

**COMMENTS PRESENTED TO THE COMMITTEE ON THE ELIMINATION OF RACIAL  
DISCRIMINATION IN RELATION TO CANADA'S 21<sup>st</sup> to 23<sup>rd</sup> PERIODIC REPORTS  
ON THE *INTERNATIONAL CONVENTION ON THE ELIMINATION  
OF ALL FORMS OF RACIAL DISCRIMINATION***

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## INTRODUCTION

1. The *Commission des droits de la personne et des droits de la jeunesse*<sup>1</sup> was established under the *Quebec Charter of Human Rights and Freedoms*<sup>2</sup> as a public agency that is independent from the Government of Quebec. The members of the Commission are appointed by the National Assembly of Quebec upon the motion of the Prime Minister, and these appointments are approved by two thirds of the Members of the National Assembly.
2. The mission of the Commission is to ensure that the principles set forth in the Charter are upheld and to ensure that the interests of children are protected and that their rights under the *Youth Protection Act*<sup>3</sup> are promoted and upheld. The Commission is also responsible for administration of the *Act respecting equal access to employment in public bodies*<sup>4</sup>.
3. Under the Charter, the Commission intervenes in matters of Québec's legislative jurisdiction. The Commission's responsibilities include: conducting an investigation (on its own initiative or following receipt of a complaint) into any situation of discrimination, exploitation of aged or handicapped persons, or violation of the rights of a child; developing and conducting a program of public information and education on human rights and the rights of the child; directing and encouraging research and publications relating to fundamental rights and freedoms and/or the rights of the child; pointing out any provision in the laws of Quebec that may be contrary to the Charter and making the appropriate recommendations to the government; receiving and examining suggestions, recommendations, and requests concerning human rights and freedoms with a view to making the appropriate recommendations to the Government; and cooperating with any organization dedicated to the promotion of human rights and freedoms in or outside Quebec. The Commission's mission and mandate are consistent with the 'Paris' Principles relating to the Status of National Institutions, and the Commission bases its opinions and recommendations on international human rights law.
4. The Commission would like to begin by commenting on the lack of action taken to address the last observations that the Committee on the Elimination of Racial Discrimination submitted to Canada in 2012. In this regard, the Commission would like to address three issues of concern that are directly related to the Committee's 2012 observations: racial profiling, employment equity for racialized and Aboriginal people, and the socio-economic status of racialized and Aboriginal people. The observations presented herein pertain to the findings and recommendations that the Commission has submitted to the Government of Quebec with respect to implementation of Articles 2, 5, and 7 of the *International Convention on the Elimination of All Forms of Racial Discrimination*. The Commission considers it necessary to reiterate these findings and recommendations for the Committee's consideration.

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<sup>1</sup> The Quebec Human Rights and Youth Rights Commission, (hereinafter, the "Commission").

<sup>2</sup> *Charter of Human Rights and Freedoms*, CQLR, c. C-12, (hereinafter, the "Charter").

<sup>3</sup> *Youth Protection Act*, CQLR, c. P-34.1.

<sup>4</sup> *Act Respecting Equal Access to Employment in Public Bodies*, CQLR, c. A-2.01.

## 1 RACIAL PROFILING

5. In 2005, the Commission adopted a definition to use as a basis in handling the complaints it receives about racial profiling:

Racial profiling is any action taken by one or more people in authority with respect to a person or group of persons, for reasons of safety, security or public order, that is based on actual or presumed membership in a group defined by race<sup>5</sup>, colour, ethnic or national origin, or religion, without factual grounds or reasonable suspicion, that results in the person or group being exposed to differential treatment or scrutiny.

Racial profiling includes any action by a person in a situation of authority who applies a measure in a disproportionate way to certain segments of the population on the basis, in particular, of their racial, ethnic, national, or religious background, whether actual or presumed.<sup>6</sup>

This definition reflects the systemic nature of this form of discrimination, and has since been recognized by the Supreme Court of Canada and other courts<sup>7</sup>.

6. Since 2008, the Commission has handled over 360 cases involving allegations of racial profiling. Nearly 80% of these cases involved public institutions and over 60% involved the police.

7. Because of the systemic nature of the issue, in 2009 the Commission launched a consultation on racial profiling and systemic discrimination of racialized Quebec youth. The aim of the consultation was to allow victims to speak out about their racial profiling experiences, to raise collective awareness of the issue, and to identify concrete solutions.

8. In 2011, following a three-part consultation, the Commission published its report on racial profiling and systemic discrimination of racialized youth<sup>8</sup>, which found that these issues were sufficiently important for society as a whole to feel concerned by them. The consultation report called attention to targeted police scrutiny of racialized people and its consequences, including disproportionate rates of police stops and questioning, unreasonable arrests, and

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<sup>5</sup> Note that the Commission has used the term 'race' because this is the term used in both the *International Convention on the Elimination of All Forms of Racial Discrimination* and the *Quebec Charter of Human Rights and Freedoms*. However, the Commission wants to emphasize that the term 'racialized' helps highlight the fact that 'race' is a social construct without scientific basis. Using the form 'racialized' emphasizes the fact that the idea of different 'races' arises from an external categorization process performed by the majority group.

<sup>6</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Racial profiling : context and definition*, Mtre Michèle Turenne, (Cat. 2.120-1.25.1), 2005, [Online].  
[http://www.cdpcj.qc.ca/Publications/racial\\_profiling\\_definition.pdf](http://www.cdpcj.qc.ca/Publications/racial_profiling_definition.pdf)

<sup>7</sup> *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 SCC 39, [Online].  
<https://www.canlii.org/en/ca/scc/doc/2015/2015scc39/2015scc39.html>

<sup>8</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Racial profiling and systemic discrimination of racialized youth. Report of the consultation on racial profiling and its consequences*, Paul Eid, Johanne Magloire and Mtre Michèle Turenne, 2011, [Online].  
[http://www.cdpcj.qc.ca/Publications/Profiling\\_final\\_EN.pdf](http://www.cdpcj.qc.ca/Publications/Profiling_final_EN.pdf)

overcriminalization. The Commission issued recommendations to the public security sector, the education sector, and the youth protection system.

9. Since that time, the Commission has followed up with the Government of Quebec by providing recommendations on the Charter compliance of its legislation, by providing education on a range of other human rights and freedoms matters<sup>9</sup>, and by collaborating with other human rights organizations.

10. The Commission is concerned by the many recommendations that have gone unaddressed despite reliable data documenting that racialized people, especially African Canadian and Aboriginal people, experience racial profiling and over-representation throughout the Quebec legal system, from the time they are stopped and questioned to when they are released. The Commission's recommendations in this regard are akin to those of the Committee on the Elimination of Racial Discrimination and the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

11. The Commission recommended that the government departments and institutions concerned adopt standard methods and indicators for collecting data pertaining to the ethnic origin and colour of their clientele, with a view to detecting possible discriminatory biases<sup>10</sup>. The Commission also considers that municipal police services and the provincial *Sûreté du Québec*, which has jurisdiction throughout the province, systematically gather and publish data related to the presumed racial identity of individuals during police actions in order to document the phenomenon and take the appropriate measures. These same procedures should be established by public transit companies with respect to the actions of their employees<sup>11</sup>.

12. As the Commission recommended in 2011<sup>12</sup>, Quebec's cities and their police departments should use such data to review their policies for deploying police by district in order to prevent discrimination and racial profiling.

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<sup>9</sup> See also : COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Commentaires sur le projet de règlement sur le déroulement des enquêtes dont est chargé le Bureau des enquêtes indépendantes*, Mtre Evelyne Pedneault, (Cat. 2.412.116.4), 2015, [Online].  
[http://www.cdpcj.qc.ca/Publications/commentaires\\_reglement\\_enquetes\\_bei.pdf](http://www.cdpcj.qc.ca/Publications/commentaires_reglement_enquetes_bei.pdf); COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Commentaires sur le projet de règlement intitulé Règlement sur la procédure de sélection et sur la formation des enquêteurs du Bureau des enquêtes indépendantes*, Mtre Evelyne Pedneault, (Cat. 2.412.116.3), 2014, [Online].  
[http://www.cdpcj.qc.ca/Publications/commentaires\\_bureau\\_enquetes\\_policiers\\_independantes.pdf](http://www.cdpcj.qc.ca/Publications/commentaires_bureau_enquetes_policiers_independantes.pdf); COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire à la Commission des institutions de l'Assemblée nationale sur le Projet de loi n° 12, Loi modifiant la Loi sur la police concernant les enquêtes indépendantes*, (Cat. 2.412.116.1), 2013, [Online].  
[http://www.cdpcj.qc.ca/Publications/memoire\\_pl12\\_enquetes\\_police.pdf](http://www.cdpcj.qc.ca/Publications/memoire_pl12_enquetes_police.pdf); COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Commentaires sur le Projet de loi n° 46, Loi concernant les enquêtes policières indépendantes*, Mtre Evelyne Pedneault, (Cat. 2.412.116), 2012, [Online].  
[http://www.cdpcj.qc.ca/Publications/memoire\\_pl46\\_enquetes\\_police.pdf](http://www.cdpcj.qc.ca/Publications/memoire_pl46_enquetes_police.pdf)

<sup>10</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 8, p. 113, recommandation n° 5.

<sup>11</sup> *Id.*, p. 114, recommandation n° 16.

<sup>12</sup> *Id.*, p. 114, recommandation n° 7.

13. The Truth and Reconciliation Commission of Canada recently insisted upon the importance of taking action to address these issues in its calls to action regarding the historical wrong of the residential school system. The TRC's calls to action include eliminating the over-representation of Aboriginal people in custody over the next decade and issuing detailed annual reports that monitor and evaluate progress in doing so<sup>13</sup>.

14. The Commission is also concerned about the low degree of attention given by Quebec institutions and government to the systemic nature of racial profiling. Despite steps taken in recent years to counter racial profiling, a systemic approach to combating the phenomenon remains absent. Despite encouraging dialogue from these parties, racialized people continue to deal daily with the effects of discriminatory rules, inappropriate conduct, and irregular decisions<sup>14</sup>.

15. The Quebec Court of Appeal and subsequent Supreme Court of Canada rulings in the *Bombardier*<sup>15</sup> case were worrisome steps backwards with respect to systemic and indirect discrimination, and the subordination of human rights and freedoms (with their quasi-constitutional status) to the rules of civil law.

16. In light of these observations, the Commission believes that human rights and freedoms instruction should be better incorporated into the Quebec educational system, from elementary school to university. The fact that not all Quebec law schools make human rights and freedoms classes mandatory is also of concern to the Commission. The Commission has repeatedly recommended that the *Ministère de l'Éducation et de l'Enseignement supérieur* ensure that relevant degree programs contain antiracism and intercultural training, and that students have acquired intercultural competency upon completion of their studies<sup>16</sup>.

17. As such, the Commission took the occasion to suggest incorporating a human rights, discrimination, and racial profiling component into all training received by police officers and other participants in the legal system and administrative tribunals (judges, police ethics commissioners, lawyers, crown prosecutors, parole officers, prison guards, etc.)<sup>17</sup>.

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<sup>13</sup> TRUTH AND RECONCILIATION COMMISSION OF CANADA, *Truth and Reconciliation Commission of Canada: Calls to action*, Winnipeg, 2012, p. 4-5, [Online].

[http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls\\_to\\_Action\\_English2.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf)

<sup>14</sup> For information on the indicators that the Commission has developed to assess profiling, see: COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Proving racial profiling : perspectives for civil cases*, Mtre Michèle Turenne, (Cat. 2.120-1.26.1), 2006. [Online].  
[http://www.cdpcj.qc.ca/Publications/proving\\_racial\\_profiling.pdf](http://www.cdpcj.qc.ca/Publications/proving_racial_profiling.pdf)

<sup>15</sup> *Québec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aéronautique Centre de formation)*, cited above, note 7; *Bombardier inc. (Bombardier Aerospace Training Center) c. Commission des droits de la personne et des droits de la jeunesse*, 2013 QCCA 1650, [Online]. <https://www.canlii.org/fr/qc/qcca/doc/2013/2013qcca1650/2013qcca1650.html>

<sup>16</sup> See also: COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 8; COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire sur le document de consultation intitulé « Pour une politique de la réussite scolaire »*, (Cat. 2.122.34.1), 2016, [Online].  
[http://www.cdpcj.qc.ca/Publications/memoire\\_reussite\\_educative.pdf](http://www.cdpcj.qc.ca/Publications/memoire_reussite_educative.pdf)

<sup>17</sup> See also: COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 8.



18. In this regard, the Truth and Reconciliation Commission of Canada has also called for lawyers to receive appropriate cultural competency training and has called upon law schools to require all law students take a course in Aboriginal people and the law<sup>18</sup>.

19. Finally, most of the government agencies for which we were able to obtain data have made little progress in terms of representation of racialized and Aboriginal people on their staff. The Commission firmly believes that the personnel of these institutions must reflect the ethnocultural diversity of the people they serve, at every level of their hierarchical structure<sup>19</sup>. In this regard, please refer to sections 27 to 30 regarding employment equity programs.

## 2 EMPLOYMENT EQUITY AND ABORIGINAL AND RACIALIZED PEOPLE

20. The Commission's mandate to supervise the administration of affirmative action programs, make investigations, and direct research on issues relating to fundamental rights and freedoms has enabled it to witness the extent of the systemic discriminatory barriers to accessing and holding employment and to being promoted that racialized and Aboriginal people face.

21. Quebec labour market indicators for racialized and Aboriginal people confirm the Commission's findings. In Quebec in 2015, racialized people or - to use the term still employed in Quebec and Canadian legislation for people were born in Canada as well as those who immigrated - 'visible minorities', had an unemployment rate of two to three times that of non-racialized people. The situation persists across all levels of education, and is of even greater concern in light of intersectional factors like gender and period of immigration. Recently-arrived Arabic and South Asian female immigrants, for example, have the highest rate of unemployment among racialized people in Quebec, at five times that of non-racialized people<sup>20</sup>.

22. For Aboriginal and racialized people alike, racial discrimination often intersects with social class discrimination, i.e. discrimination on the grounds of being poor, unemployed, on social assistance, or holding a non-standard job<sup>21</sup>. Racialized people's low income is therefore another significant indicator, and class discrimination intersects with discrimination on the grounds of "race", colour, and ethnic or national origin": in 2011, visible minorities in Quebec experienced low income at twice the rate of the general population<sup>22</sup>. Our understanding of employment equity must therefore take into account the intersectional nature of discrimination

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<sup>18</sup> TRUTH AND RECONCILIATION COMMISSION OF CANADA, cited above, note 13.

<sup>19</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 8.

<sup>20</sup> STATISTICS CANADA, *2011 National Household Survey, product number 99-012-X2011038 from the Statistics Canada catalogue*, [Online]. <http://www12.statcan.gc.ca/nhs-enm/2011/dp-pd/dt-td/Rp-eng.cfm?TABID=2&LANG=E&A=R&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=01&GID=1118296&GK=1&GRP=0&O=D&PID=105611&PRID=0&PTYPE=105277&S=0&SHOWALL=1&SUB=0&TemporaI=2013&THEME=96&VID=0&VNAMEE=&VNAMEF=&D1=0&D2=0&D3=0&D4=0&D5=0&D6=0>

<sup>21</sup> Pierre BOSSET, « Les mesures législatives de lutte contre la discrimination raciale au Québec : un bilan institutionnel », (2005) 17 (2) *Nouvelles pratiques sociales* 15, 27.

<sup>22</sup> STATISTICS CANADA, *2011 National Household Survey, product number 99-012-X2011038 from the Statistics Canada catalogue*, [Online]. <http://www5.statcan.gc.ca/olc-cel/olc.action?ObjId=99-010-X2011038&ObjType=46&lang=en&limit=0>

and the impact that racial discrimination can have on social status. In this regard, the Commission has recently reiterated its recommendations that the Government of Quebec implement policies, programs, and other specific measures to address the systemic nature of discrimination on grounds of “race’, colour, and ethnic origin”, and that gender be taken into account in the formulation and application of laws and regulations<sup>23</sup>.

23. With respect to immigrants in particular, the Commission recommended during consideration of the *Draft Act to amend the Act Respecting Immigration to Québec* that the government include explicit reference to Charter rights and freedoms, particularly as regards the individual and collective commitment to ensure immigrants’ full and equal participation in Quebec society<sup>24</sup>. This recommendation was only partially implemented<sup>25</sup>.

24. In Quebec, the off-reserve Aboriginal population also experiences higher unemployment rates than the non-Aboriginal population (4.4% higher)<sup>26</sup> and on average, earns less than non-Aboriginal people (0.91% less per hour)<sup>27</sup>. Lower education levels also have a significant impact on Aboriginal people’s ability to access employment.

25. Every year, the Commission handles numerous cases of ethno-racial employment discrimination against members of racialized groups, including complaints about hiring, dismissal, and conditions of employment. In 2015-2016, complaints of discrimination on the grounds of “race’, colour, or ethnic or national origin” made up 19% of all employment-related cases. Furthermore, 57.7% of all cases opened for these grounds of discrimination pertained to employment<sup>28</sup>. The Commission receives very few complaints in any area from members of Aboriginal communities. Often, victims of discrimination do not dare complain, whether for fear of reprisals at work or because they are unaware of available recourses<sup>29</sup>. The number of

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<sup>23</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire à la Commission des relations avec les citoyens de l’Assemblée nationale sur le document intitulé Vers une nouvelle politique québécoise en matière d’immigration, de diversité et d’inclusion – Cahier de consultation*, (Cat. 2.120-7.30), 2015, [Online]. [http://www.cdpcj.qc.ca/Publications/memoire\\_politique-immigration\\_rapport.pdf](http://www.cdpcj.qc.ca/Publications/memoire_politique-immigration_rapport.pdf)

<sup>24</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire à la Commission des relations avec les citoyens de l’Assemblée nationale – Projet de loi n° 77, Loi sur l’immigration au Québec*, (Cat. 2.412.99.2), 2016, [Online]. [http://www.cdpcj.qc.ca/Publications/memoire\\_PL\\_77\\_Loi\\_Immigration.pdf](http://www.cdpcj.qc.ca/Publications/memoire_PL_77_Loi_Immigration.pdf)

<sup>25</sup> *Act Respecting Immigration to Quebec*, CQLR, c. I-0.2, art. 1 (2).

<sup>26</sup> STATISTICS CANADA, *Table 282-0226 – Labour force survey estimates (LFS), By Aboriginal group, sex, and age group, Canada, selected provinces and regions, CANSIM (Data table)*, [Online]. <http://www5.statcan.gc.ca/cansim/a26;jsessionid=8FD36E676A812A94017888DB47B29500?lang=eng&id=2820226&retrLang=eng>. See also: COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Rapport de la Commission des droits de la personne et des droits de la jeunesse relatif à la Convention sur l’élimination de toutes les formes de discrimination à l’égard des femmes (Période du 1<sup>er</sup> janvier 2008 au 31 janvier 2014)*, Mtre Karina Montminy, (Cat. 2.102.7.2), 2014, [Online]. [http://www.cdpcj.qc.ca/Publications/Rapport\\_convention\\_elimination\\_discrimination\\_femmes.pdf](http://www.cdpcj.qc.ca/Publications/Rapport_convention_elimination_discrimination_femmes.pdf)

<sup>27</sup> STATISTICS CANADA, *Table 282-0233, Labour force survey estimates (LFS), average hourly and weekly wages and average usual weekly hours by Aboriginal group and age group, Canada, selected provinces and regions, CANSIM*, [Online]. <http://www5.statcan.gc.ca/cansim/a26?id=2820233&lang=eng&retrLang=eng>

<sup>28</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Rapport d’activités et de gestion 2015-2016*, 2016, [Online]. [http://www.cdpcj.qc.ca/Publications/RA\\_2015\\_2016.pdf](http://www.cdpcj.qc.ca/Publications/RA_2015_2016.pdf)

<sup>29</sup> COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, *General recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system*, (August 20,

complaints for discrimination based on “‘race’, colour, or ethnic or national origin” that the Commission receives and handles every year merely hint at the amount of daily discrimination that Aboriginal and racialized people actually experience<sup>30</sup>.

26. We would also like to mention the results of a situation test carried out by the Commission in 2012, which revealed that when two applicants had equivalent qualifications and employment profiles, the one perceived to be from the majority group, who had a Quebec/French sounding name, were at least 60% more likely to be invited to an interview than applicants from the minority test groups, who had African, Arabic, or Latin American sounding names<sup>31</sup>. These discriminatory employer preferences, based less on people’s skills and experience than on racist stereotypes and prejudices that are difficult to prove or measure, are part of the systemic nature of this problem. The Commission concluded that Quebec needs to adopt a comprehensive government policy to combat racism and discrimination in employment, and should create affirmative action programs within private companies and non-profits. Despite the Commission’s repeated appeals to the Government of Quebec, none of these recommendations have been implemented<sup>32</sup>.

27. In addition, the Commission recently published its 2013-2016 triennial report on the status of the organizations covered by the *Act Respecting Equal Access to Employment in Public Bodies*. The Act aims to enable better representation in certain public bodies of women, people who are members of visible minorities because of their ‘race’ or the colour of their skin, ethnic minorities, Aboriginal peoples, and people with disabilities<sup>33</sup>. In addition to the *Sûreté du Québec*, the Act applies to nine main sectors: school boards, general and vocational colleges, private education institutions, university level institutions, health and social services institutions, municipalities, transit authorities, state bodies, and intermunicipal police boards.

28. The Commission has also released various sectoral reports analyzing outcomes of affirmative action programs within school boards, general and vocational colleges, transit

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2004), par. 1b), [Online].

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7503&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7503&Lang=en)

<sup>30</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Plan stratégique 2015-2019*, 2015, p. 7, [Online]. [http://www.cdpcj.qc.ca/Publications/Planification\\_strategique\\_2015-2019.pdf](http://www.cdpcj.qc.ca/Publications/Planification_strategique_2015-2019.pdf) See also : DÉFENSEUR DES DROITS, *Enquête sur l'accès aux droits, Relations police/population : le cas des contrôles d'identité*, 2017, p. 31, [Online]. [https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapport-enquete\\_relations\\_police\\_population-20170111\\_1.pdf](https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapport-enquete_relations_police_population-20170111_1.pdf)

<sup>31</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mesurer la discrimination à l'embauche subie par les minorités racisées : résultats d'un « testing » mené dans le Grand Montréal*, Paul Eid with the collaboration of Meissoun Azzaria and Marion Quérat, (Cat. 2.120-1.31), 2012, [Online]. [http://www.cdpcj.qc.ca/Publications/etude\\_testing\\_discrimination\\_emploi.pdf](http://www.cdpcj.qc.ca/Publications/etude_testing_discrimination_emploi.pdf)

<sup>32</sup> See also : COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 23; COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire sur le document de consultation « Vers une politique gouvernementale de lutte contre le racisme et la discrimination »*, (Cat. 2.120-1.28), 2006, [Online]. [http://www.cdpcj.qc.ca/Publications/racisme\\_memoire\\_consultation\\_2006.pdf](http://www.cdpcj.qc.ca/Publications/racisme_memoire_consultation_2006.pdf)

<sup>33</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Rapport triennal 2013-2016, Loi sur l'accès à l'égalité en emploi dans des organismes publics*, 2016, [Online]. [http://www.cdpcj.qc.ca/Publications/Rapport\\_triennal\\_PAE\\_2013\\_2016.pdf](http://www.cdpcj.qc.ca/Publications/Rapport_triennal_PAE_2013_2016.pdf)

authorities, and the *Sûreté du Québec*<sup>34</sup>. These reports found that, despite certain gains, none of the organizations the Commission analyzed had fully corrected under-representation of the designated groups. In a number of sectors, visible minorities and Aboriginal people were not benefiting from the programs, and much work remains to be done to increase these groups' representation in the workforce. Within the *Sûreté du Québec*, for example, these two groups' numbers would have to more than triple to meet workforce representation objectives. In these reports, the Commission found that the organizations in question needed to make employment equity a priority and to increase their efforts to meet representation objectives for all of the designated groups.

29. Finally, the Commission has repeatedly emphasized that the government must set an example of employment equity. The current under-representation of visible minorities and Aboriginal people in the Quebec public service, especially in executive and senior management positions, reveals the magnitude of the challenge facing the Government of Quebec. In this respect, the Commission had been recommending for over a decade that affirmative action programs be subject to the Commission's accountability and control mechanisms. The Commission has also recommended that the Quebec *Secrétariat du Conseil du trésor* determine the proportion of visible minorities and Aboriginal people within the public service and, where necessary, establish representation targets for these groups. More recently, the Commission recommended that the Government of Quebec standardize the categories used to identify the groups covered by affirmative action programs in all statutes, orders in council, and ministerial orders. For example, separate designated groups should be created for visible minorities and ethnic minorities, who are currently grouped together as 'cultural communities'.

30. As for the private employment sector, the Commission has recommended that the obligation to create affirmative action programs be expanded to apply to all Quebec businesses<sup>35</sup>.

31. Another issue that the Commission would like to address concerns the systemic barriers that racialized immigrants face in obtaining full recognition of the education and experience they have obtained abroad, resulting in high rates of professional downgrading. The Commission has repeatedly recommended that the various parties involved in the equivalency process take measures to recognize the qualifications of skilled workers. To provide an example of these barriers, the *Collège des médecins* requires all physicians to complete a medical residency program in order to obtain a medical license, yet physicians

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<sup>34</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *L'accès à l'égalité en emploi. Rapport sectoriel sur les cégeps*, 2016, [Online].  
[http://www.cdpcj.qc.ca/Publications/Rapport\\_sectoriel\\_cegeps.pdf](http://www.cdpcj.qc.ca/Publications/Rapport_sectoriel_cegeps.pdf); COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *L'accès à l'égalité en emploi. Rapport sectoriel sur les commissions scolaires*, 2015, [Online].  
[http://www.cdpcj.qc.ca/Publications/Rapport\\_sectoriel\\_PAE\\_commissions\\_scolaires.pdf](http://www.cdpcj.qc.ca/Publications/Rapport_sectoriel_PAE_commissions_scolaires.pdf); COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *L'accès à l'égalité en emploi. Rapport sectoriel sur les effectifs policiers de la Sûreté du Québec*, 2015, [Online].  
[http://www.cdpcj.qc.ca/Publications/Rapport\\_sectoriel\\_PAE\\_effectifs\\_policiers\\_SQ.pdf](http://www.cdpcj.qc.ca/Publications/Rapport_sectoriel_PAE_effectifs_policiers_SQ.pdf); COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *L'accès à l'égalité en emploi. Rapport sectoriel sur les sociétés de transport*, 2015, [Online].  
[http://www.cdpcj.qc.ca/Publications/Rapport\\_sectoriel\\_PAE\\_societes\\_transport.pdf](http://www.cdpcj.qc.ca/Publications/Rapport_sectoriel_PAE_societes_transport.pdf)

<sup>35</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 23; COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 32.

trained abroad are denied entry to these programs. The Commission published a study in 2010 that found that certain selection criteria applied by Quebec medical schools disproportionately excluded foreign-trained applicants<sup>36</sup>.

32. In addition, the *Act to create the office of Commissioner for complaints concerning mechanisms for the recognition of professional competence*, passed in 2009, does not allow the Commissioner for complaints, now the *Admission to the Professions Commissioner*, to investigate the educational institutions that provide the professional training needed to obtain a license to practice in Quebec. The Commission had recommended in its comments on the bill that the Commissioner's responsibilities be better defined with respect to monitoring cooperation mechanisms between professional orders and educational institutions. Specifically, the Commission insisted that the Commissioner be able to ensure that such training is genuinely accessible, i.e. free of discriminatory effects, to internationally-trained individuals whose diploma has been recognized by a professional order<sup>37</sup>. This recommendation has not been acted upon. At the time of writing, the National Assembly of Quebec has recently passed the *Act to amend various legislation mainly with respect to admission to professions and the governance of the professional system*. The Act broadens the powers of the Commissioner to receive and examine complaints concerning admission to a profession and to monitor the operation of the mechanisms for the recognition of professional competence<sup>38</sup>. Yet, the Act still excludes training provided by educational institutions from its jurisdiction<sup>39</sup>.

33. Even when they hold employment, Aboriginal and racialized people's position in the labour market is of concern. Their over-representation in certain non-standard jobs makes them susceptible to other forms of less obvious and therefore more pernicious systemic discrimination. Although the proportion of people holding such jobs is not easy to determine from the national statistics, the Commission has repeatedly stated its concerns about the deterioration of the labour market represented by the growth in non-standard jobs. More than ever, holding a job today does not shelter people from discrimination on the basis of their social class or translate into effective recognition of their economic and social rights. Aboriginal and racialized people therefore have difficulty accessing suitable and sustainable employment with fair and reasonable conditions and a decent standard of living. In this regard, the Commission has recommended that a priority of the upcoming *Québec Youth Policy* should be

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<sup>36</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Investigation on its own initiative of the Commission des droits de la personne et des droits de la jeunesse, Resolution COM-559-5.1.1*, 2010, [Online]. [http://www.cdpcj.qc.ca/Publications/enquete\\_medecins\\_En.pdf](http://www.cdpcj.qc.ca/Publications/enquete_medecins_En.pdf); COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Les médecins formés à l'étranger toujours victimes de discrimination*, News release, Montreal, August 14 2007, [Online]. <http://www.cdpcj.qc.ca/fr/medias/Pages/Communique.aspx?showItem=584>; COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Victime d'un traitement discriminatoire, les médecins formés à l'étranger n'ont pas un accès réel aux postes en résidence*, News release, Montreal, November 16 2010, [Online]. [http://www.cdpcj.qc.ca/Documents/communique\\_medecins%20etrangers%202010.pdf](http://www.cdpcj.qc.ca/Documents/communique_medecins%20etrangers%202010.pdf)

<sup>37</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Commentaires sur le Projet de loi n° 53, Loi instituant un poste de commissaire aux plaintes concernant les mécanismes de reconnaissance des compétences professionnelles*, Daniel Ducharme and Mtre Karina Montminy, (Cat. 2.412.111), 2009, [Online]. [http://www.cdpcj.qc.ca/publications/PL53\\_commissaire\\_plaintes\\_commentaires.pdf](http://www.cdpcj.qc.ca/publications/PL53_commissaire_plaintes_commentaires.pdf)

<sup>38</sup> *Act to amend various legislation mainly with respect to admission to professions and the governance of the professional system*, S.Q. 2017, c. 11.

<sup>39</sup> *Professional Code*, CQLR, c. C-26, art. 16.10 par. 2 (2).

to identify the systemic employment barriers faced by certain groups of young people (immigrants, visible minorities, Aboriginal people, people with disabilities), including those faced by female members of these groups<sup>40</sup>.

34. Whether they receive financial assistance, live off wages from a precarious job, or obtain income from a combination of these sources, racialized and Aboriginal people risk being ensnared in the trap of chronic poverty and vulnerability. Their precariousness is reinforced by systemic barriers preventing them from accessing the financial and social assistance, such as employment assistance, that could help them achieve a decent standard of living. In this respect, the Commission has recently recommended that participants in the *Aim for Employment* program – a labour market entry and benefit program established by the *Act to allow a better match between training and jobs and to facilitate labour market entry* – be able to: a) contribute to determination of the suitability of the job they are offered, according to their personal traits or circumstances, b) retain their right to resign without penalty, subject to applicable labour law, and c) benefit from basic employment standards and the right to join a union. The Commission has also recommended that the employment assistance measures set forth in the *Individual and Family Assistance Act*<sup>41</sup> be redefined to account for the systemic discrimination that certain groups protected under Charter equality rights experience due to their over-representation in non-standard jobs<sup>42</sup>. Unfortunately, the Act was passed without incorporating the Commission's recommendations<sup>43</sup>.

35. Low-skilled temporary foreign workers, such as live-in caregivers and seasonal agricultural workers, also experience systemic discrimination on the basis of their ethnic or national origin, their 'race', their social status, their language, and, in the case of live-in caregivers, their gender. The Commission has repeatedly recommended that the Government of Quebec limit migrant labour by allowing these workers to access permanent immigration programs, or by granting them open or sector-specific provincial work permits<sup>44</sup>. In this regard, the Commission also spoke before the Standing Committee on Citizenship and Immigration

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<sup>40</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire sur le document de consultation intitulé « Ensemble pour les générations futures. Politique québécoise de la jeunesse »*, (Cat. 2.120-13.40), 2015, [Online].  
[http://www.cdpedj.qc.ca/Publications/memoire\\_consultation\\_politique\\_jeunesse.pdf](http://www.cdpedj.qc.ca/Publications/memoire_consultation_politique_jeunesse.pdf)

<sup>41</sup> *Individual and Family Assistance Act*, CQLR, c. A-13.1.1.

<sup>42</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire à la Commission de l'économie et du travail de l'Assemblée nationale sur le Projet de loi n° 70, Loi visant à permettre une meilleure adéquation entre la formation et l'emploi ainsi qu'à favoriser l'intégration en emploi*, (Cat. 2.412.124), 2016, [Online].  
[http://www.cdpedj.qc.ca/publications/memoire\\_PL\\_70\\_emploi\\_pauvrete.pdf](http://www.cdpedj.qc.ca/publications/memoire_PL_70_emploi_pauvrete.pdf)

<sup>43</sup> *Act to allow a better match between training and jobs and to facilitate labour market entry*, S.Q. 2016, c. 25.

<sup>44</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 24; COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *La discrimination systémique à l'égard des travailleuses et travailleurs migrants*, Mtre Marie Carpentier with the collaboration of Carole Fiset, (Cat. 2.120-7.29), 2011, [Online]. [http://www.cdpedj.qc.ca/Publications/Avis\\_travailleurs\\_immigrants.pdf](http://www.cdpedj.qc.ca/Publications/Avis_travailleurs_immigrants.pdf)  
See also: COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Systemic discrimination towards migrant workers*, Mtre Marie Carpentier with the collaboration of Carole Fiset, (Cat. 2.120-7.29.2), 2011, [Online]. [http://www.cdpedj.qc.ca/Publications/Opinion\\_migrant\\_workers\\_summary.pdf](http://www.cdpedj.qc.ca/Publications/Opinion_migrant_workers_summary.pdf)

about the need for Canada to ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (2008)<sup>45</sup>.

36. Finally, gathering disaggregated data on the socio-economic status and employment equity of racialized and Aboriginal people appears to be one of the most pressing steps toward eliminating all forms of ethno-racial employment discrimination. Such data must be reliable, complete, and broken down according to racialized minority subgroups, Aboriginal subgroups (Inuit, Métis, First Nations), gender, and immigration status. This would help identify the needs of the racialized and Aboriginal groups who experience the highest levels of employment discrimination. The federal, provincial, and territorial governments must take this initiative to gather disaggregated data based on racialized minority groups, ethnic or national origin, immigration status, Aboriginal identity, gender, and social status. The gathering of such data should be subject to legal restrictions to respect privacy rights, protect personal information, and govern the use, management, and use of personal information.

### **3 EDUCATION AND PROFESSIONAL TRAINING AND ABORIGINAL AND RACIALIZED PEOPLE**

37. First-generation immigrant students have higher annual dropout rates than those observed for the general Quebec student population. According to data from the *Ministère de l'Éducation et de l'Enseignement supérieur du Québec*, the dropout rate for first-generation immigrant students in 2011-2012 was more than double that of non-immigrant students<sup>46</sup>.

38. Many first-generation immigrant students spoke a language other than French and first attended 'welcome' classes. In the aforementioned report on racial profiling, the Commission noted that "although welcome classes are an obligatory passage for newly arrived students, the school system is not always ready to welcome them and respond adequately to their needs, thereby creating systemic discrimination against recent immigrants." The Commission explained that the transition from welcome class to regular class, if poorly planned or made too soon, can compromise these students' chance of success<sup>47</sup>.

39. The Commission also noted in that report that the education sector often resorts to a categorization process to orient students, and that this process can be biased against racialized students, "reduc[ing] the range of possibilities offered to the student" and influencing perceptions of students' abilities as they move through the education system. This can result in diminished investments in regards to some students because of lower expectations about their capacity to successfully undertake a given educational stream.

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<sup>45</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE (2011), *id.*

<sup>46</sup> MINISTÈRE DE L'ÉDUCATION, DE L'ENSEIGNEMENT SUPÉRIEUR ET DE LA RECHERCHE, *Indices de défavorisation par école – 2014-2015, Compilation spéciale des données du recensement canadien 2006, compilation spéciale des données du recensement*, 2015, [Online].  
[http://www.education.gouv.qc.ca/fileadmin/site\\_web/documents/PSG/statistiques\\_info\\_decisionnelle/Indices\\_defavorisation\\_ecoles\\_2014\\_2015.pdf](http://www.education.gouv.qc.ca/fileadmin/site_web/documents/PSG/statistiques_info_decisionnelle/Indices_defavorisation_ecoles_2014_2015.pdf)

<sup>47</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire présenté au Conseil supérieur de l'éducation dans le cadre de la consultation sur l'accès à l'éducation et l'accès à la réussite éducative dans une perspective d'éducation pour l'inclusion*, (Cat. 2.122.34), 2009, [Online].  
[http://www.cdpcj.qc.ca/publications/inclusion\\_scolaire\\_consultation\\_Conseil\\_superieur.pdf](http://www.cdpcj.qc.ca/publications/inclusion_scolaire_consultation_Conseil_superieur.pdf)

40. In addition to experiencing this kind of racial prejudice in the school environment, immigrant and racialized students are regularly subject to double discrimination because of their over-representation in disadvantaged neighbourhoods. This increases the risk of these students being left behind from their school board's achievement targets.

41. The Commission is also worried that, according to data from the *Ministère de l'Éducation et de l'Enseignement supérieur*, the dropout rate for Inuit and Naskapi students remains high and the rate for Cree students continues to rise. This is inconsistent with the rest of the province, where the proportion of students who leave high school without a degree or qualification is in decline. The Commission is surprised at the *Ministère de l'Éducation, du Loisir et du Sport du Québec's* seeming lack of reliable data for other Aboriginal students at any level of the Quebec school system<sup>48</sup>.

42. In 2009, the Commission noted that one in ten Aboriginal students attended a school outside their community. This means that the regular Quebec education system needs to adapt the educational services offered to all students to reflect Aboriginal realities. At that time, the Commission identified several barriers to Aboriginal students' success, including both geographical distance between students' home community and their school and cultural differences. The Commission recommended sustained integration measures that would take into account the characteristics of Aboriginal students' communities<sup>49</sup>.

43. In 2016, when the Government of Quebec tabled *Bill 86: An Act to modify the organization and governance of school boards to give schools a greater say in decision-making and ensure parents' presence within each school board's decision-making body*, the Commission argued that the school system must take special measures to facilitate racialized, immigrant, and Aboriginal students' school perseverance and academic success. The Commission asserted that no student should be left behind from achievement targets and that resources devoted to it should be utilized for all students and in all sectors of education, including the general, vocational, and adult sectors<sup>50</sup>.

44. The Truth and Reconciliation Commission of Canada has also called upon the government to take concrete measures to "improving education attainment levels and success rates" of Aboriginal people. It has called upon the federal government "to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians". It has also called on the federal government "to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples", with the goal of improving education attainment levels and success rates<sup>51</sup>.

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<sup>48</sup> MINISTÈRE DE L'ÉDUCATION, DE L'ENSEIGNEMENT SUPÉRIEUR ET DE LA RECHERCHE, « L'éducation des populations scolaires dans les communautés autochtones du Québec en 2010 », (2013) 42 *Bulletin statistique de l'éducation* 6.

<sup>49</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 47.

<sup>50</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire à la Commission de la culture et de l'éducation de l'Assemblée nationale sur le Projet de loi n° 86, Loi modifiant l'organisation et la gouvernance des commissions scolaires en vue de rapprocher l'école des lieux de décision et d'assurer la présence des parents au sein de l'instance décisionnelle de la commission scolaire*, (Cat. 2.412.84.4), 2016, [Online]. [http://www.cdpcj.qc.ca/Publications/memoire\\_PL\\_86\\_gouvernance\\_com\\_scolaires.pdf](http://www.cdpcj.qc.ca/Publications/memoire_PL_86_gouvernance_com_scolaires.pdf)

<sup>51</sup> COMMISSION DE VÉRITÉ ET RÉCONCILIATION DU CANADA, cited above, note 13.



45. During the consultation with the Government of Quebec on the *Policy on Educational Success, Education, Let's talk about the future*, the Commission stressed that the Policy must take into account the particular education needs of racialized, immigrant, and Aboriginal students<sup>52</sup>. It acknowledged that adequately preparing students for their transition to the labour market or higher learning is the key to success.

46. The Commission also reiterated that, in order to create a truly inclusive school system in Quebec, instruction on Charter rights and freedoms must be incorporated into the curriculum from elementary through high school, in regular classes and welcome classes alike. Education on Charter rights and freedoms should also form part of the initial training that education managers and other school staff receive.

47. Early childhood educational services are an invaluable tool for encouraging equal opportunity throughout a child's life<sup>53</sup>. To provide every child with equal chance to flourish, childcare and preschool education programs need to provide discrimination-free educational services. This requires adapting these services to reflect the children they serve. For example, the socio-economic status of immigrant or racialized parents and the linguistic specificities of non-French-speaking families must be taken into account in order to ensure truly equal access to early childhood education services. Activities involving traditional customs have a beneficial effect on young Aboriginal children's development, and the Truth and Reconciliation Commission of Canada has called upon the federal, provincial, territorial, and Aboriginal governments to "develop culturally appropriate early childhood education programs for Aboriginal families"<sup>54</sup>.

48. Finally, several thousand children living in Quebec are not in school due to lack of official documents regarding their immigration status. The Commission has criticized this alarming situation, arguing that, for children with precarious immigration status, this is a serious violation of the Charter right to free public education. The situation exposes the urgent need for the Government of Quebec to find a permanent solution to the discrimination experienced by these children. Specifically, the Commission has recommended amending the *Education Act* to enable every person who is entitled to preschool education services and elementary and high school instructional services to receive these services free of charge from the school board where they reside<sup>55</sup>.

#### **4 ACCESS TO HOUSING AND RACIALIZED AND ABORIGINAL PEOPLE**

49. Finally, the Commission would like to discuss the housing sector, which plays a particularly important role in people's lives. The right to housing is an essential component of the right to adequate standard of living for oneself and ones' family. In Quebec, housing rights are an integral part of the Section 45 Charter right to measures of financial assistance and to

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<sup>52</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 16.

<sup>53</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire présenté à la Commission sur l'éducation à la petite enfance dans le cadre des audiences publiques nationales*, (Cat. 2.122.35), 2016, [Online]. [http://www.cdpedj.qc.ca/Publications/memoire\\_education\\_petite\\_enfance.pdf](http://www.cdpedj.qc.ca/Publications/memoire_education_petite_enfance.pdf)

<sup>54</sup> COMMISSION DE VÉRITÉ ET RÉCONCILIATION DU CANADA, cited above, note 13.

<sup>55</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 50.

social measures susceptible of ensuring an acceptable standard of living. Housing costs represent an excessive portion of the budget for a significant proportion of the population, particularly among people living in poverty. Under certain circumstances, this can result in failure to meet other basic needs like food and health care, and can ultimately lead to people's inability to pay for their home.

50. The right to equality without discrimination as provided by Sections 10 and 45 of the Charter extends to tenants, as does Section 12, which prohibits discrimination in making a juridical act (i.e. a lease). When people are unable to effectively exercise their right to housing, their other Charter rights are impaired as a result, including their right to personal security, inviolability, and freedom (Section 1), their right to the safeguard of their dignity (Section 4), and their right to respect for their private life (Section 5).

51. As such, the Commission considers the discrimination experienced by certain tenants in Quebec to be systemic in nature. It is the sum of cumulative and shifting situations of inequality that result from the interaction of practices, decisions, and individual or institutional conduct, and which have wanted or unwanted harmful effects on members of groups protected by the Charter. Many of these groups have been placed in a vulnerable position by the effects of discrimination on the basis on their social status, 'race', colour, ethnic or national origin (this includes Aboriginal people), sex, civil status, disability, and/or the intersectionality of multiple factors.

52. On average, 10% of the cases that the Commission opens each year in response to complaints of discrimination or harassment involve housing. In 2015-2016, 32.3% such complaints cited grounds of "race, colour, or ethnic or national origin." It is nonetheless interesting to note that, in proportion to the total number of cases opened for each ground of discrimination, "social condition" is the primary ground of housing discrimination<sup>56</sup>.

53. For many years now, the Commission has been making recommendations for the Government of Quebec to ensure full respect of tenants' right to housing. This included a systemic investigation that the Commission carried out on poverty and housing equality, in which it proposed faster creation of affordable, quality housing and consideration of medium-term solutions that take into account the discrimination experienced by groups protected by the Charter<sup>57</sup>.

54. With respect to Aboriginal people in particular, the inhabitants of Nunavik and the First Nations people living in Quebec have long reported housing shortages and overcrowding. These issues create numerous health problems for Aboriginal people and exacerbate social problems. From 2002-2005, the Commission carried out a systemic investigation on the youth protection services provided to Nunavik children, which noted that overcrowding creates conditions conducive to social problems, making these problems even harder to solve. When overcrowding is combined with violence, addiction, and other forms of abuse, it has a direct

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<sup>56</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, cited above, note 28.

<sup>57</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Pauvreté et droit à l'égalité dans le logement : une approche systémique*, Muriel Garon, (Cat. 2.122.17.1), 1997, [Online].  
[http://www.cdpcj.qc.ca/Publications/pauvrete\\_logement.pdf](http://www.cdpcj.qc.ca/Publications/pauvrete_logement.pdf)

affect on children's security and development. These housing shortages also hamper efforts to recruit foster families and interfere with effective organization of social services<sup>58</sup>.

55. The housing shortages and poor living conditions experienced by certain racialized and Aboriginal people can also lead to homelessness. In reporting on the social profiling experienced by Montreal's homeless people, the Commission noted that Aboriginal people are over-represented among this population. Furthermore, the intersectionality of multiple grounds of discrimination exacerbates the discrimination that certain people face, including women, people living in poverty, and people with disabilities. Among other proposed avenues of intervention, the Commission emphasized the need for the government to commit to strengthening the Charter economic and social rights without delay, and to take a preventive and proactive approach to homelessness, namely by providing sufficient and adequate housing to people who are homeless or at risk of homelessness (if they so desire). The Commission also recommended that the Government of Quebec provide increased and ongoing funding for new social housing projects<sup>59</sup>.

56. Quebec's 2014 national policy to fight homelessness names discrimination as a risk factor for homelessness. Racism can undermine Aboriginal people's ability to access adequate housing, and immigrants and racialized people also face certain cumulative risk factors. Although this policy was a step forward, the accompanying action plan fell short of employing the type of systemic solutions required to effectively uphold the right to housing without discrimination.

57. The Commission also noted that parts of the Quebec policy to fight homelessness imply that Aboriginal poverty and housing shortages are the sole purview of the federal government, yet the Government of Quebec does have responsibility in this matter, particularly regarding Aboriginal people living in Nunavik and off-reserve. According to Statistics Canada's 2011 Census, slightly more than a quarter of Status Indians who belong to a First Nation live off-reserve, and 12.9% of Status Indians living off-reserve in Quebec have urgent housing needs, compared with 10.7% of non-Aboriginal Quebec households<sup>60</sup>. The 2011 census data also shows that 46% of off-reserve Status Indian tenant households in Quebec reside in a

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<sup>58</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Nunavik. Investigation into child and youth protection services in Ungava Bay and Hudson Bay. Report, conclusions of the investigation and recommendations*, 2007, [Online]. [http://www.cdpcj.qc.ca/Publications/rapport\\_Nunavik\\_anglais.pdf](http://www.cdpcj.qc.ca/Publications/rapport_Nunavik_anglais.pdf)

<sup>59</sup> COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *La judiciarisation des personnes itinérantes à Montréal : un profilage social*, Mtre Christine Campbell and Paul Eid, (Cat. 2.120-8.61), 2009, [Online]. [http://www.cdpcj.qc.ca/Publications/itinerance\\_avis.pdf](http://www.cdpcj.qc.ca/Publications/itinerance_avis.pdf) See also: COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *The judicialization of the homeless in Montréal : a case of social profiling – Executive summary of the opinion of the Commission*, Mtre Christine Campbell and Paul Eid, (Cat. 2.120-8.61.2), 2009, [Online]. [http://www.cdpcj.qc.ca/Publications/Homeless\\_Summary.pdf](http://www.cdpcj.qc.ca/Publications/Homeless_Summary.pdf)

<sup>60</sup> Canadian Mortgage and Housing Corporation, *Table 1: Incidence of core housing need, average household incomes and average STIRs for households in core housing need, by Aboriginal identity of the household, core Canada, the Provinces, territories, Census Metropolitan Areas and Census Agglomerations, 2006 and 2011*, [Online]. [Appendix Table 1: Incidence of core housing need, average household incomes and average STIRs for households in core housing need, by Aboriginal identity of the household, core Canada, the Provinces, territories, Census Metropolitan Areas and Census Agglomerations, 2006 and 2011](#)

dwelling that is non-compliant with at least one standard of quality, size, or affordability. The same applies for 22% of off-reserve Status Indian owner households in Quebec<sup>61</sup>.

## CONCLUSION

58. In conclusion, the Commission would like to reiterate the importance of the Government of Quebec's commitments under the *International Convention on the Elimination of All Forms of Racial Discrimination*. The Commission would also like to reiterate its appeals for necessary measures to be taken to ensure that the Convention's rights are not simply recognized, but effectively upheld, including by implementing the rights and freedoms that the *Quebec Charter of Human Rights and Freedoms* protects.

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<sup>61</sup> *Id.*, [Online]. [Appendix Table 2: The Adequacy, Suitability, and Affordability of off-reserve Status Indian households, Canada, Provinces and Territories; 2011](#)