# *United Nations Office of the High Commissioner on Human Rights (OHCHR)*

# *Committee on the Elimination of Discrimination Against Women (CEDAW)*

# *Day of General Discussion on a General Recommendation on*

# *the Rights of Indigenous Women and Girls (GRIWG)*

# *79th Session, 21 June 2021 to 1 July 2021*

*Part 1: “Equality and non-discrimination with a focus on*

*Indigenous women and girls and intersecting forms of discrimination”*

Submission by:

***Les Femmes Michif Otipemisiwak / Women of the Métis Nation***

Submission Title:

***Eliminating Health Care Violations of the***

***Reproductive Rights of Métis Women, Girls, and 2SLGBTQQIA+ People***

Les Femmes Michif Otipemisiwak / Women of the Métis Nation, as the National Indigenous Women’s Organization representing Métis women across the Métis Motherland (the historic Homeland of the Métis Nation) in Canada, respectfully submits this briefing to the United Nations Office of the High Commissioner on Human Rights, in support of the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*.[[1]](#footnote-1)

Les Femmes Michif Otipemisiwak firmly supports *CEDAW*’s affirmation of women’s right to reproductive choice. Among *CEDAW’s* articles on women’s reproductive rights, their role in procreation, and maternity as a social function and not the basis of discrimination, this submission specifically supports Article 16(e), which guarantees women’s equal right “to decide freely and responsibly on the number and spacing of their children and to have access to the information, education, and means to enable them to exercise these rights.”[[2]](#footnote-2) As the President of Les Femmes Michif Otipemisiwak / Women of the Métis Nation has stated:

***“We need to level the playing field. And leveling the playing field includes giving us control over our reproductive rights. That means our Métis women get to have as many babies as they want, when they want, and when they don’t want to have babies, they get to choose that too.”***

*Melanie Omeniho, President*

*Les Femmes Michif Otipemisiwak / Women of the Métis Nation*

Focusing on Métis women’s right to make informed and educated choices about their reproductive capacity, compels a critical analysis of current inequalities in health care treatment, and specifically, medical and health care discrimination in the form of coerced and forced sterilization. A distinctions-based, intersectional approach to understanding systemic medical and healthcare professional biases, and systematic, discriminatory medical practices against Métis women, can help inform the broader need to address ongoing violations of all Indigenous women’s reproductive rights. It is also hoped that this approach can help inform the need for a potential United Nations General Recommendation on the Rights of Indigenous Women and Girls, related to eliminating health care violations of the reproductive rights of all Indigenous women, girls, and 2SLGBTQQIA+ persons.

## The reality of First Nations, Inuit, and Métis women, girls, and 2SLGBTQQIA+ persons being forced or coerced to relinquish their reproductive rights is not a new phenomenon, despite long-standing international standards recognizing the right of all women to make decisions about their reproductive capacity, free from discrimination, coercion or violence; to make free choices about the number, spacing and timing of their children; and to have access to sexual and reproductive health information and services.[[3]](#footnote-3)

## These international standards include the *United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*[[4]](#footnote-4)In December 2018, the *United Nations Committee on the Convention Against Torture (UNCAT)* affirmed that forced and coerced sterilization of women in Canada is a form of torture, and the Committee called on Canada to “ensure that all allegations of forced or coerced sterilization are impartially investigated, that the persons responsible are held accountable, and that adequate redress is provided to the victims.”[[5]](#footnote-5)

## In May 2019, the United Nations Special Rapporteur on the Right to Health endorsed the *UNCAT* recommendations, and similarly urged Canada to “adopt legislative and policy measures to prevent and criminalize the forced or coerced sterilization of women, particularly by clearly defining the requirement for free, prior and informed consent with regard to sterilization, and by raising awareness among Indigenous women and healthcare personnel of this requirement.”[[6]](#footnote-6)

Domestically, events within Canada have also garnered attention and support to end violations of Indigenous women’s reproductive rights. A 2017 review of a provincial regional health authority’s actions with respect to coerced and forced sterilization of Indigenous women;[[7]](#footnote-7) a 2018 class action lawsuit filed on behalf of Indigenous women who were subjected to coercive and forced sterilization;[[8]](#footnote-8) and extensive media coverage of Indigenous women’s allegations of sterilization without free, full and informed consent[[9]](#footnote-9) – including a compelling opinion piece by Métis Senator Yvonne Boyer[[10]](#footnote-10) – all point to the unmistakable and “pervasive structural discrimination and racism” against Indigenous women across the Canadian health care system.[[11]](#footnote-11) More recently, media reports and legal allegations have emerged regarding the forced or coerced insertion of intra-uterine devices (IUDs) into the bodies of Indigenous girls younger than 10 years old.[[12]](#footnote-12) These blatant assaults on the personhood of Indigenous children are, tragically, a continuation of the broader history of colonial violence in Canada, as witnessed by the recent discovery of the remains of 215 young Indigenous children, some as young as three years old, who died at the hands of residential school authorities in Kamloops, British Columbia.[[13]](#footnote-13)

Structural, systemic, and systematic acts of discrimination intended to curb the reproductive capacity of Indigenous women have also been scrutinized within the context of gendered, racialized, violent victimization of Indigenous women, girls, and 2SLGBTQQIA+ persons. As highlighted during the *National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG),* societal objectification and dehumanization of the sexual and reproductive capacities of Indigenous women, girls, and 2SLGBTQQIA+ persons,[[14]](#footnote-14) have contributed to a health care culture and system that enables and facilitates the administration of birth control measures to Indigenous children;[[15]](#footnote-15) the use of psychologically and physically coercive tactics to obtain “consent” for sterilization, often with pregnant women or mothers of newborns;[[16]](#footnote-16) and the blatant misuse of power around the birthing process and the use of birth alerts.[[17]](#footnote-17) These violations can create lasting physical, psychological and cultural traumas that increase Indigenous women, girls, and 2SLGBTQQIA+ persons’ vulnerability to gendered, sexualized violence. As noted in the June 2019 Final Report of the *National Inquiry into Missing and Murdered Indigenous Women and* *Girls*, “the forced sterilization of women represents directed state violence against Indigenous women, and contributes to the dehumanization and objectification of Indigenous women, girls, and 2SLGBTQQIA people.”[[18]](#footnote-18)

Entrenched discrimination and the endemic dehumanization of Indigenous women, which is at the heart of missing and murdered Indigenous women, girls and 2SLGBTQQIA persons, is also at the root of health care violations of Indigenous women’s reproductive rights. As noted by Amnesty International in its June 2019 submission to the House of Commons Standing Committee on Health, “forced and/or coerced sterilization in Canada is a serious human rights violation that disproportionately impacts Indigenous women, girls, and two-spirit persons. The prevalence of medically unnecessary sterilizations on Indigenous women without their free, full, and informed consent – a practice which has gone on since the 1800s until the present day –  is the result of racial bias against Indigenous peoples in the provision of health services in Canada.”[[19]](#footnote-19) Racial bias against Indigenous peoples, according to Amnesty, “is a well-known problem and has been acknowledged by governments across the country. There is little doubt that this discrimination has led to medically unnecessary sterilizations—mostly tubal ligations—without the patient’s free, full, and informed consent.”[[20]](#footnote-20)

In support of its position that the forced or coerced sterilization of Indigenous women is “an assault on the cultural integrity of societies that have already endured grave human rights violations, including forced assimilation,”[[21]](#footnote-21) Amnesty International has called on the federal government to take urgent action to: 1) thoroughly investigate all allegations of forced or coerced sterilizations of Indigenous women in Canada; 2) 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; and 3) provide access to justice for survivors and their families.[[22]](#footnote-22)

Les Femmes Michif Otipemisiwak supports and appreciates international and domestic advocacy efforts to end the forced and coerced sterilization of Indigenous women, and in 2019, its leadership issued a policy statement on the issue of forced and coerced sterilization of Métis women.[[23]](#footnote-23) Before and since 2019, Les Femmes Michif Otipemisiwak has been actively engaged in supporting community awareness initiatives to equip young Métis women with information on what constitutes forced and coerced sterilization, and what their reproductive rights are upon entering a hospital or health care setting.[[24]](#footnote-24)

While the lack of Métis women’s data on forced or coerced sterilization creates a paucity of quantitative evidence, there is extensive anecdotal, qualitative evidence of Métis women being coerced by social workers, doctors and healthcare professionals to have tubal ligations, or being told that they cannot leave the hospital or see their newborn babies if they do not undergo the procedure.[[25]](#footnote-25) Significantly, the lack of distinctions-based, gender-disaggregated data about the experiences and trauma of First Nations, Inuit, and Métis women and girls being forced or coerced to undergo sterilization, is part of the broader evidentiary gap around the often traumatic, lived experiences of Indigenous women in Canada. As Amnesty International has stated: “it is unknown how many Indigenous people in Canada have been sterilized without their consent, but there is compelling evidence that the practice has not ceased.”[[26]](#footnote-26) Other Canadian organizations, including Action Canada for Sexual and Health Rights, have similarly noted that forced and coerced sterilization is not a thing of the past, and its ongoing occurrence “is revealing a massive problem within the Canadian health system: healthcare workers are failing to understand and obtain consent.”[[27]](#footnote-27)

Les Femmes Michif Otipemisiwak, for its part, knows that information is power in calling out life-altering acts of health care discrimination:

***“Raising awareness of the issue of forced sterilization is essential to ending its practice. Not only do Métis women disproportionately experience forced sterilization when compared to non-Indigenous women, but they are also assumed by medical professionals to not understand procedures, potential risks and their own bodies. There is also a great lack of understanding of Métis women’s experiences and contributions to their communities and Canada as a whole. Consequently, medical professionals and service providers are prone to believing stereotypes and are prone to acting upon these stereotypes in order to reduce Métis women’s reproductive capacity.”***[[28]](#footnote-28)

In raising awareness of the ongoing health violations of Métis women’s reproductive rights, Les Femmes Michif Otipemisiwak reaffirms and expands on its existing recommendations to the federal government to take urgent action to: 1) put in place federally-mandated, Indigenous cultural competency training for doctors, nurses, social workers, and healthcare providers who are working with Métis women, girls, and 2SLGBTQQIA+ people; 2) include Indigenous cultural competency programming in the post-secondary education of social workers, nurses, doctors and healthcare providers; 3) work towards implementing a Patient Advocate System to ensure Métis patients can provide free, full and informed consent, and are able to navigate and fully access the medical system; 4) ensure that all data collected regarding coerced and forced sterilization is distinctions-based and gender-disaggregated;[[29]](#footnote-29) and 5) adopt legislative and policy measures to prevent and criminalize the forced or coerced sterilization of First Nations, Inuit, and Métis women, girls, and 2SLGBTQQIA+ persons in Canada, particularly by clearly defining the requirement for free, prior and informed consent with regard to sterilization, and by raising awareness among Indigenous women and medical personnel of that requirement.[[30]](#footnote-30)

For Les Femmes Michif Otipemisiwak, a distinctions-based, Métis-specific, Gender-Based Analysis Plus (GBA+) approach[[31]](#footnote-31) to the issue of forced or coerced sterilization, closely aligns with Amnesty International’s understanding that “government action to address sterilization without consent must recognize that multiple and intersecting forms of discrimination may place some groups of women at a heightened risk of being sterilized without their consent.”[[32]](#footnote-32)Going forward, Les Femmes Michif Otipemisiwak will continue to focus on the intersecting social determinants and Indigenous identity factors that prevent Métis women, girls, and 2SLGBTQQIA+ persons from accessing culturally safe health care, and subject them to coercive and forced attempts to sterilize them without their free, full, and informed consent. In conclusion, “whether an Indigenous woman births with a traditional midwife in a rural area or with a doctor in an urban hospital, her free, full, and informed consent must be secured before undergoing any medical procedures. Sterilization without consent will not cease until the issue of free, full, and informed consent is fully and meaningfully addressed by government.”[[33]](#footnote-33)

1. <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> [↑](#footnote-ref-1)
2. <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> [↑](#footnote-ref-2)
3. <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-3)
4. <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx> [↑](#footnote-ref-4)
5. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglSZMQd1BoEakgym8DLljp%2ftVZwAcP32UhceoEv6s9EFDnHa%2ffIXxFR9KNVY4qkr3X7%2faP5eVqCmw6nDLJyD3dA5iGzIWJ0XfsLEbi0yIvz> cited in <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-5)
6. <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_34_Add.2.docx> [↑](#footnote-ref-6)
7. Dr. Judith Bartlett and Dr. Yvonne Boyer, *External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women*, Saskatoon Regional Health Authority, 2017, p. 31, cited in <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-7)
8. *M.R.L.P and S.A.T. v The Attorney General of Canada, the Government of Saskatchewan, Saskatchewan Health Authority, Athabasca Health Authority et al.,* SKQB 1485 (2017), cited in <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-8)
9. <https://theconversation.com/forced-sterilizations-of-indigenous-women-one-more-act-of-genocide-109603>; <https://www.cbc.ca/news/canada/north/forced-sterilization-lawsuit-could-expand-1.5102981>; <https://www.thestar.com/opinion/contributors/2021/03/08/coerced-and-forced-stereilization-of-indigenous-women-and-girls-this-is-what-genocide-looks-like-in-canada.html>; <https://www.cbc.ca/radio/thecurrent/the-current-for-november-13-2018-1.4902679/indigenous-women-kept-from-seeing-their-newborn-babies-until-agreeing-to-sterilization-says-lawyer-1.4902693>; [↑](#footnote-ref-9)
10. <https://windspeaker.com/news/opinion/opinion-ending-forced-sterilization-indigenous-women> [↑](#footnote-ref-10)
11. Dr. Judith Bartlett and Dr. Yvonne Boyer, *External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women*, Saskatoon Regional Health Authority, 2017, p. 31, cited in <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-11)
12. <https://www.aptnnews.ca/videos/lawyer-in-b-c-alleges-indigenous-girls-forced-to-have-iuds/>; <https://www.citynews1130.com/2021/05/21/bc-indigenous-children-iud-forced/>; <https://theconversation.com/canadas-shameful-history-of-sterilizing-indigenous-women-107876> [↑](#footnote-ref-12)
13. <https://www.cbc.ca/news/canada/british-columbia/tk-emlúps-te-secwépemc-215-children-former-kamloops-indian-residential-school-1.6043778>; <https://www.thestar.com/news/canada/2021/06/15/two-thirds-of-canadians-knew-just-a-little-or-nothing-about-residential-schools-before-kamloops-discovery-survey-suggests.html?rf>. The federal government has yet to fully respond to the *Truth and Reconciliation Commission’s* Calls to Action #71, which states: “We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children and in the care of residential school authorities, to make these documents available to the National Centre for Truth and Reconciliation.” (<https://www.rcaanc-cirnac.gc.ca/eng/1524504992259/1557512149981>) [↑](#footnote-ref-13)
14. <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a.pdf> (vol. 1a, 3 June 2019, pp. 266-267); <https://globalnews.ca/news/5388055/forced-sterilization-mmiwg-report/> [↑](#footnote-ref-14)
15. <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a.pdf> (vol. 1a, 3 June 2019, pp. 511-512) [↑](#footnote-ref-15)
16. <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a.pdf> (vol. 1a, 3 June 2019, pp. 266-267); <https://www.cbc.ca/news/politics/sterilization-indigenous-1.4902303> [↑](#footnote-ref-16)
17. The Final Report of the *National Inquiry into Missing and Murdered Indigenous Women and Girls,* found that “the use of birth alerts against Indigenous mothers, including mothers who were in care themselves, can be the sole basis for the apprehension of their newborn children. Birth alerts are racist and discriminatory and are a gross violation of the rights of the child, the mother, and the community.” <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a.pdf> (vol. 1a, 3 June 2019, p. 355);

    <https://www.cbc.ca/radio/thecurrent/the-current-for-november-13-2018-1.4902679/indigenous-women-kept-from-seeing-their-newborn-babies-until-agreeing-to-sterilization-says-lawyer-1.4902693> [↑](#footnote-ref-17)
18. <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a.pdf> (vol. 1a, 3 June 2019, p. 267) [↑](#footnote-ref-18)
19. <https://www.amnesty.ca/legal-brief/amnesty-international-submission-house-commons-standing-committee-health-study-forced> [↑](#footnote-ref-19)
20. <https://www.amnesty.ca/legal-brief/amnesty-international-submission-house-commons-standing-committee-health-study-forced> [↑](#footnote-ref-20)
21. <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-21)
22. <https://www.amnesty.ca/legal-brief/amnesty-international-submission-house-commons-standing-committee-health-study-forced> [↑](#footnote-ref-22)
23. <https://en2.metiswomen.org/wp-content/uploads/2019/11/Forced-Sterilization-Report.pdf> [↑](#footnote-ref-23)
24. <https://en2.metiswomen.org/wp-content/uploads/2019/11/Forced-Sterilization-Report.pdf> [↑](#footnote-ref-24)
25. <https://en2.metiswomen.org/wp-content/uploads/2019/11/Forced-Sterilization-Report.pdf> [↑](#footnote-ref-25)
26. <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-26)
27. <https://www.actioncanadashr.org/news/2019-05-10-forced-sterilization-not-thing-past> [↑](#footnote-ref-27)
28. <https://en2.metiswomen.org/wp-content/uploads/2019/11/Forced-Sterilization-Report.pdf> [↑](#footnote-ref-28)
29. <https://en2.metiswomen.org/wp-content/uploads/2019/11/Forced-Sterilization-Report.pdf> [↑](#footnote-ref-29)
30. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglSZMQd1BoEakgym8DLljp%2ftVZwAcP32UhceoEv6s9EFDnHa%2ffIXxFR9KNVY4qkr3X7%2faP5eVqCmw6nDLJyD3dA5iGzIWJ0XfsLEbi0yIvz> cited in <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-30)
31. <https://en2.metiswomen.org/wp-content/uploads/2019/11/Metis-Specific-GBA-Tool.pdf> [↑](#footnote-ref-31)
32. <https://www.amnesty.ca/legal-brief/amnesty-international-submission-house-commons-standing-committee-health-study-forced> [↑](#footnote-ref-32)
33. <https://www.amnesty.ca/sites/default/files/Amnesty%20Sterilization%20Briefing%20House%20HESA%20June%202019.pdf> [↑](#footnote-ref-33)