

## **SHADOW REPORT REGARDING THE SEVENTH PERIODIC REPORT OF CANADA BEFORE THE HUMAN RIGHTS COMMITTEE**

The present report is submitted by **Servicios Internacionales de Profesionales en Derechos Humanos** (SIPDH) and **Pratique Internationale des Droits Humains** (PIDH) for the review of Canada’s seventh periodic report under the International Covenant on Civil and Political Rights (ICCPR). While Canada presents itself as a global leader in human rights, this report exposes a troubling gap between the State party’s rhetoric –whose responses to the LOIPR frequently emphasize legislative enactments and administrative frameworks while failing to account for implementation gaps in practice– and the reality on the ground. Indeed, the Seventh Report of the State highlights numerous legislative achievements, but a rigorous analysis of the situation reveals a disturbing pattern of “performative compliance”, where high-level policy announcements mask deep-seated, structural failures in implementation, systemic discrimination and fragmentation among federal, provincial and territorial jurisdictions.

In its previous concluding observations of 2015 and in the Rapport on follow-up to concluding observations of the Committee of 2018, the experts have repeatedly noted Canada’s structural problems with discrimination against women and girls (para. 9), migrants and asylum seekers (para. 12) and also Indigenous people (para. 16). This concern remains unaddressed and the impunity is still important regarding crimes committed against those groups in particular vulnerability situations. The actual list of issues included the following topics: non discrimination (paras. 4 to 6); rights of Indigenous people (paras. 3 to 6, 24 and 25); treatment of migrants, refugees and asylum seekers (para. 18 and 19); gender equality, violence against of women and counter-terrorism measures (paras. 7, 8 and 11).

### **1. Systemic failures in Canada’s human rights adjudication framework and non-discrimination framework (paras. 4 to 6 of the list of issues)**

Complainants are increasingly facing difficulties when seeking remedies in provincial Human Rights Tribunals (HRTs) in Canada. This has become more pronounced in Canada as **discrimination** becomes more subtle and the evidentiary burden on claimants becomes more difficult to meet to prove discrimination on a balance of probabilities. There are significant **complications in the broader court system, but especially in human rights tribunals**, around how and when to admit and consider types of **evidence** –such as social context evidence of patterns of historic discrimination– that are crucial to establishing a discrimination action. This has led to mixed results in the courts and greater challenges for **racialized claimants** who have faced marginalization and adverse impacts.

Three major hurdles in the adjudication of a racial discrimination claim are<sup>1</sup>:

- a. Admissibility of evidence of patterns of discrimination: the case of social context evidence

A significant number of cases on human rights discrimination claims reveal that adjudicators find themselves challenged by social context evidence, as well as by the general rules regarding discrimination itself.<sup>2</sup> Adjudicators have had to decide on a case-by-case basis whether this type of evidence should be admissible. Unfortunately, a review of caselaw reveals that several adjudicators misinterpret relevant rules regarding the test for discrimination,<sup>3</sup> and this has had a consequential impact on how they assess the case before them, as well as on how they receive and treat social context evidence.

In many cases, adjudicators have assumed that to be admissible, social context evidence must be directly correlative to the exact acts alleged in the claim. Correlativity in the context of admissibility of social context evidence in human rights adjudication represents the idea that the impugned action, adverse impact or discrimination experienced by a claimant must be firmly grounded in social context evidence and any evidence that is vague or indirect should be given less weight. This search for **direct correlative evidence of discrimination** in cases before the tribunal does not reflect the test of discrimination established by Canadian courts.

In *Moore v. British Columbia (Education)*,<sup>4</sup> the Supreme Court of Canada set out a **three-part test** for proving *Prima Facie* Discrimination: 1) That a claimant proves they are a member of a protected group or have a protected characteristic under the Human Rights Code; 2) that they experienced an adverse impact in a protected area; and 3) that the protected ground was a factor in the adverse impact.

The Supreme Court later clarified this test when it noted that the protected ground need not be causative of the adverse impact; rather, the protected ground only needs to be connected to the adverse impact, a lower threshold of evidentiary proof for a claimant to meet.<sup>5</sup> However, **tribunals have routinely misinterpreted or misapplied this aspect of the test for discrimination**, particularly in cases involving **racialized minorities**. In several cases, tribunals have created a strict requirement of causation that precludes admissibility or

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<sup>1</sup> As identified by Dr. Irehobhude O. Iyioha –the office holder of the University of British Columbia (UBC) Professorship in Race and Access to Justice– in “Beyond Recognition: Law’s Contingencies, Social Context Reasoning in Human Rights Adjudication, and the Normative Case for Reform,” [The Hugh M. Ketcheson, Q.C. Lecture Series to be delivered in Regina, Saskatchewan, June 2026–forthcoming].

<sup>2</sup> For example, see *Wiebe v Olsen*, 2025 BCHRT 14; *Kwan v. Board of Education of School District No. 38 (Richmond)*, 2024 BCHRT 296; *Omoruyi-Odin v. Toronto District School Board*, 2002 CanLII 46518.

<sup>3</sup> Iyioha, *supra*.

<sup>4</sup> *Moore v. British Columbia (Education)*, 2012 SCC 61.

<sup>5</sup> *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 SCC 39.

consideration of social context evidence and effectively raised the standard of proof too high for many claimants to meet. In an era in which discrimination in Canada is often subtle and protected by institutional documentation and policy, which creates seemingly neutral scenarios that nonetheless result in adverse impact discrimination, claimants may lack the evidence necessary to overcome the inherent power and credibility imbalance between them and respondents.

The focus on causation, as well as strict relevance and correlativity by Human Rights Tribunals in Canada, results in a system that **ignores the lived experiences of marginalized communities** and refuses to take into account **identity factors** that inform the experiences of discrimination experienced by these groups or individuals. In essence, tribunals have often **cut off ‘context’** at the time of the discriminatory act, leading to a skewed view of discrimination as an act occurring at a single point in time rather than a system that is lived on a daily basis and that informs several aspects of a claimant’s lived experience.

These practices suggest continuous allegiance to **institutional formalism**, which involves adherence to established rules, procedures, guidelines and jurisdictional boundaries, among others, that are often overly strict and lead to a quickness to disregard evidence of systemic and historic discrimination. These types of practices often prioritize institutional norms and formal legal authority over moral, contextual and substantive justice concerns. For example, adjudicators often adhere strictly to rules on evidence admissibility –rules that emphasize a case-by-case analysis and level of neutrality surrounding evidence that places a further burden on plaintiffs to prove a very clear *prima facie* case of discriminatory conduct–.

The claimant may be disallowed from bringing in contextual evidence that does not meet formal, traditional evidentiary standards or does not directly relate to the single impugned action or series of actions at issue in the case. Even though adjudicators may hold these rules to maintain a level of formality and consistency within the hearing proceedings, the impact that occurs in practice is that some forms of cases, notably racial discrimination cases, are left without remedy.

The emphasis on neutrality and on proving a direct connection between the evidence and the action in question has the secondary effect of creating an implied focus on intent, even though intent is not necessary to prove a claim of *prima facie* discrimination. The focus on the high standard of “proof” and the evidentiary burden that claimants must meet leads to cases with clear discriminatory intent and overt racism being more successful in tribunals than the vast majority of cases, which are more subtle.

b. Procedural limits in human rights adjudication

**Procedural limits**, which are another example of institutional formalism, encapsulate the in-built structural rules in the legal system, and in this case, in the human rights system, that determine whether and how a legal claim can be heard or decided. They include such legal rules as admissibility of evidence, threshold decisions that determine whether a claim is a good fit for a given human rights system, jurisdictional limits, standing, limitation periods, among others. These rules –described as “**design flaws**”<sup>6</sup> of the legal and adjudicative system– pre-determine who has access to adjudication and to redress.

Beyond the emphasis on concrete, causative forms of evidence, the threshold limits established in human rights systems in Canada, as in Section 21(1) of the *Alberta Human Rights Act* (AHRA) and s. 27(1)(b) of the *Human Rights Code of British Columbia*, further creates enormous procedural challenges for claimants. Under these sections, the human rights systems of these two provinces have created **gatekeeping mechanisms** in which a **sole administrator or tribunal member or panel has broad discretion over which cases to advance** and which to dismiss preliminarily based on a lack of “merit”, or based on the belief that the alleged acts or omissions or “parts” of the complaints do not contravene the Code. While British Columbia operates a direct-access system of human rights adjudication, yet section 27 of the province’s Human Rights Code maintains this gatekeeping system –similar to that set up under section 21 of AHRA– which effectively shuts out cases involving systemic bias and denies claimants the right to be heard.

Often, cases are **dismissed even where the evidence is contentious and there is conflicting evidence on both sides**. This dismissal, in effect, bars access to justice for claimants who experience discrimination. An example of this is the case of *Iyioha v The University of Alberta*,<sup>4</sup> where a director of Alberta’s gate-keeping human rights commission exercised their broad discretion to reach a favourable ruling for the respondent university in spite of the actual evidence produced by the claimant, and in circumstances where the conflicting nature of the parties’ claims and the evidence adduced by the claimant necessitated an investigation or at least direct engagement with the claimant’s evidence.

c. Epistemic gaps in knowledge and adjudicator bias

**Adjudicator bias**, whether implicit or explicit, can impact adjudicators’ review of discrimination claims; it can also cause adjudicators to undervalue some forms of evidence, such as social context evidence, and to have varying levels of understanding of systemic oppression and its impact on marginalized communities. Many adjudicators are still from

<sup>6</sup> Irehobhude O. Iyioha, “This is Not Our House: Social Context Evidence and the Limits of Adjudication on Anti-Black Discrimination,” (2026) *Osgoode Journal of Law and Social Policy* (forthcoming).

groups that historically do not have lived experience with racial or other forms of marginalization. This **lack of diversity among adjudicators** can lead to both a lack of trust in the system on the part of claimants and a hesitance on the part of adjudicators to admit contextual evidence. Human rights discrimination cases occur in a wide variety of settings, notably employment, housing and police investigations, and adjudicators who lack knowledge in these fields of practice may not be well-equipped to make decisions on the cases.

In some cases where the adjudicator has admitted that they do not have the relevant knowledge to decide the case before the tribunal, they have proceeded to decide on the merits of the claim, in spite of their own lack of understanding of the social factors contextualizing the experience of marginalized communities. The case of *Iyioha v. The University of Alberta* aptly exemplifies this notorious practice.

In that case, Tribunal Commissioner Colin May acknowledged his lack of experience in the area of educational employment in the academic sector, particularly referencing his lack of expertise to decide on the merits of the claimant’s argument that he was more qualified than other non-racialized candidates who were hired. In spite of acknowledging his unsuitability to decide the discrimination claim, he went on to make such a decision anyway based on his personal discretion and opinion of the merits of each party’s arguments.<sup>7</sup> Later, the same adjudicator lost his new position as Chief Commissioner of the same Alberta Human Rights Commission due to unearthed remarks demonstrating “overt racism” and “explicit prejudice” against a minority group.<sup>8</sup>

Also notable is the case of *Dosu v. Ontario Human Rights Tribunal*, in which a claim of discrimination was, by mistake, sent to two different judges, who came to different conclusions on the admissibility of social context evidence. Notably, one judge was racialized and the other was not. This showcases the way in which life experiences, worldviews and the possibility of implicit bias can lead to weighing the merits of a discrimination claim differently between different adjudicators.<sup>9</sup>

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<sup>7</sup> *Iyioha v. University of Alberta*, 2021 AHRC 39 (Alberta Human Rights Tribunal). Colin May was later fired due to discriminatory comments about a racialized group.

<sup>8</sup> see David J. Climenhaga, “New chief of Alberta Human Rights Commission must step aside,” July 2022, <https://rabble.ca/human-rights/new-chief-of-alberta-human-rights-commission-must-step-aside/>, accessed February 2026; Saif Kaiser, “Islamophobic comments by chief of Alberta Human Rights Commission resurface,” July 2022, <https://calgary.citynews.ca/2022/07/08/islamophobic-comments-alberta-human-rights-commission-chief/>, accessed February 2026; Elise von Scheel, “Former head of Alberta human rights commission sues government for firing him,” Oct. 2022, <https://www.cbc.ca/news/canada/calgary/collin-may-human-rights-commission-shandro-lawsuit-1.6605527>, accessed Feb. 2026.

<sup>9</sup> *Dosu v. Human Rights Tribunal of Ontario* 2025 ONSC 6509 and *Dosu v. Human Rights Tribunal of Ontario* 2025 ONSC 6496.

These challenges in adjudicating claims and admitting evidence, the insistence on correlativity, the procedural gatekeeping that bars claims before they can be heard and the epistemic gaps among adjudicators, do not operate in the abstract. They converge with particular force in the experiences of people who suffer intersectional discrimination, as explained hereinafter. Despite Canada's formal commitments to equality and non-discrimination under international and national rules, empirical research reveals persistent substantive inequalities between marginalized groups and non-marginalized populations (art. 2, 3 and 26 of the ICCPR).

### **Questions to the State:**

- How does the State ensure that its equality obligations under articles 2, 3 and 26 of the ICCPR extend beyond formal non-discrimination to address institutional practices that produce cumulative and intersectional disadvantage?
- What measures has the State put in place to recognize, redress and prevent systemic inequality within publicly regulated and funded institutions?
- How does the State intend to respond to the growing number of cases where adjudicators have made errors of law and where claimants have not pursued appeals or judicial review due to various barriers limiting their access to justice?
- What measures does the State intend to take to increase diversity on adjudicatory bodies, especially human rights commissions and tribunals?

## **2. Situation of the Indigenous people (paras. 3 to 6, 24 and 25 of the List of issues)**

The State party's report emphasizes on legislative and administrative measures as the passage of the United Nations Declaration on the Rights of Indigenous Peoples Act (UN Declaration Act) in 2021 and the subsequent Action Plan released in June 2023, anti-racism funding initiatives, amendments to the Criminal Code, investments in community-based policing, among others. However, the Report does not provide enough statistics on that matter<sup>10</sup>, consequences of the application of those numerous measures or concrete examples. For example, the report describes some Indigenous consultation processes and claims to support Indigenous justice models, but provides neither timelines for implementing the recommendations nor concrete outcomes for the racialized groups in question. Moreover, despite its obligations under the UN Declaration Act to advance Indigenous self-determination, the State persistently denies the legitimacy and authority of Indigenous

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<sup>10</sup> In that sense, is it important to highlight that a statement like "*Canada is unable to provide information or statistics on any ongoing criminal investigations. Police services have a significant degree of operational independence from government in conducting criminal investigations, and any interference in such investigations would be inappropriate, including disclosing the existence of any particular investigation.*" (para. 23 of the State's report) is problematic. Indeed, it is not possible to hide behind such an allegation to avoid providing figures on the criminal investigations that have taken place. It is the State's responsibility to ensure that investigations in this area are effective; how could it fulfill this duty without intervening or maintaining statistics under the guise of preserving the autonomy of the police, which, *a fortiori*, is part of the Executive branch?

legal orders, customary practices, and governance systems, continuing to impose colonial legal frameworks in violation of Indigenous peoples' rights.

In fact, Indigenous people are still discriminated, persecuted and criminalized, especially the Indigenous land defenders who oppose extractive projects on their territories such as the construction of the **Coastal GasLink pipeline on Wet'suwet'en lands without its free, prior, and informed consent (FPIC)**. The State's police force authorized forced removals, disproportionate use of force and intimidation against peaceful Indigenous land defenders in order to enforce an injunction obtained by the company<sup>11</sup>. The Committee on the Elimination of Racial Discrimination issued several urgent directives to the Canadian government concerning this case, recognizing the violations of Indigenous rights, such as suspend work until FPIC is obtained, incorporate FPIC into domestic law and establish a legal framework to ensure proper consultation on all legislation affecting Indigenous peoples, cease forced evictions and prohibit the use of lethal weapons against Indigenous defenders<sup>12</sup>. Its case demonstrated that Canada continues to prioritize industrial expansion over Indigenous people rights and its ICCPR obligations. 70% of Indigenous people recognize that racism is a serious or very serious problem in Canada<sup>13</sup>. Moreover, the "agreements" to which the State referred are often signed in a coercive context, under threat of inevitable project approval and resource destruction.

In response to the **National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG)**, the State party claims to have launched an Action Plan in 2021 to implement the "Calls for Justice" (paras. 5, 65 and ff. of the State's report). However, the State party fails to acknowledge the National Inquiry's central legal finding, that the violence against Indigenous women, girls, and 2SLGBTQQIA+ people constitutes a **race-based genocide** rooted in colonial policies, evidenced notably by the *Indian Act* and the Sixties Scoop<sup>14</sup>. In fact, the homicide rate for Indigenous women remains nearly seven times higher than for non-Indigenous women as recognized by the State (para. 73), even if they represent only 4.9% of the women population of the country<sup>15</sup>. Thus, it demonstrates that Canada has not implemented an effective mechanism to resolve that problem but the current police response remains marred by apathy, jurisdictional disputes and systemic racism, leading to the misclassification of homicides as accidents or suicides.

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<sup>11</sup> Amnesty, [Canada: Construction of pipeline on Indigenous territory endangers land defenders](#), 3 October 2022.

<sup>12</sup> Committee on the Elimination of Racial Discrimination, Prevention of racial discrimination, including early warning and urgent action procedure, [Decision 1\(100\)](#), 13 December 2019.

<sup>13</sup> Black Canadian National Survey, [Final Report 2023](#), p. 16.

<sup>14</sup> National Inquiry to MMIWG, [Final Report](#), p. 56 ; National Inquiry to MMIWG, [A legal analysis of genocide, supplementary report](#); Native Women's Association of Canada, [Federal Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ People \(MMIWG2S+\)](#), 2022-23, p. 5.

<sup>15</sup> Government of Canada, [Advancing reconciliation and gender equality](#).

Furthermore, even if Indigenous peoples (First Nations, Inuit, Métis) constitute only about 5% of Canada's population<sup>16</sup>, they constitute more than **33% of the federal prison population** and of the people on long-term supervision orders<sup>17</sup>, and an even higher proportion in some provinces, being incarcerated at a rate 10 times higher in Prince Edward Island, Nova Scotia, Ontario, Saskatchewan, Alberta and British Columbia<sup>18</sup>. It is important to highlight that the Indigenous inmate population **increased by nearly 50% in the last 15 years**<sup>19</sup>, demonstrating that the State is not fighting appropriately against the discriminatory judicial and police system. It is also the group most affected by the denial of parole decisions<sup>20</sup>. In Montreal for example, Indigenous people are stopped by the police six times more than non-Indigenous peoples<sup>21</sup>. Indigenous peoples are over-represented in police use of force-involved deaths in Canada<sup>22</sup>. **Indigenous women are more affected** by this overrepresentation (the overrepresentation index score was 18,2 among Indigenous women compared with non-Indigenous women) than the Indigenous men (9,6 compared with non-Indigenous men) and their overrepresentation is increased more than for the men<sup>23</sup>. Indigenous youth (12 to 17 years old) represents approximately 7% of the Canadian youth population but represents **39% of young offenders in custody**<sup>24</sup>.

Indigenous people are also the most affected by poverty as 25% of them are living below the **poverty** line, increasing at 40% for Indigenous children<sup>25</sup>. The Indigenous women are more impacted by poverty than the men (25,4% for women and 22,5% for men); the gap between the two genders is lower for non-Indigenous people (13,5% for women and 13,0% for men); revealing the particular situation of vulnerability of Indigenous women and the intersectional discrimination against them<sup>26</sup>. While most low-income Canadians live in poverty for only short periods of time, Indigenous people are more likely to be living in poverty for at least 3 of 6 years<sup>27</sup>. They constitute an important portion of the homeless population, they have less

<sup>16</sup> Ibid.

<sup>17</sup> Reuters, [Despite Trudeau promises, more Indigenous people being jailed in Canada](#), 8 March 2025; Canadian Bar Association, [Incarcerated Indigenous peoples in Canada - current statistics](#), 28 July 2022, p. 2 and 3; AptnNews, [‘Staggering’ disparity as Indigenous adults overrepresented in prisons by 10 times](#), 15 January 2026.

<sup>18</sup> Government of Canada, [Overrepresentation of Indigenous and Black adults in provincial and federal custody](#), 14 January 2026.

<sup>19</sup> Reuters, [Despite Trudeau promises, more Indigenous people being jailed in Canada](#), 8 March 2025; Canadian Bar Association, [Incarcerated Indigenous peoples in Canada - current statistics](#), 28 July 2022, p. 2 and 3; AptnNews, [‘Staggering’ disparity as Indigenous adults overrepresented in prisons by 10 times](#), 15 January 2026.

<sup>20</sup> Ibid.

<sup>21</sup> SPVM, [Interpellations policières et profilage racial Contextualisation de la pratique d’interpellation à la lumière de l’identité racisée des personnes interpellées et évaluation de la nouvelle politique d’interpellation](#), June 2023, p. 12; more generally, R v. Le, 2019 SCC 34 at para. 94-95.

<sup>22</sup> Tracking in Justice, [Findings 7 Analysis](#), 3rd graphic; Tracking in Justice, [Police-involved Deaths are on the Rise, as are Racial Disparities in Canada](#), 10 February 2023, 5th graphic.

<sup>23</sup> Government of Canada, [Overrepresentation index of Indigenous adults when compared with non-Indigenous adults in custody, by gender, select provinces, 2023/2024](#), 14 January 2026.

<sup>24</sup> Canadian Bar Association, [Incarcerated Indigenous peoples in Canada - current statistics](#), 28 July 2022, p.3.

<sup>25</sup> Ibid, p. 4 and 5.

<sup>26</sup> Ibid, p.5.

<sup>27</sup> National Collaboration Centre for Indigenous Health, [Poverty as a social determinant of First Nations, Inuit and Métis Health](#), p. 5.

high school diploma, they are more unemployed, they perceive lower incomes, they face food insecurity, among others<sup>28</sup>.

The situation of Indigenous Peoples in Canada reveals a structural violation of the ICCPR, where colonial dynamics persist over human rights obligations. The persecution, the criminalization of land defenders and the disrespect of Free, Prior and Informed Consent constitute a flagrant violation of the principle of self-determination, cultural land rights, integrity and security (art. 1, 7, 9 and 27 ICCPR). Furthermore, the State's failure to effectively address the genocide of Missing and Murdered Indigenous Women and Girls, combined with an alarming overrepresentation of Indigenous people in prisons –especially for Indigenous women– represents a systemic breach of the rights to life, to personal integrity, to security, to liberty and to an effective remedy confronted to the important rate of impunity (art. 6, 7 and 9). It is important to highlight that the Committee has interpreted the **right to security** in its General Comment No. 35, in which it makes a crucial conceptual distinction between “liberty of person” and “security of person”. To go further, the right to human security included economic security, food security, health security, environmental security, personal security, community security and political security. In this context, the State has violated the right to human security of the Indigenous people in all of its components. Thus, the systematic and generalized racism is evident and violates the principle of equality and non-discrimination, as well as the intersectional discrimination faced by Indigenous women (art. 2.1, 3 and 26 ICCPR).

### **Questions for the State:**

- How does the State justify the authorization of forced removals and militarized police action against peaceful Indigenous land defenders and what measures are being taken by the State to ensure that FPIC is effectively respected and applied?
- Given that homicide rates for Indigenous women are nearly seven times higher than for non-Indigenous women, what independent and Indigenous-led oversight mechanisms are being implemented to address the structural problem, and how will the State measure progress beyond the development of action plans?
- With the Indigenous inmate population increasing by nearly 50% in the last 15 years, how does the State explain the failure of its judicial investments to reverse this trend, and what immediate measures –developed in cooperation with Indigenous peoples– are being taken to address the intersectional discrimination driving this mass incarceration?

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<sup>28</sup> Ibid, p. 6.

### **3. Systemic discrimination against afro-descendants people: policing and justice (para. 4 to 6 of the List of issues)**

The State's report claims a robust human rights framework, including the Canadian Charter of Rights and Freedoms (the Charter), and describes various anti-racism initiatives (federal and provincial) as the Canada's Anti-Racism Strategy 2019-2022, the Action group against racism and naming of a minister responsible for the fight against racism in the Quebec or the British Columbia's Anti-Racism Data Act (para. 5 and 30 of the State's report). However, Canada abundantly cites allocated funds and launched programs but rarely provides data on the actual impact of these measures on reducing racial disparities. Moreover, the report contains almost no "black-specific" data, numbers or policies even if black Canadians are victims of specific and systemic racism in Canada's criminal justice system, policing, public life and socio-economic spheres. In that sense, 84% of Black people believe racism is a serious or very serious problem in Canada<sup>29</sup>.

Indeed, Canada's Anti-Racism Strategy lacks binding enforcement mechanisms<sup>30</sup> and is often disconnected from the reality (focusing on general multiculturalism rather than the specificities of anti-Black racism, which is rooted in the history of slavery and segregation in Canada<sup>31</sup>). It is important to highlight the structural and institutional discrimination against Africans and afro-descendants people, including in the Canadian Human Rights Commission (CHRC). In fact, in 2024, a coalition of Black organizations filed a complaint requesting a review of the CHRC's accreditation because of higher dismissal rates of race-based complaints and exclusion of Black and racialized employees from promotions<sup>32</sup>. If the body mandated to protect human rights in Canada is itself a perpetrator of systemic discrimination, the State's capacity to offer an effective remedy to victims of racism is fundamentally called into question.

Black Canadians face widespread **racial profiling** despite Canada's claim of "bias-free" policing (paras. 32 to 34 of the State's report). The phenomenon of street checks, historically known as "carding", constitutes a practice of systematized arbitrary detention and Black people are stopped by police at much higher rates than whites. Canada's report refers to the training of the Royal Canadian Mounted Police (RCMP) to support bias-free policing and the prevention of racial profiling but only in two provinces (paras. 32 to 34 of the State's report). Thus, it does not relate to national training or global policy. Indeed, racial profiling is still a structural problematic, for example in Nova Scotia, Black people are 5-6 times more

<sup>29</sup> Black Canadian National Survey, [Final Report 2023](#), p. 16.

<sup>30</sup> Ontario Human Rights Commission, [Key findings from the OHRC's inquiry into anti-Black racism in the Toronto Police Service](#), 14 December 2023.

<sup>31</sup> Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, [Systemic racism against Africans and people of African descent in the criminal justice system](#), 9 September 2025, A/HRC/60/75, para. 74.

<sup>32</sup> SRCN, [BCAS Coalition Files Complaint Against The Canadian Human Rights Commission: Demands Accountability](#), 26 February 2024.

stopped by the police in street check than white people<sup>33</sup> and in Montreal they are 3,5 times more stopped<sup>34</sup>.

The Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement of United Nations (EMLER) confirmed in 2025 that “*Africans and people of African descent in Canada experience disproportionate levels of police stop-and-search checks and are overrepresented in arrests related to minor offences that involve a high level of police discretion. A recent public inquiry into racial profiling and discrimination by the Toronto Police Service revealed findings of systemic racial discrimination, racial profiling, the gross overrepresentation of Africans and people of African descent as victims of excessive use of force, and anti-Black racism across interactions with the police.*”<sup>35</sup>

There is no federal law obliging all police services to collect data on race during interactions with the public. Even if, in January 2024, the RCMP began to collect those data in some provinces<sup>36</sup>, it is still not a national policy and depends on the jurisdiction. Thus, Ontario is the only Canadian jurisdiction that has explicit regulations ([Regulation 267/18 of the Anti-Racism Act](#)) requiring all police services in the province to collect race data during incidents involving the use of force. Elsewhere (such as in Quebec or British Columbia), this often depends on the policies of each municipal police department. This lack of national standardization allows the State to claim an absence of evidence of discrimination and racial profiling (“no data, no problem”).

Furthermore, Africans and people of African descent face **excessive use of force**<sup>37</sup>. In Annex A, the State mentions the number of racialized persons who died in prison, stating that this was due to drug overdoses and suicides, but not to the use of force by prison staff. However, the report does not mention the measures taken to combat these phenomena and depicts the negligence of staff. There is no mention of historical patterns of police violence against Black communities or statistics on use of force by race (for example, by comparing with white people). Moreover, the report only focuses on use of force in prisons but not during arrests.

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<sup>33</sup> Wortley Report Update, [Summary of Department of Justice-led Recommendations](#), 2023, p.2 ; Canadian Race Relations Foundation, [Nova Scotia RCMP apology: A good start](#), 12 September 2024.

<sup>34</sup> SPVM, [Interpellations policières et profilage racial Contextualisation de la pratique d’interpellation à la lumière de l’identité racisée des personnes interpellées et évaluation de la nouvelle politique d’interpellation](#), June 2023, p. 12.

<sup>35</sup> Report of EMLER, Systemic racism against Africans and people of African descent in the criminal justice system, *supra*, para. 29.

<sup>36</sup> RCMP, [RCMP launches Race-Based Data Collection pilot project](#), 9 January 2024.

<sup>37</sup> Toronto Police Service, [Race and Identity-Based Data Collection Interactive Dashboard Update](#); House of Commons, [Systematic Racism in Policing in Canada](#), p. 60; CBC, [Hamilton police use of force remains disproportionate with Black and Middle Eastern people, data shows](#), 27 June 2025; Info, [La police d’Ottawa a fait usage « disproportionné » de la force en 2022, selon un rapport](#), 21 January 2024.

However, Black people are overrepresented in use of force **shootings** and police shooting **deaths**<sup>38</sup>. Despite black people represent 8,8% of Toronto’s population –city of Ontario–, they correspond to 36% of police shootings, 61,5% of use-of-force cases that resulted in civilian death, 70% of police shooting deaths and 38,9% of lower-level use of force dataset<sup>39</sup>. In other cities of the province the same phenomenon occurs. In Hamilton, where Black people represent 3,2% of the population, they were victims of 16% of use of force in 2024<sup>40</sup>. In 2024, in Peel, Black people face 28% of use of force incidents even if they represent 9,8% of the population<sup>41</sup>.

Canada lacks adequate mechanisms to address police violence against black people. Despite recent high-profile killings (D’Andre Campbell, Jamen Francique, Caleb Tubila-Njoko, Regis Korchiniski-Paquet, and others<sup>42</sup>) by police or military police, no officer has been convicted in a case where a racialized person was killed in police action.

In its report, the government acknowledges consultation and cooperation with Black communities, provinces and territories to combat anti-Black racism and systemic discrimination that has led to the overrepresentation of Black people in the criminal justice system (para. 39 of the State’s report). However, it does not mention any measures to ensure that these discussions are effective or any concrete outcomes resulting from these consultations. Indeed, the report tends to minimize the severity of **criminal justice overrepresentation** of black people and police violence, treating them as statistical anomalies rather than systemic violations of the Covenant (paras. 35 to 40 of the State’s report). The Black population is **incarcerated at a rate three times higher** than the white population in the four provinces where disaggregated data on racialized groups are available (Nova Scotia, Ontario, Alberta and British Columbia)<sup>43</sup>. The EMLER admitted that Black people represent only 2,9% of the general population but constitute 8.1% of the federally incarcerated population<sup>44</sup>.

In that context, the Custody Rating Scale (CRS) is a tool used to ascertain socio-economic factors (employment history, education, community ties) to determine security levels in prison (maximum, medium, minimum). Black people are systemically disadvantaged in these

<sup>38</sup> Tracking in Justice, [Findings 7 Analysis](#), 3rd graphic; Tracking in Justice, [Police-involved Deaths are on the Rise, as are Racial Disparities in Canada](#), 10 February 2023, 5th graphic.

<sup>39</sup> Ontario Human Rights Commission, [Chapter 7 - Use of force: gaps in policies and procedures](#).

<sup>40</sup> CBC, [Hamilton police use of force remains disproportionate with Black and Middle Eastern people, data shows](#), 27 June 2025.

<sup>41</sup> Peel Regional Police, [Peel Police’s 2024 Use of Force Report Links Disparities to Crime Severity and Social Determinants of Justice](#), 26 September 2025.

<sup>42</sup> Black Legal Action Centre, [This Ends Now](#), 25 June 2020.

<sup>43</sup> Government of Canada, [Overrepresentation of Indigenous and Black adults in provincial and federal custody](#), 14 January 2026;

<sup>44</sup> Report of EMLER, Systemic racism against Africans and people of African descent in the criminal justice system, *supra*, para. 96.

areas so they are disproportionately classified as **maximum security**<sup>45</sup> (representing 15% of inmates in maximum security between 2018 and 2021), placed in segregation (solitary-like) and faced harsher conditions, highlighting the deficiency of that model; in particular when data consistently shows that Black offenders have lower rates of recidivism (reoffending) and high potential for reintegration (85.8% are not re-admitted to federal custody within 5 years following the expiration of their sentence<sup>46</sup>). This demonstrates that CRS is based on racial prejudices rather than behavioral evidence, unjustly prolonging the detention of Black people.

Even if Canada highlights Bill C-75, which codified the “principle of restraint” as proof of its commitment to reducing preventative detention (para. 36 of the State’s report), this reform has failed<sup>47</sup>.

*The EMLER emphasis that, in Canada, “A longer period of parole ineligibility is more likely to be applied to people of African descent. They are also disproportionately denied bail. Moreover, the lack of data on the success of appeals prevents the Mechanism from having a clear understanding of the role played by race in remedies for Africans and people of African descent. However, given the fact that appeals require significant resources, people of African descent are less likely to appeal court decisions against them. The Mechanism is of the view that the lack of resources should not undermine the legitimate right to remedy of people of African descent.”<sup>48</sup>.*

In fact, legal aid budgets have been cut in many provinces<sup>49</sup>, leading to strict financial eligibility and limited scopes of coverage and many Black victims of police violence cannot afford private lawyers and find public aid insufficient. Indeed, Black people face higher rate of **poverty**, for example 24% of Black Ontarians qualify as “low income”, as compared to 14.4% of the general racialized Ontario population, even when results are adjusted to reflect educational levels.<sup>50</sup> Even among third-generation Canadians, Black men and women earn less than their non-racialized people, with those of Canadian origin facing the steepest financial penalties. Canadian-origin Black men earn \$16,300 less, and women \$9,500 less. By comparison, the gaps are smaller for those of African or Caribbean heritage, though still significant<sup>51</sup>. This problem is acknowledged by the State in national reports, but the government does not mention this issue in its report to the Committee and, moreover, does

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<sup>45</sup> Department of Justice, [A roadmap for transformative change: Canada’s Black Justice Strategy](#), June 2024, para. 93; Office of the Auditor General of Canada, [Report 4—Systemic Barriers—Correctional Service Canada](#), 2022, para. 4.15.

<sup>46</sup> Government of Canada, [Response to the 49th annual report of the Correctional Investigator 2021 to 2022. Commissioner’s message](#).

<sup>47</sup> Canadian Civil Liberties Association, [The Deepening Crisis of Bail and Pre-Trial Detention in Canada](#), 2024.

<sup>48</sup> Report of EMLER, Systemic racism against Africans and people of African descent in the criminal justice system, *supra*, para. 48.

<sup>49</sup> Policy Options, [UCP cuts to Alberta Legal Aid will hurt the most vulnerable](#), 1 April 2025; Action Committee on Access to Justice in Civil and Family Matters, [Legal Aid: A critically important part of our justice system](#), July 2019.

<sup>50</sup> Black Health Alliance, [Social Determinants of Health](#).

<sup>51</sup> Government of Canada, [Changing Systems. Transforming Lives: Canada’s Anti-Racism Strategy 2024-2028](#).

not indicate what concrete measures have been taken to resolve this structural problem. In the same way, Black children are overrepresented in the **child welfare system**<sup>52</sup>.

Moreover, Black **victims and witnesses are often treated like the accused or convicted** rather than someone who has been harmed<sup>53</sup>. Instead of receiving support, Black victims are frequently viewed as “uncooperative” or lacking credibility, because of prevalent stereotyping of black people as aggressive, angry and dangerous<sup>54</sup>. This is facilitated by the underrepresentation of black people in police services<sup>55</sup>.

Finally, the State recognizes that most of the hate crimes targeting race or ethnicity were against the Black population and that recently these numbers have doubled –taking into account that most of the black victims do not report hate crimes to the police due to a lack of trust in the justice system–. However, the State fails to protect its citizens and residents, offering no specific legislative or structural remedies to stop the violence.

The situation of Black Canadians reveals a profound structural violation of the ICCPR, characterized by a systemic failure to move beyond rhetorical frameworks toward substantive equality. The documented prevalence of racial profiling, street checks and the disproportionate use of lethal force constitutes a flagrant breach of the rights to life, liberty, integrity and security of the person (art. 6, 7 and 9 of the ICCPR). Furthermore, the State’s reliance on biased actuarial tools, like the Custody Rating Scale, the erosion of the “principle of restraint” and the crisis of legitimacy within the Canadian Human Rights Commission transform the correctional system into an arbitrary and discriminatory mechanism where Black people face worse conditions of detention than the others inmates and where they face systematic denial of the right to an effective remedy and equality before the law (art. 2.3, 10 and 14 of the ICCPR). Ultimately, by failing to implement a national, binding standard for race-based data collection while poverty and incarceration rates remain decoupled from behavioral evidence, the State perpetuates a cycle of institutionalized anti-Black racism that violates the principle of non-discrimination (art. 2.1 and 26 of the ICCPR).

### **Questions for the State:**

- Given that Black people are overrepresented in use of force shootings and police shooting deaths, what federal measures are being taken to ensure independent prosecution of officers and end the cycle of impunity?

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<sup>52</sup> Université de Montréal, [Black children are overrepresented in Quebec’s child welfare system](#), 16 March 2021; Ontario Human Rights Commission, [Interrupted childhoods: Over-representation of Indigenous and Black children in Ontario child welfare](#), section 4.2.

<sup>53</sup> Department of Justice, [A roadmap for transformative change: Canada’s Black Justice Strategy](#), June 2024, para. 52; National Library of Medicine, [Criminalized Black Women’s Experiences of Intimate Partner Violence in Canada](#), 21 September 2021.

<sup>54</sup> Government of Canada, [Policing](#).

<sup>55</sup> Ibid.

- Following findings of anti-Black racism within the Canadian Human Rights Commission, how does the State guarantee an effective remedy for victims when the national human rights institution is itself compromised?
- Will the State commit to a federal ban on the Custody Rating Scale and other biased actuarial tools that result in Black Canadians being incarcerated at three times the rate of the white population?

#### **4. Situation of migrants, refugees and asylum seekers (para. 4, 18 and 19 of the List of issues and topic of the follow-up realized in 2018)**

People who immigrate to Canada usually do so in search of opportunities they were unable to find in their own country or, in cases of asylum or refuge, to safeguard their lives and integrity. However, although Canada has been known for its open immigration policies, since 2025 this has changed radically and policies have begun to be introduced that could not only be **discriminatory** but could even generate hate speech towards the migrant population in general.

In general, migrants face significant challenges upon arriving in Canada, ranging from communication difficulties due to the two official languages (English and French), the climate, which in many cases represents a drastic change for people with long winters and extreme temperatures, as well as barriers imposed both by society, due to the rejection of migration that has developed in recent years, and by Canadian legislation itself, which encourages discriminatory biases.

These difficulties have been exacerbated in areas as basic as access to housing, where migrants are forced to pay high rents due to the difficulty of meeting the requirements imposed by landlords (mainly credit report)<sup>56</sup>.

Similarly, access to healthcare has been reduced for many people with temporary work permits in the province of Alberta following the recent approval of a law that eliminates public healthcare coverage for temporary foreign workers employed in the province.<sup>57</sup>

The lack of adequate public policies to provide basic services to all people, including migrants, is creating a negative perception of migration among nationals. As a result, these people suffer from discriminatory bias, which could even be experienced as “hate speech” towards migrants, as society perceives them as people who come to invade and take over housing, the healthcare system, and even jobs that should be for Canadians.

<sup>56</sup> Government of Canada, [Renting an apartment or house](#).

<sup>57</sup> Swissinfo, [Provincia canadiense elimina la salud pública a los trabajadores temporales extranjeros](#), 6 February 2026.

Working conditions for migrants are far from being governed by equality and non-discrimination and, in many cases, even amount to labor exploitation. There are several studies on this issue by various non-governmental organizations, such as Amnesty International<sup>58</sup> and Le Comité pour les droits humains en Amérique latine (CDHAL)<sup>59</sup>, which highlight the situation and call into question the fragile system of protection for temporary migrant workers in Canada.

Canada reports declining detention numbers and notes that detention is used only as a measure of last resort, a fortiori for children. It claims compliance with non-refoulement obligations and cites training for Border Services (paras. 117 to 126 of the State's report). The government often fails to provide disaggregated statistics (by status, age, race etc.) or any information on conditions in detention. In sum, Canada emphasizes that “frameworks” exist but provides little evidence of effective protections on the ground.

First, Canada is one of the few countries in the world that utilises criminal facilities for immigration related purposes<sup>60</sup>, involving the combination of **administrative detainees with the criminal population in maximum-security jails**. Historically, the State has relied on provincial correctional facilities to house approximately 1/3 to 1/2 of its immigration detainees, particularly those deemed “high risk” or detained in regions without dedicated Immigration Holding Centres. In September 2025, Ontario became the last province to cease accepting immigration detainees in its provincial jails<sup>61</sup>.

However, rather than seizing this opportunity to dismantle the carceral model of immigration detention and invest exclusively in community-based alternatives, the State party chose to **“recarceralize” the administrative detainees under federal jurisdiction**. It was possible thanks to the budget of 2024 which introduced amendments to the *Corrections and Conditional Release Act* (CCRA) and the *Immigration and Refugee Protection Act* (IRPA) to enable the use of federal correctional facilities for the purpose of high-risk immigration detention; authorizing the designation of federal penitentiaries as “Immigrant Stations”<sup>62</sup>. So, the Canada Border Services Agency (CBSA) designed an Immigrant Station for high-risk detainees in Sainte-Anne-des-Plaines, Quebec, located on the site of the Correctional Service of Canada's Regional Reception Centre –a maximum-security penitentiary complex characterized by static security infrastructure–; to transfer administrative detainees from

<sup>58</sup> RCI, [Amnistía Internacional denuncia explotación laboral de migrantes en Canadá](#), 31 January 2025.

<sup>59</sup> CDHAL, [Mexique, États-Unis et Canada : une réalité tragique pour les travailleurs migrants](#), 31 January 2026.

<sup>60</sup> Global Detention Project, [Country Report, Immigration Detention in Canada](#), April 2021, p. 18.

<sup>61</sup> Canadian Lawyer, [Human rights groups welcome abolition of immigration detention in Canada's provincial jails](#), 23 September 2025; Human Rights Watch, [Immigration Detention Ends in Provincial Jails Across Canada](#), 19 September 2025.

<sup>62</sup> [An Act to implement certain provisions of the budget tabled in Parliament](#), 16 April 2024, Bill C-69, 20 June 2024, p. x; Government of Canada, [CBSA's designated immigrant station for high-risk detainees now operational in Sainte-Anne-des-Plaines](#), 30 July 2025.

provincial jails to federal correctional facilities<sup>63</sup>. Moreover, administrative detainees are often handcuffed, shackled, searched, restricted to small spaces with rigid routines, lock in cells and under constant surveillance<sup>64</sup>.

Thus, the State party justifies the use of federal prisons for “**high-risk**” administrative detainees. However, the classification of a detainee as “high risk” is an internal administrative determination made by the CBSA<sup>65</sup>, lacking robust independent oversight or a transparent appeal mechanism. Historically, the “high risk” label has been disproportionately applied to individuals with untreated mental health conditions, racialized individuals and those with behavioral challenges rooted in trauma rather than criminal intent. In its Concluding Observations, the Committee on the Rights of Persons with Disabilities declared that *“asylum-seekers and refugees with disabilities, in particular those with intellectual and/or psychosocial disabilities, are more likely to be in immigration detention, can be detained in correctional facilities and subjected to solitary confinement on the basis of suicidal ideation they have expressed psychosocial disabilities, and are subjected to onerous conditions for release in the community, such as requirements to enrol in residential treatment facilities where treatment and confinement is non-consensual”*<sup>66</sup>.

Since 2016, about 45.000 people have been detained in Canada under immigration law –for example 4.048 in 2024-2025<sup>67</sup>– even if 90% of them do not represent a risk to public safety but were incarcerated because the CBSA suspected they may not appear for an immigration proceeding, or because the CBSA was not satisfied with their identity documents<sup>68</sup>.

Moreover, it is fundamental to underline that immigration detention can be of **indefinite duration** (there is no time limit imposed by law)<sup>69</sup>. Thus, people who have committed no crime can sometimes remain there for months or years, and also die in those centers (17 deaths since 2000)<sup>70</sup>. The mandatory detention reviews are conducted at 48 hours, 7 days, and every 30 days mentioned by the State (para. 118 of the State’s report) are more a procedural formality rather than a substantive check on liberty deprivation. Statistical evidence confirms that long-term detention persists, only for 2024-2025, 193 people were detained more than 99

<sup>63</sup> Government of Canada, [CBSA’s designated immigrant station for high-risk detainees now operational in Sainte-Anne-des-Plaines](#), 30 July 2025.

<sup>64</sup> Human Rights Watch, [Canada: Abuse, Discrimination in Immigration Detention](#), 17 June 2021; Amnesty, [Canada: Stop Incarcerating Immigration Detainees in Provincial Jails](#), 15 October 2021.

<sup>65</sup> Government of Canada, [National Immigration Detention Standards Chapter 6.0: Administration and Management](#).

<sup>66</sup> Committee on the Rights of Persons with Disabilities, Concluding observations on the combined second and third periodic reports of Canada, 15 April 2025, CRPD/C/CAN/CO/2-3, para. 35.

<sup>67</sup> Government of Canada, [Annual detention statistics: 2012 to 2025](#).

<sup>68</sup> World Refugee & Migration Council, [Putting migrants in federal prisons is unjustified and unjust](#), 8 May 2024.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

days<sup>71</sup> and that since 2016, 400 persons have been placed in immigration detention for longer than a year<sup>72</sup>.

The State party's official response relies on a semantic distinction between "detained minors" (those subject to a formal detention order) and "housed minors" (those accompanying a detained parent) to claim that **child detention** has been virtually eliminated (paras. 120 to 122 of State's report). This distinction is a legal fiction that masks the reality of child confinement in Canada. In fact, "housed minors" live in the same detention centers as formally detained individuals and may be subject to the same rules<sup>73</sup>. If they want to be "free" they have to be separated from their parents and placed into the child welfare system. Thus, this creates a coercive dilemma for parents: consent to the "housing" of their child in a detention center or consent to family separation and the placement of the child in foster care; in both cases, it will constitute a violation of the ICCPR (right to family unity and prohibition of detained children). Children could be detained for reasons related to their migration status for several weeks<sup>74</sup> but even short periods of detention cause profound and lasting psychological harm to children, including anxiety, depression, and post-traumatic stress symptoms<sup>75</sup>. Even if the numbers of minors housed with their parents or detained has been reduced, the problem is not resolved<sup>76</sup>.

Second, in March 2023, Canada and the United States implemented an Additional Protocol to the Safe Third Country Agreement (STCA), expanding its application to the entire land border, including internal waterways (paras. 127 to 130 of the State's report); based on the premise that the USA is a "safe" country for refugees. Recent events show us that this is not the case and that asylum seekers are exposed to a high risk of deportation from the USA to their country of origin<sup>77</sup>. Moreover, in 2025, the State party introduced Bill C-2, the "Strong Borders Act", a draconian shift in Canadian asylum law which introduced dispositions contrary to the ICCPR<sup>78</sup>. This Bill proposes a ban on asylum claims for individuals who have been in Canada for more than one year, gives mass deportation powers to the Immigration Minister (to cancel or suspend immigration documents and applications for entire groups of people without individualized due process or consideration of personal circumstances), removes privacy protections, among others<sup>79</sup>.

<sup>71</sup> Government of Canada, [Annual detention statistics: 2012 to 2025](#).

<sup>72</sup> Human Rights Watch, "[It Felt Like Everything in Life Stopped](#)", 3 December 2024.

<sup>73</sup> HillNotes, [Immigration Detention in Canada](#), 21 March 2025.

<sup>74</sup> Global Detention Project, [Country Report: Immigration Detention in Canada](#), April 2021, p. 20.

<sup>75</sup> Laura Carolyn Wood, [Impact of punitive immigration policies: parent-child separation and child detention on the mental health and development of children](#), 2018, p. 4.

<sup>76</sup> Public Safety, [Minors in Canada's Immigration Detention System](#).

<sup>77</sup> NBC News, [U.S. deportation tracker: Counting arrests, deportations](#), 15 April 2025; American Immigration Council, [Mass Deportation: Analyzing the Trump Administration's Attacks on Immigrants, Democracy, and America](#), 23 July 2025.

<sup>78</sup> Government of Canada, [Bill C-2: An Act respecting certain measures relating to the security of the border between Canada and the United States and respecting other related security measures](#), 19 June 2025.

<sup>79</sup> FCJ Refugee Centre, [Bill C-2 Threatens Human Rights, Refugee and Migrant Rights, and Privacy of All Residents of Canada](#), 27 June 2025.

Canada's carceral immigration detention system, including opaque "high-risk" classifications and the absence of a legal time limit on detention, breaches the rights to liberty and security of person and the prohibition of arbitrary detention and the right to humane treatment and freedom from cruel, inhuman or degrading treatment (art. 7, 9 and 10 of the ICCPR). The confinement of children as "housed minors" exert a hold on the family, violating the right to family unity or the prohibition of the detention of minors (art. 13, 17 and 24 of the ICCPR). The policy of the Additional Protocol to the STCA and the Bill C-2 compromise the principle of non-refoulement and due process and constitute a regressive disposition (art. 6, 7, 13 and 14 of the ICCPR). Moreover, by targeting specific groups for document suspensions or mass deportations, the State creates a discriminatory legal regime based on immigration status or national origin, thereby undermining equality before the law (art. 2 and 26 of the ICCPR).

### **Questions to the State:**

- Will the State implement a legal cap on the duration of immigration detention to end the practice of indefinite incarceration for administrative purposes?
- How does the State justify placing administrative detainees in maximum-security prisons, and what steps are being taken to replace this model with community-based alternatives?
- How will the State ensure that the "mass deportation" powers in Bill C-2 do not lead to collective expulsions and violations of the principle of non-refoulement?

### **5. Situation of women (paras. 7, 8 and 11 of the List of issues and topic of the follow-up realized in 2018)**

The State party claims to have adopted a robust framework to advance gender equality, highlighting the *Pay Equity Act of 2021*, the *Employment Equity Act of 2021*, the *National Action Plan to End Gender-Based Violence* launched in 2022 and various other initiatives to increase women's representation in leadership (paras. 47 to 52 of the State's report). However, similar to its approach with other marginalized groups, Canada's response relies heavily on federal legislative announcements and voluntary "challenges" (such as the 50-30 challenge) that mask deep-seated structural failures, rising violence and a lack of binding enforcement mechanisms across jurisdictions.

First, the **labor landscape** for women in Canada during the 2025 period shows signs of a robust recovery in terms of participation, though with persistent rigidities in compensation and job quality. While the State party touts the coming into force of the [Pay Equity Act](#) in 2021 –whose critical execution phases are unfolding between 2024 and 2025–, as a definitive measure to eliminate compensation differences (para. 47 of the State's report), it fails to acknowledge that this legislation only covers the federally regulated private sector (a fraction

of the Canadian workforce). Indeed, this legislation breaks with the traditional complaint-based model and requires employers to conduct proactive audits to ensure that work of equal value receives equal compensation<sup>80</sup>. In the federal sector, following that legislation, an increase in formal disputes has been reported, rising from just 6 in the previous fiscal year to 77 in 2024. This indicates a greater awareness of wage rights and more rigorous oversight by the Office of the Pay Equity Commissioner<sup>81</sup>.

Thus, in 2024, women in the core age group of 25 to 54 reached a record of 85% labour force participation rate<sup>82</sup>. Despite this dynamism, the **wage structure continues to reflect a disparity** where women earn, on average, 87 cents for every dollar earned by men<sup>83</sup>. Moreover, **occupational segregation** remains a determining factor in income inequality. Women tend to be concentrated in the service, healthcare and social assistance sectors, where they represent 81% of the workforce, while their presence in high-income sectors such as construction or forestry remains marginal, at 13% and 16% respectively<sup>84</sup>. This horizontal segregation is complemented by a “glass ceiling” or vertical segregation: although women occupy nearly half of all jobs (47.4%), they only reach 36.4% of management roles and less than 29% of senior management and legislative positions<sup>85</sup>.

Data from late 2025 indicate that the overall **unemployment** rate stood at 6.8%, with an **increase in active job searching**<sup>86</sup>. Notably, full-time employment for women increased in the final quarter of 2025, suggesting a transition from part-time work, historically more common among women due to the disproportionate burden of unpaid care. On average, women in Canada spend 8 more hours per week on childcare and 4 more hours on eldercare than their male counterparts, limiting their ability to accumulate working hours and professional development<sup>87</sup>.

Furthermore, the State’s measures to address “systemic discrimination” (para. 47 to 50 of State’s report) ignore the intersecting vulnerabilities of migrant women. Indeed, the situation is particularly precarious for women under the **Temporary Foreign Worker Program (TFWP)**, which visas tie the worker to a single employer<sup>88</sup>. This creates an asymmetrical power dynamic that facilitates abuse, like wage theft, arbitrary deductions, inadequate housing conditions and racialized gender-based violence in sectors such as agriculture and domestic care<sup>89</sup>. **Recent immigrant women** in Canada are more than twice as likely to be

<sup>80</sup> Canadian human rights commission. [The Pay Equity Commissioner's 2024-2025 Annual Report](#). June 20 2025. par. 3

<sup>81</sup> Ibid.; par. 25

<sup>82</sup> Government of Canada. Facts, stats, and impact: Gender equality. [Gender Wage Gap](#)

<sup>83</sup> Library of Parliament. [Gender Equality in Canada](#). Publication No 2025-04-E. January 27 2025. p. 4.

<sup>84</sup> Idem.

<sup>85</sup> Government of Canada. Facts, stats, and impact: Gender equality. [Gender Wage Gap](#)

<sup>86</sup> Government of Canada. The Daily. [Labour Force Survey: December 2025](#). January 9 2026. p. 1.

<sup>87</sup> Government of Canada. Facts, stats, and impact: Gender equality. [Gender Wage Gap](#)

<sup>88</sup> Amnistía Internacional. ["CANADÁ ME HA DESTRUIDO" EXPLOTACIÓN LABORAL DE TRABAJADORES Y TRABAJADORAS MIGRANTES EN CANADÁ](#). p. 7.

<sup>89</sup> Ibid.; p. 33

overqualified for their jobs compared to Canadian-born women. While 56.3% of Canadian-born female workers consider their current employment a conscious choice<sup>90</sup>, recent immigrants often find themselves trapped in low-wage sectors such as sales and services (29.8%) or basic administration (17.6%), regardless of their previous academic background<sup>91</sup>.

Second, the State party boasts of initiatives to encourage greater **leadership representation of women** (para. 51 of State's report). On the one hand, it is true that Canada it is the only G20 country to have achieved gender parity in its federal public service and has maintained a gender-balanced cabinet for nearly a decade<sup>92</sup>. However, those "soft" measures have failed to produce substantive equality, for example Canada ranks 71st globally in parliamentary representation, with women holding **only 30.6% of seats in the House of Commons**, a figure that has stalled<sup>93</sup>.

**Representation across provinces varies drastically**; while the Yukon features a legislature with 57% women and gender-diverse individuals, other provinces such as Newfoundland and Labrador record only 25%<sup>94</sup>. At the level of provincial and territorial premiers, the situation is even more unbalanced: only 2 of the 13 current leaders are women<sup>95</sup>.

At the **municipal level**, a milestone has been reached with 31% of elected positions held by women, meeting the target set for 2026 three years ahead of schedule<sup>96</sup>. However, this progress is threatened by alarming levels of harassment toward female elected officials and the persistence of structural barriers that hinder the retention of women in local politics, especially for those belonging to racialized minorities or the LGBTQ+ community<sup>97</sup>.

Third, **economic insecurity** continues to disproportionately affect women, with direct repercussions for their physical and social well-being. In 2024, women were more likely than men to live in housing that is unaffordable or fails to meet basic standards (8.2% compared to 7.1%)<sup>98</sup>. This precariousness worsens in old age: senior women rely significantly more on government transfers (43% of their total income) than men (32%)<sup>99</sup>. The lifelong income gap, exacerbated by the wage gap and career interruptions due to caregiving, results in women retiring with fewer savings and lower pensions. In 2022, senior women earned 26% less than

<sup>90</sup> Government of Canada. The Daily. [Labour Force Survey: September 2025](#). para. 33.

<sup>91</sup> Ibid. para. 35

<sup>92</sup> Statistics Canada. [Representation of women and men elected to national Parliament and of ministers appointed to federal Cabinet](#). March 8 2024.

<sup>93</sup> Government of Canada. [Gender representation among Canadian members of Parliament and Cabinet](#). March 8 2024.

<sup>94</sup> Equal Voice. [Gender Parity in Canada: a Parliamentary Tracker](#). January 13 2026.

<sup>95</sup> Government of Canada. Facts, stats, and impact: Gender equality. [Gender Wage Gap](#).

<sup>96</sup> Federation of Canadian Municipalities. [Women's representation in municipal elected positions](#). 2023. p. 1.

<sup>97</sup> Ibid.

<sup>98</sup> Government of Canada. Facts, stats, and impact: Gender equality. [Gender Wage Gap](#).

<sup>99</sup> Ibid.

their male counterparts, a figure that, while improved from the 34% recorded in 1976, remains unacceptable<sup>100</sup>.

In 2024, ⅓ of menstruating individuals in Canada is **unable to afford menstrual products** at some point during the year. This phenomenon is not merely a financial hurdle but a barrier to dignity and full participation in public life, frequently forcing individuals to choose between purchasing hygiene products or meeting other basic needs like food and transportation. To address this, Canada has launched initiatives to provide free menstrual products in federally regulated workplaces and schools; however, the persistent stigma and rising cost of living continue to deepen the crisis for the people in situation of vulnerability, underscoring that menstrual equity is a fundamental component of economic justice<sup>101</sup>.

Fourth, in its report, Canada highlights the launch of the *National Action Plan to End Gender-Based Violence* and amendments to the *Criminal Code* (paras. 52 to 57 of the State's report) as evidence of progress. These assertions are contradicted by the data, **femicide** is not decreasing, it is escalating. Indeed, 187 women and girls recorded as violently killed in 2024, representing a projected **26% increase** compared to 2019, the year prior to the pandemic<sup>102</sup>. The vast majority of these crimes are perpetrated by men, who constitute 93% of the accused in cases where a suspect has been identified<sup>103</sup>. Thus, the State's reliance on criminal law reforms regarding "intimate partner" definitions has proven insufficient to protect women (para. 56 of the State's report). The home remains the most dangerous place for women, given that 77% of these killings occurred in private residences, either in the victim's own home or one shared with the aggressor<sup>104</sup>. Approximately 50% of victims were killed by a current or former intimate partner, while 28% died at the hands of a family member<sup>105</sup>. A concerning phenomenon is the high rate of homicide-suicide, as 31% of men accused of intimate partner femicide committed suicide following the crime, often leaving families without a judicial process<sup>106</sup>.

The **country's geography reveals alarming disparities**, as 46% of victims in 2024 resided in rural areas or small towns, where extreme isolation and scarcity of support services increase risk<sup>107</sup>. In the northern territories, the situation reaches crisis levels; Nunavut reported the highest rate in the country with 4,93 deaths per 100.000 women<sup>108</sup>. Parallely, Indigenous women face disproportionate systemic vulnerability, representing 21% of femicide victims over the last decade despite being only 5% of the population, a reality that

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> Canadian Femicide Observatory for Justice and Accountability. [#CallItFemicide 2024 Report](#). p. 2.

<sup>103</sup> Ibid. p.1.

<sup>104</sup> Ibid. p. 1.

<sup>105</sup> PATHS. [Femicide in Canada in 2024](#). February 17 2025. par 3.

<sup>106</sup> Canadian Femicide Observatory for Justice and Accountability. [#CallItFemicide 2024 Report](#). p. 2.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

has been officially categorized as a genocide<sup>109</sup> (see above). Additionally, in provinces like Ontario, nearly half of recent victims (47%) were 55 years of age or older, highlighting a growing risk for older women within the family sphere<sup>110</sup>.

Moreover, the State’s emphasis on “enhanced funding” for **shelters** (para. 55 of the State’s report and Annex B) ignores the structural housing crisis that renders these services ineffective. There is a critical “bottleneck effect” where survivors remain in emergency shelters indefinitely because they cannot access affordable housing, preventing new victims in immediate danger from accessing safety. The State’s strategy fails to address the **economic violence** –present in 95% of domestic abuse cases– that forces women to choose between homelessness and returning to their abusers<sup>111</sup>. Without integrating housing guarantees into its Action Plan, the State’s measures remain palliative rather than preventative.

The State party’s response to the **Missing and Murdered Indigenous Women, Girls and LGBTQ+ people** (MMIWG) crisis is perhaps the most glaring example of performative compliance. While Canada claims to be implementing the *Federal Pathway* and an *Action Plan*, and boasts of culturally sensitive training for the RCMP, the situation on the ground remains catastrophic (paras. 66 to 72 of the State’s report). The State acknowledges that the homicide rate for Indigenous women is nearly **seven times higher** than for non-Indigenous women (para. 73 of the State’s report), yet it treats this as a statistical anomaly rather than the result of systemic inaction. In 2021, the rate of gender-related homicide for Indigenous women was 1.72 per 100.000, which was more than triple the rate recorded for non-Indigenous women (0.54)<sup>112</sup>; that means that the gap has increased. These figures underscore a national emergency where Indigenous women are significantly more likely to go missing or be murdered<sup>113</sup>. Progress on systemic reforms remains alarmingly slow. Six years after the National Inquiry released its final report in 2019, the Assembly of First Nations reported in June 2025 that only two of the 231 “Calls for Justice” have been fully fulfilled<sup>114</sup>.

This violence has been officially categorized as a **genocide** by the National Inquiry into MMIWG, rooted in long-standing colonialism, systemic racism and intergenerational trauma<sup>115</sup>. Historical policies such as the residential school system and the “Sixties Scoop” fractured Indigenous families and communities, creating cycles of trauma that contribute to current vulnerabilities<sup>116</sup>. These systemic injustices are further exacerbated by institutional

<sup>109</sup> Statistics Canada. [Gender-related homicide of women and girls in Canada](#). April 5 2023. p. 3.

<sup>110</sup> OAITH. [43 Women Killed: Femicide Cases Can Be Our Compass To Guide Change](#). November 26 2025.

<sup>111</sup> Canadian Center for Women’s Empowerment. [Femicide in Ottawa and Beyond. A Call for Coordinated Policy and Systemic Change](#). 2025. p. 5

<sup>112</sup> Statistics Canada. [Gender-related homicide of women and girls in Canada](#). April 5 2023. p. 3

<sup>113</sup> Canadian Center for Women’s Empowerment. [Femicide in Ottawa and Beyond. A Call for Coordinated Policy and Systemic Change](#). 2025. par. 11

<sup>114</sup> Assembly of First Nations. [Breathing Life into the Calls for Justice: Thematic Analysis on Human Trafficking](#). 2025. p. 7.

<sup>115</sup> Trans Care BC. [National Day of Action for Murdered and Missing Indigenous Women and Girls](#). October 3 2025. par 1.

<sup>116</sup> Statistics Canada. [Gender-related homicide of women and girls in Canada](#). April 5 2023. p. 10.

neglect, as cases involving Indigenous victims often suffer from under-reporting, less media attention and fewer law enforcement resources<sup>117</sup>.

The geography of Canada plays a critical role in the safety of Indigenous women, particularly in **Northern, rural and remote communities**. Women in these areas face extreme isolation, a lack of public transportation to reach shelters and a lack of anonymity in small towns where the aggressor may have social ties to local authorities<sup>118</sup>. Furthermore, the high cost of digital infrastructure in the North limits the ability of victims to seek help or use safety applications discretely<sup>119</sup>.

Distinct patterns emerge in the relationship between Indigenous victims and their killers. Unlike the general trend where an intimate partner is the primary **perpetrator**, Indigenous women have a higher probability of being killed by **acquaintances or strangers**. This reflects a systemic vulnerability tied to socioeconomic marginalization and racism. However, for those killed by family or partners, police reported that 69% of these cases had a history of prior violence, highlighting critical missed opportunities for intervention before the abuse turned lethal<sup>120</sup>.

Socioeconomic factors, specifically **economic abuse and housing insecurity**, trap many Indigenous survivors in dangerous environments. Combined with the current housing crisis, this creates a “bottleneck effect” in shelters<sup>121</sup> with what Indigenous and racialized women are particularly vulnerable, as many are forced to remain in abusive situations to avoid homelessness<sup>122</sup>.

Ultimately, addressing the MMIWG crisis requires a shift away from purely carceral models toward prevention and survivor-centered care. Indigenous advocates emphasize the need for **decolonial and community-led responses** that prioritize sovereignty and collective care rather than relying solely on a justice system that has historically caused harm to marginalized groups. Real safety for Indigenous women and girls will only be achieved through coordinated investments in stable housing, economic independence and culturally safe supports that dismantle the structures enabling violence.

Canada’s fragmented application of pay equity legislation, combined with the restrictive visa conditions of the Temporary Foreign Worker Program that tie migrant women to abusive

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<sup>117</sup> Canadian Center for Women’s Empowerment. [Femicide in Ottawa and Beyond. A Call for Coordinated Policy and Systemic Change](#). 2025. p. 5

<sup>118</sup> Learning Network. [Gender-Based Violence in Rural, Remote & Northern Communities](#). May 2021. p. 4.

<sup>119</sup> Ibid.; p.5.

<sup>120</sup> Statistics Canada. [Gender-related homicide of women and girls in Canada](#). April 5 2023. p. 12

<sup>121</sup> Zachary Cheung. [Quebec government touts progress on conjugal violence prevention despite 6 femicides in 2026](#). February 4 2026.

<sup>122</sup> Canadian Center for Women’s Empowerment. [Femicide in Ottawa and Beyond. A Call for Coordinated Policy and Systemic Change](#). 2025. p. 6.

employers, breaches the rights to non-discrimination and the equal right of men and women to the enjoyment of all civil and political rights (art. 2, 3 and 26 of the ICCPR). The escalating rates of femicide, exacerbated by the State's failure to address the "bottleneck effect" in housing that traps survivors with abusers, violate the rights to life and security –including human security as explained before– (art. 6 and 9 of the ICCPR). The systemic inaction regarding the MMIWG crisis, characterized by the non-fulfillment of the "Calls for Justice" and the disproportionate lethality faced by Indigenous women constitute a denial of the rights of persons belonging to minorities and a failure to provide equal protection of the law (art. 2, 26 and 27 of the ICCPR).

### **Questions for the State:**

- How will the State bridge the 87 cent wage gap beyond the limited federal sector, and what binding mechanisms will replace voluntary schemes to protect migrant women from the structural abuse inherent in closed work permits?
- Given a 26% rise in femicides (mostly in private homes), why does the State's Action Plan lack the housing guarantees needed to stop survivors from being forced back into abusive environments due to poverty?
- With Indigenous women and girls murdered at seven times more than non-Indigenous women, when will the State move from *soft* measures to a binding timeline to halt this recognized genocide?

### **6. Intersectional discrimination against racialized women in Canadian Academia (paras. 7 and 8 of the List of issues)<sup>123</sup>**

Racialized women in Canada disproportionately shoulder unrecognized and uncompensated care, service, and equity labour within academic and professional settings, while simultaneously facing barriers to advancement, heightened surveillance, and institutional cultures that normalize gendered and racialized precarity.<sup>124</sup> These conditions undermine effective equality in practice and reveal a gap between Canada's formal legal framework and the lived realities produced by institutional governance arrangements that remain largely insulated from human rights accountability mechanisms.

Indeed, Black women constitute a critically **underrepresented group in Canadian academia**. The Canadian Association of University Teachers found **Black professors**

<sup>123</sup> Special thanks to the report authors: Irehobhude O. Iyioha, Parul Kanwar, Rachel Negron, and Julie Ynes Ada Tchoukou.

<sup>124</sup> Statistics Canada, *Labour market outcomes of the Black populations in Canada 2020 to 2025* (2025), online: <https://www150.statcan.gc.ca/n1/daily-quotidien/250922/dq250922c-eng.htm>; Bannerji, Himani, *The Dark Side of the Nation: Essays on Multiculturalism, Nationalism and Gender* (Toronto: Canadian Scholars' Press, 2000). See also Maynard, Robyn, *Policing Black Lives: State Violence in Canada from Slavery to the Present* (Halifax: Fernwood Publishing, 2017); Acker, Joan, "Inequality Regimes: Gender, Class, and Race in Organizations" (2006) 20:4 *Gender & Society* 441-464. See also: Abawi, Zuhra E., "Factors and Processes of Racialization in the Canadian Academe" (2018) *Canadian Journal for New Scholars in Education*.

constitute just 2% of total faculty, with the highest unemployment rate (10.7%) of all demographic groups.<sup>125</sup> Racialized faculty have 54% lower odds of being tenured and 50% lower odds of promotion to associate professor than non-racialized faculty, and men are promoted to full professor 18 months faster than women on average.<sup>126</sup>

These disparities persist despite decades of equity initiatives, revealing what Henry et al.'s landmark study, *The Equity Myth: Racialization and Indigeneity at Canadian Universities* (2017), documents as “subtle, complex and sophisticated” racialization masked by diversity rhetoric.<sup>127</sup> The first comprehensive, data-based study of racialized and Indigenous faculty experiences in Canada, *The Equity Myth*, demonstrates that universities present themselves as bastions of liberal democracy while remaining sites of persistent exclusion.

A 2022 Canadian national survey examining COVID-19 impacts on tenure and tenure-track faculty found female and racialized faculty experienced significantly **higher levels of stress, social isolation and lower well-being** compared to male and non-racialized colleagues.<sup>128</sup> Pre-tenured female faculty experienced the most pronounced impacts, with substantially increased caregiving burdens affecting research productivity. The study notes that supposedly “gender-neutral” policies like tenure clock extensions can have inadvertent negative impacts, such as the “stop the clock” policies that substantially reduced tenure rates among women while increasing rates among men.<sup>129</sup> While this study reflects trends and outcomes in the wake of the COVID-19 pandemic, the outcomes of the study confirm observations and outcomes from other studies prior to the COVID-19 pandemic, especially with regards to data on significantly higher levels of stress, isolation and poorer well-being among racialized professors.

For example, *The Equity Myth* published in 2017 documents how Black women’s scholarship faces **systematic devaluation** with research dismissed as lacking “rigour”, qualifications questioned and knowledge production centring Black communities deemed less credible.<sup>130</sup> A 2023 study of Black graduate students’ mentorship experiences at a western Canadian university found research interests were “marginalized, demeaned or invalidated”, with racism “cast[ing] doubt on whether there is a market for our research”.<sup>131</sup>

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<sup>125</sup> Canadian Association of University Teachers, “Underrepresented: Racialized faculty in Canadian universities” (2016) CAUT Equity Review, cited in Henry, F., et al., *The Equity Myth: Racialization and Indigeneity at Canadian Universities* (Vancouver: UBC Press, 2017) p. 45.

<sup>126</sup> Henry, F., et al., *The Equity Myth: Racialization and Indigeneity at Canadian Universities* (Vancouver: UBC Press, 2017) pp. 89-92.

<sup>127</sup> *Ibid.*, p. 3.

<sup>128</sup> Al-Khooly, D., Mackey, T.K., Khurana, M.P., et al., “Are we failing female and racialized academics? A Canadian national survey examining the impacts of the COVID-19 pandemic on tenure and tenure-track faculty” (2022) *EClinicalMedicine*, 47, 101396. <https://doi.org/10.1016/j.eclinm.2022.101396>.

<sup>129</sup> *Ibid.*, p. 7.

<sup>130</sup> Henry, F., et al, *supra*, pp. 201-224.

<sup>131</sup> Opini, B., & Henry, A., “Black graduate students' mentorship experiences at a Western Canadian university” (2023) *Journal of Contemporary Issues in Education* 18(1), 4-22. <https://doi.org/10.20355/jcie29519>.

Bell et al. document racial dynamics in the Canadian academy, showing how Black faculty navigate stereotypes and racist assumptions while bearing disproportionate service loads.<sup>132</sup>

A 2024 study in *Race Ethnicity and Education* on first-year Black women faculty found they must navigate situating identity within institutional contexts that systematically devalue their contributions.<sup>133</sup> The study documents how **intersectional identities as Black women create unique challenges** distinct from experiences of either Black men or white women.

Henry et al.'s 2017 study in *Race Ethnicity and Education* on “Race, Racialization and Indigeneity in Canadian Universities” documents how processes of racialization operate through representational diversity in hiring, tenure and promotional practices, institutional biases and barriers to success, and the social construction of ideas about equity.<sup>134</sup>

Given these experiences, it is not surprising that some racialized scholars have sought legal redress either through the internal human rights mechanism of a university, its labour processes or, after exhausting these internal processes, the provincial human rights systems and courts. Unfortunately, the systemic failures in evidence admissibility, procedural gatekeeping, and adjudicator bias documented in the first section of this report (*above*) are borne out in these experiences. Research by the Ontario Human Rights Commission confirms that **race discrimination cases have lower success rates** because complaints are more difficult to substantiate when impugned actions involve ongoing conduct rather than discrete incidents, and because remedial procedures are often unsuited to the nature of race discrimination. Critically, the Commission found there may be an unconscious tendency among decision makers to apply a higher standard of proof to allegations of race discrimination than to other grounds—a finding that directly reflects the evidentiary and epistemic challenges outlined above.

### ***Iyioha v. University of Alberta Case:***

Dr. Irehobhude Iyioha, a Black Canadian woman law professor and the first Black woman to teach full-time at the University of Alberta’s Faculty of Law in its then over 110-year history, alleged that the University of Alberta hired “less qualified non-Black candidates” for tenure-track positions.<sup>135</sup> The Dean allegedly said it was “too early” for her to apply, even though she already had significant experience as a scholar, had already served as law professor and law lecturer at other law schools and as an adjunct faculty member in another

<sup>132</sup> Bell, M. P., Berry, D., Leopold, J., & Nkomo, S., “Making Black Lives Matter in academia: A Black feminist call for collective action against anti-blackness in the academy” (2021) *Gender, Work & Organization*, 28, 39-57. doi/10.1111/gwao.12555.

<sup>133</sup> Gray-Nicolas, N. M., & Miles Nash, A., “First things first: Black women situating identity in the first-year faculty experience” (2024) *Race Ethnicity and Education* 27(5), 717–736. <https://doi.org/10.1080/13613324.2021.1969907>.

<sup>134</sup> Henry, F., Dua, E., James, C.E., Kobayashi, A., Li, P., Ramos, H., & Smith, M.S., “Race, racialization and Indigeneity in Canadian universities” (2017) *Race Ethnicity and Education*, 20(3), 300-314. <https://doi.org/10.1080/13613324.2016.1260226>.

<sup>135</sup> *Iyioha v. University of Alberta*, 2021 AHRC 39 (Alberta Human Rights Tribunal). [*Iyioha*] at para 1.

faculty at the same university, and had qualifications surpassing those of successful candidates. Dr. Iyioha was told by a member of the hiring committee –who would later apologize for “crossing the line”– to “model herself on a white colleague” with fewer years of experience and, on the evidential record, fewer qualifications. At least one successful non-racialized candidate was still a doctoral candidate (less qualified than Dr. Iyioha with a Ph.D. and significant publications, including a major, leading textbook in her field).<sup>136</sup>

As Cherie Daniel in a historical review of Black women’s struggles against racial injustice in Canadian academia notes, Dr. Iyioha also alleged she was placed on the Dean’s “blocked list,” that efforts were made by the Dean to thwart her applications to other universities –an allegation supported by written evidence– and that one in five selected candidates shared a place of origin with a member of the Advisory Selection Committee.<sup>137</sup> The case exemplifies how coded language (“too early”, “stronger fit” or “model yourself”) masks discrimination while evading standards of legal proof. Daniel further observes that the Tribunal’s dismissal of the action warrants scrutiny. Universities operate under what Debra Thompson calls “a cloud of plausible deniability” and the difficulty of proving discrimination means institutions can invoke seemingly neutral criteria, like “fit” or “specialization” –as the University of Alberta categorically did in Dr. Iyioha’s case– to conceal what is, in practice, racial exclusion.<sup>138</sup>

Dr. Iyioha subsequently received record-setting reappointment, tenure and promotion in a single motion at the University of Victoria and within a very short amount of time following her appointment at that university. She then joined UBC as the inaugural holder of the Selwyn Romilly Professorship in Race and Access to Justice –a professorship named in honour of the first Black Justice of the Supreme Court of British Columbia–, demonstrating the University of Alberta’s assessments were subjective and potentially discriminatory.<sup>139</sup>

### ***Aylward v. Dalhousie University Case:***

Dr. Carol Aylward, the first Black Nova Scotian woman hired full-time at Dalhousie Law School and author of *Canadian Critical Race Theory: Racism and the Law* (1999), filed a

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<sup>136</sup> *Ibid* at para 6.

<sup>137</sup> Daniel, Cherie A., "The Silencing and Erasure of Black Women in the Canadian Legal Academy" in Anna Lund and Virginia Torrie, eds, *Early Women in the Canadian Legal Academy* (Vancouver: UBC Press, 2026 - forthcoming) [Daniel] at p. 9.

<sup>138</sup> *Ibid* at p. 10 citing Debra Thompson, *The Long Road Home: On Blackness and Belonging* (Toronto: Simon & Schuster Canada, 2022) at p. 99. In *Iyioha v. University of Alberta*, the university claimed that Dr. Iyioha’s specialization did not align (or was not a good ‘fit’) with the institution’s interests even though she was teaching a mandatory course, as well as a second course with components that aligned with courses to be taught by white candidates hired in the same hiring cycle as that within which Dr. Iyioha applied.

<sup>139</sup> See Peter A. Allard School of Law Faculty Profiles, “Irehobhude O. Iyioha: Associate Professor, Hon. Selwyn Romilly UBC Professorship in Race and Access to Justice,” available online: <https://allard.ubc.ca/about-us/our-people/irehobhude-o-iyioha> (accessed February 2026).

human rights complaint involving a decade-long dispute.<sup>140</sup> Daniel identifies Dr. Aylward's work as foundational to Canadian Critical Race Theory (CRT) specifically, establishing a "foundation for Canadian-specific CRT to open conversations and highlight examples that had not been taken up before," at a time when Canadian racism was often dismissed as less overt than its American counterpart.<sup>141</sup> The case highlighted systemic issues, including conflicts of interest and procedural barriers that derailed substantive discrimination claims.

Both cases demonstrate the **lack of contextual evidence**, as neither robustly integrated statistics showing racialized faculty having 54% lower odds of tenure; a **coded language evading proof standards**; the **academic freedom as a shield** as evident through tribunal deference, which prevents scrutiny of whether the criteria embed racial bias; and that human rights law treats discrimination as individual harm, even though Black women face systemic exclusion. The systemic and wide-spread nature of this harm may be difficult to assess given that many Black women are forced, based on systemic pressures, to stay silent. As Daniel argues, the silencing and erasure of Black women operate precisely through invisibility as "it is impossible to know how often it has happened because there is seldom a record left behind."<sup>142</sup>

The systemic exclusion of Black and racialized women from Canadian academia, evidenced by a 54% lower probability of tenure and the pervasive devaluation of their scholarship, constitutes a structural violation of the right to equality and non-discrimination (art. 2, 3 and 26 of the ICCPR). Furthermore, the institutional reliance on "coded language" (such as "fit") and "academic freedom" to shield discriminatory hiring and promotion practices from judicial scrutiny breaches the State's obligation to ensure an effective remedy and equality before the courts (art. 2.3 and 14 of the ICCPR). Finally, the disproportionate mental health burden and "equity labour" shouldered by racialized female faculty, aggravated by "gender-neutral" policies that paradoxically reduce their tenure rates, reveal a failure to protect the right to just and favourable conditions of work without distinction (art. 26 and 27 of the ICCPR).

### **Questions for the State:**

- Given that racialized faculty face 54% lower odds of tenure and Black professors constitute only 2% of faculty, what binding regulatory mechanisms will the State implement to dismantle the "glass ceiling" in publicly funded universities, beyond voluntary equity challenges that have proven ineffective?
- How does the State intend to reform human rights adjudication standards to ensure that the "cloud of plausible deniability" and subjective criteria used by academic

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<sup>140</sup> Aylward, C., *Canadian Critical Race Theory: Racism and the Law* (Halifax: Fernwood Publishing, 1999); *Cowan et al. v. Aylward et al.* (2001) 193 N.S.R.(2d) 111 (SC).

<sup>141</sup> *Daniel, supra* at p. 3.

<sup>142</sup> *Ibid*, p. 2.

institutions do not continue to systematically bar racialized women from proving discrimination and accessing effective legal remedies?

- In light of evidence that “gender-neutral” policies like tenure clock stoppages have negatively impacted women’s tenure rates while benefiting men, what specific measures is the State taking to recognize and compensate the disproportionate equity and care labour performed by racialized female faculty?

## 7. Conclusions and recommendations

Canada presents itself as a human rights leader, yet the evidence in this report shows a persistent pattern of “performative compliance”: ambitious laws, strategies and funding announcements are not matched by effective implementation, measurable impact or binding accountability. Indigenous peoples, people of African descent, migrants, asylum seekers and women –particularly Indigenous and racialized women– continue to face structural, intersectional and systemic violations of the ICCPR, including the rights to life, liberty and security, equality and non-discrimination, family life and effective remedy. Across all these groups, colonial dynamics, systemic racism in policing and justice, carceral immigration policies, and escalating gender-based violence reveal that high-level frameworks have not been translated into concrete protection on the ground. Furthermore, the very mechanisms designed to offer redress –specifically the human rights adjudication system and institutional governance in academia– have largely insulated themselves from accountability through procedural gatekeeping, evidentiary biases, and a failure to recognize intersectional harms.

Canada should move from rhetorical commitments to binding, time-bound obligations, with clear responsibilities and sanctions across federal, provincial and territorial levels.

- **Systemic failures in human rights adjudication:** Overhaul the evidentiary frameworks within human rights tribunals and the Canadian Human Rights Commission to address the disproportionately low success rate of race discrimination claims. The State must eliminate procedural gatekeeping that relies on “plausible deniability” and “intent” rather than impact, and ensure adjudicators are trained to recognize coded discrimination and intersectional barriers to access to justice.
- **Indigenous people:** Ensure effective respect for Free, Prior and Informed Consent (FPIC) in domestic law, end forced removals and militarized policing against Indigenous land defenders, and adopt a concrete, adequately funded and independently monitored plan to implement the MMIWG Calls for Justice and address Indigenous over-incarceration and poverty.
- **People of African descent:** Establish a national, binding framework for race-based data collection in policing, justice and corrections; prohibit or fundamentally reform biased tools such as the Custody Rating Scale; strengthen independent oversight and

access to justice (including legal aid) to address racial profiling, excessive use of force, discriminatory detention and systemic anti-Black racism, including within the Canadian Human Rights Commission.

- **Migrants, refugees and asylum seekers:** End the use of criminal correctional facilities and “Immigrant Stations” for immigration detention, establish a clear and short legal maximum time limit on detention, end the detention or “housing” of children for immigration purposes, and revise the STCA Additional Protocol and Bill C-2 to ensure full respect for non-refoulement, due process, family unity and non-discrimination.
- **Women’s rights and gender-based violence:** Extend pay equity and employment equity protections beyond the federal sector; adopt binding protections for migrant women workers; transform the National Action Plan to End Gender-Based Violence into an enforceable, rights-based framework with integrated housing guarantees; and implement a binding, adequately funded plan –co-developed with Indigenous women and 2SLGBTQIA+ organizations– to halt the recognized genocide of MMIWG.
- **Intersectional discrimination in academia:** Address the “glass ceiling” facing racialized women by mandating transparent, data-driven hiring and tenure processes to close the gap where Black professors constitute just 2% of faculty and racialized faculty face 54% lower odds of tenure. The State must implement binding mechanisms to recognize “equity labour” and ensure that “gender-neutral” policies do not paradoxically penalize female scholars.
- Across all themes, Canada should ensure systematic, disaggregated data collection (including race, gender, age, immigration status, disability and Indigenous identity), robust independent oversight, and accessible, culturally safe remedies, so that entrenched patterns of discrimination and violence can be effectively identified, monitored and dismantled.