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WRITTEN BRIEF TO STATUS OF WOMEN COMMITTEE STUDY ON INTIMATE PARTNER AND DOMESTIC VIOLENCE IN CANADA

Background on Clinic

Barbra Schlifer Commemorative Clinic (“the Clinic”) is the only Clinic of its kind in Canada, providing specialized counselling, legal, and interpretation services. The Clinic has extensive expertise representing and serving women and gender-diverse people who have experienced intimate partner and domestic violence. Since 1985, the Clinic has assisted more than 100,000 women who have experienced gender-based violence.

Our Clinic is uniquely positioned to provide recommendations to help end violence against women and teens. In what follows, we outline five key considerations along with recommendations to this committee, using a feminist, intersectional, and trauma-informed approach.

1. COVID-19 has exacerbated gender-based violence in Canada

In pre-COVID-19 Canada, 118 girls and women were killed in 2019.¹ In 2020, that number went up to 160. In the first six months of 2021, 92 women were killed by their intimate partner.² With pandemic lockdowns, there has also been an increase in the severity of violent acts, or acts classifiable as high risk.³ These alarming trends are attributable, in part, to health inequities,

¹ <https://canadianwomen.org/the-facts/gender-based-violence/>

² <https://www.thestar.com/news/gta/2021/11/25/killings-of-women-and-girls-up-again-in-canada-so-far-in-2021-as-researchers-point-to-pandemic.html>

³ <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf?la=en&vs=5006>



economic stresses, and uncertainty surrounding the pandemic, which are further compounded by cramped living conditions during lockdowns.⁴ Stay-at-home orders have simultaneously hindered survivors' access to clinics, shelters, and other organizations that, in turn, have struggled to adjust to disruptions in the delivery of their services under COVID-19.

2. Impacts of mandatory charging

Mandatory charging policies across Canada require police to lay charges in domestic violence cases where the officer believes there are reasonable grounds that an assailant committed an offence.⁵ In reality, however, mandatory charging policies have not lived up to their promise.

Mandatory charging without understanding the gendered nature of violence can overlook the presence of coercive and controlling behaviour. In 2016, national statistics showed that 383 women were charged because of the policy.⁶ Coercive control can look like a man sponsoring his spouse and using the threat of deportation as a tool to keep the woman in an abusive relationship.⁷ Police officers may focus solely on physical violence rather than the coercive nature of gender-based violence.⁸ This suggests that mandatory charging policies are being applied without an understanding of the gendered nature of violence.

Mandatory charging policies have also increased the criminalization of equity-seeking groups. For example, police disproportionately charge people who belong to marginalized communities, including newcomers, Indigenous people, LGBTQ2+ people, and Black and Caribbean communities.⁹ When applied differentially, such policies undermine rather than increase safety for survivors of violence.

3. Experiences of survivors from Indigenous and Black communities

Efforts to prevent domestic and interpersonal violence must address root causes, including systemic racism against Indigenous and Black communities in Canada. Indigenous women still

⁴ Ibid.

⁵ Criminalization of Women Project- Consultation Brief for Participants created for Criminalization of Women 2018 Barbra Schlifer Commemorative Clinic

⁷ http://www.buildingabiggerwave.org/images/uploads/Mandatory_Charging_-_VAWCC_survey_report-back.pdf

⁷ Ibid.

⁸ https://www.ourcommons.ca/Documentviewer/en/43-2/just/report-9/page-99#_ftn181

⁹ Ibid.

face higher rates of violence compared to non-Indigenous women in Canada.¹⁰ The impacts of colonialism and the residential school legacy on Indigenous values and cultures are significant contributing factors at the roots of this violence. Moreover, ongoing systemic racism creates further barriers to supporting Indigenous women and girls, including a lack of specialized services that can offer cultural safety for survivors.

Anti-Black racism likewise undermines access to justice for Black women and girls who experience intimate partner and domestic violence. Black communities in Canada experience disproportionate inequities in health, racial discrimination, and alarming rates of incarceration.¹¹ Systemic racism undermines safety and protection for Black women from abusive intimate partners, employers, and society at large.¹² When the government fails to protect Black women, they may be forced to return to their abusive partners for fears of descending into further poverty, fears of losing their children, and homelessness.¹³

4. Education and awareness for children and youth

Much of the violence against women today results from learned behaviour around unhealthy relationships, lack of boundaries, and a poor understanding of consent and safety. Unhealthy, sexist understandings of gender norms and roles contribute to inappropriate and sometimes dangerous relationships between genders. Moreover, a history of childhood abuse can lead to teens entering abusive relationships as adults. Teenagers and young adults lack awareness around these issues because there is no consistent mandated education around consent, boundaries, and healthy relationships.

5. Need for culturally and linguistically sensitive services

In our work at the Clinic, we see a need for culturally and linguistically sensitive services. Often, conversations about “culture” evoke stereotyped ideas of family violence and abuse, forced marriage, dowry deaths, acid attacks, and female circumcision.¹⁴ These practices are real, and discriminatory. Yet policies to end them must also avoid racial stereotyping and prevent further

¹⁰ https://canadianwomen.org/wp-content/uploads/2017/09/PDF-VP-Resources-Lamontagne_CWF_Aboriginal-Women_Final_2011.pdf

¹¹ Ibid, 158.

¹² Robyn Maynard, *Policing Black live: state violence in Canada from slavery to the present* Fernwood Press, (2017), 155.

¹³ Ibid.

¹⁴ Radhika Coomaraswamy, “Identity Within: Cultural Relativism, Minority Rights and the Empowerment of Women” (2002) 34 *George Wash Int Law Rev* 483.

criminalization of communities.¹⁵ Culture in this sense must be examined more critically to “understand the link between culture and relations of power and domination.”¹⁶ Indeed, survivors are reluctant to come forward with experiences of forced marriage or trafficking when it means criminal sanctions or deportation for their families. While prevention is essential, a multi-sectoral approach coupled with an intersectional education strategy is the most effective preventative tool.

¹⁵ For instance, in 2015, the former federal government of Canada passed the *Zero Tolerance for Barbaric Cultural Practices Act*, 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 can become a tool to further target and over-police racialized communities.

¹⁶ Yakin Erturk, Report of the Special Rapporteur on Violence Against Women, its causes and consequences (18 May 2009) A/HRC/11/6, para 18.

CONCLUSION

- Given that mandatory charging has not lived up to its promise, the Clinic recommends:
 - Study the impact of mandatory charging on diverse survivors that includes experiences of racialized communities, non-status, remote and rural communities.
 - Ensure that police officers receive intersectional gender-based violence (GBV) training on how to conduct thorough risk assessments that ask questions about the history of violence and incorporates an intersectional gendered analysis of family violence on GBV calls.
 - Increase Legal Aid funding for criminalized survivors of violence and in family law.
- Promote and fund a public awareness campaign on coercive and controlling behaviour.
- Train judicial system actors, such as police, lawyers, and judges, about the dynamics of such behaviour. Training must be trauma-informed, integrate intersectional perspectives, and be accompanied by tools and policies to support action on this issue.
- Implement a national educational curriculum on consent and gender diversity, healthy relationships, and self-esteem for teens.
- Implement multi-year, core sustainable funding for grassroots equity-seeking organizations, including Indigenous-led and Black-led organizations, which work with diverse and vulnerable women and teens who are survivors of violence.
- Implement a National Action Plan for ending gender-based violence that has a deep understanding of the structural causes of violence and needs of non-status, immigrant, refugee women and other marginalized groups.
- Ensure government GBV initiatives and frameworks are authentically intersectional and culturally sensitive without resorting to cultural stereotyping or oppositional/binary applications of cultural, religious, and gender rights.

Signed,

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