (FDRPPA).

<sup>157</sup> *Ibid*, s 3(3).

<sup>158</sup> BC FLA, *supra* note 8, s 8 (FDR professionals, including family law lawyers, must assess whether family violence is present and its impact on the safety of the parties and ability to negotiate a fair agreement); BC Notice, *supra* note 144, s 13. In the Manitoba FDRPPA, *supra* note 156, both the resolution officer and adjudicator must consider whether resolution could “expose a party or a child to a risk of DV or stalking” and must ask regarding a history of DV, police involvement and prior or existing orders restricting contact or communication, s 39. Arbitrators must also ask the parties whether there has been a history of domestic violence or stalking or related contact with a law enforcement agency or a no-contact order, see also *Family Arbitration Regulation*, Man Reg 105/2019 but there is no requirement for training; PEI CLA, *supra* note 56, s 11 (DR professional or lawyer must screen for family violence and its impact.

<sup>159</sup> *Family Law Act Regulation*, BC Reg 347/2012, ss 4-6 require training for mediators, arbitrators and parenting coordinators, see also the BC Notice, *supra* note 144; in Saskatchewan, *The Queen’s Bench Regulations*, c Q-1.01 Reg 1, s 7.4 (14 hours of training for mediators and collaborative lawyers), *The Arbitration Regulations*, A-24/1 Reg 1. s 3(1)(b)(iii) (14 hours for arbitrators); *The Children’s Law Regulations*, 2021, SR9/2021, s 4 (14 hours for parenting coordinators). Arbitrators in Ontario must receive 14 hours of training on screening for domestic violence and power imbalance and certify to screening, *Arbitration Act*, 1991, SO 1991, c 17, s 58; O Reg 134/07, ss 2-4; *Regulation Respecting Family Mediation*. CQLR c C-25.01, r 0.7, s 2(4) (mediators must complete at least 6 hours of domestic violence training); in PEI, *Children’s Law Act Parenting Coordinator Regulations*, PEI Reg EC99/21, s 4(3)(viii), (must have 12 hours of family violence training).

Further research is required to identify the emotional and financial cost of many of the above measures for litigants who are experiencing family violence along with the risks they may be exposed to. The use of arbitrators, parenting coordinators, mediators or collaborative lawyers or the dispute resolution process to be adopted in Manitoba will all impose additional financial costs on parties unless such services are publicly funded in some measure. In addition, there appears to be no requirement that parties are able to access and receive independent legal advice before they are required to use such processes. Independent legal advice is needed to ensure that parties understand what they are entitled to at law in their particular circumstances, especially where they have been subject to coercive control, abuse and manipulation by the other parties. Many of the legal norms in family law were developed to protect vulnerable parties through presumptions of equal division and support obligations and to protect children through norms such as the best interests of the child. In the absence of legal advice, parties may give up legal entitlements or expose themselves to unanticipated risks.

Mandatory FDR is highly controversial and gives rise to numerous other issues that cannot be canvassed here. These issues include: the role of children in such processes; how family violence should be defined; whether FDR professionals can accurately screen or manage power imbalances and how an exemption process should be designed; the impact of forced disclosure by victims on their safety (both physical and emotional security) and the need for confidentiality of disclosures and information that can compromise safety. In any case, where mandatory FDR is being implemented, it should be subject to: consideration of the impact of family violence on safety and the ability to negotiate a fair agreement; free or affordable FDR services and independent legal advice; automatic exemptions for those disclosing domestic violence, and appropriate training in and screening requirements for family violence for FDR professionals.

#### D. Child Protection Laws

Child protection statutes are intended to authorize the provision of services to families where children are experiencing harm or are likely at risk of harm. In the absence of adequate supports and services, mothers who are experiencing IPV may be seen to have failed in their duty to protect their children. Child protection agencies are generally authorized to remove children from parents or caregivers where there are reasonable/probable grounds to believe that they are in need of protection or intervention and/or are at risk of serious harm or cannot otherwise be adequately protected.<sup>160</sup> These statutes are known to disproportionately impact mothers and

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<sup>160</sup> *Child, Family and Community Services Act*, RSBC 1996, c 46, s 27 (BC CFCSA) (where health or safety is in immediate danger); *Child, Youth and Family Enhancement Act*, RSA 2000 c C-12 (AB CYFEA), ss 17-18; *The Child and Family Services Act*, SS 1989-90, c C-7.2 (SK CFSA) (where at risk of incurring serious harm and no other arrangements are practicable), s 17(1)); MB CDSA, *supra* note 56, s 21; ON CYFSA, *supra* note 57, s 81(7); *Youth Protection Act*, CQLR c P-34.1 (QB YPA), ss 25, 46; *Family Services Act*, SNB 1980 c F-2.2 (NB FSA), s 32; *Children and Family Services Act*, SNS 1990 c 5 (NS CFS), s 33; *Child Protection Act*, RSPEI 1988, c C-5.1, (PEI CPA) s 23; *Child, Youth and Families Act*, SNL 2018 c C-12.3, (NL CYFA) s 20(3) (immediate risk without warrant); *Child and Family Services Act*, SY 2008, c 1 (YK CFS), s 39(1) (to protect from “immediate danger”); *Child and Family*

children who are Indigenous, Black (in some locales) or who are living with disabilities or in poverty.<sup>161</sup>

A child is generally defined to be in need of protection where they have been or are likely to be physically, sexually or emotionally harmed by their parent or caregiver.<sup>162</sup> Emotional harm may explicitly include living in a situation where there is domestic violence by or towards a person who the child lives with.<sup>163</sup> Several statutes specifically identify “exposure” to family violence or “severe domestic disharmony” itself as a ground for intervention or as relevant to best interests.<sup>164</sup> Domestic violence is not defined in several statutes<sup>165</sup> and in some the definition may not include coercive or controlling violence.<sup>166</sup> The Alberta statute is unique in that it also

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*Services Act*, SNWT 1997, c 13, (NWT CFS) ss 10,11; *Child and Family Services Act*, SNWT (Nu) 1997, c 13 (NU CFS), ss 10, 11.

<sup>161</sup> See e.g. Barbara Fallon et al, “Ontario Incidence Study of Reported Child Abuse and Neglect-2018 (OIS-2018)” (2020) Toronto, ON: Child Welfare Research Portal at 41-48; online: <<https://cwrp.ca/sites/default/files/publications/Ontario%20Incidence%20Study%20of%20Reported%20Child%20Abuse%20and%20Neglect%202018.pdf>> and Ontario Human Rights Commission, “Interrupted Childhoods: Over-Representation of Indigenous and Black Children in Ontario Child Welfare” (2018), online (pdf): <[www.ohrc.on.ca/sites/default/files/Interrupted%20childhoods\\_Over-representation%20of%20Indigenous%20and%20Black%20children%20in%20Ontario%20child%20welfare\\_accessible.pdf](http://www.ohrc.on.ca/sites/default/files/Interrupted%20childhoods_Over-representation%20of%20Indigenous%20and%20Black%20children%20in%20Ontario%20child%20welfare_accessible.pdf)> (finding that Black children are over-represented in 30% and Indigenous children are over-represented in 93% of the 27 agencies under review, at 4).

<sup>162</sup> BC CFCSA, s 13(1); MB CFS, s 17 (where child’s “life, health or emotional well-being” is “endangered by the act or omission of a person” or is abused or likely to suffer harm or injury due to the “behavior, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;” ON CYFSA, s 74(2) (the child has suffered or there is a risk the child is likely to suffer physical harm, sexual abuse or exploitation or emotional harm (shown by serious anxiety, depression, withdrawal, self-destructive or aggressive behavior or delayed development, where reasonable grounds to believe the emotional harm results from the conduct of the parent); NL CYFA, s 10(1)(f); YK CFS, s 21(1), (3) (emotional harm by exposure to a “pattern of behavior by the parent or another person that is detrimental to the child’s emotional or psychological well-being, where the parent does not protect the child”) (all *supra* note 160).

<sup>163</sup> E.g. BC CFCSA, s 13(1.2); QB YPA, s 38 (psychological ill-treatment is indicative of danger and defined as a situation in which a child is seriously and repeatedly subjected to behaviour on the part of the child’s parents or another person that could harm the child, and the child’s parents fail to take the necessary steps to put an end to the situation. This includes denigration, emotional rejection, excessive control, isolation, threats, exploitation, and “exposure to conjugal and domestic violence” (these terms are not defined). Justification of any such situation by way of ideology or “other consideration,” including the concept of honour, is expressly prohibited.); NL CYFA, s 10(3)(h) (all *supra* note 160).

<sup>164</sup> AB CYFEA, s 1(3)(ii)(c); SK CFS, s 11 (includes a child who is or likely to be exposed to “interpersonal violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child”); NB FSA, s 31(1), (2); NS CFS, s 22(2)(i) (child has been exposed to or made aware of violence by or towards a parent and the parent or guardian fails or refuses to obtain services or treatment or take other measures to remedy the violence); PEI CPA, s 9(m)(n); NL CYFA, s 10(1)(l), (m), (n); YK CFS, s 4(1)(j) (relevant to best interests); NWT CFS, s 7(3)(j)(k) (exposure to domestic violence and child has suffered or is at substantial risk of suffering physical or emotional harm from that exposure and the “parent fails or refuses to obtain services, treatment or healing processes to remedy or alleviate the harm”); NU CFS, s 7(3)(p) (“child “is repeatedly exposed to family violence and the child’s parent is unwilling or unable to stop such exposure”)) (all *supra* note 160).

<sup>165</sup> BC CFCSA, s 13; QB YPA, s 38 (both *supra* note 160).

<sup>166</sup> E.g. SK CFS, “interpersonal violence” is defined in SK VIVA, *supra* note 8, s 2(e.1) to include intentionally or recklessly causing bodily harm or property damage or a reasonable fear thereof or forced confinement, sexual abuse, harassment and deprivation of necessities, *supra* note 160.

provides that intervention services should be provided to the family in a way that supports the abused family member and prevents the need to remove the child from their custody.<sup>167</sup> The mandate to provide services, if followed through in practice, could prevent removal of a child from a survivor and support her in parenting her children.

Statutes usually allow for mediation or alternative dispute resolution processes such as plan of care committees with consent of the parties.<sup>168</sup> Our statutory scan does not reveal requirements for training in domestic violence by social workers or those involved in mediation or ADR but policy manuals may require screening for domestic violence and presumably some training.<sup>169</sup> Two jurisdictions explicitly provide for the exclusion of persons who are subject to no contact orders from participation in plan of care committees or cooperative planning processes.<sup>170</sup> Such provisions should be in place across all jurisdictions.

All statutes impose a duty to report where there are reasonable and probable grounds to believe a child is in need of protection or intervention unless solicitor-client privilege applies.<sup>171</sup> Several statutes make it an offence to fail to report.<sup>172</sup>

Access to a parent is generally available while children are in state care.<sup>173</sup> In Ontario, access is to be supervised if a parent has been charged with or convicted of a criminal offence involving violence against a child or other parent of a child.<sup>174</sup>

All statutes have provisions that mandate consideration of cultural and spiritual heritage or Indigenous traditions, customs and language in relation to a child's best interests<sup>175</sup> and most

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<sup>167</sup> AB CYFEA, *supra* note 160, s 2(1)(i).

<sup>168</sup> BC CFCSA, s 22; AB CYFEA, s 3.1; SK CFSA, s 15(1); ON CYFSA, s 17(1) (Society must consider whether ADR could help resolve the dispute or establish a care plan); NB FSA, s 31.1(2); but see QB YPA, s 76.0.5 (court can require a settlement conference); NS CFSA, s 21; PEI CPA, s 16 (Director may initiate "alternative approaches" to help develop plans of care); NL CYFA, s 13, 34 (may use ADR processes to develop a plan for a child; judge may adjourn for that purpose); YK CFSA s 7(4); NWT CFSA s 3; NU CFSA, ss 14-23.1 (all *supra* note 160).

<sup>169</sup> E.g. in Ontario all referrals are to be screened for domestic violence and a gender-based intersectional analysis applied to assessments of risk, Ontario Child Protection Standards (2016), at 22, 27.

<sup>170</sup> NWT CFSA, s 17(1) (re plan of care committees); YK CFSA s 7(2) (cooperative planning processes may be offered but may exclude a person who may "compromise the safety" of others or is subject to a no-contact order) (both *supra* note 160).

<sup>171</sup> BC CFCSA, s 14; AB CYFEA, s 14; SK CFSA, s 12 (includes Crown privilege as well); MB CFSA, s 18(2); ON CYFSA, s 125(10, (11); NB FSA, s 30; PEI CPA, s 10; NL CYFA, s 11; YK CFSA, s 22(1); NWT CFSA, s 8; NU CFSA, s 8 (all *supra* note 160).

<sup>172</sup> BC CFCSA, s 14; AB CYFEA, s 14(3), (6); ON CYFSA, s 125(9) (applies to particular professions); QUE YPA, s 39 (everyone except lawyers and notaries has a duty to report if reasonable grounds to believe child is in danger due to sexual or physical abuse; non-professionals have no duty to report a child endangered by psychological ill-treatment which includes exposure to conjugal and domestic violence); NS CFSA, ss 23(3)-25A (all *supra* note 160).

<sup>173</sup> E.g. NWT CFSA, *supra* note, s 28 (where temporary or permanent custody order).

<sup>174</sup> BC CYFSA, *supra* note 160, s 107.

<sup>175</sup> BC CFCSA, s 4(2), AB CYFEA, s 2(1); SK CFSA, s 4; MB CFSA, s 2(1) (services are to be culturally appropriate, s 7(1)); ON CYFSA, s 74(3)(b); QUE YPA, s 3; NS CFSA, s 3(2)(g), 47A (need to develop a "cultural connection plan" for children in permanent care); PEI CPA, s 2(2)(i)(j); NL CYFA, s 9(2)(f); NB FSA s 1(g); YK CFSA s 2(d), 4(2); NWT CFSA, s 3; NU CFSA, s 3 (all *supra* note 160).

mandate notice to First Nations and other Indigenous representatives of protection proceedings.<sup>176</sup> In the Northwest Territories, conditions that define whether a child needs protection must be interpreted “with respect for different cultural values and practices and in accordance with community standards”<sup>177</sup> and in Nunavut, the legislation itself sets out Inuit societal values that are to guide its interpretation and application.<sup>178</sup>

These provisions are consistent with and furthered by *An Act respecting First Nations, Inuit and Metis children, youth and families*<sup>179</sup> (the Act). This federal statute affirms the inherent jurisdiction of Indigenous peoples to govern child welfare and establishes a process that will enable the exercise of such jurisdiction subject only to the best interests of the child principle and human rights laws.

The Act also establishes minimum national standards that govern the assessment of best interests in all child and family service matters involving First Nation, Metis and Inuit children across Canada. The most noteworthy and promising practices include the following (with emphasis added):

- The physical, emotional and psychological security of the Indigenous child *as well as* the importance to that child of having an ongoing relationship with their family and Indigenous group, community or people are primary concerns (s 10(2)).
- In considering a child’s best interests, the following factors are relevant and *are to be interpreted in accordance with Indigenous laws “to the extent that it is possible to do so”* (s 9(4)):
  - The child’s “culture, language, religion and spiritual heritage” along with the importance “of preserving the child’s cultural identity and connections to the language and territory of the Indigenous group, community or people to which the child belongs” must be considered in identifying a child’s best interests (s 10(3)(a), (d));

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<sup>176</sup> BC CFCSA, s 38; AB CYFEA ss 53, 67, 107 (application for private guardianship, adoption and planning for services); SK CFSAs, s 37(1) (but only where a permanent or long-term order is sought); MB CFSAs, s 30, 38(8), 77(2) (notice of hearing after apprehension, of order, of application for private guardianship); ON CYFSA, s 17(4), 79 (includes notice of ADR, party to proceedings); QB YPA, s 81.1; NS CFSAs, s 36(3); PEI CPA, s 11(3.1), 18.1, 27, 32, 37 (notice of investigation and outcome, of temporary agreements, apprehensions, hearings). The YK CFSAs stipulates that First Nations should be involved “as early as practicable in decision-making processes”, s 2(j); NWT CFSAs, s 12.3 (Aboriginal organizations to be served with notice of hearings, orders and can be party); NU CFSAs, s 25 (notice of hearing on Inuit organizations) (all *supra* note 160).

<sup>177</sup> NWT CFSAs, *supra* note 160, s 7(2).

<sup>178</sup> NU CFSAs, *supra* note 160, s 2(2)(3).

<sup>179</sup> SC 2019, c 24.

- Family violence and “its impact on the child, including whether the child is *directly or indirectly* exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the child” (s 10(3)(g)); and
  - any “civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child” (s 10(3)(h)).
- Importantly, notice must now be given to a child’s parent and care provider and to the relevant Indigenous governing body before *any significant measures* are taken in providing child and family services for an Indigenous child, s 12(1).
- Service providers *must prioritize preventive care and supports*, rather than removal of the child, if such care is consistent with the best interests of the child (s 14).
- “To the extent that it is consistent with” their best interests, a child should not be removed solely because of poverty, lack of adequate housing or infrastructure or because of the health of the parent or care provider (s 15).
- Before apprehending a child, the service provider must show that reasonable efforts were made to allow the child to continue residing with their parent or other family member unless immediate apprehension is in the best interests of the child (s 15.1).
- In terms of placements, priority to be given to other parent, or family member, then adult in same community or belonging to another Indigenous community or with any other adult as a last resort, s 16(1) and reviewed on an ongoing basis. Placement with siblings and traditional customs must be considered.

While some of the above measures have been implemented in some jurisdictions, the Act now mandates such practices whenever a child protection issue regarding an Indigenous child arises. These measures should be considered in relation to all children and families involved in the child protection system.

#### E. Criminal Law and Policy and Domestic Violence Courts

Canada does not have a specific criminal offence for domestic violence, but the *Criminal Code* includes several offences that are applicable in this context, including sexual assault.<sup>180</sup> Worthy of note is section 278, which provides that a person may be charged with sexual assault against their spouse whether or not they were living together at the time. The *Code* also refers to

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<sup>180</sup> *Criminal Code*, supra note 29, ss 229–239 (murder, manslaughter and attempts); ss 264 and 264.1 (criminal harassment, uttering threats); ss 265–269 (assault and bodily harm); ss 271–273 (sexual assault); s 430 (mischief to property); s 810 (peace bonds, which are often used in specialized domestic violence courts). Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*, 1st Sess, 42nd Parl, 2018 (assented to 21 June 2019) added choking, suffocation and strangulation to ss 267 and 272 as equivalent to bodily harm.

intimate partner violence explicitly as an aggravating factor for interim release and sentencing purposes, and provides for no contact orders as a condition of interim release, probation, conditional sentences, and peace bonds.<sup>181</sup>

Bill C-247, *An Act to amend the Criminal Code (controlling or coercive conduct)*, proposed the addition of the offence of controlling or coercive conduct to the *Criminal Code*.<sup>182</sup> Although it was a Private Member's Bill, Bill C-247 was examined by the Standing Committee on Justice and Human Rights (JUST), resulting in a report with recommendations for further study of the issue by a taskforce of experts.<sup>183</sup> Bill C-247 is modelled on a similar provision in England and Wales,<sup>184</sup> and a contrasting model is provided by Scotland, which creates an offence for domestic abuse more broadly (including violence, threats, intimidation, and controlling behaviour).<sup>185</sup> In assessing what would be the best approach in this country, the federal, provincial and territorial ministers responsible should study these and other models and how they have been implemented in practice. Considerations should include (i) how the criminalization of domestic violence would impact other laws, policies, and legal systems in Canada, including family law, child protection, and immigration; and (ii) the consequences that criminalization will have for racialized, migrant, and Indigenous persons, including women who may be criminalized, and how best to avoid these consequences (e.g. through proper training, policies, supports).<sup>186</sup>

At the enforcement level, federal and provincial governments have pro-charging and pro-prosecution policies for offences in the domestic violence context.<sup>187</sup> Pro-charging policies require the police to lay charges where they have "reasonable" or "reasonable and probable" grounds to do so, and pro-prosecution policies require prosecutions to proceed where there is a reasonable likelihood of conviction, and it is in the public interest to do so. Some policies recognize that the use of reasonable defensive force is not criminal and include provisions

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<sup>181</sup> *Criminal Code*, *ibid*, ss 501(3)(d), (e), 515(3)(a), 515(2), (6)(b.1) (interim release); ss 718.2(a)(ii), 718.201, 718.3(8) (sentencing); s 732.1(3)(a.1) (probation orders); s 742.3(2)(a.3) (conditional sentence orders); s 810 to 810.2 (peace bonds). Common law peace bonds are also available where the specific circumstances in the Code are not met. See *R v Musoni*, 2009 CanLII 12118 (ON SC), aff'd 2009 ONCA 829; *R v Penunsi*, 2019 SCC 39 at paras 15 to 18.

<sup>182</sup> Bill C-247, *An Act to amend the Criminal Code (controlling or coercive conduct)*, 2nd Sess, 43rd Parl, 2020.

<sup>183</sup> JUST Report, *supra* note 14. See also JUST, online:

<<https://www.ourcommons.ca/Committees/en/JUST/StudyActivity?studyActivityId=11100758>>. One of the authors of this report, Jennifer Koshan, was a witness at the JUST hearings.

<sup>184</sup> See e.g. *Serious Crime Act 2015* (England and Wales), 2015 c 9, s 76 (criminalizing controlling or coercive behaviour in intimate and family relationships).

<sup>185</sup> The *Domestic Abuse Scotland Act* (DASA), 2018, s 2.

<sup>186</sup> These issues are recognized in the JUST Report, *supra* note 14.

<sup>187</sup> See *Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation* (Ottawa: Department of Justice Canada, 2003) at 100-101. Full analysis of these policies is beyond the scope of this paper.

requiring the police and Crown to ensure that only the primary or dominant aggressor is charged and prosecuted.<sup>188</sup> This is a best practice that should be followed in all jurisdictions.

Most Canadian provinces have Domestic Violence Courts that hear criminal domestic violence related offences, although the scope of these courts can differ greatly both within and between jurisdictions.<sup>189</sup> A common practice in some DV Courts is the use of peace bonds to resolve matters without criminal consequences, typically where the accused is prepared to accept responsibility for their actions and abide by conditions for no contact and counselling or treatment.<sup>190</sup> One issue that may arise where peace bonds are used is their interaction with other *Criminal Code* provisions that apply specifically to repeat offenders. For example, an accused who has been previously convicted of an intimate partner violence related offence bears a reverse onus in interim release proceedings and may face more than the maximum sentence.<sup>191</sup> A peace bond is not a conviction and may affect the applicability of these provisions. It is also unclear whether peace bonds are included in the assessment of risk under Clare's Law protocols.<sup>192</sup> At the same time, criminalization affects members of marginalized communities disproportionately and this may be a consideration in favour of peace bonds over criminal charges. Prosecutors and courts should consider the advisability of peace bonds carefully and should have adequate training on these issues to make a proper assessment.

#### F. Victim Compensation and Victims' Rights

All provinces and territories have legislation outlining various rights and entitlements of victims of crime, and most also have legislation regarding compensation for victims of crime. While none of these statutes are specific to crimes of gender-based violence, a few do have specific provisions relating to sexual assault and/or intimate partner violence. Moreover, notwithstanding that these statutes do not generally speak directly to gender-based violence, they have important implications for survivors, including for their participation in criminal justice processes, their safety, and their ability to access the services and supports required for healing.

The statutes pertaining to victims' rights set out the range of information to which victims are entitled. While these statutes commonly provide for the disclosure of information relating to the criminal process, a close comparison between jurisdictions reveals the potential for

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<sup>188</sup> See for example *The Domestic Violence Handbook for Police Services and Crown Prosecutors in Alberta* (2014), pp 104-105 (Dominant Aggressor / Dual Charging); online: Government of Alberta, <<https://open.alberta.ca/publications/9780778541523>>. A detailed review of these policies is beyond the scope of this paper.

<sup>189</sup> Prince Edward Island and Québec do not have specialized domestic violence courts, although the latter does have a specialized court process operating in Montreal; the Northwest Territories and Nunavut have domestic violence treatment options only. Toronto also has an integrated domestic violence court that allows some family law cases and criminal charges to be heard by a single judge.

<sup>190</sup> For a discussion see Leslie Tutty and Jennifer Koshan, "Calgary's Specialized Domestic Violence Court: An Evaluation of a Unique Model" (2013) 50 Alberta Law Review 731 at 745, 751, 753.

<sup>191</sup> *Criminal Code*, *supra* note 29, ss 515(6)(b.1), 718.3(8).

<sup>192</sup> This may be especially true of common law peace bonds. See discussion at note 181 and accompanying text, above.

improvements in relation to crimes of gender-based violence. The particulars regarding the information to which victims are entitled are important, especially because survivors have often voiced concerns about the limited information shared with them, the lack of meaningful participation offered to them, and the failure to take seriously their safety. Manitoba's legislation is more comprehensive than most and may serve as an example. Its *Victims' Bill of Rights*<sup>193</sup> creates an entitlement to information regarding the status of the prosecution, whether the accused has been detained and if not, the conditions attached to release, and the reasons for refusal to lay charges (it appears to be the only jurisdiction to create a right to information about the reasons not to lay charges). It also creates a right to a warning of a possible threat if a person has breached the terms of probation (breaches are very common in cases of intimate partner violence), has escaped from a provincial facility, or is about to be released from a provincial facility.<sup>194</sup>

Statutes regulating provincial correctional institutions govern the information to be provided to victims post-conviction and in relation to those sentenced to custodial facilities. With respect to correctional statutes, the entitlements vary. Saskatchewan's *Correctional Services Act* provides that victims have a right to be consulted and advised of temporary absences of inmates that have been authorized for humanitarian or rehabilitative purposes.<sup>195</sup> Québec's *Act Respecting the Québec Correctional System* creates not only a right to such information but requires state actors to take "every possible measure" to communicate information to a victim referred to in a government policy, including policies on domestic violence and sexual assault. This information includes, among other things, the date of the offender's eligibility for a temporary absence for reintegration purposes, and the date of the offender's release from prison.<sup>196</sup> In contrast, Alberta's *Corrections Act* provides for the release of similar information (release date and any days of temporary absence, any conditions attached to release including conditions attached to temporary absence that relate to the victim, the area the offender proposes to live during temporary absences or court-ordered community supervision and whether the offender will be near the victim while travelling in the areas) but only where the institution or probation officer concludes that the victim's interest in disclosure clearly outweighs the invasion of the offender's privacy.<sup>197</sup> In other words, in Québec, state actors must make every possible effort to communicate information to victims regarding release, in Saskatchewan victims have a right to consultation and information, while in Alberta decisions are made on a case-by-case basis after weighing the interests of victims and offenders. Québec's legislative approach is to be preferred as it reflects a deeper commitment to victims' safety.

Québec's *Act Respecting the Québec Correctional System* also contains unique provisions addressing domestic violence and "sexual deviance" and are suggestive of promising practice.

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<sup>193</sup> *Victims' Bill of Rights*, CCSM, C V55, s 7 (MB VBR).

<sup>194</sup> *Ibid*, s 8.

<sup>195</sup> *Correctional Services Act*, 2012, SS 2012, c C-39.2, s 65.

<sup>196</sup> *Act Respecting the Québec Correctional System*, CQLR c S-40.1, s 175.

<sup>197</sup> *Corrections Act*, RSA 2000, c C-29, s 14.3.

The Minister of Public Security is required to provide offenders with access to specialized programs and services offered by community-based resources to help them reintegrate into the community and support their rehabilitation and that they be “designed to initiate the process of solving the problems associated with the delinquency of the offenders, in particular problems of domestic violence, sexual deviance, pedophilia, alcoholism and substance abuse.” Additionally, “appropriate and specific indications” are to be placed on a person’s record if they have “a history of behaviour targeted by government policies.” This includes policies regarding domestic violence. These indications are to inform sentence management and to document rehabilitation.<sup>198</sup>

Several provinces have legislated the right to be protected from intimidation and retaliation<sup>199</sup>, but others have not. Particularly in the context of intimate partner violence, given the ongoing risks to survivors, this right—and how it is operationalized (that is, whether in practice meaningful measures are taken to protect)—is of importance.

The right of victims to have various needs—social, legal, medical, mental health—met is a statutory entitlement in several jurisdictions. However, Saskatchewan appears to be the only province where attention to diversity, including cultural diversity, in the development and delivery of programs and services, is explicitly identified.<sup>200</sup> It is now well-documented that many survivors do not access services and programs because they are not culturally appropriate or culturally safe; as such, a statutory recognition of cultural diversity is significant. But of course, here too, adequate resources are required to turn this recognition into reality on-the-ground.

Several provisions unique to particular provinces have an important bearing on matters of gender-based violence and could be considered good practices:

- Manitoba provides for a right to be interviewed by officers of the same gender upon request<sup>201</sup>
- British Columbia mandates that victims must be treated with courtesy and respect and must not be discriminated against based on factors such as marital status, family status, gender, or sexual orientation<sup>202</sup>
- Manitoba emphasizes the right to confidentiality of victim’s information, particularly with respect to the address, phone number, and place of employment of the victim and family

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<sup>198</sup> *Act Respecting the Québec Correctional System*, *supra* note 196, ss 22, 17.

<sup>199</sup> *The Victims of Crime Act*, 1995, SS 1995, c V-6.011 (SK VCA); *Crime Victims Compensation Act*, CQLR c I-6 (QB CVCA); *Victims of Crime Act*, RSPEI 1988, c V-3.1 (PEI VCA); *Victims of Crime Services Act*, RSNL 1990, c V-5.

<sup>200</sup> SK VCA, *ibid*, s 2.1

<sup>201</sup> MB VBR, *supra* note 193, s 5.

<sup>202</sup> *Crime Victim Assistance Act*, SBC 2001, c 38, s 2 (BC CVAA).

members.<sup>203</sup> This is especially important given the commonality of stalking post-separation in cases of intimate partner violence.

- Nova Scotia creates a right, while waiting to give evidence, to be kept apart from the accused in order to ensure safety.<sup>204</sup>
- Ontario's *Victims Bill of Rights* creates a presumption that a person convicted of a prescribed crime (including an assault and sexual assault) is liable in damages to every victim of the crime for emotional distress and bodily harm resulting from the distress, arising from the circumstances of the crime.<sup>205</sup> The Act creates a further presumption that victims of an assault by a spouse, sexual assault, or attempted sexual assault have suffered emotional distress. While not a guarantee of a successful outcome, these presumptions make it easier for a survivor to win a civil claim seeking "damages" (financial compensation) from the abuser.<sup>206</sup> These provisions could be modelled in other jurisdictions.

### Victim Compensation

Several jurisdictions have statutory provisions creating an entitlement to compensation for victims of crime (in some jurisdictions these are contained in the same statute as provisions detailing victims' rights to information and participation, while in others there are two separate statutes). However, there is no criminal injuries compensation legislation in Newfoundland and Labrador, and in Ontario, Yukon, the Northwest Territories, and Nunavut victims of serious crimes have access only to a limited form of emergency assistance and not compensation.<sup>207</sup> Moreover, those jurisdictions that do provide compensation vary significantly in the range of compensable items, the total quantum of compensation available, and the conditions that are prerequisites to entitlement.

British Columbia provides for a wide range of compensable items, including medical and dental expenses, counselling, protective measures, moving expenses, childcare experiences, and

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<sup>203</sup> MB VBR, *supra* note 193, s 6.

<sup>204</sup> *Victims' Rights and Services Act*, SNS 1989, c 14, s 3 (NS VRSA).

<sup>205</sup> *Victims' Bill of Rights*, SO 1995 c 6, s 3.

<sup>206</sup> See section I below for a discussion of civil claims.

<sup>207</sup> For the Yukon Victims of Crime Emergency Fund, see Victims Services Programs and Initiatives, online: <[http://www.justice.gov.yk.ca/prog/cor/vs/vs\\_programs.html](http://www.justice.gov.yk.ca/prog/cor/vs/vs_programs.html)> and <<https://yukon.ca/en/legal-and-social-supports/supports-victims-crime/get-emergency-financial-help-victim-crime>>; and see *Corrections Act*, SY 2009 c 3, s 35.06 which provides that a victim may apply to the Director of Victim Services for payment of an "eligible victim expense" from the Corrections Revolving Fund. For the Northwest Territories, see the *Victims of Crime Act*, which establishes a Victims Assistance Committee to promote redress for, research on, and assistance to victims (s 2(1)). It also establishes a Victims' Assistance Fund which is maintained with revenue from victim fine surcharges (ss 11-12). The fund does not financially compensate individual victims but supports community-based projects and services for victims of crime generally (ss 14(1), 15). It funds emergency expenses such as home repair, transportation, dependant care, counselling, medical expenses. In Nunavut, the *Victims of Crime Act* establishes a Victims Assistance Fund which is maintained with revenue from victim fine surcharges (s 11(1)). The fund does not financially compensate individual victims but supports community-based projects and services for victims of crime generally (s 11(2)).

expenses for repair of property.<sup>208</sup> In Manitoba compensation is available for both “bodily and psychological harm,” as well as for counselling, loss of income, and permanent impairments.<sup>209</sup> Only British Columbia and Québec explicitly provide for the maintenance of child born as a result of an offence.<sup>210</sup> Saskatchewan has a unique provision explicitly providing for the funding of counselling of child witnesses of domestic violence (up to \$5000, as well as up to \$2000 for persons accompanying child to cover loss of earnings and related expenses).<sup>211</sup> A unique provision in Québec is that victims are able to recover the costs associated with the early termination of a lease, as well as rental costs up to 3 months if a victim must pay rent for another dwelling as well and the victim’s relocation is required for rehabilitation.<sup>212</sup> Québec also has a directive which took effect in November 2016 wherein a parent whose child has been murdered by the other parent is recognized as a victim if the actual intent of the act was to harm the other parent. This entitles that parent to benefits as a victim under the *Crime Victims Compensation Act*.<sup>213</sup>

In 2019, Ontario entirely eliminated compensation for pain and suffering and now funds through its Victim Quick Response Program only “essential expenses,” such as short-term emergency counselling (to a maximum of \$1000) and crime scene clean-up (to a maximum of \$1500) and only for violent crimes, which include sexual assault and domestic assault. Ontario’s *Compensation for Victims of Crime Act* is to be repealed on a date to be proclaimed and its Criminal Injuries Compensation Board is in the process of being wound down.<sup>214</sup> Prior to these reforms, victims of crime were eligible to receive up to \$25,000 and all or significant portion of these could be awarded for pain and suffering. In the past the Criminal Injuries Compensation Board process and benefits have served as an important alternative to civil claims, and indeed in many instances, to the criminal justice process. Significant numbers of survivors of gender-based violence sought compensation in this manner each year. As such, the repeal of the *Compensation for Victims of Crime Act* and the winding down of the Board represent regressive measures in terms of the safety and well-being of survivors of gender-based violence.

As noted above, the total quantum of benefits or compensation available varies, from a few thousand dollars to assist with emergency services (as in Ontario and the Territories), to Nova Scotia where the maximum of \$2,000 is available for counselling in most cases, and \$4,000 is available for counselling for an immediate family member of a homicide victim,<sup>215</sup> to Saskatchewan where the amount is capped at \$100,000.<sup>216</sup> Alberta recently amended its victim

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<sup>208</sup> BC CVAA, *supra* note 202, s 4.

<sup>209</sup> MB VBR, *supra* note 193, ss 46-47.

<sup>210</sup> BC CVAA, *supra* note 202, s 4; QB CVCA, *supra* note 199, s 5.

<sup>211</sup> *Victim of Crime Reg 1997*, RRS c V-6.011, Reg 1, ss 8.1, 8.3.

<sup>212</sup> QB CVCA, *supra* note 199, ss 6.2, 6.3.

<sup>213</sup> Indemnisation des victimes d’actes criminels, online: <[www.ivac.qc.ca/en/victims/Pages/application-may-be-rejected.aspx](http://www.ivac.qc.ca/en/victims/Pages/application-may-be-rejected.aspx)>.

<sup>214</sup> *Protecting What Matters Most Act (Budget Measures)*, 2019, SO 2019, c 7, Schedule 11.

<sup>215</sup> *Criminal Injuries Compensation Regulations*, NS Reg 24/94.

<sup>216</sup> *Victim of Crime Reg 1997*, *supra* note 211, s 8(2).

compensation scheme to limit compensation: compensation is now only available for “severe neurological injuries.”<sup>217</sup>

The time limits within which an application for benefits or compensation must be brought vary and apart from Nova Scotia, are inexplicably out-of-step with revisions to limitation period legislation discussed further below. While there are some important differences between provinces, most have eliminated limitation periods for court-based legal proceedings based on sexual assault (or sexual misconduct) and many have also eliminated limitation periods for non-sexual assault where this occurs in an intimate relationship or in a relationship where there is physical, financial, emotional, or other forms of dependency.

Several jurisdictions require that the claim for compensation be brought within one year of the date of the offence, with discretion to extend this time in particular circumstance (British Columbia and Nova Scotia for example).<sup>218</sup> In Manitoba the one-year period runs from the injury or from when the victim “becomes aware of or knows or ought to know the nature of the injuries” and recognizes the effects.<sup>219</sup> In other provinces (Saskatchewan and Québec for example) the time period is two years, again with discretion to extend.<sup>220</sup> In Yukon, an application for victims of crime emergency benefits must be made within 60 days of the crime and in the Northwest Territories within two months of the crime.<sup>221</sup>

In some jurisdictions, eligibility is based on a report being made (most often to the police) and time runs from the date of the report. In Alberta, for example, a victim who fails to report the offence to a police service within a reasonable period of time is not eligible for financial benefits under the *Victims of Crime and Public Safety Act*<sup>222</sup> and in New Brunswick, victims are eligible for compensation if the offence was reported to police “without undue delay” (and they cooperated with the police investigation; see below).<sup>223</sup> Manitoba, as noted above, requires that applications for benefits usually be made within one year from knowledge of the injury, but compensation may be denied or reduced if the incident was not reported within a reasonable time.<sup>224</sup> Ontario requires that emergency assistance be sought within 45 days of reporting or disclosing for some benefits, 90 days for others. Unlike many other jurisdictions, the crime need not to have been reported to police in Ontario, however, the crime must have been reported—if not to the police

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<sup>217</sup> *Victims of Crime and Public Safety Act*, RSA 2000, c V-3, ss 12(2)(b), 12.2(1)(a) (AB VCPSA).

<sup>218</sup> BC CVAA, *supra* note 202, s 3(2), NS VRSA, *supra* note 204, s 11B(1)).

<sup>219</sup> MB VBR, *supra* note 193, s 51(1).

<sup>220</sup> SK VCA, *supra* note 199, s 14; QB CVCA, *supra* note 202, s 11—time runs from when the victim becomes aware of damage suffered and of its probable connection with the criminal offence and may be extended if it was “impossible for the victim to act earlier.”

<sup>221</sup> Yukon, “Get emergency financial help for a victim of crime,” online: <<https://yukon.ca/en/legal-and-social-supports/supports-victims-crime/get-emergency-financial-help-victim-crime>> and Northwest Territories, “Victims of Crime Emergency Fund: online: <<https://www.justice.gov.nt.ca/en/victims-of-crime-emergency-fund/>>.

<sup>222</sup> AB VCPSA, *supra* note 217, ss 12(1)(b), 12.2(1)(b).

<sup>223</sup> *Compensation for Victims of Crime Regulation*, NB Reg 96-81 (NB CVCR).

<sup>224</sup> MB VBR, *supra* note 193, s 54.

then to a child protection authority, a domestic violence shelter, a sexual assault centre, a hospital, a community agency, or an Indigenous organization that provides services to victims.<sup>225</sup>

Nova Scotia is the only province with a specific provision pertaining to sexual assault; the usual one-year time limit does NOT apply for applications pertaining to a sexual assault committed by a person who was in a position of trust or authority, was a person upon whom the injured person was dependent (financially, emotionally, physically, or otherwise), or was a person who had charge of the injured person.<sup>226</sup> In Québec the time limit runs from an awareness of the damage suffered and its probable connection to the criminal offence and may be extended if it was impossible for victim to act earlier, and these considerations will help to extend the time for some survivors.<sup>227</sup>

In addition to a requirement to report the offence, in many jurisdictions victims are also required to cooperate with the police and/or prosecution in order to be eligible for compensation. Manitoba's *Victims' Bill of Rights*, for example, provides that compensation may be denied or reduced if the victim did not assist in the apprehension or prosecution of the offender.<sup>228</sup> New Brunswick's *Compensation for Victims of Crime* regulation provides that a victim is eligible only when they reported the offence to the police without undue delay and cooperated with the police investigation.<sup>229</sup>

Most jurisdictions also include a provision wherein compensation and emergency can be denied where the victim contributed to the injury or was culpable in relation to the offence.<sup>230</sup>

A comparison of jurisdictions reveals both several issues of concern in relation to gender-based violence, as well as some promising practices. The requirement that victims report to police and/or cooperate in the police investigation or prosecution is deeply troubling. The vast majority of survivors of gender-based violence do not report to the police, for a multiplicity of reasons including: the risk of retaliation, distrust of police, concerns regarding racist responses, community ostracization, child welfare involvement, loss of income and support, and the re-traumatization of participating in the criminal justice process. Indigenous, racialized, and trans women and men are among those least likely to report to police. If police are involved, it is also commonly the case that survivors do not want the prosecution to go forward (for many of the same reasons that they are reluctant to engage the police in the first place), and resist participating in the prosecution. Conditioning entitlement to compensation on disclosure to

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<sup>225</sup> For a description of the VQRP see online: <<http://victimservicespn.ca/our-services/victim-quick-response-program/>>.

<sup>226</sup> NS VRSA, *supra* note 204, s 11B(2).

<sup>227</sup> QB CVCA, *supra* note 199, s 11.

<sup>228</sup> MB VBR, *supra* note 193, s 54.

<sup>229</sup> NB CVCR, *supra* note 223, s 4(1)(b); and see BC CVAA, *supra* note 202, s 9(3); AB VCPSA, *supra* note 217, s 13(3)(b) (requiring cooperation with any investigation for applications under the old version of the Act); QB CVCA, *supra* note 199, s 7

<sup>230</sup> BC CVAA *ibid*, s 9(3); AB VCPSA, *ibid*, ss 13(4); SK VCA, *supra* note 199, s 5.1; MB VBR, *supra* note 193, s 54; QB CVCA, *ibid*, s 20; NB CVCR, *supra* note 223, ss 4(2), 12.2; PEI VCA, *supra* note 199, ss 16(2), 23.

police and/or cooperation with the police or the prosecution has the effect of denying access to benefits for the vast majority of survivors of gender-based violence and has the most pernicious effects on those who experience significant social marginalization. Ontario's current approach of expanding the range of actors who may be recipients of disclosures to include domestic violence shelters, sexual assault centres, hospitals, community agencies, or Indigenous organizations that provide services to victims is a positive measure.

Other issues of concern include the dramatic differences between jurisdictions regarding survivors' entitlement to information, supports, and compensation. With respect to compensation the quantum and range of compensable matters (wages, counselling for a child witness of domestic violence, etc.) varies wildly between jurisdictions. As noted above, it is also concerning that the time limits for bringing a claim in most jurisdictions are out-of-step with the reforms to limitation periods for civil claims made over the last decade. A survivor's entitlement to support should not vary in these dramatic ways based on where she resides in Canada.

#### Federal Legislation

The *Canadian Victims Bill of Rights* sets out various rights of victims to information that mirror provincial and territorial legislation in many respects, but the right to information (for example, regarding the status and outcome of an investigation, the location of proceedings, their progress and the outcome) arises only "on request."<sup>231</sup> This problematically assumes that survivors are aware of these rights and how to exercise them. Victims also have the right "to have their security considered by the appropriate authorities in the criminal justice system."<sup>232</sup> Also, similar to some of the provincial legislative schemes reviewed above, victims have "the right to have reasonable and necessary measures taken by the appropriate authorities in the criminal justice system to protect the victim from intimidation and retaliation."<sup>233</sup> These sections, even when combined, reflect a rather minimal commitment to the safety of survivors of gender-based violence. Moreover, on-the-ground steps to protect women from intimidation and retaliation by abusers are often non-existent, notwithstanding the rights set out here.

Other rights include: to have their privacy considered, to request that their identity be protected, to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victim's rights under the Act and to have those views considered, the right to present a victim impact statement and to have it considered, and the right to have the court consider making a restitution order against the offender.<sup>234</sup> As is clear from the statutory language, the corresponding duty attached to these various "rights" is merely to "consider" the victim's input; the fullness of that consideration and the weight to be given to the victim's input is entirely up to individual actors within the criminal justice system, who may

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<sup>231</sup> *Canadian Victims Bill of Rights*, SC 2015, ss 6-8.

<sup>232</sup> *Ibid*, s 9.

<sup>233</sup> *Ibid*, s 10.

<sup>234</sup> *Ibid*, ss 11, 12, 14-16.

change over time on any given case. Absent a thorough understanding of gender-based violence on the part of these decision-makers, these rights ring rather hollow.

Troublingly, the only victims entitled to exercise the rights under the Act are those who are present in Canada or are a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*.<sup>235</sup> This means, for example, that a woman who is sexually assaulted while a visitor to Canada and is no longer in Canada, does not enjoy even these minimal rights.

Neither the *Canadian Victims Bill of Rights* nor any other federal legislation provide compensation to victims of crime. It is both desirable and possible to create a federal framework of victim rights and victim compensation.

#### G. Family Violence Death Review Committees

Several provinces—British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, and New Brunswick—have Domestic Violence Death Review Committees (DVDRCs), which review, report on, and make recommendations regarding deaths related to domestic violence.<sup>236</sup> In some provinces these committees are established and receive their mandates under legislation, while in others they have been created on a more ad hoc basis.<sup>237</sup> There are inconsistencies across jurisdictions that have DVDRCs in terms of their frequency of reporting, the variables they review

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<sup>235</sup> *Ibid*, ss 19(2).

<sup>236</sup> In Nova Scotia, Bill No 180, *An Act to Amend the Fatality Investigations Act*, 2nd session, 63<sup>rd</sup> General Assembly, 68 Elizabeth II, 2019, will create a committee to review domestic violence deaths. There are no death review committees in Prince Edward Island; Newfoundland and Labrador; Yukon; Northwest Territories, or Nunavut.

<sup>237</sup> British Columbia: ad hoc under the *Coroner's Act*, SBC 2007, c 15; see British Columbia Coroners Service Death Review Panel, *A Review of Intimate Partner Violence Deaths 2010-2015*, online: <<https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/intimate-partner-violence2010-2015.pdf>>. Alberta: Family Violence Death Review Committee established under the *Protection Against Family Violence Act*, *supra* note 8. For the most recent report see the 2019-2020 Annual Report, available online: <<https://open.alberta.ca/publications/family-violence-death-review-committee-annual-report>>. Saskatchewan: ad hoc under the *Coroner's Act*, 1999, SS 1999, c C-38.01. See *Saskatchewan Final Death Review Report*, 2018, online: <<https://www.saskatchewan.ca/-/media/news-release-backgrounder/2018/may/sk-dv-death-review-report.pdf>>. Manitoba: ad hoc; Bill 221, *The Domestic Violence Death Review Committee Act*, online: <<https://web2.gov.mb.ca/bills/39-4/b221e.php>>, does not appear to have been proclaimed though the committee is active. See Domestic Violence Death Review Committee publications, online: <<https://www.gov.mb.ca/justice/publications/index.html>> (most recent report is for 2018-19). ON: ad hoc under the *Coroners Act*, RSO 1990, c C.37. For the most recent report see *Domestic Violence Death Review Committee Annual Report 2018*, online: <[www.mcses.jus.gov.on.ca/english/DeathInvestigations/OfficeChiefCoroner/Publicationsandreports/DVDRC2018Report.html](http://www.mcses.jus.gov.on.ca/english/DeathInvestigations/OfficeChiefCoroner/Publicationsandreports/DVDRC2018Report.html)>. Québec: ad hoc; the Comité d'examen des décès survenus en contexte de violence conjugale was established by the Chief Coroner and issued its first annual report in December 2020. See online: <[https://www.coroner.gouv.qc.ca/fileadmin/Media/Rapport\\_annuel\\_2018-2019\\_Version\\_amendee\\_20201207.pdf](https://www.coroner.gouv.qc.ca/fileadmin/Media/Rapport_annuel_2018-2019_Version_amendee_20201207.pdf)>.

NB: ad hoc under the *Coroners Act*, RSNB 1973, c C-23. For the most recent report see *Recommendations from the Domestic Violence Death Review Committee, 2018*, online: <<https://www2.gnb.ca/content/dam/gnb/Departments/ps-sp/pdf/Publications/DomesticViolence2018.pdf>>. See also Canadian Femicide Observatory for Justice and Accountability, #Call it Femicide: *Understanding sex/gender-related killings of women and girls in Canada*, 2020; online: <<https://femicideincanada.ca/callitfemicide2020.pdf>> (documenting and analyzing all femicides across Canada in 2020).

(and whether data is disaggregated on the basis of factors such as racialization, Indigeneity, migrant status, and sexual / gender identity), whether they conduct in-depth review of all domestic violence related deaths or a more selective review of some cases, and whether the government is obligated to respond to the recommendations.<sup>238</sup> There is a role for the federal government to play here in ensuring that standardized information is available from DVDRCs across Canada and that funding is available for the establishment of DVDRCs and the broadest and deepest level of review possible.

#### H. Legal Aid, Legal Assistance/Supports

In none of the provincial and territorial statutes governing legal aid is explicit reference made to any of the terms associated with gender-based violence. While not explicitly referencing gender-based violence, Yukon's *Legal Services Society Act*, in describing the circumstances in which legal aid may be provided, does potentially capture some number of the legal needs of survivors of gender-based violence:

- where there are “proceedings respecting domestic disputes that may affect their or their children’s physical or mental safety or health”; or
- where legal issues “threaten their livelihood, the physical or mental safety or health of themselves or their families, or their ability to provide food, clothing, and shelter for themselves or their families.”<sup>239</sup>

In a similar vein, Québec's *Act Respecting Legal Aid and the Provision of Certain Other Legal Services* does not mention domestic violence directly, nor do the regulations. However, the Act indicates that, if qualified financially, legal aid will be granted for applications:

- in family matters;
- in child abduction cases; and
- in any other case if “the matter threatens or will in all likelihood threaten a person’s physical or mental safety, livelihood or ability to provide for his essential needs or those of his family.”<sup>240</sup>

All legal aid programs are income-tested, and the income thresholds are very low (at or below commonly accepted poverty lines). Saskatchewan's regulations provide, for example, that anyone receiving social assistance or whose income would qualify for social assistance, or where

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<sup>238</sup> Compare for example Alberta (Committee provides statistical annual report and selective in-depth case reviews) and Ontario (Committee reviews all cases where a death has occurred as a result of domestic violence).

<sup>239</sup> *Legal Services Society Act*, RSY 2002, c 135, ss 16(1)(a)(iii), (iv).

<sup>240</sup> *Act Respecting Legal Aid and the Provision of Certain Other Legal Services*, CQLR c A-14, s.4.7.

the costs of obtaining legal services would cause the applicant's family to suffer hardship, is financially eligible.<sup>241</sup>

Ontario's website indicates slightly higher income thresholds are applied in cases involving domestic violence where the family unit is a single person: currently \$18,795 versus \$22,720 in cases of domestic violence.<sup>242</sup> We were able to find little information regarding the circumstances in which the income and assets of spouses or partners are assessed separately in order to determine eligibility, an important consideration in the context of intimate partner violence, given that financial abuse is often an element of control in such relationships with survivors having limited access to financial resources or even to information about the family's financial status. An important provision, and as far as we have been able to ascertain unique to Prince Edward Island, is the waiver or relaxation of financial eligibility rules to enable access to legal counsel in emergency situations where there is a risk to personal security.<sup>243</sup> On a temporary basis, during the COVID-19 pandemic, Legal Aid Ontario has waived all financial and legal eligibility criteria for domestic violence survivors; its website indicates that "This accommodation will remain in effect until further notice."<sup>244</sup>

Beyond the statutory frameworks we have also consulted policies and program descriptions that are publicly available. Most provinces and territories provide funding in at least some areas survivors must frequently navigate, including family ("serious family law matters including protection orders" in British Columbia<sup>245</sup>); EPOs (Alberta Legal Aid, for example, currently has an Emergency Protection Order Program;<sup>246</sup> Nova Scotia legal aid covers matters under the *Domestic Violence Intervention Act*;<sup>247</sup> and New Brunswick provides "Family Advice Lawyer" services regarding emergency interventions orders (EIOs) under New Brunswick's *Intimate Partner Violence Intervention Act* and on applications to vary or set aside an EIO<sup>248</sup>); child protection (note that as a result of the Supreme Court of Canada's decision in *New Brunswick (Minister of Health and Community Services v G(J)* state funding is often constitutionally required in such matters<sup>249</sup>), and criminal law (a threshold of likely incarceration is applied in at least some jurisdictions). Some jurisdictions fund immigration and refugee matters, but whether and to what extent this includes representation in claims related to gender-related persecution, sponsorship

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<sup>241</sup> Regulation 2 under the *Legal Aid Act*, c L-9.1, s 3.

<sup>242</sup> Legal Aid Ontario, "Will Legal Aid pay for my lawyer?", online: <[www.legalaid.on.ca/will-legal-aid-pay-for-my-lawyer](http://www.legalaid.on.ca/will-legal-aid-pay-for-my-lawyer)>. This is a change from recent past practice wherein the income levels differed for all family sizes.

<sup>243</sup> Prince Edward Island, Legal Aid, online: <<https://www.princeedwardisland.ca/en/information/justice-and-public-safety/legal-aid>>.

<sup>244</sup> Legal Aid Ontario, "Domestic Violence," online: <[www.legalaid.on.ca/services/domestic-abuse](http://www.legalaid.on.ca/services/domestic-abuse)>.

<sup>245</sup> *Legal Services Society Act*, SBC 2002, c 30. Legal Services Society, Legal Representation by a Lawyer: Serious Family Problems, online: <[https://legalaid.bc.ca/legal\\_aid/familyIssues](https://legalaid.bc.ca/legal_aid/familyIssues)>.

<sup>246</sup> Legal Aid, "Emergency Protection Order Program," online: <[www.legalaid.ab.ca/help/Pages/Emergency-Protection-Orders-Domestic-Violence.aspx](http://www.legalaid.ab.ca/help/Pages/Emergency-Protection-Orders-Domestic-Violence.aspx)>.

<sup>247</sup> Government of Prince Edward Island, Legal Aid (2017), online:

<[www.princeedwardisland.ca/en/information/justice-and-public-safety/prince-edward-island-legal-aid](https://www.princeedwardisland.ca/en/information/justice-and-public-safety/prince-edward-island-legal-aid)>.

<sup>248</sup> See New Brunswick Legal Aid Services Commission, "Family Advice Lawyer," online: <[www.legalaid-aidejuridique-nb.ca/family-law-services/family-advice-lawyer](http://www.legalaid-aidejuridique-nb.ca/family-law-services/family-advice-lawyer)>.

<sup>249</sup> 1999 CanLII 653 (SCC).

breakdown due to abuse, family violence temporary resident permits, or other matters relating to gender-based violence is unclear.

Prince Edward Island's Legal Aid Policy provides that family applications involving domestic violence or threats to the personal security of the applicant or children in a family situation are given the highest priority for assistance. In less urgent family situations, priority is focused on the legal needs of dependent children. Prioritized needs in this category include custody, access, financial support, and housing.<sup>250</sup> Similarly, Nova Scotia Legal Aid's website indicates coverage for child custody, access, child and spousal maintenance/support, paternity, some divorces and division of property and that "applications for legal aid involving domestic violence are given priority" and matters under the *Domestic Violence Intervention Act* are also covered.<sup>251</sup>

Legal Aid Ontario appears to be unique in providing a two-hour free consultation for victims of domestic violence survivors for advice and assistance in relation to family law and immigration and refugee law matters, significantly with no financial eligibility requirement.<sup>252</sup> And while this is an important initiative that other jurisdictions would do well to replicate, ensuring access to funded representation for survivors is important. In many cases of domestic violence in particular, women must navigate multiple legal systems and processes (criminal, family, child welfare, immigration, and refugee law). The legal issues at the intersections of these various legal domains are exceptionally complex and access to knowledgeable, skilled counsel is important to the safety of women.<sup>253</sup> This complexity—as well as the reality that survivors are not infrequently charged criminally—was at least partially acknowledged in a policy of Legal Aid Ontario that provided legal aid for criminal counsel where a survivor of domestic violence was criminally charged and had a continuing family matter with LAO or an ongoing refugee status claim (even though incarceration was not a probability—the usual threshold for criminal coverage). This same policy also provided criminal representation where the survivor charged identifies as First Nation, Métis, or Inuit. In a search of LAO's website this policy no longer appeared but we have not been able to confirm whether it has been recently revoked.

The government of Nova Scotia runs a program that provides up to four hours of free legal advice for sexual assault survivors to help them understand their legal rights and options. There is no requirement to report to police or to take legal action if the service is used.<sup>254</sup> In British Columbia, the *Crime Victim Assistance Act* provides for independent legal advice and representation for victims who are subject to an application for disclosure of information relating to their personal history, and who lack financial resources.<sup>255</sup> Outside of Legal Aid Ontario and through the

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<sup>250</sup> Government of Prince Edward Island, Legal Aid (2017), online:

<[www.princeedwardisland.ca/en/information/justice-and-public-safety/prince-edward-island-legal-aid](http://www.princeedwardisland.ca/en/information/justice-and-public-safety/prince-edward-island-legal-aid)>.

<sup>251</sup> Nova Scotia Legal Aid, "Legal Aid Services Provided," online: <[www.nslegalaid.ca/what-we-do/what-legal-services-provided](http://www.nslegalaid.ca/what-we-do/what-legal-services-provided/)>.

<sup>252</sup> Legal Aid Ontario, *supra* note 242.

<sup>253</sup> Costs of Justice, *supra* note 1.

<sup>254</sup> Nova Scotia, "Legal advice for sexual assault survivors," online: <[https://novascotia.ca/sexualassaultlegaladvice](https://novascotia.ca/sexualassaultlegaladvice/)>.

<sup>255</sup> BC CVAA, *supra* note 202, s 3.

Ministry of the Attorney-General, all survivors of sexual assault aged 16 and over who are living in the City of Toronto, the City of Ottawa, or the District of Thunder Bay, are eligible to receive up to four hours of free legal advice (not representation) to help make informed decisions about next steps. This service is confidential and is available any time after the sexual assault has occurred.<sup>256</sup>

As alluded to earlier, access to knowledgeable and skilful counsel is critical to survivor's safety. Across several jurisdictions there is recognition at the policy level of the importance of providing legal advice and representation to survivors of gender-based violence. But given the importance of representation, entitlements to legal aid coverage should be statutorily embedded. Attention needs to be paid to the circumstances in which the financial situation of survivors will be assessed independently of their abusive partners. Moreover, models of legal representation should be developed that enable counsel across the country to acquire the expert knowledge needed to assist women in navigating the complex legal issues at the intersections of different areas of law. There are as well issues here regarding the federal government's financial contributions to provincial and territorial legal aid plans to cover areas of federal jurisdiction (most notably, representation in criminal, immigration, and divorce proceedings).

#### Supports for Survivors of Domestic Violence

Here we also note two specific programs designed to support victims of domestic violence in particular and that reflect promising practices. The Domestic Violence Support Service of the Manitoba Justice department assists victims of domestic violence in situations where police are involved, regardless of whether criminal charges have been laid or arrests made. The program:

- provides information about domestic violence
- provides information about the criminal charges and court procedure
- helps prepare and accompany victims at court
- helps with safety planning
- provides information about protective relief orders
- offers short-term counselling; and
- connects families with community supports.<sup>257</sup>

In Ontario, the Family Court Support Worker Program provides a range of critical supports to survivors of intimate partner violence. Staff of the Program are located in buildings that house the family courts to support and assist victims of domestic violence in a variety of ways, including:

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<sup>256</sup> Ontario, Ministry of the Attorney General, online: <[www.attorneygeneral.jus.gov.on.ca/english/ovss/ila.php](http://www.attorneygeneral.jus.gov.on.ca/english/ovss/ila.php)>.

<sup>257</sup> See "Domestic Violence Support Service," online: <<https://www.gov.mb.ca/justice/crown/victims/dvss.html>>.

- preparation for proceedings
- referrals to other specialized services and supports
- the creation of safety plans
- documentation of the abuse
- accompaniment through court proceedings.

In Toronto these services are provided by the Barbra Schlifer Commemorative Clinic and Oasis Centre des Femmes for Francophone women. Other organizations are designated providers elsewhere in the province. Embedding these supports in the family courts is especially important to reach the very large numbers of unrepresented litigants.

## I. Civil Law / Limitation Periods

Statutory limitation periods prescribe the length of time a person has to commence a legal proceeding in the courts; if the legal proceeding is commenced after this time period has passed, the claim is “statute barred” and cannot proceed.<sup>258</sup> A common approach to statutory limitation periods is to create a relatively short period of time from the date the facts giving rise to the proceeding are discovered (or ought reasonably to have been discovered) to the commencement of the proceeding (2 years is common), and then an ultimate limitation period after which no claim can be commenced, irrespective of the date of the discovery of the underlying facts (15 years is common for an ultimate limitation period).

The Supreme Court of Canada, in its 1992 decision in *M(K) v M(H)*, recognized how problematic limitation periods are when applied to childhood survivors of incest.<sup>259</sup> Importantly, in that case the court recognized that it was often years before survivors “discovered” the underlying facts; that is, years before they made the connection between the harms that they were experiencing and the assaults in childhood and that this was due to a range of factors: the repression or suppression of memories; self-blame (which is often actively encouraged by perpetrators); the continuing influence of the perpetrator, including fear of what the perpetrator would do if a disclosure is made; and social taboos and shame in disclosing. Since the SCC’s judgment, there has been increasing recognition that limitation periods (which are intended to encourage diligence where one has knowledge of the facts giving rise to a legal claim and to protect defendants from stale claims) were a substantial impediment to access to justice for survivors. As such, over the past two decades significant reforms have been introduced in most, but not all, Canadian jurisdictions. While the statutory provisions across several jurisdictions are similar, there are important differences between them that we have highlighted below.

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<sup>258</sup> Technically the expiry of the limitation period is asserted as a defence should a claim be brought that is outside the limitation period.

<sup>259</sup> 1992 CanLII 31 (SCC).

Significantly, all provinces and territories, with the exception of Prince Edward Island<sup>260</sup> have amended their limitations legislation to eliminate the limitation period for particular forms of gender-based violence. There are, however, several important differences between jurisdictions: some provide for no limitation period for sexual assault, others no limitation period for claims based on sexual misconduct, some remove the limitation period for sexual misconduct only in particular relationships (intimate relationships or relationships of dependency) and some eliminate the limitation period for non-sexual assault in these sorts of relationships.

There is no limitation period for a civil claim based on sexual assault in British Columbia, Alberta, Ontario, and the Yukon.<sup>261</sup> The legislative framing is somewhat different in Saskatchewan, Manitoba, New Brunswick, and Nova Scotia: there is no limitation period where the claim is for damages for trespass to the person, assault, or battery if the act complained of (or the misconduct) is of a sexual nature.<sup>262</sup> While we have not examined the case law from these jurisdictions, this framing suggests a broader range of misconduct may be captured than sexual assault. In Québec there is no limitation period for claims for bodily injury arising from “sexual aggression.”<sup>263</sup>

In the Northwest Territories, Nunavut,<sup>264</sup> and Newfoundland and Labrador there is no limitation period for claims based on conduct of a sexual nature, but only when this occurs in a context of particular kinds of relationships. In the Northwest Territories and Nunavut those relationships are intimate relationships, relationships of trust, and relationships of dependence. Additionally, the time limitation for sexual misconduct where the relationships are not intimate or ones of trust or dependency will not commence while the aggrieved person is incapable of starting an action due to their physical, mental, or psychological condition. Moreover, there is a statutory presumption (that is rebuttable) that the aggrieved person was incapable of commencing the proceeding earlier than when it was commenced.<sup>265</sup>

Similarly, Newfoundland and Labrador’s *Limitations Act* provides that there is no limitation period where the claim is based on misconduct of a sexual nature committed against that person and that person was under the care or authority of; financially, emotionally, physically, or otherwise dependent upon; or a beneficiary of a fiduciary relationship with another person,

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<sup>260</sup> *Statute of Limitations*, RSPEI 1988, c S-7. The time limit for actions to trespass to the person, assault, battery, wounding, or other injury to the person is two years from when the cause of action arose; s 2(1)(d).

<sup>261</sup> *Limitation Act*, SBC 2012, c 13, s 3(1)(j); *Limitations Act*, RSA 2000, c L-12, s 3.1(1) (a); *Limitations Act*, 2002, SO 2002 c 24, Sch B, s 16(1)(h); *Limitations of Actions Act*, RSY 2002, c 139 2(3)(b).

<sup>262</sup> *The Limitations Act*, SS 2004, c L-16.1, s 16(1)(a); *The Limitations of Action Act*, CCSM c L-150, s 2.1(2)(a); *Limitations of Actions Act*, SNB 2009, c L-8.5, s 14.1; *Limitations of Actions Act*, SNS 2014, c 25, s 11.

<sup>263</sup> *Civil Code*, article 2926.1.

<sup>264</sup> *Limitations of Actions Act*, RSNWT 1988, c L-8, ss 2.1(1), (2), and *Limitations of Actions Act*, RSNWT (Nu) 1988, c L-8, ss 2.1(1), (2).

<sup>265</sup> *Ibid*, ss 2(3), (4).

organization, or agency.<sup>266</sup> There is also no limitation period for the enforcement of a restraining order.<sup>267</sup>

British Columbia, Alberta, Ontario, and the Yukon—which as noted earlier all eliminate the limitation period for claims based on sexual assault—have further provisions relating to claims based on “misconduct of a sexual nature”. In British Columbia and Yukon there is no limitation period for claims of misconduct of a sexual nature if the misconduct occurred while the aggrieved person was a minor.<sup>268</sup> In Alberta there is no limitation period for claims based on any misconduct of a sexual nature (other than a sexual assault or battery) if at the time, the person bringing the claim was a minor, was in an intimate relationship with the person who committed the misconduct, was dependent on that person, whether financially, emotionally, physically or otherwise, or was a person under disability.<sup>269</sup> Ontario’s legislation is very similar to Alberta’s, with the exception that it does not include a person under disability.<sup>270</sup>

As noted in section P, a number of jurisdictions have recently created a statutory tort for the non-consensual distribution of intimate images. A question arises as to what the appropriate limitation period—if any—should be. Currently, since the elimination of limitation periods in most jurisdictions is tied to the tort of battery, this new tort is likely to be governed by general limitation periods (in most jurisdictions, two years from discovery). In those jurisdictions that also eliminate the limitation period for “any misconduct of a sexual nature,” the non-consensual distribution of intimate images would arguably be included. But recall that the limitation period is eliminated for misconduct of a sexual nature only where involving a minor or, in some jurisdictions, an intimate relationship or relationship of dependency.

A domain of significant difference relates to whether there is a limitation period for non-sexual battery. Several provinces (British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, and Nova Scotia)<sup>271</sup> provide that there is no limitation period where the claim is based on assault or battery and where a particular form of relationship exists. While the language varies slightly between provinces, the nature of such relationships is broadly defined as including intimate relationships and those where there is financial, emotional, physical, or other dependency. British Columbia, for example, provides that there is no limitation period for an assault or battery, where the claimant,

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<sup>266</sup> *Limitations Act*, SNL 1995, c L-16.1.

<sup>267</sup> *Ibid*, s 8(1)(a).

<sup>268</sup> *Limitation Act (BC)*, *supra* note 261, s 3(1)(i); *Limitations of Actions Act*, RSY 2002, c 139, s 2(3)(a).

<sup>269</sup> *Limitations Act*, RSA 2000, c L-12, s 3.1(1)(b).

<sup>270</sup> *Limitations Act (ON)*, *supra* note 261 s 16 (h.1).

<sup>271</sup> *Limitation Act (BC)*, *supra* note 261, s 3(1)(k)(ii); *Limitations Act (AB)*, *supra* note 261, s 3.1(1)(c); *The Limitations Act (SK)*, *supra* note 262, s 16(1)(b); *The Limitations of Action Act (MB)*, *supra* note 262, s 2.1(2)(b); *Limitations Act (ON)*, *supra* note 261, s 16 (h.2); QB CCQ, *supra* note 59, art 2926.1; *Limitations of Actions Act (NS)*, *supra* note 261, s 11.

was living in an intimate and personal relationship with, or was in a relationship of financial, emotional, physical or other dependency with, a person who performed, contributed to, consented to or acquiesced in the assault or battery.<sup>272</sup>

Québec's Civil Code eliminates the limitation period where the act causing bodily harm could constitute a criminal offence and the injury results from violent behaviour suffered during childhood or the injury results from the violent behaviour of a spouse or former spouse.<sup>273</sup>

While overall the amendments to limitations legislation across the country reflect a significant step forward in advancing access to justice for survivors, the inconsistencies and unevenness across jurisdictions is concerning. While all survivors of sexual assault have the benefit of no limitation period in some provinces, in others this benefit is available only to survivors in particular forms of relationships, and in Prince Edward Island, no survivors have this benefit. Moreover, only some jurisdictions eradicate the limitation period for a range of forms of sexual misconduct, and for those who do so, some only in the case of minors, while others include relationships of dependency. For non-sexual assault in intimate relationships and relationships of dependency, whether there is a limitation period will also depend on where the survivor is bringing the claim (usually it must be brought where the defendant lives or where the assault was committed). As with victim compensation schemes, whether a survivor's action will be statute-barred should not vary by jurisdiction. Moreover, given what is known about the trauma of gender-based violence, the often ongoing reality of stalking, intimidation, and harassment, and the prevalence of self-blame (as noted, actively instilled by perpetrators), the preferred statutory approach is one that eliminates limitation periods for sexual assault, for all forms of sexual misconduct (irrespective of the nature of the relationship—a recommendation that goes beyond existing statutes), and for any claim for harm inflicted in intimate relationships and other relationships of dependency.

#### J. Residential Tenancies Laws

All provinces and territories except Prince Edward Island, Yukon and Nunavut have amended their residential tenancy legislation to allow tenants to terminate leases early without the usual liabilities where they must vacate the premises because of the risk to their (or their dependents') safety if the tenancy were to continue.<sup>274</sup> For the purposes of these early termination provisions, the risk of domestic (or family/interpersonal) violence is defined so as to include sexual violence against one's partner or former partner, either in the residential tenancy provisions themselves

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<sup>272</sup> *Limitation Act (BC)*, *supra* note 261, s 3(1)(k)(ii).

<sup>273</sup> QB CCQ, *supra* note 59, art 2926.1

<sup>274</sup> *Residential Tenancy Act*, SBC 2002, c 78, ss 45.1–45.3 (BC RTA); *Residential Tenancies Act*, SA 2004, c R-17.1, ss 47.1–47.7 (AB RTA); *Residential Tenancies Act*, 2006, SS 2006, c R-22.0001, ss 64.1–64.3 (SK RTA); *The Residential Tenancies Act*, CCSM c R119, ss 92.2–92.4 (MB RTA); *Residential Tenancies Act*, 2006, SO 2006, c 17, s 47.1–47.4 (ON RTA); QB CCQ, *supra* note 59, art 1974.1; *Residential Tenancies Act*, SNB 1975, c R-10.2, s 24.01 (NB RTA); *Residential Tenancies Act*, RSNS 1989, c 401, s 10F (NS RTA); *Residential Tenancies Act*, 2018, SNL 2018, c R-14.2, ss 25–26 (NL RTA); *Residential Tenancies Act*, RSNWT 1988, c R-5, s 54.1 (NWT RTA).

(Alberta, Ontario, Québec), or by adopting the definition from the particular jurisdiction's protection order legislation (British Columbia, Saskatchewan, Manitoba, Nova Scotia, Newfoundland and Labrador, and Northwest Territories).<sup>275</sup> Alberta appears to be unique in adopting a broader definition of domestic violence for early termination than in its protection order legislation, expanding the definition in the *Protection Against Family Violence Act* to add emotional and psychological abuse in the *Residential Tenancies Act*.<sup>276</sup>

A few provinces also allow early termination in cases of sexual violence more broadly, without the need for an intimate partner or cohabitant context. This is the case in Manitoba, Ontario, Québec, and New Brunswick, which all permit early termination where the risk of either domestic or sexual violence makes it unsafe to continue the tenancy.<sup>277</sup> Several provinces include risk of violence from non-cohabitants in their early termination provisions: Alberta, Manitoba, Ontario, Québec (for sexual aggression but not domestic violence), and New Brunswick all include dating relationships.<sup>278</sup> Alberta is again unique here by extending early termination provisions to persons in dating relationships, whereas its civil protection order legislation only applies to cohabitants.<sup>279</sup> British Columbia is also unique in having recently added "household violence" to its early termination provisions, which extends their scope to allow applications in the case of "occupants" who are at risk of violence, in addition to intimate partners and their dependents who are at risk.<sup>280</sup>

The broadest definitions of violence and of relationships are best practices here in order to make early termination provisions available as widely as possible. Manitoba, Ontario, and New Brunswick currently take the broadest approach overall in defining violence and the kinds of relationships that give rise to eligibility for early termination.

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<sup>275</sup> British Columbia (adopting the definition of family violence in the BC FLA, *supra* note 8); Alberta (AB RTA, *ibid*, s 47.2); Saskatchewan (adopting the definition of interpersonal violence in the SK VIVA, *supra* note 8); Manitoba (adopting the definitions of domestic violence and stalking from the MB DVSA, *supra* note 8); Ontario (early termination for "violence and other forms of abuse", ON RTA, *ibid*, s 47.1); Nova Scotia (adopting the definition of domestic violence in the NS DVIA, *supra* note 8); Newfoundland and Labrador (adopting the definition of family violence in the NL FVPA, *supra* note 8); Northwest Territories (adopting the definition of family violence in the NWT PAFVA, *supra* note 8).

<sup>276</sup> AB RTA, *ibid*, s 47.2.

<sup>277</sup> MB RTA, s 92.2 (defining "sexual violence" to mean "any sexual act or act targeting a person's sexuality, gender identity or gender expression — whether the act is physical or psychological in nature — that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, indecent exposure, voyeurism and sexual exploitation"); ON RTA, ss 47.3(1)(e), 47.3(2) (defining sexual violence the same as in Manitoba); QB CCQ, *supra* note 59, art 1974.1 (applying to "sexual aggression"); NB RTA, s 24.01(1) (applying to domestic violence, intimate partner violence, sexual violence, and criminal harassment, which are not defined).

<sup>278</sup> MB RTA, s 92.2; ON RTA, s 47.3(4); QB CCQ, *supra* note 59, art 1974.1; NB RTA, s 24.01 (all *supra* note 274, except otherwise noted).

<sup>279</sup> AB RTA, *supra* note 274, s 47.2.

<sup>280</sup> BC RTA, *supra* note 274, s 45.1. Household violence is defined as violence that is, or is likely to, adversely affect a tenant's or occupant's quiet enjoyment, security, safety, or physical well-being if they remain in the rental unit (s 45.1(1)).

Another difference amongst jurisdictions is the level of and process for verification of the abuse that is required for early termination. Ontario takes the most supportive approach here by allowing termination to be based on proof of a peace bond, restraining order, or the survivor's statement of alleged violence.<sup>281</sup> Most other jurisdictions—British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, and Newfoundland and Labrador—require proof that the survivor has obtained a protection order, no contact order, or peace bond, has made a police complaint, or has obtained a certificate from an authorized professional verifying the abuse.<sup>282</sup> The strictest approach is taken by Nova Scotia and Northwest Territories, which require proof of a court order or police complaint without the option of a professional verifying the abuse.<sup>283</sup>

Where survivors are required to obtain court orders or interact with the police or other professionals, this may deter some from relying on the early termination provisions—particularly those from marginalized groups, who have a host of reasons for not wanting to engage with these actors. If they break their leases without giving notice of early termination, this may have adverse consequences in terms of their liability to pay rent and perhaps find other accommodation, given the likelihood of a poor reference from their landlord. In Alberta, failure to give notice of early termination may also affect eligibility for social assistance.<sup>284</sup> Burdensome verification requirements can also delay the start of the notice period (typically 28 days to a month) and cause risks to the safety of survivors and children. In response to those who might argue that verification is important because notice of early termination ends the tenancy for all tenants and not just the survivor, it is important to note that landlords can re-enter a new lease with the other tenants.<sup>285</sup> Ontario's approach of permitting early termination based on the survivor's statement of alleged violence provides the best level of access to this important remedy, refutes the myth that women lie about violence, and is the most promising practice.

Protection order legislation also provides some protection for residential tenancies. It generally stipulates that landlords may not terminate a tenancy solely because a victim has obtained a protection order with exclusive possession rights and is not a party to the lease.<sup>286</sup> This same protection exists in some family legislation providing for exclusive possession orders for the

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<sup>281</sup> ON RTA, *supra* note 274, ss 47.3(1), (5).

<sup>282</sup> BC RTA, s 45.2; AB RTA, ss 47.3, 47.4; SK RTA, s 64.2, SK VIVA, *supra* note 8, s 12.1; MB RTA, s 92.4; QB CCQ, *supra* note 59, art 1974.1; NB RTA, s 24.01(1); NL RTA, s 25(3) (all *supra* note 274, except otherwise noted).

<sup>283</sup> NS RTA, s 10H(2); NWT RTA, s 54.1(2) (both *supra* note 274).

<sup>284</sup> Alberta's *Social Housing Accommodation Regulation*, Alta Reg 244/1994, provides that applicants for social housing may lose priority for safety-based housing if they repudiated or breached a tenancy agreement, abandoned the premises, or their tenancy was otherwise terminated as a result of contravening the *Residential Tenancies Act*.

<sup>285</sup> See for example AB RTA, *supra* note 274, s 47.3(5).

<sup>286</sup> This is also the case in jurisdictions that do not have early termination provisions. See PEI VFVA *supra* note 8, s 12; YK FVPA, *supra* note 8, s 10(2); NU FAIA, *supra* note 8, s 46(1).

family home, which deem the person with the order to be a tenant.<sup>287</sup> However, in spite of these provisions, most residential tenancy legislation still prohibits tenants from changing locks without permission, requires them to pay rent until the end of the tenancy, and allows landlords to terminate tenancies where a tenant has engaged in illegal activity, caused damage to the property, or adversely affected the security of another occupant—with no explicit exceptions in cases involving domestic or sexual violence.<sup>288</sup> Safe at home legislation, which allows survivors to remain in premises without these typical consequences of residential tenancy legislation, offers the next level of protection and should be explored for possible implementation in Canada.<sup>289</sup>

#### K. Immigration and Refugee Law

The right to enter and remain in Canada is addressed in federal legislation: the *Immigration and Refugee Protection Act* (IRPA) and its regulations (IRPR).<sup>290</sup> While neither the Act nor the Regulations make specific reference to gender-based violence, various operational guidelines do.

There are three main streams of immigration to Canada that provide routes to permanent resident status: the family class (in which women are over-represented), the economic class, and the Convention refugee or protected person class. It is also possible to enter Canada with various forms of temporary status, for example, as a visitor, student, or through various temporary worker programs. As a result, there are many different forms of status (for example, refugee claimant, visitor, permanent resident applicant, permanent resident, temporary resident permit holder). The form of status a person has is important because it affects whether they have the right to remain in and/or return to Canada and determines their entitlement to various forms of federal and provincial benefits, supports, and programs (we address some of these sections L & M).

For women entering Canada through the family class as a spouse or common law partner, the application for permanent resident status is usually made from outside of Canada and permanent resident status is granted to the spouse or partner before arrival.<sup>291</sup> In some circumstances it is also possible to apply from within Canada through the “Spouse or Common-Law Partner in Canada Class.”<sup>292</sup> Both forms of application require a sponsorship and undertaking from the sponsor. The sponsor undertakes to provide for all of the basic needs of the sponsored person,

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<sup>287</sup> See for example SK FPA, *supra* note 61, s 5(2)(j), where a spouse with exclusive possession of a family home subject to a lease can be deemed a tenant for purposes of the lease, but the other tenant is not removed from the lease.

<sup>288</sup> For a discussion, see Jonnette Watson Hamilton, “Reforming Residential Tenancy Law for Victims of Domestic Violence” (2019) 8 Annual Rev Interdisciplinary Justice Research 248.

<sup>289</sup> For a Canadian project examining a “safe at home” model, see Patricia O’Campo et al, Solutions Network: Safe at Home, online: <<https://maphealth.ca/safe-at-home/>>.

<sup>290</sup> *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA), and *Immigration and Refugee Protection Regulations*, SOR/2002-227 (IRPR).

<sup>291</sup> IRPA, *ibid*, s 13(1).

<sup>292</sup> *Ibid*, s 124).

and to reimburse the government should the sponsored person receive social assistance.<sup>293</sup> The financial undertaking, in the case of a sponsored spouse or common law partner, lasts for three years.<sup>294</sup> Any money paid to the sponsored person by the government through social assistance during those three years becomes a debt of the sponsor. For applications made in Canada, the sponsor can withdraw the sponsorship at any time prior to the granting of permanent residency (a process that may take two or more years). If the sponsorship is withdrawn, no decision will be made on the application for permanent residency, and the person who was to be sponsored is left without status.<sup>295</sup> Troublingly, those without status have the least access to various social, income, and other supports.

For in-land applications, abusive partners wield both the promise of sponsorship and the threat to withdraw or cancel it in order to maintain control and to enforce women's silence about the abuse. But even for women with permanent resident status, abusers may manipulate or deny access to information about their status and/or may report (or threaten to report) that the marriage or relationship is not genuine. Making such a report will prompt an investigation and potentially the revocation of permanent resident status and possible removal on the grounds of misrepresentation.<sup>296</sup> In many instances, women endure ongoing and significant violence in order to preserve the possibility of securing permanent resident status through a spousal sponsorship.

For those who have lost status due to the withdrawal or failure of a promised sponsorship or in other ways, often the only route to potential permanent resident status is through a "humanitarian and compassionate" (H&C) application.<sup>297</sup> These decisions are entirely discretionary and guided by Operational Instructions and Guidelines.<sup>298</sup> The guidelines include "family violence considerations" and list several factors for officers to consider in these situations, including: "information indicating that there was abuse such as police incident reports, charges or convictions, reports from shelters for abused women, medical reports, etc."; and the applicant's degree of establishment in Canada. Regarding establishment, officers are directed to consider such matters as a history of stable employment; a pattern of sound financial management; integration into the community; and a good civil record (defined as no criminal charges or interventions by law enforcement officers or other authorities for domestic violence or child abuse).

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<sup>293</sup> *Ibid*, s 13.1, IRPR, *supra* note 290, ss 127, 130 - 133.

<sup>294</sup> *Ibid*, s 132(1) (b) (i).

<sup>295</sup> *Ibid*, s 126.

<sup>296</sup> *Ibid*, ss 40(1)-(3). A particular form of misrepresentation—often referred to as "marriage fraud" or "marriages of convenience"—is addressed in s 4(1) of the Regulations, which specifies that, "for the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the marriage, common-law partnership or conjugal partnership (a) was entered into primarily for the purpose of acquiring any status or privilege under the Act; or (b) is not genuine."

<sup>297</sup> *Ibid*, s 25(1).

<sup>298</sup> See "Humanitarian and compassionate consideration," online: <[www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/processing/assessment-dealing-family-relationships.html#violence](http://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/processing/assessment-dealing-family-relationships.html#violence)>.

Both the examples of documents to verify the abuse and the establishment considerations are profoundly out-of-step with the realities of intimate partner violence. The vast majority of women—but especially migrant and racialized women—do not access the police or shelters and may have no or limited access to medical professionals. Moreover women’s “establishment” is often intentionally and severely undermined by perpetrators: tactics of coercion and control include isolation, denial of access to employment, limiting access to and knowledge of the family’s finances, and making false reports to child welfare authorities. Problematically, the more successful the perpetrator’s tactics, the less likely it is that a survivor will be able to show establishment.

The Family Violence Temporary Resident Permit (TRP) introduced in July 2019 is an important, but limited, initiative.<sup>299</sup> On the positive side, the guidelines define family violence broadly as: physical abuse (including forcible confinement); sexual abuse; psychological abuse (including threats and intimidation); financial abuse (including fraud and extortion); and neglect (consisting of the failure to provide the necessities of life). The guidelines also indicate a much broader array of potential sources of verification than do the H&C guidelines: police records; criminal or family court documents; letters, statements, or reports from victim or witness assistance programs, a women’s shelter, a domestic violence support organization, or a health care professional or counsellor; assessments by psychologists, psychiatrists, or therapists; photos of injuries; and emails or text messages.

However, the TRP is time-limited: for a minimum of 6 months with the potential for renewal. But alone, the TRP does not provide a route to permanency. Moreover, the TRP is available only in narrow circumstances: to a foreign national who is physically present in Canada and experiencing abuse by a spouse or common-law partner. The applicant must also be seeking permanent resident status that is dependent on them remaining in a genuine relationship. There is also a form of TRP available to survivors of trafficking and it too is time limited.

There are also concerns regarding how the criminality provisions of IRPA impact victims of gender-based violence, particularly when they are inappropriately charged.<sup>300</sup> In some instances, abusive men have been known to contact police to report that they are the victims—not the perpetrators—of abuse, with the intention of triggering the charging, conviction, and removal of their spouses/partners.<sup>301</sup> Without access to legal counsel who is knowledgeable about gender-based violence and the intersections of criminal and immigration law—and family law in instances where there are children—there is a real risk that survivors will (continue to be) convicted and removed from Canada (including, in some instances, without their children).

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<sup>299</sup> See “Temporary resident permit (TRP) for victims of family violence,” online: <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/family-violence.html>>.

<sup>300</sup> IRPA, *supra* note 290, ss 36(1)-(3). Depending upon the maximum term of actual or potential imprisonment for the offence, even a permanent resident may be rendered inadmissible and subject to potential removal.

<sup>301</sup> See, for example, the Canadian Council of Refugees, “Gender Priorities: Key Issues Affecting Newcomer Women and Girls,” online: <<https://ccrweb.ca/en/issues/gender>>.

## Refugee Law

A person making a claim to refugee status must establish a well-founded fear of persecution based on one or more of the five grounds: race, religion, nationality, membership in a particular social group, or political opinion.<sup>302</sup> If the persecution or fear of persecution is based on the conduct of someone other than a government authority, it is also necessary to show that government authorities in the home country are unable or unwilling to provide protection, and that there is no place within the home country where one could be safe from persecution (that is, that there is no internal flight alternative). The IRPA also recognizes the category of “protected person,” defined as a person in Canada who is unable or unwilling to return to their home country safely because they may face a danger of torture, a risk to their life, or a risk of cruel and unusual treatment or punishment.<sup>303</sup>

Significantly, developments in refugee law have led to the recognition that persecution may be perpetrated by non-state agents—including by abusive spouses or intimate partners—and that, while gender is not an enumerated ground for a well-established fear of persecution, “women” or sub-groups of women, may constitute a “particular social group” within the definition of a Convention refugee. IRB guidelines, “Women Refugee Claimants Fearing Gender-Related Persecution,” provide an analytic framework for a gender-sensitive interpretation of the definition of “Convention refugee.”<sup>304</sup> The Guidelines explicitly recognize a sub-category of women refugees who “fear persecution resulting from certain circumstances of severe discrimination on grounds of gender or acts of violence either by public authorities or at the hands of private citizens from whose actions the state is unwilling or unable to adequately protect the concerned persons.” The Guidelines also note that the “acts of violence which a woman may fear include violence inflicted in situations of domestic violence,” and that “domestic violence” includes violence perpetrated against women by family members or other persons with whom the woman lives.

A review of decisions of the IRB suggests, however, that particular forms of gender-based claims related to, for example, female genital cutting, or other practices perceived as “exotic” are much more likely to succeed than claims based on domestic violence. Consistent with earlier research, this review reveals a low acceptance rate in cases of domestic violence.<sup>305</sup> The more recent IRB Guideline on sexual orientation and gender identity and expression is also an important development, although as with Gender Guideline, many concerns have been identified regarding its operation.<sup>306</sup>

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<sup>302</sup> IRPA, *supra* note 290, s 96.

<sup>303</sup> IRPA, *supra* note 290, s 97(1).

<sup>304</sup> Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution, online: <<https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/GuideDir04.aspx>>.

<sup>305</sup> Efrat Arbel, “The Culture of Rights Protection in Canadian Refugee Law: Examining the Domestic Violence Cases” (2013) 58:3 McGill LJ 729.

<sup>306</sup> Chairperson’s Guideline 9: Proceedings before the IRB involving sexual orientation and gender identity and expression, online: <<https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/GuideDir09.aspx>>.



## L. Social Housing Laws

In most jurisdictions legislation governing social housing makes no reference to gender-based violence.<sup>307</sup> However, various policies that we were able to access online indicate that women fleeing violence or at risk of violence are given priority access in some jurisdictions. For example, Newfoundland and Labrador's Housing Corporation has a Victims of Violence Policy that assists victims of violence when applying for housing, which they can do if they are in an "abusive home situation." Victims are assigned a social worker to assist them with the process and who can refer them to any counselling they may require.<sup>308</sup>

Alberta, Québec, and Ontario appear to be the only jurisdictions with explicit references to gender-based violence in their statutes or regulations. Alberta's *Social Housing Accommodation Regulation* creates a point system for the allocation of social housing.<sup>309</sup> A household applying for social housing that requires accommodation as a result of an emergency situation, including family violence, is allocated the same number of points as a household that has been served notice to vacate or terminate a tenancy agreement. No points may be awarded if the household breached the tenancy agreement, abandoned the premises, or if the tenancy has been otherwise terminated as a result of a breach (s 2). If victims of domestic violence rely on the new early termination provisions in the *Residential Tenancies Act* (discussed in Section J), it appears they will avoid losing points under the *Social Housing Accommodation Regulation*.

Québec's legislation governing community housing does not mention domestic violence; however, the *By-law Respecting the Allocation of Dwellings in Low Rental Housing* does. The requirement that an individual must have resided in Québec for at least 12 months in the 24 months preceding the application in order to be eligible does not apply to victims of domestic violence. The fact that someone is a victim of domestic violence must be attested to by a shelter for such persons, a police force, or an institution of health and social services network. Additionally, the top ranked priority in applications for low-rental housing are persons who resiliated (terminated) their lease under article 1974.1 of the *Civil Code*, or who are victims of domestic violence, as attested to by a shelter for such persons, a police force, or an institution of health and social services network. As discussed more fully below, these requirements for

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<sup>307</sup> See *Ministry of Lands, Parks and Housing Act*, RSBC 1996, c 307 and *Housing Management Commission Regulation*, BC Reg 490/79; *Saskatchewan Housing Corporation Act*, RSS 1978, c S-24; *New Brunswick Housing Act*, RSNB 1973, c N-6; *Housing Nova Scotia Act*, RSNS 1989, c 213; *Housing Corporation Act*, RSPEI 1988, c H-11.1; *Housing Corporation Act*, RSY 2002, c 114; *Northwest Territories Housing Corporation Act*, RSNWT 1988, c N-1; *Nunavut Housing Corporation Act*, RSNWT (Nu) 1988, c N-1.

<sup>308</sup> Newfoundland and Labrador Housing Corporation, *Victims of Violence Policy*, online: <<https://www.nlhc.nl.ca/tenant-information/victims-of-violence-policy/>>. See also, British Columbia Housing's Priority Placement Program, online: <[www.bchousing.org/housing-assistance/women-fleeing-violence/priority-placement-program](http://www.bchousing.org/housing-assistance/women-fleeing-violence/priority-placement-program)>; and Housing Nova Scotia, *Public Housing for Families*, 2018, online: <<http://housing.novascotia.ca/programs/public-housing-and-other-affordable-renting-programs/public-housing-families>>.

<sup>309</sup> *Social Housing Accommodation Regulation*, Alta Reg 244/1994; and see *Alberta Housing Act*, RSA 2000, c A-25.

verification of domestic violence create barriers for the many survivors who do not access police, shelters, or health and social services.<sup>310</sup>

Ontario has detailed provisions regarding access to social housing in situations of domestic abuse, as well as where a household member is being, or has been, trafficked. The *Housing Services Act, 2011* (HSA) sets out the guidelines for community service planning for housing and to address homelessness in Ontario.<sup>311</sup> The regulations to the HSA require that a housing plan take into account the needs for accessible housing for victims of domestic violence.<sup>312</sup> This was a key recommendation from the Hadley inquest into a domestic homicide a number of years ago.<sup>313</sup>

The HSA regulations create categories for special priority housing. Under s 54(1) a household is eligible,

... if a member of household has been abused by another individual, the abusing individual is or was living with the abused member or is sponsoring the abused member as an immigrant, and the abused member intends to live permanently apart from the abusing individual.

The regulations are unlike many other areas of law touching on gender-based violence in that they contain definitions of “abuse” and “trafficking” and detailed specifications regarding verification. Section 1(1) of the regulations defines “abuse” broadly as one or more incidents—done against the member of the household by a current or former intimate partner, a person on whom the household member is emotionally, physically, or financially dependent, or an immigration sponsor—of physical or sexual violence, controlling behaviour, intentional destruction of or intentional injury to property, or words, actions or gestures that threaten an individual or lead an individual to fear for their safety. Abuse is also defined to include trafficking of a member of the household and “trafficking” is defined as:

one or more incidents of recruitment, transportation, transfer, harbouring or receipt of the member by improper means, including force, abduction, fraud, coercion, deception and repeated provision of a controlled substance, for an illegal purpose, including sexual exploitation or forced labour.<sup>314</sup>

Of concern is that a household is ineligible for rent/geared-to-income assistance if a member of the household owes, with respect to a previous tenancy in any housing project, arrears or an amount for damages (financial compensation).<sup>315</sup> While section 26(3) reduces the arrears or amount owing by one-half if a request has been made for priority access based on abuse and the

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<sup>310</sup> CQLR c S-8 r1, and see *Act respecting the Société d'habitation due Québec*, CQLR c S-8, ss 14, 23.

<sup>311</sup> *Housing Services Act*, SO 2011, c 6, Sch 1.

<sup>312</sup> General, O Reg 367/11.

<sup>313</sup> Hadley Inquest, Coroner’s Jury Recommendations, online: <[www.oaith.ca/assets/files/Publications/Hadley-Jury-Recommendations.pdf](http://www.oaith.ca/assets/files/Publications/Hadley-Jury-Recommendations.pdf)>.

<sup>314</sup> O Reg 367/11, *supra* note 312, s 1.

<sup>315</sup> *Ibid*, s 26(1).

amount owing relates to a unit the member of the household and the abusing individual were sharing as joint tenants, even with this reduction many survivors of abuse will not be in a position to pay and be precluded from accessing social housing. The one-half reduction seems to presuppose that there was equal responsibility for the outstanding arrears and/or the property damage. But given what is known about financial control within abusive relationships, and also the destruction of property by abusers, this assumption of equal responsibility is problematic.

Also of concern is the requirement that, if no longer living together, the abused household member must apply no later than 3 months after ceasing to live with the abusing person, that the abuse is ongoing at the time the request is made to be put on the priority list, or “the service manager determines it is appropriate to include the household on the priority list even though outside the three-month period.”<sup>316</sup> Moreover, eligibility—as noted above—turns on the abused member’s intention to live permanently apart from the abusing person.

In order to access priority housing, consent must be provided to allow the service manager to access information and documents to verify eligibility. Importantly section 57 imposes restrictions on what a service manager can require: information or documents cannot be requested if the household member believes they or any other member of the household will be at risk of abuse if they attempt to obtain the information or documents nor can information as to whether the member has commenced legal proceedings against the abusing individual or information or documents relating to such proceedings be required.

It is also possible to verify the abuse by providing a “record” that complies with section 58; such records are conclusive proof of abuse, and no further or other verification is required. The record must include a statement by the person preparing it that he or she has reasonable grounds to believe that the member is being or has been abused by an intimate partner, or a person on whom they are dependent, as well as a description of the circumstances that indicate that the member is being or has been abused. It must be prepared by one of the professionals listed, in their professional capacity, among them a doctor, nurse, lawyer, law enforcement officer, early childhood educator, teacher, guidance counsellor, Indigenous Elder, Indigenous Traditional Person or Indigenous Knowledge Keeper, registered social worker, or registered social service worker. The record must be in writing unless the service manager is satisfied that the member of the household or the person preparing the record will be at risk of being abused. Almost identical provisions apply regarding trafficking.<sup>317</sup>

This approach to providing detailed directions regarding verification in the regulation to the statute is positive in several respects. If a survivor has access to one of the listed professionals it removes from frontline housing managers the determination of whether abuse or trafficking has occurred or is occurring; arguably then, the assessment is being shifted, as a general matter, to professionals with relevant training, education, and insight (although certainly not all

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<sup>316</sup> *Ibid*, s 26(2)

<sup>317</sup> *Ibid*, s 58.1 regarding trafficking.

professionals are well-educated in relation to abuse and trafficking). The “record” is also preferable to leaving it in the hands of housing managers to determine what documents or information they require and from whom, in order to verify abuse. However, this approach raises at least two significant concerns: the unevenness in access to the listed professionals, and the embedded skepticism regarding women’s disclosures of abuse. A very substantial number of women—and especially those who experience the most profound forms of social marginalization—will never access the named professionals; the “record” approach will simply not be an option. Skepticism regarding women’s disclosures of abuse is deeply embedded in law and other social structures, and this has obvious and severe consequences for their safety. A preferable approach would be, as with the early termination of a lease in Ontario, requiring only the survivor’s statement regarding the abuse.

Eligibility for rent-geared-to income is also dependent upon immigration status. To be eligible, each member of the household must be either a Canadian citizen, have made an application for status as a permanent resident, or have made a claim for refugee protection. Moreover, a household is ineligible if an enforceable removal order has been made for any member of the household. These eligibility requirements are troubling in that they apply to all members of the household; as such, the status of one member will determine the outcome for all. Moreover, they create categories of deserving and undeserving survivors of gender-based violence: for example, a woman with permanent residence status who is abused by a Canadian citizen has access, while a woman who has overstayed a visitor’s permit, lived in Canada for a decade, and is abused by a Canadian citizen does not have access.

It is troubling to see that so few provincial and territorial statutory housing schemes embed priority access for survivors of gender-based violence. But of course, the larger problem pertains to the limited supply of social housing: no matter how good the statutory scheme in prioritizing the safety of survivors and in taking survivors at their word, without an adequate supply of safe, affordable, and accessible social housing, the statutory schemes remain little more than window dressing. On this front, there is much that the federal, provincial/territorial, and municipal levels of government need do together to ensure emergency, transitional, and long-term housing for survivors of gender-based violence.

In addition to expanding housing stock, an interesting development that other jurisdictions might consider is Ontario’s portable housing benefit. Victims of domestic violence approved for special priority status have the option of either rent-geared-to-income housing or a portable housing benefit (PHB). The PHB is a monthly subsidy provided to the household to secure rental accommodation in the private rental market. There are approximately 3,000 benefit allocations across the province.<sup>318</sup>

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<sup>318</sup> Portable Housing Benefit,” online:  
[www.tdin.ca/res\\_documents/Portable%20Housing%20Benefit%20QAv3final-HHSN.pdf](http://www.tdin.ca/res_documents/Portable%20Housing%20Benefit%20QAv3final-HHSN.pdf).

## Beyond Social Housing

While we have not delved deeply in the funding of VAW shelters or the supply of housing, we note here a few developments that emerged in our research.

The New Brunswick Housing Strategy 2019–2029 includes an objective to provide flexible housing options for individuals and families who are the victims of intimate partner violence and family violence. Key actions to achieve this objective include identifying and implementing additional housing options for persons affected by intimate partner and family violence, including off-reserve Indigenous persons and families.<sup>319</sup> The Housing Action Plan for Prince Edward Island, 2018-2023, includes funding to create transitional housing for victims of family violence as they transition to safe living arrangements.<sup>320</sup>

Manitoba Housing, established under *The Housing and Renewal Corporation Act*,<sup>321</sup> provides some funding for women's shelters and a Rental Supplement program. As of 2019, these programs had not yet targeted housing for low-income women and children leaving family violence or shelters, but the construction or operation of such facilities in Winnipeg was being explored.<sup>322</sup>

## M. Social Assistance Laws

The delivery of social assistance (or “welfare” as it is commonly known) is governed by a complex maze of statutory and regulatory provisions, as well as internal policy directives and guidelines. These raise a broad range of issues of concern for survivors of gender-based violence, for whom access to an adequate source of income outside of the paid labour market and independent of abusive partners is critical to their safety and well-being. Survivors often return to or remain in abusive relationships because of their inability to access adequate levels of social assistance and safe, affordable housing.<sup>323</sup>

We have not reviewed the quantum of benefits available in each jurisdiction, although it is widely acknowledged that benefit levels are below commonly accepted poverty lines. Nor have we examined the policies and practices in all jurisdictions regarding the circumstances in which income and assets of “spouses” (defined differently for social assistance purposes than for family law purposes) are assessed separately (that is, departing from the usual practice of treating

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<sup>319</sup> New Brunswick Housing Strategy 2019–2029, online: <<https://www2.gnb.ca/content/dam/gnb/Departments/sd-ds/pdf/Housing/HousingStrategy2019-2029.pdf>>.

<sup>320</sup> Housing Action Plan for Prince Edward Island, 2018-2023, online:

<[https://www.princeedwardisland.ca/sites/default/files/publications/pei-housing-action-plan\\_2018-2023.pdf](https://www.princeedwardisland.ca/sites/default/files/publications/pei-housing-action-plan_2018-2023.pdf)>

<sup>321</sup> *Housing and Renewal Corporation Act*, CCSM c H160.

<sup>322</sup> See “Manitoba Housing,” online: <<https://www.gov.mb.ca/housing/progs/reoi-mhfvp.html>>.

<sup>323</sup> See, for example, Janet Mosher & Pat Evans, “Welfare Policy: A Critical Site of Struggle for Women’s Safety,” in Angela Miles, ed, *Women in a Globalizing World: Transforming Equality, Development, Diversity and Peace* (Toronto: Inanna Publications, 2013), 138-146.

spouses as a single benefit unit for the purposes of determining eligibility). In our survey, we did identify particular provisions bearing on the issue of the benefit unit that are relevant to gender-based violence. New Brunswick's *General Regulation* to the *Family Income Security Act*, for example, provides that "a victim of violence committed by a person living in the same home" may be considered to be a separate unit,—an extremely important measure—but limits this by requiring that the victim not live with the person who committed the violence and stipulating that they may only be considered as a separate unit for nine months.<sup>324</sup> Just what this means in practice is hard to discern. However, because financial control is so central to many abusive relationships, and because control also frequently extends to undermining women's employment and employability, access to social assistance without taking into account the abuser's income and assets is imperative.

Newfoundland and Labrador has a broad provision relevant to the benefit unit: its *Income and Employment Support Act* provides that in situations of emergency, the Minister may provide income support without the usual eligibility requirements to ensure the immediate health, safety, or well-being of an individual or family.<sup>325</sup> Presumably this enables consideration of the survivor's income and assets alone, even if in other circumstances the abuser's income and assets would also be considered. Notably, Newfoundland and Labrador is also the only province in which providing "support to victims of violence, including timely access to financial assistance and referrals to other services to ensure the safety of those individuals and their children" is identified as one of the purposes/objectives of its social assistance legislation.<sup>326</sup> This is significant, since the statement of the statute's purpose guides the interpretation of all other provisions in the statute.

Yukon has a similarly broad provision. Under the *Social Assistance Regulation* applicants may be eligible for discretionary aid in emergency situations in order "to prevent or alleviate immediate risk to the health or safety of a person or a member of a person's household," even if the person is not otherwise eligible for assistance<sup>327</sup> For those receiving assistance, it can include counselling, rehabilitative services, and moving expenses.<sup>328</sup>

The Income Assistance Policy Manual of Northwest Territories requires that applicants who have been in a legal or common law spousal relationship but claim to be separated—and so could qualify without consideration of the income and assets of their (former) partner—to provide evidence of separation. Importantly, this can include evidence of family violence, such as physical evidence or information provided by police, medical personnel, or social workers, accompanied by a change in residence.<sup>329</sup>

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<sup>324</sup> *General Regulation - Family Income Security Act*, NB Reg 95-61, see ss 4(17.1), (17.4b).

<sup>325</sup> *Income and Employment Support Act*, SNL 2002, C I-0.1, s 16.

<sup>326</sup> *Ibid*, s 3(d).

<sup>327</sup> *Social Assistance Regulations*, YOIC 2012/83, s 33.

<sup>328</sup> *Ibid*, ss 34-51.

<sup>329</sup> Income Assistance Policy Manual 2019, online:

## Benefits

Below we have attempted to capture the range and variability of benefits, rather than to document the full array of benefits available in each jurisdiction. As in other areas of our survey, our approach is limited in that we are mapping entitlements as they exist on paper; what these look like in practice may depart from the paper entitlements, in both positive and negative ways.

Again, Newfoundland and Labrador stands out among jurisdictions: consistent with the statutory purpose of its *Income and Employment Support Act*, the regulations confer a broad discretion for an officer to grant the income support necessary to ensure the safety of a victim of violence and their dependents.<sup>330</sup>

In several jurisdictions, particular benefits are available in emergency situations affecting health or safety (for example Ontario<sup>331</sup>), and some identify family violence as one such emergency (Prince Edward Island, for example, identifies family violence as a priority for emergency assistance<sup>332</sup>). Some jurisdictions also identify specific benefits for those fleeing abuse. These benefits vary quite widely: moving and transportation costs (British Columbia<sup>333</sup>); relocation payments, household start-up costs, and telephone services (Alberta<sup>334</sup>); relocation benefits if moving due to interpersonal violence, and where there are health and safety concerns, emergency assistance to cover temporary accommodation and meals, as well a childcare allowance and funds to purchase or repair essential furnishings and supplies (Saskatchewan<sup>335</sup>); an enhanced benefit rate (Nova Scotia<sup>336</sup>); particular allowances for women living in VAW

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<sup>330</sup> [https://www.ece.gov.nt.ca/sites/ece/files/resources/income\\_assistance\\_policy\\_manual - october 2019.pdf](https://www.ece.gov.nt.ca/sites/ece/files/resources/income_assistance_policy_manual - october 2019.pdf).

<sup>331</sup> *Income and Employment Support Regulations*, NLR 144/04, s 28(3).

<sup>332</sup> O Reg 134/98 General, under *Ontario Works Act, 1997*, SO 1997, c 25, Sched A, s 56. The relevant Policy Directive notes that this assistance is available for up to sixteen days and limited to no more than once in any six-month period, except for “women entering an interval or transition home for abused women”; see Policy Directive Ontario Works Policy Directive 2.3, “Emergency Assistance,” online:

[<http://www.mcse.gov.on.ca/documents/en/mcss/social/directives/ow/0203.pdf>](http://www.mcse.gov.on.ca/documents/en/mcss/social/directives/ow/0203.pdf).

<sup>332</sup> The protocols also require Social Assistance Program staff to participate in family violence training and to be aware of the signs of family violence. Social Assistance Family Violence Protocols, 2015, online:

[<http://www.cliapei.ca/sitefiles/File/publications/WomanAbuseProtocols/WAP9.pdf>](http://www.cliapei.ca/sitefiles/File/publications/WomanAbuseProtocols/WAP9.pdf).

<sup>333</sup> British Columbia’s policy on *Case Administration: Persons Fleeing Abuse, 2015* provides that victims of abuse (including physical violence, psychological or emotional abuse, intimidation, and stalking) may be eligible for Supplements for Persons Fleeing Abuse; see Government of British Columbia, *Case Administration: Persons Fleeing Abuse, 2015*, online: <<http://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/case-administration/persons-fleeing-abuse>>.

<sup>334</sup> *Income Support, Training and Health Benefits Regulation*, Alta Reg 122/2011, schedule 4, ss 13, 14, 20.

<sup>335</sup> *Saskatchewan Income Support Regulations*, RRS c S-8, Reg 13, ss 4-8, 4-11, 4-12(7), 4-13 and Policy Manual ss 14.2, 15.1, 15.4, online: <<https://pubsaskdev.blob.core.windows.net/pubsask-prod/112381/SIS-Policy-Manual-JAN2020.pdf>>.

<sup>336</sup> *Employment Support and Income Assistance Regulations*, NS Reg 195/2019, s 49(c) available to a single recipient who rents or owns their home if fleeing an abusive situation.

shelters to enable them to maintain accommodation in the community (Alberta,<sup>337</sup> Ontario,<sup>338</sup> and Québec<sup>339</sup>); and an exemption from income of victim compensation payments (for example Saskatchewan, Ontario, Nova Scotia, and Yukon<sup>340</sup>). Québec also has a provision dealing with situations where both spouses are liable to repay any overpayments (that is, amounts that should not have been paid). A spouse is not liable for the repayment if they prove that they were experiencing violent behaviour from the other spouse and therefore, could not declare their circumstances. In this case, only the violent spouse is liable for the debt.<sup>341</sup>

Beyond the particular benefits that may be available for those fleeing intimate partner abuse are two critical issues related to the application of particular prerequisites to entitlement: efforts to secure other compensation and financial support from other sources and efforts to secure and maintain employment or become employment ready. Virtually all jurisdictions require applicants/recipients to make all reasonable efforts to secure other sources of financial support; the failure to do so can result in denial, termination, or reduction of benefits.<sup>342</sup>

For women leaving abusive relationships, this obligation usually translates into an obligation to pursue child and/or spousal support. In the policy manuals and directives that we have been able to access, very few make an exception to this obligation in instances involving gender-based violence. Saskatchewan, Ontario, and Nova Scotia appear to be the only jurisdictions where there are express exceptions related to gender-based violence, while Prince Edward Island waives the obligation where it would adversely affect an applicant or would be futile or unreasonable.<sup>343</sup>

In Saskatchewan the obligation can be waived where “potential abuse by the absent spouse or parent poses a serious threat to the individual and/or dependents.”<sup>344</sup> Nova Scotia has a very

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<sup>337</sup> *Income and Employment Supports Act*, SA 2003, c I-0.5, s 6(a)(iii)(C).

<sup>338</sup> O Reg 134/98, *supra* note 331, s 44.1. Under the regulations, an applicant who is living in an interval or transition house for abused women is entitled to receive, for at least three months, the full amount of social assistance benefits—including for shelter—if these benefits are needed to maintain her accommodation in the community.

<sup>339</sup> Under section 53(9) of the *Individual and Family Assistance Act*, CQLR c A-14.1.1, an independent adult who does not have a severely limited capacity for employment and who is “a victim of violence who takes refuge in a shelter or other similar place for a maximum of three consecutive months from the date of admission” may be eligible for “a temporarily limited capacity allowance” on top of the basic benefit.

<sup>340</sup> *Saskatchewan Income Support Regulations*, *supra* note 335, s 2-7(2)(b); *Ontario Works General Regulation*, *supra* note 331, s 39(1); *Employment Support and Income Assistance Regulations (NS)*, *supra* note 336, s 39(1)(d); *Social Assistance Regulations (Yukon)*, *supra* note 327, s 52(1)).

<sup>341</sup> *Individual and Family Assistance Act (QB)*, *supra* note 339, s 89.

<sup>342</sup> *Income and Employment Supports Act (AB)*, *supra* note 337, s 15(1); *Saskatchewan Income Support Regulations*, *supra* note 335, s 3-10(d); *Employment and Income Assistance Regulation*, Man Reg 404/88, s 12.1(2); *Ontario General Regulation*, *supra* note 331, s 13(1); *Individual and Family Assistance Act (QB)*, *supra* note 339, ss 63-66; *General Regulation - Family Income Security Act*, *supra* note 324, ss 4(1)(c), 6(b); Nova Scotia Employment Support and Income Assistance Policy Manual, ss 5.1.4(a)-(c) online: <[https://novascotia.ca/coms/employment/documents/ESIA\\_Program\\_Policy\\_Manual.pdf](https://novascotia.ca/coms/employment/documents/ESIA_Program_Policy_Manual.pdf)>; *Social Assistance Act Regulations* made pursuant to *Social Assistance Act*, RSPEI 1988, C S-4.3, ss 8(7), (8); *Income and Employment Support Regulations*, NLR 144/04, s 9.

<sup>343</sup> *Social Assistance Act Regulations (PEI)*, *ibid*, s 8(8).

<sup>344</sup> Saskatchewan Income Support Program Policy Manual, *supra* note 335 at 12.

similar provision: while applicants are required to pursue support through the courts, this can be temporarily suspended when “potential abuse by the absent spouse poses a serious threat to the applicant, recipient, and/or other family members.”<sup>345</sup>

In Ontario, significantly, as of February 1, 2017, the obligation to pursue child support has been eliminated. In cases of spousal support, a temporary waiver of 3-12 months is available where the applicant or recipient provides evidence of domestic violence, or a restraining order is in effect against the absent spouse. A permanent waiver is available where “the Administrator is satisfied, based on the evidence available, that there is an ongoing risk of domestic violence, and it would not be in the best interests of the applicant or participant to pursue support.”<sup>346</sup>

The above policies vary in whether the obligation can be waived only temporarily, and in terms of the threshold for the waiver: evidence of domestic violence versus a serious threat. None provide definitions of abuse or violence, nor details of verification requirements.

Some provinces create a right of the relevant Ministry to apply for and/or enforce court-ordered support on behalf of a woman and children (Alberta, Québec, and Ontario, for example).<sup>347</sup> Ontario’s Policy Directives recommend only doing so where the applicant or recipient is unable to do so for various reasons, including where “violence, threats, or other forms of intimidation are likely to result as a consequence of the applicant or recipient taking action.”<sup>348</sup> The Directive also provides, however, that a “delivery agent should not proceed with an application for an order of support if there is any possibility of putting the applicant or recipient in further danger of domestic violence.” This caution is important as it is naïve to assume that simply having the Ministry apply for (or enforce) an order necessarily reduces the risks to survivors.

Another form of financial support that an applicant may be required to pursue is an immigration undertaking (discussed in Section K). To be eligible for social assistance, a sponsored immigrant normally must make reasonable efforts to secure financial support from their sponsor, as the sponsor had promised to do in their undertaking.<sup>349</sup> However, various jurisdictions, in their regulations or policy directives, waive this obligation in situations of abuse. In Manitoba, for example, where the Program Manager determines that there is a “risk of harm” the sponsor will

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<sup>345</sup> Nova Scotia Employment Support and Income Assistance Policy Manual, *supra* note 342, s 5.1.4 (a)-(d).

<sup>346</sup> Ontario Works Policy Directive 5.5, “Family Support,” online:

<[www.mcse.gov.on.ca/en/mcss/programs/social/directives/ow/5\\_5\\_OW\\_Directives.aspx](http://www.mcse.gov.on.ca/en/mcss/programs/social/directives/ow/5_5_OW_Directives.aspx)>.

<sup>347</sup> *Income and Employment Supports Act*, (AB), *supra* note 337, s 29; *Individual and Family Assistance Act* (QB), *supra* note 339, s 64; Ontario Works Policy Directive 5.5, *ibid*.

<sup>348</sup> Ontario Directive 5.5, *ibid*. Note that in Ontario a “family support worker” may be assigned to help recipients pursue support. Family support workers are not lawyers and are not authorized to provide legal advice; *Ontario Works Act, 1997*, SO 1997, c 25, Sch A, s 59. Family support workers are also distinct from the family court support workers discussed in Section II:H, who are embedded in the family law courts to provide assistance to survivors of family violence.

<sup>349</sup> For example, Nova Scotia’s approach is broader in providing if the sponsoring spouse or other sponsor can no longer, or refuses, to provide support, the sponsored person “may be considered for ESIA.” If the sponsor is able but refuses to provide support, the sponsored person must take “appropriate action to secure ongoing sponsorship,” Nova Scotia Employment Support and Income Assistance Policy Manual, *supra* note 342, s 5.3.3.

not be contacted.<sup>350</sup> In Alberta and Ontario the usual requirements with respect to the sponsor's assets and financial resources do not apply where the sponsored immigrant was abused or abandoned by their sponsor.<sup>351</sup> Québec treats domestic violence as an exceptional circumstance where recovery from the sponsor of amounts paid may be suspended.<sup>352</sup>

In Ontario, as with the obligation to pursue support, temporary (3-12 month) and permanent waivers of this obligation are possible. Policy Directive 3.11 provides that the requirement is temporarily waived where "the relationship has broken down as a result of "abuse and/or family violence." A permanent waiver is possible where "there is evidence of abuse or family violence over a prolonged period of time and the Administrator is satisfied that it is not in the best interests of the sponsored immigrant to pursue support."

Regarding proof of the abuse, Directive 3.11 provides that, "[i]f at application, there is no clear evidence to establish abuse, the person is expected to make reasonable efforts to verify the claim of abuse to the satisfaction of the Administrator (e.g., reasonable third-party verification from the police, a lawyer, or a community or health care professional)."

Directive 3.11 also provides detailed guidance on communications with Immigration, Refugees, and Citizenship Canada (IRCC) to avoid having IRCC send a warning letter regarding monies owing to the sponsor in situations of abuse or family violence. The sponsor will be in default, and as such, barred from sponsoring anyone else, but will not be notified by letter and the government will not try to recover any debt. However, once the administrator concludes that there is no longer a risk of abuse, efforts to recover funds from the sponsor may be initiated.

As noted, entitlement to benefits also commonly require that all adult beneficiaries seek, maintain, and/or prepare for employment.<sup>353</sup> The failure to do so can result in a denial, termination, or reduction of benefits. Seeking employment poses particular risks to those in or having recently left an abusive relationship. Research shows that abusive partners or ex-partners will often sabotage women's employment/program participation as a way to further their control. Moreover, given the impacts of abuse, a survivor may require a considerable period of healing and various supports before being ready for employment. From the policy manuals and directives that we have been able to locate, Ontario, Manitoba, and British Columbia appear to

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<sup>350</sup> Manitoba, *Employment Income Assistance (EIA) Administrative Manual*, online: <[https://www.gov.mb.ca/fs/eia\\_manual/index.html](https://www.gov.mb.ca/fs/eia_manual/index.html)>.

<sup>351</sup> *Income Support, Training and Health Benefits Regulation (Alta)*, *supra* note 337, ss 28(2), 54(2) (includes if abused or abandoned); *Ontario General Regulation*, *supra* note 331, s 51. Normally, when assessing the "income" of an applicant, if they have been sponsored and continue to reside in the same dwelling place as their sponsor, income from the sponsor will be attributed to the applicant. However, if the applicant satisfies Ontario Works that the relationship has broken down "by reason of domestic violence," the sponsor's income will not be attributed to the applicant.

<sup>352</sup> *Individual and Family Assistance Act (QB)*, *supra* note 339, ss 91, 104. The policy manual, *Manuel D'interprétation normative des programmes d'aide financière*, provides that cases of domestic violence are an example of an exceptional circumstance.

<sup>353</sup> *Income and Employment Supports Act (AB)*, *supra* note 337, ss 15(1)(a), (e); *Individual and Family Assistance Act (QB)*, *supra* note 339; *Saskatchewan Income Support Regulation*, *supra* note 335, s 3-10d; *Manitoba Assistance Act*, CCSM, c A150, s 5.4; *Ontario General Regulations*, *supra* note 331, ss 3, 18, 28, 29.

be the only jurisdictions where this obligation is waived in some situations of abuse. In Ontario, unlike the Directive regarding the waiver of the obligation to seek spousal support, Directive 2.5 provides details regarding the sorts of documentation required to support the request for a waiver. “Appropriate documentation,” depending on the reason for the deferral, may include a letter from a qualified health professional (including psychologist, social worker, physician, nurse, midwife and a “Traditional Aboriginal Midwife recognized and accredited by the Aboriginal community”). Survivors of family violence are deferred from participation requirements for a minimum of three months or, up to twelve months where a restraining order is in place.<sup>354</sup>

In Manitoba, those eligible for long-term income assistance include persons residing in a “crisis intervention facility”—defined as a crisis resource centre approved by the Minister for persons abused by other persons. Persons in a crisis facility are not subject to employment expectations and after they leave, employment may be deferred depending on their situation.<sup>355</sup> British Columbia’s *Employment and Assistance Regulation* acknowledges that those currently experiencing domestic violence or having experienced domestic violence in the past 6 months, seriously impedes the ability to search for, accept, or continue in employment. As such, the usual consequences for failing to meet employment obligations do not apply to persons who have separated from an abusive spouse or relative within the previous 6 months, if, in the minister’s opinion, the abuse or the separation interferes with their ability to search for, accept, or continue in employment.<sup>356</sup> This recognition of the impact of abuse is significant, but 6 months is a short window of time, and the appropriate exercise of discretion depends upon knowledgeable frontline workers.

#### Access to Social Assistance and Immigration Status

In addition to all of the other eligibility rules are those related to the beneficiary’s immigration status. As noted in Section K there are a vast number of different forms of “status” that characterize one’s relationship to the nation state. Our review of statutes and regulations revealed considerable variation in the forms of status that would render one eligible for assistance. Not surprisingly, citizens and permanent residents are eligible in all jurisdictions. At the more restrictive end of the spectrum are Newfoundland and Labrador (in addition to citizens and permanent residents, refugee claimants are also eligible<sup>357</sup>), the Northwest Territories (refugee claimants and a protected person who has applied for permanent residence if they have been issued a social insurance number are also eligible<sup>358</sup>) and Québec (a person to whom asylum has been granted is included, however one form of assistance—last resort financial assistance—is also available to refugee claimants, and to those who have applied for permanent residence

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<sup>354</sup> Ontario Works Policy Directive 2.5, “Participation Requirements,” online: <[www.mcss.gov.on.ca/en/mcss/programs/social/directives/ow/2\\_5\\_OW\\_Directives.aspx](http://www.mcss.gov.on.ca/en/mcss/programs/social/directives/ow/2_5_OW_Directives.aspx)>.

<sup>355</sup> *Manitoba Assistance Act*, *supra* note 353, s 5(1)(a), (i) and Manitoba Employment and Income Assistance Manual, online: <[https://www.gov.mb.ca/fs/eia\\_manual/index.html](https://www.gov.mb.ca/fs/eia_manual/index.html)>, ss 6.3.5, 9.3.5.

<sup>356</sup> *Employment and Assistance Regulation*, BC Reg 263/2002, ss 2(3)(a)(ii), 4.1(4)(e), 29(4)(h)(iii).

<sup>357</sup> *Income and Employment Support Regulations* (NL), *supra* note 342, ss 5(1)(b), 6(1)(d), 35(1)(b).

<sup>358</sup> *Income Assistance Regulations*, RRNWT 1990, c S-16, s 1.11.

on humanitarian and compassionate grounds and where other criteria are also satisfied<sup>359</sup>). More liberal approaches expand categories of eligibility to include temporary resident permit holders (see Nova Scotia for example<sup>360</sup>). Alberta includes temporary resident permit holders, refugee claimants, and “a victim of human trafficking as determined by the Department of Citizenship and Immigration (Canada).”<sup>361</sup> Saskatchewan and British Columbia include temporary permit holders, refugee claimants, and where a refugee claim is denied, a person subject to a removal order that cannot be executed.<sup>362</sup> Significantly, the British Columbia regulations provide that the normal citizenship requirements for assistance may be waived for applicants or recipients who have separated from an abusive spouse.<sup>363</sup>

New Brunswick simply provides that a person eligible to receive benefits must be “legally authorized to reside in Canada” (*Family Income Security Act*, s 4(2)(b)). Ontario, by contrast, lists who is not eligible—tourists, visitors, and persons against whom a removal, exclusion, or deportation order has become effective or enforceable—unless for reasons wholly out of their control, the person is unable to leave Canada, or has made an application for permanent resident status on humanitarian and compassionate grounds.<sup>364</sup>

The already existing precarity of women without citizenship or permanent resident status is deepened when their immigration status disqualifies them from access to social assistance. As noted earlier, survivors of gender-based violence need considerable time and supports to restore their well-being and their safety and are often not ready to maintain employment. The denial of social assistance restricts options for survival, driving some survivors into—or back into—abusive intimate relationships or other forms of exploitative relationships.

Access to social assistance can be a key lifeline for survivors of gender-based violence. To ensure that this lifeline exists for survivors, several best practices can be identified.

- ensuring the safety of survivors of gender-based violence and their children, including through timely access to financial assistance and referrals to other services (as in Newfoundland and Labrador) should be identified a statutory purpose/objective of all social assistance legislation;
- adopting a common and broad definition of gender-based violence;

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<sup>359</sup> *Individual and Family Assistance Act* (QB), *supra* note 339, ss 26; *Individual and Family Assistance Regulation*, c A-13.1.1, r 1, s 47. Additionally, the Minister of Employment and Social Solidarity may grant benefits to a person or family who is not eligible if without that benefit, they would be in “circumstances that could endanger their health or safety or lead to complete destitution,” s 49.

<sup>360</sup> Employment Support and Income Assistance Program Policy, online:

<[https://novascotia.ca/coms/employment/documents/ESIA\\_Program\\_Policy\\_Manual.pdf](https://novascotia.ca/coms/employment/documents/ESIA_Program_Policy_Manual.pdf)>.

<sup>361</sup> *Income Support, Training and Health Benefits Regulation* (AB), *supra* note 337, s 10(2).

<sup>362</sup> *Saskatchewan Income Support Regulations*, *supra* note 335, s 1-2; *Employment and Assistance Regulation*, BC Reg 263/2002, s 7.

<sup>363</sup> *Employment and Assistance Regulation* (BC), *ibid*, s 7.1(1)(c).

<sup>364</sup> *Ontario General Regulation*, *supra* note 331, s 6(1), (2).

- ensuring that women experiencing abuse are able to apply separately from those who are deemed under social assistance legislation to be their “spouses”; this includes recognition of the reality that they may need to continue to live under the same roof for some period of time;
- eliminating verification requirements or significantly broadening the sources of verification (ideally any verification requirements would be consistent across, and could be used in, different domains—for example, social housing, social assistance, temporary resident permits, early termination of leases, etc.);
- creating clear waivers from the obligation to pursue financial resources;
- ensuring that no actions are taken (e.g. Ministry pursuit of child support or immigration undertaking) that could expose a woman to the risk of harm;
- ensuring consistency of benefit entitlements, including a broad range of benefits that women require in order to leave relationships and set up separate households;
- moving benefit entitlements and waivers into the governing statutes (or at a minimum, into the regulations to the statutes);
- creating national social assistance standards through federal legislation and funding agreements with the provinces and territories (as previously existed under *Canada Assistance Plan Act*).

## N. Employment & Occupational Health and Safety Laws

In the last few years the federal government, provinces, and territories have all introduced legislation providing for leave from employment related to violence.<sup>365</sup> This legislation typically provides employees with leave for purposes such as obtaining medical attention, counselling, or victim services, seeking legal or law enforcement assistance, and/or relocation.<sup>366</sup> One difference across jurisdictions is whether the leave extends to sexual violence as well as domestic violence, with most jurisdictions now providing employment leave for sexual violence in addition to

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<sup>365</sup> See *Canada Labour Code*, RSC 1985, c L-2, s 206.7 (federal); *Employment Standards Act*, RSBC 1996, c 113, s 52.5 (BC ESA); *Employment Standards Code*, RSA 2000, c E-9, s 53.981 (AB ESC); *The Saskatchewan Employment Act*, SS 2013, c S-15.1, s 2-56.1 (SK SEA); *The Employment Standards Code*, CCSM c E110, s 59.11 (MB ESC); *Employment Standards Act*, 2000, SO 2000, c 41, s 49.7 (ON ESA); *Act Respecting Labour Standards*, CQLR c N-1.1, ss 79.1–79.7 (QB ARLS); *Employment Standards Act*, SNB 1982, c E-7.2, s 44.027 (NB ESA); *Labour Standards Code*, RSNS 1989, c 246, ss 60Y, Z, ZA, ZB (NS LSC); *Employment Standards Act*, RSPEI 1988, c E-6.2, s 22.4 (PEI ESA); *Labour Standards Act*, RSNL 1990, c L-2, s 43.34 (NL LSA); *Employment Standards Act*, SNWT 2007, c 13, s 30.2 (NWT ESA). See also Bill 10, *Act to Amend the Employment Standards Act (2020)*, online: <<https://yukonassembly.ca/sites/default/files/inline-files/34-3-Bill010-Act-to-Amend-the-Employment-Standards-Act2020.pdf>> (YK, providing leave for domestic or sexual violence) and Bill 49, *An Act to Amend the Labour Standards Act (2020)*, online: <[https://assembly.nu.ca/sites/default/files/Bill\\_49\\_AATA\\_Labour\\_Standards\\_Act\\_EF\\_FINAL.pdf](https://assembly.nu.ca/sites/default/files/Bill_49_AATA_Labour_Standards_Act_EF_FINAL.pdf)> (NU, providing leave for family abuse).

<sup>366</sup> These statutes generally define employer / employee so as to exclude some occupations and industries, but an examination of this issue is not included here.

domestic or family violence.<sup>367</sup> This is not the case federally or in Alberta, Nova Scotia, Newfoundland and Labrador, or the Northwest Territories, however, where sexual violence is only included to the extent it qualifies as domestic or family violence—i.e. it requires an intimate partner or dating relationship (or former such relationship).<sup>368</sup> These jurisdictions should extend their employment leave provisions to include sexual violence leave regardless of the survivor’s relationship with the perpetrator.

Another difference across legislation is whether any period of the leave is paid, which often depends on whether the employee has worked for a particular qualifying period for the same employer. Alberta is the only jurisdiction where leave is completely unpaid.<sup>369</sup> The broadest approach is in British Columbia, which provides for 5 days of paid domestic or sexual violence leave regardless of how long the employee has worked for the employer, in addition to up to 15 weeks of unpaid leave per calendar year.<sup>370</sup> The details are as follows:

- Jurisdictions with *no qualifying period*: **British Columbia**, though for the 5 days of paid leave, pay is calculated based on the employee’s wages for the 30-calendar-day period preceding the leave; also provides additional 5 days and up to 15 weeks additional unpaid leave per calendar year.
- Jurisdictions with *qualifying period dependent on paid versus unpaid leave*: **Quebec** (qualifying period of 3 months of uninterrupted service to obtain 2 days of paid leave, no period for unpaid leave of up to 26 weeks per 12 months); **Yukon** (qualifying period of 3 continuous months for 5 days paid leave, up to 15 weeks of unpaid leave; no qualifying period for 5 days unpaid leave per calendar year; not yet in effect); **Northwest Territories** (qualifying period of 1 continuous month for 5 days and up to 15 weeks unpaid leave; qualifying period of 3 continuous months for 5 days paid leave per calendar year); **Nunavut** (qualifying period of 1 continuous month for unpaid leave, qualifying period of 3 continuous months for 5 days paid leave per calendar year; not yet in effect).
- Jurisdictions with *qualifying period not connected to paid versus unpaid leave*: **Alberta** (qualifying period of 90 days employment for 10 days unpaid leave per calendar year); **Saskatchewan** (qualifying period of 13 consecutive weeks for 5 days paid leave, 5 days unpaid leave per 52 weeks); **Manitoba** (qualifying period of 90 days for 5 days paid

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<sup>367</sup> See BC ESA, SK SEA, MB ESC, ON ESA, QB ARLS, NB ESA, and PEI ESA, *supra note* 365. Yukon will also include sexual violence when Bill 10, *supra note* 365, takes effect.

<sup>368</sup> See also Nunavut, where Bill 49, *supra note* 365, provides for family abuse leave only. Federally, “family violence” is not defined in the *Canada Labour Code* or Regulations, *supra note* 365, but the Code uses the broader terms “violence and harassment” in relation to occupational health and safety, suggesting “family violence” has a more limited meaning.

<sup>369</sup> AB ESC, *supra note* 365, s 53.981(3).

<sup>370</sup> BC ESA, *supra note* 365, s 52.5(4).

leave (intermittent), additional 5 days unpaid (intermittent), and up to 17 consecutive weeks unpaid); **Ontario** (qualifying period of 13 consecutive weeks for 5 days paid leave, 5 days unpaid leave, up to 15 weeks additional unpaid leave per calendar year); **New Brunswick** (qualifying period of 90 days for 5 days paid leave (intermittent), additional 5 days unpaid (intermittent), and up to 16 consecutive weeks unpaid); **Nova Scotia** (qualifying period of at least 3 months for 3 days paid leave (intermittent), additional 7 days unpaid (intermittent), and up to 16 consecutive weeks unpaid); **Prince Edward Island** (qualifying period of 3 months continuous employment for 3 days paid leave, 7 days unpaid leave per year); **Newfoundland and Labrador** (qualifying period of 30 continuous days for 3 days paid leave, 7 days unpaid leave per year).<sup>371</sup>

BC's approach of having no strict qualifying period is a best practice if leave is to be as accessible as possible. All jurisdictions should consider more generous provision of paid leave, and certainly more than 2 or 3 paid days per calendar year. The COVID-19 pandemic has laid bare the importance of paid "sick" days and the same rationale can be applied to survivors who must legitimately be absent from work for reasons related to the effects of having sustained abuse.

Another potential barrier to seeking leave is a requirement to verify the violence that underlies the leave. Manitoba—which was the first province to create employment leave for interpersonal violence—requires "reasonable verification" for paid leave, as does the Northwest Territories.<sup>372</sup> Most other jurisdictions require either no verification (Alberta, Québec, and New Brunswick),<sup>373</sup> or verification only upon employer request (federally and in British Columbia, Saskatchewan, Manitoba, Ontario, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador).<sup>374</sup> Here again, the best practice is not to require verification of violence if leave is to be as accessible as possible.

Also noteworthy are amendments to occupational health and safety (OHS) legislation in some jurisdictions that require employers to develop policies and procedures to protect workers from violence and harassment in the workplace.<sup>375</sup> Violence is defined with either explicit or implicit

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<sup>371</sup> BC ESA, ss 52.5(4), (5.1); AB ESC, s 53.981(3); SK SEA, s 2-43; MB ESC, s 59.11(2); ON ESA, s 49.7(2); QB ARLS, s 79.7; NB *Domestic Violence, Intimate Partner Violence or Sexual Violence Leave*, NB Reg 2018-81, s 3(1); NS LSC, s 60(Z)(1); PEI ESA, s 22.4(1); NL LSA, s 43.34(1); YK Bill 10, s 60.03.01(5)(b); NWT *Employment Standards Regulations*, NWT Reg 020-2008, s 12.1; NU Bill 49, s 39.19(2) (all *supra* note 365, except otherwise noted).

<sup>372</sup> MB ESC, s 59.11(11); NWT ESA, s 30.2(10). In both jurisdictions, an employer can also ask for reasonable verification for unpaid leave (see MB ESC, s 59.11(12), NWT ESA, s 30.2(11)) (all *supra* note 365).

<sup>373</sup> No verification is required in AB, QB, or NB. In YK, Bill 10 explicitly provides that employers shall not require verification from a third party (s 60.03.01(11)) (all *supra* note 365).

<sup>374</sup> Verification is only required upon employer request federally and in BC, SK, MB, ON, NS, PEI, NL, and NU (when Bill 49 comes into force) (all *supra* note 365).

<sup>375</sup> See *Canada Labour Code*, *supra* note 365 and the *Work Place Harassment and Violence Prevention Regulations*, SOR/2020-130 (federal, applies to harassment and violence, which are defined broadly enough to include domestic

inclusion of domestic violence federally and in Alberta, Ontario, New Brunswick, and Newfoundland and Labrador. Alberta and New Brunswick also include sexual violence explicitly. Other jurisdictions include violence in their OHS legislation but define it somewhat more narrowly, focused on physical force and injury or risk thereof.<sup>376</sup> Only Québec and the Yukon do not have any protections against workplace violence or harassment (apart from human rights legislation, which will be discussed next).<sup>377</sup> The best practice here is inclusion of a broad definition of harassment and violence that obliges employers to protect workers from domestic and sexual violence and harassment.<sup>378</sup>

## O. Human Rights Laws

Human rights laws exist at the federal level and in each province and territory.<sup>379</sup> These laws include protections against sexual and other forms of harassment in the context of employment, tenancies, and services customarily available to the public (including education, for example).<sup>380</sup> They do not include free-standing prohibitions against harassment by individuals unconnected to these areas. While some human rights laws have explicit provisions regarding harassment,<sup>381</sup>

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and sexual violence); *Occupational Health and Safety Act*, SA 2017, c O-2.1 (AB, applies to violence, including domestic and sexual violence); *Occupational Health and Safety Act*, RSO 1990, c O.1, s 32.0.4 (ON, applies to violence and harassment, with explicit reference to domestic violence); *General Regulation - Occupational Health and Safety Act*, NB Reg 91-191, ss 2, 374.1-374.3 (NB, applies to intimate partner violence, domestic violence and sexual violence); *Occupational Health and Safety Regulations*, 2012, NLR 5/12, ss 22, 23 (NL, applies to family violence and harassment).

<sup>376</sup> See *Occupational Health and Safety Regulation*, BC Reg 296/97, ss 4.27-4.30 (BC); *Occupational Health and Safety Regulations*, 1996, RRS c O-1.1 Reg 1, s 37) (SK; also applying to harassment); *Workplace Safety and Health Regulation*, Man Reg 217/2006, Part 11 (MB; also applying to harassment); *Violence in the Workplace Regulations*, NS Reg 209/2007 (NS); *Occupational Health and Safety Act General Regulations*, PEI Reg EC180/87 (PEI; see also the *Workplace Harassment Regulations*, PEI Reg EC710/19); *Occupational Health and Safety Regulations*, NWT Reg 039-2015 (NWT, also applies to harassment); *Occupational Health and Safety Regulations*, Nu Reg 003-2016 (NU, also applies to harassment).

<sup>377</sup> *Act respecting occupational health and safety*, CQLR c S-2.1 (QB); *Occupational Health and Safety Act*, RSY 2002, c 159 (YK).

<sup>378</sup> For further discussion see Canadian Labour Congress, “How does domestic violence impact people at work?” (2015), online: <<http://canadianlabour.ca/how-does-domestic-violence-impact-people-work>>.

<sup>379</sup> Federally, the *Canadian Human Rights Act*, RSC 1985, c H-6, applies to employment, services and housing that fall within federally regulated sectors.

<sup>380</sup> For a recent discussion in the UK of the need to reform university violence policies to include domestic abuse, see Bella Soames and Isabelle Stanley, “Universities Are Accused Of Lack Of Support For Students Facing Domestic Abuse, Despite “High Prevalence” In Age Group” (14 April 2021), online: Politics Home, <<https://www.politicshome.com/news/article/universities-lack-of-support-for-students-facing-domestic-abuse>>. A review of university violence policies and procedures is beyond the scope of this paper.

<sup>381</sup> *Canadian Human Rights Act*, RSC 1985, c H-6, s 14(1) and (2) (harassment and sexual harassment); *The Human Rights Code*, CCSM c.H175, s 19 (MB) (harassment, including sexual harassment); *Human Rights Code*, RSO 1990, c.H.19, ss 2(2), 5(2), 7 (ON) (harassment, sexual harassment); *Charter of Human Rights and Freedoms*, CQLR c.C-12, s 10.1 (QB) (harassment, including sexual harassment); *Human Rights Act*, RSNB 2011, c 171, s 10 (NB) (sexual harassment only); *Human Rights Act*, RSNS 1989, c.214, s 5(2) and (3) (NS) (harassment and sexual harassment); *Human Rights Act*, 2010, SNL 2010, c.H-13.1, ss 13, 17, 18 (NL) (harassment in commercial and dwelling units and establishments and sexual solicitation / advances); *Human Rights Act*, RSY 2002, c.116, s 14 (YK) (harassment, including sexual harassment); *Human Rights Act*, SWT 2002, c.18, s 14 (NWT) (harassment, including sexual harassment); *Human Rights Act*, SNu 2003, c.12, s 7(6) (NU) (harassment, including sexual harassment).

others implicitly include such protection by virtue of their prohibitions against sex and other forms of discrimination.<sup>382</sup> Harassment is defined in legislation and case law to include a range of conduct—from unwelcome comments and a poisoned work, educational, or tenancy environment, to physical violence that is connected to a protected ground such as sex, gender identity, or sexual orientation.<sup>383</sup> Human rights legislation also recognizes intersecting grounds of discrimination such as sex and race, either explicitly<sup>384</sup> or implicitly.<sup>385</sup>

Although domestic violence is not explicitly mentioned in human rights legislation, it could be seen to fall within the scope of harassment in certain circumstances, placing obligations on employers, service providers, and landlords to ensure environments that are free of this type of conduct.<sup>386</sup> Human rights case law is clear that liability for harassment attaches not just to the perpetrator but also to their employer if the harassment was committed in the course of employment.<sup>387</sup> This principle has also been extended to hold educational institutions liable for the harassment of one student by another.<sup>388</sup>

Manitoba takes the broadest approach in its explicit inclusion of “abusive” behaviour based on all protected grounds in its definition of harassment, and we recommend this as best practice.<sup>389</sup>

Other issues with human rights legislation are more procedural.<sup>390</sup> Many human rights statutes have very short time limits (commonly one year with a limited discretion to extend the time) for the bringing of complaints, which will often be unrealistic for survivors of harassment and abuse to comply with.<sup>391</sup> This has now been recognized, in varying ways, in legislation governing limitation periods for court proceedings in all jurisdictions except Prince Edward Island, and

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<sup>382</sup> See *Janzen v Platy Enterprises*, [1989] 1 SCR 1252 (finding that sexual harassment constitutes sex discrimination). Jurisdictions that do not include harassment explicitly are British Columbia (*Human Rights Code*, RSBC 1996, c 210), Alberta (*Alberta Human Rights Act*, RSA 2000, c A-25.5), Saskatchewan (*The Saskatchewan Human Rights Code*, 2018, SS 2018, c S-24.2), and Prince Edward Island (*Human Rights Act*, RSPEI 1988, c.H-12).

<sup>383</sup> See e.g. *Janzen*, *ibid* (harassment in employment based on sex); *Friedmann v MacGarvie*, 2012 BCCA 445 (harassment in a residential tenancy based on sex); *School District No. 44 (North Vancouver) v Jubran*, 2005 BCCA 201 (harassment in a K-12 school based on perceived / attributed sexual orientation).

<sup>384</sup> See e.g. the *Canadian Human Rights Act*, *supra* note 381, s 3.1 (recognizing that discriminatory practices include those based on one or more prohibited grounds of discrimination, or on a combination of prohibited grounds).

<sup>385</sup> See e.g. *Radek v Henderson Development (Canada) Ltd*, 2005 BCHRT 302 (interpreting British Columbia’s *Human Rights Code*, *supra* note 382, to include protection against harassment of an Indigenous woman based on the intersection of race, colour, ancestry, disability, and economic disadvantage).

<sup>386</sup> This is recognized in those jurisdictions that include harassment and stalking in their civil protection order legislation. See above at note 8.

<sup>387</sup> *Robichaud v Canada (Treasury Board)*, [1987] 2 SCR 84.

<sup>388</sup> See e.g. *Jubran*, *supra* note 383.

<sup>389</sup> *The Human Rights Code* (MB), *supra* note 381, s 19(2) (harassment includes a course of “abusive and unwelcome conduct or comment” made on the basis of protected grounds).

<sup>390</sup> A full review of procedural provisions is beyond the scope of this paper. For example, we do not include review of different models for human rights complaints that involve commissions (including as possible complainants) versus direct to tribunal approaches.

<sup>391</sup> See, however, the *Alberta Human Rights Act*, *supra* note 382, s 20(2)(b), which has a strict limitation period of one year after the alleged contravention of the Act, with no discretion to extend this period.

human rights legislation should provide discretion to allow complaints for harassment and abuse to be filed after the normal limitation period.<sup>392</sup>

#### P. Privacy Laws

Access to information and privacy legislation typically restricts the collection, use, and disclosure of personal information by public bodies unless necessary in certain circumstances, such as to protect a person's mental or physical health or safety, or for law enforcement purposes. This legislation also typically restricts access to personal information where safety issues would arise from disclosure.<sup>393</sup>

British Columbia is currently the only jurisdiction that explicitly references domestic violence in its public sector privacy legislation. British Columbia's *Freedom of Information and Protection of Privacy Act* allows public bodies to collect and disclose personal information where it is "necessary for the purpose of reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur."<sup>394</sup> The usual requirement to collect personal information directly from the individual concerned is subject to an exception where "the information is collected for the purpose of ... reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur."<sup>395</sup> While these provisions are similar to those in other jurisdictions in seeking to prevent harm and protect safety, it is useful that they explicitly reference public bodies' obligations in cases involving domestic violence, and other jurisdictions should be encouraged to consider amending their legislation to do so.

The federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) applies to the federal private sector and provinces and territories that have not passed their own legislation

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<sup>392</sup> For an example of this approach see the *Canadian Human Rights Act*, *supra* note 381, s 41(1)(e) (limitation period of one year "or such longer period of time as the Commission considers appropriate in the circumstances."

<sup>393</sup> For legislation applying to public sector actors see *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss 19, 33.1(1)(m.1) (BC); *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25, ss 17, 18, 40 (AB); *The Freedom of Information and Protection of Privacy Act*, SS 1990-91, c F-22.01, ss 21, 29(2) (SK); *The Local Authority Freedom of Information and Protection of Privacy Act*, SS 1990-91, c L-27.1 (SK); *The Freedom of Information and Protection of Privacy Act*, CCSM c F175, ss 17, 24, 25, 44(1) (MB); *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31, ss 14(1)(e), 20, 21(1)(b), 42(1)(h) (ON); *An Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*, CQLR c A-2.1, ss 28(4), 59, 59.1 (QB) (referencing "violence"); *Right to Information and Protection of Privacy Act*, SNB 2009, c R-10.6, ss 21, 28, 46 (NB); *Freedom of Information and Protection of Privacy Act*, SNS 1993, c 5, ss 18, 27 (NS); *Freedom of Information and Protection of Privacy Act*, RSPEI 1988, c F-15.01, ss 15(2), 16, 37 (PEI); *Access to Information and Protection of Privacy Act*, 2015, SNL 2015, c A-1.2, ss 17, 37, 40, 68 (NL); *Access to Information and Protection of Privacy Act*, RSY 2002, c 1, ss 19, 22, 25, 36 (YK); *Access to Information and Protection of Privacy Act*, SNWT 1994, c 20, ss 20, 21, 23(4), 48 (NWT); *Access to Information and Protection of Privacy Act*, SNWT (Nu) 1994, c 20, ss 20, 21, 23(4), 48 (NU). For legislation applying to private sector actors see *Personal Information Protection Act*, SBC 2003, c 63 (BC); *Personal Information Protection Act*, SA 2003, c P-6.5 (AB); *An Act respecting the Protection of Personal Information in the Private Sector*, CQLR c P-39.1 (QB).

<sup>394</sup> *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss 26(f), 33.1(m.1).

<sup>395</sup> *Ibid*, s 27(1)(c)(5).

that substantially complies with its requirements.<sup>396</sup> PIPEDA does not mention domestic violence explicitly but creates obligations for organizations around the collection, use and disclosure of personal information that could be relevant in the domestic violence context—for example, in the case of landlords and employers.<sup>397</sup> This is also the case in provinces that have their own private sector privacy legislation.<sup>398</sup> A detailed analysis of these provisions is beyond the scope of this paper, but it is worth noting that no jurisdictions currently provide for domestic violence specifically in private sector privacy legislation.

Several provinces have also created legislative torts for the non-consensual distribution of intimate images.<sup>399</sup> This legislation complements the criminal prohibition against knowingly distributing intimate images by providing for the possibility of civil remedies to the victim (typically damages and injunctions).<sup>400</sup> The legislation is similar across the provinces with some notable differences. Manitoba's legislation is unique in providing supports and services for persons whose intimate images are shared without their consent, including referrals to police.<sup>401</sup> Newfoundland and Labrador has a reverse onus provision in their legislation that requires the respondent to prove consent and establish they had reasonable grounds regarding their belief in consent.<sup>402</sup> Prince Edward Island includes remedies related to internet intermediaries and the destruction, removal, and de-indexing of intimate images from the internet and search engines, in addition to providing for damages and injunctions.<sup>403</sup> Other jurisdictions should consider implementing similar provisions.<sup>404</sup>

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<sup>396</sup> *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 (PIPEDA).

<sup>397</sup> Most residential tenancy legislation also requires landlords and / or professional providing verification of abuse to maintain the confidentiality of information related to early termination. (See BC, AB, SK, MB, ON, NS, NL, and NWT, *supra* note 274.) This is also the case in some legislation providing employment leave for interpersonal violence. (See SK, MB, ON, NB, PEI, NWT, all *supra* note 393. Yukon and Nunavut also include confidentiality provisions in their Bills to add employment leave provisions.)

<sup>398</sup> *Personal Information Protection Act*, SBC 2003, c 63 (BC); *Personal Information Protection Act*, SA 2003, c P-6.5 (AB); *An Act respecting the Protection of Personal Information in the Private Sector*, CQLR c P-39.1 (QC).

<sup>399</sup> *Protecting Victims of Non-consensual Distribution of Intimate Images Act*, RSA 2017, c P-26.9 (AB); *The Privacy Act*, RSS 1978, c P-24 (SK), *ibid*; *The Intimate Image Protection Act*, CCSM c I87 (MB); *Intimate Images and Cyber-Protection Act*, SNS c 7 2017 (NS); *Intimate Images Protection Act*, RSPEI 1988, c I-9.1 (PEI); *Intimate Images Protection Act*, RSNL 2018, c I-22 (NL). SK and MB also have broader torts for breach of privacy (*The Privacy Act* (SK), *ibid*; *The Privacy Act*, CCSM c P125 (MB)).

<sup>400</sup> *Criminal Code*, *supra* note 29, s 162.1.

<sup>401</sup> *The Intimate Image Protection Act* (MB), *supra* note 397, ss 2-9.

<sup>402</sup> *Intimate Images Protection Act*, NL, *supra* note 397, s 7. Prince Edward Island also requires the respondent to prove consent if they rely on consent as a defence (*Intimate Images Protection Act* (PEI), *supra* note 397, s 7).

<sup>403</sup> *Intimate Images Protection Act* (PEI), *ibid*, s 5.1.

<sup>404</sup> Limitations periods for the tort of intimate non-consensual distribution of intimate images are addressed in Section I.

## Part III: Conclusion

In this report, we have provided a review of statutory regimes and entitlements across federal, provincial, and territorial jurisdictions in Canada and attempted to assess these regimes and entitlements from an access to justice perspective for survivors of gender-based violence. This perspective includes a claimant's right to fair procedures and their access to substantively equal, fair, and safe outcomes. Safety in this context has been conceptualized broadly in terms of physical, emotional, and psychological safety and security for survivors and their children.

While our review touches on multiple forms of gender-based violence, our primary focus has been on intimate partner violence, a form of gender-based violence that has been increasingly addressed in statutory and regulatory frameworks over the past two decades. Our review has revealed significant differences in definitions of intimate partner violence, in the forms of legal status that are preconditions to the right to make claims to relevant legal entitlements or material supports, and in the procedures required to verify domestic violence in making such claims. These differences have been shown to exist both within and across jurisdictions. Alberta, for example, provides an interesting case study when it comes to the challenges posed by a lack of both intra-provincial and inter-jurisdictional consistency across laws pertaining to gender-based violence. Intra-provincial inconsistencies in Alberta are likely a result of legislative initiatives during different time periods with different governments, but they can create issues for survivors when it comes to knowing and understanding their rights and responsibilities, and may also create gaps, inconsistencies, and conflicts between laws, potentially undermining safety. A review of Alberta's laws also reveals how survivors in one jurisdiction can lack equal access to remedies, support, and protection when compared to survivors in other provinces and territories.

For example, Alberta's *Protection Against Family Violence Act* (PAFVA) applies to "family violence" and defines it more narrowly than "domestic violence" in the *Residential Tenancies Act* and *Employment Standards Code*. Protection orders under PAFVA therefore cannot provide verification for some of the forms of abuse—such as emotional abuse and abuse in dating relationships—that allow survivors to terminate their tenancies early. As a result, survivors may need to engage with multiple legal and other professionals to obtain protective remedies. Furthermore, someone using force to protect themselves or their children is excluded from "family violence" under the *Family Law Act* but may fall within the definition of family violence in PAFVA, allowing an abuser to obtain an EPO against a survivor. The EPO may then have an inappropriate influence on other proceedings—perhaps affecting judicial perceptions of the survivor's likelihood of being a "friendly parent" or triggering child protection consequences. Alberta has also not yet aligned its *Family Law Act* with the *Divorce Act* amendments, which means that survivors in Alberta are subject to different definitions of family violence depending on whether they are seeking a divorce or not. Alberta also appears to be the only province where survivors applying for social housing may lose their priority if they do not terminate their leases early under the *Residential Tenancies Act*, likely because the RTA amendments were not reviewed for their implications for all related legislation.

In terms of inter-jurisdictional differences, Alberta has not yet adopted the broad definition of family violence that includes coercive and controlling behaviour as set out in the amended *Divorce Act* and in the family legislation of several other provinces. Neither has it designated judges to hear EPO applications under FHRIMIRA, leaving First Nations women living on Alberta reserves without access to this remedy. Alberta has also declined to follow the lead of other provinces in extending remedies such as early termination and leave from employment to survivors of sexual violence, except in the intimate partner violence context. Other cross-jurisdictional comparisons reveal that survivors of gender-based violence in Alberta are disadvantaged as a result of lack of explicit recognition of intimate partner violence in the family dispute resolution context; availability of victim compensation for only severe neurological injuries; and domestic violence leave from employment that is unpaid, amongst other issues. As well, in dealing with verification procedures, a “designated authority” in Alberta must provide a certificate confirming grounds for terminating a residential tenancy whereas in Ontario, a tenant will be deemed to have experienced violence or abuse where a peace bond or restraining order has been issued or where the tenant simply alleges the commission of acts that cause them or a child to fear for their safety.

Statutory differences—in defining intimate partner violence, in identifying the status required to pursue entitlements or benefits, and in verification procedures—may reflect a concern with other substantive or procedural values or interests or reflect differences in regional and local cultures. Nonetheless, these variations are problematic to the extent that they fail to provide access to protective remedies for survivors and children at serious risk, and as such compromise their access to justice.<sup>405</sup> Differences in definitions, procedures, and supports both within and across jurisdictions should, however, always be assessed from the perspective of their impact on the most marginalized women and children. From that perspective, inconsistencies should be reviewed, variability reduced, and the promising practices we have highlighted throughout this report considered for adoption more widely across the country.

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<sup>405</sup> Janet Mosher, “Grounding Access to Justice Theory and Practice in the Experiences of Women Abused by Their Intimate Partners” (2015) 32:2 Windsor YB Access to Justice 149 at 155.

## Appendix G: Project Background Material for Working Group Members

### G-1: Framework for evidence-based recommendations for the National Action Plan (NAP) Working Groups (WG)

#### **The Purpose of this Document**

The United Nations and governments around the world recognize that National Action Plans (NAP) on Violence Against Women (VAW) and Gender-Based Violence (GBV) can play a valuable coordinating role in concerted, sustained efforts to address this social harm.<sup>1</sup> While numerous policies and pieces of legislation have been enacted and activities undertaken by successive Canadian governments, no comprehensive NAP or national legislation has been pursued in Canada to date ([The Case for a National Action Plan on Violence Against Women, 2013](#)).

Recently, WAGE released a [Departmental Results Report](#) that lays out the framework for a national approach to VAW/GBV. (It contains outcomes and some preliminary measurement and evaluation frameworks with which your working group should be familiar and prepared to incorporate into your recommendations.)

Women's Shelters Canada has launched a WAGE funded project that will contribute to, augment, advance, and deepen the framework mentioned above. The pillars of the framework correspond to the four Working Groups supported by the WSC project, in which you've been invited to participate.

This document has been developed to provide the members of each working group with the critical information required to understand the objective and reach of the NAP. To this end the document is divided into the following sections:

Each section will include links and/or references to evidence and research that will be crucial to framing your working group's recommendations. It is anticipated that you will read this document carefully and access the linked and referenced material to draw inspiration, ignite ideas and support your advice and recommendations with evidence.

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<sup>1</sup> Throughout this backgrounder, violence against women (VAW) and gender-based violence (GBV) are defined as inclusive of cis women, trans women, and people of all marginalized genders, including Two-Spirit, trans, and non-binary people.

Additional supports relevant to each thematic area will be offered by WSC to each Working Group, including a compendium of existing recommendations and their sources, as the work commences.

## Background of the Project

In keeping with the UN *Handbook for Legislation on Violence Against Women* (2010) and the UN *Handbook for National Action Plans on Violence Against Women* (2011)<sup>1</sup>, as well as international human rights treaties and policy documents, we understand VAW as a form of discrimination, manifestation of gender inequality, and a violation of women's human rights. Policies, strategies, and legislation relevant to gender (in)equality shall therefore be considered within the scope of this NAP.

While this project has tight timelines and ambitious aims, the working groups are not starting from scratch. Far from it: there is a series of iterative documents that map a broad engagement and deep knowledge of what is needed to alter the conditions for women experiencing violence in Canada. Additionally, the provinces and the territories, through the Status of Women Ministers' meetings, have, with the leadership of the Federal Minister for Women and Gender Equality, agreed to the following principles for a national, coordinated effort:

- “Everyone has the right to live free from violence;
- Many people in Canada have violence committed against them and continue to experience violence every day because of their gender, gender identity, gender expression, or how their gender is perceived by others;
- This form of violence constitutes gender-based violence, and it is one of the most pervasive, deadly and deeply rooted human rights violations. Gender-based violence is a major barrier to the expression of individual freedom and societal and collective development;
- The negative effects of gender-based violence reach far beyond the individuals who have this violence committed against them. Violence can have long-lasting and negative health, social and economic effects that span generations, often leading to cycles of violence and abuse within families, and sometimes whole communities;
- While violence affects people of all genders, ages, religions, cultures, ethnicities, geographic locations, and socio-economic backgrounds, some populations are more at risk of experiencing violence because of historical and ongoing oppressions, such as sexism, homophobia, transphobia, colonialism, ageism, classism, racism, ableism;
- To this day, women and girls continue to be the primary victims and survivors of gender-based violence;
- Indigenous women; Black and racialized women; non-binary, gender-diverse and LGBTQ and Two-Spirit people; those living in northern, rural, and remote communities; those with disabilities; non-status and temporary status migrants, immigrants and refugees; children and youth; and seniors experiencing high rates of gender-based violence. The

- intersection of any two or more identity factors compounds a person's risk and vulnerability to violence;
- Gender-based violence is a complex and multifaceted issue that requires action by all governments according to their respective responsibilities, as well as cross-sector collaboration;
  - With the onset of the COVID-19 pandemic and the subsequent guidelines to stay at home, there has been an increase in the frequency and severity of some forms of gender-based violence. The pandemic has highlighted the lack of necessary resources to meet the needs of those experiencing gender-based violence.

We, the Federal, Provincial and Territorial Ministers responsible for the Status of Women acknowledge the urgency to address the multiple, complex and deeply rooted factors that contribute to gender-based violence. We commit to continue to work together and with other departments, agencies and ministries, partners, stakeholders, experts, survivors, families and people with lived experience to create a Canada free of gender-based violence, where victims, survivors and their families are supported no matter where they live. More than ever, there is a strong need to prevent and address gender-based violence in our country.

To achieve this vision, we agree that concrete efforts are required at the federal, provincial and territorial levels. We further commit to ensuring that our efforts align with and complement our responses to the Truth and Reconciliation Commission's Calls to Action and the National Inquiry into Missing and Murdered Indigenous Women and Girls' Calls for Justice. This joint declaration represents a significant milestone and is the first step to continue, accelerate and strengthen the concrete actions that we have been carrying out for decades to end gender-based violence. We commit to continuing to collaborate closely to work towards the development of a National Action Plan to End Gender-based Violence."

This agreement represents a considerable advancement in our efforts to animate a coordinated, national response to this pervasive social harm. Bearing this agreement in mind, our recommendations can delineate activities and the actions required for them to be realized, in the jurisdictions they are appropriate to, and not just those within the federal purview.

WSC began work on the NAP back in 2014 when we brought together a number of national and provincial organizations to collaboratively develop a [Blueprint](#) for what Canada's NAP should be. Fast forward to the 2019 election where we were still advocating for a [National Action Plan](#) and to summer 2020 where we put out a [Reissued Call](#) for a NAP that has been endorsed by over [250 organizations](#). Since 2014 we have been working with our Blueprint collaborators to advocate for a NAP that accomplishes the objectives set out in the Blueprint document released in 2015.

On December 22<sup>nd</sup>, a Contribution Agreement from Women and Gender Equality (WAGE) was signed in order for WSC to continue this work. We began working on the project on January 11<sup>th</sup>. The project will make a substantive contribution towards the creation of an actionable blueprint for Canada's NAP. The project has an ambitious but unavoidable timeline with a March 31<sup>st</sup> end date.

The project will focus on four of the five pillars that have been identified by WAGE (see Appendix A, NAP at a Glance) in their vision of the NAP. These are:

- Prevention
- Support for survivors and their families
- Promotion of responsive legal and justice systems
- Social infrastructure and enabling environment, including housing, childcare

Each pillar will have a working group of eight individuals and will be led by two co-chairs. The Working Groups will develop recommendations that, together, will provide the framework and initial content for a 10-year NAP. The recommendations will include a series of short-term actions that could be taken by governments immediately as well as more complex items that will require efforts in multiple jurisdictions and sectors and federal/provincial/territorial cooperation.

We have developed and circulated a Terms of Reference (TOR) for the Working Groups which will guide your responsibilities as a member of this interdisciplinary team. Within and across working groups you are tasked with operating in good faith, with collaboration and dedication among a large group of people to accomplish a great deal in a short period of time. We want to thank you for sharing your expertise; together, we have the potential to bring us all closer to the goal of a robust NAP than we have ever been before.

## **Objective, Scope and Reach of the NAP**

### **A NAP on VAW/GBV in Canada will help ensure**

- Consistency across and within jurisdictions in policies and legislation that address VAW/GBV
- Shared understanding of the root causes of VAW/GBV
- Consistent approaches to prevention of and responses to VAW/GBV
- Collective pursuit of the most appropriate solutions
- High-level commitment to a multi-pronged, coordinated, pan-Canadian approach

- Coordinated, clear, and effective services and systems for survivors of VAW/GBV that respect and respond to intersectional experiences
- National standards with equality of access for women and gender-diverse people

**A NAP on VAW in Canada must include**

- New commitments and clear targets
- Effective prevention mechanisms
- Universal coverage of response mechanisms for survivors
- Review of all justice mechanisms including policing, prosecution and offender management practices
- Efforts to strengthen social policies that affect vulnerability to violence
- Support for reliable data collection allowing for better tracking and evaluation, and better evaluation of data specific to Indigenous women and LGBTQ+ and Two-Spirit Survivors of Gender-Based Violence
- Adequate human and financial resources to support these measures

**The Process for Developing Canada's NAP must include**

- High-level leadership and accountability from governments at all jurisdictional levels
- Clearly-defined, time-bound goals measured against detailed baseline data
- Adequate human and financial resources to support these processes

As laid out in the Terms of Reference, the Working Groups will develop recommendations that, together, will provide the framework and initial content for a 10-year National Action Plan. The recommendations will include a series of short-term actions that could be taken by governments immediately, as well as more complex actions that will require efforts in multiple jurisdictions and sectors and federal/provincial/ territorial cooperation. In this way, the recommendations will strategically allocate actions from year 1 to year 10, recognizing that there will likely be more detail in the initial years.

Through the co-chairs and the Women's Shelter's Canada (WSC) leadership, the recommendations of each WG will be rolled up into guidance for advocates, public policy experts and government as to the most effective, impactful and practically staged NAP that can achieve both short term benefits and long-term transformation. Our hope is to discipline the

many existing recommendations and foreground the current COVID-19-related additional risks with a planning horizon longer than the current fiscal year. VAW/GBV is a multi-generational problem in the making. It won't be solved by the next election. Nonetheless, a set of recommendations that will allow some immediate initiatives to advance within that timeframe are part of our objectives. At this juncture, a sustainable CSO-led infrastructure for designing, implementing, and evaluating a multi-year NAP (UN standard) is not forthcoming. We therefore want to contribute in a meaningful way within the current planning horizon, while also mapping a clear path forward.

### The Case for a NAP

The case for a NAP has been made by a variety of [national](#) and [international bodies, reports](#) and [advocacy groups](#). Principal in the momentum for the NAP has been the work aligning all these calls for action into a [Blueprint](#) and [call to action](#) for [Canada's NAP](#).

Canada needs a National Action Plan to ensure all women are able to live free from violence. Initiatives at the federal level lack coordination, rely too heavily on the criminal justice system, and fail to acknowledge the gendered dimension and root causes of violence against women. This results in underfunded and inadequate services that do not reflect women's lived realities, or effectively prevent violence and reduce impact. National Action Plans provide a framework for strengthening the systems that respond to violence against women. They establish national standards and call for collaboration between all levels of government, civil society, survivors, and service responders.

The Federal Government made a national action plan part of its platform for re-election. It is part of the [Mandate Letter for the Minister for Women and Gender Equality and Rural and Economic Development](#) and implicates other ministries at the federal level in aspects of its leadership.

It is an international best practise standard of national action plans on violence against women to create a coordinated, holistic, effective response to violence against women within a framework that ensures, to the greatest degree possible, consistency in all measures to prevent, respond and address VAW/GBV. In short, the international standard is for states to advance comprehensive and multisectoral "blueprints for ending violence against women" ([The UN Handbook on National Action Plans on Violence Against Women 2012](#)).

It is clear that in the absence of a National Action Plan, responses to VAW in Canada are largely fragmented, often inaccessible, and can work to impede rather than improve women's safety.

A strategic and sustainable step toward meaningfully addressing VAW in Canada is to establish a multi-sectoral NAP that adheres to the guidelines and principles set out by the UN [Handbook for Legislation on Violence Against Women](#) and the UN [Handbook for National Action Plans on Violence Against Women](#) (2011).

## **Intersectional<sup>106</sup> harms**

Pre-COVID-19 research shows that the levels of violence that women, girls, and gender-diverse people experience in Canada have changed little over the past two decades. The current systems of response to violence have failed to significantly lower the levels of violence they experience. Moreover, those with the least access to services – those in rural and remote areas and Indigenous, Disabled, racialized, Black, gender non-conforming, trans and migrant people – experience the highest rates of violence.<sup>107</sup> To build a Canada where women, girls, and gender non-conforming people are not subjected daily to violence simply because of their identities, our governments must take a new approach. As part of the government's COVID recovery response, and in light of the groundswell of discontent with inequality, racism, police brutality, and the stalled progress on the MMIWG recommendations, a truly intersectional NAP could mark real progress on many fronts.

## **Current Context**

*"We have had to adapt to online phone chats, video conferencing, etc. Women have pulled away due to the fear that the pandemic has created. Women feel that their confidentiality is at risk through online services, and imposed self-isolation due to public health protocols has made clients hesitate to reach out. Services have needed to do a lot of publicity to educate the community that we still offer services regardless of the pandemic." ([Shelter Voices, 2020](#), 2.)*

During COVID, people living in Canada have seen how government can act in concert when the political will and the lives of Canadians are at stake. The pre-existing pandemic of violence against women and gender-based violence<sup>108</sup> should be considered of the same magnitude. "The COVID-19 pandemic has co-existed alongside a far less visible 'shadow pandemic' of violence against women, with COVID-19 impacting the number and complexity of domestic violence cases and enabling new tactics for coercive control." [[Koshan & Mosher, 1.](#)]

Likewise, its intersections with other forms of oppression and exclusion, such as homelessness, poverty, anti-Black racism, disability, homophobia, and transphobia, have also been exposed for all to see. The lives of women and gender-diverse people who live with all these identities are worthy of the same public policy focus. Studies from the global to the local centre women's equality as a prerequisite for full economic recovery for societies rebuilding after COVID.<sup>109</sup> Thus, proper investment in a holistic VAW/GBV NAP is critical to the whole country's recovery.

### *Time's Up: Intersectional harms escalate*

- Before COVID hit, the Canadian Femicide Observatory for Justice and Accountability (CFOJA) released its first report<sup>110</sup> on January 30, 2019. From this report, we know that:
  - In 2018, 148 women and girls were killed by violence in Canada.

- On average, every 2.5 days, one woman or girl is killed in this country – a consistent trend for four decades. Where an accused has been identified, 91% are male, consistent with national and international patterns.
  - Indigenous women and girls were overrepresented as victims, comprising about five percent of the population in Canada, but 36% of those women and girls who were killed by violence. Approximately 34% of women and girls were killed in rural areas, whereas only about 16% of the population in Canada lives in rural areas.
- In its recent update, the CFOJA reports that 78 women and girls were killed in Canada between January 1 and June 30, 2020. Thirteen of these deaths occurred during the Nova Scotia killings. These tragedies, and subsequent renewed attention on domestic homicide and gender-based killings, add urgency to calls for a NAP.

Additional developments, research, and reports show that:

- Women with a disability were nearly twice as likely as women without a disability to have been sexually assaulted in the past 12 months; and
- About one-quarter of women with a cognitive disability (24%) or a mental health-related disability (26%) were sexually abused by an adult before they were 15 years of age.<sup>111</sup>
- 1 in 3 women in Canada experience intimate partner violence and other forms of gender-based violence. Risks are heightened for women with a disability; Indigenous, Black, and racialized women; trans, non-binary, and gender non-conforming; migrant women; women targeted by Islamophobia; and sex workers.<sup>112</sup>
- The Nova Scotia massacre has made people living in Canada more aware of the elevated risk and impact that domestic and intimate partner violence has, not only on the person experiencing it, but also on the public,<sup>113</sup> workplace staff, and colleagues.<sup>114</sup>
- A national survey of 375 gender-based violence service providers across Canada found that uncertainty about the sector's capacity to meet the needs of the widely expected increase in the number of women seeking help as COVID restrictions lift was among one of the most frequently cited concerns held by service providers.<sup>115</sup>
- Several recent studies echo these findings and lay out the steps for a recovery that puts a comprehensive approach to women's equality and freedom from violence at the centre.<sup>116</sup>
- Tech-facilitated violence (referred to as cybermisogyny<sup>117</sup>) has become an increasing concern as the world lives more of its public life online. The NAP on VAW/GBV needs to

have adequate resources and expertise to address familiar forms of violence taking place in digital environments.

Numbers from within and outside Canada show that violence is increasing in the wake of COVID measures. Despite prior global public health directives on VAW/GBV, global public health directives issued on COVID failed to account for and predict the potentially deadly impact of “shelter at home” requirements for women who experience violence, leaving states to attempt to ameliorate increased rates of violence after the fact.<sup>118</sup> Within Canada, the November 2020 Women’s Shelter Canada report show that:

“52 per cent of 266 participating shelters reported seeing clients who were experiencing either somewhat or much more severe violence, as public health measures aimed at fighting COVID-19 increase social isolation, while job losses fuel tension over financial insecurity in many households.[Violence] “was also happening more frequently, or abusers who hadn’t used violence in the past were suddenly using violence.”( [Globe and Mail, Nov 25, 2020](#))

A true gendered lens on public health directives might have anticipated such impacts on women and other populations without safe housing and tailored public health directives to and for states accordingly from the start.

Additionally, Canadian Black and Indigenous activists who have long called for reform have joined international calls for addressing racism and gender bias in policing. This includes redirecting funds from these institutions that have remained resistant to culture change and into community programs that can attend to incidents of violence, mental health, and racism in a manner that is consistent with human rights and Canadian Charter values. These calls for reform, with the foreground of the perceived inaction on the results of the MMIWG Inquiry Recommendations,<sup>119</sup> calls for a bold new approach.

### **An International comparison: Australia**

Australia, because of its robust plan, Federal and state system, it’s commonwealth legal framework, and its consideration of Indigenous rights, is the most relevant example for us.

The Australian National Plan to Reduce Violence against Women and their Children 2010-2022 is a national framework developed by the Commonwealth, state and territory governments (roughly equivalent to our Federal and Provincial/Territorial divisions) and the community to see a significant and sustained reduction in violence against women and their children, so Australian women and their children live free from violence in safe communities.

Alongside the National Plan, the Commonwealth, state and territory governments have additional frameworks and policies to reduce violence against women and their children within their jurisdictions.

They emphasized the following:

- The symbolic leadership of their Prime Minister was important to their success
- The agreement and collaboration of their state governments was critical to having actionable and practical plans that were responsive to local conditions
- The leadership of civil society anti-violence experts throughout the years of the plan was critical to writing out changes in government and shuffles of cabinet
- Their minister for women's issues was also the driver of the plan
- Having data and evidence to demonstrate the need for the recommendations they were making made all the difference between convincing the skeptics and not
- They feel there was a weakness in their overall planning with respect to monitoring, evaluation, accountability, and learning. They recommend creating a targeted method for this function, that can drill down to specific public policy responses, Service delivery models and decisions, and evaluate what is actually making a difference in the lives of women in the country
- They emphasized that over the course of their National action plan, reported numbers of violence against women and gender-based violence did not actually go down. It is important to consider in advance might actually increase the rate of reporting. It is hoped that with increased knowledge more women and gender-diverse people will understand what is happening to them as part of the rubric of the farms we are trying to prevent. It is important not to feel discouraged that such an intractable social harm Will take more time than our current horizon to fully reveal and diminish.
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#### **Strategy to end violence against women and their children**

[Visit website](#)

The National Plan to  
Reduce Violence against  
Women and their Children  
2010-2022

A 12-year plan developed by the Commonwealth, state and territory governments, along with the community to outline and connect the important work being done to reduce violence against women and their children. Its vision is that Australian women [Visit website](#) and their children live free from violence in safe communities. Over 12 years the National Plan aims to achieve a significant and sustained reduction in violence against women and their children.

Fourth Action Plan of the  
National Plan to Reduce  
Violence against Women  
and their Children 2010-  
2022

The Fourth Action Plan of the National Plan to Reduce Violence against Women and their Children 2010-2022 sets out an ambitious but practical agenda to achieve change and reduce domestic,

[Visit website](#)

**Strategy to end violence against women and their children**[Visit website](#)

family and sexual violence against women and their children across five priority areas.

Implementation plan to support the delivery of the Fourth Action Plan

This implementation plan for the Fourth Action Plan outlines the initiatives that Commonwealth, state and territory governments will deliver, and provides information on their funding, milestones, intended outcomes and connection to Fourth Action Plan actions and priority areas. Together, these initiatives represent the range of responses needed to address domestic, family and sexual violence.

Stop it at the Start Campaign

Stop it at the Start aims to help break the cycle of violence by encouraging adults to reflect on their attitudes, and have conversations about respect with young people. The campaign is aimed at parents and family members of children aged 10–17, as well as the teachers, coaches, community leaders and employers of young people.

**Strategy to end violence against women and their children**[Visit website](#)

ACT Women's Plan 2016-26

The ACT Government is committed to removing barriers to enable women and girls to reach their potential, contribute to innovation and ideas and to take up leadership positions. The ACT Women's Plan 2016-26 articulates the ACT Government's plan to achieving this commitment.

## Conclusion

Violence against women and gender-based violence are non-partisan, societal issues affecting us all. Violence against women, awareness of it, and fears of its increase are current, pressing, and real concerns for people living in Canada.<sup>120</sup>

WSC and its partners view VAW/GBV and Canada's obligations to address it from within the international human rights frameworks of protection and attendant state obligations. As such, VAW/GBV is both a stand-alone violation of women's international human rights and is a core

aspect of discrimination against women.<sup>121</sup> Effective policy development for this apparently intractable social harm must be rooted in an “all-of-government” approach, and can be grouped into the following broad categories, which roughly correspond to the Working Groups established:

- Prevention Measures
- Service Responses
- Legal and Justice Responses
- Social Policy Responses

The success of measures undertaken in each of these pillars requires attention to the measures undertaken in the others. Each pillar requires the others to ensure its effectiveness.

Often, investment in policing and criminal justice makes the headlines. However, social policy and organizations working in grassroots and community-based responses – particularly those led by Indigenous women, Black women, racialized women, and women with a disability – are key to changing social norms and systemic factors that contribute to and exacerbate violence. Investments here will go far. This is increasingly important to consider at a time when policing in particular is under scrutiny for its attitudinal intransigence and overall costliness. Based on our research, we recommend a NAP guided by the following scaffolding and process guidance. Central to it will be an accountability or Feminist Monitoring, Evaluation, and Learning (MEL) framework that resides within the NAP.

## Appendix A: NAP at a Glance/ Plan d'action national, a WAGE working document

### National Action Plan to End Gender-Based Violence: A High-Level Framework for Joint Action

#### The Challenge

Gender-based violence (GBV) is one of the most pervasive, deadly and deeply-rooted human rights violations. It is a significant barrier to achieving gender equality, but it is preventable.

#### Vision

A Canada free of gender-based violence. A Canada that supports victims, survivors and their families, no matter where they live.

#### Timing

Ten years

#### Shared Responsibility

Preventing and addressing GBV necessitates coordinated and collaborative actions from federal, provincial and territorial governments, each working within their respective jurisdictional authorities, in close partnership with survivors, Indigenous partners, civil society, frontline service providers, municipalities, the private sector and researchers. Joint efforts in support of this National Action Plan will align with and complement the Truth and Reconciliation Commission's Calls to Action and the National Inquiry into MMIWG Calls for Justice.

#### Guiding Principles

- Be flexible in response to regional and sectoral realities
- Respect jurisdictional authority of each order of government
- Promote interjurisdictional collaboration
- Support Indigenous led solutions
- Ground in an intersectional approach
- Promote multi-sectoral approach
- Support community-based, community centred approaches
- Promote evidence-based, innovative and responsive policy and programs
- Incorporate a systems view of services and programs
- Be survivor-centric and inclusive of children and families
- Be trauma and violence informed
- Be culturally safe, relevant, accessible and appropriate
- Recognize that community organizations provide GBV supports and services that are critical to advancing gender equality
- Recognize the role of men and boys in addressing GBV

#### Goals

- Engage all people in Canada in changing the social norms, attitudes and behaviours that contribute to GBV
- Address the social and economic determinants that contribute to and perpetuate GBV
- Ensure anyone facing GBV has reliable and timely access to culturally appropriate and accessible protection and services
- Improve the health, social, economic and justice outcomes of those impacted by GBV

#### Pillars

- Support for survivors and their families
- Prevention
- Promotion of responsive legal and justice systems
- Support for Indigenous-led approaches and informed responses
- Social infrastructure and enabling environment

## The Foundation

Implementing and monitoring this Plan requires coordination within and across governments and Indigenous partners; and engagement with victims, survivors and their families, direct service providers, experts, and researchers. Federal, provincial, territorial efforts are complemented by local/community approaches and responses. Knowledge mobilization of surveillance data, research findings, and frontline expertise will support evidence-based policy and program development.

### Plan d'action national pour mettre fin à la violence fondée sur le sexe:

#### Cadre d'action commune de haut niveau

##### *Le défi*

La violence fondée sur le sexe (VFS) est l'une des violations des droits de la personne la plus omniprésente, la plus meurrière et la plus profondément ancrée de notre époque. La VFS constitue un obstacle considérable à la réalisation de l'égalité des genres. Pourtant, elle est évitable.

##### *Vision*

Un Canada où tout le monde est à l'abri de la violence fondée sur le sexe. Un Canada qui appuie les personnes victimes, survivantes et leurs familles, peu importe où elles habitent.

##### *Durée*

Dix ans

##### *Responsabilité partagée*

La prévention et la lutte contre la violence fondée sur le sexe nécessitent des actions coordonnées et concertées des gouvernements fédéral, provinciaux et territoriaux, conformément à leurs responsabilités juridictionnelles respectives, en plus d'un partenariat étroit avec les survivantes et survivants, les partenaires autochtones, la société civile, les prestataires de services de première ligne, les municipalités, le secteur privé et les chercheuses et chercheurs. Les efforts conjoints à l'appui de ce Plan d'action national s'aligneront et complèteront les appels à l'action de la Commission de vérité et réconciliation et la réponse aux appels à la justice de l'Enquête nationale sur les FFADA.

##### *Principes directeurs*

- Faire preuve de flexibilité en réponse aux réalités régionales et sectorielles
- Intégrer une vue systémique des services et des soutiens

- Respecter l'autorité juridictionnelle de chaque pilier de gouvernement
- Promouvoir la collaboration inter-juridictionnelle
- Soutenir les solutions dirigées par les communautés autochtones
- Ancrer dans une perspective intersectionnelle<sup>106</sup>
- Promouvoir une approche multisectorielle
- Soutenir les approches communautaires intégrées et centrés sur la communauté
- Promouvoir des politiques et des programmes innovateurs et fondés sur des faits probants
- Être centré sur les survivantes et survivants et inclure les enfants et les familles
- Tenir compte des traumatismes et de la violence
- Être sécuritaire, pertinent, accessible et approprié au niveau culturel
- Reconnaître que les organismes communautaires fournissent des services VFS critiques pour l'avancement de l'égalité des genres
- Reconnaître le rôle des hommes et des garçons pour contrer la VFS

### Objectifs

- Impliquer toute la population au Canada à changer les normes sociales, les attitudes et les comportements qui contribuent à la VFS
- Aborder les déterminants sociaux et économiques qui contribuent à la VFS et la perpétuent
- Veiller à ce que toute personne confrontée à de la VFS obtienne un accès fiable et rapide à la protection et à des services accessibles et culturellement appropriés
- Améliorer les résultats sur le plan social, judiciaire et de la santé pour les personnes touchées par la VFS

### Piliers

- Soutien aux personnes survivantes et à leur famille
- Prévention
- Promotion de la réactivité du système juridique et judiciaire
- Soutenir les approches et réponses dirigées et informées par les communautés autochtones
- Infrastructure sociale et environnement propice

### La fondation

La mise en place et le suivi de ce Plan nécessitent une coordination au sein et entre les gouvernements et les partenaires autochtones; et l'engagement envers les victimes et les personnes survivantes, les prestataires de services directs, les personnes expertes et les chercheuses et chercheurs. Les efforts fédéraux, provinciaux et territoriaux sont appuyés par des approches et solutions locales/ communautaires. La mobilisation des connaissances des données de surveillance, les résultats de recherche, et l'expertise des membres de première ligne appuieront l'élaboration de politiques et de programmes fondés sur des faits probants.

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<sup>106</sup> The term intersectionality was first coined by Kimberlé Crenshaw, an American critical race feminist activist and legal scholar. The term in her writing was a metaphor for how discrimination works in real life: "Discrimination, like traffic through an intersection, may flow in one direction, and it may flow in another. If an accident happens in an intersection, it can be caused by cars traveling from any number of directions, and sometimes from all of them." In this analogy, the accident is the human rights harm that is caused to an individual, and the intersections are all the

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- different “grounds,” or identities/situations that are forms of discrimination. See: Kimberlé Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” (1989) U Chi Leg F 139 at 149.
- <sup>107</sup> Adam Cotter, “Violent victimization of women with disabilities,” *Statistics Canada* (15 March 2018), online: <[www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54910-eng.htm](http://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54910-eng.htm)>; Statistics Canada, “Fact Sheet: Victims of police-reported violent crime in the Northwest Territories, 2016,” online: <[www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54960/s13-eng.htm](http://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54960/s13-eng.htm)>; Department of Justice Canada, “Victimization of Indigenous Women and Girls” (July 2017), online: <[www.justice.gc.ca/eng/rp-pr/jrf-pf/2017/july05.html](http://www.justice.gc.ca/eng/rp-pr/jrf-pf/2017/july05.html)>.
- <sup>108</sup> World Health Organization, “Executive Summary,” *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence* (2013), online: <[apps.who.int/iris/bitstream/handle/10665/85239/9789241564625\\_eng.pdf](http://apps.who.int/iris/bitstream/handle/10665/85239/9789241564625_eng.pdf)>.
- <sup>109</sup> UN Women, “COVID 19 and ending Violence Against Women and Girls: Examples of Responses from Governments,” *Issue Brief* (2020), online: <[www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf](http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf)>; CWF, CCPA, ONN, Kathleen Lahey, *Resetting Normal: Funding a Thriving Women’s Sector* (CWF: May 2020), online: <[canadianwomen.org/resetting-normal](http://canadianwomen.org/resetting-normal)>; CWF, CCPA, and Fay Faraday, *Resetting Normal: Women, Decent Work and Canada’s Fractured Care Economy* (CWF: July 2020), online: <[canadianwomen.org/resetting-normal](http://canadianwomen.org/resetting-normal)>; A. Sultana & C. Ravanera, *A Feminist Economic Recovery Plan for Canada: Making the Economy Work for Everyone* (GATE and YWCA Canada: 28 July 2020), online: <[static1.squarespace.com/static/5f0cd2090f50a31a91b37ff7/t/5f205a15b1b7191d12282bf5/1595955746613/Feminist+Economy+Recovery+Plan+for+Canada.pdf](http://static1.squarespace.com/static/5f0cd2090f50a31a91b37ff7/t/5f205a15b1b7191d12282bf5/1595955746613/Feminist+Economy+Recovery+Plan+for+Canada.pdf)>; Anne Nuorgam, “COVID-19 and Indigenous peoples,” *United Nations Department of Economic and Social Affairs*, online: <[www.un.org/development/desa indigenouspeoples/covid-19.html](http://www.un.org/development/desa indigenouspeoples/covid-19.html)>; Gina Starblanket and Dallas Hunt, “Indigenous communities and COVID-19: The virus may not discriminate, but responses to it do,” *The Globe & Mail* (27 March 2020), online: <[www.theglobeandmail.com/opinion/article-indigenous-communities-and-covid-19-the-virus-may-not-discriminate](http://www.theglobeandmail.com/opinion/article-indigenous-communities-and-covid-19-the-virus-may-not-discriminate)>.
- <sup>110</sup> Myrna Dawson, Danielle Sutton, Michelle Carrigan, and Valérie Grand'Maison, #CallItFemicide: *Understanding gender-related killings of women and girls in Canada 2018* (CFOJA: 2019), online: <[femicideincanada.ca/callitfemicide.pdf](http://femicideincanada.ca/callitfemicide.pdf)>.
- <sup>111</sup> Adam Cotter, “Violent victimization of women with disabilities, 2014,” *Canadian Centre for Justice Statistics* (28 March 2018), online: <[www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54910-eng.htm](http://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54910-eng.htm)>.
- <sup>112</sup> NAWL/ANFD, *Written Submission for the Pre-Budget Consultations in Advance of the Upcoming Federal Budget*, July 2020 at 3.
- <sup>113</sup> Jude McCulloch and Jane Maree Maher, “The Intimate Connection between Mass Shootings and Violence Against Women,” *Policy Options* (May 2020), online: <[policyoptions.irpp.org/magazines/may-2020/the-intimate-connection-between-mass-shootings-and-violence-against-women](http://policyoptions.irpp.org/magazines/may-2020/the-intimate-connection-between-mass-shootings-and-violence-against-women)>.
- <sup>114</sup> Canadian Labour Congress and Western University, Domestic Violence at Work Resource Centre, online: <[canadianlabour.ca/issues-research/domestic-violence-work](http://canadianlabour.ca/issues-research/domestic-violence-work)>.
- <sup>115</sup> Ending Violence Against Women Canada, *Draft Document*, via email in author’s possession, August 2020.
- <sup>116</sup> CWF, CCPA, ONN, Kathleen Lahey, *supra* note viii; CWF, CCPA, and Fay Faraday, *supra* note viii.
- <sup>117</sup> Chelsea Legge, “Technology-facilitated violence, abuse, and harassment against women and girls: A 21st Century Challenge,” *UofT Faculty of Law, IHRL Program*, online: <[ihrl.utoronto.ca/technology-facilitated-violence-abuse-and-harassment-against-women-and-girls-21st-century-challenge](http://ihrl.utoronto.ca/technology-facilitated-violence-abuse-and-harassment-against-women-and-girls-21st-century-challenge)>.
- <sup>118</sup> UN Women, *supra* note viii; UNHROHC, CEDAW, *Guidance Note on CEDAW and COVID-19*, online <[tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/STA/9156&Lang=en](http://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/STA/9156&Lang=en)>.
- <sup>119</sup> National Inquiry into Murdered and Missing Indigenous Women and Girls, “Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls” (22 May 2019) May 22, 2019, online: <[www.mmiwg-ffada.ca/final-report](http://www.mmiwg-ffada.ca/final-report)>.
- <sup>120</sup> Statistics Canada, The Daily, *Canadian Perspectives Survey Series 1: Impacts of COVID-19*, online: <[www150.statcan.gc.ca/n1/daily-quotidien/200408/dq200408c-eng.htm](http://www150.statcan.gc.ca/n1/daily-quotidien/200408/dq200408c-eng.htm)>.

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<sup>121</sup> Convention on the Elimination of All Forms of Discrimination Against Women, 1249 UNTS 13 (Entry into force: 3 September 1981)[CEDAW, 1979]; UN CEDAW, *CEDAW General Recommendation No. 19: Violence against women* (1992); *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 [advance unedited version]* (017; Dubravka Šimonović, *Report of the Special Rapporteur on Violence Against Women its causes and consequences and the Adequacy of the international legal framework on violence against women*, A/72/134 (17 July 2018), at para 12.



## G-2: NAP Working Groups—Terms of Reference

February 8, 2021

### 1. Project Background and Objectives

With the leadership of Women's Shelters Canada (WSC), a Blueprint for Canada's National Action Plan on Violence Against Women and Girls was issued in 2015 by a network of NGOs, trade unions and independent experts. In the summer of 2020, a Reissued Call for a National Action Plan (NAP) went out and was endorsed by 250 organizations across Canada.

As the Reissued Call points out, the National Action Plan (NAP) needs to be:

- Grounded in an intersectional women's human rights framework, responsive to international norms, obligations, and standards throughout
- An all-of-government approach, inclusive of federal ministries in addition to the Department for Women and Gender Equality (WAGE) and the provincial/territorial Status offices
- Structured to provide continuous coordination and incentives for provincial and territorial adoption and leadership as solutions to the jurisdictional challenges of universal implementation and national standards
- Grounded in VAW/GBV community-based expertise and service sustainability
- Inclusive of a robust prevention agenda
- Guided by intersectional feminist expertise
- Attached to a realistic and substantial budget, commensurate with the pervasiveness of the social harm
- Productive of interventions that are culturally and linguistically accessible and safe
- Guided by a robust feminist Monitoring, Evaluation, and Learning (MEL) process
- Harmonized with the parallel national action plan(s) on Missing and Murdered Indigenous Women and Girls (MMIWG)

As part of its election platform, the Government of Canada has made a commitment to a national action plan on VAW/GBV. In parallel to its own consultation process and corresponding

to the framework agreed upon for the Federal action plan, WAGE has provided WSC with funding for an initiative whose objective is the development of a NAP framework with a 10-year horizon. (More detail on this background accompanies the Background document provided to all the Working Groups.) This project includes four Working Groups, each assigned to develop a separate section of the NAP.

Each Working Group is responsible for generating its own report with recommendations, which will be coordinated into a final roll-up set of recommendations and framework, compiled through WSC.

Women's Shelters Canada supports the project through the following structures and supports listed here and briefly elaborated below:

- An Advisory Committee
- A consulting Strategic Engagement Specialist, charged with ensuring the overall coordination of the project and the delivery of the final roll-up of recommendations
- A regular forum for the Working Group co-chairs to meet and collaborate towards their individual and shared WG goals
- Dedicated staff time to support administrative and substantive functions
- A budget to support research and consultations needs for each working group

## **2. Scope of Each Working Group**

The Working Groups will develop recommendations that, together, will provide the framework and initial content for a 10-year National Action Plan. The recommendations will include a series of short-term actions that could be taken by governments immediately, as well as more complex actions that will require efforts in multiple jurisdictions and sectors and federal/provincial/ territorial cooperation. In this way, the recommendations will strategically allocate actions from year 1 to year 10, recognizing that there will likely be more detail in the initial years.

A brief description of the scope of each of the four Working Groups is provided below. It is expected that each Working Group will address a full range of forms of violence against women and gender-based violence and take into consideration the guideposts from the Reissued Call for a NAP, as set out above.

The Working Groups are titled as follows:

- Prevention
- Support for survivors and their families
- Promotion of responsive legal and justice systems
- Social infrastructure and enabling environment, including housing, childcare

**Prevention:** Prevention work must be community-specific, adequately funded, and based on a gendered, feminist intersectional analysis of violence. The focus has to be on educating children, youth and adults on human rights and violence against women and girls through promoting understanding of healthy relationships, consent and rape culture, breaking down sexual assault myths, encouraging bystander interventions, offering programs to foster self-esteem, and working with men and boys to change attitudes and behaviours.

**Support for survivors and their families.** Broadly speaking, these will be service responses. Ideally, a universal, coordinated, and integrated system of support services must be adequately funded and offered across all geographic locations, and accessible to all women who have experienced any form of gender-based violence. This should include the development and implementation of service and practice standards and guidelines for all sectors that respond to violence against women, such as health, child protection, social assistance, and housing, to name a few.

**Promotion of responsive legal and justice systems.** The National Action Plan on Violence Against Women and Girls must address police, legal, court, and prison systems to ensure they reflect and are responsive to the lived realities of women facing violence, and work to both prevent and reduce the impacts of violence and ensure women's safety from an intersectional perspective.

**Social infrastructure and enabling environment, including housing, childcare.** Broadly speaking, these will be Social Policy Responses. The National Action Plan on Violence Against Women and Girls must address all policy areas that may affect women's vulnerability to violence and their ability to access services and protections. It must strive to achieve full substantive equality for all women to prevent, and eventually end, violence against women.

As there is some potential for overlap among the Working Groups, each Working Group is encouraged to take into account the scope of the other three Working Groups. When areas arise that the Working Group considers may overlap with another Working Group, the Co-Chairs will bring the matter to the Coordinating Committee for discussion.

The Coordinating Committee is made up of members of the original Blueprint Group, Anuradha Dugal, Vicky Smallman, and the Strategic Engagement Specialist, Amanda Dale, as well as Women's Shelters Canada Executive Director, Lise Martin. Its role is to guide WSC and to steer the overall project toward successful completion on target and within budget.

### **3. Working Group Responsibilities**

- a) Develop a summary report that defines elements of the framework for action, and sets out recommendations highlighting the necessary and feasible actions to achieve substantive and measurable change in addressing violence against women over a 10-year horizon.
- b) In selecting the recommended actions, make use of and build on the considerable body of evidence in previous reports, studies, and action plans.
- c) Serve as an incubator for creative and practical ideas, whether actions that have been previously recommended or new ideas.
- d) Base recommendations on evidence, including studies and data that are quantitative and those that are grounded in women's experience.
- e) Focus on solutions; the problem is already well defined.
- f) Focus on actions that will make a difference, and will have the greatest short and long-term impact addressing violence against women.
- g) Provide a rationale for all recommendations.

If necessary, the WSC staff and consultants assigned to this project can assist in providing support for some aspects of the responsibilities (see “9. Supports to Working Groups” below).

### **4. Timeline and Time Commitment**

The Working Group will complete its work over the period from February 8 to April 15, 2021. Each Working Group will determine its own schedule of meetings and tasks; however it is anticipated that Working Groups will need to meet approximately weekly. Attendance is expected at each meeting.

Each Working Group member is expected to dedicate the time necessary to attend all Working Group meetings, read the related materials and complete tasks as needed between meetings. It is anticipated that each Working Group member will need to allocate at least 5 hours per week to fulfill their responsibilities. In light of the fact that there is compensation being provided, Working Group members are expected to be fully focused on their responsibilities. For example, members cannot send a replacement to the meetings.

The Co-Chairs are responsible for ensuring that the work of the Working Groups remains focused, proceeds according to the given timelines and results in a coherent and actionable set of recommendations that encompasses an immediate to 10-year planning horizon. The Co-Chairs are expected to bring leadership to the content discussions and ensure the evidence base needed is made available to the Working Group either through existing resources provided by the WSC staff support, or through additional expertise and resources, made available through funds provided by the project.

We expect that the Co-Chairs will need to allocate 1.5 days per week, to fulfill their additional duties.

## **5. Guiding Principles**

Working Groups and individual members of the Working Groups will adhere to the following guiding principles:

- a) Work collaboratively towards a common end, and advance recommendations based on evidence and existing consensus documents
- b) Participate based on knowledge and expertise, not as a representative of any organization or group.
- c) Use an intersectional analysis and practice.
- d) Encourage the full participation of all Working Group members and draw on the expertise and contributions of each member.
- e) Aim for consensus but recognize that this may not always be possible given the time constraints.
- f) Follow human rights principles and approaches in developing the recommended framework and actions, including integrating the concerns of trans, intersex and non-binary individuals in the consideration of gender-based violence.

## **6. Membership**

There will be eight members in each Working Group, plus the Co-Chairs. Members of the Working Groups will be selected by the Coordinating Committee and validated by the Co-Chairs on the basis of the following criteria:

- a) Expertise: members will have significant expertise in VAW issues, and bring a range of types of expertise (e.g. frontline, academic, research, lived experience, etc.).
- b) An intersectional and intergenerational lens will be applied to selection of members across all Working Groups.
- c) Geographic and linguistic diversity: when considering the membership across all Working Groups, attention will be given to selecting members from all geographic regions of Canada, to the extent that this is feasible, and to ensuring participation from both official language groups.
- d) Collaborative style: members will have a collaborative, respectful and inclusive working style.

It is important that the Working Groups be set up in a timely manner, given the timeline of the work to be accomplished. The selection process will be as follows:

- a) The Coordinating Committee will create a matrix of the selection criteria, based on the above listed skills and attributes, identify potential members and list them against the criteria to arrive at a preliminary membership for each Working Group.

- b) The preliminary list will be shared with the Co-Chairs of that Working Group to add names to fill gaps and to express any concerns they may have. The Coordinating Committee and Co-Chairs of each Working Group will agree on a final list of members for that Working Group.
- c) Individuals will be approached to secure their involvement. They will be asked to provide a short description of their background and expertise.
- d) Once confirmed, Working Group members will sign an Accountability Form setting out their responsibilities and the compensation to their agency or themselves for their time. They also will be asked to complete a form identifying any specific accommodations they may need in order to participate in the Working Group.

## **7. Co-Chairs**

Two Co-Chairs for each Working Group will be selected by the Coordinating Committee, using a similar process and criteria as set out for selection of Working Group members.

Co-Chairs will sign an Accountability Form setting out their responsibilities and the compensation to their agency or themselves for their time

The Co-Chairs will be responsible for the smooth and productive operation of their Working Group, including:

- a) setting the agenda for each meeting, with input from members,
- b) ensuring the Working Group accomplishes its task in the assigned timeframe,
- c) ensuring members fulfill their responsibilities, attend Working Group meetings and complete their work between meetings. If necessary, Co-Chairs are empowered to replace Working Group members, in consultation with the Coordinating Committee,
- d) communicating and collaborating with other Co-Chairs and the Coordinating Committee,
- e) keeping the Coordinating Committee informed of progress and seeking their assistance where support is needed, or issues arise that require special attention.
- f) attend regular Co-Chair meetings across the Working Groups, convened by the Coordinating Committee with the purpose of coordination and common end results

## **8. Meetings**

The WSC Staff assigned to the project will provide administrative support for the meetings, including arranging the logistics of the meetings, and providing a note-taker for the meetings.

The agenda for each meeting will be set by the Co-Chairs, with input from Working Group members.

Meetings will be conducted in a way that is consistent with the Guiding Principles above.

Working Groups will seek to achieve consensus on the report and recommendations, but the limited time available to complete the work may mean this is not always possible. Co-Chairs may wish to use the attached consensus process as a way of providing space for a range of opinions while still moving forward with recommendations.

## **9. Supports to the Working Groups**

The WSC Staff assigned to the project will provide administrative support for the meetings, including arranging the logistics of the meetings, and providing a note-taker for the meetings.

If necessary, the WSC dedicated staff and consultants can assist in providing support for writing some sections of the Working Group report, and/or research support to find additional data or evidence to underpin recommendations. Working Group members are encouraged to use their networks to identify appropriate resource people to fulfill these roles.

Facilitation support to the Working Groups is provided by WSC through a specialized facilitator, Pam Kapoor. Pam is familiar with the WSC, the original Blueprint Group, and this project. It is anticipated that this support will enhance the process functioning of the Working Groups in an effort to allow the Co-Chairs to remain focused on the substantive matters related to their group's expected outcomes.

The Strategic Engagement Specialist, Amanda Dale, and the Operations Coordinator, Cyndia Mondésir, offer substantive content support, as well as functional and coordinating support, in English and French.

Accommodations can be provided to Working Group members who require them. Translation will be provided when needed. When they join the Working Group, each member will be asked to complete a form identifying any specific needs they may have.

## **10. Communication**

- a) Communication between Working Groups will be the responsibility of the Co-Chairs and will go through the Strategic Engagement Specialist.
- b) Information and ideas shared in Working Groups are not generally confidential and working Group members are encouraged to reach out for input from their agency and networks to nourish the Working Group discussions. In this context, information shared from a Working Group discussion would not be attributed to a specific individual.
- c) Apart from this, there may be occasions where sensitive information is shared within a Working Group, and members will treat this as confidential. If in doubt, Working Group members are to seek guidance from the Co-Chairs.
- d) Working Group members are not to communicate with the media, or to share on social media platforms, any matters being discussed at the Working Group. Any request from the

media will be referred to the Strategic Engagement Specialist for the WSC Executive Director to lead.

## **11. Code of Conduct**

Working Group members will respect the following Code of Conduct:

- a) Adhere to the Guiding Principles.
- b) Act with respect towards others at all times, including listening carefully to their views, even and especially in times of disagreement.
- c) If any sensitive information is shared during the work of the Working Group, treat it as confidential.
- d) Work towards the shared objective of the Working Group, regardless of differences of opinion or perspective.

## **12. Compensation and Reimbursement of Expenses**

Compensation for the time of each Working Group member will be provided to their employer, or, in the case of self-employed individuals, to the individual, in the amount of \$7,000.00. The time of Co-Chairs will be compensated at \$15,000.00.

The costs of any accommodations necessary for members to participate in the Working Groups will be covered by WSC. Extraordinary expenses may be covered on a case-by-case basis, as approved by the Coordinating Committee.

## **13. Amendments to the Terms of Reference**

If a Working Group feels that there is some aspect of their Terms of Reference that is hindering them in completing the report and recommendations, they are responsible for, they are to bring forward a proposed amendment to their Terms of Reference to the Coordinating Committee for a decision.

The Coordinating Committee may amend the Terms of Reference as needed to provide greater clarity to the Working Groups.

### **Consensus Model**

In this approach, people are not simply for or against the decision, but have the option to situate themselves on a scale that lets them express their individual opinion more clearly. This

model is usually used with a round, so that everyone in the meeting is given the opportunity to state where they are according to the following six levels:

1. Fully support.
2. Support with reservations.
3. Acceptable
4. Will not block it, can live with it.
5. Need more information or more discussion.
6. No; cannot accept it.

If everyone is at level #4 or above, consensus has been reached.

If someone is at level 2, 3, or 4, they have the option of explaining their reservations. These can be addressed by the meeting, if the group wishes to. This is not absolutely necessary for achieving consensus if everyone is already at 4 or higher, but it usually improves the recommendation or suggestion being discussed.

If someone is at level 5, they have the obligation to explain what information or discussion they require from the group.

If someone is at level 6, they have a responsibility to express their reservations and propose a solution to move the group forward, as indicated below.

In addressing someone's reservation, it is important that

- a) Both the person expressing the concern and the rest of the group have a responsibility to find solutions, and
- b) People suggest improvements that meet the objectives of the entire group.

*(This model was adapted from the BC Labour Force Development Board)*

### G-3: NAP Working Group Co-Chairs—Accountability Form

1. As a Co-Chair of the Working Group, I agree to adhere to all aspects of the attached terms of reference for the Working Group, and in particular to:
  - a) work with the Coordinating Committee to finalize the membership of the Working Group,
  - b) set the agenda for each meeting, with input from members,
  - c) ensure the Working Group accomplishes its task in the assigned timeframe,
  - d) ensure members fulfill their responsibilities, attend Working Group meetings and complete their work between meetings. If necessary, Co-Chairs are empowered to replace Working Group members, in consultation with the Coordinating Committee,
  - e) communicate and collaborate with other Co-Chairs and the Coordinating Committee,
  - f) keep the Coordinating Committee informed of progress and seeking their assistance where support is needed, or issues arise that require special attention.
2. In recognition of the hours required to complete these responsibilities, my employer\* will be reimbursed by a one-time payment of \$XXX
3. Are there any accommodations you require to fulfill your role as Co-Chair of the Working Group? \_\_\_\_\_

\* For individuals who are self-employed, the payment can be made to the individual.

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Name of Co-Chair

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Signature of Co-Chair

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Lise Martin, on behalf of WSC

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Date

#### G-4: NAP Working Groups Members—Accountability Form

1. I agree to my responsibilities as a member of the Working Group:
    - a) adhere to all aspects of the attached terms of reference for the Working Group,
    - b) attend all meetings of the Working Group,
    - c) read any material related to the responsibilities of the Working Group,
    - d) complete any tasks I agree to undertake as part of my role on the Working Group, (e.g. drafting sections of the report, researching additional information to inform the report's recommendations, reviewing draft materials),
    - e) contribute my expertise, knowledge and networks to the development of the recommendations and report of the Working Group.
  2. I am aware that the Coordinating Committee has the authority to change the membership of the working group if required, and consequently I can be asked to step down for various reasons, such as not adhering to the Code of Conduct, irreconcilable conflict on the Working Group, or other reasons related to ensuring the Working Group achieves its objectives and fulfills the terms of reference.
- If I choose to withdraw from the Working Group for my own reasons, I will inform the Co-Chairs with as much notice as possible. Upon my resignation from the Working Group, my employer will refund the unused portion of the payment provided.
3. In recognition of the hours required to complete these tasks, my employer\* will be reimbursed by a one-time payment of \$XXX
  4. Are there any accommodations you require to participate in the Working Group?

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\* For individuals who are self-employed, the payment can be made to the individual.

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Name of Working Group Member

Signature of Working Group Member

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Lise Martin, on behalf of WSC

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Date

(attach the Working Group Terms of Reference)

## G-5: WSC NAP Tasks for Working Group Supports

It is anticipated that the Working Groups will have someone with research capacity who also will be the primary drafter. There may be good reason to have two supports present to divide verbatim notetaking and research issue identification. In this case, the two will collaborate on the reporting to the co-chairs to assist in identifying the issues to track and resolve. The note-takers may have some research skills and may assist in the drafting process if this makes sense to the co-chairs in light of the skills represented by the people assigned to tier groups. There shall be no more than two supports to cover the three tasks in anyone Working Group.

### Note-Taking

- Clear, accurate note-taking that captures discussion near verbatim, nuances, decision points and points still to be resolved
- Full and reliable attendance at all weekly WG meetings
- Swift follow-up with co-chairs to deliver accurate and grammatically correct notes for distributions within 48 hours of each meeting
- Reliable service to the WG overall goals

### Researching

- Record-keeping that synthesizes research/substantive/recommendation issues to be resolved and supports co-chairs with their resolution
- Attendance at project technical briefings
- Attendance at WG meetings
- In-depth review and understanding of background research documents and existing collated recommendations provided
- Ability to address committee member queries and liaise with project staff to address
- Provide technical research support to co-chairs
- Work with Notetaker collaboratively to devise full picture of required next steps and outcomes to be shared with co-chairs
- Reliable service to the WG overall goals

### Drafting

- Attendance at meetings
- Thorough review of all meeting notes
- Ability to take direction from co-chairs
- Well-developed understanding of VAW/GBV that you can apply to the drafting process

- Ability to research basic elements to verify sources
- Advanced understanding of the background materials and templates provided
- Collaborate workstyle with other WG supports and project staff
- Reliable service to the WG overall goals
- Ability to work with project staff during Final Report drafting period (April 1-30, 2021)

## G-6: Working Group Timelines

The purpose of this document is to assist the co-chairs in directing the tasks of the working group. These are meant as guidelines to flag important timelines to ensure that we are on track to develop our report and recommendations to the NAP GBV.

Keep in mind that you may want to build in additional time for:

- Engagement with NAP MMIWG and recommendations;
- Inviting experts to help provide deeper insights into a particular topic or issue (e.g. MEAL expert Rotbah Nitia, and a possible TBD MMIWG Action Plan representative);
- Optional cross-pillar collaboration (e.g. Areas of overlap; Indigenous, Black, LGBTQ2S+, Disabilities).

TASK	DESCRIPTION	FOLLOW UP/ADDITIONS
<b>Week 1: March 1-5</b>		
First Standing Weekly Meeting	1-hour weekly meetings with Co-chairs and WG. Orientation; expectations; support in place; get started!	
Co-chairs sift for key recommendations and gaps	Co-chairs review research materials: pull key recommendations from the excel file of recommendations to discuss in depth with the WG. Identify gap areas.	
Facilitate discussion	Key themes and categories based on the mission of the Pillar.	
<b>Week 2: March 8-12</b>		
Begin substantive recommendation process	Dig into substantive issues and assignment of new and existing recommendations over the Immediate, Short, Medium and Long-term horizons (6mos; 1-two years, 3-5 years; 5-ten years)	Are 1-hour meetings going to be enough?

	Flag issues for further development/research and advise WSC staff of desire to commission an expert.	
<b>Week 3: March 15-19</b>		
Consultation MMIWG expert	TBD	May need to book an extra half hour for expert meetings.
Check in with Amanda	How is the discussion progressing; emerging issues; additional support needed; gaps.	
<b>Week 4: March 22-26</b>		
Consultation with MEAL expert	Rotbah Nitia	May need to book an extra half hour for expert meetings.
Consultation with any additional experts required before commencing report draft.	Advance preparation for this required: do you have a shortlist from those initially contemplated for your WG that you'd like to bring back as experts?	
<b>Week 5: March 29-April 2</b>		
Draft outline of report	Work with the researcher on the outline and any additional research needed to strengthen the arguments.	
Finalize key recommendations	WG to finalize and agree on recommendations across 10-year NAP plan.	
Commence writing Report	Answer 4 questions to build the narrative aspects of the report.	
Rank recommendations and timeline	Researcher to compile and organize a ranking of the recommendations along with the justifications as populated in the excel file.	Krys to meet with Researchers to go over a template for consistent reporting.
<b>Week 6: April 5-9</b>		

Finalize draft of report and share with WG.	Engage with WG on revisions on report and recommendations.	Include extra time for the researcher to help with formatting and referencing.
Integrate feedback and revise	Consider and integrate feedback from the WG and any additional experts you may have consulted.	
<b>Week 7: April 12-16</b>		
Final approval of report from WG members	Circulate a final copy of the report to the WG members to review and sign off on	May need the weekend for additional time to review.
<b>Weeks 8 &amp; 9: April 19 to 30</b>		
Submit Final Report and recommendations	Co-chairs to be available to Amanda to review final draft of full report.	Final Report responsibility of WSC.

## G-7: Instructions for Researchers

### NAP GBV Support for Working Groups

**Contact person:** Krys Maki [kmaki@endvaw.ca](mailto:kmaki@endvaw.ca)

#### **RESEARCHER'S ROLE**

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##### **Purpose:**

The purpose of the Researcher is to provide support to the working group (WG) and co-chairs in developing their report and recommendations on the NAP GBV to WAGE due mid-April 2021.

##### **Goal of the working group:**

The WG will develop recommendations that will provide the framework and initial content for a 10-year National Action Plan on GBV. The recommendations will include a short-term actions that could be taken by governments immediately, as well as more complex actions that will require efforts in multiple jurisdictions and sectors.

#### **TASKS**

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##### **Researching**

- Record-keeping that synthesizes research/substantive/recommendation issues to be resolved and supports co-chairs with their resolution
- Attendance at project technical briefings
- Attendance at WG meetings
- In-depth review and understanding of background research documents and existing collated recommendations provided
- Ability to address committee member queries and liaise with project staff to address
- Provide technical research support to co-chairs
- Work with Notetaker collaboratively to devise full picture of required next steps and outcomes to be shared with co-chairs
- Reliable service to the WG overall goals

##### **Drafting**

- Attendance at meetings
- Thorough review of all meeting notes
- Ability to take direction from co-chairs

- Well-developed understanding of VAW/GBV that you can apply to the drafting process
- Ability to research basic elements to verify sources
- Ability to reference in American Psychological Association (APA) Style
- Advanced understanding of the background materials and templates provided
- Collaborate workstyle with other WG supports and project staff
- Reliable service to the WG overall goals
- Ability to liaise with project staff during Final Report drafting period (April 1-15, 2021)

## **RESOURCES**

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### **EXCEL FILE**

Excel file that is organized by pillar that you will populate with notes, keywords and add any new recommendations based on gaps identified.

- You will receive an excel document with 5 tabs that refer to each working group pillar. This can be used as a resource when the group wants to cross reference a recommendation with another pillar or see if a gap is addressed elsewhere.
- It is the researcher's responsibility to keep track of recommendations that the WG has selected as a priority and fill out the respective columns. This will be explained to you at the technical briefing.
- Pay attention to the discussions and note key themes that keep coming up that will be helpful for the co-chairs as they draft their narrative comments for the report. What keeps coming up, what is of great importance to the group, what are the contestations and tensions you hear, critiques etc.

### **PROCESS**

1. The co-chairs will facilitate discussion among the WG specific to their pillar. As they go through the recommendations, you will be fill out the columns using the codes provided (see Row 7).
2. Column B: description of the recommendation (pre-populated)
3. Column C: Source (where the recommendation came from, this is useful if you need to look it up for further information)
4. Column D: Identify whether the recommendation is immediate (6 months) short (1-2 years), medium (3-5 years) or long-term (5-10 years) goal (remember you are working with a 1–10-year timeframe).
5. Column E: What level(s) of government does the recommendation sit with (federal, provincial, territorial, municipal or a combination).
6. Column F: Does the recommendation resonate with the FTP Ministers Principles/Pledge? (see word key) Include the words where the two overlap
7. Column G: Include any relevant comments, points of contention, gaps, why the group felt strongly about this etc.).

8. Column H: Note any intersectional considerations (race, gender, class, sexuality, disability, age, etc.) as defined in the instructions for co-chairs.
9. If the group identified a recommendation gap, work with the co-chair to fill out the information to round it out. Make sure to include the rationale in the comments section. If you feel that this gap needs further exploration you can request to conduct a research report or brief on this particular topic to make your case.

Here is an example of what the excel file will look like for the Pillar Prevention:

A	B	C	D	E	F	G
Developing the National Action Plan on Gender-Based Violence						
Existing Evidence: Priority Areas for a National Action Plan						
#	Evidence/Recommendation	Source	Timeframe	Government Level	SWC Principles	Comments
			Short-term(S) Medium-term (M) Long-term (L)	Federal (F) Provincial (P) Territorial (T) Municipal (M)	Keywords (see instructions)	
OA	<i>Example Recommendation XXX</i>	XXX	S	P, T	Intersectionality	XXX
OB	<i>Example Recommendation XXXX - not including - highlight cell using explanatory cell style</i>					
1	<p>Canada's NAP on VAW will call on governments to:</p> <ul style="list-style-type: none"> <li>*Foster prevention initiatives led by women working in partnership with men to educate men and boys on ways to acknowledge, challenge and prevent violence, including intensive work with perpetrators.</li> <li>*Ensure programming meets the specific needs of youth, older adults, people with disabilities and Deaf people, immigrants and refugees, and LGBTQ communities in addressing and preventing gender-based violence.</li> <li>*Support First Nations, Métis and Inuit organizations and governments to develop prevention strategies for their communities.</li> </ul> <p>Women's Shelters Canada</p>					
	Counselling Services: Counselling services intended to support parents with LGBTQ2+ children, particularly those experiencing difficulty supporting their children, were					

## WORD KEY

Use these key words to help identify **linkages** between the recommendation and the Joint Declaration for a Canada free of Gender-Based Violence that was endorsed by the Federal, Provincial and Territorial ministers on the Status of Women during their 38<sup>th</sup> Conference (pg. 2 Backgrounder or full government report [online here](#)). Include the key words in Column F in the excel file.

## Accounting for Intersectional Harms

As discussed in greater detail in the Background and Framework Document provided, it is expected that our final plan will be shaped by an intersectional understanding of experiences of violence, as grounded in the Critical Race Feminism of Kimberlé Crenshaw.

Pre-COVID-19 research shows that the levels of violence that women, girls, and gender-diverse people experience in Canada have changed little over the past two decades.<sup>1</sup> The current systems of response to violence have failed to significantly lower the levels of violence they

experience. Moreover, those with who experience intersectional harms have the least access to services – those in rural and remote areas, Indigenous, Disabled, racialized, Black, gender non-conforming, trans and migrant people – and also experience the highest rates of violence.

To build a Canada where women, girls, and gender non-conforming people are not subjected daily to violence simply because of their identities, our governments must take a new approach. In light of the groundswell of discontent with inequality, racism, police brutality, and the stalled progress on the MMIWG recommendations, a truly intersectional NAP could mark real progress on many fronts. Keeping these realities top of mind in your report development will be important to a powerful outcome.

**Guiding principles:**

- Support Indigenous-led solutions
- Intersectional (Indigenous, Disabled, racialized, Black, gender non-conforming, trans and migrant people)
- Multi-sectoral, cross-departmental/ministry approach
- Community-based approaches
- Evidence based
- Survivor centric and inclusive of children and families
- Trauma and violence informed
- Culturally safe
- Recognize role of men and boys

**Goals:**

- Changing social norms, attitudes and behaviours
- Address social and economic determinants
- Reliable, timely and culturally appropriate and accessible protections and services
- Better health, social, economic justice outcomes

## BACKGROUND INFORMATION

1. Backgrounder document
2. Process NAP
3. Blueprint documents (Reissued Call, Original Blueprint document, etc.)  
<https://endvaw.ca/national-action-plan-violence-women/>

## G-8: National Action Plan to End Gender-based Violence: Working Group Document for Recommendations

*Example Pillar: Legal and Justice*

### OVERVIEW

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#### Purpose of this document

The purpose of this document is to provide co-chairs with instructions on how to facilitate the working group discussion on key recommendations, new or existing, for the NAP to end VAW/GBV. At the end of the document (pg. 13) you will find a list of all the existing recommendations related to your specific pillar. However, you are not confined to this list of recommendations. The recommendations will include short-term actions that could be taken by governments immediately, as well as more complex actions that will require efforts in multiple jurisdictions and sectors. In this document you will also find questions to help you draft your answers for your report.

#### Goal of the working group

The Working Groups will develop recommendations and brief report that will inform the framework and initial content for a 10-year National Action Plan on GBV. The primary goal of your working group is to **prioritize up to 5 recommendations for each of the periods covered by the NAP: immediate, short-term, medium term and long term. This means your pillar could advance up to 20 recommendations across the 10-year plan**, as well as provide justification on why they are important. Additionally, if your group would like us to specifically emphasize particular recommendations in our executive summary, please provide your ranking preference for that purpose. Think of this as a roadmap to explain how the recommendations and NAP will unfold and be implemented over time.

#### Accounting for Intersectional Harms

As discussed in greater detail in the Background and Framework Document provided, it is expected that the GBV NAP will be shaped by an intersectional understanding of experiences of violence, as grounded in the Critical Race Feminism of Kimberlé Crenshaw. Pre-COVID-19 research shows that the levels of violence that women, girls, and gender-diverse people experience in Canada have changed little over the past two decades.<sup>1</sup> The current systems of response to violence have failed to significantly lower the levels of violence they experience. Moreover, those with who experience intersectional harms have the least access to services – those in rural and remote areas, Indigenous, Disabled, racialized, Black, gender non-conforming, trans and migrant people – and also experience the highest rates of violence.

To build a Canada where women, girls, and gender non-conforming people are not subjected daily to violence simply because of their identities, our governments must take a new approach. In light of the groundswell of discontent with inequality, racism, police brutality, and the stalled progress on the MMIWG recommendations, a truly intersectional NAP could mark real progress on many fronts. Keeping these realities top of mind in your report development will be important to a powerful outcome.

#### **Missing and Murdered Indigenous Women and Girls**

Each pillar includes some recommendations from the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG). The NAP GBV will strive to harmonize with the separate Indigenous-led NAP MMIWG. The purpose of our recommendations to the NAP GBV is not to repeat or replace recommendations for MMIWG but rather to amplify and extend the work being done on the NAP MMIWG and recommendations put forth by the Inquiry MMIWG. Indigenous women's experiences of violence are therefore expected to be integrated into the pillars' recommendations.

#### **Mission of the Legal and Justice Pillar**

**Promotion of responsive legal and justice systems.** The National Action Plan on Violence Against Women and Girls must address police, legal, court, and prison systems to ensure they reflect and are responsive to the lived realities of women facing violence, and work to both prevent and reduce the impacts of violence and ensure women's safety from an intersectional perspective.

#### **INSTRUCTIONS**

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To complete your task, you will have access to a researcher that you will work closely with. Take some time to meet with them and discuss your expectations and any support you anticipate needing. You will also be assigned a notetaker and if needed an invited expert to provide some context and insight into a particular issue or topic the working group wants to explore in more depth (contact Amanda for more information). You will also be working with the WSC Research Team, which consists of Dr. Amanda Dale and Dr. Krys Maki who will be drafting the final submission to WAGE from your WG deadline of April 15<sup>th</sup>.

Please see the Working Group Timelines document for the deadlines and workflow.

- 1. First Meeting: facilitate discussion on the key themes and categories related to your pillar.**
- 2. Review and prioritize recommendations to bring to the working group for discussion.**
- 3. Facilitate discussion for the working group (using consensus model).**
- 4. Finalize the Working Group report (draft, integrate feedback and submit).**

## **1. First Meeting: Key themes and categories of your Pillar**

Based on the mission of the pillar, facilitate a discussion with your WG on the key categories and themes that fall under your pillar. This will familiarize everyone with the mission of your pillar as well as identify any gaps and areas for further research. Ensure that this conversation accounts for intersectional harms.

Each group will need to decide how to use their first session, some options are:

- address the scope of your pillar and break it down into categories;
- review intersectional harms discussion from Background Document to provide a framework that unpacks some of the ways that policy re-distributes harms and reinforces existing inequalities and that all policies that we suggest need to go through this filter;
- invite your experts where they fit with your conversations, there are honoraria available for this.

## **2. Prioritizing Recommendations**

You are responsible for reviewing the recommendations in this document and identifying the most relevant recommendations that your group will discuss. Some recommendations may overlap or are not as important, it is up to you to choose what your group will discuss. There also may be some recommendations that you do not agree with. The information we are providing you with is a comprehensive overview provided by WAGE that has not been edited of all of the recommendations that have been proposed from a variety of sources as seen in Column C 'Source' in the excel file.

You will also receive an excel document with 5 tabs that refer to each working group pillar. This can be used as a resource when the group wants to cross reference a recommendation with another pillar or see if a gap is addressed elsewhere. It is not your responsibility to fill out the excel document. You will work closely with the researcher who populate the excel file as the group makes decisions on which recommendations to include. This will be explained to you at the technical briefing.

Example of what the excel file looks like:

Developing the National Action Plan on Gender-Based Violence						
Existing Evidence: Priority Areas for a National Action Plan						
#	Evidence/Recommendation	Source	Time frame	Government Level	SWC Principles	Comments
OA	<b>Example Recommendation XXX</b>	XXX	S	P, T	Intersectionality	XXX
OB	Example Recommendation XXX - not including - highlight cell using explanatory cell style					
<b>Legal</b>						
1	Mandatory sexual assault training be instituted for all federally appointed judges.	UN SR Mission to Canada Report				
2	Enact federal law on combatting and prevention VAW and DV	UN SR Mission to Canada Report				
3	Repeal remaining discriminatory provisions in Canada's Indian Act and other national law and practices	UN SR Mission to Canada Report				
4	Review family laws and the Divorce Act to ensure that DV is taken into considerations in decisions about child custody	UN SR Mission to Canada Report				
5	Ensure that protection orders are easily enforceable across all PTs while guaranteeing freedom of movement to survivors	UN SR Mission to Canada Report				
6	Ensure that a woman victim of violence is not criminalized when seeking for state protection and that the exercise of visitation or custody rights does not jeopardize the rights and safety of women	UN SR Mission to Canada Report				
		Law_Justice_System	Social_Infrastructure	Other		

As described in the Background document, the first ever agreement between the Provinces/Territories and the Federal government on the need for an NAP has been achieved as of January 22, 2021. This agreement was based on some categories of action and high-level principles that all Provinces and Territories have signed onto. We have taken these agreements and principles, and turned them into key words that can be entered into your recommendation template. These documents will support anyone in your working group to advocate for recommendations, which are matched with these principles in their own justifications where they are active as advocates.

### 3. Guideline for facilitating discussion with your working group

Share with your WG the list of Recommendations you have selected from to discuss. The WG will make decisions based on a consensus model. Where there is no consensus, recording divergent views and the considerations that made these recommendations unclear is

encouraged as part of alerting policy makers to the need for further study, a new approach, a commission or other means to explore this area further with the aim of finding a sensible way forward. You are encouraged to make sure your recommendations, including those that call for further development, are nonetheless articulated in a way that provides clear and reachable steps; each one should be:

**Specific** (simple, sensible, significant).

**Measurable** (meaningful, motivating).

**Achievable** (agreed, attainable).

**Relevant** (reasonable, realistic and resourced, results-based).

**Time bound** (time-based, time limited, time/cost limited, timely, time-sensitive).

**Drawing on the expertise of the group, discussion, and the accompanying resource of existing recommendations on the NAP GBV, discuss, augment, renew, rank and order your recommendations based on the following:**

1. Identify gaps, omissions and categories of recommendations to structure your discussion and reporting.
2. Discuss how the recommendation fulfills the mission of the Legal and Justice Pillar (note there may be overlap with other pillars).
3. Identify whether the recommendation is immediate (6 months) short (1-2 years), medium (3-5 years) or long-term (5-10 years) goal (remember you are working with a 1-10-year timeframe).
4. Identify which levels of government the recommendation belongs (federal, provincial, territorial, municipal or a combination).
5. Does the recommendation resonate with the FPT Ministers Principles? (see page # for word key and reference if needed).
6. Record important comments, points of contention, gaps, why the group felt strongly about this recommendation, etc. If the group identified a gap in the recommendations, work with the researcher to explain the rationale and why the group felt that it was important to include.

#### **4. Finalizing the Working Group Report**

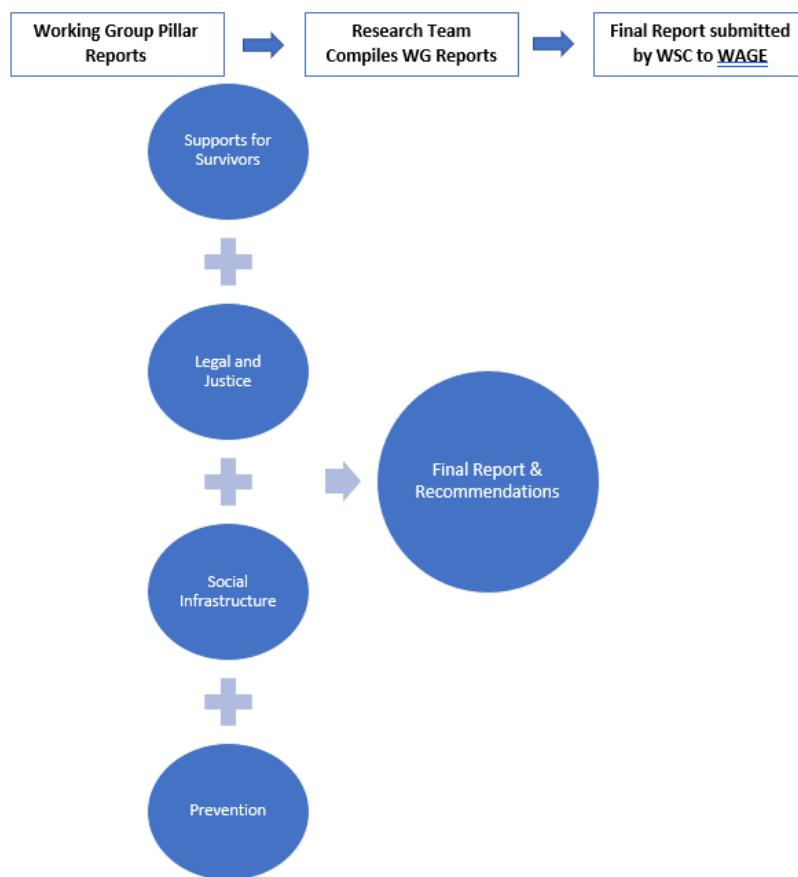
##### **How the WG Report fits into the final submission to WAGE:**

Your pillar's report is critical to the development of the 10-year framework for the NAP. As co-chairs, you are supported by the researcher. It is anticipated that the co-chairs will work with the researcher between regular co-chair meetings to ensure the discussions you have as a WG are reflected in the report you submit. A draft of your WG report will be shared back and forth

with your working group. Before the deadline (April 15), it will also be shared with the WSC research team, Krys and Amanda, who will work with Lise to stay abreast of all the WGs, and provide any additional support requested. This also assists the research team to understand the work they have ahead of them in preparing to reflect your work accurately in the Final Report structure. The Final Report is intended to reflect the consensus and divergent views of all the working groups in a fair manner. It is also the responsibility of WSC as the holder of the contract with WAGE, who funded the project, to approve and submit the Final Report. The aim is for your WG report to be three things:

1. **An appendix:** a stand-alone appendix to the overall report/framework by pillar name (more or less as you submitted it and reviewed for copy edits and consistency);
2. **Expertise:** crucial foundational work that informs a roll-up of all the pillars into an overall framework and report, which will include an executive summary;
3. **Prioritized Recommendations:** the executive summary is where the final top 5 recommendations overall from your top 20, will get highlighted.

## Report Process Flow Chart



**Report writing process for co-chairs:**

- Outline
- Draft
- Share with Working Group
- Integrate WG feedback
- Submit Final Report to Amanda

**Responsibilities:**

- The co-chairs are responsible for ensuring the drafting and submitting their WG's report. This can be accomplished with the drafting support of the WG researcher, within their contracted hours.
- The researcher will prepare and update the excel file to include the relevant information on the chosen recommendations and rational. This information will be helpful as you draft your answers. Review their work to ensure it is reflective of the discussion and decisions made by the working group. You may also draw on the notes compiled by the notetaker and review with the researcher for overarching themes and key points.
- The co-chairs will finalize the narrative aspects of the report. Please complete questions 1-4 in the text boxes below. These questions are open-ended and act as a guide to help you prepare your report and are not meant to hinder your expertise or creativity. This is your opportunity to bring to life the discussions and important points raised in your working groups and will be used in the Final Report for the NAP GBV for WAGE.
- Reference where applicable. Use the help of your researcher to find the appropriate sources to make your case where sources will strengthen your arguments.

**Narrative Report: Please answer these four questions:**

Q1: Pitch for your Pillar. What is your group's vision of the role this pillar as a crucial and effective part of the VAW/GBV 10-Year National Action plan for Canada? [max 400 words]

Q2: What are the wider, evidence-based, social, political, and/or situational contexts that are crucial to this pillar and your recommendations? Be creative and interpretive and use this space to address any contextual realities that may not be addressed elsewhere in your answers. [max 600 words]

Q3: What divergent views and contested areas did you grapple with in your working group, and what does it tell us about approaches to effective policy/action in this pillar? Please highlight

who and how these measures would benefit and who it might potentially or unintentionally harm [max 800 words]

Q4: Please share the rationale for the top recommendations you want us to highlight and their sequencing over the 10-year period. Include references where appropriate. Try your best to consider: Intersectional experiences of violence; practicality; potential for impact; evidence basis; measurability; creativity. [1200 words]

## **RESOURCES AND LIST OF RECOMMENDATIONS** ---

Included in your resources:

- 1- Definitions of each pillar
- 2- Word Key (FPT Principles)
- 3- Exhaustive list of all recommendations for NAP GBV

### **OTHER DEFINITIONS FOR EACH PILLAR (FOR YOUR REFERENCE):**

**Support for survivors and their families.** Broadly speaking, these will be service responses. Ideally, a universal, coordinated and integrated system of support services must be adequately funded and offered across all geographic locations, and accessible to all women who have experienced any form of gender-based violence. This should include the development and implementation of service and practice standards and guidelines for all sectors that respond to violence against women, such as health, child protection, social assistance and housing, to name a few.

**Social infrastructure and enabling environment, including housing, childcare.** Broadly speaking, these will be Social Policy Responses. The National Action Plan on Violence Against Women and Girls must address all policy areas that may affect women's vulnerability to violence and their ability to access services and protections. It must strive to achieve full substantive equality for all women to prevent, and eventually end, violence against women.

**Prevention work** must be community-specific, adequately funded, and based on a gendered, feminist intersectional analysis of violence. The focus has to be on educating children, youth and adults on human rights and violence against women and girls through promoting understanding of healthy relationships, consent and rape culture, breaking down sexual assault myths, encouraging bystander interventions, offering programs to foster self-esteem, and working with men and boys to change attitudes and behaviours.

## WORD KEY

Use these key words to help your group identify **linkages** between the recommendation and the Joint Declaration for a Canada free of Gender-Based Violence that was endorsed by the Federal, Provincial and Territorial ministers on the Status of Women during their 38<sup>th</sup> Conference (pg. 2) Backgrounder or full government report [online here](#)). The researcher will include the key words in the appropriate column in the excel file.

### Guiding principles:

- Support Indigenous-led solutions
- Intersectional
- Multi-sectoral, cross-departmental/ministry approach
- Community-based approaches
- Evidence based
- Survivor centric and inclusive of children and families
- Trauma and violence informed
- Culturally safe
- Recognize role of men and boys

### Goals:

- Changing social norms, attitudes and behaviours
- Address social and economic determinants
- Reliable, timely and culturally appropriate and accessible protections and services
- Better health, social, economic justice outcomes

## RECOMMENDATIONS

- This is a comprehensive list of all the recommendations provided on your pillar. Please review and identify the key recommendations to bring to the working group for discussion.
- We have combined some categories into some of the pillars.
- You are not limited to these recommendations and may create new ones.
- If a **gap, nuance or emerging priority** has been identified, the researcher will add it to the excel file, include a rationale in the comment section.

(Insert relevant table)

## G-9: Documenting Recommendations for MEAL

PILLAR						
Level	Key Recommendation <sup>s<sup>1</sup></sup>	Rationale <sup>2</sup>	Outcome <sup>3</sup>	Risks <sup>4</sup>	Assumptions <sup>5</sup>	Key Stakeholders <sup>6</sup>
<b>Long-term</b>						
<b>Medium-term</b>						
<b>Short-term</b>						
<b>Quick</b>						

\*Note – add/remove rows more as needed

1. These will be the *emerging recommendations* from each WG. It should be noted at which level they are at – long-term, medium-term, short-term or quick wins
2. *Rationale* for their importance or urgency - WHY is it important?
3. *Outcome* is WHAT change do they expect will happen if the recommendation gets implemented. *Take special notes in cases where a particular change (outcome) requires 2 or more recommendations to be implemented.*
4. Are there any *risks*? Can we foresee any challenges happening they needs to be addressed – like backlash or resistance to change? Do we have any suggestions for how these can be mitigated?
5. *Assumptions* describes what needs to hold true, what are the ‘givens’ for these outcomes to materialize

6. ***Key stakeholders*** refer to which individual/organization/service provider will be taking lead on implementing these recommendations. This will identify which level of government, and which public organizations or institutions etc.

## G-10 Recommendation Template

### **Developing the National Action Plan on Gender-Based Violence**

#### **Existing Evidence: Priority Areas for a National Action Plan**

Recommendation	Source	Timeframe	Stakeholder	FPT Principles	Comments and Rationale	Intersectional Considerations	Overlap with other Pillars
<b>PREVENTION</b>							
<b>LEGAL</b>							
<b>SOCIAL INFRASTRUCTURE</b>							
<b>SUPPORT FOR SURVIVORS</b>							

**INSTRUCTIONS:**

**Recommendation**

- Copy and paste original or new recommendations

**Source**

- Original source of recommendation
- Evidence and references for new recommendations

**Timeframe**

- Immediate (I)
- Short-term(S)
- Medium-term (M)
- Long-term (L)

**Stakeholder**

- Government level
- Federal (F)
- Provincial/Territorial P/T
- Municipal (M)

### **FPT Principles**

- Keywords (see word key)

### **Comments and Rationale**

- Record why the group thinks this recommendation needs to be a priority. How does it fit into the NAP framework, what is the chain or sequence of events that need to get us to this point/action? What are the desired outcomes of this recommendation? Action-oriented.

### **Intersectional Considerations**

- See instructions. Identify intersectional harms and potential consequences of policy on different groups of women and gender-diverse people. Who does it benefit, who might it harm? Note points of contention, these are important to record as they signal the need for more in-depth examination of the issue and further need for research.

### **Overlap with other Pillars**

- Some recommendations may overlap with other pillars. Identify which pillars and where the WG's decided it belongs. Provide rationale if necessary.