

Joint NGO statement in advance of Canada's examination by UN CERD Committee

August 9, 2017 — This joint statement is released by Canadian non-governmental organizations (NGOs) appearing before the [United Nations Committee on the Elimination of Racial Discrimination \(CERD Committee\)](#), which will review Canada's compliance with the [International Convention on the Elimination of All Forms of Racial Discrimination \(ICERD\)](#) on August 14–15, 2017, in Geneva.

Canada enjoys a global reputation as a country that respects human rights. Yet it has in many ways failed to comply with its international human rights obligations, including the obligation to guarantee equal rights and protection to all people in Canada on the basis of race, gender, gender identity, sexual orientation, (dis)ability, and other related grounds. While Canada espouses a commitment to non-discrimination it has failed to comply with its own domestic human rights laws regarding racial discrimination and Indigenous rights. For example, the federal government has failed to abide by four Canadian Human Rights Tribunal orders issued between January 2016 and May 2017 to cease racially discriminating 165,000 First Nations children. Canada has failed to comprehensively address gender discrimination rooted in the Indian Act, despite being made aware of it by courts, the Senate Standing Committee on Aboriginal Peoples, and outside legal experts. In so doing, Canada places itself above its own laws forbidding discrimination, sending a reckless and disturbing message to Canadians that discrimination is not allowed — unless it is the government doing it.

State control over Indigenous Peoples in Canada has not changed. Indigenous Peoples are still wards of the government. Unceded territorial lands and resources are continually taken away and very little is provided by the State in form of programs and services, creating a dependency as well as poverty. Indigenous People do not hold title even on reserve lands, nor are recognized as a People. Recognition of Indigenous title, laws and People is paramount.

As Canadian NGOs, we believe that any UN review of Canada's record on racial equality and non-discrimination must first recognize nation to nation relationships between Canada and Indigenous Peoples as a fundamental starting point and must include Indigenous Women institutions within this Nation to Nation relationship. We call on the UN to require all governments in Canada to comprehensively deliver on the [94 Calls to Action of the Truth and Reconciliation Commission](#) as a part of this acknowledgement, and put into practice the [UN Declaration on the Rights of Indigenous Peoples](#) without further delay. Canada must put into action its stated commitment to a nation to nation relationship.

Canada has a long history of racism targeting Indigenous Peoples and communities of colour, including the enslavement of people of African descent, and various forms of legislated racism targeting Chinese, South Asian and other communities of colour. Racism has affected each of these communities differently. For Indigenous peoples in particular, racism is a matter of life and death as they experience the lowest socio-economic indicators, the highest rates of suicide and incarceration in the world, pre-mature deaths, and the murders and disappearances of thousands of Indigenous peoples. In the spirit of the [International Decade for People of African Descent](#) (2015–2024), we expect to see concrete actions by the Government of Canada to specifically address anti-Black racism. This includes, but is not limited to, recognizing the rich legacy, historical struggle and many contributions of African Canadian peoples living in the lands now known as Canada for over 300 years. We also expect the Government of Canada to address other unique and specific experiences of racism, and urge it to introduce a new national Action Plan Against Racism, one that will address the universal and particular impacts of racism

as experienced by different communities, including through mechanisms such as the consistent collection of disaggregated data across all of its various ministries and departments.

We ask the Committee to adopt an intersectional approach to examining the impact of racism on different racialized communities in Canada. We ask the UN to pay particular attention to the intersection between race and gender and gender identity as it affects Indigenous communities and communities of colour, recognizing in particular the deeply harmful reframing of Indigenous women's roles as a result of gender discrimination in legislation and as a legacy of residential schools, and the disruption in roles and relationship between Indigenous mothers and children.

Canada devotes significant resources to defending its failure to address the marginalization and victimization – including the criminalization and incarceration — of racialized communities, particularly Indigenous Peoples and African Canadians. Indigenous women represent 39% of women in prison and 43% of 12-18 year-old young women imprisoned in Canada. In 2010, the Parliamentary Budget Officer calculated the cost to keep one woman in a federal penitentiary as \$348,000 per year – more than \$90 MILLION per year is being spent to jail Indigenous women in federal penitentiaries alone. Canada can and must remedy these egregious policy decisions.

We urge the Committee to examine the discriminatory impact of Canada's immigration and refugee laws as they affect immigrants, migrants, and people with precarious status, particularly those from the Global South.

Finally, access to justice is a fundamental component of an effective human rights system to ensure non-discrimination. Canada has failed to provide sufficient support to persons or organizations filing equity-seeking claims, and it has taken no meaningful measures to ensure the full and proper implementation of the [UN Declaration on Human Rights Defenders](#) domestically. For example, several NGOs in Canada experienced funding cuts after advocating different levels of government to end racial discrimination. Furthermore, Canada's revised Court Challenges Program limits funding to Charter-based litigation (thereby excluding cases pursued under the Canadian Human Rights Act and other legal avenues challenging discrimination) and offers no funding for cases involving Indigenous rights or human rights defenders. The lack of protection for human rights defenders and the failure to ensure access to justice mute the ability of persons in Canada to seek redress for racial discrimination.

The United Nations treaty body system for human rights allows for a focused examination of specific elements of human rights and of particularly vulnerable populations (e.g., children, persons with disabilities, women). These specialized reviews by treaty bodies such as Committee for the Elimination of Racial Discrimination (CERD), UN Committee on the Rights of the Child (UNCRC) and Committee for the Elimination of Discrimination Against Women (CEDAW) are vital to ensuring States fully comply with their international human rights obligations. We are grateful to CERD for its work and urge Canada to undertake special measures to resist any efforts to eliminate or erode the efficacy of UN human rights treaty bodies and to advocate with other State parties to ensure the treaty bodies are provided with the resources and support needed to complete their work.

We, the signatories to this statement, will use our appearance before the UN CERD Committee to speak out strongly on Canada's record on Indigenous rights, anti-Black racism, racial discrimination and human rights, and hold the Canadian government accountable in this important international forum.

Signed by:

Aboriginal Legal Services
African Canadian Legal Clinic
Canadian Association of Elizabeth Fry Societies
Canadian Feminist Alliance for International Action
Chinese and Southeast Asian Legal Clinic
Colour of Poverty – Colour of Change
First Nations Child and Family Caring Society of Canada
Ontario Council of Agencies Serving Immigrants
Ontario Native Women's Association
South Asian Legal Clinic of Ontario