STANDING COMMITTEE ON HEALTH **COMITÉ PERMANENT DE LA SANTÉ**

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Friday, August 2, 2019

The Honourable Ginette Petitpas Taylor, P.C., M.P.
Minister of Health
House of Commons
Suite 356, Confederation Building
Ottawa, Ontario

The Honourable Ralph Goodale, P.C., M.P.
Minister of Public Safety and Emergency Preparedness
House of Commons
Suite 733, Confederation Building
Ottawa, Ontario

The Honourable Seamus O'Regan, P.C., M.P.
Minister of Indigenous Services
House of Commons
Suite 658, Confederation Building
Ottawa, Ontario

Dear Ministers,

I am writing to you on behalf of the House of Commons Standing Committee on Health (the Committee) to outline the findings of our study on the forced sterilization of women in Canada, which was completed during two meetings held on June 13 and 18, 2019.

During these meetings, the Committee heard from a range of witnesses, including organizations representing the interests of Indigenous women, women with disabilities, health care professionals, legal and academic experts, and the Commissioner of the Royal Canadian Mounted Police (RCMP). These meetings followed a briefing provided to the Committee by officials from Health Canada, Indigenous Services Canada and the Public Health Agency of Canada on January 31, 2019. The Committee also received four written submissions.

Witnesses appearing before the Committee highlighted five main areas where further federal government action is urgently needed to address recent reports of coerced or forced sterilization of women in Canada. An overview of witness testimony in these different areas is provided below. Drawing on this testimony, the Committee has also

provided its observations and recommendations for your consideration, which focus on how the federal government could move forward immediately to address this deeply concerning issue.

Understanding the Full Scope of Forced Sterilization of Women in Canada

The Committee heard from witnesses that the federal government needs to support more research and data collection to understand the full scope of the forced or coerced sterilization of women in Canada both in the past and today.

Ms. Karen Stote, Assistant Professor, Women and Gender Studies, Wilfrid Laurier University explained to the Committee that Indigenous women in Canada were subjected to coerced sterilization under Alberta's *Sexual Sterilization Act* and British Columbia's *Sexual Sterilization Act* from the 1930s to the 1970s. According to Ms. Stote, Indigenous women were disproportionately targeted through this legislation because "these women were often viewed as mentally defective, sexually promiscuous or inferior in some way." She further explained that her research has found that coerced sterilizations of Indigenous women also occurred in federally operated "Indian hospitals" across the country with over 1,000 women sterilized over a 10-year period in the 1970s alone. To understand the full extent and context of the coerced sterilization of Indigenous women in Canada, she recommended that governments provide full and open access to documentary records regarding this issue.

In its written submission to the Committee, Pauktuutit/Inuit Women of Canada explained that Inuit women also underwent forced sterilizations in the early 1970s, but there is limited information documenting their experiences. In addition, many of the women who shared their experiences of forced sterilization are no longer alive. The organization explained that "Inuit need more information to acquire a more complete historical and current understanding of Inuit women's experiences of forced and coerced sterilization. It is essential that Inuit women lead this effort."

The Committee learned that the forced or coerced sterilization of Indigenous women in Canada continues to occur to this day but the full extent of it remains unknown. Dr. Judith Bartlett, retired professor, Faculty of Medicine, University of Manitoba explained to the Committee that she and now Senator Yvonne Boyer conducted an external review in 2016 of reports of coerced sterilization of Indigenous women in the Saskatoon Health Region (now Saskatoon Health Authority) that occurred between 2005 and 2010. She explained that the external review had found that seven Indigenous women had:

> all clearly felt stressed and under much duress from being coerced, while they were in labour, into having a tubal ligation, and this added extra stress to the unusual stress of childbirth. The review outlines the depth of the women's experience of being coerced. Themes arising reveal that aboriginal women were living, often, overwhelming and complex lives when this coercion was taking place. This complexity was intricately interwoven with the negative historical context of colonialism.

After the completion of the external review by Dr. Bartlett and Senator Boyer, the Committee heard that a class action suit was filed in February 2018 by Ms. Alisa Lombard, Lawyer, Semaganis Worme Lombard on behalf of Indigenous women in the Saskatoon Health Authority who reported that they had been coerced into undergoing sterilization. Ms. Lombard explained to the Committee that since the filing of the claim, over 100 women have come forward from all parts of the country, including British Columbia, Alberta, Manitoba, Ontario, Quebec, Nova Scotia, the Northwest Territories and Nunavut.

Ms. Lombard shared the stories of three of her clients with the Committee in order to honour the voices of survivors and promote a co-operative resolution process to end the practice of forced sterilization in Canada:

> Liz is an Ojibwa woman from northern Ontario. She reports being pregnant with her third child at approximately 20 years old, in the late 1970s, when child and family services told her, “You might as well abort the baby, because if you have it, we are going to take it anyway.” After a late-term abortion, she was also sterilized without proper and informed consent. Her body bears the physical scars of the unwanted abortion and sterilization to this day.
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> S.A.T. is a Cree woman who gave birth naturally to her sixth child in Saskatoon, in 2001. When presented with a consent form for her sterilization, S.A.T. reports hearing her late husband say, “I am not [expletive] signing that,” before she was wheeled into the operating room, over her own protests. She recalls trying to wheel herself away from the operating room, but the doctor stopped her and redirected her back to the same operating room. She repeatedly said, “I don't want this,” and cried while the epidural was administered. When she was in the operating room, she kept asking the doctor if he was “done yet”. He finally said, “Yes, cut, tied and burned there. Nothing is getting through that.” […]
>
> D.D.S. is a 30-year-old Nakota woman from Saskatchewan. She was scheduled to have a Caesarean section for the delivery of her third child, in December 2018, six months ago, in Saskatchewan. Immediately before the administration of an epidural, the surgeon interrupted the discussion with the anaesthesiologist in an abrupt and aggressive manner, directing her to sign a consent form for the C-section. D.D.S. noticed that a tubal ligation was also listed on the consent form and believed that she had no choice but to sign. She does not recall prior conversations regarding a tubal ligation beforehand and did not want one. She wished to have more children. D.D.S. was sterilized following her Caesarean section. She was devastated and immediately asked a nurse whether the operation was reversible. She has suffered psychologically as well as physically in the past months.

Ms. Lombard explained that based upon the reports of her clients, health care providers did not fulfil their legal obligations to obtain valid consent from their patients to

undertake the sterilization procedures that were performed on them. She explained that consent for the procedures was obtained while the women were giving birth and were under duress:

> As these stories demonstrate, written consent does not automatically mean that consent has been validly obtained. The person must receive information and have the ability to consider it and give consent without pressure or coercion. These are the criteria for appropriate consent. Even if having a child carries medical risks and may cost a woman her life, it is up to her to decide whether she wants to take that risk. To the extent that all information is provided, it remains her choice […] I can tell you that birth is really not the right time to discuss this. It is not easy. It is very difficult to decide right away if you want to relive this experience.

The Committee heard from Ms. Melanie Omeniho, President, Women of the Métis Nation/Les Femmes Michif Otipemisiwak that the women participating in the class action suit are just the tip of the iceberg in determining the scope of the forced or coerced sterilization of Indigenous women in Canada. She explained that many Métis women participating in her organization's community consultations reported being coerced into tubal ligations without knowing that the coercion was a violation of their rights. She therefore recommended that further research and data collection be conducted on coerced and forced sterilization procedures in Canada to understand the full scope of the issue. This recommendation was also proposed by the Native Women's Association of Canada and the Royal College of Physicians and Surgeons, who also suggested that more comprehensive monitoring and data collection, which would include the collection of disaggregated data and information regarding women's specific experiences of sterilization procedures, would promote accountability within the health care system to help address this issue.

Furthermore, the Committee heard that reports of coerced or forced sterilization are not limited to Indigenous women in Canada. Ms. Jihan Abbas, Researcher, DisAbled Women's Network of Canada, explained to the Committee that women with disabilities were also historically subject to forced sterilization under both Alberta and British Columbia's sterilization laws. She explained that data from the Alberta Eugenics Board indicated that 1,154 women with disabilities were sterilized in the province before the law was repealed in 1972. However, information regarding forced sterilization is not available in British Columbia because records were lost or destroyed. Moreover, she suggested that it is likely that women with disabilities were sterilized in other provinces that did not have specific sterilization laws. The Committee learned that the Supreme Court of Canada's 1986 ruling in *E. (Mrs.) v. Eve* ended the long-standing practice of non-therapeutic sterilization of individuals with intellectual and other mental disabilities.

While there are no current reports of coerced sterilization of women with disabilities, the Committee heard from Ms. Abbas that Canadian studies have found that young women with disabilities continue to be subjected to parental and caregiver control and coercion

with regards to decisions concerning their reproductive health, including pressure to take birth control and attempts to control the outcomes of pregnancies. In addition, Ms. Sonia Alimi, Research Coordinator, DisAbled Women's Network of Canada, explained that a Canadian study conducted by Josephine Etowa, Full Professor, University of Ottawa found that black women had also disproportionately received hysterectomies in Nova Scotia.

Finally, they explained that subsection 268 (3) of the *Criminal Code* authorizes qualified health care professionals to perform surgical procedures on intersex children with the consent of their parents or guardians. Some of these procedures may also result in removing the reproductive capabilities of intersex children. Ms. Abbas and Ms. Alimi explained to the Committee that given the range and diversity of these experiences, any analysis of coerced or forced sterilization in Canada needs to take an intersectional approach that would include examining its varying forms and impacts on different marginalized and vulnerable populations in Canada.

Accountability and Reporting

Witnesses explained to the Committee that the coerced sterilization of women in Canada is well recognized as a clear violation of human rights and medical ethics. Ms. Francyne Joe, President of the Native Women's Association of Canada explained to the Committee that the coerced sterilization of women or performing the procedure without obtaining valid consent is a violation of a woman's rights to life, liberty and security of the person under Canada's *Charter of Rights and Freedoms.* In addition, Amnesty International's written brief to the Committee also explained that the United Nations Committee Against Torture found in December 2018 that reports of the coerced sterilization of Indigenous women in Canada meet the definition of torture under the *United Nations Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.*

In addition, Dr. Jennifer Blake, Chief Executive Officer, Society of Obstetricians and Gynaecologists of Canada explained that physicians are fully aware that obtaining free and fully informed consent is a fundamental component of the therapeutic alliance between the patient and the health care provider. Furthermore, physicians recognize their ethical responsibilities with respect to preserving the autonomy of the patient, particularly in cases of irreversible elective surgical procedures such as tubal ligation. RCMP Commissioner Brenda Lucki also explained to the Committee that provisions related to aggravated assault under section 268 of the *Criminal Code* can be used to investigate and prosecute instances of forced or coerced sterilization in Canada.

However, despite the recognition that the practice of coerced sterilization is illegal and a serious breach of human rights and medical ethics in Canada, witnesses explained to the Committee that health care providers and organizations reportedly conducting these practices are not being investigated and/or held accountable by health regulatory bodies or the criminal justice system. Commissioner Brenda Lucki explained that the RCMP is

beginning to take steps to examine the issue, including raising awareness among its staff and the Canadian Association of Chiefs of Police. However, she explained that it is difficult to begin an investigation when the RCMP has not received any official complaints from victims, nor does it have access to the names of victims due to privacy issues.

The Committee heard from witnesses that victims are often unwilling to go to local police or the RCMP to report instances of coerced or forced sterilization because of their fear of and lack of trust in these organizations, which is linked to the organizations' current and historical treatment of Indigenous peoples. Ms. Melanie Omeniho, President, Women of the Métis Nation/Les Femmes Michif Otipemisiwak explained that the importance of motherhood in Métis culture means that many women are too ashamed to come forward because it means acknowledging that they can no longer bear children. Furthermore, many women do not come forward because they are unaware that this practice constitutes a violation of their fundamental rights.

Similarly, Dr. Lisa Richardson, Chair, Indigenous Health Committee, Royal College of Physicians and Surgeons of Canada explained that Indigenous women may be unwilling to report incidents to hospitals or health professional regulatory bodies because of racism and colonial attitudes that they encounter within the health care system:

> [P]atients in general don't want to report. The literature suggests that only 20% of patient safety incidents that lead to mortality, increase morbidity or increase hospital stays get reported. That's heightened completely for indigenous patients. When we speak to our people, they are worried about reporting. They're worried about the repercussions. If they make an anonymous report, the institution will not act because it's anonymous. If they make a report and they attached their name to it, they're suddenly the whistle-blower in a hostile environment.

To address this issue, witnesses recommended that alternative accountability and reporting mechanisms be set up to provide a culturally safe environment for Indigenous women to report experiences of coerced sterilization. Ms. Francyne Joe, President, Native Women's Association of Canada recommended that every hospital in Canada should establish an Indigenous ethics and advocacy office staffed with Indigenous midwives and advocates. Dr. Lisa Richardson explained that *Reclaiming Power and Place: the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* also provides a framework that could be used to support accountability and reporting of coerced sterilization of Indigenous women. The proposed framework is outlined in the report's call to action 1.7:

> We call upon the federal, provincial, and territorial governments, in partnership with Indigenous Peoples, to establish a National Indigenous and Human Rights Ombudsperson, with authority in all jurisdictions, and to establish a National Indigenous and Human Rights Tribunal.

Witnesses also spoke in favour of establishing the practice of sterilization without consent as a specific offence under the *Criminal Code*. However, Ms. Francyne Joe, President, Native Women's Association of Canada noted that changing the *Criminal Code* alone would not be effective in bringing about justice without other systemic changes including better access to the criminal justice system and the establishment of culturally safe reporting mechanisms.

Reparations and Supports for Victims of Forced Sterilization

The Committee heard from Ms. Alisa Lombard, Lawyer, Semaganis Worme Lombard that the federal government has offered interim supports to her clients in the form of crisis counselling. However, Ms. Francyne Joe, President, Native Women's Association of Canada recommended that additional culturally safe and trauma-informed services and supports be made available closer to home for women who have been affected by forced sterilization and who may have been re-traumatized by the media attention surrounding recent allegations. Dr. Judith Bartlett, retired professor, Faculty of Medicine, University of Manitoba similarly emphasized the need for services and supports to enable women to talk about their experiences:

> In terms of how all the women will come forward and deal with this, even the women who came to us said that when they left, they felt so much better just from having talked about it, just from having said it. There has to be something in place where women can actually go and talk about this.

In addition to services and supports, Ms. Lombard called upon all orders of government to make reparations to Indigenous women who have experienced forced sterilization.

Preventing Further Instances of Forced Sterilization

The Committee heard from departmental officials that the federal government has taken some initial steps to prevent the coerced or forced sterilization of Indigenous women by implementing recommendations of the Truth and Reconciliation Commission of Canada that relate to health (18-24). They explained that the federal government has established a federal, provincial and territorial working group to collaborate with health professional organizations to promote cultural competency and cultural safety training for all health care professionals. They explained that this type of training will help address the racism and discrimination that Indigenous Peoples face within the health care system.

In addition, the Committee learned that the federal government is investing $6 million over five years through Budget 2017 in Indigenous midwifery, which will enable women to give birth in their own communities in a manner that incorporates traditional healing and birthing practices of Indigenous communities. Furthermore, Indigenous Services Canada is in the process of establishing a new advisory committee on Indigenous Women's well-being, which will provide guidance to the department on current and emerging issues in Indigenous women's health. The advisory committee will be made

up of national Indigenous women's organizations, the National Aboriginal Council of Midwives, the Society of Obstetricians and Gynaecologists of Canada, among other organizations. Finally, Indigenous Services Canada is also working to develop guidance for Indigenous women and health care providers on free, prior and informed consent regarding sterilization procedures.

While witnesses were supportive of the federal government's efforts related to the prevention of future instances of coerced or forced sterilization, they also said more action must be taken in these various areas. With respect to the development of cultural competency and safety training for health care professionals, Dr. Jennifer Blake, Chief Executive Officer, Society of Obstetricians and Gynaecologists of Canada said that specific modules need to be developed that address issues surrounding women's health. Dr. Lisa Richardson, Chair, Indigenous Health Committee, Royal College of Physicians and Surgeons of Canada said that financial support should be provided for the development of an online knowledge hub for cultural competency and safety training materials, which an individual can access at any point to expand their knowledge. She explained that her organization has made this proposal to Health Canada and the department is considering the proposal.

In terms of providing information and guidance to health care providers and Indigenous women regarding the requirements for free and fully informed consent to medical procedures, Ms. Francyne Joe, President, Native Woman's Association of Canada recommended that health care providers move beyond an informed consent model to an informed choice model of health care decision-making. Informed choice refers to a decision-making process that relies on a full conversation with the patient in a non-urgent, non-authoritarian setting. It provides the patient with autonomy and control and relies on other forms of knowledge, including the values, lived experiences and relationships of the patient. Ms. Melanie Omeniho, President, Women of the Métis Nation/Les Femmes Michif Otipemisiwak also explained that information and guidance provided to Indigenous women regarding consent to medical procedures needs to be expanded to include more information on their legal rights more broadly as Canadians, which would empower them to take action when they see their rights being violated in a health care setting.

Finally, witnesses noted that expanded access to Indigenous midwifery care and supports to give birth in home communities are critical factors in preventing Indigenous women from being in situations where they may be coerced into undergoing sterilization procedures, such as when giving birth in a hospital setting.

Engagement with Indigenous Women's Organizations

Despite the federal government's efforts to initiate consultations to address the health needs of Indigenous women, the Committee heard that national Indigenous women's groups are being left out of federal, provincial and territorial discussions regarding how

to address coerced or forced sterilization in Canada. As Ms. Francyne Joe, President, Native Women's Association of Canada, articulated:

> In part, in talking beforehand, we just found out that there's an FPT [Federal/Provincial/Territorial] meeting discussing this and none of the national indigenous women's organizations are invited to that. We have concerns about that.

Ms. Melanie Omeniho, President, Women of the Métis Nation/Les Femmes Michif Otipemisiwak echoed this statement:

> If you want to have these conversations, they need to include us. Reconciliation is about having us all at the table because part of reconciliation is our healing. We can't heal by somebody's actions that happen in some ivory tower somewhere else. It has to engage all of us.

Committee Observations and Recommendations

The Committee is deeply disturbed by on-going reports of coerced or forced sterilization of women in Canada and recognizes the need for an in-depth study to understand the full scope of the issue. The Committee agrees with witnesses that urgent action must be taken today to address the harms that have been caused by this practice and prevent it from reoccurring in the future. The Committee therefore recommends:

1. That the Government of Canada establish an arms-length advisory panel to investigate the scope of coerced or forced sterilization of women in Canada and that the panel report publicly on its findings.

2. That the Government of Canada invite national Indigenous women's organizations to participate in all federal, provincial and territorial meetings aimed at addressing coerced or forced sterilization of Indigenous women in Canada.

3. That the Government of Canada, in collaboration with the provinces and territories, health care providers, Indigenous organizations and other relevant stakeholders, establish a pan-Canadian comprehensive data collection system through the Canadian Institute for Health Information to monitor sterilization procedures across Canada.

4. That the proposed pan-Canadian comprehensive data collection and monitoring system on sterilization procedures created through the Canadian Institute for Health Information be able to provide disaggregated data on sterilization procedures in Canada and include a broad range of indicators, such as patient lived experiences and outcomes; hospital policies where the procedures occurred; and information on the cultural training and competencies of the health care providers.

5. That the Government of Canada work with provinces and territories, Indigenous organizations and health care stakeholders to develop culturally competent and culturally safe accountability and reporting mechanisms for Indigenous peoples wanting to bring forth complaints against health care providers or organizations.

6. That the Government of Canada implement the National Inquiry into Missing and Murdered Indigenous Women and Girls call to action 1.7, which calls upon the federal, provincial, and territorial governments, in partnership with Indigenous Peoples, to establish a National Indigenous and Human Rights Ombudsperson, with authority in all jurisdictions, and to establish a National Indigenous and Human Rights Tribunal.

7. That the Government of Canada amend the *Criminal Code* to explicitly criminalize forced or coerced sterilization.

8. That the Government of Canada ensure all allegations of forced or coerced sterilization are impartially investigated and that the persons responsible are held accountable.

9. That the Government of Canada apply existing *Criminal Code* provisions on aggravated sexual assault to prosecute appropriately the perpetrators of past cases of forced or coerced sterilization.

10. That the Government of Canada in collaboration with the provinces and territories work with medical regulatory authorities to ensure that disciplinary measures are applied where appropriate for professional misconduct with respect to forced or coerced sterilization.

11. That the Government of Canada appoint a special representative to meet with survivors of forced or coerced sterilization and their families to hear their requests for justice and reparations.

12. That the Government of Canada establish a community-based Indigenous healing program to provide counselling and supports to women affected by coerced or forced sterilization.

13. That the Government of Canada provide support for the development of cultural competency and safety training modules for health care providers that focus specifically on women’s health issues.

14. That the Government of Canada provide funding for the creation of an online hub for cultural competency and safety training for health care providers across Canada.

15. That the Government of Canada in collaboration with provinces and territories implement Truth and Reconciliation Commission Calls to Action 23 and 24, as well as Calls for Justice 7.6, 7.7, and 7.8 issued by the National Inquiry into Missing and Murdered Indigenous Women and Girls, on increasing the number of Indigenous health care professionals and providing cultural competency training to all health care professionals.

16. That the Government of Canada, in collaboration with relevant stakeholders, develop information and guidance materials for health care providers and Indigenous women and other vulnerable and marginalized women in Canada that support an informed choice model of decision-making with respect to sexual and reproductive health.

17. That the Government of Canada in collaboration with provinces and territories clearly define the requirement for free, prior and informed consent with respect to sterilization and issue clear guidelines to all practicing health care professionals.

18. That the Government of Canada provide additional funding to improve access to Indigenous midwifery and other traditional pre-natal and post-natal maternal health care services across Canada.

On behalf of the Committee, I would like to thank you for your time and effort in the consideration of the findings and recommendations of our study on the coerced or forced sterilization of women in Canada. We very much look forward to your considered response.

Sincerely,

Mr. Bill Casey, Member of Parliament
Chair of the House of Commons Standing Committee on Health