

**REPORT ON THE HUMAN RIGHTS OF WOMEN &
GIRLS IN YUKON**

THE YUKON HUMAN RIGHTS COMMISSION

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REPORT ON HUMAN RIGHTS OF WOMEN & GIRLS

I. BACKGROUND

The Yukon's Minister of Justice announced on April 27, 2007 that there would be a review of the Yukon *Human Rights Act*. The Yukon Human Rights Commission (YHRC) wished to prepare for this review by conducting research on the effectiveness of (1) the current *Act* for women and girls and (2) the way the Commission currently provides its service to them. With funding from the Women's Equality Fund from the Yukon Territorial Government, the Commission gathered ideas from women and girls on whether existing human rights law provides adequate protection for Yukon women. The Commission sought information on barriers to accessing its services as well as recommendations for changes to the *Act*. The Commission would like to create a culture of human rights in the Yukon where equality and human rights are a reality for all women and girls.

In its application for funding, the Commission designed a project with a budget of \$35,000 and a timeline of one year for completion from start to finish. The Commission is very grateful for the support it received of \$20,000 from the Women's Equality Fund. The initial installment of \$8000 was received on July 30, 2008, one third of the way into the fiscal year: due to the smaller amount of funding and a contribution agreement timeline of April 2, 2008 for completion, the Commission reduced the scope of the project. Accordingly, not all originally identified groups of women and organizations that provide them services were contacted. Nonetheless, the original project called for only six focus groups and the Commission was able to facilitate nine groups. Although the Commission did research its database and records as well as legislative innovations and best practices from other jurisdictions, as set out in its original proposal, it was unable to do this to the extent it had originally intended. However, this report does identify areas for further research.

Overall, the Commission is pleased with the research results achieved within the reduced timeframe and funding available. One of the results of the project has been increased collaboration with NGO's serving women in the territory and greater awareness of human rights for all 255 participants. There is anecdotal evidence that the outreach and education this project accomplished has enabled women and girls who would otherwise not have accessed the services of the Commission, to seek its help. For instance, several youth contacted the Commission about private sector pay equity issues reporting lower wages for young teenagers as opposed to older teenagers doing the same work (age discrimination). One of these teenagers was not present at the high school presentation or part of the survey (because she attends another Whitehorse high school) but reported she had heard about it from a student who did attend the

presentation and who encouraged her to contact the Commission. In addition, a number of organizations asked for further education and programming as a result of the consultations with them in the course of this project. For instance, at a consultation with women experiencing violence, some participants asked that their teenagers (female) receive training from the Commission on gender-based violence and sexual harassment. The Commission sees these as indirect but very important benefits of this research project.

II. THE RESEARCH PROCESS

The research project had these objectives:

1. to identify gaps in the current legislation's protection of the human rights of women and girls;
2. to determine what barriers exist for Yukon women and girls who wish to access the Commission's services;
3. to guide law reform recommendations and develop a Commission action plan to address the barriers and gaps for women and girls; and
4. to identify areas for improvement to the protection and enhancement of equality for girls and women through both law reform and changes to the way the Commission carries out its mandate under the current law.

The study wanted to answer these questions:

1. What do women and girls know about Yukon human rights law and what areas of the *Act* are important to them?
2. How have women and girls experienced discrimination? What services, supports and resources have they used to deal with discrimination and why?
3. What do women and girls feel is helpful in dealing with discrimination? What gets in the way?
4. What changes do women and girls feel are needed to better deal with discrimination issues?

The Commission used a feminist approach to the research, by giving voice to girls' and women's experiences in a way that values and recognizes their stories and perspectives. We also consulted with Yukon College social science faculty in designing the survey questions and utilizing focus groups. Qualitative data was gathered through a survey, focus groups and interviews with women in Whitehorse and several rural communities. Quantitative data was gathered from an analysis of the Commission's complaints data base, archives and records for the last twenty years as well as information on inquiries from the public over the last three years. Information was gathered on best practices regarding human rights legislation domestically and internationally through internet research and interviews with practitioners.

Target groups of women were initially identified, but limits of time and resources did not allow us to reach all the groups set out in the original proposal. We heard from the following:

- Aboriginal women
- Women living in poverty
- Women experiencing violence
- Seniors and youth
- Immigrants and racialized women
- Women with disabilities

Women participating in focus groups were asked to complete the survey as well as participate in discussions. Follow-up telephone interviews were conducted with those who expressed interest in being interviewed and included students, some participants at the Aboriginal Women's Summit and women in Whitehorse. Other community organizations distributed surveys to their members and clients. A youth survey was administered at a Whitehorse high school as well as a Watson Lake school, with the female respondent surveys culled, collated and reviewed for this project. The youth survey was an abbreviated version of the adult survey. An effort was made to make the surveys available during women's events in Whitehorse during the last months of the study.

III. DEFINITIONS

Human rights are legal rights that are protected by constitutional laws, human rights codes and international declarations, covenants and conventions. They include the right to equality and human dignity and also personal civil and political rights as well as economic, social and cultural rights. These rights are protected for Yukoners by Canadian and territorial laws such as the *Charter of Rights and Freedoms*, the *Canadian Human Rights Act*, and the *Yukon Human Rights Act*. They are also protected by international declarations, conventions and covenants such as the *Universal Declaration of Human Rights*, the *Convention on all Forms of Discrimination Against Women* and the *International Covenant on Economic, Social and Cultural Rights* [known as CEDAW] which Canada has ratified. Consequently, government policies and decisions should follow international laws about human rights. Human rights are designed to prevent discrimination and achieve equality for all people.

The goals of Yukon's *Human Rights Act* as set out in Sec. 1(1) are:

- a) To further in the Yukon the public policy that every individual is free and **equal in dignity and rights**;
- b) To discourage and eliminate discrimination;

- c) To promote recognition of the **inherent dignity** and worth and of the **equal** and **inalienable rights** of all members of the human family, these being principles underlying the Canadian *Charter of Rights and Freedoms* and the *Universal Declaration of Human Rights* and other solemn undertakings, international and national, which Canada honours.

In terms of equality, the goal of human rights legislation is to achieve **substantive equality** and to address both individual and **systemic forms of discrimination**.

"Achieving **substantive equality** requires that the effects of laws, policies, and practices, be examined to determine if they are discriminatory. (CERA:2007) Substantive equality requires that rights be interpreted, and that policies and programs – through which rights are implemented - be designed in ways that take women's socially constructed disadvantage into account, that secure for women the real benefit, in real terms, of laws and measures, and that provide equality for women in their material conditions. The adequacy of conduct undertaken to implement rights must always be assessed against the background of women's actual conditions and evaluated in the light of the effects of policies, laws, and practices on those conditions." (See "Montreal Principles on Women's Economic, Social and Cultural Rights", *Human Rights Quarterly*, 26 (2004), pp. 760-780, at p. 768.)

Systemic discrimination was defined by the Supreme Court of Canada in the *Action Travail des Femmes* case in this way: "In an employment case, [it is] discrimination that results from the simple operation of established procedures of recruitment, hiring, and promotion, none of which is necessarily designed to promote discrimination. The discrimination is then reinforced by the very exclusion of the disadvantaged group because the exclusion fosters the belief, both within and outside the group, that the exclusion is the result of 'natural' forces, for example, that women 'just can't do the job' To combat systemic discrimination, it is essential to create a climate in which both the negative practices and negative attitudes can be challenged and discouraged." (*Canadian National Railway v. Canada (Human Rights Commission)* [1987] 1 S.C.R. 1114 (S.C.C.) at 1139.) In this case the Court found that CN Railway had discriminated against women as a group in its hiring and promotion practices for unskilled jobs. Similarly in the groundbreaking *Meiorin* decision, Canada's highest Court found that the Government of British Columbia had discriminated against women as a group by adopting a fitness test for the employment of firefighters that women, due to physiological differences from men, were less likely to meet, even though there was no evidence that passing such a test was necessary to ensure that a person could fight fires safely and efficiently.

Discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group [such as age, sex, or disability] which has the effect of imposing burdens, obligations, or disadvantages on such an individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society. Distinctions based on personal characteristics attributed to an individual solely on the basis of association with a group (such as age, sex, disability) would most likely be considered discrimination, while those based on an individual's merits and capacities would rarely be considered discrimination. (See *Andrews v. Law Society of British Columbia* [1989] 1 S.C.R. 143, the first case decided by Canada's top court under the equality guarantee in the *Charter*.)

Direct discrimination is the most obvious type of discrimination. An example would be where a landlord refuses to rent to someone on social assistance (i.e., "source of income" discrimination) or to mothers with young children (i.e., "family status" discrimination).

Constructive or adverse effect discrimination refers to rules, policies or practices that may not be **intentionally** or **obviously** discriminatory, but which have a discriminatory **effect** on persons protected by human rights legislation. Classic examples include a minimum height and weight rule that effectively excludes most women and members of certain ethnic groups from a job (from *Best Practices: Employment Policies That Work*, Volume 2 by Joan A. Bolland and Ellen E. Mole, Carswell Publications, 2004).

Accommodation or the Duty to Accommodate is the legal obligation of employers, people providing services to the public, unions, or landlords to eliminate or change rules, policies, practices and behaviours that discriminate against persons based on a characteristic such as religion, disability, ancestry, including colour and race, national origin, ethnic or linguistic background or origin, marital or family status, age, sex (including pregnancy), sexual orientation or any of the other protected grounds of discrimination. This duty of accommodation is to the point of undue hardship. Undue hardship takes into consideration factors such as: safety, disruption to the public, effect on contractual obligations, financial cost and business efficiency.

IV. FINDINGS FROM THE COMMISSION'S COMPLAINT DATABASE (1987 – 2007) AND INQUIRY RECORDS (APRIL 1, 2005 TO FEBRUARY 29, 2008)

A. Complaint Database

Two hundred twenty-one files of female complainants dating from 1987 to the present were reviewed for trends and patterns. Although the project funding allowed the Commission to enhance the segregation of complaint information, time did not allow us to fully use the enhanced tools in the database to do a detailed trend analysis across time and other variables. We hope to do so as part of the follow-up to this project. Despite inconsistencies in early record keeping, the following information emerged:

1. Characteristics of Complainants and Complaints

The prohibited grounds of disability, sex including pregnancy as well as sexual harassment made up the majority of complaints filed by women and girls. Just under half of those complaints involved sex discrimination issues. In total there were about 92 complaints involving sex and sexual harassment. Of the complaints regarding sex including pregnancy, approximately 16 of those complaints involved pregnancy and work. Most of the 29 sexual harassment complaints occurred at work and the majority of the Respondents were supervisors or owners. Only one sexual harassment complaint received by the Commission made reference to a successful criminal prosecution. Only a handful of other complaint files had reference to any contact with the R.C.M.P.

The time it takes from when a complaint is filed to when the matter is closed can vary from a few weeks to several years. Over half of the closed complaints filed by women or girls took over a year to complete. Generally the complaint is filed and the subject matter disclosed within a short time frame. The majority of the time is spent on investigation and settlement negotiations. One concern often noted in the files reviewed was the length of time a complaint took to be dealt with.

Sixteen percent of the complaints were made by First Nation women and 2% were racialized women that were not First Nation. A significant number of complaints about ancestry, national origin or ethnic or linguistic origin involved First Nation women, but Asian women, South Asian women, and other women of colour also made complaints on these grounds. There were also a number of complaints based on this ground that involved women who would not be traditionally categorized as racialized women, including women who complained of discrimination because of their linguistic background or their citizenship from a

developed democracy, and those that filed complaints because they were not of First Nation ancestry.

The majority of women who filed complaints were between 36 and 60 years of age. The majority of complainants were from Whitehorse. The next largest number were from Dawson City, and the third largest from Watson Lake. Only Old Crow had no record of complaints.

A significant number of complainants were on disability or Employment Insurance benefits or they were no longer working because of the alleged discrimination or harassment. The prohibited ground of disability made up a large proportion of complaints. Few, if any, complainants had a high level of income. Perhaps this is because women with higher incomes are less vulnerable to discrimination or have the resources to use other remedies.

Tenancy complaints generally involved two grounds, often in concert: ancestry and source of income. The majority of the ancestry complaints in the area of tenancy were from First Nations women.

Few complaints expressly cited "systemic" discrimination as a feature of the discrimination in the complaints. However, that does not mean the nature of the complaint could not be viewed as systemic.

Of the 25 complaints that have been referred to and set down for hearing over the past 20 years, 19 of them were filed by women (and 6 by men). [Some of the 25 were settled just prior to hearing by consent orders by the Board of Adjudication or were settled during the hearing process itself.]

2. Major Complaint Areas

a) The workplace

Seventy percent of complaints over the past twenty years alleged discrimination in employment. In the last few years, non-employment related cases have increased. Of the work-related complaints which were based on the grounds of sex, 17% involved pregnancy. Ninety-two complaints involved sex and sexual harassment, most of which occurred at work. Of the sexual harassment cases, 52% of complainants quit their position before taking other steps such as filing the complaint. A significant number of sexual harassment cases involved smaller or non-union employers.

In the workplace cases involving disability, a significant number alleged the failure of an employer to accommodate the disability. Ninety percent of complaints arising from outside Whitehorse were employment related. Of work-related cases, a significant number of complainants were employed in settings

where women have traditionally worked: health care, education and food service.

b) Tenancy & Services to the Public

Of the 30% of complaints not involving employment, most involved tenancy and services provided to the public. In the tenancy cases, the prohibited grounds were ancestry and source of income, with the majority of complaints involving First Nation women.

3. Trends in the Complaint Process

Since 1987, increasingly more files have been settled prior to investigation or disposition by the Commission. Since 1994, lawyers, unions and other bodies began using the human rights process for their clients in addition to or instead of other dispute resolution mechanisms, such as grievances and court cases. Often the result of the use of multiple processes (e.g. grievances and human rights complaints) was that the human rights complaints were withdrawn. If advocates were used, they were usually family members, especially if the complainant was a minor. The majority of complaints were dismissed by the Commissioners or settled at various stages of the proceedings. Thirty-two complaints were withdrawn by women and 6 were abandoned.

No formal charges of retaliation were laid by women or girls under the offence provision in the *Act* and only 5% of files indicated a concern with retaliation. This may be because those who fear retaliation do not complain. (See focus group and survey results in section V.) Settlement often involved some sort of payment and a significant number required policy development. Such settlement terms indicate that the complaint may have involved systemic issues and also shows a focus on prevention of discrimination in terms of settlement remedies. Education and training were common elements of settlement agreements as were letters of apology and/or reference.

B. Inquiry Records

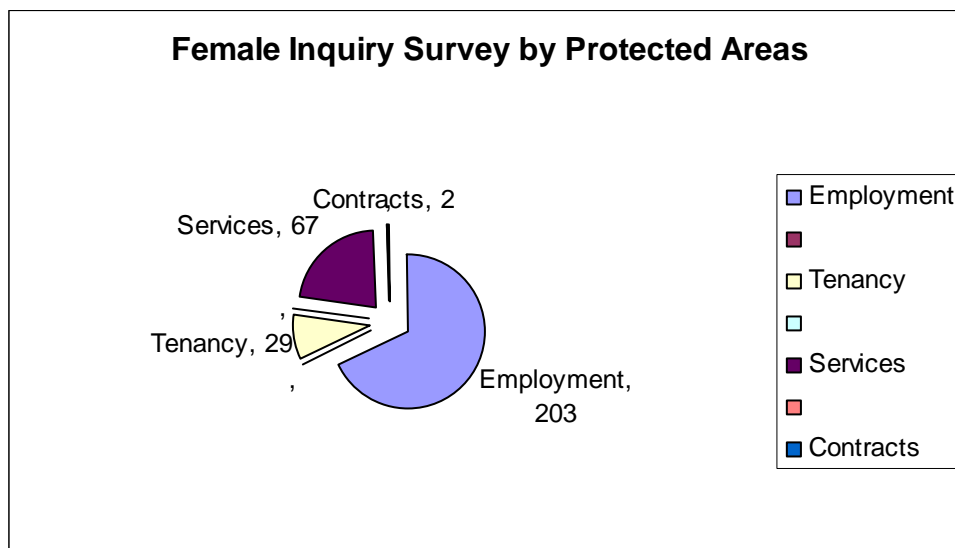
People call or come to the Commission office for information, advice, or informal help in dealing with a human rights concern. These are tracked in the Commission records as "inquiries" and are a service the Commission provides as part of its complaint prevention, referral and pre-complaint resolution work (solving the problem with the Commission's help). This service is mostly used by employees, tenants and people accessing services, but some employers, service providers and landlords use it as well.

Due to resource and time constraints, we analyzed 626 inquiry records from April 2005 to February 29, 2008. In this sample, more women than men made

inquiries: 366 women as compared to 223 men (37 were unidentified as to their sex). Examining the inquiries by women and girls only, approximately 17% were made by aboriginal women.

Also in this less than 3 year time period, the Commission inquiry records show that three women were not able to file a complaint because it was outside of the 6 month time limit. In at least one case, the woman reported a significant depression as a result of the harassment that she alleged experiencing in the workplace. She said she was unable to take the step of contacting the Commission until she had recovered sufficiently, more than 6 months after the harassment ended when she left the workplace.

In terms of the protected areas, the chart below shows that the overwhelming majority of women and girls' inquiries were employment related (203). The next highest area was related to services offered to the public (67), and the third most frequent type of inquiry had to do with tenancy (29).



Of the inquiries involving discrimination, those involving disability issues were the most frequent, and those involving sex discrimination were the next most common.

Of the total number of inquiries during this period from women and girls, 38 people were referred to the Law Line for further legal information (indicating that it was not a human rights related problem). Thirty-seven women were referred to the Canadian Human Rights Commission because their human rights matter was not within the Yukon Commission's jurisdiction. Twenty women were referred to Labour Standards and 16 to the Law Society to access the lawyer certificate program which provides an initial consultation with a lawyer at a low

cost. Five women were referred to Consumer Services regarding landlord tenant matters.

V. FINDINGS FROM COMMUNITY FOCUS GROUPS, SURVEYS WITH ADULT WOMEN AND INTERVIEWS WITH WOMEN AND GIRLS

The following information was collected from the focus groups and interviews with adult women and girls as well as the adult surveys. The results of the youth survey are analyzed separately since the survey form was abbreviated. (See section VI "Findings – Female Youth Survey"). Nine focus groups were conducted in Whitehorse, Watson Lake and Dawson City (by teleconference). Telephone interviews were conducted with students, aboriginal women and non-aboriginal women in Whitehorse, Watson Lake, Ross River, Haines Junction and Tagish. Focus group participants also completed the surveys. The focus groups served to enlarge on the information provided in the surveys and resulted in productive discussions with a broader perspective on the issues. (See appendix A – Survey on Yukon Human Rights – Women and Girls, appendix B – Youth Survey on Human Rights, and appendix C – Sample letter to Focus Group Participants.)

A. Description of Participants

Women were interviewed by phone from the following communities: Whitehorse, Watson Lake, Ross River, Haines Junction and Tagish. In addition, women from almost all Yukon communities were surveyed while they were visiting Whitehorse and Watson Lake to attend the Aboriginal Women's Summits. Nonetheless, the majority of the information collected is more reflective of the perspective of women living in the urban setting of Whitehorse.

Surveys were completed by 138 women and 64 female students completed a modified youth survey. As well, forty women participated in nine focus groups and 13 women were individually interviewed by telephone. In total, 255 women participated in the research study.

The age breakdown of survey women and girls is as follows:

under 18 years: 64	19 to 30 years: 19	31 to 40 years: 17
41 to 55 years: 49	56 to 65 years: 27	over 65 years: 12
Did not identify age: 14		

Their home communities are as follows:

Whitehorse: 159	Rural Yukon: 43	Did not identify: 53
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B. Results: Themes and Issues

The data from the surveys and the notes from the focus groups and interviews were coded according to themes which appeared as the data was analyzed.

The results emerging from the data are grouped under the following headings:

- general awareness of human rights
- the YHRC process
- employment (protected area)
- provision of public services (protected area)
- tenancy (protected area)
- First Nation governments – jurisdiction issues
- violence against women
- sex, including pregnancy (prohibited ground)
- human rights education
- barriers to using YHRC
- satisfaction with YHRC

The quotes following theme headings are taken from the surveys and focus group interviews.

1. General Awareness of Human Rights

The following is base data on general awareness of human rights obtained from the surveys.

Twenty-five out of 130 responses said they had used the services of the Yukon Human Rights Commission. The number of women who alleged they experienced discrimination was 65 out of 119 responses or approximately 55 %. Not all women responded to this specific question.

Overall, most women and girls reported having some knowledge of the Commission and what it does. The next highest number of participants chose the response indicating “quite a lot” of information, and the last “a little bit”.

In terms of responses indicating level of knowledge about prohibited grounds, the highest number indicated “some” knowledge, next highest indicated “not at all”, and the third highest number of responses were “a little bit” and “quite a lot”.

2. The Yukon Human Rights Commission Process

“Homelessness, no energy left for pursuing a complaint when faced with overwhelming personal issues.”

In the focus groups, women mentioned that the process of obtaining services from the YHRC was an issue in itself, especially when most women were not very familiar with the Commission or the grounds for a complaint. Women said

that the six month time frame for filing a complaint is too short. Women who had suffered violence, whether physical or psychological, said a six month time frame does not give them enough time to gather the resources, internal and external, to make a complaint.

Many women reported fear of retaliation and were unsure that the process would be private and confidential. One woman reported the need to tell her story and be heard, not rushed through a list of eligibility criteria when she was upset. Women expect an exploration of how the YHRC can help them and a referral if needed. Women with disabilities and their advocates expressed a need for support to access services. Women wanted more transparency and an explanation of the process as it unfolds. One person found the process slow to start and then rushed at the end.

Those who had used the services of the YHRC usually dropped into the office. Less frequently they made contact by phone. When asked for their preferred way of obtaining services, participants first preference was to have staff answer when they telephoned, a close second was to drop in to the office, and the third was to make an appointment. Least favoured was automated voice mail.

Most women who reported discrimination ignored it or handled it by talking to the person. Some put in a complaint to the person in charge. When asked what a good resolution would be, women responded by selecting in order of priority the following responses: 1) education for the person or employees in the workplace, 2) the person stops the discrimination and 3) a written apology from the person who discriminated.

3. Discrimination in Employment

“One area that is growing rapidly is the mental and physical disabilities area. Employers have an obligation to accommodate people’s needs.”

The majority of women who reported discrimination said that it occurred at work. This is consistent with the findings from the Commission’s archives and database. Some women report that employers seem to be unaware of their workers’ human rights and their duty to accommodate for reasons of pregnancy, family obligations (such as sick children), and disability. Mental health, physical, intellectual disabilities and addictions do not seem to be well understood. Women report that wheelchair accessibility is poor, especially in rural communities. They also said there is a reluctance to hire people with disabilities. However, advocates of people with disabilities noted that once employers have education and information, they are generally willing to accommodate an employee with a disability.

First Nation women discussed discrimination and harassment in First Nation workplaces. They reported that there is no redress in First Nation governments for unfair or discriminatory allocation of jobs. Aboriginal women from a rural community also reported discrimination in employment practices by local, non-First Nations employers.

Instances of discrimination by employers based on family status and discrimination based on gender violence were also reported. For instance a single mother said she lost her job after having to miss work repeatedly to care for her sick children. Another woman took time off to recover after experiencing violence in the home. She needed additional time but her employer was not supportive. She was also worried about being hurt while on the job by her abusive partner. Eventually, she quit her job due to lack of accommodation in the workplace. Some women did not feel comfortable returning to the workplace where discrimination had occurred, as they felt considerable animosity still existed.

Aboriginal and non-aboriginal women alike reported their work as the place where most discrimination occurs, historically and at present. Reported prohibited grounds for the discrimination include ancestry, sex, physical or mental disability, criminal record, and family status.

4. Services Provided to the Public

“Poor service and being followed in stores makes me feel uncomfortable.” (from an aboriginal woman in Whitehorse)

Services provided to the public, including businesses, school/college, government services, and non-governmental services, were the second most frequent area where discrimination occurred. Such discrimination is reported as mainly based on ancestry and failure to accommodate disabilities. Women noted that cases of discrimination by banks and the RCMP are federally regulated and therefore rarely go forward because they need to be addressed by the Canadian Human Rights Commission which does not have an office in the Yukon. Some women discussed their ineligibility for legal aid because their income was just above the qualifying level. This is an interesting issue from the perspective of social condition if the rules have an adverse impact on women as opposed to men. Analysis of this is beyond the scope of this project.

For several reasons, female inmates at the Whitehorse Correctional Centre were not surveyed. (See recommendations for further research in section XI.)

5. Tenancy

“A tenant should be allowed to stay in their house while the complaint is being investigated.”

Women did not report as much discrimination in housing as in the workplace or services to the public. Seven out of the 65 cases of discrimination reported by women were related to tenancy (rental of apartment or housing).

However there is a documented shortage of low-income and affordable housing in the Yukon which women report makes them feel vulnerable to retaliation if they complain about discriminatory behaviour by a landlord. (Hrenchuk & Bopp, 2007). Complaints related to tenancy were mainly based on ancestry and source of income. Women reported landlords sexually harassing them, refusing to rent to women with children or to women with a criminal record. They reported that landlords take advantage of people on social assistance.

6. First Nation Governments—jurisdiction issues

“Because the First Nations know that the YHRC will not touch these matters, it makes it easier for them to dismiss their employees without just cause, and to treat their employees with disrespect.”

Women reported that there is no redress for complaints of discrimination regarding allocation of jobs or housing by their First Nations. Women reported that sexual harassment occurs in First Nation governments. Women said they cannot become chiefs in some communities. Third generation rights for grandchildren of aboriginal women who married non-aboriginal men are extinguished under Bill C-31. Women believe this is discriminatory. They discussed the gap in human rights protection for people working for non-self-governing First Nations because of section 67 in the *Canadian Human Rights Act*.

This section says: “Nothing in this Act affects any provision of the *Indian Act* or any provision made under or pursuant to that Act.” According to the federal Commission, “Section 67 of the *Canadian Human Rights Act* restricts the ability of First Nations people living on reserve to file a complaint against band councils or the federal government. The Commission has long sought repeal of this section. In its 2005 report *A Matter of Rights*, the Commission looked at the reasons for repealing section 67 and what steps need to be taken post-repeal to ensure that First Nations people have access to an effective system for the resolution of human rights.” (from CHRC website www.chr-ccdp.ca accessed April, 2008 and see also [Still a Matter of Rights](#) [CHRC Report, January 2008] available online.)

Access to human rights protection for aboriginal women (and others) working for First Nations was a prominent issue. Women reported that the Canadian Human Rights Commission (CHRC) may be willing to take the complaint but then did not deal with it. One woman said that within self-governing First Nations this is “coming to a boiling point” and that CHRC does not understand self-government in the Yukon and that access to their services is a problem because they do not have a local office. Jurisdictional issues need to be clarified and resolved.

The Commission has done some legal research in this regard, including reviewing concerns raised by national aboriginal women’s organizations. More remains to be done. (See Section XI, Areas for Further Research.)

7. Violence Against Women

“Women should have enjoyment of her property rights but this doesn’t happen when a woman is forced to leave her home due to violence.”

Specific protection for women experiencing violence is not included in the Yukon *Human Rights Act*. However, it is an issue that came up frequently in our research project. Violence against women surfaces in the area of housing when women are forced to leave their homes and communities for their safety. One senior reported experiencing violence in a senior’s residence but the manager did not do anything about it. In another instance, a woman was evicted from her apartment because of the damage done by her ex-partner, which she believed he did in retaliation for her leaving him.

In the area of employment, one woman spoke about her worries about being hurt at work by an abusive partner and not being allowed to take sufficient time off work to heal from the violence. Some support workers working with women fleeing violence, said that women experiencing violence were ineligible for legal aid to gain access to property rights and to cover the costs of the division of assets. Women also expressed concerns for the safety of transient and marginalized women. Violence against women is a fundamental violation of their right to safety, life, liberty and security of the person.

8. Sex/gender

“I was doing the same administrative job but the men got more.”

a) Pay equity

In the surveys, when women were asked whether they had problems getting equal pay for equal work, half answered that they had. This was true for aboriginal and non-aboriginal women indicating that gender is the discriminatory factor. It was reported with clerical/administrative work and in the trades.

Women gave many examples of this such as “I think men are more assertive when being hired; they ask for the wage they want. Whereas, usually women accept what is offered because they cannot choose; children are relying on them.” Women discussed the systemic nature of the discrimination. They discussed how traditional women’s work is not valued by society and that lack of value translates into lower wages for women. They talked about being slotted into lower paying positions while men with the same qualifications are given higher paying positions with more prestige. Women reported this going on for as far back as forty years to as recent as last month.

b) Pregnancy discrimination

A woman reported being fired because she was pregnant and the store owner did not want her serving customers.

c) Sexual harassment

Sexual harassment on the job and by landlords was reported. A woman reported that her 19 year old daughter had experienced sexual harassment. Only one sexual harassment case in the past twenty years was successfully criminally prosecuted. Fifty-two percent of complainants had quit their position before proceeding any further to deal with the harassment by filing a complaint. One participant said there was a need for a clearer definition of harassment in the *Act*. The Commission agrees.

9. Human Rights Education

“Education, education, education. Public awareness – it’s important to get the message out there that it’s an important system for us to use. It’s there for all of us!”

From the basic data at the beginning of this section, it is apparent that women want and need more knowledge about the YHRC and protected personal characteristics (known as “prohibited grounds”). About a quarter of the women had used the services of the Commission. But more than half of the survey respondents reported experiencing discrimination. Women said they chose to ignore the discrimination or handled it by talking to the person. Some put in a complaint to the person in charge. Whether these women were actually successful in stopping the discrimination is unknown.

These results point to a need for more research and more human rights education for women. Knowledge and familiarity with human rights protections enables women to recognize discrimination and to do something about it. Women said that more basic information on the services of the YHRC to the public, employers, agencies, governments and policy makers is needed.

Women thought that education for people experiencing discrimination is very important. They want information on how the *Act* applies to First Nation people, about the *Act* in general, more awareness of human rights, and human rights education in the schools, so that no-one leaves school without learning about their human rights and responsibilities. They would like more information about employment equity and affirmative action as well as resources outlining the human rights complaint process. They would like educational programs for young women on sexual harassment. Women expressed the need to develop overall awareness of human rights and more respect for human rights in the community. They commented that in order to adequately provide educational services, the Commission needs adequate and secure funding.

10. Barriers to Accessing Services

“No strength to go through the process while injured.”

Women were asked what barriers might get in the way of using the services of the YHRC. The top five were: (1) worries about retaliation, (2) worries about privacy and confidentiality in a small town, (3) lack of knowledge about the YHRC, (4) the length of time a complaint takes to be resolved and (5) complaints falling outside of the jurisdiction of Yukon *Human Rights Act*. Lack of knowledge included both advocates and clients. It encompassed lack of knowledge about the process, about the Commission and about the prohibited grounds for discrimination. Women discussed the emotional costs of making a complaint and one viewed the process as “scary”. Lack of information about human rights is a barrier. One cannot complain about something one does not know is illegal.

The lack of bilingual staff can be a barrier for Francophone women even though the Commission provides a translator, when needed or requested. However, when women are venturing outside their comfort zone, waiting for a translator for initial contact and subsequent translation can be intimidating.

Accessibility for people in wheelchairs was a problem in the past, but seems to be resolved with the recent Commission office move.

The lack of an advocate or support person is seen as a barrier, as is being incarcerated. Women reported that people in First Nation communities don't know where to go and feel there is nowhere to go for help if they feel they have been treated unfairly. Some unfair treatment like “general” harassment, where there is no prohibited ground such as sex or disability identified or given as the reason for the harassment, falls outside the authority of the *Act*. Women stated they would like help to bring forward complaints to the CHRC, when a matter is within federal jurisdiction and the Yukon Commission cannot deal with it.

Women experiencing violence said they were sometimes too overwhelmed by their personal issues and situations to tackle a human rights complaint. Where the issues were employment related, single women with children said they were more worried about immediate concerns like paying the rent and feeding their children than dealing with a human rights complaint.

11. Satisfaction with YHRC Services

“I had a positive outcome as a result of the human rights claim I filed with the YHRC.”

“I felt discouraged when I phoned the YHRC and felt I was not listened to.”

Out of a total of 130 survey responses, 25 said they had used the services of the Yukon Human Rights Commission. The majority of responses said that the services were “quite helpful” (9) or “very helpful” (8). Positive comments included that educational activities were especially helpful and awareness brings down barriers to the service. A positive outcome to a claim was a positive experience. Women commented that Whitehorse people seem to be aware of the Commission but more awareness is needed in rural communities.

The second quote above illustrates that not all women are satisfied with the services of the YHRC. One woman related that the emotional costs of a complaint were very high and not worth it in the end and felt she had been misled and ill-advised by the Commission. Another was not comfortable with turnovers in staffing that caused delays. A woman commented that unsubstantiated cases are a waste of time and resources.

VI. FINDINGS – FEMALE YOUTH SURVEY

Sixty-four female students were surveyed at Whitehorse and Watson Lake schools. They ranged in age from 14 to 20 years with the majority of respondents being 15 years old. The majority knew “a little bit” about the YHRC. Sixty-one percent said they had not experienced discrimination. Thirty-nine percent said they had experienced discrimination. Those who said they experienced discrimination had more knowledge of the Commission than those who said they did not experience discrimination. That may be because with more knowledge teenagers are better able to recognize discrimination. The majority of the discrimination reported happened most frequently at school but also at work.

Ninety-five percent had never used the services of the YHRC. Those who did were satisfied. The vast majority alleging discrimination dealt with it by ignoring it. Some talked with a teacher or guardian. (See appendix B.)

VII. INNOVATIONS & BEST PRACTICES IN HUMAN RIGHTS LEGISLATION

This research project also considered recent innovations and practices in human rights legislation affecting women and girls in Canada, as well as relevant international work on the human rights of girls and women.

A. Canada

1. British Columbia

The provinces of British Columbia and Ontario have recently moved to a direct access model of human rights provision.

In 2003, British Columbia eliminated the BC Human Rights Commission and complaints are now taken directly to the Human Rights Tribunal, which conducts hearings. The Tribunal processes the complaint, deciding whether it is within its jurisdiction. When resolution cannot be reached through settlement meetings or pre-hearing conferences, the complaint proceeds to a full hearing before the Tribunal. There is no investigation of a complaint before hearing, as there is in the Yukon system, currently. Prior to the 2003 changes in British Columbia, the B.C. Commission investigated complaints but did not “prosecute them” at Tribunal, although the Commission could participate at hearing as an intervenor in certain cases and could bring forward systemic discrimination cases in the public interest. In addition, the B.C. Commission did not provide legal assistance to complainants at hearing, whereas in the Yukon system, the Commission is a party at hearing and the Commission’s lawyer presents the case.

In a presentation to CASHRA [Canadian Association of Human Rights Agencies] at the June 2007 national conference, the Chair of the B.C. Tribunal, Heather MacNaughton, presented the following information on the Tribunal’s work (accessed from the CASHRA conference website/PowerPoint presentation).

a) As part of its screening function the Tribunal has the following grounds for dismissal:

- not within Tribunal’s jurisdiction
- acts or omissions do not contravene Code
- no reasonable prospect of success
- proceeding would not benefit the person, group or class or further the purposes of the Code
- filed for improper motives/made in bad faith
- appropriately dealt with in another proceeding
- complaint out of time (unless accepted late by Tribunal)

- complainant fails to diligently pursue complaint
- b) Lessons Learned – benefits of direct access
- faster, elimination of investigation speeds process
 - complainants control the process
 - Commission screening decisions formerly made privately, between parties now accessible and transparent
 - some cases that go to hearing would not have under [former B.C.] commission system
- c) What is essential to make it work?
- legal assistance necessary for complainants preferably before complaint filed
 - some complainants and respondents appear unrepresented –clear, accessible materials [needed] apart from rules
 - avoid unnecessary rule making - keep process flexible
 - parties want member mediator – evaluative assistance
 - disclosure must take the place of investigation, powers needed including power to order disclosure from strangers to dispute
 - mediate early and often
 - efficiency, flexibility and speed
 - annual reporting
- d) Lessons Learned: what to watch for
- some complainants disappear – positive obligation to keep in touch, power to close
 - vexatious litigant [dismissal] power –“frequent filers”
 - knowing what documents exist/seeking disclosure difficult
 - cost and delay associated with self-representation
 - despite efforts to achieve mediated resolution early, many cases settle eve of hearing
 - tribunal’s scheduling ability tied to legal clinic’s availability
 - tribunals in Commission system live in rarified environment –issues “refined”; current adjudication more rough and ready
 - judicial review of Tribunal decisions forcing more judicialized approach -- constant battle between practicality, efficiency and reviewing courts
- e) What to watch for
- risk that delay will creep in to new system
 - some cases heard - unrealistic expectations about outcome or unreasonable approaches
 - some cases go to hearing that would not have under Commission system
 - significant increase in number of complaints against government
 - significant human rights issues settle confidentially, more resources absorbed dealing with less significant public interest issues
 - public access to process vs. privacy concerns
 - skill set and training of members of tribunal essential –careful recruiting [merit-based process for adjudicators]

Also as part of the new B.C. system, the B.C. Human Rights Coalition operates a legal assistance clinic that offers a variety of services to complainants and the public. It also provides some education, advocacy and law reform research as opposed to taking a more direct role in investigations and hearing before the tribunal, but some have argued that the extent of education activities have decreased in the new system. (See "Route 64 – Another Detour on the Road to Equality: an Examination of the Current Human Rights System in British Columbia" by the International and Human Rights Law Association of the University of Victoria, 2006.)

Changes to the structure of B.C.'s human rights provisions were instituted to address criticisms of the system. These included the "gate keeping" role of the Commission, the backlog of cases, the length of time it took for a case to reach resolution, and the cost of the Commission. However, these reforms have also been criticized: for example, the BC Human Rights Coalition is not an independent institution because it is funded by the Ministry of the Attorney General and therefore there is no longer an independent agency to carry out public human rights education or research and consult with the public on human rights issues.

2. Ontario

Ontario will change their human rights system to a direct access system in June 2008. However the Commission will not be abolished but will assume a different role. Under the new model, the Ontario Human Rights Commission will no longer process, investigate, and resolve all human rights complaints. It will retain the power to be involved in the activities of the Tribunal, including the ability to present complaints to the Tribunal in the public interest. It may also participate in complaints and intervene in Tribunal hearings, with permission of the complainant and according to the rules of the Tribunal. The role of the Commission will be reoriented towards eliminating systemic discrimination and promoting compliance with human rights related legislation.

The Human Rights Tribunal of Ontario will receive complaints directly, with new rules of practice and procedure which may include alternatives to traditional adversarial or adjudicative procedures. As part of the new system, a Legal Support Centre will be created for complainants to provide information, support, advice and legal representation. As in B.C., it will be funded by the Ministry of the Attorney General. The time period for filing a complaint has been extended from six months to a year. Complaints may be filed by a third party with the permission of the individual complainant.

There has been substantial criticism of the direct access model in Ontario. A major concern is that the legislation represents the privatization of human rights enforcement mechanisms by forcing complainant to conduct their own investigations or hire someone to do this for them. There is concern that the Legal Support Centre will not be adequately funded to assist all those needing these services. Consequently, the Centre will become another "gatekeeper", as will the Tribunal, creating more obstacles to equality than the old system. Concerns have also been raised that although the Commission has been granted the ability to initiate public interest cases, it may not be adequately funded to do so and the Tribunal may deny the request to intervene in other cases. The results of the changes in Ontario will not be known for several years.

3. Saskatchewan

Saskatchewan has implemented several innovations in the past ten years. The Saskatchewan Human Rights Commission has explored alternative dispute resolution methods, culturally appropriate for Aboriginal persons. The Commission experimented with talking circles which bring together a circle of people under the guidance of an elder to share information on a human rights problem, and to find a resolution. The circle addresses psychological issues, as well as procedural and structure issues, in order to restore balance and harmony in the community or workplace. Since 1998, the Commission has convened five talking circles, each under the guidance of an elder, to resolve a human rights dispute. This is a best practice which has enabled the Commission to provide culturally appropriate dispute resolution for aboriginal people.

In 2007, The Saskatchewan Human Rights Commission launched a new Equity Program in two cities, an innovation in delivering education and training. The role of the Commission, through its new equity program, is to provide organizations (equity partners) with the assistance "to overcome the systemic disadvantages experienced by certain groups in order to provide them with genuine equality of opportunity in education and employment." (SHRC, *Annual Report 2006-07*, p. 18)

The new Equity Program provides a simple process, making it easier for equity partners to obtain Commission approval and services. It "streamlines procedures, opens up approvals to a wide range of initiatives, and shifts its focus from regulation and monitoring to capacity building and partnerships.... Organizations can use equity programs by themselves or blend them with other strategies to promote equality, diversity and mutual respect." (Ibid.) Since this is a new program, future evaluations will reveal whether this program increases substantive equality and decreases discrimination within the workplace.

4. Nova Scotia

In September, 2007, the Nova Scotia Human Rights Commission released their report "A Framework and Action Plan for the Investigation and Resolution of Human Rights Complaints from Mi'kmaq and Other Aboriginal People in Nova Scotia". This report builds on the model used in Saskatchewan for talking circles and expands it to cover the investigation procedure.

The Report recommends hiring two Aboriginal staff as human rights officers, with one being fluent in the Mi'kmaq language. To increase visibility for Aboriginal people, Commission offices should be on reserve or in close proximity. Human rights cases should be investigated by qualified Aboriginal staff. To achieve substantive equality and protect collective rights, the Report recommends that people appointed to their Boards of Inquiry, which hear discrimination cases, have an understanding of socio-economic disadvantage, equity, cultural difference and community perspectives.

Prevention is also emphasized. The Report recommends that half the resources be spent on educational activities to prevent discrimination in Aboriginal communities and the province at large. It also recommends that healing circles be added to the Commission's initiatives as an option for settling complaints. Clarification of jurisdictional issues between the Canadian Human Rights Commission and the Nova Scotia Human Rights Commission for Aboriginal claimants is seen as a necessary. Collaboration with the Canadian Human Rights Commission in preventative and educational programming as well as an Aboriginal approach to complaints under either jurisdiction is recommended.

The Commission has committed to implement all of the Report's proposed action plan, including working with the Canadian Human Rights Commission and the "Made in Nova Scotia Process", to ensure jurisdictional issues are clear.

5. Quebec

In 1998, France enacted a law against psychological harassment in the workplace in response to public debate over the issue. In Canada, Quebec pioneered legislation against this type of harassment for employees. The "Act Respecting Labour Standards" goes "significantly above and beyond any existing legislations enacted at the federal, provincial, or territorial to address the issue of workplace harassment" (YHRC, internal document). The Quebec Labour Standards Branch details a broad range of activities which are forbidden including making rude, derogatory remarks, intimidating gestures, discrediting, belittling, isolating and destabilizing the person, and preventing someone from expressing him/herself.

Quebec is the only jurisdiction with specific legislation for psychological harassment, sometimes referred to as “general harassment”, not tied to a prohibited ground.

6. Limitation periods in Canadian human rights law

Vulnerable, marginalized and traumatized individuals are often unable to act within a short time frame to file complaints to a human rights commission. This was apparent in the results of the survey undertaken by the YHRC. Best practice indicates a time frame longer than six months may be necessary to provide substantive equality under the Act.

As of June, 2008, Northwest Territories, Nunavut, and Saskatchewan allow complaints to be registered up to two years after the alleged incident. Canada, Alberta, New Brunswick, and PEI allow complaints to be registered up to a year later. Yukon is not the only jurisdiction with a six month time limit (Manitoba has this time limit); however, some other jurisdictions have the power to extend the time limit in certain circumstances. Interestingly, our Northern neighboring territories grant complainants a two year time frame. Given the similarities in socio-economic conditions, large Aboriginal populations, as well as remote rural communities, a longer time frame appears to be a best practice for Northern territories.

B. International

1. The United Nations Universal Declaration of Human Rights

The United Nations *Universal Declaration of Human Rights* (UDHR) was ratified by member states in 1948 in response to the atrocities committed during both World Wars. Every member state must abide by this and the two covenants on economic, social, cultural, civil and political rights. The three documents form what has been called an International Bill of Rights. Canada is a signatory to all three documents. The UDHR is the document from which most other rights derive and which protect human rights by the rule of law. It states:

“Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”
(UDHR)

The UDHR lists thirty articles which outline human rights and responsibilities. The UDHR is the high water mark for human rights and domestic laws/ charters/codes should meet the standards contained in the Articles.

(See appendix C.)

2. The Convention on the Elimination of All Forms of Discrimination Against Women and Girls (CEDAW)

International Conventions enlarge on the framework of the International Bill of Rights. CEDAW was adopted by the General Assembly of the United Nations in 1979. This signaled the acceptance by the international community of the necessity of an international bill of rights for women, and an accompanying agenda for action that would guarantee women's enjoyment of these rights. Canada ratified CEDAW in 1981.

CEDAW is one of seven United Nations human rights treaties. It provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life, as well as education, reproductive health, employment, family law, child care, and social security. Countries who sign the Convention agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all of their human rights and fundamental freedoms. As part of signing the agreement, Canada must regularly report to the United Nations on its progress in fully implementing CEDAW.

In January 2003, the UN Committee which reviewed Canada's compliance to CEDAW noted that the federal government must take urgent action to remedy the profoundly unequal status of Aboriginal and First Nations women, the systemic discrimination confronted by immigrant and refugee women, scarce resources for legal aid for family and civil law, women's increasing poverty, and the downloading of care-giving onto women due to cuts in social programs. These recommendations apply to all provinces and territories.

This Convention created a high standard and is a best practice for human rights legislation to protect the rights of women and girls. Provincial and territorial human rights codes should reflect the protections offered by CEDAW.

(See appendix D.)

3. The Paris Principles

In 1991, the Center for Human Rights convened an international workshop to review and update information on existing national human rights institutions. Participants included representatives of national institutions, States, the United Nations, its specialized agencies, intergovernmental and non-governmental organizations.

In addition to exchanging views on existing arrangements, the workshop participants drew up a comprehensive series of recommendations on the role, composition, status and functions of national human rights instruments. These recommendations were endorsed by the United Nations Commission on Human Rights in 1992 and by the General Assembly in 1993. The principles relating to the Status of national institutions, known as the Paris Principles, outline the competence and responsibilities, composition and guarantees of independence and pluralism, and methods of operation for human rights commissions. (See appendix E.)

Key recommendations with respect to awareness of human rights are as follows:

The realization of human rights cannot be achieved solely through legislation and administrative arrangements. In recognition of this fact, commissions are often entrusted with the important responsibility of improving community awareness of human rights. Promoting and educating about human rights may involve informing the public about the commission's own functions and purposes; provoking discussion about various important questions in the field of human rights; organizing seminars; holding counseling services and meetings; as well as producing and disseminating human rights publications.

The current *Act* does provide an education role for the Yukon Human Rights Commission, but this could be strengthened with additional resources. Currently the Commission has a Public Education Specialist who works .6 time.

Another key recommendation is that Commissions should have a monitoring role with respect to government compliance with its own and international human rights treaties and conventions as follows:

Another important function of a human rights commission is systematically to review the government's human rights policy in order to detect shortcomings in human rights observance and to suggest ways of improving it. Human rights commissions may also monitor the State's compliance with its own and with international human rights laws and if

necessary, recommend changes. The ability of a commission to initiate enquiries on its own behalf is an important measure of its overall strength and probable effectiveness. This is particularly true in regard to situations which involve persons or groups who do not have the financial or social resources to lodge individual complaints.

Currently the Yukon's *Human Rights Act* mentions the *Charter*, the *Universal Declaration of Human Rights* and other international human rights conventions and instruments ("undertakings") in the preamble and objects of the *Act*, but does not give the Commission any power to monitor compliance with these human rights laws and standards.

4. Convention of Belem do Para

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, known as the Convention of Belem do Para, was signed and ratified by the Organization of American States in 1994. It is the only international treaty specifically addressing violence against women. Canada did not sign this convention even though Canada helped develop the language of the convention and indicated during negotiations that Canada intended to ratify.

The convention states in clear, unequivocal language that violence against women constitutes a violation of their human rights and fundamental freedoms. "The elimination of violence against women is essential for their individual and social development and their full and equal participation in all walks of life." (OAS, 1994) The signatories agreed to pursue policies to prevent, punish and eradicate all forms of violence against women. In 2006, the OAS passed a resolution, the "Mechanism to Follow up on Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women". The OAS resolved to evaluate progress and trends toward fulfilling the objectives of the Convention and further cooperation between member states. The Convention remains an important human rights tool for the OAS.

Belem do Para clearly asserts the rights of women in the private and public domains as well as their individual and collective rights. It consists of twenty-five articles which clearly define violence against women, rights protected, duties of the state and general provisions such as the primacy of domestic laws which offer greater or equal protections, guarantees and safeguards to the prevention and eradication of violence against women. Belem do Para clearly promotes women's substantive equality under the law. (See appendix F.)

VIII. RECOMMENDATIONS

RECOMMENDATIONS FROM FOCUS GROUPS, INTERVIEWS AND SURVEYS

Recommendations from the surveys, interviews and focus groups have been broken down into the following themes/issues, including quotations from participants:

1. education
2. outreach
3. the human rights process
4. First Nation issues
5. legal/legislative reforms

1. Education

“Establish an information branch as a method of preventing human rights issues.”

More education on human rights was the most consistent recommendation made. Women repeatedly recommended there be better public awareness of the Commission and its services in general. Different formats from brochures and posters outlining the complaint process step-by-step, to workshops and information sessions, to curriculum for use in school and college, to advertising and a “values and principles campaign” were suggested. Target groups included the general public, industry and employers, employees, and youth, people with disabilities, and students.

Specific issues to be included are the issue of the YHRC’s jurisdiction with respect to self-governing First Nations, hiring people with disabilities, (employment equity and accommodation), emphasizing the confidentiality of the service, options for assistance women can use if their complaint does not fit within the prohibited grounds (referrals), information on how the *Act* can help fill the gap for those without unions or a government process to deal with discrimination, human rights protection for aboriginal women, and what the prohibited grounds cover in the *Act*.

As both surveys indicate, the more informed and knowledgeable women are about their human rights, the more they can recognize when those rights are being abused and get help to change the situation in a positive way.

2. Outreach

“Continue to meet with community groups to gain trust and understanding about how you can be of assistance.”

Women encouraged the YHRC to get out into the community and provide more outreach to community groups. This would increase the Commission's visibility within different community groups. Women had practical suggestions for achieving greater visibility such as linking to other groups' websites, listing the Commission in community resource guides, integrating with suitable programs, and collaboration with community groups and agencies. Community consultations and events involving women from all parts of the community were suggested.

There were strong recommendations for travel to rural communities. Outreach to employers was repeatedly recommended. Women recommended community events such as Canada Day and Aboriginal Day as venues for community outreach. As with the recommendations regarding education, community outreach would help break down barriers to use of the commission's services and create a positive image for the Commission.

3. The Human Rights Process

"An advocate on staff would be helpful for women to put forward a complaint."

Women had many suggestions for improvements to the human rights complaint process. A recommendation by some was the need for a support person or advocate to assist women with the complaint process and provide explanations and information as the process progressed. This would break down the barriers of fear, lack of knowledge and feelings of vulnerability. It would also make the commission more accessible to people with mental and intellectual disabilities. A support person could also help local women who need to use the federal CHRC, encouraging more women to make use of this opportunity for redress. Allowing friends and advocates to accompany complainants also was seen as helpful. In addition, having aboriginal support staff would assist in making the process "First Nation friendly".

Women recommended there be a longer time frame than six months for filing complaints: "it sometimes takes over 6 months for the individual to get up the nerve or support to deal with the issue." Women traumatized by abuse or harassment find it difficult to proceed with a complaint within the six month time frame as outlined earlier. Some women recommended there be more focus on helping women wrongfully dismissed from their jobs or suffering from harassment. If this falls outside the mandate of the YHRC, they wanted staff knowledgeable about available resources and refer women to them. Less paperwork and less time for settlement were suggested. Stronger enforcement was recommended as well as training for adjudicators (members of the Board of Adjudication who hear complaints that have been investigated and referred to them by the Commission).

Such changes would need to be supported with adequate funding and resources to achieve success in breaking down some of the barriers detailed above and in creating a more supportive and accessible process for women.

4. First Nation issues

“The Commission needs to address the gap regarding self-governing First Nations.”

Women discussed many situations they believed were unfair in First Nation communities. These related to freedom of speech, freedom of information, fair voting practices, all noted as backdrops for discrimination. Some women recommended that self-governing First Nations without adequate structures to deal with human rights complaints should delegate responsibility for dealing with these matters to the Commission. Women urged the Commission to assist employees who are dismissed by First Nations governments since they believe that not many First Nations have enacted legislation to deal with the problem. Outreach to aboriginal people and consultations with First Nation governments would be a starting point for exploring such recommendations.

5. Legal/legislative reforms

“You need more criteria besides race, sex and family.”

Women would like to see more protected areas and prohibited grounds included in the Yukon *Human Rights Act*. Women would like to see gender-based violence/violence against women, as well as “social condition”, included in the prohibited grounds. They want the right to access to adequate housing and protection against hatred also included in the *Act*. They also say that harassment needs to be clearly defined in the *Act* so that people are clear about what is acceptable and what is not. They say the *Universal Declaration of Human Rights* and the *Canadian Charter of Rights and Freedoms* should be better integrated into the Yukon *Human Rights Act*.

Women recommended amending Yukon and Canadian human rights legislation in order to better protect the human rights of aboriginal people. They also suggested that employers and organizations report annually to the YHRC with respect to wage discrimination (pay equity).

IX. YHRC ACTION PLAN

A. RECOMMENDATIONS FOR LAW REFORM

Law reform can change social and cultural norms that contribute to discrimination against women. One lens to view law reform through is that of substantive equality. "Achieving substantive equality requires that the effects of laws, policies, and practices, be examined to determine whether they are discriminatory." (CERA, 2006) In examining the effects of the current Yukon *Human Rights Act* in this manner, a number of recommendations for reforms and amendments can be made.

Law reform can also draw on the principles of and protections in human rights international law and covenants. "A primary obligation under international human rights treaties is to provide for effective domestic remedies, including through human rights legislation." (CERA:2007) International covenants and treaties detailed earlier in this report can provide a strong framework and reference for changes to legislation.

Law reform can incorporate the UN CEDAW Review Committee's recommendations to remedy the unequal status of Aboriginal and First Nation women and decrease women's poverty. Human rights legislation can do this through addressing issues that contribute to women's poverty and equality like gender violence, psychological harassment, lack of knowledge about rights and protected grounds, the need for a longer time frame for complaints that takes into account delays in reporting discrimination caused by the profound effects discrimination has on women, and changes to prohibited grounds that provide more definition and clarity to the *Act*. Legislative changes can remove barriers to women's equality and employment, contributing to the achievement of substantive equality for women.

The following recommendations for law reform are based on the findings of the surveys, focus groups, and interviews.

1. Prohibited Grounds

In section 7 of the current *Act*, the "prohibited grounds" are identified as follows:

It is discrimination to treat any individual or group unfavourably on any of the following grounds

- (a) ancestry, including colour and race;
- (b) national origin;
- (c) ethnic or linguistic background or origin;

- (d) religion or creed, or religious belief, religious association, or religious activity;
- (e) age;
- (f) sex, including pregnancy, and pregnancy related conditions;
- (g) sexual orientation;
- (h) physical or mental disability;
- (i) criminal charges or criminal record;
- (j) political belief, political association, or political activity;
- (k) marital or family status;
- (l) source of income;
- (m) actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed in paragraphs (a) to (l). *S.Y. 1998, c.11, s.1 and 2; R.S., Supp., c.11, s.6.*

a) Gender-based violence

Surveys and focus groups demonstrated gaps in service to women who experience violence. Canadian rates of spousal violence are higher in the territories than in the provinces, 12% compared to 7% (Statistics Canada, 2006). Rates of spousal violence are greater for Aboriginal women, as are the severity and impacts of the violence (Statistics Canada, 2006). Adding strong language and amending the *Act* to include gender-based violence would set out the legal rights and responsibilities within the law itself, to provide certainty and a broader educational scope.

To amend the *Act* to include violence against women would provide a strong message to members of the community of zero tolerance for violence against women. It would provide legal support to women who are victims of violence by providing a remedy for discrimination against victims of violence and it would give advocates another avenue to assist their clients. Women spoke of being evicted from their apartments as a result of their partner's violence against them in focus groups and surveys. They also related incidents where they were forced to quit jobs due to their employer refusing them time off to recover from a beating. Amendments to the *Act* would provide protection for women in these and similar situations.

The Convention of Belem do Para is a best practice in this regard and provides a strong model for legislative reform. One of the key messages is that violence must be prohibited in both private and public spheres. It clearly lays out the definition and scope of application, rights protected and the duties of the state.

The YHRC recommended that violence against women be included in the *Act* in 1998. The proposal recommended amending section 7 (f) of the *Act*, which refers to the prohibited ground of sex, to include violence against women. Given the number of complaints in the Commission's database based on sex

discrimination and the evidence presented in the data, including gender-based violence in the Yukon *Human Rights Act* would provide additional protections to women and uphold obligations under CEDAW. Some consideration should also be given to extending this protection to the sexual orientation ground, covered in 7(g), as violence against gays and lesbians has been reported in the territory.

b) Social Condition

Also, research participants called for amending the “source of income” prohibited ground to cover “social condition”, which would provide broader protection for those who are homeless, and/or unemployed and who have no source of income.

2. Protected Areas, Definitions, and Limitation Period

a) Section 15 – Pay Equity

The data demonstrates that discrimination in employment is the major area of concern for women complainants. The findings of the survey indicate that women report discrimination in all workplaces, private and public, in traditional women’s work and in non-traditional work and that pay equity is still an issue. Discrimination in employment contributes to women’s poverty and inequality. Consequently, the current section 15(1) protection for “equal pay for work of equal value” should be amended to apply to all employers in the Yukon, not just the Yukon Government, municipalities and their corporations, boards and commissions, as it currently does.

b) Protection Against Hatred

There was some discussion in focus groups about the need for the protection against the promotion of hatred by publication in the *Act*, (although not expressed in exactly this language). The *Canadian Human Rights Act* has a section specifically prohibiting hate literature or hateful communications (protecting against promotion of hatred on the internet).

The YHRC recommended including protection against the promotion of hatred in the Yukon *Human Rights Act* in 1998. The Commission recommended amending section 7 to include as follows:

7(2) It is discrimination to publish, issue or display or cause to be published, issued or displayed, any statement, publication, notice, sign, symbol, emblem or other representation that:

- (a) is likely to expose an individual or group to hatred or contempt, or
- (b) is likely to disadvantage an individual or group by degrading, demeaning, dehumanizing, excluding or by unfavorably stereotyping or stigmatizing the individual or group in a way that is likely to harm the social image or reputation or the dignity or self-respect of the individual or group by

reference to a prohibited ground of discrimination in subsection 7(1) of the *Act*.

Bringing protection against hatred into Yukon human rights legislation would create stronger protections for Yukon citizens and create protection comparable to that in other jurisdictions. Most other Canadian human rights law explicitly prohibits discriminatory publications.

c) Definitions

Duty to provide for special needs, Section 8(1)

The data reveals that disability, both mental and physical, is a prohibited ground on which a high number of claims and inquiries are based, increasingly so in the past few years. Current human rights language in other jurisdictions and Canadian case law refers to the “duty to accommodate” rather than “duty to provide for special needs”, out-of-date language used in this section of the *Act*. In addition, this section only refers to physical disabilities, not mental disabilities – it should encompass all the prohibited grounds in keeping with the developments in Canadian human rights jurisprudence, particularly from the Supreme Court of Canada. Clear language is required to update the *Act* and outline explicitly rights and responsibilities. It would also achieve a broader educational purpose.

Systemic Discrimination, Section 12

The historic data does not reveal many references to systemic issues or claims. Many of the issues raised by women in the surveys and focus groups could be considered systemic in nature, such as those related to gender-based violence, and lack of accessibility for those with disabilities. However, this section of the *Act* is not in keeping with more recent human rights case law and is very ambiguously worded and unclear making it difficult to use. This is probably one of the reasons for the lack of historical data on systemic discrimination in the database.

Canadian human rights commissions have a mandate to eliminate systemic discrimination. The international treaties to which Canada is a party address systemic forms of discrimination as well. The CEDAW review indicates that Canada has not complied with its obligations in reference to systemic forms of discrimination against women. In order for the YHRC to address this gap and use this section of the *Act* effectively, systemic discrimination needs to be clearly defined in order to achieve substantive equality. Clear, specific legislative language would improve women’s human rights.

Harassment, Section 14

Evidence presented in the data reveals that women want a better and broader definition of harassment to include psychological harassment, sometimes

referred to as “general harassment”. Quebec has set a Canadian precedent by passing legislation against this type of harassment. More research needs to be done in this regard and is outside the scope of this Report.

Women said the current definition does not make clear what behaviour is unacceptable and could be improved.

d) Limitation period for filing complaints

Study findings showed that to make the YHRC more accessible to traumatized and vulnerable women, the time frame for complaints needs to be extended. A one to two year time frame with the provision that the Commission has the flexibility to extend this time period when appropriate would make the process more accessible to more women. As noted earlier, the two Northern territories allow complaints to be registered up to two years after the alleged incident of discrimination. Section 20(2) of the *Act* should be amended so that complaints can be filed for up to two years, rather than the current six months.

B. JURISDICTIONAL ISSUES REGARDING ABORIGINAL WOMEN –

Aboriginal women made up 16% of historical claims and 17% of inquiries from the last three years. Aboriginal people make up 23% of the Yukon population (2001 Census). Claims made by Aboriginal women seem to be proportional given that the previous figure is for men and women. Also women living in non-self-governing nations [those First Nations which are still “bands” under the *Indian Act*] are referred to the Canadian Human Rights Commission, if the complaints are against their governments.

Two focus groups were conducted with Aboriginal women. The research data outlined several gaps in protection for First Nation women. First Nation women reported that they experienced discrimination and harassment in First Nation workplaces and in areas such as housing and job allocation with no means of redress within First Nation governments. They said that people in First Nation communities have nowhere to go if they believe they have been treated unfairly, also reporting that self-governing First Nations have no human rights protection mechanisms. Members of non-self governing First Nations must contact the CHRC to file complaints against their bands; and the problem of section 67 in the *Canadian Human Rights Act* then arises (see page 19 of this Report). CHRC has no office in the Yukon. Some women expressed dissatisfaction with the CHRC and stated that they would like help in accessing the services. One participant suggested that YHRC could address these gaps by entering into discussions with self-governing First Nations about providing human rights services and protections under the Yukon *Human Rights Act*. She also suggested that YHRC could provide support to women making claims to the CHRC.

Does the YHRC have the ability (perhaps with delegation of such a power) to provide human rights services for self-governing First Nations? This is an unsettled question and is beyond the scope of this project and would require further research and consultation with First Nation governments and collaboration with Aboriginal women's organizations.

C. ACTION REGARDING THE HUMAN RIGHTS PROCESS

1. Education and awareness

The *Universal Declaration of Human Rights* includes the right to education about human rights. The findings of this study strongly indicate that more education and information about human rights and the YHRC are necessary. It was a recurring recommendation running through all the themes. Information and knowledge of the Commission would help break down barriers. In the words of one woman referring to the YHRC, "I do not see any barriers now that I am aware." More access to the YHRC and human rights protections would be created through awareness.

Targets for educational programs:

- Public awareness and education through workshops, the media and collaboration with other equality seeking groups and organizations.
- Given the high number of employment-related claims, employers in all sectors including private industry/business, and employees, especially those entering or re-entering the workforce. Consideration could be given to the Saskatchewan model of equity programming with the business community with a view to adapting it for the Yukon. Encourage large employers to take responsibility for and ownership of education of managers and employees on human rights and responsibilities.
- The research findings revealed a high number of disability claims and concerns. The YHRC could partner with disability advocacy groups to educate employers, women with disabilities, people working with women with disabilities such as parents/guardians, advocates and helpers on their rights and the duty to accommodate emphasizing their abilities.
- Develop curriculum with the Department of Education and Yukon College for use in Yukon schools and in Yukon College programs.
- Workshops designed to reach women throughout the community.

2. Outreach

Women in the rural communities had less awareness of the YHRC and their human rights. They requested the Commission travel to the communities for workshops. Targets for workshops and educational activities are outlined above as well as public education. First Nation women could be reached in their own communities and interested women and women's organizations trained to deliver

educational activities. This process would be made easier if appropriate educational resources were created as outlined above.

To reach all women, the YHRC needs to reach out to women in non-traditional ways and in places where marginalized and vulnerable women gather such as the Salvation Army, CAIRS and the Women's Transition Home.

3. Support and referral

Participants recommended that support during the human rights complaint process would help make the process more accessible for complainants. Aboriginal women recommended support for women making claims to the CHRC. Support could be information about the CHRC complaint process, help with accessing the CHRC, as well as assistance during the process.

Women indicated in the research findings that they would like referrals to appropriate resources/organizations when it is determined that their concerns do not fit within the Yukon *Human Rights Act*. Although YHRC does provide referrals and resource material about agencies and organizations that might be helpful to women; partnering with community agencies/groups, and providing training and resources to them would extend YHRC's information reach.

Barriers cited by Aboriginal women participants in this study were similar to those outlined in the Nova Scotia report *Plan for the Investigation and Resolution of Aboriginal Complaints*. Women lack information about the Commission and the human rights process. They are concerned about privacy and confidentiality, retaliation, the length of time to solve a case and are uncomfortable with the process. The Nova Scotia report made recommendations which could be useful for the YHRC to break down barriers such as hiring an Aboriginal staff person, taking steps to increase visibility in First Nation communities and preparing culturally appropriate resources and workshops.

The Nova Scotia report also recommended collaborating with the CHRC to develop an easy to understand manual that clarifies the current state of knowledge and practice regarding jurisdictional issues. Collaboration with the CHRC in developing educational programming was suggested. These resources would also be helpful for the YHRC, as would more collaboration. (This fall the Commission and the CHRC's Regional Director from the Vancouver office met in Whitehorse and by telephone with officials from several First Nations to discuss concerns about jurisdiction over human rights and also collaborated on delivering education workshops in Whitehorse on the duty to accommodate. More could be done.)

The concerns raised by the CEDAW Review Committee about the unequal status of Aboriginal women and the desire of research participants for culturally

appropriate processes could be addressed through a pilot program, perhaps using/adapting the healing circle model from in Saskatchewan (also recommended for use in Nova Scotia). If this model could be adapted in keeping with Yukon First Nation indigenous cultural practices, it could provide another option for dispute resolution and address a barrier voiced by participants. Such initiatives would require respectful and meaningful consultation with First Nation governments, Aboriginal women's organizations and the Council of Yukon First Nations.

X. AREAS FOR FURTHER RESEARCH

As the research project unfolded, it became apparent that the time frame and resources were inadequate to fulfill all the objectives of the project in a comprehensive way. Listed below are areas and topics for further research by the YHRC (resources permitting):

- retaliation – prevention and remedies, e.g., in some other jurisdictions Commission can investigate as part of a complaint; current provisions are not used
- addressing jurisdiction issues and gaps in protection for First Nation women under the current legislative scheme (in the context of both Yukon Indian bands and self-governing First Nations)
- more detailed and comprehensive law reform recommendations
- models for law reform based on citizen engagement, including online, web-based approaches – some Commission research currently underway with youth blog
- culturally relevant and appropriate dispute investigation and resolution mechanisms for First Nation people (e.g., healing circles) that are appropriate for the Yukon.
- the impact of the direct access model on women as a group, (example, statistics on the number of women filing complaints in B.C. before the Commission was abolished and direct access was implemented – currently not available)
- surveys and focus groups with target groups of women who were not adequately represented in the survey sample or focus groups such as women in the sex trade, racialized and immigrant women, women in the criminal justice system (both inmates and service providers), and women who are pregnant
- research on whether the current legal aid eligibility criteria have an adverse impact on women as a group in terms of access to justice as reported by some research participants
- specific provisions to address employment equity through monitoring/audit mechanisms

- amending the definition of sexual orientation to remove current discrimination on the basis of age
- possible protection against “general harassment”, possibly through employment standards law as in Quebec innovations
- consideration of human rights protection for collective rights with respect to the environment, especially as it impacts subsistence lifestyle and cultures of First Nation people in the Yukon, (e.g., Sheila Watt-Cloutier’s human rights work groundbreaking work for Inuit in Nunavut)

XI. CONCLUSION

This research project, which reached 255 women and girls through surveys, focus groups and interviews, has identified the effectiveness of the current Yukon *Human Rights Act* for women and girls and the way that the Commission currently provides services to them.

The analysis and review of past human rights complaints and inquiries in our database has identified gaps in the current *Act*, and identified the nature of the complaints and inquiries. The project also provided a review of Canadian and international legislation and practices of relevance to the Yukon.

This research project was limited in its scope and concentrated on women and girls only. Recommendations for law reform and the human rights process were outlined, as well as an action plan, but further consultation, research and follow-up is necessary to obtain a more comprehensive and Yukon-based approach to human rights for all Yukoners.

XII. FINANCIAL REPORT RE: PROJECT EXPENDITURES

Women's Equality Project - Income Statement to March 31, 2008

Income

Grant - WE Project	18,000.00
Anticipated Holdback [to come]	2,000.00
	<hr/>
	20,000.00

Expenses

Movie Passes for Door Prizes	55.00	Petty Cash
Kim Sova Research Contract	4,000.00	Sova, Kim
Car Rental - Watson Lake - Nov 14-17	280.67	Norcan Rental - Inv. 23096
Catering - Watson Lake Focus Group Nov 14-17	150.00	A Little Taste Of Home - Inv. 214913
Honouraria	50.00	MacDonald, Linda Watson Lake Focus Group Assistance
Gas/Accommodation/Prizes	283.82	Nakamura Maguire, Lillian - reimburse Watson Lake expenses
Facility Rental Watson Lake Focus Group Nov 15	140.00	Town of Watson Lake - Wye Lake Cabin
Catering/Room Rental - Whitehorse Focus Group	393.38	Yukon Inn - Dec 12 2007
Telephone Charges - O'Donovan Follow-up Survey	10.00	Northwestel
Catering - Watson Lake Focus Group Nov 14-17	170.58	Liard Aboriginal Women's Society
Compilation of Student Survey Contract	60.00	O'Donovan, Eleanor - Feb 6 2008
Survey - Aboriginal Women and Students - Contract	210.00	O'Donovan, Eleanor - Feb 6 2008
Catering - Women's Focus Group - Jan 30 2008	35.33	Nakamura Maguire, Lillian - reimburse Jan 30 expenses
Food Francophone Women's Focus Group - Feb 12 2008	121.90	Alpine Bakery - Inv 2186
French Language Translation - Focus Group Feb 12 2008	240.00	Cashaback, Louise Inv 802221
Info Fact Sheets - graphic design and printing costs	134.50	Nakamura Maguire, Lillian Integraphics Inv81151
Food & Gifts - Disabilities and Transition Home Mar 08	267.86	Nakamura Maguire, Lillian reimburse

Inquiry Survey of 3 Fiscal Years incl data input	1,050.00	Pigage, Lynn - March 2008 contract
Long Distance Telephone Calls	46.00	Northwestel
Copy paper - 8 1/2 x 11, 8 1/2 x 14	50.00	Office Supply Centre Ltd.
Partial Copy cartridge - Xerox Document Ctr.	122.67	Xerox Canada Ltd.
Women's Equality Project Report Contract	4,000.00	Hrenchuk, Charlotte - Mar 2008
Honouraria	200.00	Atkinson, Melissa - March 26, 2008 Mtg
Honouraria	200.00	Moorcroft, Lois - March 26, 2008 Mtg
Prize for Completing Survey - March 9	25.00	MacFadgen, Heather - reimburse Bakerei Kaffee Haus
U of Vic Law Student Research Aboriginal Women's Issues	1,000.00	Moore, Miranda - 2007
Co-ordination/Facilitation/Drafting	5,000.00	Nakamura Maguire - total project hours [125]
Consultation/Drafting/Research	1720.00	MacFadgen, Heather - total project hours [21.5]
Total Project Expenses	20,016.71	

Women's Equality Project – Notes to the Income Statement as of March 31, 2008

The Commission originally applied for \$35,000 in funding to carry out research as set out in the original proposal. Upon adjudication of our proposal, the Women's Equality Fund awarded \$20,000 in funding for the project. The Commission's Director was advised that the Commission could scale back the scope of this project because the original proposal was for \$35,000 rather than the \$20,000 provided from the Fund.

The Public Education Specialist spent approximately 125 hours in meetings to coordinate and plan the research, design and facilitate focus groups, distribute surveys and review and revise the final report; the Director spent approximately 21.5 hours reviewing, researching and writing sections of the report: this work was charged to the Project. Both the Public Educator and the Director are part-time positions at the Commission, with commitments under the *Act*, outside of the research involved in this project. Some work on this project was done under contract with Yukon women researchers and writers, including some research assistance from a University of Victoria law student during late July and August, 2007, with expertise in aboriginal women's issues and community engagement. The Commission was unable to hire a

contractor to analyze the inquiry records and so contracted with Lynn Pigage, its Office Administrator and Intake Officer, to do this work. In addition, the Commission also provided in-kind contributions of both the Director's and Public Education Specialist's time for meetings, research and analysis of the information as well as bookkeeping, tracking, reporting and administrative assistance by the Office Administrator. This work was not charged to the project.

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"About the Saskatchewan Human Rights Commission", www.shrc.gov.sk.ca

"Bill 107 will take away rights now entrenched in the code." Mary Woo Sims for Commentary for the Globe and Mail online.

"Discrimination and harassment – Human Rights – Commission des droits de la personne et droits de la jeunesse Québec, www.cdpdj.qc.ca

"Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, Convention of Belen do Para", Organization of American States, www.oas/english

"Learn more about CEDAW", FAFIA/AFAI, www.fafia-afia.org

"Principles relating to the Status of National Institutions (The Paris Principles)," Office of the United Nations High Commissioner for Human Rights, www.ohchr.org/English/law/parisprinciples.htm

"Still a Matter of Rights", Canadian Human Rights Commission, www.chr-ccdp.ca

APPENDIX A

SURVEY ON YUKON HUMAN RIGHTS – WOMEN AND GIRLS

Survey on Yukon Human Rights – Women and Girls

The Yukon Human Rights Commission (YHRC) would like to get your views about human rights in the Yukon.

The Yukon Government will be doing a review of the Yukon *Human Rights Act*. YHRC would like to be prepared with some recommendations for changes based on the views of young and old.

We will use your views to help us to identify areas in need of change in human rights law and in the way that we provide services to Yukoners. We will be preparing a report in the spring of 2008.

Please check off the box that best fits your answer. Add comments if you would like.

1. What is your age ____ or age range? Check one of the following:
 ____ under 18 years ____ 19 to 30 years ____ 31 to 40 years
 ____ 41 to 55 years ____ 56 to 65 years ____ over 65 years

2. What community do you live in? _____

3. Before this presentation, did you know about the Yukon Human Rights Commission and what it does?

<i>1 = Not at all</i>	<i>2 = little bit</i>	<i>3 = some</i>	<i>4 = quite a lot</i>	<i>5 = Know a lot about it</i>

4. Before this presentation, did you know about the personal characteristics (such as age, sex, sexual orientation, ancestry) that are protected by the Yukon *Human Rights Act*?

<i>1 = Not at all</i>	<i>2 = little bit</i>	<i>3 = some</i>	<i>4 = quite a lot</i>	<i>5 = Know a lot about it</i>

5. Have you ever used the services of the Yukon Human Rights Commission?
Yes _____ **No** _____

If you haven't used our services, go to question 6 and continue.

If you have used the services in the past, what kind of services did you get?

- _____ general information about human rights
- _____ information about human rights from a YHRC speaker
- _____ advice about what to do about discrimination
- _____ help in solving a complaint about discrimination
- _____ made a human rights complaint

Other services? _____

When you used the service of YHRC did you contact us:

- ___ by phone
- ___ dropped into the office
- ___ made an appointment with YHRC staff
- ___ talked to YHRC staff at a meeting or presentation
- ___ talked to YHRC commissioner

If you used the Yukon Human Rights Commission services,
how helpful did you find us?

<i>1 = Not helpful</i>	<i>2 = little bit</i>	<i>3 = somewhat helpful</i>	<i>4 = quite helpful</i>	<i>5 = Very helpful</i>

6. Have you experienced discrimination based on any of the personal characteristics (such as age, sex, sexual orientation, ancestry) that are protected by the Yukon *Human Rights Act*?

Yes _____ No _____

If you answered NO, go to question 9 and continue.

If yes, when did the discrimination occur?

- ___ last 6 months
- ___ 6 months to 1 year ago
- ___ 1 year ago
- ___ over 1 year ago
- ___ still going on

7. If yes, where did the discrimination happen?

- ___ school or college
- ___ work
- ___ business place (eg. restaurant, store, hotel, theatre)
- ___ government office
- ___ rented apartment or housing where I live
- Other places? _____

8. If you experienced discrimination, how did you deal with it?

- ___ ignored it, didn't do anything
- ___ handled it by talking to the person
- ___ handled it by getting into a fight with the person
- ___ talked to a family member
- ___ talked to an elder, counselor or someone I trust
- ___ someone helped to mediate or settle the issue between us
- ___ put in a complaint to the person in charge
- Other _____

9. If you were to experience or did experience discrimination, what do you think would be a good resolution or way that the discrimination situation could be made better for you?

Number your answer from:

“1” being the most important

“2” being the second most important

“3” being the third most important

___ that the person doing the discrimination stops it when asked

___ written apology from the person who discriminated against me

___ education for the person and/or the employees in the workplace

___ covering lost wages or other expenses that occurred because of the discrimination

___ financial compensation for injury to dignity

Other ideas: _____

10. What barriers might get in the way of you using the services of the Commission. Check off the answers that best fit:

___ didn't know about the Commission and that they could help

___ discrimination happened past the time that the complaint would be accepted (within last 6 months of the situation)

___ complaint falls outside the control of the Yukon *Human Right Act*

___ office in Whitehorse and couldn't travel

___ phone not available for private conversation

___ worried about the possible costs

___ worried about own privacy and confidentiality in a small town

___ length of time it takes to solve

___ worried about the other person trying to punish or get back at me for putting in a complaint

___ loss of control over the process once I make a complaint

___ not comfortable with the system of handling human rights complaints

Other reasons: _____

11. What is the preferred way of getting service from YHRC for the first time. Number your answer from:

- “1” being first choice
- “2” being the second choice
- “3” being the third choice

- YHRC staff answers the phone call
- automated voice mail
- email contact
- drop into office
- appointment required

12. As a woman, have you had problems in getting equal pay for work of equal value compared to wages for men in your workplace?

- Yes No

If yes, please explain:

When did this happen?

Is your employer? (Check off answer below):

- Municipal government
- First Nations government
- Territorial government
- Private sector employer (i.e. business, industry)
- Non-profit organization

13. What suggestions do you have for improving our service, eliminating barriers to our service, or changing the Yukon *Human Rights Act* to better meet your needs?

THANK-YOU for filling in our survey. If you would like further information about the Yukon Human Rights Commission check out our website at www.yhrc.yk.ca or phone us at 667-6226 or 1-800-861-0535 or email humanrights@yhrc.yk.ca.

APPENDIX B

YOUTH SURVEY ON HUMAN RIGHTS

Youth Survey on Yukon Human Rights

The Yukon Human Rights Commission (YHRC) would like to get your views about human rights in the Yukon.

The Yukon Government will be doing a review of the Yukon *Human Rights Act*. YHRC would like to be prepared with some recommendations for changes based on the views of young and old.

We will use your views to help us to identify areas in need of change in human rights law and in the way that we provide services to Yukoners. We will be preparing a report in the spring of 2008.

Please check off the box that best fits your answer. Add comments if you would like.

1. Before this presentation, did you know about the Yukon Human Rights Commission and what it does?

<i>Not at all</i>	<i>A little bit</i>	<i>Know about it</i>

2. Before this presentation, did you know about the personal characteristics (such as age, sex, sexual orientation, ancestry) that are protected by the Yukon *Human Rights Act*?

<i>Not at all</i>	<i>A little bit</i>	<i>Know about it</i>

3. Have you ever used the services of the Yukon Human Rights Commission?
Yes _____ **No** _____

If you have used the services in the past, what kind of services did you get?

- _____ information for a school project
- _____ information about human rights from a YHRC speaker
- _____ advice about what to do about discrimination
- _____ help in solving a complaint about discrimination
- _____ made a human rights complaint
- Other services? _____

How helpful did you find the services ?

<i>Not at all helpful</i>	<i>A little bit helpful</i>	<i>Very helpful</i>

APPENDIX C

SAMPLE LETTER TO FOCUS GROUP PARTICIPANTS

AN INVITATION TO PARTICIPATE IN A FOCUS GROUP DISCUSSION ON WOMEN'S HUMAN RIGHTS IN THE YUKON

The Yukon Human Rights Commission is doing a study to gather ideas and views from aboriginal and non-aboriginal women and girls on whether or not human rights laws adequately protect Yukon women. We also want to know if there are barriers and gaps in the law or in the services we provide. The research project is funded by the Women's Equality Funding Program from the Yukon Women's Directorate.

The Yukon Government has announced that they will be looking at the Yukon *Human Rights Act* to see if there is need for some changes. The Yukon Human Rights Commission plans to prepare recommendations for changes to the *Act*. We are holding focus group discussions to hear from women and girls about their human rights concerns.

TOPICS TO BE DISCUSSED:

- What is your present knowledge of Yukon human rights and the areas in the *Act* important to women?
- What is your experience of discrimination? What services, supports and resources were used or not used to deal with this discrimination, and why or why not?
- What helps you to deal effectively with discrimination?
- What gets in the way of dealing with discrimination? – This might include such things as our human rights processes, time limits, jurisdiction, policies and access to services.
- What changes do you think are needed to better deal with discrimination issues?

TIME AND LOCATION: **Watson Lake** on the evening of **November 15th**. A light dinner will be served. Join us in **Whitehorse** on the evening of **November 22**. Dessert and refreshments will be served. Please register by contacting Lillian.

Survey forms will also be available for those interested in giving us feedback and comments. CONTACT: Lillian Nakamura Maguire, Public Education Specialist, Yukon Human Rights Commission, 1-800-661-0535 or 633-7623 or email: maguire@yhrc.yk.ca if you are interested in participating.

We look forward to hearing from you and receiving your feedback to make our Yukon *Human Rights Act* better protect and serve the needs of Yukon women.

Melissa Atkinson, Chair
YUKON HUMAN RIGHTS COMMISSION

201 - 211 Hawkins Street Whitehorse, Yukon Y1 A 1X3; Telephone (867) 667-6226 or 1-800-661-0535 Fax (867) 667-2662
E-mail: humanrights@yhrc.yk.ca Website: www.yhrc.yk.ca

APPENDIX D

**CONVENTION ON THE ELIMINATION OF ALL FORMS
OF DISCRIMINATION AGAINST WOMEN**

Convention on the Elimination of All Forms of Discrimination Against Women

"...the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields "

INTRODUCTION

On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981 after the twentieth country had ratified it. By the tenth anniversary of the Convention in 1989, almost one hundred nations have agreed to be bound by its provisions.

The Convention was the culmination of more than thirty years of work by the United Nations Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women's rights. The Commission's work has been instrumental in bringing to light all the areas in which women are denied equality with men. These efforts for the advancement of women have resulted in several declarations and conventions, of which the Convention on the Elimination of All Forms of Discrimination against Women is the central and most comprehensive document.

Among the international human rights treaties, the Convention takes an important place in bringing the female half of humanity into the focus of human rights concerns. The spirit of the Convention is rooted in the goals of the United Nations: to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women. The present document spells out the meaning of equality and how it can be achieved. In so doing, the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights.

In its preamble, the Convention explicitly acknowledges that "extensive discrimination against women continues to exist", and emphasizes that such discrimination "violates the principles of equality of rights and respect for human dignity". As defined in article 1, discrimination is understood as "any distinction, exclusion or restriction made on the basis of sex...in the political, economic, social, cultural, civil or any other field". The Convention gives positive affirmation

to the principle of equality by requiring States parties to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men"(article 3).

The agenda for equality is specified in fourteen subsequent articles. In its approach, the Convention covers three dimensions of the situation of women. Civil rights and the legal status of women are dealt with in great detail. In addition, and unlike other human rights treaties, the Convention is also concerned with the dimension of human reproduction as well as with the impact of cultural factors on gender relations.

The legal status of women receives the broadest attention. Concern over the basic rights of political participation has not diminished since the adoption of the Convention on the Political Rights of Women in 1952. Its provisions, therefore, are restated in article 7 of the present document, whereby women are guaranteed the rights to vote, to hold public office and to exercise public functions. This includes equal rights for women to represent their countries at the international level (article 8). The Convention on the Nationality of Married Women - adopted in 1957 - is integrated under article 9 providing for the statehood of women, irrespective of their marital status. The Convention, thereby, draws attention to the fact that often women's legal status has been linked to marriage, making them dependent on their husband's nationality rather than individuals in their own right. Articles 10, 11 and 13, respectively, affirm women's rights to non-discrimination in education, employment and economic and social activities. These demands are given special emphasis with regard to the situation of rural women, whose particular struggles and vital economic contributions, as noted in article 14, warrant more attention in policy planning. Article 15 asserts the full equality of women in civil and business matters, demanding that all instruments directed at restricting women's legal capacity "shall be deemed null and void". Finally, in article 16, the Convention returns to the issue of marriage and family relations, asserting the equal rights and obligations of women and men with regard to choice of spouse, parenthood, personal rights and command over property.

Aside from civil rights issues, the Convention also devotes major attention to a most vital concern of women, namely their reproductive rights. The preamble sets the tone by stating that "the role of women in procreation should not be a basis for discrimination". The link between discrimination and women's reproductive role is a matter of recurrent concern in the Convention. For example, it advocates, in article 5, "a proper understanding of maternity as a social function", demanding fully shared responsibility for child-rearing by both sexes. Accordingly, provisions for maternity protection and child-care are

proclaimed as essential rights and are incorporated into all areas of the Convention, whether dealing with employment, family law, health care or education. Society's obligation extends to offering social services, especially child-care facilities that allow individuals to combine family responsibilities with work and participation in public life. Special measures for maternity protection are recommended and "shall not be considered discriminatory". (article 4). "The Convention also affirms women's right to reproductive choice. Notably, it is the only human rights treaty to mention family planning. States parties are obliged to include advice on family planning in the education process (article 10.h) and to develop family codes that guarantee women's rights "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" (article 16.e).

The third general thrust of the Convention aims at enlarging our understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on restricting women's enjoyment of their fundamental rights. These forces take shape in stereotypes, customs and norms which give rise to the multitude of legal, political and economic constraints on the advancement of women. Noting this interrelationship, the preamble of the Convention stresses "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women". States parties are therefore obliged to work towards the modification of social and cultural patterns of individual conduct in order to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (article 5). And Article 10.c. mandates the revision of textbooks, school programmes and teaching methods with a view to eliminating stereotyped concepts in the field of education. Finally, cultural patterns which define the public realm as a man's world and the domestic sphere as women's domain are strongly targeted in all of the Convention's provisions that affirm the equal responsibilities of both sexes in family life and their equal rights with regard to education and employment. Altogether, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based upon sex.

The implementation of the Convention is monitored by the Committee on the Elimination of Discrimination against Women (CEDAW). The Committee's mandate and the administration of the treaty are defined in the Articles 17 to 30 of the Convention. The Committee is composed of 23 experts nominated by their Governments and elected by the States parties as individuals "of high moral standing and competence in the field covered by the Convention".

At least every four years, the States parties are expected to submit a national report to the Committee, indicating the measures they have adopted to give effect to the provisions of the Convention. During its annual session, the Committee members discuss these reports with the Government representatives and explore with them areas for further action by the specific country. The Committee also makes general recommendations to the States parties on matters concerning the elimination of discrimination against women.

APPENDIX E

"PARIS PRINCIPLES"

**PRINCIPLES RELATING TO THE STATUS AND FUNCTIONING OF
NATION INSTITUTIONS FOR PROTECTION AND PROMOTION OF
HUMAN RIGHTS**

Principles relating to the status and functioning of national institutions for protection and promotion of human rights

Note: In October, 1991, the Center for Human Rights convened an international workshop to review and update information on existing national human rights institutions. Participants included representatives of national institutions, States, the United Nations, its specialized agencies, intergovernmental and non-governmental organizations.

In addition to exchanging views on existing arrangements, the workshop participants drew up a comprehensive series of recommendations on the role, composition, status and functions of national human rights instruments. These recommendations, which were endorsed by the Commission on Human Rights in March 1992 (resolution 1992/54) and by the General Assembly in its resolution [A/RES/48/134](#) of 20 December 1993, are summarized below.

A. Competence and responsibilities

1. A national institution shall be vested with competence to protect and promote human rights.

2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

3. A national institution shall, *inter alia*, have the following responsibilities:

(a) To submit to the government, parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the protection and promotion of human rights. The national institution may decide to publicize them. These opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organization, intended to preserve and extend the protection of human rights. In that connection, the national institution shall examine the legislation

and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights. It shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(ii) Any situation of violation of human rights which it decides to take up;

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the government;

b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence;

e) To cooperate with the United Nations and any other agency in the United Nations system, the regional institutions and the national institutions of other countries which are competent in the areas of the protection and promotion of human rights;

f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially

through information and education and by making use of all press organs.

B. Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

Trends in philosophical or religious thought;

Universities and qualified experts;

Parliament;

Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the government and not be subject to financial control which might affect this independence.

3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

C. Methods of operation

Within the framework of its operation, the national institution shall:

1. Freely consider any questions falling within its competence, whether they are submitted by the government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,
2. Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
3. Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;
4. Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly consulted;
5. Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
6. Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the protection and promotion of human rights (in particular, ombudsmen, mediators and similar institutions);
7. In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to protecting and promoting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

D. Additional principles concerning the status of commissions with quasi-judicial competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

1. Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
2. Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
3. Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
4. Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations or administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

Note:

1. A/36/440 (1981), A/38/416 (1983), E/CN.4/1987/37 (1987), E/CN.4/1989/47 and Add. 1(1989), E/CN.4/1991/23 and Add. 1(1991). *Printed at United Nations, Geneva April 1993*

APPENDIX F

**INTER-AMERICAN CONVENTION ON THE PREVENTION,
PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST WOMEN**

"CONVENTION OF BELEM DO PARA"

[Status of Signing and Ratification](#)

**INTER-AMERICAN CONVENTION ON THE PREVENTION,
PUNISHMENT AND ERADICATION OF
VIOLENCE AGAINST WOMEN**

"CONVENTION OF BELEM DO PARA"

TABLE OF CONTENTS:

PREAMBLE

THE STATES PARTIES TO THIS CONVENTION,

RECOGNIZING that full respect for human rights has been enshrined in the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights, and reaffirmed in other international and regional instruments;

AFFIRMING that violence against women constitutes a violation of their human rights and fundamental freedoms, and impairs or nullifies the observance, enjoyment and exercise of such rights and freedoms;

CONCERNED that violence against women is an offense against human dignity and a manifestation of the historically unequal power relations between women and men;

RECALLING the Declaration on the Elimination of Violence against Women, adopted by the Twenty-fifth Assembly of Delegates of the Inter-American Commission of Women, and affirming that violence against women pervades every sector of society regardless of class, race or ethnic group, income, culture, level of education, age or religion and strikes at its very foundations;

CONVINCED that the elimination of violence against women is essential for their individual and social development and their full and

equal participation in all walks of life; and

CONVINCED that the adoption of a convention on the prevention, punishment and eradication of all forms of violence against women within the framework of the Organization of American States is a positive contribution to protecting the rights of women and eliminating violence against them,

HAVE AGREED to the following:

CHAPTER I

DEFINITION AND SCOPE OF APPLICATION

Article 1

For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.

Article 2

Violence against women shall be understood to include physical, sexual and psychological violence:

- a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse;
- b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and
- c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

CHAPTER II
RIGHTS PROTECTED

Article 3

Every woman has the right to be free from violence in both the public and private spheres.

Article 4

Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- a. The right to have her life respected;
- b. The right to have her physical, mental and moral integrity respected;
- c. The right to personal liberty and security;
- d. The right not to be subjected to torture;
- e. The right to have the inherent dignity of her person respected and her family protected;
- f. The right to equal protection before the law and of the law;
- g. The right to simple and prompt recourse to a competent court for protection against acts that violate her rights;
- h. The right to associate freely;
- i. The right of freedom to profess her religion and beliefs within the law; and
- j. The right to have equal access to the public service of her country and to take part in the conduct of public affairs, including decision-making.

Article 5

Every woman is entitled to the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights.

Article 6

The right of every woman to be free from violence includes, among others:

- a. The right of women to be free from all forms of discrimination; and
- b. The right of women to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.

CHAPTER III

DUTIES OF THE STATES

Article 7

The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

- a. refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
- b. apply due diligence to prevent, investigate and impose penalties for violence against women;
- c. include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
- d. adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;
- e. take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;
- f. establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;
- g. establish the necessary legal and administrative mechanisms

- to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies; and
- h. adopt such legislative or other measures as may be necessary to give effect to this Convention.

Article 8

The States Parties agree to undertake progressively specific measures, including programs:

- a. to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;
- b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;
- c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;
- d. to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members where appropriate, and care and custody of the affected children;
- e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;
- f. to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;
- g. to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;
- h. to ensure research and the gathering of statistics and other

- relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and
- i. to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

Article 9

With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socio-economically disadvantaged, affected by armed conflict or deprived of their freedom.

CHAPTER IV

INTER-AMERICAN MECHANISMS OF PROTECTION

Article 10

In order to protect the right of every woman to be free from violence, the States Parties shall include in their national reports to the Inter-American Commission of Women information on measures adopted to prevent and prohibit violence against women, and to assist women affected by violence, as well as on any difficulties they observe in applying those measures, and the factors that contribute to violence against women.

Article 11

The States Parties to this Convention and the Inter-American Commission of Women may request of the Inter-American Court of Human Rights advisory opinions on the interpretation of this Convention

Article 12

Any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Inter-American Commission on Human Rights containing denunciations or complaints of violations of Article 7 of this Convention by a State Party, and the Commission shall consider such claims in accordance with the norms and procedures established by the American Convention on Human Rights and the Statutes and Regulations of the Inter-American Commission on Human Rights for lodging and considering petitions.

CHAPTER V

GENERAL PROVISIONS

Article 13

No part of this Convention shall be understood to restrict or limit the domestic law of any State Party that affords equal or greater protection and guarantees of the rights of women and appropriate safeguards to prevent and eradicate violence against women.

Article 14

No part of this Convention shall be understood to restrict or limit the American Convention on Human Rights or any other international convention on the subject that provides for equal or greater protection in this area.

Article 15

This Convention is open to signature by all the member States of the Organization of American States.

Article 16

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 17

This Convention is open to accession by any other state. Instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 18

Any State may, at the time of approval, signature, ratification, or accession, make reservations to this Convention provided that such reservations are:

- a. not incompatible with the object and purpose of the Convention, and
- b. not of a general nature and relate to one or more specific provisions.

Article 19

Any State Party may submit to the General Assembly, through the Inter-American Commission of Women, proposals for the amendment of this Convention.

Amendments shall enter into force for the states ratifying them on the date when two-thirds of the States Parties to this Convention have deposited their respective instruments of ratification. With respect to the other States Parties, the amendments shall enter into force on the dates on which they deposit their respective instruments of ratification.

Article 20

If a State Party has two or more territorial units in which the matters dealt with in this Convention are governed by different systems of law, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or to only one or more of them.

Such a declaration may be amended at any time by subsequent declarations, which shall expressly specify the territorial unit or units to which this Convention applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall enter into force thirty days after the date

of their receipt.

Article 21

This Convention shall enter into force on the thirtieth day after the date of deposit of the second instrument of ratification. For each State that ratifies or accedes to the Convention after the second instrument of ratification is deposited, it shall enter into force thirty days after the date on which that State deposited its instrument of ratification or accession.

Article 22

The Secretary General shall inform all member states of the Organization of American States of the entry into force of this Convention.

Article 23

The Secretary General of the Organization of American States shall present an annual report to the member states of the Organization on the status of this Convention, including the signatures, deposits of instruments of ratification and accession, and declarations, and any reservations that may have been presented by the States Parties, accompanied by a report thereon if needed.

Article 24

This Convention shall remain in force indefinitely, but any of the States Parties may denounce it by depositing an instrument to that effect with the General Secretariat of the Organization of American States. One year after the date of deposit of the instrument of denunciation, this Convention shall cease to be in effect for the denouncing State but shall remain in force for the remaining States Parties.

Article 25

The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall send a certified copy to the Secretariat of the United Nations for registration and publication in accordance

with the provisions of Article 102 of the United Nations Charter.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention, which shall be called the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ~Convention of Belém do Pará..

DONE IN THE CITY OF BELEN DO PARA, BRAZIL, the ninth of June in the year one thousand nine hundred ninety-four.