



Alliance of European Support Groups for Indigenous Peoples in North America

Compilation of UN-objections regarding Canada's policy and treatment of Indigenous (Aboriginal) Peoples as well as regarding the violations of their rights (1998-today)

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Arbeitskreis Indianer Nordamerikas (AKIN), Vienna, Austria:
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Comité de Solidarité avec les Indiens des Amériques (CSIA-NITASSINAN), Paris, France: www.csia-nitassinan.org

Internationales Komitee für die Indigenen Amerikas Schweiz, Zürich, Switzerland: www.incomindios.ch

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Preamble

Canada globally promotes itself as a major leader of human rights. However, results of various UN-human rights procedures show a different picture. There is not one single human rights treaty body or human rights procedure by which Canada has not been criticized – in particular regarding the treatment of Indigenous (Aboriginal) Peoples and the violation of their rights. The following is a compilation of those objections expressed by the various human rights bodies and procedures within the UN since 1998.

This paper is structured in two parts. Part 1 comprises a list of objections with only brief summaries (pages 2-6), part 2 contains the same list, but with longer - original – quotes from the reports focusing on the violation of the rights of indigenous peoples (pages 8ff).

This paper only focuses on statements and recommendations directly regarding the rights and situation of indigenous/aboriginal peoples. Thus, general comments on violations of other human rights which still significantly impact them (e.g. rights of children or women, racism and discrimination, or elimination of torture and ill-treatment) are not listed.

Part 1: List of Objections – briefly commented

UN Committee on Economic, Social and Cultural Rights CESCR (1998)

Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada. 10/12/98 E/C.12/1/Add.31, 18.

The Committee criticises the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal peoples from their lands, endorses the recommendations of Royal Commission on Aboriginal Peoples that policies which violate Aboriginal treaty obligations and the extinguishment, conversion or giving up of Aboriginal rights and title should on no account be pursued by the State Party.

Committee on the Elimination of Racial Discrimination CERD (2002)

Concluding observations of the Committee on the Elimination of Racial Discrimination: Canada. 23/08/2002. CERD/C/61/CO/3.

There is hardly any other official UN report existing which so strongly criticizes Canada in terms of human rights. Being a signatory to the "International Convention on the Elimination of All Forms of Racial Discrimination" Canada has the obligation to report to CERD periodically. Obviously Canada does not take this obligation seriously because it has failed to do so for a long time. CERD was obviously impressed by the evidence submitted by the indigenous groups and presented a long list of concerns.

85th Session of the United Nations Human Rights Committee HRC – ICCPR (17 October - 3 November 2005)

Canada's periodic report on the implementation of the International Covenant on Civil and Political Rights (ICCPR). CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT. Concluding observations of the Human Rights Committee. CANADA. CCPR/C/CAN/CO/5

The Committee strongly notes with concern that many of the recommendations it addressed to the State party in 1999 remain unimplemented. It does not buy Canada's assurance of alternative policies to extinguishment of inherent aboriginal rights in modern treaties, and remains concerned that these alternatives may in practice amount to extinguishment of aboriginal rights. Another objection is how Canada deals with violence against and the violent deaths Aboriginal women.

UN Committee on Economic, Social and Cultural Rights CESCR (May 2006)

On the occasion of the review of Canada's fourth and fifth periodic reports concerning rights referred in the International Covenant on Economic, Social and Cultural Rights CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT. Concluding Observations of the Committee on Economic, Social and Cultural Rights. CANADA. E/C.12/CAN/CO/5

The Committee criticises the discrimination against First Nations women and their children as well as the acts of violence against Aboriginal women, who constitute a disproportionate number of victims of violent death, rape and domestic violence. CERD also notes big concerns about the adverse effects of economic activities connected with the exploitation of natural resources in countries outside Canada by transnational corporations registered in Canada on the right to land, health, living environment and the way of life of indigenous peoples living in these regions. The Committee also notes the disproportionately high rate of incarceration of aboriginal peoples within Canada. It also does not buy Canada's assertion

that the “cede, release and surrender” approach has been abandoned regarding Aboriginal title.

Committee on the Elimination of Racial Discrimination CERD (2007)

Concluding observations of the Committee on the Elimination of Racial Discrimination: Canada, 25/05/2007. CERD/C/CAN/CO/18.

The Committee mentions with regret the lack of substantial progress to address discrimination and violence against First Nations women and their children. It also is concerned about the adverse effects of economic activities connected with the exploitation of natural resources in countries outside Canada by transnational corporations registered in Canada on the right to land, health, living environment and the way of life of indigenous peoples living in these regions. CERD is again concerned about the disproportionately high rate of incarceration of aboriginal peoples compared with the general population. It does not buy the information that the “cede, release and surrender” approach to Aboriginal land titles has been abandoned. It recommends that Canada supports the immediate adoption of the United Nations Declaration on the Rights of Indigenous Peoples, and that it considers ratifying the ILO Indigenous and Tribal Peoples Convention No.169

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari (2009)

Report of the the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. MISSION TO CANADA (9 to 22 October 2007). A/HRC/10/7/Add.3

The Special Rapporteur notes the concerns expressed about the rise in the number of the homeless and people in inadequate housing and living conditions (in particular Indigenous Peoples). In particular he refers to the connection between the poor housing situation of indigenous peoples and the unresolved land claims land-rights and the housing situation

UN General Assembly Working Group on the Universal Periodic Review (UPR) (2009)

Report of the Working Group on the Universal Periodic Review. Canada. 05/10/2009. A/HRC/11/17

Most of the countries commenting on Canada’s human rights record were referring to the poor treatment and/or violation of the rights of Indigenous peoples. They noted that in many cases Canada had not implemented the United Nations treaty body standards and/or recommendations. Most the countries also requested that Canada takes measures regarding the violence against Indigenous women. Many countries were urging Canada to full accept/adopt/ support/implement UNDRIP. The working group formulated 68 recommendations. Canada only accepted less than half of the 68 recommendations, partially rejecting 22 and completely rejecting 14.

Committee on the Elimination of Racial Discrimination CERD (2012)

Concluding observations of the Committee on the Elimination of Racial Discrimination: Canada, 09/03/2012. CERD/C/CAN/CO/19-20.

CERD expressed its concerns about Canada's policy regarding Indigenous Peoples, mentioning disproportionally high incarceration numbers, conflicts over land specifically in regards to treaty rights, Aboriginal Title and extractive industries. Furthermore, it also

reflected on violence against women and their disappearance. Most of the entire report deals with concerns regarding indigenous peoples.

Special Rapporteur on the right to food, Olivier De Schutter (2012):

Mission to Canada from 6 to 16 May 2012

The UN Special Rapporteur on Food emphasized the significance of “access to land” in order to have food, promoted the Aboriginal Title and the right to self-determination of Indigenous Peoples. Thus he expressed his concerns about Canada's federal government policies that have disrupted and even devastated the traditional practices of Indigenous People by removing controls over land and natural resources.

UN Committee against Torture (2012):

Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Canada. 07/06/2014; CAT/C/CAN/CO/6

The Committee is concerned about reports on the excessive use of force by law enforcement officers often in the context of crowd control at federal and provincial levels, with particular reference to indigenous land-related protests at Ipperwash and Tyendinaga as well as the G8 and G20 protests. The Committee is particularly concerned about reports of severe crowd control methods and inhumane prison conditions in the temporary detention centres (arts. 11 and 16).

UN General Assembly Working Group on the Universal Periodic Review (UPR) (2013)

Report of the Working Group on the Universal Periodic Review. Canada. 28/06/2013; A/HRC/11/17 and 17/09/2013; A/HRC/24/11/Add.1

Again most of the countries commenting on Canada's human rights record were referring to the poor treatment and/or violation of the rights of Indigenous peoples and were disappointed that Canada was not implementing the earlier UPR recommendations but flatly denying many of them. E.g., same reaction as 2009: Canada does not accept calls to develop a national action plan for the implementation of the UN Declaration on the Rights of Indigenous Peoples, because it sees UNDRIP just as a non-legally binding, aspirational document. Many countries were urging Canada to fully accept/adopt/support/implement UNDRIP and develop a national action plan for UNDRIP implementation. All these recommendations were not accepted by Canada. More than 20 states raised specific concerns about high levels of violence against Indigenous women in Canada. The report includes 162 recommendations, 58 of these very directly referring to indigenous/aboriginal peoples.

Special Rapporteur on the rights of indigenous peoples, James Anaya (2014)

Report: The situation of indigenous peoples in Canada (07/05/2014). A/HRC/27/52/Add.2

The Special Rapporteur warns of a crisis in Canada when it comes to how aboriginal people in this country are treated, noting that the relationship between the federal government and indigenous peoples is even more strained than a decade ago. The report notes that the “disturbing phenomenon” of missing and murdered aboriginal women has further strained relations, and it calls on Ottawa to launch “a comprehensive, national inquiry” into the issue of why aboriginal women and girls remain vulnerable to abuse.

Human Rights Committee (HRC) (2015):

International Covenant on Civil and Political Rights. Concluding observations on the sixth periodic report of Canada (13/08/2015). CCPR/C/CAN/CO/6

Canada's Comprehensive Land Claims policy, its refusal to consult, ongoing violence against Indigenous protesters and its refusal to hold an inquiry into missing and murdered Indigenous women were among the issues raised in the UN Human Rights Committee report on Canada released today. The report specifically takes Canada to task for its policies leading to "the extinguishment of Indigenous lands and titles." The Committee urged Canada "to resolve land and resources disputes with indigenous peoples and find ways and means to establish their titles over their lands." On the related issue, the Committee pointed out that indigenous peoples "were not consulted, to ensure that they may exercise their right to free, prior and informed consent to projects and initiatives concerning them, including legislation, despite favourable rulings of the Supreme Court." The U.N. report also criticized "the excessive use of force by law enforcement officers during mass arrests in the context of protests at federal and provincial levels, with particular reference to Indigenous land-related protests."

Committee on Economic, Social and Cultural Rights (2016):

International Covenant on Economic, Social and Cultural Rights. Concluding observations on the sixth periodic report of Canada (Advance Unedited Version; 04/03/2016). E/C.12/CAN/CO/6

Canada is failing to advance social equality and justice on many fronts and is not measuring up to the UN International Covenant on Economic, Social and Cultural Rights. The report lists some positive developments, but overall lambastes Canada for its treatment of temporary foreign workers as well as women's rights. It notes that Canadian women are still over-represented in part-time and low-paid work, and repeatedly cites failures regarding Indigenous people and African Canadians and the social disparities they face. Prior consent for Indigenous people regarding the use of their land has not been protected by Canada, the review found. One barrier to a more social and economically equal Canada, is that Canada does not have a justice system that allows its citizen to fight for social rights. The Committee is concerned that, despite certain promising developments and the Government's commitment to review its litigation strategies, economic, social and cultural rights remain generally non-justiciable in domestic courts," the review reads. That affects people who are homeless, disabled, Indigenous or otherwise marginalized, who have little legal basis to argue for their interests, said the UN committee.

Committee on the Elimination of Racial Discrimination CERD (2017)

Concluding observations on the twenty-first to twenty-third periodic reports of Canada. 31/08/2017. CERD/C/CAN/CO/21-23.

The UNCERD-report condemned racism and rights violations encountered by Aboriginal Peoples in Canada, echoing Indigenous Nations who made submissions to the committee on their experiences of racial discrimination since the past 150 years of colonial policy and law. While taking note of the recent set of 10 Principles Respecting the Government of Canada's Relationship with Indigenous Peoples, the UN CERD committee however is "deeply concerned" by Canada's continuous violations of the land rights of Indigenous Peoples "in particular environmentally destructive decisions for resource development which affect their lives and territories continue to be undertaken without the free, prior and informed consent of the Indigenous Peoples, resulting in breaches of treaty obligations and international

human rights law.” The report criticizes that for Indigenous Peoples in Canada “costly, time consuming and ineffective litigation is often the only remedy in place of seeking free, prior and informed consent” and is highly concerned that “permits have been issued and construction has commenced at the Site C dam, despite vigorous opposition of Indigenous Peoples affected by this project”. The Committee urges Canada to “immediately suspend all permits and approvals for the construction of the Site C dam” in British Columbia and to “incorporate the free, prior and informed consent principle in the Canadian regulatory system”. Additionally, the Committee is alarmed at the continued high rates of violence against indigenous women and girls, urging Canada to take immediate action. The report also found that despite its previous recommendations and multiple decisions by the Canadian Human Rights Tribunal, “less money is reportedly provided for child and family services to indigenous children than in other communities, and that this gap continues to grow”.

Part 2: Excerpts from the UN-reports

Excerpts are focused on the passages and articles specifically dealing with the rights of indigenous (aboriginal) peoples. General statements or recommendations regarding human rights, which do not explicitly refer to the rights and situation of indigenous/aboriginal peoples but still may have significant for them (e.g. "rights of the child", "racism" in general, eliminating "torture"), are not listed below.

UN Committee on Economic, Social and Cultural Rights (1998)
Concluding Observations of the Committee on Economic, Social and Cultural Rights:
Canada. 10/12/98 E/C.12/1/Add.31, 18.

18. The Committee views with concern the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal peoples from their lands, as recognized by RCAP and endorses the recommendations of RCAP that policies which violate Aboriginal treaty obligations and the extinguishment, conversion or giving up of Aboriginal rights and title should on no account be pursued by the State Party.

(Remark: P.S. RCAP = Royal Commission on Aboriginal Peoples)

Committee on the Elimination of Racial Discrimination CERD (2002)

**Concluding observations of the Committee on the Elimination of Racial Discrimination:
Canada. 23/08/2002. CERD/C/61/CO/3. (Concluding Observations/Comments)**

There is hardly any other official UN report existing which so strongly criticizes Canada in terms of human rights. Being a signatory to the "International Convention on the Elimination of All Forms of Racial Discrimination" Canada has the obligation to report to CERD periodically. Obviously Canada does not take this obligation seriously because it has failed to do so for a long time. Before the latest report of Canada was discussed in Geneva in August 2002, a coalition of several indigenous groups across Canada had filed a special report with first-hand experience regarding Canada's aboriginal policy to CERD ("Report on Racial Discrimination of Indigenous Peoples in Canada", July 2002). Among many other issues this report listed far more than 100 indigenous individuals either in jail or being charged because of "offences" in exercising their aboriginal title and rights as protected by the Canadian constitution and – among other court decisions – a Supreme Court of Canada Decision (Delgamuukw, 1997). CERD was obviously impressed by the evidence submitted by the indigenous groups. Some key findings of CERD are quoted and commented below.

3. The Committee notes that the periodic reports were submitted with a delay of about six and four years respectively, and that they covered the period 1993-1997, although they were submitted in 2001.

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15. The Committee notes with concern that the process of implementing the recommendations adopted in 1996 by the Royal Commission on Aboriginal Peoples has not yet been completed. The Committee regrets that no in depth information was provided by the periodic reports on this matter, and requests that the State party indicate in detail in its next periodic report which recommendations of the Royal Commission were responded to, and in what way.

In 1996 the Royal Commission of Aboriginal Peoples (RCAP) finished its report with hundreds of recommendations on necessary policy change regarding aboriginal people. Almost none of these recommendations have so far been followed up by the Canadian Government. In order to avoid criticism for not doing so, the report to CERD by Canada ended with the year 1997 (although submitted in 2001 !).

16. The Committee expresses concern about the difficulties which may be encountered by Aboriginal peoples before courts in the establishment of Aboriginal title over land. The Committee notes in that connection that to date, no Aboriginal group has proven Aboriginal title, and recommends that the State party examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before courts.

17. The Committee views with concern the direct connection between Aboriginal economic marginalisation and the ongoing dispossession of Aboriginal people from their land, as recognized by the Royal Commission. The Committee notes with appreciation the assurance given by the delegation that Canada would no longer require a reference to extinguishment of surrendered land and resources rights in any land claim

agreements. The Committee requests that in the next periodic report, information be provided on the significance and consequences of limitations imposed on the use by Aboriginal people of their land."

(Remark: The issue of "Aboriginal Title" needs to be explained here. Unlike in other provinces no historical treaties have been signed in British Columbia and in the Canadian North. The Province of British Columbia always argued – and partly continues to argue – that the aboriginal title – if it ever existed - had been extinguished simply by British settlement. The concept behind this assumption is that European settlers are considered a superior race as compared to non-civilized savage indians. This concept was openly and publicly argued by the province and their lawyers in numerous court cases regarding Indian claims. In 1997 the Supreme Court of Canada finally decided otherwise (Delgamuukw, 1997). Aboriginal title still exists and it constitutes an aboriginal right as protected in Article 35 of the Canadian Constitution. Never, ever did the Province of British Columbia consider to implement this decision of the highest court.)

Since the 1970ies the Federal Government and the provincial governments try to implement the so-called "Comprehensive Claims Policy", a policy to deal with aboriginal claims in those territories where so far no treaties have been signed. The goal was and is to negotiate "modern" treaties. At the heart of this policy is the requirement that – before being allowed to the negotiation table – aboriginal peoples MUST surrender their Aboriginal Title to the government and would then get some reserve lands, some rights and some money in return.

During the CERD hearings in August 2002 the Canadian delegates must obviously have given the Committee the "assurance ...that Canada would no longer require a reference to extinguishment of surrendered land and resources rights in any land claim agreements" (see CERD para 17 above). History shows that Canada - regarding aboriginal policy but not limited to that – often makes written and verbal statements to international audiences which are in complete contrast to what actually is implemented on the ground. In the light of statements of Minister of Indians Affairs, Robert Nault, to several indigenous leaders (e.g. to former National Chief, Phil Fontaine) the assurance given by the Canadian delegation to CERD will not hold. Nault wrote: "... that a major review of the policy at the national level was not being contemplated. In my view, the policy provides for a negotiation process that is orderly yet sufficiently flexible to accommodate the concerns of the majority of Aboriginal groups" (*letter of Robert Nault to Peter Schwarzbauer (AKIN/Austria), not dated, around mid-2000*).

85th Session of the United Nations Human Rights Committee HRC – ICCPR (17 October - 3 November 2005)

Canada's periodic report on the implementation of the International Covenant on Civil and Political Rights (ICCPR). CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT. Concluding observations of the Human Rights Committee. CANADA. CCPR/C/CAN/CO/5

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C. Principal subjects of concern and recommendations

6. The Committee notes with concern that many of the recommendations it addressed to the State party in 1999 remain unimplemented. It also regrets that the Committee's previous concluding observations have not been distributed to members of Parliament and that no parliamentary committee has held hearings on issues arising from the Committee's observations, as anticipated by the delegation in 1999. (article 2)

The State party should establish procedures, by which oversight of the implementation of the Covenant is ensured, with a view, in particular, to reporting publicly on any deficiencies. Such procedures should operate in a transparent and accountable manner, and guarantee the full participation of all levels of government and of civil society, including indigenous peoples.

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8. The Committee, while noting with interest Canada's undertakings towards the establishment of alternative policies to extinguishment of inherent aboriginal rights in modern treaties, remains concerned that these alternatives may in practice amount to extinguishment of aboriginal rights. (articles 1 and 27)

The State party should re-examine its policy and practices to ensure they do not result in extinguishment of inherent aboriginal rights. The Committee would like to receive more detailed information on the comprehensive land claims agreement that Canada is currently negotiating with the Innu people of Quebec and Labrador, in particular regarding its compliance with the Covenant.

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23. The Committee is concerned that Aboriginal women are far more likely to experience a violent death than other Canadian women. While noting the State party's numerous programmes aimed at addressing the issue, the Committee regrets the lack of precise and updated statistical data on violence against Aboriginal women, and notes with concern the reported failure of police forces to recognize and respond adequately to the specific threats faced by them. (articles 2, 3, 6, 7 and 26)

The State party should gather accurate statistical data throughout the country on violence against Aboriginal women, fully address the root causes of this phenomenon, including the economic and social marginalisation of Aboriginal women, and ensure their effective access to the justice system. The State party should also ensure that prompt and adequate response is provided by the police in such cases, through training and regulations.

UN Committee on Economic, Social and Cultural Rights CESCR (2006)

**On the occasion of the review of Canada's fourth and fifth periodic reports concerning rights referred in the International Covenant on Economic, Social and Cultural Rights
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT. Concluding Observations of the Committee on Economic, Social and Cultural Rights. CANADA. E/C.12/CAN/CO/5**

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D. Principal Subjects of Concern

11. The Committee regrets that most of its 1993 and 1998 recommendations have not been implemented, and that the State party has not addressed in an effective manner the following principal subjects of concern, which were stated in relation to the second and third periodic reports, and which are still relevant:

- a) The State party's restrictive interpretation of its obligations under the Covenant, in particular its position that the Covenant sets forth principles and programmatic objectives rather than legal obligations, and the consequent lack of awareness, in the Provinces and Territories, of the State party's legal obligations under the Covenant.
- b) The lack of legal redress available to individuals when governments fail to implement the Covenant, resulting from the insufficient coverage in domestic legislation of economic, social and cultural rights, as spelled out in the Covenant; the lack of effective enforcement mechanisms for these rights; the practice of governments to urge upon their courts an interpretation of the Canadian Charter on Rights and Freedoms denying protection of Covenant rights, and the inadequate availability of civil legal aid, particularly for economic, social and cultural rights.
- c) The absence of a legally-enforceable right to adequate social assistance benefits for all persons in need on a non-discriminatory basis and the negative impact of certain workfare programmes on social assistance recipients.
- d) The disparities that still persist between Aboriginal peoples and the rest of the Canadian population in the enjoyment of Covenant rights, as well as the discrimination still experienced by Aboriginal women in matters of matrimonial property.
- e) The absence of an official poverty line.
- f) The insufficiency of minimum wage and social assistance to ensure the realization of the right to an adequate standard of living for all.
- g) The authorization given to Provinces and Territories to deduct the amount of the child benefit under the National Child Benefit Scheme from the amount of social assistance received by parents on welfare.

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16. The Committee, while noting that the State party has withdrawn, since 1998, the requirement for an express reference to extinguishment of Aboriginal rights and titles either in a comprehensive claim agreement or in the settlement legislation ratifying the agreement, remains concerned that the new approaches, namely the "modified rights model" and the "non-assertion model", do not differ much from the extinguishment and surrender approach. It further regrets not having received detailed information on other approaches based on recognition and coexistence of rights, which are currently under study.

(Remark regarding para 16): Canada is refusing to meet its international human rights obligations and to implement decisions of the Supreme Court of Canada calling for recognition and co-existence of indigenous peoples. The Committee also drew the link and saw this failure to recognize indigenous rights as one of the main sources of the extreme poverty and socio-economic marginalization of indigenous peoples. In addition the Committee pointed to specific discrimination against indigenous children, who are over-represented in state foster care systems.

The long list of concerns is followed by 73 recommendations directed at the Canadian State Party.

Committee on the Elimination of Racial Discrimination CERD (2007)
Concluding observations of the Committee on the Elimination of Racial Discrimination:
Canada, 25/05/2007. CERD/C/CAN/CO/18.

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C. Concerns and recommendations

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15. The Committee notes with regret the lack of substantial progress made by the State party in its efforts to address residual discrimination against First Nations women and their children in matters relating to Indian status, band membership and matrimonial real property on reserve lands, despite its commitment to resolving this issue through a viable legislative solution (arts. 2 and 5 d)).

The Committee urges the State party to take the necessary measures to reach a legislative solution to effectively address the discriminatory effects of the Indian Act on the rights of Aboriginal women and children to marry, to choose one's spouse, to own property and to inherit, in consultation with First Nations organisations and communities, including aboriginal women's organisations, without further delay.

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17. The Committee notes with concern the reports of adverse effects of economic activities connected with the exploitation of natural resources in countries outside Canada by transnational corporations registered in Canada on the right to land, health, living environment and the way of life of indigenous peoples living in these regions (arts 2. 1(d)d), 4 (a) and 5(e)).

In light of article 2.1 (d) and article 4 (a) and (b) of the Convention and of its general recommendation no. 23 (1997) on the rights of indigenous peoples, the Committee encourages the State party to take appropriate legislative or administrative measures to prevent acts of transnational corporations registered in Canada which negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada. In particular, the Committee recommends that the State party explore ways to hold transnational corporations registered in Canada accountable. The Committee requests the State party to include in its next periodic report information on the effects of activities of transnational corporations registered in Canada on indigenous peoples abroad and on any measures taken in this regard.

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19. While welcoming the introduction of the initiative entitled "Addressing Race-Based issues" in the Justice system, as part of the Action Plan Against Racism, the Committee is concerned about the disproportionate use of force by the police against African Canadians and the disproportionately high rate of incarceration of aboriginal peoples compared with the general population (art. 5 (a)).

In the light of its general recommendation no. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party give preference, wherever possible, to alternatives to imprisonment with respect to aboriginal persons, considering the negative impact of separation from their community that imprisonment may entail. Furthermore,

the Committee recommends that the State party increase its efforts to address socio economic marginalization and discriminatory approaches to law enforcement, and consider introducing a specific programme to facilitate reintegration of aboriginal offenders into society.

20. While acknowledging measures taken by the State party, including the support extended to the Sisters in Spirit Initiative of the Native Women's Association of Canada (NWAC), the Committee remains concerned about serious acts of violence against Aboriginal women, who constitute a disproportionate number of victims of violent death, rape and domestic violence. Furthermore, the Committee is concerned that services for victims of gender-based violence are not always readily available or accessible, particularly in remote areas (art. 5 (b)).

In light of its general recommendation no. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party strengthen and expand existing services, including shelters and counselling, for victims of gender-based violence, so as to ensure their accessibility. Furthermore, it recommends that the State party take effective measures to provide culturally-sensitive training for all law enforcement officers, taking into consideration the specific vulnerability of aboriginal women and women belonging to racial/ethnic minority groups to gender-based violence.

21. While welcoming the commitments made in 2005 by the Federal Government and provincial/territorial governments under the Kelowna Accord, aimed at closing socio-economic gaps between Aboriginal and non-Aboriginal Canadians, the Committee remains concerned at the extent of the dramatic inequality in living standards still experienced by Aboriginal peoples. In this regard, the Committee, recognising the importance of the right of indigenous peoples to own, develop, control and use their lands, territories and resources in relation to their enjoyment of economic, social and cultural rights, regrets that in its report, the State party did not address the question of limitations imposed on the use by Aboriginal people of their land, as previously requested by the Committee. The Committee also notes that the State party has yet to fully implement the 1996 recommendations of the Royal Commission on Aboriginal Peoples (art. 5 (e)).

In light of article 5 (e) and of general recommendation no. 23 (1997) on the rights of indigenous peoples, the Committee urges the State party to allocate sufficient resources to remove the obstacles that prevent the enjoyment of economic, social and cultural rights by Aboriginal peoples. The Committee also once again requests the State party to provide information on limitations imposed on the use by Aboriginal people of their land, in its next periodic report, and that it fully implement the 1996 recommendations of the Royal Commission on Aboriginal Peoples without further delay.

22. While acknowledging the information that the "cede, release and surrender" approach to Aboriginal land titles has been abandoned by the State party in favour of "modification" and "non-assertion" approaches, the Committee remains concerned about the lack of perceptible difference in results of these new approaches in comparison to the previous approach. The Committee is also concerned that claims of Aboriginal land rights are being settled primarily through litigation, at a disproportionate cost for the Aboriginal communities concerned due to the strongly adversarial positions taken by the federal and provincial governments (art. 5 (d)(v)).

In line with the recognition by the State party of the inherent right of self-government of Aboriginal peoples under section 35 of the Constitution Act, 1982, the Committee recommends that the State party ensure that the new approaches taken to settle aboriginal land claims do not unduly restrict the progressive development of aboriginal rights. Wherever possible, the Committee urges the State party to engage, in good faith, in negotiations based on recognition and reconciliation, and reiterates its previous recommendation that the State party examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before the courts. Treaties concluded with First Nations should provide for periodic review, including by third parties, where possible.

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26. While noting the existence of relevant legal aid mechanisms, the Committee is concerned about the difficulties of access to justice for aboriginal peoples, African Canadians and persons belonging to minority groups within the meaning of article 1 of the Convention, in particular in light of the decision announced by the State party on 25 September 2006 to cancel the Court Challenges Program which had provided funds to support test cases “in order to clarify the rights of official language minority communities and the equality rights of disadvantaged groups” (State party report, para. 80), and that no equivalent support mechanism has been put in place (art. 6).

The Committee recommends that the State party take the necessary measures to ensure access to justice for all persons within its jurisdiction without discrimination. In this connection, the Committee urges the State party to reinstate the Court Challenges Program, or devise a functional replacement mechanism with equivalent effect, as a matter of priority.

27. In view of the positive contributions made and the support given by the State party in the process leading up to the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the Committee regrets the change in the position of the State party in the Human Rights Council and the General Assembly.

The Committee recommends that the State party support the immediate adoption of the United Nations Declaration on the Rights of Indigenous Peoples, and that it consider ratifying the ILO Indigenous and Tribal Peoples Convention No.169.

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari (2009)

Report of the the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. MISSION TO CANADA* (9 to 22 October 2007). A/HRC/10/7/Add.3

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VII. ABORIGINAL PEOPLES' RIGHT TO ADEQUATE HOUSING

...

71. In his mission report to Canada, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples expressed concerns about the housing situation of Aboriginal peoples. The Special Rapporteur recommended to the Government that it intensify measures to close the human development indicator gap between Aboriginal and non-Aboriginal Canadians, including on housing, that adequate housing in a large number of Aboriginal communities be declared a priority objective and that adequate credits, investment and other resources be appropriated to solve this urgent problem within the shortest possible time frame.

72. Overcrowded and inadequate housing conditions, as well as difficulties accessing basic services, including water and sanitation, are major problems for Aboriginal peoples. These challenges have been identified for many years but progress has been very slow leaving entire communities in poor living conditions for decades.

73. Current figures on access to clean water are difficult to find, but the 2001 Aboriginal Peoples' Survey reported that 16 per cent of Aboriginal people in urban areas said that there were times of the year when their water was contaminated, and the number grew to 19 per cent among Aboriginal people in rural areas. In Canada's North, 34 per cent of Inuit people reported that there were times of the year when their water was contaminated. In April 2008, Indian and Northern Affairs Canada (INAC) announced one-time funding of \$165 million annually over two years to improve access to safe drinking water and sanitation in First Nations communities.

74. The Special Rapporteur visited the Lubicon Lake territory to assess the situation in an area on which the Human Rights Committee (HRC) took a decision back in 1990. In 2006, both the HRC and CESCR recommended that the Canadian authorities resume negotiations with Lubicon Lake Band and consult with Band before granting licences for economic exploitation of disputed land.

75. During his field visit, the Special Rapporteur witnessed the poor living and housing conditions in this area. The community does not receive adequate basic services or access to water. Because of the non-resolved status of these lands, federal and provincial authorities do not agree on their competencies and responsibilities.

76. Moreover, various extractive industries - such as TransCanada Pipeline - continue to work and to develop their activities on the territory under claim. These activities, which seem in contradiction with treaty bodies' recommendations and the right to self-determination and control over natural resources of this community, they have a direct

impact on the human rights, including adequate housing of these communities because of the water and air pollution they generate and critical land area taken away from the communities.

VIII. ABORIGINAL WOMEN'S RIGHT TO ADEQUATE HOUSING

77. During his mission, the Special Rapporteur met with many aboriginal women and associations. Aboriginal women face some of the most severe housing conditions and challenges in the country - whether they live off or on reserve or in rural, urban, northern or remote communities. Aboriginal women are often forced to relocate to urban areas as a result of circumstances beyond their control. Major issues affecting Aboriginal women include family and matrimonial real property laws on reserves, overcrowding, violence and homelessness. Aboriginal women with disabilities suffer from further barriers to affordable housing, both on and off reserve.

78. Studies show that Aboriginal women face a much higher rate of gender violence than non-Aboriginal women. This includes violence in the family as well as racially motivated attacks carried out often with impunity in the larger society. The lack of protective legislation for women living on reserves, similar to that available to those living off reserve, constitutes an important barrier to the enjoyment of the right to housing and to a life free of violence. There are also concerns about the absence of emergency and transitional shelter on most reserves, which are even more pronounced in northern communities where geographic isolation is also a factor.

79. On reserve, housing concerns for Aboriginal women include gender discrimination as a consequence of the operation of the Indian Act, including the lack of matrimonial property protection. In all provinces and territories, legislation governing marital breakdown provides for equal sharing of assets between spouses; often, the main family asset being the house. Due to the constitutional division of powers, the Supreme Court of Canada has held that provincial legislation does not apply in cases where real property on reserve is affected by such breakdown. Some First Nations have adopted rules in regard to matrimonial property division. Yet, neither the Indian Act nor any federal legislation provides for a division of property on reserve upon marital breakdown. Such a legislative void results in dramatic results. In some cases, women - and their children - are forced to choose between staying in a bad and/or violent situation or leaving the matrimonial home. Often, the choice to leave results in the woman and her children being forced to leave their community and/or become homeless. While this has been discussed on many occasions, debates are still on-going and little progress has been made the Indian Act has not yet been amended.

80. In urban areas, the key housing concerns include discrimination in access to safe, quality, affordable, appropriate housing and insufficient emergency and transitional housing designed to meet the distinct needs of Aboriginal women.

81. Lack of affordable housing is impacted by and can lead to the criminalization of Aboriginal women. In their attempts to find and secure affordable housing with limited incomes, Indigenous women are at risk of exploitation by some landlords and gangs. Additionally, without affordable housing Aboriginal women face the threat of having their children apprehended by the state into the child welfare system.

82. The Federal Government has recognized the urgent need to provide for shelter for First Nations Women and their children on reserves fleeing from violence. In 2007, the federal government announced one-time funding of approximately \$5 million per year for five years for 35 shelters. However, these efforts seem to fall far short of what is needed to address the magnitude of the problem.

IX. PREPARATION FOR THE OLYMPICS IN VANCOUVER

...

86. While the Special Rapporteur welcomes the VANOC commitment, he remains concerned by information he received on the impact that the preparation for the Olympics could have on low-income housing residents, and particularly on low-income single resident hotel units situated in the Downtown Eastside neighborhood. Non-Governmental organizations estimated that since July 2003, Vancouver has lost more than 1400 low-income housing units which have been renovated or converted. Although the Olympics cannot be considered as the unique cause, the real estate speculation generated by the Olympics would appear to be a contributing cause.

87. The Special Rapporteur is also concerned about information he has received that the City of Vancouver is funding private security guards whose duties include moving the street homeless and those panhandling out of commercial areas. The Special Rapporteur is also concerned about reports concerning ticketing homeless individuals for bylaw violations and seizure of their property in the lead up to the Games.

X. RECOMMENDATIONS

...

107. Authorities should genuinely engage with Aboriginal communities to resolve as soon as possible land claims such as in the Lubicon region so that housing problems can be resolved on a longer-term basis. In the mean-time urgent steps should be taken to improve housing and living conditions regardless of the status of the land claims. Until a settlement is reached no actions that could contravene the rights of Aboriginal peoples over these territories should be taken. In that regard, a moratorium should be placed on all oil and extractive activities in the Lubicon region until a settlement. Moreover, activities of private companies on Aboriginal lands - regardless of the status of the claim - should be carried out only with consultation and approval of all Aboriginal and concerned communities. The Special Rapporteur reaffirms the importance of accountability of private actors and calls for respect for human rights in their activities, policies and projects.

108. Federal, Provincial, Aboriginal and municipal governments should undertake gender-based analysis of Aboriginal housing concerns that is culturally relevant and developed with the participation of Aboriginal women.

109. Aboriginal women must have effective participation in decision-making - at all levels, and Aboriginal women with disabilities. For example, equitable representation of all Aboriginal women in modern day treaty negotiations and agreements could ensure that shelter and housing needs of Aboriginal women are adequately considered.

...

**UN General Assembly Working Group on the Universal Periodic Review (UPR) (2009)
Report of the Working Group on the Universal Periodic Review. Canada (05/10/2009.
A/HRC/11/17)**

...

I. Summary of the proceedings of the review process

A. Presentation by the State under review

...

13. While unable to support the United Nations Declaration on the Rights of Indigenous Peoples because the text failed to address Canada's key concerns and lacks clear guidance for States in several areas, including lands and resources, the concept of free, prior and informed consent and self-government, Canada remains committed to fulfilling its existing human rights obligations and commitments to Aboriginal peoples in Canada and is active internationally in working to improve the situation of indigenous peoples.

...

B. Interactive dialogue and responses by the State under review

...

19. Switzerland highlighted Canada's role in implementing international human rights standards, recommending that Canada (a) continue its efforts to bring its system of security certificates concerning immigration into compliance with international human rights standards. Recognizing efforts to accept indigenous rights regarding traditional territories, it noted NGO reports that Canada limits the scope of certain rights, while renegotiating treaties, thus forcing indigenous peoples into long and costly appeals. It recommended (b) reinforcing efforts to settle territorial claims and improve the mechanism of conflict resolution....

20. Austria noted the Government's efforts to work with Aboriginal peoples at settling land claims, particularly through the specific claims process, and asked about its acceleration. It recommended (a) ensuring that all consultation and consent duties are respected by all responsible government agencies at federal and provincial levels and ensuring that the relevant treaty body recommendations are fully taken into account and these processes do not restrict the progressive development of Aboriginal rights in the country; (b) continuing consultations on the issue with all stakeholders with a view to being able to support the Declaration on the rights of indigenous peoples in the future; (c) studying and address the root causes of domestic violence against women, in particular Aboriginal women; and (d) taking measures to facilitate effective access to justice for victims of domestic violence and provide immediate means of redress and protection.

22. Chile,... Regarding indigenous peoples, it noted improvement but that extreme poverty, family violence and low levels of education persist. It also noted violence against women and domestic violence, particularly against indigenous and minority women, and racism and discrimination against minorities....

23. Cuba ... It noted that Aboriginals are disadvantaged in terms of self-generated income, education and health, with the highest ranks in suicide and poverty indexes, asking about measures to repair this historic injustice, in line with the Declaration on the rights of indigenous peoples. Noting that approximately 125 Canadian NGOs expressed concerns at

the lack of appropriate and transparent procedures on implementation of treaty body recommendations, it asked about reform, especially regarding recommendations made during the UPR. It asked why funding of HIV/AIDS programmes was cut. Consistent with CESCR's comments, it recommended that Canada (a) integrate these rights in its poverty reduction strategies in a way that can benefit the most vulnerable groups in society, especially the Aboriginals, Afro-Canadians, migrants, persons with disabilities, youth, women with low incomes, and single mothers, and (b) adopt all necessary measures, including the full implementation of the Declaration on the Rights of Indigenous Peoples, to guarantee Aboriginals full enjoyment of their rights, including economic, social and cultural rights, so that their standard of living was similar to that of the rest of the citizens in Canada.

24. Norway appreciated Canada's active role in the human rights machinery and commended civil society and indigenous representatives for contributions to this process. It recommended that Canada (a) establish an effective and inclusive process to follow up on UPR recommendations; (b) reconsider its position and endorse the Declaration on the Rights of Indigenous Peoples and consider ratifying ILO Convention 169; and (c) institute comprehensive reporting and statistical analysis of the scale and character of violence against indigenous women, so that a national strategy can be initiated, in consultation with indigenous representatives, to respond to the severity of the issues.

...

29. Mexico ... It noted the Canadian House of Commons chamber motion, appealing for endorsement of the Declaration on the Rights of Indigenous Peoples. It recommended that Canada: (a) grant the same importance to and treat equally civil, political, economic, social and cultural rights in its legislation at all levels; (b) establish a mechanism that will meet regularly with the effective participation of civil society organizations and indigenous peoples and have national reach to implement all Canada's international obligations and facilitate the acceptance of pending commitments; (c) consider positively the ratification of the American Convention on Human Rights, the ICRMW, ILO Convention 169, and the Optional Protocol to the International Covenant on Economic Social and Cultural Rights (OP-ICESCR); (d) criminalize domestic violence and adequately investigate and sanction those responsible for the death and disappearance of indigenous women.

30. ... Pakistan recommended that Canada: ... (d) streamline its domestic legislation for the smooth and immediate implementation of its international obligations by all levels of government; (e) support and fully implement the Declaration on the Rights of Indigenous Peoples ...

...

42. Indonesia commended Canada for its efforts to harmonize legal norms with international commitments, but observed indigenous communities' concerns at the lack of norms adequately protecting their rights. It recommended (a) establishing policies to improve healthcare and general welfare of indigenous children; ...

43. Azerbaijan recommended that Canada (a) effectively implement treaty body recommendations. Azerbaijan raised issues relating to violence against women, access to justice and cases of missing and murdered indigenous women. It recommended that Canada (b) take effective measures to combat and end discrimination against indigenous population;

44. India ... It noted comments by CERD on discrimination against First Nations women and children and by CEDAW and CESCR on the need for legislation on discriminatory effects of the Indian Act and CEDAW's concerns about protection and redress for Aboriginal and ethnic women. It sought Canada's response on those matters.

45. Malaysia ... It recommended that Canada: (a) consider taking on board CEDAW recommendations to criminalise domestic violence; (b) consider taking more resolute action to prevent and punish perpetrators of racially motivated acts of violence against members of the Muslim and Arab communities, the indigenous population, Canadian citizens of foreign origin, foreign workers, refugees and asylum-seekers; and (c) consider taking on board the recommendation of the Special Rapporteur on adequate housing, specifically to extend and enhance the national homelessness programme and the Residential Rehabilitation Assistance Programme.

46. The Philippines ... It asked whether there is specific legislation covering conflicts between private mining corporations and indigenous peoples....

47. Turkey... It recommended: (a) taking further measures to ensure effective implementation of CEDAW at the federal, provincial and territorial levels, giving particular attention to Aboriginal women and girls, ... cited the Special Rapporteur on adequate housing's concerns about homelessness and families living without access to drinking water and sanitation, and CESCR concerns that low-income Aboriginal and Afro-Canadian families had to relinquish children into foster care due to inadequate housing. Encouraged by Canada's commitment to address these socio-economic disparities, it recommended Canada (c) continue to work towards that end.

48. Finland noted Canada's acknowledgement of persisting inequalities faced by Aboriginals. It was unfortunate that Canada was unable to support the Declaration on the Rights of Indigenous Peoples. Finland sought more information on the Sisters in Spirit initiative regarding, in particular the partnership between Government and civil society, or on other best practices. It recommended that Canada continue its efforts to tackle discrimination against Aboriginal women in all sectors of society, including employment, housing, education and health care.

49. The Czech Republic recommended adopting further measures to ensure: (a) accountability of the police for their proper, sensitive and effective conduct in cases of violence against women; and (b) better protection of in particular Aboriginal women against all violence, including through addressing their low socio-economic status and discrimination against them ...

50. Bolivia noted that the indigenous population in Canada live in conditions of inequality, and poverty and are more likely to commit suicide. Despite a number of programmes, the problem persisted. It recommended that Canada (a) request from OHCHR the necessary support for the process of ratification of a greater number of international human rights instruments; (b) implement in national norms the commitments made when ratifying the ICESCR and the CERD through the implementation of the recommendations which have come out of their respective Committees; (c) take the provisions of the Declaration on the Rights of Indigenous Peoples into account in national legislation, because the Declaration is a

United Nations document and represents guidelines for the conduct of States; (d) implement in national legislation the prohibition and criminalization of all types of violence against women and children, specially indigenous women and children, in accordance with the commitments acquired in the corresponding Conventions; (e) ratify and implement in national norms ILO Convention 169.

53. Jordan ... It recommended that Canada consider ... (b) implementing, as appropriate, the recommendations of human rights treaty bodies on indigenous peoples.

54. The Islamic Republic of Iran noted that the OHCHR reports made reference to the growing discriminatory treatment against indigenous people, aboriginal women, migrants, Muslims, Arabs and Afro-Canadians, and CERD, HRC and CEDAW concerns about serious acts of violence against Aboriginal women ...

55. Belgium commended Canada's commitment to the rights of indigenous people and gender equality, but cited CERD, HR Committee, CEDAW and NGO concerns about violence and discrimination against indigenous and ethnic minority women. Belgium recommended (a) systematic investigation and collection of data on violence against women and dissemination of this information; (b) taking measures to combat socioeconomic discrimination, which is a cause of continuous violence against Aborigine women and to inform them better of their rights.

...

65. Argentina noted Canada's multicultural nature and the long tradition of democracy and human rights. It asked about concrete measures to improve indigenous rights, particularly their land claims ...

...

68. ... Portugal recommended to the Government (a) to create or reinforce a transparent, effective and accountable system that includes all levels of the government and representative of the civil society, including indigenous people, to monitor and publicly and regularly report on the implementation of Canada's human rights obligations; (b) to ensure any complaint of violations of international human rights obligations can be examined in Canadian courts and effective adequate remedies will be provided to victims; (c) to analyze treaty body recommendations in consultation with representatives of the civil society, including indigenous people, and to implement them or publicly report on the reasons why it considers no implementation is more appropriate; and (d) that a similar system be created for the analysis and implementation of the recommendations resulting from the UPR exercise.

69. Bosnia and Herzegovina noted Canada's active role in the Council's work, and its support to OHCHR and humanitarian funds. It asked about ratification of OP-CAT, ICRMW and UNESCO Convention Against Discrimination in Education, and about follow-up on urgent appeals by CERD, CESC, and the Special Rapporteur on the Rights of Indigenous Peoples to find legislative solutions addressing the discriminatory effects of the Indian Act.

...

73. The Republic of Korea ... It noted civil society and treaty body concerns relating to counter-terrorism and the lack of protection of indigenous peoples, refugees, asylum seekers and migrants. It asked to what extent civil society feedback was reflected in the national report and about civil society involvement in UPR follow-up.

74. The Syrian Arab Republic recommended that Canada: ... (d) take the necessary measures to end violence against women including domestic violence and against aboriginal women, and implement CEDAW and HR Committee recommendations in this context...

...

76. ... Denmark asked how the Government views the open letter from legal scholars arguing for endorsement of the Declaration on the rights of indigenous peoples and the House of Commons Motion calling for its endorsement. It recommended that Canada (b) reconsider its stance vis-à-vis the Declaration...

...

II. Conclusions and/or recommendations

86. In the course of the discussion, the following recommendations were made to Canada:

...

6. Consider ratifying (Norway, Mexico)/ratify and implement in national norms ILO Convention 169 (Bolivia); *(not accepted by Canada)*

...

14. Create or reinforce a transparent, effective and accountable system that includes all levels of the government and representative of the civil society, including indigenous people, to monitor and publicly and regularly report on the implementation of Canada's human rights obligations (Portugal); establish a mechanism that will meet regularly with the effective participation of civil society organizations and indigenous peoples, and have national reach to implement all Canada's international obligations and facilitate the acceptance of pending commitments, (Mexico); consider measures to make the Continuing Committee of Officials on Human Rights more operational, ensure its better accessibility for the civil society enabling thus a permanent dialogue process on international human rights obligations including those from the Universal Periodic Review (Slovakia);

15. Effectively implement United Nations treaty bodies' recommendations (Azerbaijan) and as appropriate on indigenous people (Jordan); implement in national norms, the commitments made when ratifying the ICESCR and the CERD through the implementation of the recommendations which have come out of their respective Committees (Bolivia); analyze United Nations treaty bodies recommendations in consultation with representatives of the civil society, including indigenous people, and implement them or publicly report on the reasons why it considers no implementation is more appropriate (Portugal); include participation of civil society (in mechanisms and procedures that are in place for national follow up to recommendations of treaty bodies) and publication of the concluding recommendations of treaty bodies (Czech Republic);

...

19. Give the highest priority to addressing the fundamental inequalities between some of its citizens including through its policy agenda focused on five key areas of economic development: education, citizen empowerment and protection of the vulnerable, resolution of land claims and reconciliation, governance and self-government (United Kingdom);

20. Continue policies and programmes aimed at reducing inequalities that still exist between the Aboriginal, recent immigrants and other Canadians (Vietnam);

...

24. Consider taking more resolute action to prevent and punish perpetrators of racially motivated acts of violence against members of the Muslim and Arab communities, the indigenous population, Canadian citizens of foreign origin, foreign workers, refugees and asylum-seekers (Malaysia);

...

27. Takes further measures to ensure effective implementation of CEDAW at the federal, provincial and territorial levels, giving particular attention to the Aboriginal women and girls (Turkey); continue efforts to tackle discrimination against Aboriginal women in all sectors of society, including employment, housing, education and health care (Finland); take measures to combat socio-economic discrimination, which is a cause of continuous violence against Aboriginal women, and to inform them better of their rights (Belgium); consider taking additional steps to address discrimination against disabled adult women and Aboriginal women (United Kingdom);

28. Take effective measures to combat and put an end to discrimination against indigenous population and to elaborate and implement a National Action Plan to deal with this phenomenon (Azerbaijan); address root causes of discriminations, ensure effective access to justice, establish immediate means of redress and protection of rights of ethnominorities, in particular, Aboriginals (Islamic Republic of Iran);

...

34. Implement in national legislation the prohibition and criminalization of all types of violence against women and children, specially indigenous women and children, in accordance with the commitments acquired in the corresponding Conventions (Bolivia);

...

36. Adopt further measures to ensure: accountability of the police for their proper, sensitive and effective conduct in cases of violence against women; and better protection of in particular aboriginal women against all violence, including through addressing their low socio-economic status and discrimination against them; better accessibility of alternative/protected housing for victims of domestic violence (Czech Republic);

...

38. Institute comprehensive reporting and statistical analysis of the scale and character of violence against indigenous women, so that a national strategy can be initiated, in consultation with indigenous representatives, to respond to the severity of the issues (Norway); study and address the root causes of domestic violence against women, in particular Aboriginal women (Austria);

...

45. Integrate economic social and cultural rights in its poverty reduction strategies in a way that can benefit the most vulnerable groups in society, specially the Aborigines, afro-Canadians, migrants, persons with disabilities, youth, women with low incomes, and single mothers and adopt all necessary measures, including the full implementation of the United Nations Declaration on the Rights of Indigenous Peoples, to guarantee Aboriginals the full enjoyment of their rights including economic, social and cultural so that their standard of living was similar to that of the rest of the citizens in Canada (Cuba); *(not accepted by Canada)*

46. Establish policies to improve healthcare and general welfare of indigenous children (Indonesia);

...

51. Implement all international human rights instruments related to Aboriginals, women, Arabs, Muslims and other religious minorities, migrants and refugees and enhance and protect their rights against violations (Saudi Arabia);

52. Reconsider its stance (Denmark; Norway), endorse (Norway), support and fully implement (Pakistan) the United Nations Declaration on the Rights of Indigenous Peoples (Norway, Denmark, Pakistan); continue consultations on the issue with all stakeholders with a view to being able to support the Declaration in the future (Austria); take the provisions of the Declaration into account in the national legislation, because the Declaration is a United Nations document and represents guidelines for the conduct of States (Bolivia); *(not accepted by Canada)*

...

54. Strengthen and enlarge existing programmes and take more and specific measures towards Aboriginals, particularly with regard to the improvement of housing, educational opportunities, especially after elementary school, employment, and that women's and children's rights are better safeguarded, in consultation with civil society (The Netherlands);

55. Ensure that all consultation and consent duties are respected by all responsible government agencies at federal and provincial level as well as to ensure that the relevant recommendations of United Nations treaty bodies are fully taken into account and that the specific claims processes do not restrict the progressive development of Aboriginal rights in the country (Austria);

56. Reinforce efforts to settle territorial claims and improves the mechanism of conflict resolution (Switzerland);

Committee on the Elimination of Racial Discrimination CERD (2012)

**Concluding observations of the Committee on the Elimination of Racial Discrimination:
Canada, 09/03/2012. CERD/C/CAN/CO/19-20.**

...

C. Concerns and Recommendations

7. The Committee remains concerned at the absence in the State party's report of recent reliable and comprehensive statistical data on the composition of its population including economic and social indicators disaggregated by ethnicity, including Aboriginal (indigenous) peoples, African Canadians and immigrants living in its territory, to enable it to better evaluate their enjoyment of civil and political, economic, social and cultural rights in the State party.

In accordance with paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee reiterates its previous recommendation that the State party collect and, in its next periodic report, provide the Committee, with reliable and comprehensive statistical data on the ethnic composition of its population and its economic and social indicators disaggregated by ethnicity, gender, including on Aboriginal (indigenous) peoples, African Canadians and immigrants, to enable the Committee to better evaluate the enjoyment of civil, political, economic, social and cultural rights of various groups of its population.

8. The Committee, recalling its recommendation to the State party at its seventieth session in February 2007 to reflect on the use of the term "visible minorities", has taken note of the State party's efforts to comply with this request, including the commissioning of scholars to write research papers on this subject, and the organization of an open workshop in 2008 to discuss this issue. While appreciating the State party's efforts, the Committee continues to have residual doubts regarding continuing use of the term "visible minorities". The term is considered objectionable by certain minorities who claim that it is being used at all levels of the Canadian society, homogenizing experiences of different ethnic groups. Its lack of precision may pose a barrier to effectively addressing the socio-economic gaps of different ethnic groups (art. 1).

The Committee reiterates its previous recommendation that the State party continue to keep under review, in line with article 1 of the Convention, the implications of the use of the term "visible minorities" in referring to "persons, other than Aboriginal peoples, who are non-Caucasian in race and non-white in colour" (Employment Equity Act, 1995), so as to address more precisely the socio-economic gaps between different ethnic groups.

9. The Committee takes note of the various fora and mechanisms in the Canadian government that take part of the State party's efforts to facilitate exchange of information at the federal, provincial, and territorial levels on legislation, policies, programs and best practices aimed at coordinating the implementation of the Convention. These cover, inter alia, immigrants, Aboriginal peoples, and issues relating to multiculturalism and anti-racism. In spite of the existence of these mechanisms, however, the Committee is concerned that disparities and discrepancies still exist in the implementation of the Convention among provinces and territories (art. 2).

The Committee recommends that the State party take appropriate measures to strengthen the coordination of all existing federal and provincial mechanisms in order to remove

discrepancies and disparities in the implementation of anti-racism legislation, policies, programs and best practices, and to ensure the enjoyment on an equal footing within all provinces and territories of the rights set forth in the Convention, including by adopting, when necessary, new federal laws.

...

12. The Committee is concerned at the disproportionately high rates of incarceration of Aboriginal people including Aboriginal women, in federal and provincial prisons across Canada (art. 2, 5, 7).

In light of its General Recommendation no. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party reinforce measures to prevent excessive use of incarceration of indigenous peoples. The Committee also recommends that the State party:

- (a) Give preference, wherever possible, to alternatives to imprisonment concerning Aboriginal peoples, as set forth in subsection 717 (1) of the Criminal Code;**
- (b) Implement, when appropriate, subsection 718.2 (e) of the Criminal Code, as well as section 742.1, to allow Aboriginal convicted offenders to serve their sentences in their communities;**
- (c) Make adequate use of the Aboriginal Justice Strategy (AJS) in order to prevent Aboriginal overrepresentation in prisons, as a result of the operation of the criminal justice system.**

The Committee urges the State party to train its prosecutors, judges, lawyers, police officers on these provisions of the Criminal Code, and to increase its efforts to address socio-economic marginalization of Aboriginal people.

...

14. While noting that the State party has enacted a Corporate Responsibility Strategy, the Committee is concerned that the State has not yet adopted measures with regard to transnational corporations registered in Canada whose activities negatively impact the rights of indigenous peoples outside Canada, in particular in mining activities (art. 5).

The Committee recommends that the State party take appropriate legislative measures to prevent transnational corporations registered in Canada from carrying out activities that negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada, and hold them accountable.

...

17. The Committee takes note of various measures taken by the State party to combat violence against Aboriginal women and girls, such as the Family Violence Initiative, the Urban Aboriginal Strategy, and various initiatives taken at the provincial or territorial level to address murders and disappearances of Aboriginal women. However, the Committee remains concerned that Aboriginal women and girls are disproportionately victims of life-threatening forms of violence, spousal homicides and disappearances (art. 5).

The Committee recommends that the State party:

- (a) Strengthen its efforts to eliminate violence against Aboriginal women in all its forms by implementing its legislation and reinforcing its preventive programmes and strategies of protection, including the Shelter Enhancement Program, the Family Violence Prevention Program, the Policy Centre for Victim Issues and the Aboriginal Justice Strategy and the new National Police Support Centre for missing persons;**
- (b) Facilitate access to justice for Aboriginal women victims of gender-based violence, and investigate, prosecute and punish those responsible;**

- (c) Conduct culturally-sensitive awareness-raising campaigns on this issue, including in affected communities and in consultation with them;**
- (d) Consider adopting a national plan of action on Aboriginal gender-based violence;**
- (e) Consult Aboriginal women and their organisations and support their participation in development, implementation and evaluation of measures taken to combat violence against them.**

The Committee further recommends that the State party support existing databases and establish a national database on murdered and missing Aboriginal women and provide the Committee with statistical data and information on concrete results of its programmes and strategies.

18. The Committee is concerned that the State party has not yet removed all discriminatory effects in matters relating to the Indian Act that affect First Nations women, in particular relating to band membership and matrimonial real property on reserve lands (art. 2, 5).

The Committee urges the State party to adopt and implement the proposed Family Homes on Reserves and Matrimonial Interests or Rights Act presently under consideration before Parliament, without further delay, in order to allow the enjoyment by First Nations women in the areas of property, marriage and inheritance.

19. While noting measures taken by the State party, such as the Aboriginal Health Transition Fund, Canada Economic Action Plan 2009, the new Federal Framework for Aboriginal Economic Development, and the new Aboriginal Skills and Employment Training Strategy, the Committee remains concerned about the persistent levels of poverty among Aboriginal peoples, and the persistent marginalization and difficulties faced by them in respect of employment, housing, drinking water, health and education, as a result of structural discrimination whose consequences are still present (art. 5).

The Committee recommends that the State party, in consultation with Aboriginal peoples, implement and reinforce its existing programmes and policies to better realize the economic, social and cultural rights of Aboriginal peoples, in particular through:

- (a) Speeding up the provision of safe drinking water to Aboriginal communities on reserves;**
- (b) Intensifying efforts to remove employment-related discriminatory barriers and discrepancies in salaries between Aboriginal and non-Aboriginal people, in particular in Saskatchewan and Manitoba;**
- (c) Finalising the construction of homes for the Attawapiskat communities in northern Ontario, and facilitating access to housing by Aboriginal people, by adopting and implementing the plan currently being drafted;**
- (d) Facilitating their access to health services;**
- (e) Improving access to education of Aboriginal children including to the post-graduate education, in particular by generalising the Enhanced Prevention Focus, and providing it with sufficient funding;**
- (f) Discontinuing the removal of Aboriginal children from their families and providing family and child care services on reserves with sufficient funding; and**
- (g) Providing adequate compensation through an appropriate settlement mechanism, to all students who attended the Indian Residential Schools in order to fully redress the intergenerational effects.**

The Committee requests that the State party, in consultation with indigenous peoples, consider elaborating and adopting a national plan of action in order to implement the United Nations Declaration on the rights of indigenous peoples.

The Committee also requests that the State party provide it with information on the progress and concrete results of such programs and policies, in its next periodic report.

20. The Committee is concerned about reports according to which the right to consultation as provided in legislation and the right to prior, free and informed consent to projects and initiatives concerning Aboriginal peoples, are not fully applied by the State party, and may be subject to limitations. It is also concerned that Aboriginal peoples are not always consulted for projects conducted on their lands or which affect their rights and that treaties with Aboriginal peoples are not fully honoured or implemented. The Committee is further concerned that Aboriginal peoples incur heavy financial expenditures in litigation to resolve land disputes with the State party owing to rigidly adversarial positions taken by the State party in such disputes. While acknowledging that the Special Claims Tribunal constitutes a positive step, the Committee is concerned at reports that this tribunal does not resolve disputes on treaty rights for all First Nations and does not provide for all guarantees for a fair and equitable settlement (art. 5).

In light of its General Recommendation no. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party, in consultation with Aboriginal peoples:

- (a) Implement in good faith the right to consultation and to free, prior and informed consent of Aboriginal peoples whenever their rights may be affected by projects carried out on their lands, as set forth in international standards and the State party's legislation;**
- (b) Continue to seek in good faith agreements with Aboriginal peoples with regard to their lands and resources claims under culturally-sensitive judicial procedures, find means and ways to establish titles over their lands, and respect their treaty rights;**
- (c) Take appropriate measures to guarantee that procedures before the Special Tribunal Claims are fair and equitable and give serious consideration to the establishment of a Treaty Commission with a mandate to resolve treaty rights issues.**

21. The Committee is concerned that persons belonging to Aboriginal peoples and African Canadians, continue to face obstacles in recourse to justice, despite the existence of some programs at the provincial and territorial levels. The Committee also draws attention to the lack of information about the mechanism to replace the Court Challenges Programs which were cancelled by the State party (art. 6).

The Committee recommends that the State party strengthen its efforts to promote and to facilitate access to justice at all levels by persons belonging to minority groups, in particular by Aboriginal peoples and African Canadians. The Committee also urges the State party to establish without further delay, a mechanism to fill the gap caused by the cancellation of the Court Challenges Programs, as previously recommended by the Committee.

...

23. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO

Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries and the 1954 Convention relating to the Status of Stateless Persons.

***Special Rapporteur on the right to food, Olivier De Schutter (2012):
Mission to Canada from 6 to 16 May 2012***

...

II. The situation of food insecurity

...

The Special Rapporteur was disconcerted by the deep and severe food insecurity faced by aboriginal peoples across Canada living both on- and off-reserve in remote and urban areas. Statistics on First Nations specific food insecurity are few, however the First Nations Regional Longitudinal Health Survey (RHS 2008/10) indicates that 17.8 per cent of First Nations adults (age 25–39) and 16.1 percent of First Nations adults (age 40–54) reported being hungry but did not eat due to lack of money for food in 2007/2008.

...

III. The legal, institutional and policy framework

1. The legal framework

...

The Special Rapporteur is concerned about the growing gap between Canada's international commitments and their implementation domestically. The Special Rapporteur is also concerned by the worrying trend of Canada's lack of implementation of recommendations made by various United Nations human rights bodies.

...

V. Food Accessibility: protecting access to food for the poorest

1. Social protection ...

...

Poverty affects some 3 million Canadians, of whom more than 600,000 are children. In First Nations families, one in four children live in poverty.

...

VI. Food Adequacy

...

Obesity rates have increased significantly since the early 1980s, and it is becoming more severe. On-reserve First Nations have particularly high obesity rates, at 36 per cent in 2002-2003: the risk of dying from diabetes and its complications is five times higher among women living in First Nations communities than among Canadian women of the general population....

VIII. Indigenous Peoples

...

1. Nutrition North Canada

...

The objective of the Nutrition North Canada programme is to improve access to perishable healthy foods in isolated Northern communities, and the Special Rapporteur welcomes this initiative. Yet, the Rapporteur also has concerns about its implementation. In particular, he is concerned that the retail subsidy is not being fully passed on to the consumer and that in the absence of adequate monitoring by those it is intended to benefit, the programme is not achieving its desired outcome.³⁰ Furthermore, he is concerned that it was designed and implemented without an inclusive and transparent process providing the Northern

communities with an opportunity to exercise their right to free, active and meaningful participation. Concerns were raised in particular regarding the eligibility criteria of which communities fall within the scope of the programme and which items are subsidized.

...

2. Access to traditional/country foods

...

Many aboriginal communities expressed concerns regarding federal government policies that have disrupted and, in some cases, devastated the traditional practices of indigenous people, including through removing control over land and natural resources.

3. Access to land

In many parts of Canada access to country foods requires access to land. As such, on-going land claims across the country have implications for the right to food among aboriginal Canadians. Concerns have been raised that although aboriginal title is recognized under Canadian law, the Government has made attempts to extinguish title through onerous negotiations and terms of modern land claims and self-government agreements, as well as through a narrow and reductionist reading of historical Treaties, agreements and other constructive arrangements. The Special Rapporteur recalls that article 8.2(b) of the Declaration provides that States shall provide effective mechanisms “for prevention of, and redress for...[a]ny action which has the aim or effect of dispossessing them of their lands, territories or resources.”

The Special Rapporteur notes the existence of “Aboriginal Consultation and Accommodation: Updated Guidelines for Federal Officials to Fulfill the Duty to Consult,” a Government policy document on aboriginal consultation and accommodation. In this context, he recalls article 19 of the United Nations Declaration on the Rights of Indigenous Peoples, which establishes that, in general, consultations with indigenous peoples are to be carried out in “good faith ... in order to obtain their free, prior and informed consent.”

The Special Rapporteur believes that continued and concerted measures are needed to develop new initiatives and reform existing ones, in consultation and in real partnership with indigenous peoples with the goal of strengthening indigenous peoples’ own self-determination and decision-making over their affairs at all levels.

UN Committee against Torture (2012):

Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Canada. 07/06/2014; CAT/C/CAN/CO/6

...

Police crowd-control methods

22. The Committee is concerned about reports on the excessive use of force by law enforcement officers often in the context of crowd control at federal and provincial levels, with particular reference to indigenous land-related protests at Ipperwash and Tyendinaga as well as the G8 and G20 protests. The Committee is particularly concerned about reports of severe crowd control methods and inhumane prison conditions in the temporary detention centres (arts. 11 and 16).

The Committee recommends that the State party strengthen its efforts to ensure that all allegations of ill-treatment and excessive use of force by the police are promptly and impartially investigated by an independent body and those responsible for such violation are prosecuted and punished with appropriate penalties. Furthermore, the State party and the government of the Province of Ontario should conduct an inquiry into the Ontario Provincial Police's handling of incidents at Tyendinaga and into all aspects of the policing and security operations at the G8 and G20 Summits.

...

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

14. During the interactive dialogue, 82 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report (*Remark: only a selection of critical remarks specifically referring to indigenous/aboriginal peoples are quoted below*):

...

17. China was concerned about prevailing racial discrimination and severe poverty among minorities. It noted the poor conditions of indigenous people in health, education and employment, violence against indigenous women and children, and the violations to land rights. China made recommendations.

...

27. Estonia noted progress in several human rights areas. It encouraged full implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Estonia believed that more could be done to eliminate all forms of violence against Aboriginal women and children. It made recommendations.

28. Finland asked how Canada was addressing the multiple discrimination faced by Aboriginal women and girls in all sectors of society, including education, employment and health services. Finland made recommendations.

...

39. Germany appreciated ratification of CRPD and the endorsement of UNDRIP and encouraged its implementation. Germany was concerned about reports of violence against indigenous women and encouraged the State party to strengthen its efforts. It made recommendations.

...

44. Iceland asked about Canada's plans to develop a strategy to end violence against Aboriginal women and girls. It commended measures to strengthen legislation and programmes regarding prohibition of commercial sexual exploitation of children including law reform initiatives. Iceland made recommendations.

45. India referred to the Committee on the Rights of the Child's concerns on disparities in access to services by all children and the lack of prevention of child sexual exploitation. It noted concerns about violence affecting indigenous women. It asked if, in relation to the Committee on the Elimination of Racial Discrimination's concerns about Bill-C4, the provisions of mandatory detention have been repealed or modified. India made recommendations.

46. Indonesia appreciated the various measures to strengthen the relationship with the Aboriginal people. It however, indicated that it shared the concern about the high rates of incarceration of and violence to Aboriginal people, in particular women and girls, as well as the alleged inadequate response of the authorities. Indonesia made recommendations.

47. The Islamic Republic of Iran referred to child sexual exploitation and trafficking, the right to food, discriminatory laws against indigenous peoples and minority groups, including Muslim Arab and African communities. It expressed concern at the refusal of Canada to criminalize and punish acts of racist violence. It made recommendations.

48. Ireland urged the implementation of Canada's 2012 National Action Plan to Combat Human Trafficking and to pay attention to all human rights issues of Aboriginal peoples. It noted that educational, economic and social development issues represent a continuing challenge. It made recommendations.

...

50. Japan inquired about Canada's assessment of violence against Aboriginal women, the realization of the right to health among Aboriginal peoples, measures meant to improve the situation, and challenges identified/steps taken to meet CRPD obligations. Japan made a recommendation.

...

57. Mexico praised the Canadian endorsement of UNDRIP. It considered that it was necessary to strengthen efforts to combat violence against indigenous women and domestic violence. Mexico made recommendations.

...

64. Norway acknowledged Canada's efforts towards human rights since its last UPR. It noted high levels of violence against Aboriginal women and commended the appointment of a parliamentary committee to investigate the issue. Norway made recommendations.

...

68. Portugal commended Canada for its commitment to human rights, values of freedom and democracy. It noted that some United Nations treaty bodies remained concerned that their recommendations were not being implemented. Portugal made recommendations.

...

85. Slovenia welcomed efforts to address violence against women, but noted special rapporteur and treaty body reports of continuing widespread violence against indigenous women. Slovenia made a recommendation.

...

89. Sweden appreciated efforts to fight violence against women but noted reports on violence against indigenous women. It referred to criticisms of Canada's refugee legislation and asked about measures being taken to ensure that the Convention relating to the Status of Refugees is respected. Sweden made a recommendation.

...

II. Conclusions and/or recommendations

(Remark: only recommendations specifically referring to indigenous/aboriginal peoples are quoted below)

...

128.12. Consider the ratification of ILO Convention No. 169 (Ecuador, Nicaragua, Paraguay); *(Remark: This ILO Convention refers to the rights of Indigenous Peoples) (not accepted by Canada)*

...

128.53. Continue to address the problems relating to minority groups including Aboriginal peoples, Metis and African Canadians, as identified in the first cycle of the UPR (Sierra Leone);

...

128.57. Adopt legislative and administrative measures to improve the living conditions of indigenous peoples, effectively combat and prevent violent action against indigenous women and girls through legal measures (China);

128.58. Take effective legal measures with a view to the adoption of a national plan of action so that the rights of indigenous peoples will be respected and all forms of violence against Aboriginal women and girls will be ended (Iran (Islamic Republic of)); *(not accepted by Canada)*

128.59. Abolish all discriminatory implications of the Indian Act and grant women and men the same rights with regard to their aboriginal status (Germany);

128.60. Consider the adoption of a national plan of action in pursuance of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and implement, inter alia, the recommendations of the CRC on the national system to protect Aboriginal children (Cape Verde); *(first part not accepted by Canada)*

128.61. Adopt, in consultation with indigenous peoples, a national action plan for the implementation of the UNDRIP (Mexico); *(not accepted by Canada)*

128.62. Adopt a comprehensive strategy on the situation of Aboriginal people at the federal level, to intensify the monitoring of the Nutrition North Canada Program, launched in 2011 and to develop a national plan of action (Bulgaria);

128.63. Enhance, through consultation mechanisms, the participation of indigenous peoples in the determination of public policies that affect them (Peru);

128.64. Ensure parity of funding and services between Aboriginal and non-Aboriginal communities (United States of America);

128.65. Continue to strengthen its relationship with indigenous peoples (Gabon);

128.66. Give full effect to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (Togo); *(not accepted by Canada)*

128.67. Take all necessary measures, including the implementation of the UNDRIP, to ensure to its indigenous peoples the full enjoyment of all their human rights, including economic, social and cultural rights, so that their quality of life is similar to the rest of citizens (Cuba); *(UNDRP part not accepted by Canada)*

128.68. Implement the recommendation of CERD to realise the economic, social and cultural rights of aboriginal people (Turkey);

128.69. Adopt effective measures to implement political, economic, social and culture rights of aboriginal communities and minorities, as well as prevent discrimination against them (Uzbekistan);

128.70. Continue to ensure the human rights of the Aboriginal people, including by realizing their economic, social and cultural rights (Indonesia);

128.71. Continue in its endeavours to consistently address the skills development and training needs of Aboriginal peoples to ensure access to sustained decent work (Trinidad and Tobago);

128.72. Step up its efforts in order to raise the level of employment and education of indigenous peoples and to react to the difficulties facing people living in isolated communities (Gabon);

128.73. Continue its efforts to improve access to health services for indigenous peoples (Burundi);

128.74. Ensure the right to health, and an adequate standard of living for the First Nations, Metis and Inuit (Namibia);

128.75. Continue to promote the empowerment of Aboriginal peoples, primarily through the protection of their lands, their education and their health (Holy See);¹

128.76. Continue its efforts to develop and implement sustainable solutions engaging relevant provincial government, as well as representatives of Aboriginals, on issues such as guaranteeing the property rights for Aboriginals and their participation on issues related to natural resources development (Republic of Korea);

128.77. Address the issues raised by the Special Rapporteur on the right to food concerning the deep and severe food insecurity faced by Aboriginal peoples across Canada living both on and off reserves, in remote and urban areas, especially for children (Namibia);

128.78. Take further measures to increase the political representation of indigenous peoples, and expand the dialogue with these communities so that they can better represent their perspectives in the decision-making process (Morocco);

...

128.80. Ensure effective implementation of CEDAW at the federal, provincial and territorial levels with particular attention to Aboriginal women and girls (Turkey);

...

128.83. Continue its efforts to prevent and punish all forms of violence against women and girls, particularly indigenous women and girls (Peru);

128.84. Take all appropriate measures to address violence against indigenous women (Sweden);

128.85. Take effective measures to combat violence against Aboriginal girls and women (Cape Verde);

128.86. Put an end to all forms of violence against Aboriginal women and girls (Honduras);

128.87. All necessary measures be taken to address all forms of violence against Aboriginal women and girls (India);

128.88. Expand services and support to prevent violence and discrimination against Aboriginal women and girls (United States of America);

128.89. Take further steps to prevent and protect Aboriginal women and children from all forms of violence (Estonia);

128.90. Regarding combating all forms of violence against Aboriginal women and girls, support effective participation of Aboriginal peoples, especially women and their organizations, in the development, implementation and evaluation of measures taken (Finland);

128.91. Continue with the measures for the promotion of women's rights, primarily by preventing and combating violence against women, particularly those belonging to indigenous peoples (France);

128.92. Strengthen measures to eradicate violence against women and children, especially those belonging to indigenous peoples and diverse ethnic groups (Ecuador);

128.93. Develop strategies to address the causes and consequences of violence against Aboriginal women and girls (Togo);

128.94. Work proactively with partners to address the violence against Aboriginal women and its root causes (United Kingdom);

128.95. Put an end to all forms of violence against women and girls belonging to Aboriginal communities (Uzbekistan);

128.96. Develop a national plan of action to end violence against indigenous women and take the necessary measures to ensure that national protection laws against domestic violence are enforced at all levels in a consistent and effective manner (Switzerland);
(partly not accepted by Canada)

128.97. Develop and implement a national plan of action to address violence afflicting indigenous women and girls, providing for an adequate reaction of authorities and a resolution to the root causes of the violence (Slovakia); *(not accepted by Canada)*

128.98. Devise a national action plan to address the structural roots of violence, raise awareness, and ensure effective access to justice, redress and protection for indigenous women (Slovenia); *(not accepted by Canada)*

128.99. Develop a comprehensive national strategy for addressing violence against Aboriginal women in a timely manner and in collaboration with relevant stakeholders such as Aboriginal women's organizations (New Zealand); *(not accepted by Canada)*

128.100. In collaboration with indigenous representatives, implement concrete measures, so that a comprehensive and coordinated national action plan can be under way by 2015, as recommended by the United Nations Secretary-General's campaign to end violence against women (Norway); *(not accepted by Canada)*

128.101. Carry out, with the Special Procedures of the Council, an independent investigation of cases of disappearances and murders of Aboriginal women and girls (Belarus); *(not accepted by Canada)*

128.102. Ensure access to justice; investigating an alarming pattern of violence afflicting indigenous women throughout the country and allegations of an inadequate response by authorities, as well as addressing the root causes of violence against indigenous women in order to end all forms of violence against Aboriginal women and girls (Indonesia);

128.103. Continue its support and assistance to the provincial and territorial governments in improving the response of law enforcement and justice system to cases of violence against women and children in Aboriginal communities (Montenegro);

128.104. Develop a comprehensive national action plan for addressing violence against indigenous women, and, also, give due consideration to an independent national enquiry into missing indigenous women (Ireland); *(not accepted by Canada)*

128.105. Implement measures to ensure that the Aboriginality of victims of gender-based violence is accurately recorded (Australia); *(not accepted by Canada)*

...

128.134. Ensure the access to education for all children, including those belonging to indigenous peoples (France);

...

128.136. Take further effective measures to ensure access to education for all Aboriginal girls and women as an essential part of the full realization of their human rights (Finland);

128.137. Make every effort to ensure that the graduation rate from the First Nations' students reaches the level of other Canadian students (Chad);

...

128.139. Continue to implement concrete measures to facilitate and favour access to education and employment for indigenous peoples (Burundi);

Special Rapporteur on the rights of indigenous peoples, James Anaya (2014)
Report: The situation of indigenous peoples in Canada (07/05/2014). A/HRC/27/52/Add.2

The whole report can be found and downloaded at:

<http://unsr.jamesanaya.org/country-reports/the-situation-of-indigenous-peoples-in-canada>

http://www.ohchr.org/Documents/Issues/IPeoples/SR/A.HRC.27.52.Add.2-MissionCanada_AUV.pdf

Human Rights Committee (HRC) (2015):

International Covenant on Civil and Political Rights. Concluding observations on the sixth periodic report of Canada (13/08/2015). CCPR/C/CAN/CO/6

...

Gender equality

7. The Committee is concerned about the persisting inequalities between women and men. In particular, the Committee is concerned about (a) the high level of the pay gap, which is more pronounced in some provinces such as Alberta and Nova Scotia, and disproportionately affects low-income women, in particular minority and indigenous women; (b) the fact that the legislation relating to equal pay differs at the federal, provincial and territorial levels and for the public and private sectors, and does not exist in some provinces; (c) the underrepresentation of women in leadership positions in the public and private sectors; and (d) the failure to enforce or ensure employment equality in the private sector across the country. It further regrets that the State party has not yet adopted regulations to implement the Public Sector Equitable Compensation Act (art. 3).

The State party should strengthen its efforts to guarantee that men and women receive equal pay for work of equal value across its territory, with a special focus on minority and indigenous women. It should ensure that all provinces and territories adopt a legislative framework on equal pay, covering the public and private sectors, and take measures to implement the recommendations of the Pay Equity Task Force at all levels. The State party should promote better representation of women in leadership positions, both in the private and public sectors, and ensure effective remedies to women who are victims of gender-based discrimination.

Violence against women

8. The Committee is concerned about the continued high prevalence of domestic violence in the State party, in particular violence against women and girls, that mostly affects indigenous and minority women. The Committee is also concerned about reports of (a) the low number of cases reported to the police by victims; (b) the insufficiency of shelters, support services and other protective measures for victims that reportedly prevent them from leaving their violent partner; and (c) a failure to effectively investigate, prosecute, convict and punish perpetrators with appropriate penalties. The Committee is further concerned about the lack of statistical data on domestic violence, including on investigations, prosecutions, convictions, sanctions and reparation (arts. 3, 6 and 7).

The State party should enhance its efforts to firmly combat domestic violence, including violence against women in all forms, paying particular attention to minority and indigenous women. Specifically, the State party should (a) take measures to effectively enforce its criminal legislation at the federal, provincial and territorial levels; (b) provide complaint mechanisms to victims of domestic violence, protect them from any retaliation and provide them with support at the police level; (c) investigate all reported cases, prosecute and punish those responsible with appropriate penalties; (d) increase the number of shelters, support services and other protective measures; and (e) effectively

implement policies and programmes adopted at all levels, and ensure an effective application of the Victims Bill of Rights Act.

Murdered and missing indigenous women and girls

9. The Committee is concerned that indigenous women and girls are disproportionately affected by life-threatening forms of violence, homicides and disappearances. Notably, the Committee is concerned about the State party's reported failure to provide adequate and effective responses to this issue across the territory of the State party. While noting that the Government of British Columbia has published a report on the Missing Women Commission of Inquiry and adopted legislation related to missing persons, and that the Government of the State party is implementing the Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls, the Committee is concerned about the lack of information on measures taken to investigate, prosecute and punish those responsible (arts. 3 and 6).

The State party should, as a matter of priority, (a) address the issue of murdered and missing indigenous women and girls by conducting a national inquiry, as called for by the Committee on the Elimination of Discrimination Against Women, in consultation with indigenous women's organizations and families of the victims; (b) review its legislation at the federal, provincial and territorial levels, and coordinate police responses across the country, with a view to preventing the occurrence of such murders and disappearances; (c) investigate, prosecute and punish the perpetrators and provide reparation to victims; and (d) address the root causes of violence against indigenous women and girls.

...

Excessive use of force during protests and police accountability

11. The Committee is concerned about reports of the excessive use of force by law enforcement officers during mass arrests in the context of protests at the federal and provincial levels, with particular reference to indigenous land-related protests, G-20 protests in 2010 as well as student protests in Quebec in 2012. The Committee is also concerned about reports that complaints are not always promptly investigated and that the sanctions imposed are of a lenient nature. While noting efforts by the State party to establish oversight and accountability mechanisms to investigate serious incidents involving the police at the federal, provincial and territorial levels, the Committee is concerned about reports of the lack of effectiveness of such mechanisms. The Committee regrets the lack of statistical data on all complaints, investigations, prosecutions, convictions and sanctions imposed on police officers at all levels (art. 7).

The State party should strengthen its efforts to ensure that all allegations of illtreatment and excessive use of force by the police are promptly and impartially investigated by strong independent oversight bodies with adequate resources at all levels, and that those responsible for such violations are prosecuted and punished with appropriate penalties.

Indigenous lands and titles

16. While noting explanations provided by the State party, the Committee is concerned about reports of the potential extinguishment of indigenous land rights and titles. It is concerned that land disputes between indigenous peoples and the State party which have gone on for years impose a heavy financial burden in litigation on the former. The Committee is also concerned at information that indigenous peoples are not always consulted, to ensure that they may exercise their right to free, prior and informed consent to projects and initiatives concerning them, including legislation, despite favourable rulings of the Supreme Court (arts. 2, 27).

The State party should consult indigenous people: a) to seek their free, prior and informed consent whenever legislation and actions impact on their lands and rights and b) to resolve land and resources disputes with indigenous peoples and find ways and means to establish their titles over their lands with respect to their treaty rights.

Indian Act

17. While noting the position of the State party, the Committee is concerned about the slow application of the 2011 Gender Equity in Indian Registration Act that amends the Indian Act, to remove reported lasting discriminatory effects against indigenous women, in particular regarding the transmission of Indian status, preventing them and their descendants from enjoying all of the benefits related to such status (arts. 2, 3, 27).

The State party should speed up the application of the 2011 Gender Equity in Indian Registration Act and remove all remaining discriminatory effects of the Indian Act that affect indigenous women and their descendants, so that they enjoy all rights on equal footing with men.

Overrepresentation in criminal justice and access to justice for indigenous peoples

18. The Committee is concerned at the disproportionately high rate of incarceration of indigenous people, including women, in federal and provincial prisons across Canada. The Committee is also concerned that Aboriginal people continue to face obstacles in recourse to justice (arts. 2, 10, 14).

The State party should ensure the effectiveness of measures taken to prevent the excessive use of incarceration of indigenous peoples and resort, wherever possible, to alternatives to detention. It should enhance its programs enabling indigenous convicted offenders to serve their sentences in their communities. The State party should further strengthen its efforts to promote and facilitate access to justice at all levels by indigenous peoples.

Situation of indigenous peoples

19. While noting measures taken by the State party, the Committee remains concerned about: a) the risk of disappearance of indigenous languages; b) some indigenous people lacking access to basic needs; c) child welfare services which are not sufficiently funded; e)

the fact that appropriate redress not yet being provided to all students who attended the Indian Residential Schools (arts. 2, 27).

The State party should in consultation with indigenous people: a) implement and reinforce its existing programmes and policies to supply basic needs to indigenous peoples; b) reinforce its policies aimed at promoting the preservation of the languages of indigenous peoples; c) provide family and child care services on reserves with sufficient funding and; d) fully implement the recommendations of the Truth and Reconciliation Commission with regard to the Indian Residential Schools.

...

21. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations made by the Committee in paragraphs 9 (murdered and missing indigenous women and girls), 12 (immigration detention, asylum-seekers and non-refoulement) and 16 (indigenous lands and titles) above.

Committee on Economic, Social and Cultural Rights (2016):

International Covenant on Economic, Social and Cultural Rights. Concluding observations on the sixth periodic report of Canada (Advance Unedited Version; 04/03/2016). E/C.12/CAN/CO/6

...

C. Principal subjects of concern and recommendations

Domestic application of the Covenant

5. The Committee is concerned that, despite certain promising developments and the Government's commitment to review its litigation strategies, economic, social and cultural rights remain generally non-justiciable in domestic courts. The Committee is also concerned at the limited availability of legal remedies for victims in the event of Covenant rights' violation, which may disproportionately impact disadvantaged and marginalized groups and individuals, including homeless persons, indigenous peoples and persons with disabilities.

6. The Committee recommends that the State party take the necessary legislative measures to give full effect to the Covenant rights in its legal order, and ensure that victims have access to effective remedies. The Committee recommends that the State party implement its commitment to review its litigation strategies in order to foster the justiciability of the economic, social and cultural rights. The State party should engage civil society and organizations of indigenous peoples in this revision with a view to broadening the interpretation of the Canadian Charter of Rights and Freedoms, notably sections 7, 12 and 15, to include economic social and cultural rights, and thus ensure the justiciability of Covenant rights. The Committee also recommends that the State party improve human rights training programmes in order to ensure better knowledge, awareness and application of the Covenant, in particular among the judiciary, law enforcement and public officials. The Committee refers to its general comments No. 3 (1990) on the nature of States parties' obligations, and No. 9 (1998) on the domestic application of the Covenant.

Free, prior and informed consent of indigenous peoples

13. The Committee is concerned that the right to free, prior and informed consent of indigenous peoples to any change to their lands and territories is not adequately incorporated in domestic legislation and not consistently applied by the State party. The Committee, acknowledging the State party's statement that this issue will be revised by the new Government, remains concerned about the lack of formal mechanisms and processes that enable meaningful consultation with indigenous peoples, particularly in the context of the operation of extractive industries.

14. The Committee recommends that the State party fully recognize the right to free, prior and informed consent of indigenous peoples in its laws and policies and apply it in practice. In particular, it recommends that the State party establish effective mechanisms that enable meaningful participation of indigenous peoples in decision-making in relation to development projects being carried out on, or near, their lands or territories. The Committee also recommends that the State party effectively engage indigenous peoples in the formulation of legislation that affects them.

...

Indigenous peoples

19. The Committee is concerned, in spite of the pledge made by the State party to address the situation of indigenous peoples, about the persisting socio-economic disparities between indigenous and non-indigenous peoples, and by disparities in relation to poverty prevalence and access to basic rights, including housing, education and health-care services. The Committee is also concerned about the decrease in the already insufficient funding allocated to indigenous peoples living both on and off reserves, a situation which is further exacerbated by the jurisdictional disputes between federal and provincial governments on funding to indigenous peoples (art 2, para 2).

20. The Committee recommends that the State party, in consultation with indigenous peoples:

(a) Implement and strengthen its existing programmes and policies to improve the enjoyment of Covenant rights by indigenous peoples;

(b) Increase federal and provincial funding to indigenous peoples commensurate to their needs, and work out solutions to ensure coordinated and accountable implementation of indigenous peoples' rights by all jurisdictions;

(c) Implement the recommendations put forward by the Special Rapporteur on the Rights of Indigenous Peoples following his mission to Canada (2013);

(d) Promote and apply the principles enshrined in the UN Declaration on the Rights of Indigenous Peoples;

(e) Consider ratifying the ILO Indigenous and Tribal Peoples Convention (1989) (no. 169).

...

Unemployment

23. The Committee is concerned that certain disadvantaged and marginalized groups and individuals continue to be disproportionately affected by unemployment, including persons with disabilities, African-Canadians, youth, recent immigrants, minorities, and indigenous peoples (art. 6).

24. The Committee recommends that the State party step up its efforts to address unemployment faced by disadvantaged and marginalized groups and individuals. The Committee recommends that the State party strengthen the enforcement and monitoring of the Employment Equity Act and take all appropriate measures to strengthen and expand its coverage. The Committee further recommends that the State party take measures to ensure the adoption of employment equity legislative and policy measures in all jurisdictions, in collaboration with provinces and territories.

...

Violence against women

33. The Committee is concerned about the persistence of violence against women in the State party which is particularly prevalent among indigenous women and girls, and further exacerbated by the economic insecurity of women. The Committee is also concerned that in some cases owing to the inadequacy, and insufficient number, of shelters combined with

women's inability to afford housing and the inadequate social assistance, women victims of violence are unable to escape violent situations (arts. 10 and 11).

34. The Committee recommends that the State party address violence against women and girls in a holistic manner. Inter alia, the State party is encouraged to study the link between poverty, ethnic origin and vulnerability to violence, and take effective measures aimed at preventing and eradicating violence against women and girls. The Committee also recommends that the State party step up its efforts to protect victims of violence, including by ensuring the availability of sufficient number of adequate shelters for victims of violence as well as long-term housing solutions, and adequate social assistance.

Children in foster care

35. The Committee is concerned at the higher likelihood that indigenous children be placed in child care institutions, which is further exacerbated by the inadequate funding to child welfare services to indigenous peoples living on reserves. The Committee is also concerned that African-Canadian children are overrepresented in child care institutions (art. 10).

36. The Committee recommends that the State party:

- (a) Review and reinforce its funding to family and child welfare services for indigenous peoples living on reserves, and fully comply with the decision of the Canadian Human Rights Tribunal (January 2016) concerning the provision of family child welfare services to First Nations children and families living on reserves;**
- (b) Implement the recommendations of the Truth and Reconciliation Commission (2015) with regard to the Indian Residential Schools;**
- (c) Take effective measures to address the root causes of overrepresentation of African-Canadian children in care institutions.**

Poverty

37. Considering the advanced level of development of the State Party, the Committee is concerned about the significant number of people living in poverty. It is further concerned that indigenous peoples, persons with disabilities, single mothers, as well as minority groups continue to experience higher rates of poverty and at the limited effectiveness of measures taken to address this (art. 11).

38. The Committee recommends that the State party take all necessary measures to combat poverty more effectively while paying particular attention to groups and individuals that are more vulnerable to poverty. The Committee recommends that the State party in collaboration with provinces, territories, and indigenous peoples and consultation with civil society organizations, implement a human-rights based national anti-poverty strategy, which includes measureable goals and timelines as well as independent monitoring mechanisms. The Committee further recommends that the State party ensure that provinces and territories' anti-poverty policies are human-rights based and aligned with the national Strategy.

...

Adequate standard of living

43. The Committee is concerned that indigenous peoples, notably the Inuit and First Nations, encounter poor housing conditions, including overcrowding, that among others generate health challenges for the concerned communities. The Committee is also concerned at the restricted access to safe drinking water and to sanitation by the First Nations as well as the lack of water regulations for the First Nations living on reserves (art. 11).

44. The Committee urges the State party to intensify its efforts to address indigenous peoples' housing crisis, in consultations with indigenous governments and organizations. The Committee also urges the State party to live up to its commitment to ensure access to safe drinking water and to sanitation for the First Nations while ensuring their active participation in water planning and management. In doing so, the State party should bear in mind not only indigenous peoples' economic right to water but also the cultural significance of water to indigenous peoples.

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Right to food

47. The Committee welcomes the information provided by the delegation on the development of a national food policy. The Committee however remains concerned at the rates of food insecurity in the State party and the increased reliance on food banks, particularly in Northern Canada, and about the deficiencies of the Nutrition North Food programme (art. 11).

48. The Committee recommends that the State party take effective measures to address the recommendations put forward in the report of the Special Rapporteur on the Right to Food (2012). The Committee recommends that the State party ensure the Food Policy is human-rights based and is developed in close collaboration with provinces, territories and indigenous peoples as well as in consultations with civil society organizations. The Committee recommends that the State party pay particular attention to address food insecurity in Northern Canada, and take effective measures to protect access to traditional food. To this end, the State party is encouraged to review the Nutrition North Canada programme with due attention to the necessary transparency and accountability provisions, and extend the programme's coverage so as to reach those most affected by food insecurity.

Right to health

49. The Committee is concerned that undocumented immigrants in the State party are denied access to healthcare. The Committee is also concerned that drug users face barriers in access to health care services due to stigma and the punitive approach of the 2007 National Anti-Drug Strategy, which has had negative consequences on health of drug users and discriminatory effects on disadvantaged and marginalized groups and individuals, such as African-Canadians, indigenous peoples and women (art. 12).

50. The Committee recommends that the State party ensure access to the Interim Federal Health Program without discrimination based on immigration status, in line with the Human Rights Committee's recommendation of 2015 (CCPR/C/CAN/CO/6, para 12). The Committee also recommends that the State party ensure that its National Drug Law and

the National Anti-Drug Strategy incorporate a public-health approach and be harm-reduction based, and take effective measures to facilitate access to appropriate health care, psychological support services and rehabilitation for drug users.

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Climate change and environmental protection

53. The Committee is concerned that climate change is negatively affecting the enjoyment of Covenant rights by indigenous peoples. The Committee is also concerned that regulations governing environmental protection have been weakened in recent years, notably by the enactment of the Budget Bill C-38 (2012) and in the context of extractive industries (art. 12).

54. The Committee recommends that the State party address the impact of climate change on indigenous peoples more effectively while fully engaging indigenous peoples in related policy and programme design and implementation. The Committee also recommends that the State party ensure that the use of non-conventional fossil energies is preceded by consultation with affected communities as well impact assessment processes. It also recommends that the State party pursue alternative and renewable energy production. The Committee recommends that the State party further strengthen its legislation and regulations, in accordance with its international human rights obligations, and ensure that environmental impact assessments are regularly carried out in the context of extractive industry activities.

Right to education

55. The Committee is concerned by the continuous lower educational and academic achievements by indigenous and African-Canadian children. The Committee is particularly concerned by the latter's high drop-out rates at all school levels. The Committee is also concerned about reported barriers for children whose parents have no legal status in accessing schooling (arts. 13).

56. The Committee recommends that the State party reinforce its efforts to address the long-standing issues faced by indigenous and African-Canadian children in accessing and completing primary and secondary school. In doing so, the Committee recommends that the State party develop interventions, in consultation with the affected communities, aimed at combating school drop-out, including by putting an end to the unnecessary expelling and suspending measures of pupils. The Committee further recommends the State party ensure access to free compulsory schooling for all children, without discrimination.

Post-secondary education

57. The Committee is concerned at the increasing tuition fees in post-secondary education combined with decreasing governmental funding, which disproportionately impacts students and families with low income as well as indigenous peoples (art 13).

58. The Committee recommends that the State party take steps to increase the budget allocated to publicly funded post-secondary education system, with a view to facilitating

access to higher education to everyone regardless of their socio-economic or ethnic background.

Cultural rights

59. The Committee is concerned that many indigenous languages are endangered, despite some measures taken. It is also concerned about the inadequate funding and promotion of African art and culture, that adds to the structural discrimination faced by this group in the enjoyment of economic, social and cultural rights in the State party (art. 15).

60. The Committee recommends that the State party step up the efforts needed to promote the preservation and use of indigenous languages, including by ensuring that provinces and territories teach and use indigenous language at schools, where appropriate. The Committee recommends that the State party promote, and increase the funding to, the art and culture of African Canadians, and to this end, use the International Decade for People of African Descent, proclaimed by General Assembly, as a vehicle to promote and protect the human rights of this group.

Committee on the Elimination of Racial Discrimination CERD (2017)

Concluding observations on the twenty-first to twenty-third periodic reports of Canada. 31/08/2017. CERD/C/CAN/CO/21-23.

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C. Concerns and recommendations

Statistical data

5. The Committee regrets again that the absence of recent reliable and comprehensive statistical data on the ethnic composition of the population, including disaggregated economic and social indicators for ethnic groups, African-Canadians, Indigenous Peoples, and non-citizens and the lack of detailed data and information on the representation of minority groups in public and political life in the State party, prevents it from evaluating the enjoyment of civil and political, economic, social and cultural rights in the State party by these groups. The Committee reiterates its concern of the continued use of the term “visible minority” in the State party to describe minority groups, as it renders invisible the differences in the lived experiences of diverse communities.

6. **Recalling its revised guidelines for reporting under the Convention (see CERD/C/2007/1, paras. 10-12), the Committee recommends that the State party:**

(a) Provide statistical data in its next periodic report on the demographic composition of the population, disaggregated in the manner specified in article 1, paragraph 1, of the Convention, on the basis of self-identification of ethnic groups, and Indigenous Peoples.

(b) Systematically collect disaggregated data in all relevant ministries and departments to improve monitoring and evaluation of the implementation and impact of policies to eliminate racial discrimination and inequality.

(c) Provide information in its next periodic report on economic and social indicators for ethnic minority groups, Indigenous Peoples, and non-citizens, to enable the Committee to better evaluate their enjoyment of economic, social and cultural rights in the State party.

(d) Revise its use of the terminology “visible minority” in the Employment Equity Act, 1995, and in other legislation, as previously recommended (CERD/C/CAN/CO/19-20, para. 8).

Domestic applicability of the Convention

7. The Committee regrets the lack of comprehensive information on the equal implementation of the Convention in all 10 provinces and 3 territories of the State party (art. 2).

8. **The Committee requests detailed information on the work of the intergovernmental Committee on supporting domestic implementation of the Convention and its efforts to ensure the equal application of the Convention at the federal, provincial and territorial levels. The Committee recommends that the State party create an accountability mechanism and ensure equal distribution of resources for the implementation of the Convention by the federal, provincial and territorial levels.**

National Action Plan Against Racism

9. While welcoming Ontario's first provincial anti-racism strategy of March 2017, the Committee regrets the absence of a new National Action Plan Against Racism, applicable to the federal, provincial and territorial levels, since the elapse of the previous plan in 2010.

10. **The Committee recommends that the State party develop and launch a new National Action Plan Against Racism, in compliance with its obligations under the World Conference Against Racism, through meaningful consultations process with civil society organizations, including ethnic minorities and Indigenous Peoples, which includes implementing legislation, dedicated resources, targets, and adequate monitoring and reporting mechanisms, using good practices mentioned in Ontario's anti-racism strategy of 2017. The Committee requests information in its next periodic report on the implementation and impact of Ontario's anti-racism strategy, and other such strategies in the State party.**

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Racist Hate crimes

13. The Committee is concerned that racist hate crimes continue to be underreported, and that the lack of updated systematic and coordinated tracking of racist hate crime data in all provinces and territories of the State party may mean that actual numbers of violations may be much higher. The Committee is concerned about the 61% increase on racist hate crimes reported against Muslims. The Committee is also concerned that the data provided by the State party on the implementation of anti-discrimination provisions, although it does indicate the number or extent of incidents and complaints submitted; it doesn't indicate the number of ex officio prosecutions, investigations launched and convictions.

14. The Committee recommends that the State party:

(a) Take steps to prevent racist hate crimes against all ethnic and minority groups, migrants and Indigenous Peoples in the State party.

(b) Facilitate reporting by the victims, and ensure effective investigation of cases of racist hate crimes and prosecute and sanction perpetrators.

(c) Systematically track and maintain data on the number of reported racist hate crimes, prosecutions, convictions, sentences and penalties and compensation to victims and provide this data to the Committee in its next periodic report.

(d) Provide mandatory training on recognition and registration of racist hate crimes and other racially motivated crimes to law enforcement officials and judges to ensure proper handling of these complaints, and provide updated, detailed information and statistics in its next periodic report, including the time frame for when these trainings were conducted, how many people were trained, and any measurable impact.

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Racial profiling and disproportionate incarceration

15. The Committee is concerned by reports that racial profiling by the police, security agencies and border agents continue on a daily basis in the State party, with a harmful impact on Indigenous Peoples, as well as ethnic minority Muslims, African-Canadians, and other ethnic minority groups. The Committee is further concerned at the reported disproportionately high rate of incarceration of Indigenous Peoples and persons belonging to

minority groups, in particular African-Canadians due to reasons such as socio-economic disparity, high rates of incarceration of minorities with mental or intellectual impairments, lack of appropriate community services, over-policing of certain populations, drug policies, and racially biased sentencing. The Committee is further concerned at reports that both African-Canadian and Indigenous offenders are over represented in segregation, 50% of Indigenous inmate women have reportedly been placed in segregation, and that Indigenous inmates have the longest average stay in segregation.

16. The Committee recommends that the State party:

(a) Ensure that law enforcement and security agencies have programmes to prevent racial profiling, and that they are implemented and compliance monitored, including through independent oversight.

(b) Make it mandatory to collect and analyze data at the federal, provincial, and territorial levels for random stops by law enforcement officers, including on the ethnicity of the persons stopped, reason for stop, and whether stop resulted in an arrest, prosecution and conviction, and report publicly on this data at regular intervals.

(c) Ensure that the staff in law enforcement and security agencies and among border agents are demographically diverse and include Indigenous Peoples, African-Canadians and other ethnic minorities. Ensure that all staff are trained in the prevention of racial discrimination, and on policies preventing racial profiling. Ensure lawyers and judges are trained on provisions relating to sentencing and alternatives to incarceration for Indigenous peoples, such as in the Corrections and Conditional Release Act (sections 29, 77, 80, 81, and 84) and that these provisions are consistently applied. Provide updated, detailed information and statistics in its next periodic report on such training programmes and on the impact of such trainings.

(d) Address the root causes of over-representation of African-Canadians and Indigenous Peoples at all levels of the justice system, from arrest to incarceration, such as by eliminating poverty, providing better social services, re-examining drug policies, preventing racially biased sentencing through training of judges, providing evidence-based alternatives to incarceration for non-violent drug users, and fully implement the recommendations of the Truth and Reconciliation Commission on this topic, in order to reduce the incarceration of African-Canadians and Indigenous Peoples.

(e) Implement key health and harm reduction measures across all prisons.

(f) Systematically collect data and report publically on the demographic composition of the prison population, including on Indigenous Peoples, African-Canadians and other ethnic minorities and on the sentencing of minority offenders.

(g) Effectively limit the use of segregation to exceptional circumstances, as a last resort and for as short a time as possible, in line with the Mandela Rules, given its proven deleterious effects on mental health. Implement legislation to provide independent judicial oversight of all decisions related to segregation.

(h) Abolish the use of segregation for inmates with mental or intellectual impairments.

Truth and Reconciliation Commission and UN DRIP

17. While welcoming the commitment made to implement all of the Truth and Reconciliation Commission's (TRC) 94 Calls to Action, the Committee is concerned at the lack of an action plan and full implementation. The Committee is further concerned that the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP) Action Plan has

not yet been adopted, while noting the Ministerial working group established in 2017 to bring laws into compliance with obligations towards Indigenous Peoples.

18. The Committee recommends that the State party:

(a) Develop a concrete action plan to implement the TRC's 94 Calls to Action, in consultation with Indigenous Peoples.

(b) Implement the UN DRIP, and adopt a legislative framework to implement the Convention including a national action plan, reform of national laws, policies and regulations to bring them into compliance with the Declaration, and annual public reporting.

(c) Ensure that the action plans include regular monitoring, evaluation, and annual reporting of the implementation, including the use of statistical data to evaluate progress.

(d) Develop and implement training programs, in consultation with Indigenous Peoples, for State officials and employees on the TRC's Calls to Action and the UN DRIP, to ensure their effective impact.

(e) Ensure that the Ministerial working group is transparent and inclusive of Indigenous Peoples.

Land rights of Indigenous Peoples

19. Taking note of the recent release of a set of 10 Principles Respecting the Government of Canada's Relationship with Indigenous Peoples in 2017, the Committee is deeply concerned that:

(a) Violations of the land rights of Indigenous Peoples continue in the State party, in particular environmentally destructive decisions for resource development which affect their lives and territories continue to be undertaken without the free, prior and informed consent of the Indigenous Peoples, resulting in breaches of treaty obligations and international human rights law.

(b) Costly, time consuming and ineffective litigation is often the only remedy in place of seeking free, prior and informed consent, resulting in the State party continuing to issue permits which allow for damage to lands.

(c) According to information received, permits have been issued and construction has commenced at the Site C dam, despite vigorous opposition of Indigenous Peoples affected by this project, which will result in irreversible damage due to flooding of their lands leading to elimination of plants medicines, wildlife, sacred lands and gravesites.

(d) According to information received the Site C dam project proceeded despite a joint environment review for the federal and provincial governments, which reportedly concluded that the impact of this dam on

(e) Indigenous Peoples would be permanent, extensive, and irreversible.

(f) According to information received the Mount Polley mine was initially approved without an environment assessment process, consultation with or free, prior and informed consent from the potentially affected Indigenous Peoples, and that the mining disaster has resulted in a disproportionate and devastating impact on the water quality, food such as fish, fish habitats, traditional medicines and the health of Indigenous Peoples in the area (art. 5-6).

20. Recalling its general recommendation No. 23 (1997) on the rights of Indigenous Peoples and reiterating its previous recommendation (CERD/C/CO19-20, para. 20) the Committee recommends that the State party:

- (a) Ensure the full implementation of general recommendation No. 23, in a transparent manner with the full involvement of the First Nations, Inuits, Métis and other Indigenous Peoples with their free prior and informed consent for all matters concerning their land rights.
- (b) Prohibit the environmentally destructive development of the territories of Indigenous Peoples, and allow Indigenous Peoples to conduct independent environmental impact studies.
- (c) End the substitution of costly legal challenges as post facto recourse in place of obtaining meaningful free prior and informed consent of Indigenous Peoples.
- (d) Incorporate the free, prior and informed consent principle in the Canadian regulatory system, and amend decision making processes around the review and approval of large-scale resource development projects like the Site C dam.
- (e) Immediately suspend all permits and approvals for the construction of the Site C dam. Conduct a full review in collaboration with Indigenous Peoples of the violations of the right to free prior and informed consent, treaty obligations and international human rights law from the building of this dam and identify alternatives to irreversible destruction of Indigenous lands and subsistence which will be caused by this project.
- (f) Publically release the results of any government studies of the Mount Polley disaster and the criminal investigation into the disaster, before the statute of limitations for charges under these Acts expires.
- (g) Monitor the impact of the disaster on affected Indigenous Peoples as a result of the disaster, and take measures to mitigate the impact through provision of safe water and food, access to healthcare, and fair remedy and reparations.

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Violence against Indigenous women and girls

23. The Committee is alarmed at the continued high rates of violence against Indigenous women and girls in the State party. While welcoming the 2016 launch of the National Inquiry into Missing and Murdered Indigenous Women and Girls, the Committee is concerned at the lack of an independent mechanism to re-examine cases where there is evidence of inadequate or biased investigations, failure to provide regular progress reports, and to build transparent and accountable relationships with survivors, families and stakeholders. (arts. 2, 5 and 6).

24. Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party:

- (a) Take immediate action to end violence against Indigenous women and girls. Provide support and access to equal services for survivors. Enact a National Action Plan on Violence Against Women, inclusive of the federal, provincial and territorial jurisdictions, with special provisions to end the high rates of violence against Indigenous women and girls.**
- (b) Apply a human rights-based approach to the Inquiry by examining the issues holistically to identify barriers to equality and their root causes and recommend lasting solutions. Monitor progress to achieve these recommendations, with the participation of affected survivors, families and stakeholders.**

- (c) Establish an independent review mechanism of unsolved cases of missing and murdered Indigenous women and girls where there is evidence of bias or error in the investigation.
- (d) Publicly report on violence against Indigenous women and girls including data on reported cases of violence, murders, and missing Indigenous women and girls, and numbers of investigations, prosecutions and convictions.
- (e) Improve communication from the Inquiry and build transparent and accountable relationships with survivors, families and stakeholders.

Situation of Indigenous Peoples with disabilities

25. The Committee is concerned by the multiple forms of discrimination faced by Indigenous Peoples with disabilities, who reportedly face additional barriers to healthcare, education and social services, in particular if they are located in remote communities with inadequate access to quality services. The Committee further regrets the lack of detailed information on meaningful consultations with Indigenous Peoples and the outcome of such consultations on the development of accessibility legislation (art. 5).

26. The Committee recommends that the State party conduct meaningful consultations with Indigenous Peoples during the development of accessibility legislation. The Committee requests information from the State party on provisions included in the accessibility legislation which address the specific situation of ethnic minorities and Indigenous Peoples with disabilities who face multiple and intersecting forms of discrimination. The Committee recommends that the State party create a strategy, in consultation with Indigenous Peoples, to ensure that Indigenous Peoples with disabilities have equal access to quality services.

Discrimination against Indigenous children

27. The Committee is alarmed that despite its previous recommendation (CERD/C/CAN/CO/19-20, para. 19), and multiple decisions by the Canadian Human Rights Tribunal, less money is reportedly provided for child and family services to Indigenous children than in other communities, and that this gap continues to grow. The Committee is further concerned, that the federal government has adopted an overly narrow definition of the Jordan's Principle, as stated in the Canadian Human Rights Tribunal decision *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada* in 2016, and has failed to address the root causes of displacement, while tens of thousands of children are needlessly removed from their families, communities and culture and placed in state care. (arts. 1-2 and 5-6).

28. The Committee recommends that the State party:

- a. Fully comply with and implement the January 2016 ruling (2016 CHRT 2) and subsequent non-compliance orders (2016 CHRT 10, 2016 CHRT 16, and 2017 CHRT 14) of the Canadian Human Rights Tribunal, and end the underfunding of First Nations, Inuit and Métis child and family services.**
- b. Ensure that all children, on and off reserve, have access to all services available to other children in Canada, without discrimination.**
- c. Implement the full scope and meaning of Jordan's Principle so that access to these services is never delayed or denied because of disputes between the federal, provincial and territorial governments over their respective responsibilities.**

d. Address the root causes of displacement such as poverty and poor housing that disproportionately drive children into foster care.

Discrimination in the Education System

29. The Committee is concerned at reported disparity in resource allocation for education and the lack of sufficient funding of mother tongue education programmes leading to unequal access to quality education, especially for African-Canadian and Indigenous children, which contributes to future socio-economic disparity among these groups. The Committee is further concerned that African-Canadian students are reportedly disciplined more harshly than other students; which forces them out of learning environments and contributes to the “school-to-prison” pipeline (art. 5).

30. The Committee recommends that the State party:

(a) Ensure equal access to quality education for all children in the State party, without racial discrimination and regardless of whether the child lives on or off of a reserve.

(b) Address funding inequalities identified in the Parliamentary Budget Officer’s 2016 report, and other funding inequalities of schools attended by Indigenous, African-Canadian and other ethnic minority children. Work in consultation with affected groups to ensure schools are in conditions comparable to and can meet the distinct cultural and linguistic needs of ethnic minorities and Indigenous students.

(c) Create a national education strategy to prevent the low educational attainment, high dropout, suspension and expulsion rates of African-Canadian children. Collect disaggregated data on disciplinary measures of African Canadian children, to monitor and track the impact of measures to reduce discriminatory effects of disciplinary procedures.

Employment discrimination

31. The Committee is concerned by reports of discriminatory hiring practices and discrimination in the workplace faced by ethnic minorities, migrants and Indigenous Peoples, and high rates of unemployment of educated ethnic minorities. The Committee is concerned that reportedly no province other than Quebec has legislated mandatory employment equity for its public sector bodies, and that changes to the Federal Employment Equity regulation have reduced the labor rights approach conditions of the mandatory contractor compliance mechanism. The Committee notes that there is no mandatory employment equity for private employers at the provincial level, which accounts for approximately 76% of Canada's labour force. The Committee welcomes the data received from the Human Rights Commission and after the dialogue from the State party, however, it is concerned about the lack of data on labour inspections in the State party report.

32. The Committee recommends that the State party:

(a) Ensure the elimination of discriminatory hiring practices and discrimination against ethnic minorities in the workplace including by providing adequate training to employers and awareness raising campaigns for employees about their rights and effective recourse for reporting violations.

(b) Conduct a comprehensive review of the existing employment equity regime and make necessary changes to increase the representation of ethnic minorities and Indigenous Peoples in the workforce.

(c) Request all public bodies to collect and publish data on the ethnic composition of the public service periodically. That data should include statistics that disaggregate total

employees, job categories, numbers at middle managerial levels and higher levels. All contractors to public service agencies should be requested to do the same.

(d) Request private employers to publish similar disaggregated data on its workforce and to take measures to ensure the elimination of discriminatory employment practices against ethnic minorities in hiring retention and promotion.

(e) Improve the mandatory contractor compliance mechanism's labour rights approach conditions in the Federal Employment Equity regulation.

(f) Request professional organizations that control the accreditation for professional practice to have their policies reviewed by the State Party with a view to determine whether there are discriminatory barriers to certification of certain ethnic candidates, particularly those who received their academic qualifications in other countries.

(g) Take effective measures to ensure that labour inspections and other administrative or legal procedures reach all industries, with a view to detecting labour rights violations, bringing perpetrators to justice and compensating victims.

(h) Provide in its next periodic report comprehensive data on the coverage of labour inspections and other administrative or legal procedures, including statistics of inspection visits, violations detected and sanctions or penalties imposed over the review period and compensations provided to victims, disaggregated among others by type of violation, industry or occupation, age, sex, national origin and ethnic origin of the victim.

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D. Other recommendations

Ratification of other instruments

35. The Committee recommends that the State party consider ratifying: International Convention for the Protection of all Persons from Enforced Disappearance, optional Protocol to the International Covenant on Economic, Social and Cultural Rights, optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, optional Protocol to the Convention on the Rights of the Child on a communications procedure, optional Protocol to the Convention on the Rights of Persons with Disabilities, international Labour Organisation Convention No. 169 (1989) concerning Indigenous and Tribal Peoples Convention.

Follow-up to the Durban Declaration and Programme of Action

36. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

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