



**FEMMES AUTOCHTONES DU QUÉBEC INC.**  
**QUEBEC NATIVE WOMEN INC.**

**Quebec Native Women Brief**

**As part of:**

*The 39th Draft General Recommendation on the Rights of Indigenous Women and Girls of  
the Committee on the Elimination of Discrimination against Women (CEDAW)*

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## **About Quebec Native Women**

Quebec Native Women (hereafter QNW) is a bilingual, non-profit organization founded in 1974 that began as a community-based initiative. Since July 2009, QNW has had consultative status with the United Nations Economic and Social Council (ECOSOC). Quebec Native Women (QNW) is an organization representing women from ten (10) First Nations of Quebec: Abenaki, Anishnabe, Attikamek, Innu, Eeyou, Wendat, Maliseet, Mig'maq, Mohawk and Naskapi. We represent First Nations women as well as urban Indigenous women. In 2015, QNW was recognized by Indigenous and Northern Affairs Canada as an Indigenous Representative Organization (IRO).

QNW's mission is to advocate for the human rights of Indigenous women and their families, both collectively and individually, and to represent the needs and priorities of its members to various levels of government, civil society and decision makers in all areas of activity that affect the rights of Indigenous people.

QNW has contributed to restoring the balance between Indigenous men and women by giving a strong voice to the needs and priorities of women for more than 47 years. QNW brings the needs and priorities of its members to the attention of authorities and decision makers in all areas of our work: health, youth, justice and public safety, women's shelters and the promotion of non-violence, human rights, international law, as well as employment and training. In this context, we play a role in education, awareness raising and research, and provide a structure for women to be active in their communities.

## **Section I- General comments**

As a first step, QNW would like to make some general comments which apply to all our comments, and therefore a reference will be given.

- 1) First, the comments proposed by the Committee on the Elimination of Discrimination against Women (hereinafter "the Committee") refer to the term "discrimination" without necessarily including racism. According to our organization, the text should be standardized by using the term "racism and discrimination", which is more inclusive. QNW would like to mention that, in the Canadian context in particular, our organization refers to "systemic racism and discrimination" because this is the reality in which our women live. Our organization does not claim that discrimination and racism are necessarily systemic in all States
- 2) Secondly, QNW frequently uses the term "Indigenous women and girls" in order to ensure that as many people as possible are represented. The use of this term also refers to girls and boys, as well as extended Indigenous families, in keeping with the holistic view of Indigenous people
- 3) To continue, QNW would like to emphasize that it is not just a matter of consulting Indigenous women, experts and organizations, but of including them fully in all processes that concern them in any way, going forward. In order to do so, committees of experts must be set up. Indigenous experts must be able to identify themselves or be identified by their peers, without interference from governments and public authorities. These committees must be present in all provinces, regions and states in order to represent the diversity and richness of all Indigenous nations, particularly women. Our organization denounces the fact that in Quebec, a simple consultation is often considered as a formality without real significance by Indigenous women. The importance of co-creating and co-constructing allows for a real and complete representation of their concerns, for tangible changes.

- 4) QNW would also like to mention that training on Indigenous issues should also be co-constructed with and delivered by Indigenous experts and organizations. This ensures that Indigenous women and girls represent themselves, without being instrumentalized or used
  
- 5) QNW would like the term 2ELGBTQQIA+ to be used rather than LGBTI, allowing for greater Indigenous inclusion and representation as it includes two-spirited or "two-spirited" people. It is important to standardize the text in this sense. Finally, it would seem appropriate to feminize the text since the recommendations deal with issues concerning Indigenous women and girls. QNW would like the term 2ELGBTQQIA+ to be preferred to LGBTI, allowing for greater Indigenous inclusion and representation as it includes two-spirited or "two-spirit" people. It is important to standardize the text in this sense. Finally, it would seem appropriate to feminize the text since the recommendations deal with issues concerning Indigenous women and girls

## **Section II- Specific comments on the Committee's recommendations**

### ***IV. General obligations of States Parties regarding the rights of Indigenous women and girls: Articles 1 and 2 of the Convention***

- A. Equality and non-discrimination, with a focus on Indigenous women and intersecting forms of discrimination.

The *National Inquiry into Missing and Murdered Indigenous Women and Girls* (hereafter NIMMIWG) denounces the genocide that Canada perpetrated against Indigenous people, specifically Indigenous women and girls. They are disproportionately affected by assimilation policies and their consequences, namely racism and systemic discrimination, and consequently experience all forms of violence disproportionately, coupled with gender stereotypes. The fundamental human rights of Indigenous women and girls must therefore be respected so that they are equal to those of their non-Indigenous sisters and of men. They are entitled to non-discrimination under international human rights law and national laws providing for the respect of these rights. It is the responsibility of the state to ensure that they are respected or to respect them

themselves. QNW therefore welcomes this recommendation that policies to eliminate discrimination against Indigenous women and girls be implemented.

#### QNW comments

(a) Firstly, the development of this policy must take place in parallel with what already exists. There should be no duplication of existing government action plans, so as not to create unnecessary red tape. The creation of such a policy should not slow down the already very slow process of implementing the recommendations and calls for action of the various existing reports.

See general comment 3 in section 1.

(c) In line with the comments in (a), it is the Indigenous experts on the Committee who must decide whether laws and policies should be repealed or changed, so that they are in line with their own will and the laws of their respective nations. In this respect, it is up to the experts to decide how this will be done.

(d) QNW particularly approves of this recommendation: our organization is fighting to ensure that all forms of discrimination, whether individual or collective, experienced by Indigenous women and girls are eradicated. It is imperative that their fundamental rights be respected, even within state legislation. In this sense, we hope that the Government of Canada will put pressure on the Government of Quebec to recognize that there is indeed discrimination and systemic racism in Quebec. In turn, Joyce's Principle must be adopted without delay so that the right to non-discrimination guaranteed by the Canadian Charter of Rights and Freedoms and Articles 1 and 2 of the Convention is respected. Public and private institutions must no longer be the perpetrators of the discrimination in all its forms that Indigenous women and girls disproportionately experience.

(j) Past and present policies of forced assimilation are at the root of the current socio-economic situation of Indigenous communities, especially Indigenous women. The legislation, a colonial tool, that regulates their daily lives undoubtedly prevents them from emancipating themselves from these institutional structures. This colonial legacy therefore perpetuates the discrimination and

racism experienced by Indigenous women to this day. For reconciliation to be effective, it must be done according to the Indigenous understanding. Once this has been achieved, the establishment of truth-seeking bodies must take place according to the terms of Indigenous people and women.

#### B. Access to justice and plural legal systems

According to our organization, it is necessary to take into account the intersectionality of discrimination experienced by Indigenous women and girls and the fact that current justice systems tend to reflect colonial legacies and discriminatory colonial policies, constituting barriers to justice for Indigenous women. Consequently, QNW supports the Committee's insistence that *"Access to justice and remedies for Indigenous women and girls should be provided from a gender, intersectional, Indigenous women's, intercultural and multidisciplinary perspective, as defined in paragraph 4 of this general recommendation."*

QNW also agrees with the general recommendation to take into consideration the Indigenous approach to justice, to recognize Indigenous justice systems and to promote healing, in order to adopt an approach that is appropriate and compatible with the realities of Indigenous women. However, it is necessary to take into account the historical linkage of colonization and colonial policies that still have an impact today.

#### QNW comments

**(b)** Refer to General Comment 3 in Section 1

**(c)** QNW would like the Committee to demand that this equality of access be substantive equality, i.e. that it takes into account all the specificities of the realities experienced by Indigenous women, and in particular the barriers they face when seeking recourse to the justice system.

**(d)** Refer to General Comment 3 in Section 1

**(g)** QNW supports this recommendation, but insists that it is necessary to increase the existing legal service offerings and that these should not only be provided near Indigenous communities, but also in urban areas, considering that there is often a high concentration of Indigenous populations in urban areas.

(h) QNW supports this recommendation but adds that these measures should also take into account *"the historical and colonial conditions of poverty, racism and gender-based violence that have affected and continue to affect Indigenous women and girls and in some contexts give rise to systemic discrimination today. »*

QNW would finally add a point related to the respect of Indigenous principles and concepts of justice. This recommendation could read as follows:

*"Recognize the legitimacy of Indigenous legal frameworks, understandings and principles and apply these concepts (such as traditional justice and restorative justice), in legal situations relating to Indigenous rights or involving an Indigenous person, if the persons concerned so wish."*

## ***V. State party obligations in relation to the specific dimensions of the rights of Indigenous women and girls***

### **A. Prevention of and protection from gender-based violence against Indigenous women and girls (articles 3, 5, 6, 10 (c), 11, 12, 14, 16).**

#### Putting the NIMMIWG into context

The effects of colonization and colonial policies on Indigenous women and girls today are reflected in gender-based violence against Indigenous women. This has a direct impact on their basic human rights such as the right to life, integrity and security. Furthermore, the impunity of the perpetrators is increased by Indigenous women's distrust of the police and justice services.

In the specific context of Canada and according to the NIMMIWG, gender-based violence, marginalization and systemic discrimination are risk factors for the disappearance and murder of Indigenous women and girls. This phenomenon, initially documented by Indigenous organizations, was the subject of a national survey (NIMMIWG) in June 2019.

Furthermore, as this phenomenon is known to governments, there should be increased diligence. States must adopt immediate measures to prevent and eliminate all gender-based violence

(including the phenomenon of disappearances and murders in Canada, for example), especially when it is institutionalized.

#### QNW comments

QNW would like to add a first recommendation before the one proposed by the Committee. It concerns the due diligence of States to prevent, investigate and punish all forms of gender-based violence, which would read as follows:

*"Undertake increased due diligence given that Indigenous women, girls and 2ELGBTQQIA+ people are known to be a group particularly vulnerable to gender-based violence.*

(b) QNW agrees with this recommendation but would go further:

*"Recognize all forms of gender-based violence, including environmental, spiritual and cultural violence, and acknowledge the intersectionality of such violence."*

(e) Refer to General Comment 3 in Section 1

### **B. Right to effective participation in political and public life (articles 7, 8 and 14)**

QNW supports all programs aimed at empowering Indigenous women and girls and giving them back their rightful place in all spheres of activity in which they may be involved. They must have access to real equality of opportunity in all types of employment and in political and decision-making representation. To achieve this, programs must be put in place so that they no longer encounter obstacles, particularly in terms of education.

#### QNW comments

(a) States must stop acting solely on the basis of consultation with Indigenous groups and experts without really taking their concerns and interests into account. Indigenous people, especially women, must be able to benefit from specific programs that allow them to be properly represented in decision-making positions and in all types of employment, whether male or female-dominated. As custodians and transmitters of traditional knowledge, Indigenous women and girls, from a very



young age, must be able to participate actively in political and decision-making life and have equal opportunities in employment.

(c) In order to ensure that Indigenous women and girls are better informed about their rights to vote, to participate in public life and about employment opportunities, QNW proposes that Indigenous navigators travel to different Indigenous communities and urban areas to share information. This initiative could take the form of information sessions. In addition, the fact that the designated persons are Indigenous would give them a greater sense of belonging. This initiative should be funded by governments and implemented by the Indigenous communities themselves.

(f) In this recommendation, our attention was drawn to exploitation projects. Whether forestry, mining or water projects, they have a considerable impact on Indigenous women. The exploited areas are also often inhabited by a majority of men. QNW believes that it is essential to demystify these male-dominated occupations so that Indigenous women can have equal access to opportunities. Secondly, our organization wishes to raise awareness of the fact that Indigenous women and girls can be used for sexual, physical and mental exploitation. In this sense, it is important to put mechanisms and bodies into place that can support Indigenous women from this type of abuse at all times.

### **C. Right to nationality**

#### QNW comments

(a) QNW was founded in 1974 in response to gender discrimination under the Indian Act, in that the registration provisions did not apply equally to Indigenous men and women. A man who married a non-Indigenous woman resulted in the woman and their children obtaining Indigenous status under the Act, but the reverse was not the case. The woman lost her status and her descendants did not have access to it. There have been several amendments to registration, including *Bill C-31* in 1985 and *Bill C-3* in 2010. The last legislative amendment to section 6 of the *Indian Act* was made in 2017.

The impact of these numerous legislative changes is now subject to significant residual discrimination. Many Indigenous groups are advocating for Canada to live up to its obligations as endorsed in the *McIvor v. Canada* case before the UN Human Rights Committee. In this sense, Article 9 of the Convention must be implemented in a mandatory manner by Canada and must be respected by all States in order to put an end to the residual discrimination related to registration.

Secondly, QNW is also pleased to see that States are being asked to provide information in understandable formats. According to our organization, this aspect is divided into two parts: language and popularization. On the one hand, the information must be accessible in Canada's official languages, but especially in the various Indigenous languages. Many Indigenous people are not very proficient in the official language(s) and speak their traditional language. It is therefore essential to consult Indigenous translators to ensure that information is made available in their languages. On the other hand, in the Canadian context, information about Indigenous registration rights is overly complex, even for lawyers. It is therefore necessary that information be made available in a simplified manner so that there is no ambiguity about their rights.

(b) In the same vein as recommendation B paragraph c), QNW believes that it is essential that information be disseminated in all environments where Indigenous people are located, be it in communities or in urban areas. In Canada, for example, Indigenous people, particularly women, must be supported in the colonial registration process that is imposed on them. Furthermore, Indigenous people should not have to travel to access their registration rights: there must be Indigenous navigators who travel across Canada to inform and assist in the registration process.

#### **D. Right to education (articles 5 et 10)**

QNW welcomes all the recommendations proposed by the Committee on the right to access to education, free of all discrimination. For this to happen, Indigenous women and girls must have real equality of access to education. Educational institutions often do not take Indigenous realities into consideration, which creates barriers to education. For example, family responsibility develops at an early age among Indigenous people, and in particular Indigenous women, and is

one of the barriers to education. These factors need to be taken into consideration when discussing equal access to education.

QNW comments

(a)(i) Once again, QNW emphasizes the importance of true equality, which takes into account the specific differences and circumstances of Indigenous women. The recommendation would therefore provide for

*"Ensure true equality of access to quality education for Indigenous women and girls at all levels of education."*

(f) Refer to General Comment 3 in Section 1

(g) QNW adds that there is a need to recruit Indigenous women to school leadership positions.

**F. Right to health (articles 10 and 12)**

QNW welcomes all recommendations that ensure equal and non-discriminatory access to the health and social services system and to health information. Indigenous women and girls, like all non-Indigenous people, have the right to be informed and treated in the same way as everyone else, with dignity and respect. They must also have access to legal services when their rights are violated.

QNW comments

(a) Refer to General Comment 3 in Section 1, noting that training should be relevant at a historic, cultural and contemporary level.

Moreover, recruiting health professionals not only increases their representativeness and proportion, but also allows traditional medicine to be implemented, in Indigenous colours.

(e) QNW welcomes this recommendation, but would like the term "traditional birth attendants" to be replaced by "midwives".

## *VI. Effects of COVID-19 on Indigenous women and girls*

QNW denounces the fact that the COVID-19 pandemic has disproportionately increased all forms of discrimination experienced by Indigenous women and girls. All states must address this issue without delay.

### QNW comments

(a) Indigenous women and girls have indeed been disproportionately affected by the impacts of the COVID-19 pandemic. The real problem is that the gap between Indigenous women and their non-Indigenous counterparts was already present before the pandemic. As a result, the gap has widened further. It also explains the fact that the effects of the pandemic have multiplied for Indigenous women and girls. Not only must the disproportionate health impact of the pandemic be addressed, but the harm and discrimination that Indigenous women and girls experience on a daily basis must be redressed. In other words, we need to stop trying to catch up when it is too late, and instead work harder to prevent the gap from widening further.

(c) The disturbing situation of domestic and family violence is the example that best represents the disproportionate increase in the COVID-19 pandemic. Immediate action must be taken to address this situation so that women and their families are safe at all times.

**Nia:wen, Migwetc, Tshinashkumitin, Wela'lin, Wli Wni, Tiawenhk, Merci, Thank you!**