



## Submission on the sixth periodic report of Canada to the United Nations Committee on Economic, Social and Cultural Rights

January 29, 2016

This memorandum, submitted to the United Nations Committee on Economic, Social and Cultural Rights ahead of its upcoming review of Canada, highlights areas of concern for the Committee's consideration of the Canadian government's compliance with the International Covenant on Economic, Social and Cultural Rights. It contains information on poor access to water and sanitation in First Nations communities in Ontario, and relates to Covenant Articles 2, 11, 12, and 15. It identifies issues and proposes recommendations that we hope the Committee will raise with the government.

### ***Background***

Most Canadians have easy access to sufficient and affordable clean water and adequate sanitation. Canada has abundant water resources.<sup>1</sup> Lakes cover more of Canada's area than in any other country in the world. Canada and the United States share the Great Lakes, which contain 18 percent of the world's fresh surface water.<sup>2</sup> Despite contamination risks reported by the environment ministry, Canada's water quality is still among the highest in the world, ranking 4 out of 17 peer OECD countries.<sup>3</sup> Most Canadians are able to take advantage of this abundant, high quality water. The average daily residential water use was 251 liters per person in 2011.<sup>4</sup> While cost of water varies greatly by province, the average monthly flat rates for water and sewer services in 2009 were \$36.13.<sup>5</sup> The median annual income for all family types that year was \$68,410, making this rate affordable for most households.<sup>6</sup> In addition, the quality of water is strictly governed for most Canadians by provincial legislation and regulations.

In stark contrast, indigenous persons living in Canada's First Nations communities experience a much different reality.<sup>7</sup> According to a 2005 federal auditor general report, "[w]hen it comes to the

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<sup>1</sup> Statistics Canada, "Water resource characteristics, by drainage region," <http://www.statcan.gc.ca/pub/16-201-x/2010000/t230-eng.htm> (accessed January 7, 2016).

<sup>2</sup> Statistics Canada, Section 2: Canada's water supply—stocks and flows, <http://www.statcan.gc.ca/pub/16-201-x/2010000/part2-eng.htm> (accessed January 7, 2016).

<sup>3</sup> The Conference Board of Canada, Water Quality Index, <http://www.conferenceboard.ca/hcp/details/environment/water-quality-index.aspx> (accessed January 7, 2016).

<sup>4</sup> Environment and Climate Change Canada, Residential Water Use in Canada, <http://www.ec.gc.ca/indicateurs-indicators/default.asp?lang=en&n=7E808512-1> (accessed January 7, 2016).

<sup>5</sup> Environment and Climate Change Canada, *2011 Municipal Water Pricing Report: Municipal Water Pricing 2009 Statistics*, <http://www.ec.gc.ca/Publications/992156D4-2599-4026-9B4C-47855D26CCB8/2011MunicipalWaterPricingReport2009Statistics.pdf> (accessed January 7, 2016).

<sup>6</sup> Statistics Canada, "Median total income, by family type, by province and territory (All census families)," <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/famil108a-eng.htm> (accessed January 7, 2016).

<sup>7</sup> We have chosen to use "indigenous" because it is the terminology used by the United Nations and applicable human rights standards. We recognize, however, that other terms, such as "First Nations" and "Aboriginal" are commonly used in Ontario and Canada.

safety of drinking water, First Nations communities do not benefit from a level of protection comparable with that of people living off reserves.”<sup>8</sup> We believe this disparity has a direct impact on the human rights to water and sanitation and related rights for indigenous people living on reserves. This impact is felt distinctly by First Nations women, as traditional keepers of water and caregivers at home.

The Canadian government’s sixth periodic report to the Committee acknowledges the poor health of First Nations persons, and of First Nations persons living on reserves in particular, compared to other communities. It also makes brief mention of government initiatives aimed at addressing the rights to water, sanitation, and housing on reserves. It does not, however, detail the significant disparities in policy and policy outcomes related to water and sanitation on reserves.

Human Rights Watch investigated the impacts of poor water and sanitation conditions in First Nations communities in Ontario in 2015. This submission reflects our preliminary findings, and a full report will be issued later this year.

### ***Assessments of Water and Sanitation Conditions in First Nations Communities***

The government of Canada has long been aware of the dire water and sanitation situation facing First Nations communities. From the government’s own assessments and surveys, from inquiries by expert commissions, and from independent audits, there is ample evidence that First Nations communities on reserves—including in Ontario—have dramatically worse water and sanitation conditions than Canadians living off reserve. These assessments, spanning more than 20 years, include the following:

- **A 1995 survey of drinking water and wastewater treatment systems by Indigenous and Northern Affairs Canada (INAC, formerly called “Indian Affairs and Northern Development”) and Health Canada.** This survey found that about 25 percent of water treatment systems and community sewage treatment facilities in First Nations communities “posed significant health and safety risks” and required upgrading.<sup>9</sup>
- **A 1996 report by the Royal Commission on Aboriginal Peoples (RCAP).** The commission recommended that the “government of Canada provide additional resources for construction, upgrading and operation of water and sewage systems to ensure that adequate facilities and operating systems are in place in all First Nations communities within five years.”<sup>10</sup> This

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<sup>8</sup> Office of the Auditor General of Canada, Report of the Commissioner of the Environment and Sustainable Development to the House of Commons, Chapter 5: Drinking Water in First Nations Communities, 2005, p 26. <http://www.oag-bvg.gc.ca/internet/docs/c20050905ce.pdf> (accessed January 7, 2016).

<sup>9</sup> Office of the Auditor General of Canada, Report of the Commissioner of the Environment and Sustainable Development to the House of Commons, 2005, Chapter 5, p 1. <http://www.oag-bvg.gc.ca/internet/docs/c20050905ce.pdf>, citing to the 1995 report.

<sup>10</sup> Canada, Royal Commission on Aboriginal Peoples. *Report of the Royal Commission on Aboriginal Peoples, Volume 3: Gathering Strength, Community Services: A Health Hazard*, 1996, [http://www.collectionscanada.gc.ca/webarchives/20071211053819/http://www.ainc-inac.gc.ca/ch/rcap/sg/si37\\_e.html#3](http://www.collectionscanada.gc.ca/webarchives/20071211053819/http://www.ainc-inac.gc.ca/ch/rcap/sg/si37_e.html#3). (accessed January 29, 2016). See also, Canada, Royal Commission on Aboriginal Peoples. *Report of the Royal Commission on Aboriginal Peoples, Volume 5: Renewal: A Twenty-Year Commitment*, 1996,

spurred a national action plan, under which the government committed to improving infrastructure and allocating additional resources for First Nations' water and sewage needs.<sup>11</sup>

- **A 2002 inquiry following the Walkerton water contamination disaster.** In 2000, drinking water in Walkerton (a non-Aboriginal community in Ontario) was contaminated with *e.coli*, resulting in seven deaths and hundreds of illnesses.<sup>12</sup> A subsequent inquiry looked broadly at drinking water in Ontario, including in First Nation communities. It found that First Nations reserves had severe problems with infrastructure, training and certification of operators, testing and inspection, microbial contamination, and distribution systems.<sup>13</sup> It criticized the lack of legally enforceable standards for drinking water on First Nations reserves.
- **A 2001 INAC assessment.** INAC conducted another assessment in 2001, and found that nearly three-fourths of the systems on reserves posed potential health and safety risks to people who use them.<sup>14</sup>
- **A 2005 Auditor General report on drinking water in First Nations communities.** The Auditor General of Canada audited drinking water in First Nations communities, issuing a report in 2005.<sup>15</sup> It concluded that “[w]hen it comes to the safety of drinking water, residents of First Nations communities do not benefit from a level of protection comparable to that of people who live off reserves.”<sup>16</sup> It attributed this partly to the lack of laws and regulations governing drinking water in First Nations communities.<sup>17</sup> It also found that the design, construction, operation, and maintenance of many water systems in First Nations communities were deficient, and the federal departments involved suffered management weaknesses.<sup>18</sup>
- **A 2006 report of the Expert Panel on Safe Drinking Water for First Nations.** The Minister of Indian Affairs and Northern Development and the National Chief of the Assembly of First Nations announced a “Plan of Action for Drinking Water in First Nations Communities” in 2006,<sup>19</sup> which led to the Expert Panel on Safe Drinking Water for First Nations.<sup>20</sup> The panel

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[http://www.collectionscanada.gc.ca/webarchives/20071211053728/http://www.ainc-inac.gc.ca/ch/rcap/sg/sk6\\_e.html](http://www.collectionscanada.gc.ca/webarchives/20071211053728/http://www.ainc-inac.gc.ca/ch/rcap/sg/sk6_e.html) (accessed January 7, 2016).

<sup>11</sup> Minister of Indian Affairs and Northern Development Ottawa, Gathering Strength-Canada's Aboriginal Action Plan, 1997, <http://www.ahf.ca/downloads/gathering-strength.pdf> (accessed January 7, 2016). This was the government's response to the 4,000 page report of the Royal Commission on Aboriginal Peoples.

<sup>12</sup> The Honourable Dennis R. O'Connor, Part One: A Summary Report of the Walkerton Inquiry: The Events of May 2000 and Related Issues, 2002, [http://www.attorneygeneral.ius.gov.on.ca/english/about/pubs/walkerton/part1/WI\\_Summary.pdf](http://www.attorneygeneral.ius.gov.on.ca/english/about/pubs/walkerton/part1/WI_Summary.pdf) (accessed January 7, 2016).

<sup>13</sup> *Ibid.*

<sup>14</sup> Indian and Northern Affairs Canada, National Assessment of Water and Wastewater Systems in First Nations Communities: Summary Report, May 2003, p. i, [http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/watw\\_1100100016374\\_eng.pdf](http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/watw_1100100016374_eng.pdf) (accessed January 7, 2016).

<sup>15</sup> Office of the Auditor General of Canada, Report of the Commissioner of the Environment and Sustainable Development to the House of Commons, Chapter 5: Drinking Water in First Nations Communities, 2005, <http://www.oag-bvg.gc.ca/internet/docs/c20050905ce.pdf> (accessed January 7, 2016).

<sup>16</sup> *Ibid.*, p. 1.

<sup>17</sup> *Ibid.*, p. 2. Provinces have legislation and regulation for drinking water—the INAC and Health Canada state that provincial jurisdiction over drinking water does not extend to reserves. All employers subject to Canada Labour Code, including federal government, must provide their employees with safe drinking water—applies only to employees. However, First Nations communities do not benefit from the regulatory protections for drinking water available in provinces or to federal employees.

<sup>18</sup> *Ibid.*

<sup>19</sup> Parliamentary Information and Research Service, Safe Drinking Water in First Nations Communities, Publication No. 08-43-E, May 28, 2010, p. 3.

<sup>20</sup> *Ibid.*

issued a report in November 2006, which found problems with capacity of water facilities and operators, and insufficient financial resources.<sup>21</sup>

- **A 2011 independent audit of water and wastewater systems on reserves commissioned and funded by INAC.** An independent assessment of water and wastewater systems on First Nations reserves was conducted in 2009 according to terms of reference developed by INAC, assessing 807 water systems serving 560 First Nations reserves. The report, issued in 2011, found that 39 percent of these reserve systems were at high risk, 34 percent at medium risk, and 27 at low risk.<sup>22</sup> The percentage of at-risk systems was higher in Ontario, with 45.5 percent at high risk, 38 percent at medium risk, and 16 percent at low risk.<sup>23</sup>

Finally responding to this slew of evidence, in May 2010, the federal government took an important step toward regulating drinking water and wastewater standards on First Nations reserves by introducing a bill on these issues.<sup>24</sup> Parliament passed the First Nations Safe Drinking Water Act, which entered into force in November 2013, but as of January 2016, the government has not developed and adopted the regulations required to fully implement the law.<sup>25</sup> Many First Nations leaders assert that the law was passed without due consultation.<sup>26</sup> While the law transfers responsibility of water systems to First Nations, it does not make any funding commitments to ensure communities have the capacity to take on this responsibility particularly at a time when the water systems are failing. As one witness at a Parliamentary hearing on the bill explained, the law deems First Nations owners of their water systems “but fails to recognize [their] authority to self-regulate those same systems. Instead, it transfers liability without consideration of the condition of the assets being transferred to [them], and it sets [them] up for failure without adequate resources to ensure transferred systems are safe and can be maintained.”<sup>27</sup>

More than two years after the passage of the law, regulations have not been promulgated. INAC took initial steps to gather input from First Nations to help guide the Ministry of Justice, which is tasked with writing regulations. INAC’s outreach at first focused on website postings, which proved unsuccessful. It then engaged regional First Nations organizations to solicit feedback from

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<sup>21</sup> Report of the Expert Panel on Safe Drinking Water for First Nations, November 2006, p. 60.

<sup>22</sup> Department of Indian Affairs and Northern Development, National Assessment of First Nations Water and Wastewater Systems, January 2011, <https://www.aadnc-aandc.gc.ca/eng/1313426883501/1313426958782> (accessed January 7, 2016).

<sup>23</sup> Department of Indian Affairs and Northern Development, National Assessment of First Nations Water and Wastewater Systems, Ontario Regional Roll-Up Report: Final, January 2011, p. 11, [https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2\\_1](https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2_1) (accessed January 7, 2016).

<sup>24</sup> Parliamentary Information and Research Service, Safe Drinking Water in First Nations Communities, Publication No. 08-43-E, May 28, 2010, p. 11.

<sup>25</sup> Safe Drinking Water for First Nations Act (S.C. 2013, c. 21), November 1, 2013, <http://laws-lois.justice.gc.ca/PDF/S-1.04.pdf> (accessed January 7, 2016).

<sup>26</sup> See for example, Statement of MP Carolyn Bennet, Safe Drinking Water for First Nations Act Government Orders, June 6, 2013, <https://openparliament.ca/bills/41-1/S-8/?page=3>, stating “The Liberal Party has heard consistently in the Senate, in the House of Commons and in discussions outside Parliament that there were not appropriate consultations with first nations on this bill.”

<sup>27</sup> See for example, Testimony of Jim Ransom, Director, Tehotiennawakon, Mohawk Council of Akwesasne, 75<sup>th</sup> meeting of the Standing Committee on Aboriginal Affairs and Northern Development, May 28, 2013, <https://openparliament.ca/committees/aboriginal-affairs/41-1/75/> (accessed January 29, 2016).

communities, but this process was also unsuccessful as these regional organizations did not have the capacity to complete these engagements. In December 2015, at a special assembly of chiefs, the Assembly of First Nations passed a resolution calling for the repeal of the Safe Drinking Water Act for First Nations because of these consultation issues and because it did not guarantee government investment in human resources or physical assets.<sup>28</sup> The chiefs acknowledged they need regulations, but recommended that a new law be adopted in full consultation with First Nations, consistent with their rights under Canadian law and the United Nations Declaration on the Rights of Indigenous Peoples.

### ***Human Rights Watch Investigation Into Water and Sanitation on First Nations Reserves in Ontario***

In 2015, Human Rights Watch undertook research into the water and sanitation conditions in First Nations reserves in Ontario. Human Rights Watch conducted a survey of over 70 households representing 243 people in four First Nations communities—Shoal Lake 40, Neskantaga, Batchewana, and Six Nations of the Grand River Territory. The four communities represent a range of demographic, geographic, water or wastewater asset, and resource diversity. Human Rights Watch has begun initial research in Grassy Narrows First Nation as well. In addition, Human Rights Watch conducted nearly 60 qualitative interviews in these communities, and more than 45 interviews with chiefs and council members of other First Nations communities, experts, academics, and staff of aboriginal representative organizations, with special assistance from the Chiefs of Ontario. Human Rights Watch also attended an elder circle celebrating water hosted by the Anishabek Nation (Union of Ontario Indians), the United Chiefs and Councils of Mnidoo Mnising, and Chief Shining Turtle of Whitefish River First Nation. Human Rights Watch compiled existing data on water and wastewater assets, budget allocations, treaty relationships, demographics, and water advisories, and analyzed the data for patterns related to high risk assessments and long-term water quality advisories. The full findings of this research will be published in a report later in 2016.

Our initial findings suggest that while each community faces unique challenges related to water and sanitation, six general problems are of greatest concern on First Nations reserves in Ontario:

- 1) Lack of regulation
- 2) Poor quality of drinking water
- 3) Problems with sanitation and wastewater management
- 4) Disparate impact on vulnerable and marginalized populations
- 5) Economic challenges at the community and household levels, including underfunding of operation and maintenance
- 6) Poor water and sanitation conditions impact spiritual life and the exercise of cultural rights

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<sup>28</sup> Assembly of First Nations, Safe Drinking Water for First Nations, Resolution no. 76/2015, December 10, 2015.

While these problems exist to a varying degree and play out differently in the diverse geographic, demographic, and economic contexts of the communities visited, and more generally in many of the 133 reserves in Ontario, all of them contribute to poor health and living standards on reserves. The impact on caregivers, often women, is particularly acute.

#### *Lack of regulation governing drinking water and sanitation*

An overarching concern for First Nations communities in Canada, including in Ontario, is that federal authorities, and contractors they fund, who carry out work or provide services with respect to managing drinking water and sanitation on First Nations reserves, are not subject to any enforceable regulations. Canada does not have uniform federal standards for drinking water. For most Canadians, management of drinking water is governed by provincial or territorial governments.<sup>29</sup> However, these provincial or territorial frameworks do not extend to water supplies on First Nations reserve lands. Instead, according to the Constitution Act of 1867, jurisdiction over “Indians, and Lands reserved for the Indians” vests with the federal government.<sup>30</sup> The Federal government has not acted to promulgate regulations for management of water on the reserves. First Nation councils cannot step up and fill this gap because the Indian Act extends to them very limited governance authority.

Three federal departments and First Nations band councils share responsibility for providing safe drinking water on reserves. Indigenous and Northern Affairs Canada (INAC) provides capital funding and technical advice for design, construction, and upgrading and 80 percent of operating and maintenance costs. INAC also sets standards, trying to fill the regulatory gap by incorporating drinking water guidelines into funding arrangements.<sup>31</sup> Health Canada provides oversight for drinking water monitoring on reserves and provides advice, funds, and training on water monitoring to First Nations staff. Environment Canada regulates wastewater discharge into federal waters, enforces effluent discharge standards, and is involved in water source protection.<sup>32</sup> As a result, on First Nations reserves there is more regulation of wastewater discharge into fisheries than there is of drinking water—a situation that has been described by some as fish have more protection than First Nations when it comes to water. First Nations are responsible for 20 percent

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<sup>29</sup> See discussion in David R. Boyd, *No Taps, No Toilets: First Nations and the Constitutional Right to Water in Canada*, 57:1 McGill Law Journal, 2011, pp. 96-100.

<sup>30</sup> See Constitution Act of 1867, sec. 91(24), <http://www.parl.gc.ca/Content/LOP/ResearchPublications/tips/tip88-e.htm> (accessed January 20, 2016).

<sup>31</sup> David R. Boyd, *No Taps, No Toilets: First Nations and the Constitutional Right to Water in Canada*, p. 99. See also Office of the Auditor General of Canada, Report of the Commissioner of the Environment and Sustainable Development to the House of Commons, Chapter 5: Drinking Water in First Nations Communities, 2005, p 26. <http://www.oag-bvg.gc.ca/internet/docs/c20050905ce.pdf> (accessed January 7, 2016), detailing the problems with this approach.

<sup>32</sup> Parliamentary Information and Research Service, Safe Drinking Water in First Nations Communities, Publication No. 08-43-E, May 28, 2010.

of the operations and maintenance costs of water and wastewater facilities, and they own, manage, monitor, and operate these systems.

First Nations reserves are not the only places in Canada that fall into a regulatory gray zone and where federal regulation is needed to ensure water quality. In other specific contexts, such as when traveling internationally or between provinces—for example, on planes, trains, and boats – provincial rules do not apply, but in these contexts there are federal regulations to govern drinking water.<sup>33</sup> Likewise, all facilities with federal employees are mandated to provide potable drinking water.<sup>34</sup> Yet indigenous persons living on First Nations reserves are the only people in Canada whose drinking water is not governed by safety and other regulations.

Since 2010 INAC does now require that those who carry out work on First Nations reserves follow Protocols for Decentralised Water and Wastewater Systems in First Nations Communities, the Protocol for Centralised Drinking Water Systems in First Nations Communities, and the Protocol for Centralised Wastewater Systems in First Nations Communities for all systems funded by INAC.<sup>35</sup> INAC itself recognizes that these protocols are “not backed by legislation representing a regulatory gap between First Nations lands and other lands.”<sup>36</sup>

First Nations leaders consistently highlight that regulation itself is not a panacea for the decades-long problem of underinvestment in the drinking water and sanitation systems on First Nations reserves. As noted below, all First Nations leaders or operators interviewed by Human Rights Watch who play a role in managing finances for water and sanitation on reserves said they face financial shortfalls and uneven funding. Nevertheless, years without regulation have tangible effects that contribute to the water and sanitation crisis on reserves. For years, INAC funded the building and operation of water systems and wells on reserves but did not require those carrying out the work to comply with appropriate standards, exposing First Nations communities and households to potential health risks, and contributing to the current need for costly investments to upgrade or rebuild systems. For example, in 1996, a public health consultant for Health Canada (the federal department responsible for health) warned INAC that the systems it was funding on First Nations reserves fell well below the standards that would be required under the provincial government regulations, with “potentially devastating” effects. The consultant raised the concern that systems being built for surface water sources in First Nations communities in Ontario lacked

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<sup>33</sup> See Potable Water Regulations for Common Carriers, CRC, c1105.

<sup>34</sup> See Canada Labour Code, RSC 1985, cL-2, s 125(1)(j), and associated regulations.

<sup>35</sup> INAC, Protocols for Decentralised Water and Wastewater Systems in First Nations Communities, 2010, [https://www.aadnc-aandc.gc.ca/eng/1100100034991/1100100034996#chp1\\_2](https://www.aadnc-aandc.gc.ca/eng/1100100034991/1100100034996#chp1_2) (accessed January 20, 2016); INAC, Protocol for Centralised Drinking Water Systems in First Nations Communities, 2010, <https://www.aadnc-aandc.gc.ca/eng/1100100034998/1100100035000> (accessed January 20, 2016); and INAC, Protocol for Centralised Wastewater Systems in First Nations Communities, 2010, <https://www.aadnc-aandc.gc.ca/eng/1100100035002/1100100035004> (accessed January 20, 2016).

<sup>36</sup> INAC, Water and Wastewater Infrastructure Investment Report: April 2012 – March 2013, <https://www.aadnc-aandc.gc.ca/eng/1403108954861/1403109074561#chp4> (accessed January 20, 2016).

proper filtration to treat for *Cryptosporidium*—a potentially fatal diarrhea-causing parasite.<sup>37</sup> Ontario’s Ministry of Environment had regulations requiring this type of filtration off-reserve since 1987.<sup>38</sup> However INAC was building systems in the mid-1990s on reserves in Ontario without it. At least seven of the communities in Ontario currently under a water advisory for more than a decade had their systems built between 1987 and 1996.<sup>39</sup>

This regulatory gap is not limited to community water systems, but also affects private wells on reserves. A capital projects manager in one community told Human Rights Watch about many challenges he faced related to lack of regulations. For example, he explained, “If there is an outbreak of e.coli or coliform, there are situations [wells] not monitored on a regular basis, and when it happens [we don’t have regulations on] what should we do or how to manage.”<sup>40</sup>

It falls on First Nations communities and households to deal with the impact of this regulatory gap. Decades after more stringent regulations were passed in the province of Ontario, First Nations lack the authority to regulate drinking water on reserves and the technical capacity to do so, should they ever gain the authority. Nor do they have the resources to upgrade and maintain systems to meet enforceable regulations, should they ever be passed. The 2006 Expert Panel on Safe Drinking Water for First Nations raised this concern when it called for certain preconditions to be met prior to enforcement of a regulatory regime. In particular, the panel identified the need to close the resource gap to ensure communities have adequate capacity to comply.<sup>41</sup> Therefore, the adoption of enforceable regulations would need to be paired with significant investments to bring systems up to compliance.

### *Poor quality of drinking water*

Poor drinking water quality is a major concern for First Nations communities. The impact of lack of regulation and inconsistent and inadequate investment in assets and resources can be seen in the high number of drinking water advisories in First Nations reserves in Canada warning that either the water in the communities’ system was contaminated and not fit for consumption or had to be boiled before drinking.<sup>42</sup> The majority of these advisories are issued in the province of

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<sup>37</sup> See letter dated November 1996, on file with Human Rights Watch.

<sup>38</sup> Ministry of Environment, Ontario, Treatment Requirements for Municipal and Communal Water Works Using Surface Water Sources, Policy No. 15-14-1, effective December 31, 1987, copy on file with Human Rights Watch.

<sup>39</sup> Department of Indian Affairs and Northern Development, National Assessment of First Nations Water and Wastewater Systems, Ontario Regional Roll-Up Report: Final, January 2011, [https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2\\_1](https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2_1) (accessed January 7, 2016), and Health Canada, Drinking Water Advisories in First Nations Communities, <http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-dwa-eau-aqep-eng.php> (accessed January 29, 2016).

<sup>40</sup> Human Rights Watch interview, capital projects manager, Batchewana First Nation, Rankin reserve, Ontario, October 6, 2015.

<sup>41</sup> Report of the Expert Panel on Safe Drinking Water for First Nations, November 2006, p. 49-50.

<sup>42</sup> There are three levels of water advisories: boil water advisory/order is used “to advise the public that they should bring their tap water to a rolling boil for at least one minute before drinking and using for other purposes, such as brushing teeth. This is usually recommended when disease-causing bacteria, viruses or parasites are found in the drinking water system”; do not consume advisory/order (alternatively called “do not drink advisory/order”) is used “to inform the public that they should not consume their tap water for drinking; brushing their teeth; cooking; washing fruits and vegetables; making infant formula or other drinks, soups or ice cubes; for bathing infants and toddlers or feeding pets...These advisories are issued when the water system contains a contaminant



Ontario. Underinvestment in operation and maintenance, a continuing challenge raised by First Nations leaders and water operators, also contributes to poor water quality. The deteriorating quality of source water and environmental contamination are also concerns not directly addressed in this submission.

As of November 30, 2015, there were 136 Drinking Water Advisories in effect in 92 First Nations communities, excluding British Columbia. Of these, 99 drinking water advisories affected 62 communities in Ontario.<sup>43</sup> At least 56 of the community systems under advisory in Ontario were built after 1991, and at least 12 of these were built after the Walkerton water contamination crisis.<sup>44</sup>

Of the 99 drinking water advisories in Ontario First Nations communities, 64 have been in place since 2010 or earlier, and 29 of the advisories in 14 communities are more than a decade old. First Nations leaders and the federal government work together to provide a certain amount of safe drinking water, mostly bottled water, but in some cases through community collection points of treated water. While this may avert a widespread outbreak of a water-borne illness, Human Rights Watch found that the impact on households of poor quality water and these long-term water advisories is significant.

Human Rights Watch surveyed 32 households and conducted 28 qualitative interviews in Neskantaga and Shoal Lake—two communities affected by long-term boil water advisories. Neskantaga was put on a boil water advisory in February 1995, which has never been lifted. Shoal Lake 40 first received a boil water advisory in February 1997, just two years after its water system was built. The water treatment system in Shoal Lake was never equipped to filter out *Cryptosporidium*, a parasite that causes diarrhea and is found in surface water, Shoal Lake's water source type. Grassy Narrows' treatment system has also never been capable of filtering out *Cryptosporidium* since it came into operation in 1994. The community was consuming high risk water for two decades due to the authorities' failure to issue a boil water advisory until long standing design problems were acknowledged and Health Canada placed the community on a drinking water advisory in 2014.

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that cannot be removed from the water by boiling"; and, do not use advisory/order is used "to advise the public that they should not use their tap water for any reason. These advisories are issued when the water system contains contamination that cannot be removed from the water by boiling, consumption of the water poses a health risk, and exposure to the water when bathing could cause skin, eye or nose irritation." Health Canada, Drinking water and wastewater, <http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-eau-eng.php#type2> (accessed December 16, 2015).

<sup>43</sup> Health Canada, Drinking Water Advisories in First Nations Communities, <http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-dwa-eau-apep-eng.php> (accessed December 16, 2015).

<sup>44</sup> See Health Canada, Drinking Water Advisories in First Nations Communities, <http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-dwa-eau-apep-eng.php> (accessed December 16, 2015) and Department of Indian Affairs and Northern Development, National Assessment of First Nations Water and Wastewater Systems, Ontario Regional Roll-Up Report: Final, January 2011, [https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2\\_1](https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2_1) (accessed January 7, 2016).

Drinking water advisories apply only to community or public water systems, but poor water quality also impacts those who are not connected to such systems. In Ontario, 19 percent of on-reserve households receive their water through private wells.<sup>45</sup> These are not regularly tested by Health Canada and not tested at all by the Ontario Ministry of the Environment and Climate Change. Human Rights Watch spoke with individuals in 21 households in Batchewana First Nation and Six Nations serviced by private household wells, and 5 households that relied on trucked or rainwater to feed cisterns. At least 17 of those households had to use an alternative source of water for drinking for reasons such as uranium contamination, e.coli contamination, high sulfur content, and high turbidity of the water.

Only 6 of the 73 households surveyed reported having sufficiently high quality water to drink directly from their tap.

While the greatest public health risks related to poor water quality are mitigated through the provision of bottled or other treated water, the risk of exposure is not eliminated. Some households reported to Human Rights Watch that, despite being aware that the water from their tap was not safe to drink, the inconvenience of living under a boil advisory for years meant that sometimes they consumed it anyway without boiling or otherwise treating it. One elder explained his decision to brush his teeth with the water, despite knowing the risks, “It’s handier to get. It’s too hard to move my [wheel]chair to brush teeth with bottled water.”<sup>46</sup> A woman whose household well once tested positive for coliform also brushed her teeth with the water from the tap, “although we do sometimes wonder about that.”<sup>47</sup> Caregivers of young children expressed most concern about preventing younger children from consuming the water while bathing. “My son has a baby, he was a newborn at the time [we learned we had uranium in our water],” said one woman. “So I bathed that baby in bottled water because their skin is so sensitive and you don’t know if it will get in the mouth. We are told not to brush our teeth with that water, and you can’t boil it out... it’s a huge problem.”<sup>48</sup>

Poor quality water has a particularly serious impact on caregivers, often women, as it can add hours to simple tasks. For example, a young mother in Neskantaga described to Human Rights Watch the hour-long process she undergoes daily to wash bottles for her four-month-old infant with a rare heart condition.<sup>49</sup> “It was a concern about how to bathe my son and how I was going to wash his bottles,” she said.<sup>50</sup> She bathes him in water that she or her partner collects from a

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<sup>45</sup> Department of Indian Affairs and Northern Development, National Assessment of First Nations Water and Wastewater Systems, Ontario Regional Roll-Up Report: Final, January 2011, [https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2\\_1](https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2_1) (accessed January 7, 2016).

<sup>46</sup> Human Rights Watch survey interview with Gerald B. (pseudonym), Shoal Lake 40, August 19, 2015.

<sup>47</sup> Human Rights Watch survey interview with Nancy K. (pseudonym), Six Nations Grand River, November 20, 2015.

<sup>48</sup> Human Rights Watch interview with Geraldine S. (pseudonym), Rankin, Batchewana First Nation, October 6, 2015.

<sup>49</sup> Human Rights Watch, Grace L. (pseudonym), Neskantaga First Nation, Ontario, October 20, 2015.

<sup>50</sup> Human Rights Watch, Grace L. (pseudonym), Neskantaga First Nation, Ontario, October 20, 2015

community reverse osmosis machine. It takes 10 minutes to walk there, and longer to come back because the treatment plant is downhill. Her partner will often go on bike, and suspend a water bottle in each hand. To bathe the baby, she boils the water, lets it cool, and uses a small tub. This takes about two hours, and she does it every other day with the help of her partner. To wash her baby's bottles, she first rinses the milk out with tap water. Then she uses water from the reverse osmosis machine and boils that water with the bottles. She then washes them in the sink and scrubs them and rinses them again with the water plant water. It takes an hour to do this. "It makes me feel tired, exhausted. It's stressful."

The drinking water provided through alternative sources is in most cases not sufficient in quantity to replace water for hygiene needs. Therefore, almost all of the homes surveyed used the water from their tap for most hygiene needs. Many households surveyed by Human Rights Watch reported problems related to skin infections, eczema, psoriasis, or other skin problems that they thought either were related to or exacerbated by the water conditions in their home. Many also reported changing hygiene habits, including limiting baths or showers for children, based on their concerns about the water quality.

Limiting baths can have a direct impact on hygiene, and therefore health. A high incidence of a rare antibiotic-resistant type of skin infection has been found in northwest Ontario. A 2013 study found an increasing rate of community-associated methicillin-resistant *Staphylococcus aureus* (CA-MRSA) in this region, home to 28,000 indigenous individuals on 30 remote reserves.<sup>51</sup> While the full number of CA-MRSA cases is unknown, a study of clinical cases found an increase of cases being attended by the main referral health center in the region between 2008 and 2013. CA-MRSA often presents as a skin infection and is associated with poor hygiene, such as lack of handwashing.<sup>52</sup> The study suggested that the rates found "may be due to the absence of running water in many of our regional communities, as well as inadequate housing."<sup>53</sup> Most of the diagnosed cases were in skin and soft tissue, which increased by a factor of 2.4 over five years and were most common in children under the age of 10.<sup>54</sup>

### *Problems with sanitation and wastewater management*

Problems associated with sanitation and wastewater systems at the community and household level also impact First Nations communities. Sixty-seven of the 133 First Nations communities in

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<sup>51</sup> Muileboom, J. et al, Community-associated methicillin-resistant *Staphylococcus aureus* in northwest Ontario: A five-year report of incidence and antibiotic resistance, *Can J Infect Dis Med Microbiol*, v.24(2), 2013, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3720013/#b15-iidmm24e042> (accessed December 19, 2015).

<sup>52</sup> Center for Disease Control, Methicillin-resistant *Staphylococcus aureus* (MRSA) Infections, <http://www.cdc.gov/mrsa/> (accessed December 19, 2015).

<sup>53</sup> Muileboom, J. et al, Community-associated methicillin-resistant *Staphylococcus aureus* in northwest Ontario: A five-year report of incidence and antibiotic resistance, *Can J Infect Dis Med Microbiol*, v.24(2), 2013, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3720013/#b15-iidmm24e042> (accessed December 19, 2015).

<sup>54</sup> Ibid.

Ontario have a wastewater system—20 of which were operating at or beyond their estimated capacities.<sup>55</sup> The remaining households are serviced solely by individual wastewater systems. Fifty-seven percent of households in the 121 communities that participated in a 2009 asset assessment of reserves in Ontario were serviced solely by individual wastewater systems. Three percent of households in the assessment reported no wastewater management systems at all.

One of the communities, Neskantaga, is on a community wastewater system and most households surveyed there reported little problem. However, one of the last households on the wastewater line that leads to the lagoon did report a catastrophic leak a few years ago where raw sewage from the community began to back up into its drains and toilets. “Sewage breached into the house. All the shit from the community came in,” said Sam M.<sup>56</sup> Neskantaga First Nation paid at least CAD\$18,000 for cleanup.

Many households in Ontario’s First Nations reserves are serviced by private septic systems, and some have only outdoor latrines.<sup>57</sup> For households using septic tanks or latrines, Human Rights Watch’s survey found that wastewater management was a challenge, and in many cases, septic systems were failing.

In 2011, Shoal Lake 40 issued a declaration of a state of crisis, in part due to the community’s inability to treat sewage. According to the declaration:

Leakage [of septic fields] and frequent pump-outs are an ever-increasing problem. Both create health concerns, not to mention the smell...septic fields are leaking into [the community’s] nearby untreated drinking water source... Our community has a pumper truck but we do not have a secure place to dump sewage or a secure way to get there... In response to all these challenges and costs, consideration has been given to dumping on the man-made island. Result: Sewage disposal presents a health risk.<sup>58</sup>

As of August 2015, the community is dumping the contents of pumped septic tanks on reserves. According to the Chief, the pumper truck has “nowhere to take” the sewage, and is “dumping it on the island... which can get into our water source that our kids bathe in.”<sup>59</sup> Shoal Lake 40’s drinking

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<sup>55</sup> Department of Indian Affairs and Northern Development, National Assessment of First Nations Water and Wastewater Systems, Ontario Regional Roll-Up Report: Final, January 2011, p. 9, [https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2\\_1](https://www.aadnc-aandc.gc.ca/eng/1314634863253/1314634934122#chp2_1) (accessed January 7, 2016).

<sup>56</sup> Human Rights Watch survey with Sam M. (pseudonym), Neskantaga, October 21, 2015.

<sup>57</sup> Eight households reported not knowing what wastewater system they were on or incorrectly reported being on a system not available in their community.

<sup>58</sup> Shoal Lake 40, Community Declaration of State of Crisis and Action, June 13, 2011.

<sup>59</sup> Human Rights Watch interview with Chief Erwin Redsky, Shoal Lake 40, August 19, 2015.

water is pumped directly from the surface water surrounding the man-made island. Therefore, the risk of contamination of the community's source water is high.

Pumping out septic tanks can prevent problems with the tank from occurring, however, some households reported significant issues with their systems that even regular pumping could not prevent. One household reported wastewater leakage into the crawl space under the house. A member of the household told Human Rights Watch he would sometimes have to remove raw sewage and wastewater by hand. He also reported that the household sometimes would use the “slop pail” method if the system became clogged overnight—that is they would use a bucket for sanitary purposes and dispose of the human waste in the morning.<sup>60</sup>

#### *Disparate impacts on vulnerable and marginalized populations*

Human Rights Watch found that poor water and sanitation conditions on reserves in Ontario had a negative impact on vulnerable or marginalized populations. Respondents in 27 households surveyed reported that the household had at least one individual with a special need for good quality water for drinking or hygiene. Likewise, 17 households reported having at least one individual with a special need for a higher quantity of water for drinking or hygiene. The individuals with special needs ranged from persons with a disability or chronic illness to elders or infants.

Eighteen households reported that the water and sanitation conditions negatively impacted the persons in the household with a special health need. For example, one person who has psoriasis said that the poor water quality for bathing made her condition more painful. “I had a painful infection. I had to stop taking baths,” she said.<sup>61</sup>

Members of eight households surveyed by Human Rights Watch stated that a doctor or medical professional had suspected that an illness or health problem in the household was related to water and sanitation conditions at home. One doctor told a woman with a heart condition that she should avoid bathing when she was on reserve.<sup>62</sup> While she was not sure how the water conditions could impact her cardiac health, she tried to adhere to this advice.

In the absence of clean water from the tap, drinking water can be physically inaccessible to some people on reserves. Where there are community water points for treated water, people need to have the ability to walk the distance to the facility and to carry the water back, or have access to transport to do so. Many communities in Ontario face very cold temperatures in winter, making this difficult. Even when bottled water is delivered to homes, (typically in standard 20 liter bottles)

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<sup>60</sup> Human Rights Watch survey with Peter R. (pseudonym), Shoal Lake 40, August 20, 2015.

<sup>61</sup> Human Rights Watch survey with Sharon P. (pseudonym), Goulais Reserve, Batchewana First Nation, October 22, 2015.

<sup>62</sup> Human Rights Watch survey with Chris S., Neskantaga, October 21, 2015.

people with disabilities, the elderly, children, and pregnant women may have difficulty managing the weight.

*Economic challenges at the community and household levels*

The federal government assists First Nations to cover about 80 percent of the costs of operations and maintenance associated with community water and wastewater systems. While 20 percent of the cost does not seem to be a significant hurdle, many First Nations have almost no source of external revenue. Due to rights and obligations determined by the Canadian constitution, the *Indian Act*, and treaties, reserves are tax exempt and First Nations have little or no income generation activity. While municipalities in Canada can fund water and wastewater services through taxes, user fees, and provincial and federal subsidies, First Nations are uniquely reliant on the federal government, and INAC in particular, for their funding. Without an alternative revenue stream, many communities struggle to cover their contribution to operation and maintenance costs, which according to some First Nations communities, amounts to much more than 20 percent.

Private wells and septic systems, and any system that services less than five households, fall outside of the scope of this support. First Nations must come up with the additional finances needed to cover the costs of the remaining operations and maintenance or to support households on private systems through own-source revenue. All officials interviewed by Human Rights Watch who play a role in managing finances for water and sanitation on reserves said they face financial shortfalls and uneven funding, which hinders service provision.

Drinking water advisories related to contamination can result in many added costs. While the federal government does provide funding to cover the cost of providing drinking water when a community system is under an advisory, some communities report that the amount of water they will fund is below the World Health Organization guidelines for basic access. For example, Grassy Narrows First Nation, which is under a “do not consume” advisory, originally was only allocated 2 liters per person per day for all consumption needs and has been in negotiation with INAC to increase the daily household water allowance.<sup>63</sup> As of January 2016, the INAC allocation stands at 4.5 liters per person per day.

Even when INAC covers the cost of providing emergency safe drinking water, First Nations must also cover the cost of delivering the bottled water to households. This is an important service to ensure vulnerable or marginalized households have access to the clean water. Yet, it is costly, particularly for isolated communities. Shoal Lake 40, in its consolidated financial statement, reported spending CAD\$86,150 in fiscal year 2014 and \$83,196 in fiscal year 2015 on water

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<sup>63</sup> Human Rights Watch telephone interview, Deputy Chief Randy Fobister, Grassy Narrows First Nation, December 11, 2015.

delivery.<sup>64</sup> This reflects the labor involved in delivery and the high transportation costs of reaching this isolated community.

With regard to households, financial constraints often impede adequate water and sanitation services. The average median total income for First Nations people ages 25 to 54 in 2005 (latest available data) was just over CAD\$14,000 for those living on reserves.<sup>65</sup> In Grassy Narrows, the average income is \$6,700. For the 19 percent of households on private wells and 57 percent on household wastewater systems, the costs associated with operation and maintenance of these systems can be difficult to afford. Addressing failing septic tanks in particular is a major concern. One household in Six Nations, described how they went to a hardware store to construct their own weeping fields, which may not properly prevent contamination of groundwater, to address their failing septic system because they could not afford the estimated cost of a new system, between CAD\$10,000 to \$15,000.<sup>66</sup>

#### *Impact on First Nations peoples' spiritual life and the exercise of cultural rights*

First Nations people in Ontario consider water to be sacred, and acknowledge a special cultural relationship with it. In this relationship, water has the responsibility to purify, cleanse, and give life to the environment and all living things.<sup>67</sup> Likewise, many First Nations communities in Ontario recognize their responsibility to care for water. First Nations communities have ceremonies related to the care of water and have knowledge, customary laws, and ways of teaching their children about their special relationship with water.<sup>68</sup> According to custom and tradition, women are the keepers and spiritual protectors of the waters, and their teachings guide First Nations peoples on how to care for the waters.<sup>69</sup> As one elder highly respected for her knowledge about water explained, “My relations with the water from the rivers, lakes and from the creeks, they are very close to me, they are my family.”<sup>70</sup>

It is therefore important to consider First Nations peoples' cultural and spiritual relationship with water both in understanding the impact of poor water quality and poor access to water and in formulating the right governmental response to these problems. The government's relationships with First Nations communities often reflect its “lack of cultural awareness of how First Nations

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<sup>64</sup> Shoal Lake #40, Consolidated Financial Statements, March 31, 2015.

<sup>65</sup> Statistics Canada, Median total income is lower for Aboriginal people, <http://www.statcan.gc.ca/pub/89-645-x/2010001/income-revenu-eng.htm> (accessed January 7, 2015).

<sup>66</sup> Human Rights Watch survey interview, anonymous, Six Nations Grand River, November 14, 2015.

<sup>67</sup> See, for example, Anishinabek, *Anishinabek Traditional Knowledge & Water Policy Report*, 2009, p. 5, <http://www.anishinabek.ca/download/Water%20Report.pdf> (accessed January 7, 2016).

<sup>68</sup> Chiefs of Ontario, *Water Declaration of the Anishnaabek, Mushkewoguk and Onkewhonwe in Ontario*, October 2008, <http://www.chiefs-of-ontario.org/node/76> (accessed January 19, 2016).

<sup>69</sup> Ibid.

<sup>70</sup> Josephine Mandamin, Water Grandmother, Mnidoo Minising Elders Council Gathering, Whitefish River First Nation, September 15, 2015.

live with the lands and waters.”<sup>71</sup> For example, many First Nations people recognize water as living and abhor the use of plastic bottles for the provision of water. “The water cannot survive in plastic. Just like us, we wouldn’t survive in plastic,” said Josephine Mandamin, an elder known as a “water grandmother.”<sup>72</sup> Yet, many communities on drinking water advisories have no choice but to survive on bottled water. While bottled water might be necessary as a short term solution, consultation with elders or others keepers of traditional knowledge might lead to a more culturally appropriate solution. Instead, elders often feel that “their knowledge is not being incorporated in decision-making by the community or by other agents located off reserve, such as industry and governments” and that “that cultural or traditional teachings about water are a key factor missing from current decision making processes regarding water.”<sup>73</sup>

Moreover, water is fundamental to cultural life and the continuance of cultural knowledge for many First Nations peoples in Ontario. As one scholar of First Nations traditions notes, “Our relationship to water also plays a vital role in passing on knowledge to younger generation.”<sup>74</sup> In fact, 25 out of the 73 households surveyed by Human Rights Watch reported getting water for drinking or consumption from open waters or traditional water sources. Reasons for doing so included for ceremonial use and for use while out in the bush hunting or on the water fishing.

Poor water quality at home and in traditional territories can therefore have a negative impact on First Nations people’s relationship to water, including their exercise of ceremony and traditional practices of hunting and fishing.

### *Covenant Violations*

Human Rights Watch found that Canada is struggling to fulfill its obligations under the International Covenant on Economic, Social and Cultural Rights, especially with respect to the rights to: an adequate standard of living, including the rights to water and to sanitation and to housing (art. 11); health (art. 12); cultural life (art. 15); and nondiscrimination (art. 2). Canada should do more to take steps, to the maximum of its available resources, progressively to achieve the full realization of these rights. It should take immediate action to eliminate discrimination with respect to these rights.

Provincial and territorial regulations governing safe drinking water and sanitation, which operate to protect the health of Canadian residents, do not extend to First Nations reserves, and the federal government has not taken appropriate action to ensure residents on First Nations reserves

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<sup>71</sup> Anishnabek, *Anishnabek Great Lakes Round Table Gathering Final Report*, March 24-25, 2015, p. 17.

<sup>72</sup> Ibid.

<sup>73</sup> Chiefs of Ontario, *Aboriginal Traditional Knowledge & Source Water Protection: First Nations’ Views on Taking Care of Water*, March 2006, pp. 22, 24.

<sup>74</sup> Deborah McGregor, Traditional Knowledge: Considerations for Protecting Water in Ontario, *The International Indigenous Policy Journal*, Volume 3(3), September 2012, p. 3.



benefit from other regulations, which would provide equal protection. This failure to protect is a form of direct discrimination against members of First Nations communities living on reserves.<sup>75</sup> The impact of this lack of regulation results in substantive discrimination, with members of First Nations communities living without comparable protections and access to safe drinking water and sanitation as Canadians living off reserves. The State party has frequently acknowledged that this is unacceptable. Now, it should put more effort into remedying these violations.

### *Recommendations*

In its upcoming Committee review of Canada, Human Rights Watch encourages the Committee to ask the Canadian government questions and to make recommendations about the following:

- The government's plans for engaging First Nations communities in resolving the long-standing regulatory gap regarding safe drinking water and sanitation on reserves in Ontario.
- The government's plans to provide adequate funding to operate and maintain water and wastewater systems, including the distribution and collection systems.
- The government's timeline and plans for upgrading community and household water and wastewater systems on First Nations reserves to be consistent with level of service and quality enjoyed by the majority of Canadians.
- Concrete steps the government will take to address the acute safe drinking water and sanitation crisis on many Ontario reserves, including Shoal Lake 40, Neskantaga, and Grassy Narrows.
- Efforts the government will make to remove barriers faced by marginalized or vulnerable people or households in accessing safe drinking water and sanitation.
- Measures the government will take to ensure that caregivers have necessary information and assistance to care for family members at particular risk from poor water and sanitation conditions.
- Steps the government will take to ensure that First Nations people, and women in particular as keepers of the water, can exercise their cultural life related to water, recognizing its spiritual significance.

We hope you will find these comments helpful in your examination of Canada's compliance with the Covenant. We would welcome an opportunity to discuss our findings with you.

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<sup>75</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), U.N. Doc. E/C.12/GC/20 (2009).