

Human Rights Committee

List of issues prior to submission of the seventh periodic report of Canada*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations.¹ Please indicate which procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party, in particular the Committee's Views in *Toussaint v. Canada*.² Please describe the State party's efforts to consult with civil society stakeholders and state officials on the implementation of the Covenant.

B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. In the light of the Committee's previous concluding observations (para. 6),³ please report on any measures taken to ensure that all business enterprises domiciled in the territory of the State party and/or subject to its jurisdiction, in particular mining corporations, respect Covenant rights and international standards throughout their operations, including abroad. Please include information about measures taken to ensure effective investigation of human rights violations by or involving relevant companies, including about the mandate and jurisdiction of the Canadian Ombudsperson for Responsible Enterprise. Please also describe steps taken to guarantee access to justice for victims of human rights abuses, including those abroad, by or involving relevant companies.

* Adopted by the Committee at its 132nd session (28 June–23 July 2021).

¹ CCPR/C/CAN/CO/6.

² CCPR/C/123/D/2348/2014.

³ Unless otherwise indicated, paragraph numbers in parentheses refer to CCPR/C/CAN/CO/6.





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Fight against impunity and past human rights violations (arts. 2, 6, 7, 14, 25, 26 and 27)

3. Please provide information about: (a) measures taken within the reporting period to implement the calls to action made in 2015 by the Truth and Reconciliation Committee on the forcible removal of indigenous children from their communities and into the residential schools system; (b) all investigations into allegations of abuse, ill-treatment and deaths of children in residential care homes, as well as data about any prosecutions and convictions secured for criminal behaviour, and about the remedies, including compensation and psychosocial support, provided to victims; (c) steps taken in response to the discovery of remains of children at sites of former residential school for indigenous students, including in Saskatchewan and British Columbia, including steps to fully investigate the circumstances of the deaths and the identities of the remains discovered, including through forensic analysis, as well as to provide access to remedy for victims and their family members, including detailing any criminal investigations initiated, reparations provided and psychosocial support offered to affected communities. Please also describe how the State party intends to ensure the effective implementation of the recently adopted C-15 Bill (on respecting the United Nations Declaration on the Rights of Indigenous Peoples).

Non-discrimination (arts. 2, 3, 6, 9, 25 and 26)

4. Please describe the legislative and other measures taken within the reporting period to prevent and combat discrimination on the basis of gender, sexual orientation, indigenous status, disability, socioeconomic status, race, sex worker status, religion, HIV status and/or nationality. Please also provide information about any measures taken by the State party to ensure that the coronavirus disease (COVID-19) pandemic does not exacerbate inequality, discrimination and exclusion, including about any measures to guarantee that COVID-19 vaccines reach all vulnerable groups.

5. Recalling the Committee's previous concluding observations (para. 18), please provide information about: (a) reports of the lethal use of force and deaths in custody affecting individuals from racial minorities, and steps taken to investigate and prosecute all such incidents; (b) efforts to prevent racial profiling by police officers; (c) measures to address the overrepresentation of individuals belonging to racial and ethnic minorities, particularly indigenous persons and those of African descent, including women, in the criminal justice system at all levels.

6. Please provide information about the prevalence of hate speech and hate crime within the State party, including against religious, racial and sexual minorities, such as Muslims, persons of African and Asian descent, and LGBTQI persons. Please report on legislative and other measures taken to address such hate crime and hate speech, including that which occurs online. Please also indicate whether there has been an increase in hate crimes and hate speech related to the COVID-19 pandemic and, if so, what specific measures have been taken in response.

Gender equality (arts. 3 and 26)

7. With reference to the Committee's previous concluding observations (para. 7), please provide information on: (a) measures taken to remedy the persistently high gender

wage gap, especially for indigenous and minority women, including by reporting on the implementation of the Pay Equity Act, as well as indicating whether there are plans for legislative measures that protect non-federally regulated workplaces; (b) steps that the State party has taken during the reporting period to ensure greater representation of women, including minority and indigenous women, in governance and in private sector leadership positions; and (c) any targeted measures taken to prevent, mitigate and/or remedy the impact of COVID-19 on equality between men and women.

Violence against women (arts. 2, 3, 6, 7 and 26)

8. With reference to the Committee's previous concluding observations (para. 8), please discuss the measures taken by the State party to tackle gender-based violence, including domestic violence. In this regard, please provide: (a) information about the measures that have been taken to date to develop a national action plan on gender-based violence that covers all areas under the State party's jurisdiction, and what the timeline is for having such a plan in place; (b) disaggregated data on the number of complaints, investigations, prosecutions and convictions, including penalties imposed, during the reporting period, as well as information on the psychosocial support provided to victims, including the geographical coverage and the capacity of shelters; and (c) information on the measures taken to protect women from gender-based violence, including domestic violence, during the COVID-19 pandemic.

State of emergency (art. 4)

9. Please provide information about the measures taken by the State party to address the COVID-19 pandemic and the legal basis of any such measures. In particular, please specify whether any such measures derogate from the State party's obligations under the Covenant. If so, please specify whether the measures were strictly required by and proportional to the exigencies of the situation and limited in duration, geographical coverage and material scope, as outlined by the Committee in its statement on derogations from the Covenant in connection with the COVID-19 pandemic.⁴

Counter-terrorism measures (arts. 2, 4, 7, 9, 14 and 17)

10. With reference to the Committee's previous concluding observations (para. 10), please provide information on the National Security Act of 2017 and its compatibility with provisions of the Covenant. Please specifically address concerns over the authority that the Act grants to national security agencies to engage in mass surveillance, as well as about the lack of due process protections within the legislation, including facilitating the withholding of information necessary to mount a defence against an individual's inclusion on the no-fly list.

11. In the light of the Committee's previous concluding observations (para. 9), please provide information about: (a) the implementation of the 2019 reports of the National Inquiry into Missing and Murdered Indigenous Women and Girls, including about the status of the development of a national action plan to implement the Inquiry's findings; (b) steps taken to provide culturally sensitive training to law enforcement officials and to hold them accountable for conducting thorough investigations into disappearances of indigenous women and girls; and (c) measures to provide access to justice for victims and their families, including about the number of complaints, investigations, prosecutions and convictions in the reporting period for such violence.

Children with variations of sex characteristics (intersex children) (arts. 7, 9, 17, 24 and 26)

12. Please describe measures taken to limit or prohibit medically unnecessary surgery and other medically unnecessary procedures on intersex children until they have reached an age at which they are able to give their free, prior and informed consent. Please provide

⁴ CCPR/C/128/2.

information about the status of reforms to section 268 (3) of the Criminal Code. Please also describe measures taken to facilitate effective access to justice and redress for those who have been subjected to such surgical procedures and/or other medical treatments without their consent.

Right to life (art. 6)

13. Recalling the Committee's general comment No. 36 (2018) (para. 62), please provide information about efforts to prevent and mitigate the effects of climate change and environmental degradation, including on the right to life, in all areas of the State party's territory. Please include specific information about: (a) targeted measures to address the impact of climate change on the food security of indigenous communities; and (b) inclusive processes for the participation of civil society groups and the public, including women, persons with disabilities, indigenous peoples and rural communities, when developing and implementing legislation and policy on climate change.

14. Recalling the Committee's general comment No. 36 (2018) (para. 66), please discuss the State party's continued policy of nuclear deterrence, including as outlined in the 2017 report entitled *Strong, Secure, Engaged: Canada's Defence Policy*, and discuss its compatibility with provisions of the Covenant.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment, and right to liberty and security of person (arts. 2, 7, 9, 10, 12 and 14)

15. Bearing in mind the previous concluding observations of the Committee (para. 14), please: (a) provide data on the capacity of the prison system and the total number of persons incarcerated, as well as on the use of alternatives to detention, particularly in cases of non-violent offences, including drug-related crimes; (b) discuss changes enacted in 2019 to the Corrections and Conditional Release Act and respond to reports that the Structured Intervention Units established following such legal changes have not been effective at addressing the use of prolonged solitary confinement within the prison system; and (c) provide detailed information about conditions within prisons, in particular access to health care, including mental health services, and respond to reports that measures to control the COVID-19 pandemic in prisons, including restrictions on activities outside of prisoners' cells, curtailed access to health-care services and led to suspensions of visits and activities.

16. Please respond to reports that a significant number of Canadian citizens who are family members of suspected Da'esh members are subject to inhuman and degrading conditions in the al-Hol refugee camp in the north-east of the Syrian Arab Republic. Please clarify the State party's policy with respect to repatriation of these Canadian citizens, many of whom are women and children, from the Syrian Arab Republic, as well as whether children born to Canadian parents in the Syrian Arab Republic are recognized by the State party. Please include information on whether the reunification of families is taken into account when making any repatriation decisions.

Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)

17. Please provide information on: (a) the implementation and outcomes of the National Strategy to Combat Human Trafficking 2019–2024, including the training activities organized for law enforcement, judicial and migration officials on trafficking and victim protection; (b) measures taken to identify victims and provide them with protection and rehabilitation, including the number of emergency shelters available in the country; and (c) data on the number of complaints, investigations, prosecutions and convictions during the period under review, as well as on the sentences handed down to perpetrators and reparations awarded to victims.

Treatment of migrants, refugees and asylum seekers (arts. 7, 9, 12, 13 and 24)

18. Recalling the Committee's previous recommendation (para. 12), and the report on follow-up to the concluding observations of the Committee, please: (a) provide information on measures taken to ensure that detention of migrants and asylum seekers is necessary and proportionate, is for the shortest possible period of time, and is subject to periodic

independent judicial review; (b) describe how the effective implementation of section 60 of the Immigration and Refugee Protection Act is ensured and clarify whether children continue to be detained in practice; and (c) discuss the measures in place to address reported inhuman and degrading conditions within immigrant detention centres, as well as to prevent the spread of COVID-19 within such facilities.

19. Recalling the Committee's previous recommendation (para. 13), please provide information about: (a) the compatibility of the Agreement between the Government of Canada and the Government of the United States of America for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries with the provisions of the Covenant; (b) the rationale for amendments in 2019 to the Immigration and Refugee Protection Act which render claims for refugee protection ineligible for referral to the Immigration and Refugee Board in cases where claimants have previously requested refugee protection in Australia, New Zealand, the United Kingdom of Great Britain and Northern Ireland or the United States of America, and their compatibility with the Covenant; (c) how the right to seek asylum is being protected during the COVID-19 pandemic, including the compatibility of Order in Council 2020-0161 with the Covenant. Please also describe the measures taken to protect stateless persons, including whether there are any plans to consider including a definition of stateless persons in federal immigration legislation, establishing a stateless status determination procedure, and acceding to the 1954 Convention relating to the Status of Stateless Persons.

Right to privacy (art. 17)

20. Please provide information about the legislative and other measures in place to uphold the right to privacy within the State party, including details of the regulatory framework governing the collection, storage, use and retention of people's personal data, by both government and non-State actors. In this regard, please comment on reports that members of the Five Eyes intelligence alliance, which includes the State party, are using national security concerns to pressure technology companies into providing law enforcement officials with access to encrypted information. Please also describe any changes to data collection, privacy legislation, and surveillance practices in the context of the COVID-19 pandemic.

Freedom of religion or belief (arts. 2, 18, 25 and 26)

21. Please provide information on Quebec's Bill 21 and whether it prohibits certain provincial public servants from wearing religious symbols and denies those wearing face coverings with religious significance access to certain government services. Please provide updated information on the legal status of the bill following judicial challenge and elaborate on how its provisions are compatible with the State party's obligations under the Covenant.

Freedoms of expression and assembly (arts. 19–21)

22. Please describe measures taken to uphold the right to freedom of expression within the State party, including information about: (a) reports of journalists being obstructed, detained and charged in connection with their coverage of indigenous protests; (b) whether the State party intends to revise sections 300 and 301 of the Criminal Code which criminalize defamatory libel; and (c) any legislative or other measures taken to enhance protection of whistle-blowers.

Rights of the child (arts. 23, 24 and 26)

23. Please provide information on the measures taken to guarantee equal access to services for indigenous children, including efforts to remove barriers to birth registration and ensure the effective implementation of Jordan's Principle. Please also describe steps taken to prevent and combat corporal punishment in all settings, including the home.

Rights of indigenous peoples (arts. 2 and 25–27)

24. With reference to the previous concluding observations (para. 16) and the report on follow-up to the concluding observations of the Committee, please report on measures

taken to ensure the promotion and protection of the rights of indigenous peoples and their meaningful participation in decisions that affect them, particularly in relation to land, water, and other natural resources. Please provide specific information on steps taken to obtain the free, prior and informed consent of indigenous peoples, including indigenous women, whose lands and territories are affected by any legislation or projects, such as the Site C Dam, as well as efforts to resolve ongoing land disputes with indigenous peoples.

25. Bearing in mind the Committee's previous recommendations (paras. 17 and 19), please describe the steps taken: (a) to revise the Indian Act to bring it fully into line with the Covenant, including full implementation of the 2011 Gender Equity in Indian Registration Act; (b) to address systemic inequalities in the provision of basic needs and essential support services to indigenous peoples; and (c) to preserve indigenous languages. Please also provide information about the steps taken to provide indigenous populations with comprehensive protection from COVID-19, as well as to ensure that measures to control the pandemic do not disproportionately affect their Covenant rights.
