



**REPORT OF THE AFRICAN CANADIAN LEGAL CLINIC
TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN**

**On the Review of Canada's Eighth and Ninth Periodic Reports
under the Convention on the Elimination of All Forms of
Discrimination against Women**

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PREFACE

Established in 1994, the African Canadian Legal Clinic (ACLC) is a community-based not-for-profit organization with status at the United Nations Economic and Social Council (ECOSOC) that is committed to combating systemic anti-Black racism in Canadian society. The ACLC represents and advocates on behalf of the African Canadian community through: (i) involvement in groundbreaking test-cases and interventions involving anti-Black racism, human rights and the equality provisions guaranteed in Canadian human rights legislation such as the *Canadian Charter of Rights and Freedoms* [*Charter*];¹ (ii) monitoring significant legislative, regulatory, administrative and judicial developments; and (iii) engaging in advocacy, law reform and legal education.

In addition to its legal services, the ACLC also operates seven social service programs, namely: the African Canadian Youth Justice Program; the African Canadian Youth Outreach Worker Program; the Knowledge of Self Group Programs; the African Canadian Justice Program; the African Canadian Parent Support Group; the Employment Skills and Job Readiness Program, the Youth in Transition Program; the Community Justice Worker Program, and; Cultural Competency Training. These programs are all aimed at assisting and improving the lives of African Canadian children, youth, adults and families. The ACLC's experience with these agencies has given it unique insight into the issues affecting the African Canadian community in the Greater Toronto Area, the province of Ontario, and throughout Canada. Through its community involvement, the ACLC has been and continues to be at the forefront of trailblazing legal and social justice developments.

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PART I – INTRODUCTION

The consideration of Canada’s eighth and ninth periodic reports under the International *Convention on the Elimination of All Forms of Discrimination against Women* (the *Convention*) presents an important opportunity to draw the Committee’s attention to the persistent and deepening socio-economic inequalities experienced by African Canadian women. The information presented in this report will offer the Committee a contextualized and fuller understanding of Canada’s sustained failure to comply with its *Convention* obligations from the perspective of a racialized, gendered community.

Racialized women in Canada consistently and disproportionately experience poverty², homelessness, sexual assault, incarceration,³ and discrimination.⁴ Due to historical⁵ and systemic barriers, and despite Canada’s documented wealth, Canadian women of African descent are particularly vulnerable to such marginalization. The reality of being women and members of a racial minority intersect to compound disadvantages that many not similarly affect African Canadian men, or non-racialized women⁶. This report details the considerable systemic barriers that African Canadian women face in poverty, employment, access to justice, and immigration.⁷ The evidentiary information in this report is largely based on Toronto and Montréal, as 65% of African Canadians live in these two greater metropolitan areas.⁸ This report relies largely on data from the 2006 Census, which is the latest available and most reliable Census data, given that the previous government cancelled the country’s mandatory long-form Census. The mandatory long-form Census was reinstated this May for the 2016 Census.⁹

A) The Exclusion of African Canadian Women from Canada’s Preparation for Reporting to the CEDAW Committee for its 65th Session

Due to anti-Black racism and discrimination, although African Canadians have had a presence in Canada for over 400 years, this demographic has been and continues to be unrecognized and ignored by the Canadian government. Sadly, “[Black] women, in particular, in Canada are faced with the same situation as others residing within the contemporary African diaspora: *denial and invisibility*.”¹⁰ It is important to note that in Canada’s Core Document prepared for the 65th Session of *CEDAW*, African Canadians, as a collective, are not listed in Canada’s Core Document as a “Specific Vulnerable Group”, in

spite of extreme levels of socio-economic disadvantage and marginalization within this population. In similar fashion, African Canadian women are also noticeably absent from Canada's final report for this periodic review. Interestingly enough, however, this periodic review takes place at a unique time in history, in light of the Black Lives Matter Movement as well as the United Nations Decade for People of African Descent—a crucial juncture at which the Canadian government should make concerted efforts toward making African Canadians a priority. Nevertheless, the Canadian Government continues to turn a blind eye to the plight of the African Canadian community, and fails to recognize the vulnerability of African Canadian women, in particular.

As a result of persistent intersectional oppression and discrimination¹¹, Black women in Canada find themselves entrenched in a cycle of poverty, with low levels of vocational and/or career advancement, lacking access to justice, and deprived of the necessary resources to fully enjoy and participate in Canadian culture and life. We hope that this report will persuade the Committee to ask questions and demand answers that will pierce the Canadian state's wilful blindness to the severe socio-economic exclusion and social marginalization of African Canadian women.

PART II – VIOLATIONS OF SPECIFIC PROVISIONS OF THE CONVENTION

Article 11 – Employment

Article 11 of the *Convention* calls on states to eradicate all forms of employment discrimination against women, an obligation that includes ensuring the right to the same employment opportunities for everyone. In spite of Canada's relative wealth, African Canadians as an overall group continue to be consistently denied the same range and quality of employment available to other Canadians,¹² and also experience almost double the unemployment rates – 12.9%, compared to 7.8% of the rest of the Canadian population.¹³

Systemic racism in employment renders African Canadian women the most impoverished racialized group in the country: a disproportionate number of women of African descent live below the poverty line, are unemployed, or are under-employed. For those who are employed, the wage gap, relative to other demographic groups is significant. African Canadian women earn less than Black men,¹⁴ and non-racialized women, and non-racialized

men.¹⁵ African Canadian women earn 79% of the income of African-Canadian men, 88% of non-racialized Canadian women, and almost half of the income for non-racialized men.¹⁶ Discrimination also impacts vocational and career advancement. Vocational opportunities for women of African descent are often limited to low-paying positions, primarily in the service sector.¹⁷ “Visible minority women are faced with more informal and formal barriers to advancement in organizations than non-visible minority women”.¹⁸ As a result, Black women are under-represented in managerial and professional positions. Ironically, African Canadian women have similar or even more advanced levels of education than other demographic groups in Canada,¹⁹ which suggests that the impediment to their advancement is not related to their qualifications, but rather to other factors, such as implicit bias and a lack of employment equity in the workforce.

Employment equity legislation is an area that requires attention from the Canadian government in order to level the playing field for African Canadian and other racialized women. For example, since the repeal of the Ontario *Employment Equity Act* in 1995, visible minority women no longer have recourse to address systemic discrimination in the workforce. In other provinces where employment equity legislation still exists, more efforts need to be made to ensure that such policies are being enforced and are in fact effective, to create a more equitable workplace for all women, including those of African descent.

For many African Canadian women who do work, the nature of their employment is precarious. Unemployment rates are high within this group; often double the rate for non-racialized Canadian women.²⁰ Due to unstable work, resulting in low and inadequate income, poverty levels are inordinately high for African Canadian women.

In Montreal, it has been found that the poverty rates of African Canadian women were much higher than rates for men. In particular, it is reported that 38.5% of African Canadian women in Montreal were poor compared with 33.9% of Black men.²¹ In Nova Scotia, poverty among African Canadians is also unjustly common, especially among African Nova Scotian women. The poverty rate among African Nova Scotian women is double that of the average for women in Nova Scotia. It is also reported that 57% of single African Canadian women in Nova Scotia live in poverty.²²

The impoverished state of African Canadian women necessarily affects African Canadian children.²³ In Toronto, the Canadian city with the highest number of African Canadian residents, statistics show that from Junior Kindergarten to Grade 6, 48% of African Canadian children lived in families with incomes of less than \$30,000 a year, compared to only 9% of non-racialized children.²⁴ In Montreal, in 2006, almost one in every two African Canadian children under the age of 15 lived below the poverty line. This is more than twice the percentage of non – African Canadian children living in poverty (47.1% vs. 21.6%).²⁵ Furthermore, it was found that families of African descent are about three times more likely to be living on low incomes than are families of European descent.²⁶

Moreover, 22.5% of African Canadian women are lone parents.²⁷ In 2008, 21 % of single mothers were living in poverty compared to couples with children at 6 %.²⁸ Black women who are single parents and are also on social assistance tend to remain below the poverty line in situations where the provincial welfare system deters them from living with a partner. For example, in 1995, an Ontario Works Directive reinstated the “spouse in the house” policy, which cuts social benefits to women when a male partner moves in. In one study, it was noted that “women who were receiving welfare [and had offers] of overnight [childcare] support from their boyfriends...[did] not accept this help for fear of cuts to their welfare”.²⁹ As a result of the foregoing, many African Canadian children are raised in either low-income, subsidized, or single-income households, leaving Black children susceptible to apprehension by the child welfare system.

In Ontario, there is a gross over-representation of African Canadian youth and children in the child welfare system. In 2015, it is reported that 41% of the children in the care of a Children’s Aid Society in the Greater Toronto Area (“GTA”) are African Canadian; yet, African Canadians under the age of 18 make up only 8.2% of the GTA population.³⁰ Contrastingly, 37% of children in care in Toronto are White, while more than 50% of the city’s population under 18 years old is White.³¹ Sadly, African Canadian children are also over-represented in the child welfare systems of Quebec and Nova Scotia.³² Moreover, controversial initiatives such as *Motherisk* have subjected Black and other impoverished mothers to unjustifiably surrender their children to the child welfare system, due to allegations of substance abuse, based on inaccurate hair testing.³³ It is therefore clear that

poor women are systematically being denied the opportunity to play a role in the upbringing of their own children.

In addition to violating Article 11 of the *Convention*, the employment inequities, extreme poverty, and discriminatory treatment at the hands of child protection agencies experienced by African Canadian women also run counter to the principles in the paragraphs 7, 8 and 12 of the Preamble of the *Convention*. Furthermore, the Canadian government's refusal to collect and publish race-based disaggregated data in all regulatory agencies and bodies inhibits compliance with Article 2 of the *Convention*. It is the duty of the state to condemn discrimination against women in all forms; by failing to capture and analyze the experience of African Canadian women and children in comparison to other racialized and non-racialized women and children, the government cannot properly assess nor address the poverty-related issues plaguing this community.

Recommendations:

- 1. Acknowledge systemic anti-Black racism and sexism in the workforce, that Canada show commitment and leadership to pursue meaningful and substantive equity in employment, as well as the integration of visible minorities, including African Canadian women, into the private and public sectors;**
- 2. Implement policies to address wage discrimination against African Canadian women workers and ensuring that Black women are earning equal pay with their male and non-racialized counterparts;**
- 3. Ensure equality of working opportunities for all and request Canada to prevail on provincial and territorial governments to enact meaningful employment equity legislation, where none exists, and to ensure that such laws are vigorously enforced;**
- 4. Reintroduce employment equity legislation in Ontario and adopt legislation to introduce and/or enhance employment equity legislation in every other Canadian province and territory, as well as at the federal level;**

- 5. Implement policies to ensure that African Canadian women workers' occupational attainment is consistent with their educational attainment and work experience;**
- 6. Adopt harmonized federal, provincial and municipal poverty reduction strategies that explicitly address and consistently monitor the need to reduce poverty among African Canadian women, specifically by increasing the minimum wage, providing access to affordable housing, child care, public transport, and food security.**
- 7. Examine the impact of class and poverty-related issues on the rates of removal to ensure that African Canadian children are not being removed from their homes simply due to poor housing or poverty, particularly if the parent(s) is/are willing to do what is necessary to change the situation.**
- 8. Where poverty-based "neglect", as opposed to "abuse" is the reason for the involvement of the child welfare agency, provide the necessary supports to improve the family's socio-economic security.**
- 9. Work together with African Canadian agencies and communities to ensure that African Canadian families, and women in particular, are provided with adequate supports to keep children at home with their natural families and/or to ensure that if an African Canadian child must be removed, s/he is placed in a culturally appropriate setting.**
- 10. Collect and publish nationwide disaggregated data, on the basis of gender, race, colour, ethnic and national origin, to determine if and where disparities exist and address them accordingly.**

Article 15 – Equality before the Law

Adequate legal aid resources are necessary to guarantee access to justice for all Canadian women. In its List of Issues, the Committee asked Canada to provide information regarding

the services and resources available to Canadian girls and women in vulnerable situations, such as domestic violence, namely, “shelters, social services and legal and psychological counselling”.

The provision of legal aid services in Canada is administered through separate provincial and territorial legal aid plans.³⁴ Eligibility criteria for legal aid vary between the provinces and territories: in some provinces and territories, legal aid eligibility is based solely on gross or net family income levels; while in others, eligibility is determined by the nature of the legal matter.³⁵

Due to the income level requirements in certain provinces, proper access to legal services continues to be a hindrance to women fleeing domestic violence situations. Many African Canadian women find themselves among the working poor, meaning that they may make more than the maximum income level, and therefore not qualify for legal aid services, but not enough to retain legal counsel on their own, without financial assistance.

For the working-poor African Canadian woman, the legal aid system often leaves her to fend for herself against her perpetrator, which can result in tragedy. For example, in 2015, an African Canadian woman in Toronto sought to leave her violent and abusive husband, but with her income as a public health nurse, she could not qualify for legal aid to enable her to get custody of their two children; however, she also did not make enough to support herself and her sons. After going from shelter to shelter, she ultimately returned home, where she and her sons were murdered by her husband, who in turn, committed suicide.³⁶ Tragic situations like this could be avoided if there were barrier-free legal aid resources made available to assist all women, African Canadians included, who are fleeing domestic violence.

Recommendations:

- 11. Provide barrier-free access to effective legal aid resources for all vulnerable African Canadian women that are victims of domestic violence.**

Article 9 – Immigration

Immigrants continue to make substantial contributions to the fabric of Canadian society and sustain the economy. According to the 2011 Census, immigrants constitute 20.6% of the Canadian population, and most racialized girls and women in Canada (66.7%) were immigrants.³⁷

Between 2006 and 2011, about 145,700 immigrants arrived from Africa, while people born in the Caribbean, Central and South America represented 12.3%.³⁸ As a result of the arrival of these newcomers, Canada's Black population has substantially grown in the past few decades,³⁹ arriving through a number of different avenues, such as the refugee, family reunification, spousal, visitor, study, and skilled trades processes. Increasingly, Canada has also been encouraging temporary labour migrants to come to its shores to support the economy: “[s]ince 2008, more migrant workers are in Canada on a temporary basis to fill jobs for a limited time before being sent home, than are admitted each year as permanent residents through traditional immigration channels.”⁴⁰

Of these temporary workers, 390,273 were high-skilled/high-wage workers in the International Mobility Program created in 2014. The remaining 177,704 were low-skilled/low-wage participants in the TFWP, including the Caregiver Program. Additionally, in 2013, 34,045 Seasonal Agricultural Worker Program (SAWP) positions were filled in Canada (numbers for 2014 are not publicly available)...The vast majority of these [low-skilled] workers are racialized and come from countries in the global South.⁴¹

Seeking brighter prospects in their lives, many Black migrants instead face multi-dimensional barriers in Canada due to their tenuous immigration status. Canada's immigration laws consistently and disproportionately have an adverse impact on African Canadian women who seek to acquire Canadian citizenship, who seek to establish themselves as employed Canadian residents, and who seek to have recourse to procedural fairness when their immigration status is being challenged.

The precariousness of a temporary or undocumented immigration status has disproportionate impact for racialized women who face violence at home and/or at work. They often have little or no protection from the abuse, out of fear that police involvement might lead to deportation or that ending relationships with physically abusive private sponsors might mean losing their permanent resident status in Canada. Similar fears also prevent racialized

immigrant women from asserting human rights cases and discrimination claims in an attempt to remedy exploitative situations. The relative impunity for gender-based violence thus poses another systemic, degrading barrier for African Canadian women.

African Canadian women with precarious immigration status are thus precluded from accessing legal, health, employment, and housing services, which exposes them to harm and abuse.

Recommendations:

12. Implement policies to allow migrant workers and live-in caregivers to more easily obtain permanent resident status.

13. Grant an amnesty for undocumented immigrants that are victims of domestic violence to allow for regularization of their status.

PART III – CONCLUSION

The challenges experienced by African Canadian women in employment, poverty, immigration, and the justice system engage core human dignity interests. An African Canadian woman who is poor, unemployed, or who has precarious immigration status, or is at risk of harm, or any combination thereof is highly vulnerable to a deepening cycle of marginalization and social exclusion, which also affects her children and her community. In a country that is as wealthy as Canada, that trumpets its reputation for human rights. It is a disgrace that so many African Canadian women are subjected daily to discriminatory, misguided state policies which further entrench their second-class status. We call upon the government of Canada to fulfill its obligations under CEDAW to protect the rights and living standards of all African Canadian women.

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