

# **Canada Mid-term Implementation Assessment**



**UPR-INFO.ORG**  
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW

## Introduction

### 1. Purpose of the follow-up programme

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also more specifically to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC).

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are willing to follow and implement their commitments: civil society should monitor the implementation of the recommendations that States should implement.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 9 February 2012

## Follow-up Outcomes

### 1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/canada>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports, as well as the unedited comments can be found at the same internet address.

52 NGOs were contacted. Both the Permanent Mission to the UN in Geneva and the State were contacted. The domestic NHRI was contacted as well.

14 NGOs responded to our enquiry. The State under Review could not comply with our deadline. The domestic NHRI declined our enquiry.

*IRI*: 79 recommendations are not implemented, 8 recommendations are partially implemented, and 7 recommendations are fully implemented. No answer was received for 19 out of 114 recommendations.

### 2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	Issue	page 7	not impl.
2	Counter-terrorism, Racial discrimination, Minorities, International instruments, Human rights education and training,	page 7	not impl.
3	General	page 8	not impl.
4	Migrants, International instruments,	page 8	not impl.
5	Other	page 8	not impl.
6	International instruments, Enforced disappearances,	page 8	not impl.
7	Treaty bodies, Indigenous peoples,	page 10	not impl.
8	Women's rights, Rights of the Child,	page 11	not impl.
9	Women's rights, Indigenous peoples,	page 11	fully impl.
10	International instruments, Indigenous peoples,	page 12	not impl.

rec. n°	Issue	page	IRI
11	Treaty bodies	page 13	not impl.
12	Torture and other CID treatment, International instruments,	page 13	not impl.
13	Racial discrimination	page 14	not impl.
15	Migrants, International instruments,	page 15	partially impl.
16	Women's rights	page 16	not impl.
17	Women's rights, Indigenous peoples, Women's rights, Rights of the Child, International instruments,	page 18	partially impl.
18	Indigenous peoples, Treaty bodies, Racial discrimination, International instruments, ESC	page 19	not impl.
19	rights - general,	page 19	-
20	Technical assistance, International instruments,	page 20	-
21	International instruments, Indigenous peoples,	page 20	not impl.
22	International instruments, Indigenous peoples,	page 21	not impl.
23	Torture and other CID treatment, International instruments,	page 22	not impl.
24	Torture and other CID treatment	page 22	not impl.
25	International instruments	page 22	not impl.
26	Rights of the Child, International instruments,	page 23	not impl.
27	International instruments, ESC rights - general,	page 23	fully impl.
28	International instruments, Disabilities,	page 21	not impl.
31	Migrants, International instruments,	page 24	fully impl.
32	International instruments, Disabilities,	page 24	not impl.
33	Poverty, Minorities, International instruments, ESC rights - general,	page 27	not impl.
34	Torture and other CID treatment, International instruments,	page 27	not impl.
35	Treaty bodies, Civil society,	page 28	not impl.
36	UPR process, Civil society,	page 29	not impl.
37	Women's rights, Indigenous peoples,	page 30	not impl.
38	Rights of the Child, Detention conditions,	page 21	not impl.
39	Torture and other CID treatment, International instruments,	page 32	not impl.
40	UPR process, Civil society,	page 33	partially impl.
41	Death penalty	page 33	fully impl.
43	Minorities	page 34	not impl.
44	Labour Racial discrimination, Migrants, Human rights education and training,	page 35	not impl.
45	Asylum-seekers - refugees,	page 35	not impl.
46	International instruments, ESC rights - general,	page 35	not impl.
48	Racial discrimination	page 36	not impl.
49	Women's rights, Indigenous peoples,	page 21	not impl.
51	International instruments, Enforced disappearances,	page 37	not impl.
52	Rights of the Child, Indigenous peoples, Treaty bodies, Racial discrimination, Human rights education and	page 38	not impl.
53	training,	page 38	not impl.
54	Minorities, Justice, Indigenous peoples,	page 39	not impl.
55	Other	page 40	not impl.

rec. n°	Issue	page	IRI
56	Women's rights, Rights of the Child,	page 40	partially impl.
57	Human rights violations by state agents	page 41	not impl.
58	Treaty bodies, Indigenous peoples,	page 42	fully impl.
59	International instruments, Disabilities,	page 21	not impl.
60	Torture and other CID treatment, International instruments,	page 42	not impl.
61	Right to education	page 43	partially impl.
	Racial discrimination, Minorities, Migrants, Indigenous peoples,		
62	Freedom of religion and belief, Asylum-seekers - refugees,	page 43	not impl.
63	Women's rights, Treaty bodies,	page 43	not impl.
64	Special procedures, Right to housing,	page 45	not impl.
65	Women's rights, Indigenous peoples,	page 46	not impl.
68	Migrants, International instruments,	page 47	not impl.
71	International instruments, Indigenous peoples,	page 48	not impl.
73	Sexual rights	page 48	not impl.
74	UPR process, Civil society,	page 49	not impl.
75	Indigenous peoples	page 50	partially impl.
76	Death penalty	page 50	not impl.
77	UPR process	page 51	not impl.
79	International instruments, Indigenous peoples,	page 52	fully impl.
83	Migrants	page 52	partially impl.
84	International instruments, Indigenous peoples,	page 53	not impl.
85	ESC rights - general	page 54	not impl.
86	General	page 54	not impl.
88	Migrants, International instruments, Civil society,	page 55	fully impl.
89	Rights of the Child	page 56	not impl.
90	UPR process	page 56	not impl.
91	Treaty bodies, Indigenous peoples,	page 57	not impl.
92	International instruments, Indigenous peoples, Civil society,	page 58	not impl.
93	International instruments	page 58	not impl.
95	Racial discrimination	page 59	not impl.
96	International instruments	page 60	not impl.
97	Trafficking	page 61	not impl.
98	Treaty bodies, Labour,	page 61	not impl.
99	UPR process, International instruments, Civil society,	page 62	not impl.
100	Other	page 62	partially impl.
101	Migrants	page 63	not impl.
102	General	page 64	not impl.
103	Racial discrimination, Minorities, Freedom of religion and belief,	page 64	not impl.
104	Women's rights, Treaty bodies, Labour,	page 65	not impl.
106	Migrants, International instruments,	page 65	not impl.
107	Women's rights, Trafficking, Migrants, Detention conditions,	page 67	not impl.
	Women's rights, Rights of the Child, International instruments,		
108	Indigenous peoples,	page 68	not impl.



rec. n°	Issue	page	IRI
109	Poverty	page 69	not impl.
110	UPR process	page 69	not impl.
111	Development	page 70	not impl.
112	International instruments	page 71	not impl.
113	Women's rights, Indigenous peoples, Disabilities,	page 72	not impl.
114	Right to housing	page 73	not impl.

### 3. Feedbacks on recommendations

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Recommendation n°1: *Start awareness campaigns aimed at protecting certain persons and certain groups against stereotyping that associates them with terrorism and to envisage an amendment to the anti-terrorism law to improve a specific clause against discrimination, and to amend relevant legislation or to adopt legislation to criminalise acts of racist violence, consistent with article 4 of ICERD (Recommended by Algeria).*

IRI: *not implemented*

Justice for Mohamed Harkat (JMHC) response:

This has not been done. Further, recent announcements of coming legislation to be tabled in the House of Commons to renew the Anti-Terrorism Act clauses on Investigative Hearings (to compel individuals who the police believe have information concerning terrorist activity committed or knowledge of an offense the police think might be comment, to testify and provide information to a Judge. This includes providing information on the whereabouts of a person of suspect. Failure to comply is punishable by prison time), and Preventive Arrest (to allow police to hold an individual for up to 72 hours without charge or presenting evidence when terrorism is suspected), have not included any mention of statements against such stereotyping.

Native Women's Association of Canada (NWAC) response:

Its refusal to request the return of Omar Khadr to Canada despite a Supreme Court ruling concluding that the Canadian government is responsible for ongoing violations of his rights under the Charter, is a recent high profile example of this concern. Similarly the government's aggressive opposition to offering compensation and apologies to Abdullah Almalki, Ahmad Abou El Maati, Muayyed Nureddin and Abousfian Abdelrazik for the torture and other human rights violations they experienced, with Canadian complicity, fuels the concerns about profiling and discrimination. There were recommendations about profiling included in the report from the Maher Arar Inquiry but the government has never reported publicly on the progress of implementing any of those recommendations.

Recommendation n°2: *See to it that its action within and outside the Council was based on the commitments it has undertaken and on principles of objectivity, impartiality and non-selectivity (Recommended by Algeria).*

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

In regard to the UN Declaration, Canada repeatedly failed during its three-year term to uphold the principles of "including impartiality, objectivity, non-selectivity, and the elimination of double standards and politicization". In relation to Indigenous peoples and the Declaration, Canada pursued the lowest standards of any Council member within the Western European group of States. In 2007, Canada was the sole country on the 47-member Human Rights Council to vote against the Declaration at the General Assembly. Moreover, in relation to the UN Declaration, Canada encouraged other countries to in effect violate these founding principles. However, according to



the Government of Canada, Canada has accepted and implemented this recommendation.

Recommendation n°3: *Accede to ICRMW (Recommended by Algeria).*

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

Canada continues to violate the rights of migrant workers. The Federal Government has declined to implement the recommendations of the Standing Committee on Refugee and Immigration respecting the rights of workers in the Temporary Foreign Worker Programs and currently contesting a Charter claim advanced by an undocumented migrant who has been refused health coverage. Canada is not considering becoming a party to the OP-ICESCR, CED, ACHR, ICRMW, or ILO Convention 169.

Recommendation n°4: *Associate itself with the consensus on the institution-building package whose objective is to equip the Council with the mechanisms and rules necessary for its operation and implementation of its mandate (Recommended by Algeria).*

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

Canada does not accept the consensus on institution-building (HRC Res. 5/1, Annex) that includes the rights of peoples as human rights. In this regard, see comment on recommendation 11 supra. The Council was founded on the principle of respecting all human rights for all. The government of Canada does not accept that the Council violate its founding principles by including, as part of the institution-building package, a permanent agenda item that singles out a particular situation and by devising exceptional rules for one Special Rapporteur.

Recommendation n°5: *Consider the possibility of signing and ratifying the CED, as well as accepting the competence of its Committee (Recommended by Argentina).*

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

Canada is not considering becoming a party to the OP-ICESCR, CED, ACHR, ICRMW, or ILO Convention 169.

Recommendation n°6: *Ensure that all consultation and consent duties are respected by all responsible government agencies at federal and provincial level as well as to ensure that the relevant recommendations of United Nations treaty bodies are fully taken into account and that the specific claims processes do not restrict the progressive development of Aboriginal rights in the country (Recommended by Austria).*

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

I feel that the province of Alberta and its agencies are resisting the development of Aboriginal rights within the province. Alberta is currently paving the way for dramatic expansion of the oil sands industry, and is doing so without consideration of the impact it will have on Aboriginal residents. Alberta takes a particularly hard stand on Treaty No. 8 which these Aboriginal communities signed in 1899, arguing that Treaty



No. 8 is a total surrender of rights to the land. This continues despite numerous Supreme Court of Canada decisions in other Canadian provinces.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Canada has struggled to reconcile indigenous people's land rights with corporate development. The Lubicon Cree, an indigenous group in Alberta, has never signed a treaty with the government and therefore has no reserve lands. Intermittent dialogue over 60 years failed to reach a resolution, with negotiations breaking down in 2003. As far back as 1990, the UN Human Rights Committee ruled that the Canadian government had violated the rights of the Lubicon Cree, resulting in an assurance by the government that it would reach a negotiated settlement. Since then, various UN committees have expressed concern about the situation and urged the government to resolve it. Despite this, no resolution was reached till the end of the reporting period and the government continued to hand out licences for oil and gas extraction in areas traditionally claimed by the Lubicon Cree.

First Nations Summit - Etal (FNS) response:

Canada released its "Aboriginal Consultation and Accommodation - Updated Guidelines for Federal Officials to Fulfill the Duty to Consult" in March 2011. The First Nations Summit has significant concerns about Canada's approach to its legal duty to consult and accommodate Aboriginal rights, including concern that Canada has not reflected the United Nations Declaration on the Rights of Indigenous Peoples' (UNDRIP) minimum standard of obtaining First Nations' free, prior and informed consent. The First Nations Summit is currently working with other First Nations organizations in British Columbia (BC) to examine the federal and provincial policies for consultation and accommodation.

International Indian Treaty Council (IITC) response:

Although this recommendation was accepted, Canada has not taken any steps to fulfil it. One major case in point is Tar Sands mining and development and the XL pipeline, where governmental action in furtherance of this extremely damaging resource extraction is being carried out without reference to treaty body recommendations regarding consultation and consent, and the requirements of the UN Declaration on the rights of indigenous peoples not followed. There has been no consultation nor consideration of the many vocal protests of the Aboriginal peoples of Northern Alberta.

Native Women's Association of Canada (NWAC) response:

Canada claims that, as part of a comprehensive Action Plan on Aboriginal Consultation and Accommodation, Interim Consultation Guidelines are in place for federal officials. Provinces also ensure that their arrangements are consistent with provincial consultation duties. Canada is continually seeking to improve land claims processes, whose goal is not to restrict the progressive development of Aboriginal rights, but rather to reconcile competing interests in a manner that allows for harmonious co-existence of Aboriginal and non-Aboriginal Canadians. However, Canada's Interim Consultation Guidelines are not "comprehensive". In *Haida Nation v. British Columbia (Minister of Forests)*, Canada's highest court has ruled that the nature and scope of the Crown's duty to consult would require the "full consent of

[the] aboriginal nation ...on very serious issues". To date, the government of Canada has been selective. It has not substantively addressed this criterion of "consent" in its Interim Guidelines on consultation and accommodation. The same omission is found among provincial policies. In addition, it would be difficult to conclude that land claims processes do not restrict the "progressive development of Aboriginal rights". For example, in regard to 21 Indigenous signatories of modern land claims agreements, see Land Claims Agreements Coalition (LCAC), "Universal Periodic Review of Canada: Submission of the Land Claims Agreements Coalition (LCAC) to the United Nations Human Rights Council, September 8, 2008": "the ink is barely dry on each land claims agreement before the federal government, and especially its officials, abandons any talk of the broad objectives of the agreement, and proceeds instead on the basis that the government's sole responsibility is to fulfil the narrow legal obligations set out in the agreement."

*Recommendation n°7 : Take measures to help effective access to justice for victims of domestic violence and provide immediate means of redress and protection. (Recommended by Austria).*

*IRI: not implemented*

Pivot Legal Society (PL) response:

There is a lack of access to justice for women victims of domestic violence. Women who have experienced violence are often struggling to navigate multiple areas of law. In 2002, BC saw a 40% reduction in legal aid funding, and the impact was felt most profoundly by women, with the majority of cuts coming in the areas of family law and poverty law. In 2009 we saw another round of cuts which included:

- cuts to the tariffs for family, immigration and criminal law;
- stricter screening processes and eligibility requirements for clients;
- the closing of the family law clinic;
- reductions in staff lawyers; and
- reductions in services for people who cannot access legal representation through LSS, including cuts to the staffing of the LawLINE and family and other duty counsel.

For many women in BC coming to court to enter a complaint about spousal violence is a dangerous prospect. If the court issues a protection order, it often is not enforced. Furthermore, domestic violence complainants are often simultaneously negotiating for child custody and access in the court without legal support. In BC violence against the mother is not taken in account in child custody matters, and often this is more important to the woman than securing a criminal conviction.

Native Women's Association of Canada (NWAC) response:

Canada accepts the underlying principles of this recommendation. Despite this, several reports identify a need for more attention to support for children affected by domestic violence. Differences between provinces result in inequities in access to services.

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Women's rights groups faced funding cuts by the government during the reporting period, a fact that was noted by the Committee on the Elimination of Discrimination against Women. A funding programme run by the government's Status of Women Committee developed new guidelines for NGOs which stipulated that funding for domestic advocacy, lobbying or research would no longer be granted. The resulting lack of funds forced several NGOs to shut down or severely restrict their work.

**Recommendation n°8:** *Study and address the root causes of domestic violence against women, in particular Aboriginal women (Recommended by Austria).*

**IRI: not implemented**

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Indigenous women are subject to excessive violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.

International Indian Treaty Council (IITC) response:

Numerous studies by government as well as NGO are still effectively ignored by Canada with reference to violence against Indigenous women.

Native Women's Association of Canada (NWAC) response:

Canada continues to fail to adopt a comprehensive national action plan to address violence and discrimination against Aboriginal women.

Sisters in Spirit research to be renewed this coming fiscal year: problem associated with apathetic cooperation by authorities i.e. RCMP

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed

Sisters in Spirit funding renewal is still in question with no firm commitment or even indication as to whether or not NWAC's funding will be renewed – under the Status of Women NAWs I & II have surveyed Indigenous women on this issue but to date, there is no indication of commitment on creating a national strategy on this issue

Issues which are the root causes of these issues such as colonization, oppression and paternalistic policies that interfere with Indigenous women and children's well being and rights have not yet been properly addressed by Canada. See Amnesty International's "Stolen Sisters" update.

**Recommendation n°9:** *Continue consultations on the issue of the United Nations Declaration on the Rights of Indigenous Peoples, with all stakeholders with a view to being able to support the Declaration in the future (Recommended by Austria).*

**IRI: fully implemented**

Athabasca Chipewyan First Nation (ACFN) response:

I think Canada has signed.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. On 3 March 2010, the government made a public commitment to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples.

International Indian Treaty Council (IITC) response:

Canada's opposition to the UNDRIP remains unabated. See, tar sands example, above.

Citizens for Public Justice (CPJ) response:

Despite its earlier rejection, the Government of Canada officially endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on November 12, 2010. It is still unclear as to how the endorsement will be implemented in Canadian law, policies, and programs. The effective realization of Indigenous rights is of utmost importance in Canada. The Canadian Human Rights Commission has said, for example, that "the social and economic situation of Aboriginal people [is] among the most pressing human rights issues facing Canada". We encourage the government to effectively implement the endorsement.

Land Claims Agreements Coalition (LCAC) response:

In November 2010, Canada announced its endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Regrettably, Canada's endorsement of UNDRIP has not brought about change in its policies and practices in respect of the implementation of modern treaties. The Government of Canada's continuing failure to fully and meaningfully implement the modern treaties continues to undermine the realization of the human rights objectives of these treaties, which were intended to ensure the socio-economic, political and cultural survival, well-being and development of Aboriginal peoples as peoples.

Native Women's Association of Canada (NWAC) response:

The Canadian government has not only opposed the UN Declaration, but also encouraged States with abusive human rights records to do the same. In regard to Indigenous peoples' rights to cultural heritage, intellectual property, etc., Canada has sought to undermine or deny those rights in standard-setting processes at or relating to the OAS, WIPO, Convention on Biological Diversity and climate change. In many instances, the government has opposed use of the term "indigenous peoples". Since 2006, Canada has failed to consult Indigenous peoples in taking positions that undermine their rights.

Recommendation n°10: *Effectively implement United Nations treaty bodies' recommendations* (Recommended by Azerbaijan).

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

Five Treaty Bodies have recommended, since the late 1990s that the Aboriginal Peoples of Canada are in grave risk and that their rights to land and resources, as well as their right of Self Determination should be respected. The Royal Commission

on Aboriginal Peoples in 1996 recommended that Aboriginal Peoples be granted greater access to lands and resources, but Canada, in spite of 5 treaty body recommendations that Canada accept and implement these recommendations, has never implemented them.

Native Women's Association of Canada (NWAC) response:

Effective Implementation of Treaty Body Recommendations

Progress at 1 year:

- No evidence of change or discussion of reform
- Reports issued since UPR (CRC Third Report) and invitation for input in next reports show no change or recognition of need for more effective process and participation of civil society
- Fall meeting of Continuing Committee could have started reform process; no indication of willingness to engage with civil society to discuss reform.
- Officials continue to defend the current system and do not recognize the need for and scope of reform in UPR recommendations.

Recommendation n°11: *Ratify the OP-CAT* (Recommended by Azerbaijan).

IRI: *not implemented*

Justice for Mohamed Harkat (JMHC) response:

Canada has not yet ratified the OP-CAT.

Recommendation n°12: *Intensify efforts to combat racism, racial discrimination and xenophobia* (Recommended by Azerbaijan).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

There have been widely publicized cases of Canada implementing its anti-hate laws to punish perpetrators of extreme acts of racism. By comparison there is much less effort to reduce the less overt but widespread racial and ethnic discrimination faced by certain minorities including Aboriginal people.

Justice for Mohamed Harkat (JMHC) response:

This has not been done. If anything, recent actions by the government to paint certain refugees as terrorists and/or "queue-jumpers" have worked in the opposite direction, fanning the flames of racism and xenophobia.

Native Women's Association of Canada (NWAC) response:

Canada accepts this recommendation, claiming that Canada already combats racism and discrimination against all groups, including Aboriginal people, with an emphasis on initiatives that strengthen inter-cultural and interfaith understanding. However, the Canadian government continues to discriminate against Indigenous peoples in Canada and elsewhere in the world, by not endorsing the UN Declaration. Equality principles include the right to be different. The Declaration, which predominantly addresses the collective human rights of Indigenous peoples, serves to fill in gaps in international human rights instruments which predominantly address individual rights.



Recommendation n°13: *Take effective measures to combat and put an end to discrimination against indigenous population and to elaborate and implement a National Action Plan to deal with this phenomenon* (Recommended by Azerbaijan).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

The Government of Alberta has given no indication that it is prepared to recognize the rights of the Dene and Cree signatories of Treaty No. 8, 1899. Alberta insists that Treaty 8 is a treaty of unconditional surrender, which is at odds with Supreme Court of Canada rulings. Canada is complicit in the discrimination against aboriginal people by not honouring the intent of Treaty No. 8.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. In February 2010, it was reported that six of Canada's ten poorest postal codes in 2006 were First Nations (indigenous) communities. Indigenous children were more likely to be moved from their parents, with one in ten ending up in foster care as opposed to one in 200 non-indigenous children. This was particularly controversial in light of accusations that child welfare agencies serving First Nations reserves received 22 per cent less funding than provincial agencies. A case was filed before the Canadian Human Rights Tribunal to determine whether this constituted discrimination. Citizens from indigenous backgrounds were also disproportionately represented within prisons. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008. The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal prison population. Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes. Beyond high levels of incarceration, indigenous women are subject to excess violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.

In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population.

First Nations Summit - Etal (FNS) response:

Canada and First Nations (through the Assembly of First Nations) have agreed to the "Canada-First Nations Joint Action Plan" in order to advance a constructive relationship based on core principles of mutual understanding, respect, ensuring mutually acceptable outcomes and accountability. The implementation details for the Joint Action Plan have not yet been made public, although we have been advised that Canada and the Assembly of First Nations are planning a First Nations-Crown Gathering to advance the commitments made in the Joint Action Plan. As the details



are not yet known, it is too early to say whether the spirit and intent of this Action Plan will be lived up to by Canada.

International Indian Treaty Council (IITC) response:

Canada has as yet not elaborated or implemented any such comprehensive plan. It has commissioned a Truth and Reconciliation Commission on the kidnapping of children forced into boarding schools, but the result and Canada's response have yet to be announced.

Native Women's Association of Canada (NWAC) response:

Canada accepts this recommendation, claiming that Canada already combats racism and discrimination against all groups, including Aboriginal people, with an emphasis on initiatives that strengthen inter-cultural and interfaith understanding.

Recommendation n°15: *Systematically investigate and collect data on violence against women and to disseminate this information* (Recommended by Belgium).

IRI: *partially implemented*

Athabasca Chipewyan First Nation (ACFN) response:

I believe this is happening.

Disability Right Promotion International Canada (DRPI) response:

Although Statistics Canada and other agencies made efforts to improve tools and methodologies to collect data on violence against women, there are still gaps that remain in the data to get a more complete picture on this important social issue. For example, detailed data is still needed for Aboriginal people, visible minorities and immigrant women on sexual assault and violence. The latter data is especially important for women with disabilities, as previous studies have shown that the risk of sexual abuse of persons with disabilities is at least 150% of that for individuals of similar age without disabilities. (DAWN Ontario, Disabled Women's Network Ontario, 2006).

Native Women's Association of Canada (NWAC) response:

Canada accepted the underlying principles of this recommendation, claiming that legislation and programs are in place in Canada to ensure access to protection and redress for victims of domestic violence. For example, provincial and territorial domestic/family violence legislation provides for emergency protection orders and other civil restraining orders, and domestic violence courts have been established in seven jurisdictions. There are also a variety of victims' services and programs that address domestic violence, including police-based and compensation programs. Some provinces and territories have specialized programs that provide culturally-appropriate responses in cases of domestic violence involving Aboriginal victims and offenders. However, no extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

Aboriginal women need more support in regards to their socioeconomic situation – low income means reduced access to safe and secure housing for their single parent families.

Women living in remote communities must tackle challenges such as money to travel either alone or with their children, trouble finding culturally relevant programs and services, separation from their home and families, etc. Canada continues to fail to adopt a comprehensive national action plan to address violence and discrimination against Aboriginal women.

*Recommendation n°16: Take measures to combat socioeconomic discrimination, which is a cause of continuous violence against Aboriginal women, and to inform them better of their rights (Recommended by Belgium).*

**IRI: not implemented**

Athabasca Chipewyan First Nation (ACFN) response:

Very little effective work has been done by Government of Canada to combat this type of discrimination. The Prime Minister is from Alberta.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. In February 2010, it was reported that six of Canada's ten poorest postal codes in 2006 were First Nations (indigenous) communities. Indigenous children were more likely to be moved from their parents, with one in ten ending up in foster care as opposed to one in 200 non-indigenous children. This was particularly controversial in light of accusations that child welfare agencies serving First Nations reserves received 22 per cent less funding than provincial agencies. A case was filed before the Canadian Human Rights Tribunal to determine whether this constituted discrimination. Citizens from indigenous backgrounds were also disproportionately represented within prisons. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008. The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal prison population. Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes. Beyond high levels of incarceration, indigenous women are subject to excess violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately. Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the Games were awarded to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver. The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole. In March 2009, the Special Rapporteur on the right to housing

presented the Council with the findings of his mission report to Canada. It highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous people and a need to expand public housing. In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population. Indigenous groups were divided over whether the Games were a positive or negative development. Much of the Games took place on what many First Nations groups consider to be stolen First Nations land and there were also concerns about the negative environmental impact on the land.

International Indian Treaty Council (IITC) response:

No such measures have been taken.

Pivot Legal Society (PL) response:

a. There has been no concerted effort to address women's poverty, in [British Columbia] particularly the poverty experienced by single mothers and racialized women. Income assistance rates remain well below the poverty line, and shelter allowances do not reflect the real cost of housing, especially in the lower mainland. Most women raising children on income assistance have to use part of their small support allowance; that is meant for food, clothing and other necessities to cover shortfalls in the shelter allowance. (A single mother on disability with 2 children is given a shelter allowance of \$660, while the average 2 bedroom apartment in Vancouver rents for approx. \$1400 a month) There also remains a significant lack of affordable, quality childcare in British Columbia with an estimated 121,000 children living below the poverty line in British Columbia as of 2010.

Native Women's Association of Canada (NWAC) response:

Governments are addressing women's economic security, including the distinct obstacles faced by Aboriginal women. Canada is committed to legislation to end a clear inequality, often adversely affecting Aboriginal women and children, to ensure that, in the event of a marriage or common law relationship break down, Aboriginal people on reserve are afforded the same rights and protections that all other Canadians currently enjoy. As with other treaties, the GOC has taken no steps to ensure the implementation of CEDAW recommendations. The Government of Canada was asked by the CEDAW Committee to report back to it in November 2009 on steps it had taken to address inadequate social assistance rates and missing and murdered Aboriginal women. The Government filed its report late, perhaps because it has not taken any steps to address these two issues raised by CEDAW. It has not addressed any of the other issues listed in UPR recommendation 27.

One third of the women serving prison sentences of two years or more are Indigenous and they make up vastly disproportionate number of the women held in pre-trial custody. They are also over-classified as a result of discriminatory assessment and classification tools, a situation that has not yet been remedied, despite recommendations to this effect by the Arbour Commission, the CHRC and UNHRC.

Beyond moving toward ratification of the CRPD, the GOC has not taken steps to address discrimination against disabled women – which occurs in every sector.

Canada continues to fail to adopt a comprehensive national action plan to address violence and discrimination against Aboriginal women.

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

Mclvor decision does not adequately address the issues of gender discrimination re: "Indian Status" therefore many are still not able to live in their communities of birth due to INAC's criteria for band membership codes

*Recommendation n°17: Implement in national legislation the prohibition and criminalization of all types of violence against women and children, specially indigenous women and children, in accordance with the commitments acquired in the corresponding Conventions (Recommended by Bolivia).*

IRI: *partially implemented*

Commonwealth Human Rights Initiative (CHRI) response:

"This information valid as of May 2010. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008. The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal prison population. Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes. Beyond high levels of incarceration, indigenous women are subject to excess violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.

Women's rights groups faced funding cuts by the government during the reporting period, a fact that was noted by the Committee on the Elimination of Discrimination against Women. A funding programme run by the government's Status of Women Committee developed new guidelines for NGOs which stipulated that funding for domestic advocacy, lobbying or research would no longer be granted. The resulting lack of funds forced several NGOs to shut down or severely restrict their work. A report published in February 2010 by an alliance of feminist and labour activists noted that Canada's ranking in the World Economic Forum's Gender-Gap Index had dropped from the fourteenth position in 2006 to the twenty-fifth in 2009. This was partially due to a widening wage gap between men and women"

International Indian Treaty Council (IITC) response:

Such measures are still left up to Provincial governments and there is no systematic response.

Native Women's Association of Canada (NWAC) response:

Research and consultation is required before determining if the implementation of national legislation to prohibit and criminalize all types of violence against Indigenous women and children would adequately address this issue. For Indigenous women, access to culturally relevant means and protection for victims of domestic violence might be more pertinent in this case.

*Recommendation n°18: Implement in national norms, the commitments made when ratifying the ICESCR and the CERD through the implementation of the recommendations which have come out of their respective Committees (Recommended by Bolivia).*

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

Major recommendations from the CERD and Human rights Committee, for example, have not been taken.

Pivot Legal Society (PL) response:

One of the commitments stemming from the ICESCR was the implementation of a Right to Housing. This year the federal government failed to pass Bill C-304, a bill for a national housing strategy, which was meant to be a major step in implementing the commitments to housing under the ICESCR. Introduced by a coalition of the minority parties the Bill was heading towards approval before an election was called and all bills in progress were killed. There is little chance of the current governing party, which won a majority in the election, advancing the Bill in the new parliament as they were the only party to oppose it. As it stands currently the federal government has failed in all respects to implement the commitments made in the ICESCR related to housing. As a result of this non-governmental organizations have been forced to bring litigation against the government asking the courts to recognize a Right to Housing for Canadian citizens. In Ontario the housing advocacy group ACTO (Advocacy Centre for Tenants Ontario) has initiated such a challenge using the Canadian Charter of Rights and Freedoms.

Native Women's Association of Canada (NWAC) response:

Effective Implementation of Treaty Body Recommendations (Recommendation 15)

Progress at 1 year:

- No evidence of change or discussion of reform
- Reports issued since UPR (CRC Third Report) and invitation for input in next reports show no change or recognition of need for more effective process and participation of civil society
- Fall meeting of Continuing Committee could have started reform process; no indication of willingness to engage with civil society to discuss reform.
- Officials continue to defend the current system and do not recognize the need for and scope of reform in UPR recommendations.

*Recommendation n°19 : Request from OHCHR the necessary support for the process of ratification of a greater number of international human rights instruments (Recommended by Bolivia).*

IRI: -



Native Women's Association of Canada (NWAC) response:

Canada will request assistance from the OHCHR should the need arise. We recommend increased parliamentary involvement in review of decisions regarding non-ratification. It is not enough to report to parliament only on affirmative decisions to ratify.

Recommendation n°20: Ratify and implement in national norms ILO Convention 169 (Recommended by *Bolivia*).

IRI: -

Athabasca Chipewyan First Nation (ACFN) response:

I doubt the Harper Government is willing to do anything that might be construed as giving aboriginal people free choice.

International Indian Treaty Council (IITC) response:

This is a reflection of the present government of Canada's hostility toward Indigenous Peoples.

Recommendation n°21: *Take the provisions of the United Nations Declaration on the Rights of Indigenous Peoples into account in the national legislation, because the Declaration is a United Nations document and represents guidelines for the conduct of States* (Recommended by *Bolivia*).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

[...]

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. On 3 March 2010, the government made a public commitment to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples.

First Nations Summit - Etal (FNS) response:

Since Canada issued a statement of support endorsing the UNDRIP on November 12, 2010, Canada should update its response to this recommendation and work jointly with First Nations to determine how to take the UNDRIP into account in national legislation.

International Indian Treaty Council (IITC) response:

The CERD Committee has in effect made such a recommendation as well, with no positive response from the government of Canada.

Citizens for Public Justice (CPJ) response:

[...] Despite its earlier rejection, the Government of Canada officially endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on November 12, 2010. It is still unclear as to how the endorsement will be implemented in Canadian law, policies, and programs. The effective realization of Indigenous rights is of utmost importance in Canada. The Canadian Human Rights Commission has said, for example, that "the social and economic situation of Aboriginal people [is]



among the most pressing human rights issues facing Canada". We encourage the government to effectively implement the endorsement.

LCAC response:

In November 2010, Canada announced its endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Regrettably, Canada's endorsement of UNDRIP has not brought about change in its policies and practices in respect of the implementation of modern treaties. The Government of Canada's continuing failure to fully and meaningfully implement the modern treaties continues to undermine the realization of the human rights objectives of these treaties, which were intended to ensure the socio-economic, political and cultural survival, well-being and development of Aboriginal peoples as peoples.

Native Women's Association of Canada (NWAC) response:

The Canadian government has not only opposed the UN Declaration, but also encouraged States with abusive human rights records to do the same. In regard to Indigenous peoples' rights to cultural heritage, intellectual property, etc., Canada has sought to undermine or deny those rights in standard-setting processes at or relating to the OAS, WIPO, Convention on Biological Diversity and climate change. In many instances, the government has opposed use of the term "indigenous peoples". Since 2006, Canada has failed to consult Indigenous peoples in taking positions that undermine their rights.

Recommendation n°22: *Consider signing and ratifying the OP-CAT* (Recommended by *Brazil*).

IRI: *not implemented*

+

Recommendation n°28: *Consider signing and ratifying the OP-CAT* (Recommended by *Chile*).

IRI: *not implemented*

+

Recommendation n°38: *Ratify the OP-CAT and establish an effective National Preventive Mechanism* (Recommended by *Denmark*).

IRI: *not implemented*

+

Recommendation n°49: *Ratify the OP-CAT and establish an effective National Preventive Mechanism* (Recommended by *France*).

IRI: *not implemented*

+

Recommendation n°59: *Accede to the OP-CAT and establish an effective National Preventive Mechanism as required under the Protocol* (Recommended by *Liechtenstein*).

IRI: *not implemented*

Justice for Mohamed Harkat (JMHC) response:

Not done.

Recommendation n°23: *Re-consider the approach on the nature of prohibition of torture and to review the non-refoulement principles in its domestic legislation (Recommended by Brazil).*

IRI: *not implemented*

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. In January 2009, the UN Special Rapporteur on torture reported that there was strong evidence that Canada had helped secure the arrest and extraordinary rendition of terror suspects by the United States to secret detention centres. In October 2008, an independent inquiry launched by the Canadian government concluded that Canadian officials contributed indirectly to the detention and torture of three Canadian citizens in Syria. On 5 May 2010, it was reported that a senior official of the Canadian Security Intelligence Service suggested to a parliamentary committee that the average Canadian would accept the use of intelligence obtained from torture if it saved Canadian lives

Justice for Mohamed Harkat (JMHC) response:

Not done. The revisions made to the Security Certificate process have not addressed problems with Canada's compliance with refoulement principles. No review has been conducted as far as we know.

Native Women's Association of Canada (NWAC) response:

Canada regularly uses the "exceptional circumstances" qualification to argue that individuals should be deported, even if they face a risk of torture. This has been the case, for example, in all of the pending immigration security certificate cases.

Recommendation n°24: Adhere to the American Convention on Human Rights (Recommended by Brazil).

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

Canada is not a party to the American Convention.

Recommendation n°25: Within the context of paragraph 1 a of resolution 9-12 of the Human Rights Council, entitled Human Rights Goals, withdraw Canadian reservations to the Convention on the Rights of the Child, particularly regarding the duty to detain children separately from adults (Recommended by Brazil).

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

(GOC response) "Canada does not accept recommendation 9. Canada's two reservations to the CRC were entered following consultations with all governments and with national Aboriginal organizations."

For clarity, the "consultations" with [national Aboriginal organizations] refer to meetings in 1989 or 1990. The current government has never consulted Indigenous organizations on international human rights instruments, including the UN Declaration.

Recommendation n°26: *Recognize the justiciability of social, economic and cultural rights, in accordance with the Optional Protocol to ICESCR (Recommended by Brazil).*

IRI: *not implemented*

Canadian HIVAIDS Legal Network (CHLN) response:

The Government of Canada continues to maintain the position that the rights in the ICESCR are non-justiciable.

International Indian Treaty Council (IITC) response:

Canada is not a party to the Optional Protocol.

Native Women's Association of Canada (NWAC) response:

The Canadian government does not “strive to give the same importance” to all human rights. Canada’s refusal to recognize the right to effective remedies for ESC rights has led to increasingly regressive positions internationally, and to ongoing violations of ESC rights domestically. In regard to Indigenous peoples, the government actively opposes and undermines their human rights (as affirmed in the UN Declaration).

Cultural and identity rights are not justiciable in Canada. For Aboriginal peoples this is a real problem (for ex: Residential School Apology contains no reconciliation re: attempts to destroy Indigenous identity, language, culture, socio-political structures etc)

Recommendation n°27: *Ratify as soon as possible ICRPD (Recommended by Chile).*

IRI: *fully implemented*

HIVAIDS Legal Network (CHLN) response:

The Government of Canada has ratified the ICRPD.

Emily Cameron (EC) response:

The International Convention on the Rights of Persons with Disabilities (ICRPD) was ratified in March 2010; however, the Optional Protocol, which allows for individual petitions and the possibility of inquiries into violations of the ICRPD, has not been ratified. The Optional Protocol would not only strengthen citizens' recourse to rights violations, and challenge those instances of systemic rights violations, but also allow for international exposure of, and engage a broader audience in, discussions of needed policy initiatives on poverty alleviation, accessibility and access to disability-related supports, labour force participation, as well as initiatives that focus on the specific needs of Aboriginal peoples and women with disabilities.

Native Women's Association of Canada (NWAC) response:

Canada has signed the CRPD and announced in parliament its intention to ratify it with a reservation. This announcement was made on December 3rd 2009, and as per recent legislation on international treaties, it is meant to sit in the house for 21 (Parliamentary sitting) days; so, the Ratification has been slightly delayed by the Prorogation, but is expected soon. Unfortunately, Canada has completely ignored the Optional Protocol to the CRPD, which the majority of ratifying states have ratified

concurrently. While we welcome the imminent ratification of the CRPD, we believe a complaints procedure is also a critical component to the CRPD and its purposes.

Recommendation n°31: *Ratify as soon as possible ICRPD (Recommended by China).*

IRI: *fully implemented*

HIVAIDS Legal Network (CHLN) response:

The Government of Canada has ratified the ICRPD.

Emily Cameron (EC) response:

Though the ICRPD was ratified in March 2010, a clear federal action plan or framework for implementation of the ICRPD is not available. The government has received concrete recommendations - related to national monitoring and reporting mechanisms, as well as participation strategies - from several non-governmental organizations run by and for citizens with disabilities. If the April 2012 deadline is met for the first committee report, and stakeholder consultations are included, this report will be a public means to determine whether progress was made in regard to ICRPD implementation, as well as the level of commitment of the federal government to reduce the gap between current realities and the goals of the ICRPD. It is worth noting that the website for the Office for Disability Issues (ODI), within the Department of Human Resources and Skills Development Canada, does not carry information on ICRPD implementation progress made by the Canadian government, nor does the Canadian Human Rights Commission (CHRC). The CHRC website does include international guidance on monitoring the rights of persons with disabilities, but information on the current status of implementation is not available. Certainly, a key component of increasing stakeholder participation in the process of implementation requires readily available information on progress.

Disability Rights Promotion International (DRPI) response:

Canada ratified the CRPD on March 11, 2010. However, it has not yet signed or ratified the Optional Protocol to the CRPD. Also Canada's reservation on Article 12 implies that there is an intention to maintain both substitute and supported-decision making in Canada's legal framework.

Native Women's Association of Canada (NWAC) response:

Canada has signed the CRPD and announced in parliament its intention to ratify it with a reservation." This announcement was made on December 3rd 2009, and as per recent legislation on international treaties, it is meant to sit in the house for 21 (Parliamentary sitting) days; so, the Ratification has been slightly delayed by the Prorogation, but is expected soon. Unfortunately, Canada has completely ignored the Optional Protocol to the CRPD, which the majority of ratifying states have ratified concurrently. While we welcome the imminent ratification of the CRPD, we believe a complaints procedure is also a critical component to the CRPD and its purposes.

Recommendation n°32: *Integrate economic social and cultural rights in its poverty reduction strategies in a way that can benefit the most vulnerable groups in society, specially the Aborigines, afro-Canadians, migrants, persons with disabilities, youth, women with low incomes, and single mothers and adopt all necessary measures,*

*including the full implementation of the United Nations Declaration on the Rights of Indigenous Peoples, to guarantee Aboriginals the full enjoyment of their rights including economic, social and cultural so that their standard of living was similar to that of the rest of the citizens in Canada (Recommended by Cuba).*

**IRI: not implemented**

Athabasca Chipewyan First Nation (ACFN) response:

Many good efforts are made on a local scale but Canada's Harper Government will not support this type of program on a national level.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. On 3 March 2010, the government made a public commitment to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples. Discrepancies between the quality of life of indigenous and non-indigenous citizens continued. In February 2010, it was reported that six of Canada's ten poorest postal codes in 2006 were First Nations (indigenous) communities. Indigenous children were more likely to be moved from their parents, with one in ten ending up in foster care as opposed to one in 200 non-indigenous children. This was particularly controversial in light of accusations that child welfare agencies serving First Nations reserves received 22 per cent less funding than provincial agencies. A case was filed before the Canadian Human Rights Tribunal to determine whether this constituted discrimination. Citizens from indigenous backgrounds were also disproportionately represented within prisons. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008. The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal prison population. Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes. Beyond high levels of incarceration, indigenous women are subject to excess violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.

First Nations Summit - Etal (FNS) response:

The First Nations Summit urges Canada to fully implement the UNDRIP, which sets out the basic and fundamental rights of Aboriginal peoples. The full implementation of the UNDRIP is required in order to enable Aboriginal people in Canada to fully benefit from their Aboriginal and treaty rights, which are recognized and affirmed under section 35 of the Canadian Constitution Act, 1982. This, in turn, would allow Aboriginal people to become full participants in the Canadian economy and thus improve their standard of living.

International Indian Treaty Council (IITC) response:

This recommendation can be read in many ways. In some ways, it calls for the assimilation of Aboriginal Peoples in economic, social and cultural as the rest of the



citizens of Canada. But when read in reference to the UNDRIP the Canadian government remains hostile to the full implementation of the UNDRIP particularly the right consultation and free, prior and informed consent.

Emily Cameron (EC) response:

Currently, there are discrepancies in the economic rights of persons with disabilities across the provinces and territories of Canada; there are provinces in Canada where citizens with disabilities have access to better income supports than in others. More importantly, regardless of parity, even the best provincial income supports designed for persons with disabilities remain inadequate. If the Canadian government seeks to reduce poverty, a federal poverty alleviation strategy with specific policies designed to address these provincial and territorial discrepancies - with policies that address the inadequate minimum income for disabled citizens who access social security payments - would be an initial step in reducing the vulnerability of a large minority of citizens who remain overrepresented in national poverty and underemployment measurements.

Disability Rights Promotion International (DRPI) response:

In practice, most vulnerable groups face significant barriers in the realization of their economic, social and cultural rights. For example, a recent report HungerCount 2010 showed that food bank use reached record levels in 2010, having risen over the last 2 years rising by 28%. Among people using food banks, 12% are Indigenous and 15% people on disability-related income supports. Low income is the main root of this situation. Results from face-to-face over 100 qualitative interviews conducted with people with disabilities in our DRPI - Canada study of individual experiences monitoring, inadequate income supports represent an overwhelming barrier to self-determination. Lack of accessible and affordable housing options represent were a significant barrier reported for these people to an adequate standard of living and to choice of where and with whom to live.

Citizens for Public Justice (CPJ) response:

[...] Despite it's earlier rejection, the Government of Canada officially endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on November 12, 2010. It is still unclear as to how the endorsement will be implemented in Canadian law, policies, and programs. The effective realization of Indigenous rights is of utmost importance in Canada. The Canadian Human Rights Commission has said, for example, that "the social and economic situation of Aboriginal people [is] among the most pressing human rights issues facing Canada". We encourage the government to effectively implement the endorsement.

LCAC response:

The Government of Canada's continuing failure to fully and meaningfully implement modern treaties with Aboriginal peoples includes a persistent failure to acknowledge that comprehensive land claims agreements can and should serve to bring about the inclusion of Aboriginal peoples into the regional, provincial/ territorial and national economies of which they and their lands and resources are part, and, over time, to improve the material well being of Aboriginal peoples while enriching the country as a whole.



Native Women's Association of Canada (NWAC) response:

The Canadian government has not only opposed the UN Declaration, but also encouraged States with abusive human rights records to do the same. In regard to Indigenous peoples' rights to cultural heritage, intellectual property, etc., Canada has sought to undermine or deny those rights in standard-setting processes at or relating to the OAS, WIPO, Convention on Biological Diversity and climate change. In many instances, the government has opposed use of the term "indigenous peoples". Since 2006, Canada has failed to consult Indigenous peoples in taking positions that undermine their rights.

*Recommendation n°33: Accede to the OP-CAT and establish an effective National Preventive Mechanism and further adopt additional measures to ensure its full implementation without any exceptions of the principle of non-refoulement. (Recommended by Czech Republic).*

*IRI: not implemented*

Justice for Mohamed Harkat (JMHC) response:

Not done. Refoulement principles are still not addressed.

*Recommendation n°34: Include participation of civil society in mechanisms and procedures that are in place for national follow up to recommendations of treaty bodies and publication of the concluding recommendations of treaty bodies (Recommended by Czech Republic).*

*IRI: not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

The Harper Government will not or cannot do this. Canada has breached many treaties and continues to do so. A good example is the oil sands where Treaty No. 8 is not being recognized and aboriginal leaders are forced to spend precious resources in court battles to defend their rights.

International Indian Treaty Council (IITC) response:

The Canadian Government has not adopted any mechanisms for follow-up to treaty body recommendations particularly by Indigenous Peoples.

Disability Rights Promotion International (DRPI) response:

In relation with the CRPD, we have been involved in a few events. One of these events was the Roundtable on Ratification of the CRPD organized in June 2009 by the Department of Human Resources and Skills Development Canada. In March 2010, the DRPI Director was been invited to an expert consultation organized by the Canadian Human Rights Commission to examine how the Commission can more effectively address the systemic issues faced by people with disabilities. We have also been asked to provide feedback on the outline of Canada's initial report to the UN on the CRPD. In spite of these sporadic events and small-scale initiatives such as the DRPI individual monitoring studies, there are no national on-going efforts to ensure the sustainability of civil society participation in the implementation of the CRPD. DRPI has not been asked to share its research results in any scheduled forum with government officials reviewing the implementation of CRPD.

Justice for Girls (JfGOS) response:

a. De-funding of Civil Society, Research, and Watchdog Groups Since Canada's UPR in 2009, the federal government has been systematically defunding or reducing funding to civil society groups. An unofficial count by a Canadian coalition whose mandate is to defend democracy, free speech and transparency in Canada, cites 13 organizations/watchdogs whose staff had been fired, forced out, publicly maligned, or who have resigned in protest against the current federal government. In addition, the federal government has cut or reduced funding to 74 Civil Society groups and research bodies who play critical roles in promoting and monitoring human rights and environmental justice in Canada.

b. Spying on Indigenous Leaders and Human Rights Defenders It has recently come to light that the Government of Canada is spying on Indigenous leaders and human rights defenders. For example, the government has been gathering intelligence and spying on a well respected Indigenous children's rights advocate and the Assembly of First Nations. In fact Indigenous organizations have been the subject of multiple and ongoing surveillance operations by the Canadian Government. There are other recent examples of Canada's extensive efforts to spy on civil society groups and activists since 2009. Media reports detail the extent to which all levels of Government in Canada worked to monitor activists and organizations in the year preceding, during, and even following the 2010 Olympics in Vancouver British Columbia, the G20 Meetings in Toronto, Ontario, and the G8 Meetings in Huntsville, Ontario.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No evidence of change or discussion of reform
- Reports issued since UPR (CRC Third Report) and invitation for input in next reports show no change or recognition of need for more effective process and participation of civil society
- Fall meeting of Continuing Committee could have started reform process; no indication of willingness to engage with civil society to discuss reform.
- Officials continue to defend the current system and do not recognize the need for and scope of reform in UPR recommendations.

*Recommendation n°35: Widely publish the outcome of this universal periodic review and to make regular and inclusive consultation with civil society an integral part of the follow-up to the universal periodic review and also of the preparation of the next national report to the universal periodic review (Recommended by Czech Republic).*

**IRI: not implemented**

Justice for Mohamed Harkat (JMHC) response:

While the Government has published the review and invited feedback via its Canadian Heritage departmental web site, no other perceivable efforts have been made to engage with civil society groups for follow-up.

International Indian Treaty Council (IITC) response:

This remains to be seen.

Disability Rights Promotion International (DRPI) response:

The only communication we received on the UPR follow-up came from civil society representatives, not from the government.

JfGOS response:

See response to recommendation n°34.

*Recommendation n°36: Adopt further measures to ensure: accountability of the police for their proper, sensitive and effective conduct in cases of violence against women, and better protection of in particular aboriginal women against all violence, including through addressing their low socio-economic status and discrimination against them, better accessibility of alternative-protected housing for victims of domestic violence (Recommended by Czech Republic).*

*IRI: not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Canada has a problem with sexism in its national police force the RCMP, and this has been highlighted in the media recently.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. In August 2008, two human rights groups announced that they would no longer refer complaints against the Vancouver police to the Office of the Police Complaints Commissioner (OPCC). Reasons cited for the boycott were a lack of confidence in the complaints procedure which allowed the police to investigate themselves. OPCC involvement was only initiated in cases of obvious bias. In January 2009, the Royal Canadian Mounted Police (RCMP) was advised by the Commission for Public Complaints Against the RCMP to improve its handling of complaints.

International Indian Treaty Council (IITC) response:

There may be some national effort, but Provincial police remain fully in charge of this activity. Canada always hides behind federalism.

Pivot Legal Society (PL) response:

In general there are no long-term solutions such as permanent safe housing opportunities. Many women who are marginalized have antagonistic relationships with the police or do not believe that the police will protect them. A significant concern is a lack of interpretation services when police are engaging with immigrant and refugee women.

JfGOS response:

Canada has failed to implement the above recommendations generated from its first Universal Periodic Review and has furthermore failed to comply with recommendations made by the CEDAW committee pursuant to their concluding observations at the 42nd session of the Committee on the Elimination of Discrimination against Women (CEDAW), held in October 2008 (CEDAW/C/CAN/CO/7).

Since Canada's review in 2008, the CEDAW committee has taken extraordinary measures to ensure that Canada is following their recommendations with respect to

violence against Indigenous women and girls. The Committee asked Canada to report back within a year, and since the one year report back, has followed up with 2 letters (August, 2010 and February 2011) asking for further reports on actions to address missing and murdered Aboriginal women and girls. It is clear that the CEDAW Committee remains concerned about Canada's actions on violence against Indigenous women and girls and awaits follow up from Canada by February 2012.

In a report recently submitted to a UN Expert Group meeting on gender-motivated killings of women, Canadian human and Indigenous rights experts Shelagh Day and Sharon McIvor came to the following conclusions:

"Despite years of lobbying by many diverse non-governmental organizations, the Government of Canada, along with the provincial and territorial governments, have still not put in place a comprehensive and effective national action plan for addressing the root causes and consequences of the violence against Aboriginal women and girls. Nor is there a comprehensive plan for improving and co-ordinating the capacity of the police, and the justice system, to protect Aboriginal women and girls, or to respond adequately to the violence when it occurs. The Government of Canada has not publicly acknowledged that there are grave and systematic violations of the human rights of Aboriginal women and girls occurring in Canada, nor has it acknowledged publicly its obligation to exercise due diligence to prevent, investigate and remedy the violence and to ensure that the rights of Aboriginal women and girls to life, to equal protection and benefit of the law, and to equality in social and economic conditions are fully realized".

Native Women's Association of Canada (NWAC) response:

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed

Aboriginal women need more support in regards to their socioeconomic situation – low income means reduced access to safe and secure housing for their single parent families.

Women living in remote communities must tackle challenges such as money to travel either alone or with their children, trouble finding culturally relevant programs and services, separation from their home and families, etc.

*Recommendation n°37: Alter detention and prison facilities as well as standards of treatment for juveniles so that they are gender sensitive and ensure effective protection of detainees' and prisoners' personal safety (Recommended by Czech Republic).*

*IRI: not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

The Harper Government is moving in the opposite direction to this.

JfGOS response:

Children in Canadian youth prison facilities face multiple and sustained threats to their safety and dignity. Juvenile prisons are under provincial jurisdiction with no comprehensive federal policy or oversight infrastructure to monitor compliance with international human rights standards for children in prison. There are examples

nationwide which highlight Canada's failures to implement the recommendations made during the last UPR.

### **Strip Searching**

Strip searching is routinely used on girls and boys in youth prisons throughout the country. In 2010, Ontario advocates documented complaints in one youth facility that included reports of routine and "excessive" strip searches, lockdowns (solitary confinement), denial of access to washrooms, excessive force, denial of access to medical attention and denial of access to advocates. British Columbia policy also mandates routine strip searching, and girls have reported that they are strip searched during unit transfers, when placed in separate confinement and after visits from family and friends.

### **Solitary Confinement**

In October 2011, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called for a global prohibition on the use of solitary confinement (in any form and for any length of time) for juveniles in prison. He based this recommendation upon his assessment that solitary confinement is "...a harsh measure which is contrary to rehabilitation,' particularly because of the "...severe mental pain or suffering solitary confinement may cause..." In Canada, the use of solitary confinement is common practice in youth prisons. It is often referred to in policy as "separate confinement," or couched in softer language, such as "therapeutic quiet" time.

For example, The British Columbia Youth Custody Regulation (137/2005) states that youth may be held for up to 72 hours in solitary confinement, but leaves open the possibility for indefinite, longer term confinement for unspecified ""medical or other reasons"" with approval from the provincial director. The Youth Custody Services policy manual further notes that consecutive orders can be made ""...in the most unusual and extreme circumstances (ie. imminent safety risk)..."" The policy manual states that consecutive orders can be applied when a separate incident occurs while the youth is in solitary confinement.

In another example, Ontario provincial policy also mandates the use of separate confinement as an accepted practice for youth. For reference example, see S. 127 of the Child and Family Services Act R.S.O. 1990, C.11

### **Co-ed incarceration**

In 2008 the CEDAW committee strongly asserted that 'The Committee further urges the State party to ensure that girls are not held in mixed-sex youth prisons or detention centres.'

In Canada, girls are still imprisoned in youth custody centres with male youth. Co-ed incarceration, particularly when girls make up only 20% of the prison population, is a violation of girls' rights to equality and sets them up to experience sexual harassment, abuse and discrimination within the prison. Girls are also routinely transferred and held in court and police jails with male adults and youth, where they are subjected to harassment and intimidation.

### **Cross-Gender Staffing**

In Canada, there is no federal policy prohibiting cross-gender staffing in youth prisons. Some jurisdictions have taken steps to stop this practice, including British



Columbia and Alberta. However, even those jurisdictions that have made efforts are not in full compliance, citing availability of staff as justification for exemption.

### **Crime Omnibus Bill**

A broader and very pressing concern with respect to juvenile justice in Canada is the newly proposed federal amendment to the existing Youth Criminal Justice Act [S.C. 2002, c. 1]. The YCJA is the only piece of federal legislation governing the separate youth criminal justice system in Canada. The new amendments, proposed as part of a larger “Crime Omnibus Bill”, threaten to direct Canada down a dangerous path towards more incarceration and criminalization of Canada’s girls and youth. Of particular concern is the likelihood that the proposed amendments would make it easier to detain youth in pre-trial detention and sentence them to prison.

The impact of the Omnibus Crime Bill will potentially scale back any gains made by the previous government that resulted in steadily decreasing rates of youth incarceration and will likely exacerbate the existing, and disturbingly high rates of youth imprisoned in pre-trial custody. The impact will also have specific racial and gendered impacts, particularly for Aboriginal girls in Canada. Currently, the overrepresentation of Aboriginal females is higher than aboriginal male youth, as they represent 34% of girls in remand, 44% of girls in sentenced custody and their over-representation in custody is actually increasing, despite the fact that Canada is experiencing a period of declining youth imprisonment. Where Aboriginal girls represented 37% of the girl prison population in 2005, they now represent 44%.

### Native Women’s Association of Canada (NWAC) response:

The Correctional Investigator, CAEFS, the Arbour Commission and the CHRC have chronicled the failure of correctional authorities, particularly the CSC, to ensure that the Rule of Law is adhered to within Canadian prisons.

*Recommendation n°39: Civil society be actively involved in the further universal periodic review process of Canada, in a thorough and timely manner. (Recommended by Denmark).*

**IRI: not implemented**

### Justice for Mohamed Harkat (JMHC) response:

Not done.

### International Indian Treaty Council (IITC) response:

This remains to be seen.

### Disability Rights Promotion International (DRPI) response:

The only communication we received on the UPR follow-up came from civil society representatives, not from the government.

### JfGOS response:

See response to recommendation n°34.

### Native Women’s Association of Canada (NWAC) response:

Progress at 1 year:

- No indication of follow-up strategy or activities



- No consultation with civil society
- Outcome reports on Heritage Website – not widely distributed
- No discussion of outcome in parliament

In the UPR follow-up meeting with Indigenous organizations, Canadian officials repeatedly refused to respond to specific questions. In regard to Canada's constitutional obligations relating to Indigenous rights, a representative from Justice indicated that the government was "putting aside such constitutional issues" in its UPR process and adopting a "narrower" approach. The Canadian government cannot put aside the Constitution in carrying out its functions or responsibilities. Discussions with officials are generally based on the government's ideological positions and not on international human rights law.

Recommendation n°40: *Denounce its policy of no longer seeking clemency for Canadians convicted and given the death penalty in countries deemed to have the rule of law* (Recommended by Denmark).

IRI: *partially implemented*

Athabasca Chipewyan First Nation (ACFN) response:

[...]

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Canada's failure to ensure the human rights of its citizens abroad was also demonstrated in relation to the death penalty. Canada has abolished the death penalty and, in the past, sought clemency for its citizens who were sentenced to death while abroad. However, during the first half of the reporting period, the government practised a policy of not seeking clemency for Canadian citizens who were deemed to have been provided a fair trial in a democratic country and sentenced to death. The issue came to prominence in the case of Ronald Smith, a Canadian citizen on death row in the United States. In March 2009, a Federal Court ruled that the government was required to resume efforts to obtain clemency, a ruling that the Department of Foreign Affairs stated it would not contest.

International Indian Treaty Council (IITC) response:

Although the death penalty is not part of Canadian law, the present government appears to favor it in this way.

Native Women's Association of Canada (NWAC) response:

After the UPR, the Federal Court ordered Canada to reverse its decision to restrict clemency requests in the case of Ron Smith. Canada agreed to follow the Court's decision but has since adopted a new clemency policy which makes it clear that decisions to seek clemency will be made on a case by case basis.

Recommendation n°41: *Reconsider its stance on the United Nations Declaration on the Rights of Indigenous Peoples* (Recommended by Denmark).

IRI: *fully implemented*

Athabasca Chipewyan First Nation (ACFN) response:

I'm glad Canada finally signed but it's going to take a huge effort to get recognition for the rights of indigenous peoples.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. On 3 March 2010, the government made a public commitment to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples.

First Nations Summit - Etal (FNS) response:

See comments regarding recommendation 32 above.

International Indian Treaty Council (IITC) response:

Again, although much of the Declaration, including Consultation and Free prior and informed consent is part of Canadian jurisprudence, the Canadian government habitually violates its own laws, Canadian Supreme Court jurisprudence and prior federal policies.

Citizens for Public Justice (CPJ) response:

[..] Despite its earlier rejection, the Government of Canada officially endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on November 12, 2010. It is still unclear as to how the endorsement will be implemented in Canadian law, policies, and programs. The effective realization of Indigenous rights is of utmost importance in Canada. The Canadian Human Rights Commission has said, for example, that “the social and economic situation of Aboriginal people [is] among the most pressing human rights issues facing Canada”. We encourage the government to effectively implement the endorsement.

LCAC response:

In November 2010, Canada announced its endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Regrettably, Canada's endorsement of UNDRIP has not brought about change in its policies and practices in respect of the implementation of modern treaties. The Government of Canada's continuing failure to fully and meaningfully implement the modern treaties continues to undermine the realization of the human rights objectives of these treaties, which were intended to ensure the socio-economic, political and cultural survival, well-being and development of Aboriginal peoples as peoples.

Native Women's Association of Canada (NWAC) response:

The Canadian government has not only opposed the UN Declaration, but also encouraged States with abusive human rights records to do the same. In regard to Indigenous peoples' rights to cultural heritage, intellectual property, etc., Canada has sought to undermine or deny those rights in standard-setting processes at or relating to the OAS, WIPO, Convention on Biological Diversity and climate change. In many instances, the government has opposed use of the term “indigenous peoples”. Since 2006, Canada has failed to consult Indigenous peoples in taking positions that undermine their rights.

Recommendation n°43: *Ensure the full implementation of legislation prohibiting discrimination in employment and all discriminatory practices in the labour market*

*and that further measures be taken to reduce unemployment among minority groups (Recommended by Egypt).*

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

Women continue to suffer discrimination in the labour market, with a substantial wage gap between women and men. No action has been taken in the last year to address this.

*Recommendation n°44: Launch a comprehensive review leading to legal and policy reforms which protect the rights of refugees and migrants, including rights to family reunification and enact legislation creating an offence for racial violence, and design and implement training for judges and prosecutors on the nature of hate crimes on the basis of race (Recommended by Egypt).*

IRI: *not implemented*

Justice for Mohamed Harkat (JMHC) response:

No such review has, to our knowledge, been launched. If anything, immigration and refugee legislation has been rendered more restrictive and has fostered discrimination. Recent legislative changes will arguably make it more difficult for families to be reunited.

Native Women's Association of Canada (NWAC) response:

Canada has not adopted measures recommended by the Standing Committee to address the needs of migrants. Canada does not accept the proposed creation of an offence of racial violence, claiming that Canadian criminal law criminalizes violence, whether hate-motivated or not. Moreover, the Criminal Code provides that evidence that any offence is motivated by hate is deemed to be an aggravating factor in sentencing the offender. The Criminal Code also prohibits hate propaganda and human rights legislation prohibits the publication or display of material that is discriminatory or likely to expose a person or a group of persons to hatred or contempt.

*Recommendation n°45: Ratify the Optional Protocol to ICESCR (Recommended by Egypt).*

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

Canada is not considering becoming a party to the OP-ICESCR. Louise Arbour heralded the adoption of the OP-ICESCR as "human rights made whole". Canada's repeated insistence that human rights bodies and courts should not adjudicate ESC rights is at the core of Canada's increasingly regressive stance in relation to the equal status of ESC rights.

*Recommendation n°46: Sign ICRMW (Recommended by Egypt).*

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

Canada is not considering becoming a party to the ICRMW.

Recommendation n°48: *Continue efforts to tackle discrimination against Aboriginal women in all sectors of society, including employment, housing, education and health care (Recommended by Finland).*

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

[...]

Commonwealth Human Rights Initiative (CHRI) response:

See response to recommendation n°32.

International Indian Treaty Council (IITC) response:

Canada continues its inadequate efforts.

Pivot Legal Society (PL) response:

Aboriginal women still face discrimination from all sectors in society. Additionally, little is being done to address these women's poverty. Furthermore child apprehension is an issue. Aboriginal people are overrepresented in the child protection system across Canada, Aboriginal children are 9.8 times more likely to be in care than non-Aboriginal children. This means that Aboriginal parents and also parents who grew up in care are likely to continue to see their children taken into care at a higher rate than other parents. More financial resources would empower aboriginal mothers in so many ways, to not only improve their own life but also their children's. There also remains a crisis in the quality and quantity of housing for Aboriginal people in Canada, as responsibility for providing housing remains with municipalities or provincial governments. The federal government has refused to implement a national housing strategy or adhere to the recommendations made by the U.N. Special Rapporteur on housing, as it remains of the ideological opinion that responsibility for housing rests at the provincial level.

Disability Rights Promotion International (DRPI) response:

The recent measures taken by Canada government to cancel the mandatory long-form Census has a significant impact on identifying the inequalities faced by women, particularly Indigenous women and women with disabilities, and on assessing policies and programs addressing these inequalities. As highlighted in the report "Changing the long-form Census - Its impact on women's equality in Canada" (2011) by House of Commons, without the data from the Census discrimination against women in all sectors of society (education; employment; etc) will become invisible. Furthermore, the cancellation of the national flagship survey on disability, Participation and Activity Limitation Survey (PALS), imposes serious barriers in the efforts to identify the issues faced by women with disabilities. The face-to-face interviews conducted as part of our individual experiences monitoring revealed that women with disabilities reported more issues of discrimination in health and education than did men with disabilities.

Native Women's Association of Canada (NWAC) response:

As with other treaties, the GOC has taken no steps to ensure the implementation of CEDAW recommendations. The Government of Canada was asked by the CEDAW Committee to report back to it in November 2009 on steps it had taken to address

inadequate social assistance rates and missing and murdered Aboriginal women. The Government filed its report late, perhaps because it has not taken any steps to address these two issues raised by CEDAW. It has not addressed any of the other issues listed in UPR recommendation 27.

One third of the women serving prison sentences of two years or more are Indigenous and they make up vastly disproportionate number of the women held in pre-trial custody. They are also over-classified as a result of discriminatory assessment and classification tools, a situation that has not yet been remedied, despite recommendations to this effect by the the Arbour Commission, the CHRC and UNHRC.

Beyond moving toward ratification of the CRPD, the GOC has not taken steps to address discrimination against disabled women – which occurs in every sector.

Canada continues to fail to adopt a comprehensive national action plan to address violence and discrimination against Aboriginal women.

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

Mclvor decision does not adequately address the issues of gender discrimination re: “Indian Status” therefore many are still not able to live in their communities of birth due to INAC’s criteria for band membership codes

**Recommendation n°51: *Establish policies to improve healthcare and general welfare of indigenous children* (Recommended by Indonesia).**

**IRI: not implemented**

Athabasca Chipewyan First Nation (ACFN) response:

I don't see much indication that Canada is successfully improving the lives of indigenous children.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. On 3 March 2010, the government made a public commitment to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples. Discrepancies between the quality of life of indigenous and non-indigenous citizens continued. In February 2010, it was reported that six of Canada’s ten poorest postal codes in 2006 were First Nations (indigenous) communities. Indigenous children were more likely to be moved from their parents, with one in ten ending up in foster care as opposed to one in 200 non-indigenous children.

International Indian Treaty Council (IITC) response:

No new measures, except for the Truth and Reconciliation Commission, have been adopted.

Citizens for Public Justice (CPJ) response:

In First Nations communities, one in four children lives in poverty. Effective, coordinated policies must be established to reduce the disproportionate child poverty amongst Aboriginal communities.

Native Women’s Association of Canada (NWAC) response:



Canada accepted this recommendation and claimed to have allotted new funding for Indigenous health programs, health facilities and infrastructure. However, the Canadian government has refused to redress the significant disparity in funding for First Nations children living on reserves. When a complaint was filed with the Canadian Human Rights Tribunal, the government has sought every procedural means to delay the case and challenge the jurisdiction of the Tribunal – and cut off all funding to the First Nations Child and Family Caring Society for seeking legal redress.

Recommendation n°52: Review its discriminatory national laws on security and adopt sensitization campaigns to protect against racial profiling and stereotyping on the grounds of nationality, ethnicity, descent and race, with regards to terrorism, as suggested by CERD (Recommended by *Indonesia*).

IRI: *not implemented*

Justice for Mohamed Harkat (JMHC) response:

Not done. Racial profiling continues, especially with respect to accusations of terrorism.

International Indian Treaty Council (IITC) response:

No new measures, except for the Truth and Reconciliation Commission, have been adopted.

Native Women's Association of Canada (NWAC) response:

The refusal to request the return of Omar Khadr to Canada despite a Supreme Court ruling concluding that the Canadian government is responsible for on-going violations of his rights under the Charter, is a recent high profile example of this concern. Similarly the government's aggressive opposition to offering compensation and apologies to Abdullah Almalki, Ahmad Abou El Maati, Muayyed Nureddin and Abousfian Abdelrazik for the torture and other human rights violations they experienced, with Canadian complicity, fuels the concerns about profiling and discrimination. There were recommendations about profiling included in the report from the Maher Arar Inquiry but the government has never reported publicly on the progress of implementing any of those recommendations.

Recommendation n°53: *Address root causes of discriminations, ensure effective access to justice, establish immediate means of redress and protection of rights of ethno-minorities, in particular, Aborigines.* (Recommended by *Iran*).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

These items are being ignored because they are low priority in times of budget constraint.

Commonwealth Human Rights Initiative (CHRI) response:

See response to recommendation n°32.

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In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population.

First Nations Summit - Etal (FNS) response:

Canada is also obliged under domestic law to respect the rights of Indigenous peoples. Yet, First Nations in BC have long been and continue to be concerned that even as they appear to make significant strides through the Canadian judicial system and in the international arena, they are still a long way from achieving the ability to protect and exercise their inherent rights in a meaningful way. Increasingly, in pursuit of justice, First Nations are being forced into costly litigation to defend Aboriginal title and rights, while Canadian courts do not question the validity of Canada's title and sovereignty, Canada constantly puts First Nations to proof. In court, First Nations are pitted against the substantial resources of the Crown, and in many cases, entire industry groups. The path to justice through the Canadian court system is adversarial, expensive, time consuming, and as such, largely inaccessible. The CERD has expressed concern that "claims of Aboriginal land rights are being settled primarily through litigation, at a disproportionate cost for the Aboriginal communities concerned due to the strongly adversarial positions taken by the federal and provincial governments." Given this current reality, the First Nations Summit is very concerned about Canada's ability to implement this recommendation in a meaningful way. The unwillingness of the federal and provincial Crown to recognize Aboriginal peoples' title and rights is evidenced, in part, in arguments advanced by the federal and provincial Crown in Aboriginal title and rights litigation currently before the courts in BC.

International Indian Treaty Council (IITC) response:

As long as the Canadian Government licences resource extraction (mining and logging) on Lands and resources subject to aboriginal title, it fails to address effective access to justice, or the root causes of discrimination, and fails to protect or redress the rights of Indigenous Peoples.

Native Women's Association of Canada (NWAC) response:

Canada claims to already combat racism and discrimination against all groups, including Aboriginal people, with an emphasis on initiatives that strengthen inter-cultural and interfaith understanding.

Recommendation n°54: *Respect its human rights obligations and commitment without exception or ulterior consideration and take steps to address double standard and politicization in its human rights policies* (Recommended by Iran).

IRI: not implemented

Athabasca Chipewyan First Nation (ACFN) response:

[...]

First Nations Summit - Etal (FNS) response:

As a member of the Human Rights Council (HRC), Canada has committed to upholding the highest standards in the promotion and protection of human rights. Canada's original opposition to the UNDRIP undermines its position as a Member of the HRC. Canada and the Province of BC continue to deny the constitutionally-protected title and rights of First Nations in litigation and in modern treaty negotiations. Recently, Canada issued a letter of support for the UNDRIP, however,

Canada's support is qualified. As a member of the HRC, Canada should not “pick and choose” which human rights standards apply to it. The First Nations Summit notes in this regard that the Supreme Court of Canada has stated that, “The Crown, acting honourably, cannot cavalierly run roughshod over Aboriginal interests...”. From the perspective of the First Nations Summit, Canada is failing to fulfill its human rights obligations and commitments regarding Indigenous peoples.

International Indian Treaty Council (IITC) response:

Canada continues to ignore double standards with relation to Aboriginal peoples and their rights.

Native Women's Association of Canada (NWAC) response:

In regard to the UN Declaration, Canada repeatedly failed during its three-year term to uphold the principles of “including impartiality, objectivity, non-selectivity, and the elimination of double standards and politicization”. In relation to Indigenous peoples and the Declaration, Canada pursued the lowest standards of any Council member within the Western European group of States. In 2007, Canada was the sole country on the 47-member Human Rights Council to vote against the Declaration at the General Assembly.

Recommendation n°55: *Criminalise domestic violence, ensuring to victims effective access to immediate means of protection and reinforcing prosecution of perpetrators* (Recommended by Italy).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

I think the Harper Government has gone too far and will jail spouses unnecessarily and without regard to the circumstances of the family.

JfGOS response:

See response to recommendation n°36.

Native Women's Association of Canada (NWAC) response:

It is argued that research and consultation is required before determining if the implementation of national legislation to prohibit and criminalize all types of violence against Indigenous women and children would adequately address this issue. For Indigenous women, access to culturally relevant means and protection for victims of domestic violence might be more pertinent in this case.

Recommendation n°56: *Submit to scrutiny the regulations governing the use of Teaser weapons with a view to adopting legislation that would explicitly place them in the category of weapons and prescribe more rigorous procedures for their possession and use* (Recommended by Italy).

IRI: *partially implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Slowly improving.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Some Canadian police forces came under criticism during the reporting period. Throughout the period, police services across Canada regularly used “teasers” or stun guns to subdue violent or unpredictable suspects without resorting to live ammunition. Though the use of teasers is intended to be non-lethal and without lasting effect, an Amnesty International report alleged that six people were killed in Canada in 2008 after being shot with teasers. A March 2009 report found that in 2008, police used teasers 376 times in 329 incidents. Targets included a 15 year old, a 71 year old person, and 112 people described as emotionally disturbed. Police in one incident threatened a 12 year old person with a teaser. Concern was raised in the UN Human Rights Council about the use of teasers when Canada came up for review under the Universal Periodic Review in February 2009. In August 2008, two human rights groups announced that they would no longer refer complaints against the Vancouver police to the Office of the Police Complaints Commissioner (OPCC). Reasons cited for the boycott were a lack of confidence in the complaints procedure which allowed the police to investigate themselves. OPCC involvement was only initiated in cases of obvious bias. In January 2009, the Royal Canadian Mounted Police (RCMP) was advised by the Commission for Public Complaints Against the RCMP to improve its handling of complaints.

Pivot Legal Society (PL) response:

In British Columbia following the death of Robert Dziekanski there has been greater scrutiny into the use of Tasers, and a recognition that Tasers should not be used by police unless there is an immediate threat to life and safety. Tasers remain prohibited for use by private citizens however there is a lack of clarity on whether or not a Taser should be classified as a 'prohibited weapon' or a prohibited firearm', as the classification as a 'prohibited weapon' would also preclude use by police forces.

Native Women's Association of Canada (NWAC) response:

The GOC claims that a considerable degree of consistency exists among Canadian jurisdictions with regard to policies and procedures on the police use of these devices and that the Government of Canada facilitates the ongoing exchange of information among provinces and territories regarding the use of CEWs so that updates to policies and procedures can be considered, as new information becomes available. However, the inconsistencies and differences among policing jurisdictions only grows when it comes to Tasers. The [Royal Canadian Mounted Police] has been adopting increasingly restrictive policies. Other police forces remain virtually unchanged in allowing fairly liberal use of Tasers. There is a clear need for leadership from the federal government in an effort to try to ensure coherent policies across the country which recognize that Tasers should be an option of last resort, used only in cases of imminent threat and when the other remaining option would be resort to a firearm.

Recommendation n°57: *Effectively implement United Nations treaty bodies' recommendations and as appropriate on indigenous people* (Recommended by Jordan).

IRI: not implemented

Athabasca Chipewyan First Nation (ACFN) response:

No sign of this to date.

First Nations Summit - Etal (FNS) response:

See comments regarding recommendation 32 above.

International Indian Treaty Council (IITC) response:

Canada continues to fail to effectively implement Treaty Body recommendations regarding Indigenous Peoples.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No evidence of change or discussion of reform
- Reports issued since UPR (CRC Third Report) and invitation for input in next reports show no change or recognition of need for more effective process and participation of civil society
- Fall meeting of Continuing Committee could have started reform process; no indication of willingness to engage with civil society to discuss reform.
- Officials continue to defend the current system and do not recognize the need for and scope of reform in UPR recommendations.

Recommendation n°58: *Consider ratifying ICRPD* (Recommended by Jordan).

IRI: *fully implemented*

HIVAIDS Legal Network (CHLN) response:

The Government of Canada has ratified the ICRPD.

Disability Rights Promotion International (DRPI) response:

Canada ratified the CRPD on March 11, 2010. However, it has not yet signed or ratified the Optional Protocol to the CRPD. Also Canada's reservation on Article 12 implies that there is an intention to maintain both substitute and supported-decision making in Canada's legal framework.

Native Women's Association of Canada (NWAC) response:

Canada has signed the CRPD and announced in parliament its intention to ratify it with a reservation. This announcement was made on December 3rd 2009, and as per recent legislation on international treaties, it is meant to sit in the house for 21 (Parliamentary sitting) days; so, the Ratification has been slightly delayed by the Prorogation, but is expected soon. Unfortunately, Canada has completely ignored the Optional Protocol to the CRPD, which the majority of ratifying states have ratified concurrently. While we welcome the imminent ratification of the CRPD, we believe a complaints procedure is also a critical component to the CRPD and its purposes.

Recommendation n°60: *Intensify its efforts to ensure that higher education is equally accessible to all, on the basis of capacity* (Recommended by Liechtenstein).

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

Indigenous peoples continue to be the least educated in Canada



Disability Rights Promotion International (DRPI) response:

From the perspective of people with disabilities, a key barrier to access the education system, including higher education, is the lack of accommodation of disability-related needs. Many of the persons with disabilities interviewed in our individual experiences monitoring reported lack of accessible supports (e.g. training resources available in alternate formats) as a key barrier to education. For some of them the only alternative was to give up their educational prospects.

Recommendation n°61: *Consider taking more resolute action to prevent and punish perpetrators of racially motivated acts of violence against members of the Muslim and Arab communities, the indigenous population, Canadian citizens of foreign origin, foreign workers, refugees and asylum-seekers* (Recommended by Malaysia).

IRI: *partially implemented*

Athabasca Chipewyan First Nation (ACFN) response:

I think progress is being made.

Recommendation n°62: *Consider taking on board CEDAW recommendations to criminalise domestic violence.* (Recommended by Malaysia).

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

Again, the Provinces are, under the Canadian system of justice, responsible for criminal matters such as domestic violence.

Native Women's Association of Canada (NWAC) response:

Canada contends that domestic violence is addressed by a comprehensive range of offences in the Criminal Code. A specific criminal offence of domestic violence is not required in Canada and would not improve rates of successful prosecutions, as it would impose an additional evidentiary burden on the prosecutor to prove the spousal or intimate partner relationship. Nonetheless, the unique nature of spousal abuse and the abuse of a young person under the age of 18 years is recognized at the sentencing stage where acts of spousal and child abuse are considered as aggravating factors for sentencing purposes. However, several reports identify a need for more attention to support for children affected by domestic violence. Differences between provinces result in inequities in access to services.

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

Recommendation n°63: *Consider taking on board the recommendation of the Special Rapporteur on adequate housing, specifically to extend and enhance the national homelessness programme and the Residential Rehabilitation Assistance Programme* (Recommended by Malaysia).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

No progress.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the Games were awarded to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver. The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole. In March 2009, the Special Rapporteur on the right to housing presented the Council with the findings of his mission report to Canada. It highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous people and a need to expand public housing. In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population. Indigenous groups were divided over whether the Games were a positive or negative development. Much of the Games took place on what many First Nations groups consider to be stolen First Nations land and there were also concerns about the negative environmental impact on the land.

Pivot Legal Society (PL) response:

In 2010 the federal government agreed to extend the funding for the national homelessness programme for an additional 3 years, however the amount of funding continues at the same level it has been since its inception in 1999 (inflation is estimated at 25% since that time). The federal government has also agreed to continue the RRAP until at least 2014.

Citizens for Public Justice (CPJ) response:

The UN Special Rapporteur on Adequate Housing stated that Canada's housing situation qualifies as a national emergency: 1.5 million households are in core housing need; close to 25% of Canadians are required to pay more than they can afford for housing or depend on subsidized housing; and 1.3 million households report the need for major repairs. According to the Wellesley Institute, by 2013 overall federal spending on housing programs will have dropped 18% since 1989 and the Affordable Housing Initiative will plummet from \$164 million in 2009 to \$1 million. We believe housing is a fundamental human right; a failure to safeguard this right is a failure to safeguard the value and dignity of every person. Greater federal government attention and investment to adequate and affordable housing is needed.

Native Women's Association of Canada (NWAC) response:

Bill C-304 as amended in the HUMA Committee would implement these recommendations by implementing a national housing strategy to respect, protect, promote and fulfill the right to adequate housing, with clear goals and timetables, accountability mechanisms, a complaints procedure and independent monitoring – precisely as recommended by the S.R. However, only one Government member of Parliament voted for the Bill on second reading.

Recommendation n°64: *Criminalise domestic violence and adequately investigate and sanctioning those responsible for the death and disappearance of indigenous women (Recommended by Mexico).*

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Much publicity but little success to date.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008. The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal prison population. Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes. Beyond high levels of incarceration, indigenous women are subject to excess violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.

First Nations Summit - Etal (FNS) response:

Many forms of domestic or family violence are considered crimes in Canada. Although there are no specific provisions in the Canadian Criminal Code that specifically address "domestic violence", a person may be charged with a variety of applicable offences. With respect to Indigenous women, the federal Legislative Standing Committee on the Status of Women prepared a report entitled, "Call into the Night - An Overview of Violence Against Aboriginal Women", March 2011. In that report, the Committee found that Aboriginal women and girls are as likely to be killed by a stranger or an acquaintance as they are by an intimate partner. Currently in the Province of BC, Canada, the Missing Women's Commission of Inquiry has been established to investigate and report on the conduct of the missing women investigations. Since the Inquiry was established, a number of First Nations and other organizations have withdrawn from the process due to a lack of funding which would allow the organizations to participate in a meaningful way. To date, the provincial government maintains its position not to provide funding to them and the federal government has remained disengaged on the issue. It should be noted that, on December 10, 1981, Canada ratified the Convention on the Elimination of All Forms of Discrimination against Women treaty (CEDAW). In 2008, the CEDAW committee provided a directive to Canada to "examine the reasons for failure to investigate missing or murdered Aboriginal women and girls and to take the necessary steps to remedy the deficiencies in the system and carry out an analysis of those cases in order to determine whether there is a racialized pattern to the disappearances and that measures to address the problem if that is the case." The provincial and federal governments have a responsibility to ensure that they remain committed to both the UNDRIP and CEDAW by ensuring that Indigenous peoples are meaningful

participants in the Missing Women's Commission of Inquiry. In order to be meaningful participants, the government must fund the organizations.

International Indian Treaty Council (IITC) response:

Although Canada could take steps nationally to investigate and prosecute these crimes, it has not done so.

Pivot Legal Society (PL) response:

[British Columbia] has not followed the lead of other provinces that deal more adequately with domestic violence. There are no dedicated courts and no specialized prosecutors; furthermore the Missing women's inquiry is a good example to show how the system fails to act in women victims' best interests. Some government decisions have effectively shut out many of the groups who lobbied most strongly for this inquiry; as a result there are doubts that the ability of the commission to conduct a fair and impartial inquiry is possible, again women are silenced.

Native Women's Association of Canada (NWAC) response:

Canada contends that domestic violence is addressed by a comprehensive range of offences in the Criminal Code. A specific criminal offence of domestic violence is not required in Canada and would not improve rates of successful prosecutions, as it would impose an additional evidentiary burden on the prosecutor to prove the spousal or intimate partner relationship. Nonetheless, the unique nature of spousal abuse and the abuse of a young person under the age of 18 years is recognized at the sentencing stage where acts of spousal and child abuse are considered as aggravating factors for sentencing purposes. However, several reports identify a need for more attention to support for children affected by domestic violence. Differences between provinces result in inequities in access to services. No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

Recommendation n°65: *Establish a mechanism that will meet regularly with the effective participation of civil society organizations and indigenous peoples, and have national reach to implement all Canada's international obligations and facilitate the acceptance of pending commitments (Recommended by Mexico).*

IRI: not implemented

First Nations Summit - Etal (FNS) response:

See comments regarding recommendation 32 above.

Justice for Mohamed Harkat (JMHC) response:

To our knowledge this has not happened.

International Indian Treaty Council (IITC) response:

Canada has not done so.

Disability Rights Promotion International (DRPI) response:

In relation with the CRPD, we have been involved in a few events. One of these events was the Roundtable on Ratification of the CRPD organized in June 2009 by

the Department of Human Resources and Skills Development Canada. In March 2010, the DRPI Director was been invited to an expert consultation organized by the Canadian Human Rights Commission to examine how the Commission can more effectively address the systemic issues faced by people with disabilities. We have also been asked to provide feedback on the outline of Canada's initial report to the UN on the CRPD. In spite of these sporadic events and small-scale initiatives such as the DRPI individual monitoring studies, there are no national ongoing efforts to ensure the sustainability of civil society participation in the implementation of the CRPD. DRPI has not been asked to share its research results in any scheduled forum with government officials reviewing the implementation of CRPD.

JfGOS response:

See response to recommendation n°34.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No substantive action toward reform of existing system
- Recognition in letters from Heritage Minister that system needs reform
- Reports issued since UPR show no change or recognition of need for reform
- Reductions in budget for promotion of human rights in Heritage and refusal to fund projects focused on UPR and its implementation as being outside its current mandate.
- Canada's report says options for enhancing existing mechanisms are being considered and it invites suggestions for practical improvements.

Recommendation n°68: *Grant the same importance to and treat equally civil, political, economic, social and cultural rights, in its legislation at all levels (Recommended by Mexico).*

IRI: *not implemented*

HIVAIDS Legal Network (CHLN) response:

The Government of Canada continues to maintain its position that economic, social and cultural rights are non-justiciable, which presumably underlies its rejection of this recommendation.

Native Women's Association of Canada (NWAC) response:

Canada agrees that all human rights are universal, indivisible, interdependent and interrelated and strives to give the same importance to all rights. However, Canada does not accept that all aspects of economic, social and cultural rights are amenable to judicial review or that its international human rights treaty obligations require it to protect rights only through legislation. Some ESC rights are addressed by legislation in Canada. Various administrative and judicial bodies provide domestic remedies for violations of certain ESC rights and strong equality rights protection ensure their non-discriminatory application. The Canadian government does not "strive to give the same importance" to all human rights. Canada's refusal to recognize the right to effective remedies for ESC rights has led to increasingly regressive positions internationally, and to ongoing violations of ESC rights domestically. In regard to Indigenous peoples, the government actively opposes and undermines their human rights (as affirmed in the UN Declaration).



Cultural and identity rights are not justiciable in Canada. For Aboriginal peoples this is a real problem (for ex: Residential School Apology contains no reconciliation re: attempts to destroy Indigenous identity, language, culture, socio-political structures etc)

Recommendation n°71: *Continue its committed policy, federally, provincially and territorially, to promote and protect all human right* (Recommended by Morocco).

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

The Canadian government has refused to affirm that Indigenous peoples' collective rights are human rights and has opposed such affirmation in the OAS negotiations on a draft American Declaration on the Rights of Indigenous Peoples. In its Agenda and Framework for the Programme of Work, the Human Rights Council adopted Res. 5/1 (without vote 18 June 2007) which permanently includes the "rights of peoples" under Item 3 – "Promotion and protection of all human rights".

The government also refuses to acknowledge that the UN Declaration is an international human rights instrument (which is listed as such on the website of the Office of the High Commissioner for Human Rights).

Contrary to the Government's acceptance of this recommendation, it has taken proactive steps to dismantle or silence human rights organizations in Canada. In particular, it has de-funded a long-standing, faith based human rights organization (Kairos) and has attempted to politicize Canada's internationally respected, arms length human rights organization (Rights and Democracy).

Recommendation n°73: *Civil society be actively involved in the further universal periodic review process of Canada* (Recommended by Netherlands).

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

Remains to be seen.

Disability Rights Promotion International (DRPI) response:

The only communication we received on the UPR follow-up came from civil society representatives, not from the government.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No indication of follow-up strategy or activities
- No consultation with civil society
- Outcome reports on Heritage Website – not widely distributed
- No discussion of outcome in parliament

In the UPR follow-up meeting with Indigenous organizations, Canadian officials repeatedly refused to respond to specific questions. In regard to Canada's constitutional obligations relating to Indigenous rights, a representative from Justice indicated that the government was "putting aside such constitutional issues" in its UPR process and adopting a "narrower" approach. The Canadian government

cannot put aside the Constitution in carrying out its functions or responsibilities. Discussions with officials are generally based on the government's ideological positions and not on international human rights law.

*Recommendation n°74: Strengthen and enlarge existing programmes and take more and specific measures towards Aboriginals, particularly with regard to the improvement of housing, educational opportunities, especially after elementary school, employment, and that women's and children's rights are better safeguarded, in consultation with civil society (Recommended by Netherlands).*

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Not being done. I have worked 35 years in the aboriginal community and I do not see a single effort by the Harper Government to improve the lives of aboriginal people.

Commonwealth Human Rights Initiative (CHRI) response:

See response to recommendation 32.

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Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the Games were awarded to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver. The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole. In March 2009, the Special Rapporteur on the right to housing presented the Council with the findings of his mission report to Canada. It highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous people and a need to expand public housing. In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population. Indigenous groups were divided over whether the Games were a positive or negative development. Much of the Games took place on what many First Nations groups consider to be stolen First Nations land and there were also concerns about the negative environmental impact on the land.

International Indian Treaty Council (IITC) response:

With regard to Indigenous Peoples, no effective affirmative steps have been taken by Canada.

LCAC response:

The Government of Canada's continuing failure to fully and meaningfully implement modern treaties with Aboriginal peoples includes a persistent failure to acknowledge that comprehensive land claims agreements can and should serve to bring about the inclusion of Aboriginal peoples into the regional, provincial/ territorial and national economies of which they and their lands and resources are part, and, over time, to improve the material well being of Aboriginal peoples while enriching the country as a whole.

Native Women's Association of Canada (NWAC) response:

In the past year, the Government of Canada has taken no steps to improve housing for Aboriginal peoples anywhere in Canada.

Recommendation n°75: *Consider reinstating the policy of seeking clemency for all Canadian citizens sentenced to death in other countries* (Recommended by Netherlands).

IRI: *partially implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Canada has not made progress in this area.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Canada has abolished the death penalty and, in the past, sought clemency for its citizens who were sentenced to death while abroad. However, during the first half of the reporting period, the government practised a policy of not seeking clemency for Canadian citizens who were deemed to have been provided a fair trial in a democratic country and sentenced to death. The issue came to prominence in the case of Ronald Smith, a Canadian citizen on death row in the United States. In March 2009, a Federal Court ruled that the government was required to resume efforts to obtain clemency, a ruling that the Department of Foreign Affairs stated it would not contest.

Native Women's Association of Canada (NWAC) response:

After the UPR, the Federal Court ordered Canada to reverse its decision to restrict clemency requests in the case of Ron Smith. Canada agreed to follow the Court's decision but has since adopted a new clemency policy which makes it clear that decisions to seek clemency will be made on a case by case basis.

Recommendation n°76: *Establish an effective and inclusive process to follow-up on the universal periodic review recommendations* (Recommended by Norway).

IRI: *not implemented*

Disability Rights Promotion International (DRPI) response:

The only communication we received on the UPR follow-up came from civil society representatives, not from the government.

JfGOS response:

See response to recommendation n°34.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No indication of follow-up strategy or activities
- No consultation with civil society
- Outcome reports on Heritage Website – not widely distributed
- No discussion of outcome in parliament

In the UPR follow-up meeting with Indigenous organizations, Canadian officials repeatedly refused to respond to specific questions. In regard to Canada's constitutional obligations relating to Indigenous rights, a representative from Justice

indicated that the government was “putting aside such constitutional issues” in its UPR process and adopting a “narrower” approach. The Canadian government cannot put aside the Constitution in carrying out its functions or responsibilities. Discussions with officials are generally based on the government’s ideological positions and not on international human rights law.

*Recommendation n°77: Institute comprehensive reporting and statistical analysis of the scale and character of violence against indigenous women, so that a national strategy can be initiated, in consultation with indigenous representatives, to respond to the severity of the issues (Recommended by Norway).*

**IRI: not implemented**

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Beyond high levels of incarceration, indigenous women are subject to excess violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women’s Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.

Disability Rights Promotion International (DRPI) response:

Most of the surveys providing statistical data that portray the issues of violence against Indigenous women are conducted only in Canada’s two official languages. This presents a significant barrier for the inclusion of older Indigenous women in northern communities. Further, excluding people without telephone access may under-represent Indigenous women in low income brackets or those living in traditional communities. These access issues may significantly impact the accuracy of the picture of violence against Indigenous women. Furthermore, data on violence against Indigenous women with disabilities cannot in many cases be obtained from the national surveys focused on violence against women given the small sample sizes which don’t allow for data disaggregation. There is therefore an acute need for studies that focus specifically on this population to fill in the gap in data and to support adequate policy changes. DRPI tries to respond to this need through its efforts to establish a partnership with various Indigenous groups across Canada to develop appropriate practices in disability rights monitoring that advance Indigenous values and empower Indigenous peoples with disabilities to own their own monitoring efforts.

Native Women’s Association of Canada (NWAC) response:

Canada continues to fail to adopt a comprehensive national action plan to address violence and discrimination against Aboriginal women.

Sisters in Spirit research to be renewed this coming fiscal year: problem associated with apathetic cooperation by authorities i.e. [Royal Canadian Mounted Police]

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed

Sisters in Spirit funding renewal is still in question with no firm commitment or even indication as to whether or not NWAC's funding will be renewed – under the Status of Women NAWS I & II have surveyed Indigenous women on this issue but to date, there is no indication of commitment on creating a national strategy on this issue.

Issues which are the root causes of these issues such as colonization, oppression and paternalistic policies that interfere with Indigenous women and children's well being and rights have not yet been properly addressed by Canada. See Amnesty International's "Stolen Sisters" update.

Recommendation n°79: Reconsider its stance and endorse the United Nations Declaration on the Rights of Indigenous Peoples (Recommended by Norway).

IRI: *fully implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Has done so.

Commonwealth Human Rights Initiative (CHRI) response:

On 3 March 2010, the government made a public commitment to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples.

LCAC response:

In November 2010, Canada announced its endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Regrettably, Canada's endorsement of UNDRIP has not brought about change in its policies and practices in respect of the implementation of modern treaties. The Government of Canada's continuing failure to fully and meaningfully implement the modern treaties continues to undermine the realization of the human rights objectives of these treaties, which were intended to ensure the socio-economic, political and cultural survival, well-being and development of Aboriginal peoples as peoples.

Citizens for Public Justice (CPJ) response:

[...] Despite its earlier rejection, the Government of Canada officially endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on November 12, 2010. It is still unclear as to how the endorsement will be implemented in Canadian law, policies, and programs. The effective realization of Indigenous rights is of utmost importance in Canada. The Canadian Human Rights Commission has said, for example, that "the social and economic situation of Aboriginal people [is] among the most pressing human rights issues facing Canada". We encourage the government to effectively implement the endorsement.

Recommendation n°83: *Support and fully implement the United Nations Declaration on the Rights of Indigenous Peoples* (Recommended by Pakistan).

IRI: *partially implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Has done so.



Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. On 3 March 2010, the government made a public commitment to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples.

First Nations Summit - Etal (FNS) response:

See comments regarding recommendation 32 above.

International Indian Treaty Council (IITC) response:

See above, the Canadian Government's hostility toward Aboriginal rights, even when their own Supreme Court finds against the government.

Citizens for Public Justice (CPJ) response:

[...] Despite its earlier rejection, the Government of Canada officially endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on November 12, 2010. It is still unclear as to how the endorsement will be implemented in Canadian law, policies, and programs. The effective realization of Indigenous rights is of utmost importance in Canada. The Canadian Human Rights Commission has said, for example, that "the social and economic situation of Aboriginal people [is] among the most pressing human rights issues facing Canada". We encourage the government to effectively implement the endorsement.

LCAC response:

In November 2010, Canada announced its endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Regrettably, Canada's endorsement of UNDRIP has not brought about change in its policies and practices in respect of the implementation of modern treaties. The Government of Canada's continuing failure to fully and meaningfully implement the modern treaties continues to undermine the realization of the human rights objectives of these treaties, which were intended to ensure the socio-economic, political and cultural survival, well-being and development of Aboriginal peoples as peoples.

Native Women's Association of Canada (NWAC) response:

The Canadian government has not only opposed the UN Declaration, but also encouraged States with abusive human rights records to do the same. In regard to Indigenous peoples' rights to cultural heritage, intellectual property, etc., Canada has sought to undermine or deny those rights in standard-setting processes at or relating to the OAS, WIPO, Convention on Biological Diversity and climate change. In many instances, the government has opposed use of the term "indigenous peoples". Since 2006, Canada has failed to consult Indigenous peoples in taking positions that undermine their rights.

Recommendation n°84: *Ensure legal enforcement of economic, social and cultural rights in domestic courts* (Recommended by Pakistan).

IRI: *not implemented*

HIVAIDS Legal Network (CHLN) response:

The Government of Canada maintains its position that such rights are non-justiciable.

First Nations Summit - Etal (FNS) response:

The First Nations Summit is deeply concerned that Canada has rejected this recommendation. In particular, the First Nations Summit notes that Canada has argued before the Inter-American Commission on Human Rights that the claim of the Hul'qumi'num Treaty Group (the Indigenous petitioner) should be dismissed on the basis that the petitioner has not exhausted all available domestic remedies and there are adequate and effective remedies available under domestic Canadian law.

Native Women's Association of Canada (NWAC) response:

The Canadian government does not “strive to give the same importance” to all human rights. Canada's refusal to recognize the right to effective remedies for ESC rights has led to increasingly regressive positions internationally, and to ongoing violations of ESC rights domestically. In regard to Indigenous peoples, the government actively opposes and undermines their human rights (as affirmed in the UN Declaration).

Cultural and identity rights are not justiciable in Canada. For Aboriginal peoples this is a real problem (for ex: Residential School Apology contains no reconciliation re: attempts to destroy Indigenous identity, language, culture, socio-political structures etc)

*Recommendation n°85: Streamline its domestic legislation for the smooth and immediate implementation of its international obligations by all levels of government (Recommended by Pakistan).*

IRI: not implemented

Native Women's Association of Canada (NWAC) response:

Canadian bill of rights cannot be applied on reserve until 2011. Repeal of s. 67 was given a 36 month freeze while the CCHR was to provide training to communities. So for the moment being reserves are still enclaves where human rights are not enforceable.

*Recommendation n°86: Civil society be actively involved in the further process of Canada, in a meaningful and participatory manner. (Recommended by Philippines).*

IRI: not implemented

International Indian Treaty Council (IITC) response:

Again remains to be seen.

Disability Rights Promotion International (DRPI) response:

The only communication we received on the UPR follow-up came from civil society representatives, not from the government.

JfGOS response:

See response to recommendation n°34.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No indication of follow-up strategy or activities
- No consultation with civil society

- Outcome reports on Heritage Website – not widely distributed
- No discussion of outcome in parliament

In the UPR follow-up meeting with Indigenous organizations, Canadian officials repeatedly refused to respond to specific questions. In regard to Canada's constitutional obligations relating to Indigenous rights, a representative from Justice indicated that the government was "putting aside such constitutional issues" in its UPR process and adopting a "narrower" approach. The Canadian government cannot put aside the Constitution in carrying out its functions or responsibilities. Discussions with officials are generally based on the government's ideological positions and not on international human rights law.

Recommendation n°88: Strengthen enforcement legislation and programmes regarding prohibition of commercial sexual exploitation of children (Recommended by *Philippines*).

IRI: *fully implemented*

Athabasca Chipewyan First Nation (ACFN) response:

I believe this is happening.

Franciscans International (FI) response:

Le 29 juin 2010, le projet de loi C-268 a reçu la sanction royale. Le projet de loi, présenté par la députée Joy Smith en 2009, modifie le Code Criminel pour imposer une peine de prison minimale obligatoire de 5 ans pour la traite d'une personne âgée de moins de 18 ans. Ces sanctions s'appliquent également à la traite à des fins d'exploitation sexuelle ou de travail forcé.

En plus du projet de loi C-268, le Canada a aussi mis en place un programme dont le but est de financer de projets et initiatives qui visent à lutter contre l'exploitation sexuelle des enfants et contre la traite des personnes. Le programme de subvention de projets intitulé Programme de Contribution pour la Lutte contre l'Exploitation Sexuelle des Enfants et la Traite des Personnes (PCLESETP) a été créé par le ministère canadien de la Sécurité publique, en 2009. Dans ce cadre, deux campagnes nationales de sensibilisation sur la traite des personnes ont été financées : le « Bandeau bleu » et « Je ne suis pas à vendre ». Ces initiatives encouragent la population à recourir aux lignes d'urgence (délation). Il a aussi financé plusieurs projets communautaires de sensibilisation. Toutefois, peu d'organismes de premières lignes ont reçu du financement afin de soutenir ou accompagner les victimes. Les organismes qui ont reçu des fonds ont surtout fait de la sensibilisation (vidéo ou conférence nationale, etc.)

Native Women's Association of Canada (NWAC) response:

Progress thus far:

- Senate committee study of sexual exploitation of children is underway.
- Legislation under consideration on more harsh penalties for offenders
- Civil society groups advocate for stronger focus on prevention and more resources allocated to support for children in vulnerable positions and children involved in court processes.

Recommendation n°89: *A similar system as for treaty bodies be created for the analysis and implementation of the recommendations resulting from the universal periodic review exercise (Recommended by Portugal).*

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

No measures as yet.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No indication of follow-up strategy or activities
- No consultation with civil society
- Outcome reports on Heritage Website – not widely distributed
- No discussion of outcome in parliament

In the UPR follow-up meeting with Indigenous organizations, Canadian officials repeatedly refused to respond to specific questions. In regard to Canada's constitutional obligations relating to Indigenous rights, a representative from Justice indicated that the government was "putting aside such constitutional issues" in its UPR process and adopting a "narrower" approach. The Canadian government cannot put aside the Constitution in carrying out its functions or responsibilities. Discussions with officials are generally based on the government's ideological positions and not on international human rights law.

Recommendation n°90: *Analyze United Nations treaty bodies recommendations in consultation with representatives of the civil society, including indigenous people, and implement them or publicly report on the reasons why it considers no implementation is more appropriate (Recommended by Portugal).*

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

The Harper Government maintains a closed door policy to overtures from indigenous leaders.

International Indian Treaty Council (IITC) response:

The Canadian government has ignored most if not all Treaty Body recommendations with regard to Indigenous Peoples. This failure extends to the so-called "modern treaty process" where the Human Rights Committee and the CERD Committee have called for transparency and good faith, the government has not followed their recommendations.

Disability Rights Promotion International (DRPI) response:

In relation with the [Convention on the Rights of Persons with Disabilities (CRPD)], we have been involved in a few events. One of these events was the Roundtable on Ratification of the CRPD organized in June 2009 by the Department of Human Resources and Skills Development Canada. In March 2010, the DRPI Director was been invited to an expert consultation organized by the Canadian Human Rights Commission to examine how the Commission can more effectively address the systemic issues faced by people with disabilities. We have also been asked to provide feedback on the outline of Canada's initial report to the UN on the CRPD. In spite of these sporadic events and small-scale initiatives such as the DRPI individual

monitoring studies, there are no national ongoing efforts to ensure the sustainability of civil society participation in the implementation of the CRPD. DRPI has not been asked to share its research results in any scheduled forum with government officials reviewing the implementation of CRPD.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No evidence of change or discussion of reform
- Reports issued since UPR (CRC Third Report) and invitation for input in next reports show no change or recognition of need for more effective process and participation of civil society
- Fall meeting of Continuing Committee could have started reform process; no indication of willingness to engage with civil society to discuss reform.
- Officials continue to defend the current system and do not recognize the need for and scope of reform in UPR recommendations.

*Recommendation n°91: Create or reinforce a transparent, effective and accountable system that includes all levels of the government and representative of the civil society, including indigenous people, to monitor and publicly and regularly report on the implementation of Canada's human rights obligations (Recommended by Portugal).*

*IRI: not implemented*

International Indian Treaty Council (IITC) response:

NO system is yet been suggested by the Canadian government.

Disability Rights Promotion International (DRPI) response:

See response to recommendation n°90.

Native Women's Association of Canada (NWAC) response:

System for Monitoring and Reporting Implementation of Human Rights Commitments (Recommendations 14, 11)

Progress at 1 year:

- No substantive action toward reform of existing system
- Recognition in letters from Heritage Minister that system needs reform
- Reports issued since UPR show no change or recognition of need for reform
- Reductions in budget for promotion of human rights in Heritage and refusal to fund projects focused on UPR and its implementation as being outside its current mandate.
- Canada's report says options for enhancing existing mechanisms are being considered and it invites suggestions for practical improvements.

Make Continuing Committee of Officials on Human Rights more operational (part of Recommendation 14)

Progress at 1 year:

- Fall meeting of CCOHR held in same way as before; no change
- Reports since UPR defend CCOHR and show no recognition of need for reform
- Letter from Heritage Minister to CCRC does recognize need for change



Recommendation n°92: *Ensure that any complaint of violations of international human rights obligations can be examined in Canadian courts and effective adequate remedies will be provided to victims (Recommended by Portugal).*

IRI: *not implemented*

HIVAIDS Legal Network (CHLN) response:

The Government of Canada continues to maintain its position that economic, social and cultural rights are non-justiciable, which presumably underlies its rejection of this recommendation.

First Nations Summit - Etal (FNS) response:

See comments regarding recommendation 84 above.

Native Women's Association of Canada (NWAC) response:

The obligation to ensure effective remedies applies to all human rights, even where they are not enforceable in courts. A thorough review of remedies for rights in ratified treaties remains an urgent priority. This is not an issue which Canada is permitted under international human rights to simply decide not to accept.

Recommendation n°93: *Develop a national strategy to eliminate poverty (Recommended by Russian Federation).*

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

[...] No progress.

Citizens for Public Justice (CPJ) response:

Despite the Government of Canada's rejection of this recommendation in June 2009, there was hope that the government would take meaningful action against poverty following a unanimous resolution of the House of Commons in Nov. 2009 to, "develop an immediate plan to eliminate poverty in Canada for all" and the Nov. 2010 release of the House of Commons Human Resources (HUMA) Committee report, Federal Poverty Reduction Plan, that called for the government to develop and implement a poverty reduction plan with measurable targets and timelines. Sadly, the government rejected this recommendation and has continued to all but ignore calls to ask a role in developing, coordinating, and supporting a national poverty elimination strategy.

The need for a national poverty elimination strategy continues: 1 in 10 Canadians continue to live in poverty, more or less the same percentage as 25 years ago. And while it is encouraging that six Canadian provinces/territories (NL, NB, NS, QC, ON, MB) have developed their own strategies and four more are in the process of doing so (YK, NT, NU, PE), the need for federal involvement is clear. Despite the fact that the Government of Canada continues to argue that poverty reduction falls under provincial jurisdiction, provincial leaders have explicitly stated that federal government support and coordination is needed to make their strategies successful. The federal government has also failed to live up to its responsibility to care for Canada's Aboriginal people, something that is clearly a national responsibility.

Native Women's Association of Canada (NWAC) response:

The HUMA Committee spearheaded a motion that went to the House of Commons calling on the federal government to develop an immediate plan for the elimination of poverty for all.

The Senate Sub-Committee on Cities released a report focused on poverty, housing and homelessness in November 2009. It made 74 recommendations including that: i/ the federal government adopt a core poverty eradication goal of lifting people out of poverty; ii/ establish a fund to allow groups overrepresented amongst the poor to have legal representation in law reform cases with respect to their human rights; and iii/ explicitly cite Canada's international human rights obligations in any federal legislation or legislative amendments relevant to poverty, housing, and homelessness.

Many of the provinces that have adopted antipoverty strategies have called on the federal government to join with them in these initiatives, to show leadership in this area and to adopt a national strategy. Most recently the premier of New Brunswick said that federal leadership in this area would undoubtedly assist New Brunswick in implementing its poverty reduction plan.

*Recommendation n°95: Implement all international human rights instruments related to Aboriginals, women, Arabs, Muslims and other religious minorities, migrants and refugees and enhance and protect their rights against violations (Recommended by Saudi Arabia).*

*IRI: not implemented*

Commonwealth Human Rights Initiative (CHRI) response:

See response to recommendation 32.

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Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the Games were awarded to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver. The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole. In March 2009, the Special Rapporteur on the right to housing presented the Council with the findings of his mission report to Canada. It highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous people and a need to expand public housing. In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population. Indigenous groups were divided over whether the Games were a positive or negative development. Much of the Games took place on what many First Nations groups consider to be stolen First Nations land and there were also concerns about the negative environmental impact on the land.

First Nations Summit - Etal (FNS) response:

See comments regarding recommendation 32 above.

Native Women's Association of Canada (NWAC) response:

The Canadian government does not accept to implement “all international human rights instruments related to Aboriginals”, which would include the UN Declaration. Also, the government does not accept the recommendations of treaty monitoring bodies relating to international human rights treaties, if they rely on the UN Declaration to interpret Indigenous rights or related State obligations.

Recommendation n°96: *Conduct a review of the effectiveness of its legislation relevant to trafficking in human beings and implement reforms where necessary to strengthen the protection of the rights of victims of trafficking* (Recommended by Slovakia).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Efforts are being made.

FI response:

Le Canada ne prévoit pas effectuer d'évaluation de ces lois. D'autant plus, qu'il a reçu la cote de niveau 1 du dernier Trafficking in Person Report des États-Unis. Cela semble le convaincre de poursuivre dans son approche malgré les critiques envers son approche répressive et le caractère aléatoire des mécanismes de protection des victimes adopté avant 2009, à savoir le permis de séjour temporaire et l'accès au programme fédéral de santé intérimaire, ainsi que sur le manque de coordination à l'échelle nationale.

Le gouvernement canadien semble utiliser la traite humaine pour justifier des politiques restrictives en matière d'immigration. Pourtant, au Canada, les victimes de la traite interne sont de loin supérieures en nombre que celles issues de la traite transfrontalière. Plusieurs des propositions visent à renforcer les pouvoirs des agents d'immigration et frontaliers et à restreindre les droits et libertés des migrants. Ces mesures risquent de nuire aux personnes migrantes et favoriser la clandestinité des personnes vulnérables. Ils ont été fortement dénoncés par les organismes de défense de droits des personnes migrantes.

Le premier projet de loi déposé par le gouvernement Loi sur la Sécurité des Rues et des Communautés déposées le 20 septembre 2011 en est un exemple. Un aspect touche spécifiquement la traite: La Loi sur la Prévention du Trafic, de la Maltraitance et de l'Exploitation des Immigrants Vulnérables, qui vise à autoriser les agents d'immigration à refuser des permis de travail aux citoyens étrangers vulnérables lorsqu'ils risquent de subir un traitement humiliant et dégradant, y compris l'exploitation sexuelle ou la traite des personnes. Ce projet de loi a connu l'opposition de la société civile, car il met un trop grand pouvoir aux mains des agents aux frontières.

Au Canada, la protection directe des victimes de la traite des personnes est sous la responsabilité partagée du gouvernement fédéral, et ceux provinciaux et territoriaux. Il n'y a pas eu de programmes spécifiques venant du fédéral. Des provinces, dont

l'Ontario et la Colombie-Britannique ont mis en place des mesures, mais il s'agit d'initiatives (plans d'action) provinciales qui touchent tous les aspects de la traite.

Native Women's Association of Canada (NWAC) response:

Progress thus far:

- Senate committee study of sexual exploitation of children is underway.
- Legislation under consideration on more harsh penalties for offenders
- Civil society groups advocate for stronger focus on prevention and more resources allocated to support for children in vulnerable positions and children involved in court processes.

Recommendation n°97: *In line with CERD and CEDAW recommendations, to implement fully the antidiscrimination legislation in the labour market including considering the adoption of temporary special measures.* (Recommended by Slovakia).

IRI: *not implemented*

Native Women's Association of Canada (NWAC) response:

Comprehensive and effective pay equity legislation, covering both public and private employers, has yet to be introduced.

Recommendation n°98: *Consider measures to make the Continuing Committee of Officials on Human Rights more operational, ensure its better accessibility for the civil society enabling thus a permanent dialogue process on international human rights obligations including those from the Universal Periodic Review* (Recommended by Slovakia).

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

No measures have yet been forthcoming.

Native Women's Association of Canada (NWAC) response:

System for Monitoring and Reporting Implementation of Human Rights Commitments (Recommendations 14, 11)

Progress at 1 year:

- No substantive action toward reform of existing system
- Recognition in letters from Heritage Minister that system needs reform
- Reports issued since UPR show no change or recognition of need for reform
- Reductions in budget for promotion of human rights in Heritage and refusal to fund projects focused on UPR and its implementation as being outside its current mandate.
- Canada's report says options for enhancing existing mechanisms are being considered and it invites suggestions for practical improvements.

Make Continuing Committee of Officials on Human Rights more operational (part of Recommendation 14)

Progress at 1 year:

- Fall meeting of CCOHR held in same way as before; no change
- Reports since UPR defend CCOHR and show no recognition of need for reform
- Letter from Heritage Minister to CCRC does recognize need for change

Recommendation n°99: *Reinforce efforts to settle territorial claims and improve the mechanism of conflict resolution* (Recommended by Switzerland).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

[...] Conflict is not being resolved, it is growing.

First Nations Summit - Etal (FNS) response:

Since 1993, many First Nations in [British Columbia] have entered into treaty negotiations with Canada and [British Columbia]. Currently, 60 negotiation tables (representing over 120 of the 203 First Nations in [British Columbia]) are at various stages of negotiations. However, modern-day treaty negotiations have yet to achieve reconciliation for most First Nations due to the unreasonable negotiating mandates of Canada and [British Columbia]. The SCC has stated that negotiation (rather than litigation) is the preferred method for achieving the reconciliation of the pre-existence of Aboriginal societies with the sovereignty of the Crown. Once First Nations find themselves back in negotiations, the Crown resumes its strategy of denial and key legal principles established by the Courts are routinely ignored by Crown negotiators. Exacerbating the problem is Canada's continued reliance on its outdated and largely irrelevant Comprehensive Claims Policy. The First Nations Summit is concerned about Canada's ability to implement this particular recommendation, given that after 17 years of active negotiations under the [British Columbia] treaty negotiations process, only two treaties have been concluded and ratified. Furthermore, the First Nations Summit has repeatedly expressed concern about the lack of a mechanism for conflict resolution within the treaty negotiations process.

International Indian Treaty Council (IITC) response:

The so-called "modern treaty process" primarily concerning non-treaty Indigenous Peoples of British Columbia, have only resulted in great debt for tribes, as Canada has insisted on the relinquishment of Aboriginal title before negotiations can begin. As tribes refuse to relinquish their constitutionally protected Aboriginal rights, negotiations do not yield good results, and the expense of lawyers in negotiations have resulted in great debt incurred by Aboriginal Peoples, that becomes leverage for the Canadian government

Native Women's Association of Canada (NWAC) response:

It is noted that the Truth and Reconciliation Commission is part of a judicially-approved court settlement. It is not a voluntary gesture on the part of the Canadian government.

Recommendation n°100: *Continue efforts to bring its system of security certificates concerning immigration into compliance with international human rights standards* (Recommended by Switzerland).

IRI: *partially implemented*

Justice for Mohamed Harkat (JMHC) response:

Efforts to date have been limited to the introduction of a "special advocate" into the security certificate process, a cosmetic change and a process which has been condemned abroad, in the UK and elsewhere. The special advocate process in the



security certificate cases has done nothing to address the arrogations of principles of natural justice and human rights inherent in the security certificate itself, especially the right to face one's accuser, the right to know the case against you, and security of the person, since the eventual outcome is intended to be deportation under a shroud of accusations, unproven (only allegations need be deemed "reasonable"), of terrorism. Systematic abuses continue of the process, to use material gathered for assurance of compliance with release conditions as evidence in further court proceedings. Security certificates continue to be universally denounced by civil society and human rights organizations both in Canada and abroad. Only Muslim men are targeted currently, and they do not know the case against them. Provisions are not in place to ensure intelligence information is not gleaned from torture. Security forces can continue to withhold necessary information even in secret proceedings. Hearsay is relied upon as evidence. Informers and human sources are protected at the expense of the rights of the accused. The process is quasi-judicial in that a judge presides, but no charges need be made. Any appeal must be approved by the judge that upholds the certificates to begin with, and cannot be an appeal of a finding of fact but only on a point of law. The three Muslim men still under security certificates have now been attempting to clear their names without access to secret information for a total of over 30 years combined. Their lives have been irrevocably altered in a dehumanizing process that has completely changed their everyday lives and those of their families. Their career, family, education and life plans have been put on hold for years. Imprisonment, often in isolation, can last years without charge, followed by more years under extremely severe conditions of house arrest or under other conditions.

Native Women's Association of Canada (NWAC) response:

Although the addition of a "special advocate" has improved the system but it is still unfair and inconsistent with international standards. Recent revelations have demonstrated that important evidence has been withheld or mischaracterized by government lawyers. Two cases have been thrown out by the courts now, but the government continues to press ahead with 3 other cases even though the system is now widely discredited.

*Recommendation n°101: Implement the voluntary pledges it presented as it applied to the Human Rights Council, namely, the principles of universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization in addressing human rights issues of different communities and peoples domestically and internationally (Recommended by Syria).*

**IRI: not implemented**

Athabasca Chipewyan First Nation (ACFN) response:

Treaties No. 1-11 promise special rights and considerations for the signatories. The Harper Government will use this UN pledge to raise public support for its continued refusal to recognize the terms of the treaties.

International Indian Treaty Council (IITC) response:

Canada has its own view of its pledges and obligations, usually interpreting them contrary to their spirit and intent.

Native Women's Association of Canada (NWAC) response:

In regard to the UN Declaration, Canada repeatedly failed during its three-year term to uphold the principles of "including impartiality, objectivity, non-selectivity, and the elimination of double standards and politicization". In relation to Indigenous peoples and the Declaration, Canada pursued the lowest standards of any Council member within the Western European group of States. In 2007, Canada was the sole country on the 47-member Human Rights Council to vote against the Declaration at the General Assembly. Moreover, in relation to the UN Declaration, Canada encouraged other countries to in effect violate these founding principles. However, according to the Government of Canada, Canada has accepted and implemented this recommendation.

*Recommendation n°102: Give appropriate attention to end racial discrimination against the Arab and Muslim communities in Canada including racial and religious profiling (Recommended by Syria).*

*IRI: not implemented*

Justice for Mohamed Harkat (JMHC) response:

Rather than act to implement this recommendation, the government continues instead to use a system of "liaison officers" to intimidate members of the Muslim and Arab communities into becoming informants. The community feels targeted, not surprising given surveillance routinely occurs at mosques, a practice which, anecdotally at least, appears to be increasing.

Native Women's Association of Canada (NWAC) response:

As is evident from its response, the Government of Canada had failed to recognize or address widespread racial profiling and discrimination against the Arab and Muslim communities. Its refusal to request the return of Omar Khadr to Canada despite a Supreme Court ruling concluding that the Canadian government is responsible for ongoing violations of his rights under the Charter, is a recent high profile example of this concern. Similarly the government's aggressive opposition to offering compensation and apologies to Abdullah Almalki, Ahmad Abou El Maati, Muayyed Nureddin and Abousfian Abdelrazik for the torture and other human rights violations they experienced, with Canadian complicity, fuels the concerns about profiling and discrimination. There were recommendations about profiling included in the report from the Maher Arar Inquiry but the government has never reported publicly on the progress of implementing any of those recommendations. The G o C has shown an open hostility toward any organization or individual in Canada that addresses the human rights of Palestinians.

*Recommendation n°103: Take the necessary measures to end discrimination against women in workplaces and implement ILO and CESC recommendations to ensure equal remuneration for work of equal value in public and private sectors (Recommended by Syria).*

*IRI: not implemented*

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. A report published in February 2010 by an alliance of feminist and labour activists noted that Canada's ranking in the World

Economic Forum's Gender-Gap Index had dropped from the fourteenth position in 2006 to the twenty-fifth in 2009. This was partially due to a widening wage gap between men and women.

Native Women's Association of Canada (NWAC) response:

Comprehensive and effective pay equity legislation, covering both public and private employers, has yet to be introduced.

Recommendation n°104: Take the necessary measures to end violence against women including domestic violence and against aboriginal women, and implement CEDAW and the Human Rights Committee recommendations in this context (Recommended by Syria).

IRI: not implemented

Athabasca Chipewyan First Nation (ACFN) response:

Harsher penalties are being promised as a way of ending violence.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Women's rights groups faced funding cuts by the government during the reporting period, a fact that was noted by the Committee on the Elimination of Discrimination against Women. A funding programme run by the government's Status of Women Committee developed new guidelines for NGOs which stipulated that funding for domestic advocacy, lobbying or research would no longer be granted. The resulting lack of funds forced several NGOs to shut down or severely restrict their work. A report published in February 2010 by an alliance of feminist and labour activists noted that Canada's ranking in the World Economic Forum's Gender-Gap Index had dropped from the fourteenth position in 2006 to the twenty-fifth in 2009. This was partially due to a widening wage gap between men and women.

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See response to recommendation n°32.

International Indian Treaty Council (IITC) response:

Again, Canada has its own interpretation of their obligations inconsistent with their true meaning and intent.

JfGOS response:

See response to recommendation n°36.

Recommendation n°106: *Closely monitor the situation of other disadvantaged groups such as women migrant workers, women prisoners and victims of trafficking* (Recommended by Turkey).

IRI: not implemented

FI response:

À ce niveau, le gouvernement a peu fait, excepté l'adoption de changements réglementaires concernant les travailleurs migrants temporaires.

Les modifications sont entrées en vigueur en avril 2011 :

- Une suspension de deux ans pour les employeurs coupables de violations significatives des termes de leur accord avec le travailleur.

- L'évaluation a lieu lorsque l'employeur fait une demande pour une nouvelle application pour un permis de travail. L'employeur peut renverser une évaluation négative de plusieurs façons.
- Le seul autre moyen de surveiller les employeurs est l'Initiative de suivi auprès des employeurs lancée par Ressources Humaines et Développement des Compétences Canada (RHDDC) en 2009, un programme auquel les employeurs peuvent participer sur une base volontaire.
- La limite du séjour des travailleurs migrants temporaires fixés à quatre ans, suivi d'une période de quatre ans durant laquelle il ne leur est pas permis de travailler au Canada.
- Une évaluation plus rigoureuse de l'authenticité des offres de travail de l'employeur. Alors que ces changements sont censés protéger les travailleurs migrants contre l'exploitation, il n'y a toujours pas de système obligatoire de surveillance permettant de découvrir de tels abus. La société civile canadienne travaillant sur cette question estime qu'un système de surveillance sur une base volontaire n'est pas efficace. De plus, la limite de durée de quatre ans assure aux employeurs canadiens une rotation de travailleurs migrants acceptant des salaires et des conditions de travail inférieurs. Les limites de durée ont pour objectif de renforcer la nature temporaire du programme.

La société civile canadienne croit que le gouvernement doit mettre en œuvre un système de surveillance obligatoire pour les employeurs de travailleurs migrants temporaires et poursuivre ceux qui violent la loi.

Les limites de durée doivent s'appliquer aux employeurs afin d'éviter que ceux-ci n'utilisent les travailleurs migrants pour combler des demandes de main d'œuvre permanentes et à long terme.

#### Native Women's Association of Canada (NWAC) response:

Canada has shown no interest in monitoring the situation of women or any particular group of women. The ban on funding for women's organizations which engage in advocacy or lobbying for law reform remains in place, thus shutting out funding for research and other efforts to achieve systemic change.

Since the death of a young woman in an isolation cell, while under 24 hour direct observation by correctional staff, the Correctional Service of Canada (CSC) has refused the Canadian Association of Elizabeth Fry Societies (CAEFS) access to monitor the conditions of confinement in the segregation unit where she died.

In 2009 the Auditor-General of Canada stated that there is no government-wide policy requiring that departments and agencies perform gender-based analysis. She also found that few of the departments that do perform gender-based analysis can provide evidence that these analyses are used in designing public policy. She also expressed concern that the Privy Council Office, the Finance Department and Treasury Board - could provide no proof that they subject their advice regarding resource allocations and programming to any assessment of impacts on women.

The withdrawal of funding for the Court Challenges Programme of Canada for equality rights cases has denied access to justice for vulnerable groups to challenge inequality and discrimination. For instance, despite an affirmative decision by the Privacy Commissioner in relation to CAEFS complaint regarding the refusal of CSC

to grant access to the woman's files, CAEFS has been forced to seek independent funding to apply to the Federal Court to enforce the decision. Also, in its 2009 Annual Report, the Correctional Investigator reported to Parliament on the continued failure of the CSC to remedy breaches of domestic law and policy vis-à-vis women and Aboriginal prisoners, as well as those with disabling mental health issues.

The Federal Government has declined to act on recommendations for an anti-poverty strategy to address economic inequality and poverty among vulnerable groups. The government has also failed to implement the recommendation of the UN HRC, CHRC, the Correctional Investigator and the Arbour Commission. Parliamentarians are also in breach of their fiduciary duty to Canadians by passing crime/sentencing bills without an analysis of the legal, human and fiscal costs associated with such legislative changes.

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

*Recommendation n°107: Take further measures to ensure effective implementation of CEDAW at the federal, provincial and territorial levels, giving particular attention to the Aboriginal women and girls (Recommended by Turkey).*

*IRI: not implemented*

Commonwealth Human Rights Initiative (CHRI) response:

See response to recommendation n°32.

JfGOS response:

See response to recommendation n°36.

Native Women's Association of Canada (NWAC) response:

Canada contends that it is working to advance equality of women across Canada and ensure the protection of their rights. Governments are addressing women's economic security, including the distinct obstacles faced by Aboriginal women. Canada is committed to legislation to end a clear inequality, often adversely affecting Aboriginal women and children, to ensure that, in the event of a marriage or common law relationship break down, Aboriginal people on reserve are afforded the same rights and protections that all other Canadians currently enjoy. However, as with other treaties, the GOC has taken no steps to ensure the implementation of CEDAW recommendations. The Government of Canada was asked by the CEDAW Committee to report back to it in November 2009 on steps it had taken to address inadequate social assistance rates and missing and murdered Aboriginal women. The Government filed its report late, perhaps because it has not taken any steps to address these two issues raised by CEDAW. It has not addressed any of the other issues listed in UPR recommendation 27.

One third of the women serving prison sentences of two years or more are Indigenous and they make up vastly disproportionate number of the women held in pre-trial custody. They are also over-classified as a result of discriminatory assessment and classification tools, a situation that has not yet been remedied,



despite recommendations to this effect by the the Arbour Commission, the CHRC and UNHRC.

Beyond moving toward ratification of the CRPD, the GOC has not taken steps to address discrimination against disabled women – which occurs in every sector. Canada continues to fail to adopt a comprehensive national action plan to address violence and discrimination against Aboriginal women.

No extra efforts have been made to address these issues: recommended task forces to address the issues of murdered and Missing Aboriginal women go ignored or are delayed.

Mclvor decision does not adequately address the issues of gender discrimination re: “Indian Status” therefore many are still not able to live in their communities of birth due to INAC’s criteria for band membership codes.

Recommendation n°108: *Continue to address socio-economic disparities and inequalities that persist across the country* (Recommended by Turkey).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Canada addresses this mostly by supporting massive resource consumption and export.

Disability Rights Promotion International (DRPI) response:

Persons with disabilities face significant socio-economic inequalities in comparison with their counterparts without disabilities. The recent OECD report "Sickness, disability and work: breaking the barriers" (2010) showed that Canada is among those OECD countries with the highest poverty rates for people with disabilities. Low per-capita income of those unemployed is one of the key causes of the high poverty rate. A large proportion of unemployed people with disabilities are excluded from social assistance benefits which declined over the past two decades (National Council of Welfare, 2010). With cancellation of the only reliable survey on disability PALS, there will be no data to support the development and implementation of appropriate policy to address the disparities faced by persons with disabilities.

Citizens for Public Justice (CPJ) response:

As mentioned in no. 93, we have been disappointed at the federal government's failure to pursue a national poverty elimination strategy despite the Parliamentary Committee's main recommendation and the unanimous resolution of the House that called for the government to develop and implement a poverty reduction plan. A national poverty elimination strategy is critical to addressing the growing socio-economic inequalities in this country.

Native Women’s Association of Canada (NWAC) response:

The GOC claims that it s undertaking measures to respond to the social and economic needs of Canadians. Canada acknowledges that there are challenges and the Government of Canada commits to continuing to explore ways to enhance efforts to address poverty and housing issues, in collaboration with provinces and territories.

Progress: - Numerous reports acknowledge inequitable treatment for some children and policy options to address this are known, but there is no indication of action to address this.

- Discrimination against some children in 2006 and 2007 policy changes to federal income support programs for children are acknowledged by officials, but have not been addressed through changes to the program. These are a violation of the core principles of the Convention on the Rights of the Child.

- Senate committee report, *In From the Margins*, recommends changes to the National Benefit for Children that would help to respond to the UPR.

Recommendation n°109: *Civil society be actively involved in the implementation of the review.* (Recommended by *United Kingdom*).

IRI: *not implemented*

International Indian Treaty Council (IITC) response:

NO such efforts have yet been forthcoming.

Disability Rights Promotion International (DRPI) response:

The only communication we received on the UPR follow-up came from civil society representatives, not from the government.

Native Women's Association of Canada (NWAC) response:

Progress at 1 year:

- No indication of follow-up strategy or activities
- No consultation with civil society
- Outcome reports on Heritage Website – not widely distributed
- No discussion of outcome in parliament

In the UPR follow-up meeting with Indigenous organizations, Canadian officials repeatedly refused to respond to specific questions. In regard to Canada's constitutional obligations relating to Indigenous rights, a representative from Justice indicated that the government was "putting aside such constitutional issues" in its UPR process and adopting a "narrower" approach. The Canadian government cannot put aside the Constitution in carrying out its functions or responsibilities. Discussions with officials are generally based on the government's ideological positions and not on international human rights law.

Recommendation n°110: Give the highest priority to addressing the fundamental inequalities between some of its citizens including through its policy agenda focused on five key areas of economic development: education, citizen empowerment and protection of the vulnerable, resolution of land claims and reconciliation, governance and self government. (Recommended by *United Kingdom*).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

The Harper Government does not make a reasonable effort to protect the vulnerable, or resolve land claims or develop governance at the aboriginal community level.

International Indian Treaty Council (IITC) response:

No such priorities have been suggested or proposed.

Native Women's Association of Canada (NWAC) response:

In regard to this recommendation, it is hardly possible for the government to promote reconciliation if it is actively opposing domestically and internationally the UN Declaration – the most comprehensive international human rights instrument explicitly related to Indigenous peoples worldwide. At both levels, the government has violated the rule of law since 2006 without accountability. It still refuses to provide any legal opinion to justify its actions.

*Recommendation n°111: Seek to demonstrate that challenges presented by relationships between its federal, provincial and territorial governments do not present unnecessary obstacles to the fulfilment of treaty obligations. (Recommended by United Kingdom).*

**IRI: not implemented**

Athabasca Chipewyan First Nation (ACFN) response:

Harper uses this type of relationship to excuse its lack of action. For example in the oil sands Canada does not enforce the Fisheries Act or the Navigable Waters Protection Act or the Species at Risk Act because this might cause problems with the oil industry. Canada does not monitor environmental change adequately, trusting the Government of Alberta to do this. In the past two years the aboriginal community and leading scientists have shamed Canada into making announcements that it will do something, but the announcements are hollow words not backed by action or money.

First Nations Summit - Etal (FNS) response:

The First Nations Summit notes that both the negotiation and implementation of treaties in BC continues to be adversely impacted by the relationship between the federal and provincial governments. In particular, First Nations are often unable to determine which government is responsible for honouring specific commitments in a treaty. Furthermore, First Nations are left with no recourse when each of them suggests it is the responsibility of the other one.

International Indian Treaty Council (IITC) response:

Fundamentally, Canada has made no such demonstration.

Native Women's Association of Canada (NWAC) response:

Canada's position is that federalism is not a barrier to the effective implementation of international human rights obligations in Canada. To the contrary, each government designs and delivers programs and services to best address regional and local priorities and circumstances. On-going intergovernmental discussions contribute to the advancement of human rights protections throughout Canada.V. Federal/Provincial/Territorial Collaboration:

Progress at 1 year:

- Language has changed to say it is not obstacle, but no evidence to demonstrate improvement in subsequent reports or processes.

There has been no first ministers meeting on human rights since 1988, and no high level meeting has been convened to respond to ongoing concerns from all human rights treaty monitoring bodies about the need for improved FPT mechanisms.

Relationships between federal and provincial and territorial governments continue to present unnecessary obstacles to the fulfillment of treaty obligations relevant to Aboriginal peoples in regards to trilateral treaty negotiations

- Surrendering of Aboriginal Title to Land

– Involving Federal government, provinces and Indigenous communities (for ex: It will take over 100 years for “Land Claims” to be resolved; Quebec Government’s lack of consultation on “Le plan nord”).

Another example of this situation is represented by cuts to health (Jordan’s Principle), housing, education, water, etc where different level of government have been arguing over who will pay Indigenous communities and individuals services.

The Government has not met its obligation under section 36 of the Canadian Constitution to work with the legislatures and governments of the provinces and territories to provide “essential public services of reasonable quality to all Canadians.” (FAFIA Reality Check: Women in Canada and the Beijing, Declaration and Platform for Action Fifteen Years On A Canadian Civil Society Response February 22nd, 2010)

*Recommendation n°112: Consider taking additional steps to address discrimination against disabled adult women and Aboriginal women. (Recommended by United Kingdom).*

*IRI: not implemented*

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008. The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal prison population. Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes. Beyond high levels of incarceration, indigenous women are subject to excess violence. Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women. However, the Native Women’s Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies. In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.

Emily Cameron (EC) response:

National non-governmental organizations that specialize in advocacy for disabled and Aboriginal women, or that would be equipped to undertake targeted research related to discrimination against disabled and Aboriginal women, are often working under restricted funding, have had their funding cut, or rely on membership fees and donations, rather than stable federal funding. Addressing the rights of disabled and Aboriginal women requires a federal investment in civil society and support not only for services but also advocacy. It follows that investments in legal advocacy for vulnerable populations should be considered a priority, if additional steps to address discrimination of vulnerable persons is a government commitment.

Disability Rights Promotion International (DRPI) response:

The recent measures taken by Canada government to cancel the mandatory long-form Census has a significant impact on identifying the inequalities faced by women, particularly Indigenous women and women with disabilities, and on assessing policies and programs addressing these inequalities. As highlighted in the report "Changing the long-form Census - Its impact on women's equality in Canada" (2011) by House of Commons, without the data from the Census discrimination against women in all sectors of society (education; employment; etc) will become invisible. Furthermore, the cancellation of the national flagship survey on disability, Participation and Activity Limitation Survey (PALS), imposes serious barriers in the efforts to identify the issues faced by women with disabilities. The face-to-face interviews conducted as part of our individual experiences monitoring revealed that women with disabilities reported more issues of discrimination in health and education than did men with disabilities.

Native Women's Association of Canada (NWAC) response:

Beyond moving toward ratification of the CRPD, the GOC has not taken steps to address discrimination against disabled women – which occurs in every sector.

Recommendation n°113: *Intensify the efforts already undertaken to better ensure the right to adequate housing, especially for vulnerable groups and low income families* (Recommended by Viet Nam).

IRI: *not implemented*

Athabasca Chipewyan First Nation (ACFN) response:

Nothing new is being done, homelessness is growing all over the country.

Commonwealth Human Rights Initiative (CHRI) response:

This information valid as of May 2010. Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the Games were awarded to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver. The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole. In March 2009, the Special Rapporteur on the right to housing presented the Council with the findings of his mission report to Canada. It highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous people and a need to expand public housing. In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population. Indigenous groups were divided over whether the Games were a positive or negative development. Much of the Games took place on what many First Nations groups consider to be stolen First Nations land and there were also concerns about the negative environmental impact on the land.



International Indian Treaty Council (IITC) response:

Housing remains a deep and unabated need in most Reserves, in spite of Treaties with Aboriginal Peoples that require a Canadian response.

Pivot Legal Society (PL) response:

In British Columbia there has been a lot of progress on formalizing a right to shelter, but little progress in recognizing the right to housing. The City of Vancouver continues to focus a large part of its platform on eliminating street homelessness and increasing affordable housing, and has had success in certain areas with assistance from the province of B.C., but lack of a national housing strategy continues to hamper the actualization of a Right to Housing. In Victoria the court case of *Adams v. the City of Victoria* established the beginning of a legal test where citizens will have the right to set up their own shelter when the government has failed to provide them with adequate alternatives. While this decision has been so far confined to a right to shelter there is optimism it may be expanded to actualize the Right to Housing, as the federal government is unwilling to recognize such a right exists, despite the commitments made by Canada in the ICESCR.

Citizens for Public Justice (CPJ) response:

[...] The UN Special Rapporteur on Adequate Housing stated that Canada's housing situation qualifies as a national emergency: 1.5 million households are in core housing need; close to 25% of Canadians are required to pay more than they can afford for housing or depend on subsidized housing; and 1.3 million households report the need for major repairs. According to the Wellesley Institute, by 2013 overall federal spending on housing programs will have dropped 18% since 1989 and the Affordable Housing Initiative will plummet from \$164 million in 2009 to \$1 million. We believe housing is a fundamental human right; a failure to safeguard this right is a failure to safeguard the value and dignity of every person. Greater federal government attention and investment to adequate and affordable housing is needed.

Native Women's Association of Canada (NWAC) response:

The GOC claims that it is working to improve housing choice and affordability. Governments are making substantial investments in housing through programs targeting affordability, housing renovation, homelessness and support for existing social housing units. Addressing Aboriginal housing issues on reserve remains a priority. Canada provides support through programs targeting the construction of new housing units, the renovation of existing housing stock, and subsidies for existing rental housing. According to the GOC, since 2006, new funding for Aboriginal people has been dedicated to resolving challenges of poverty and housing.

Recommendation n°14: *Continue policies and programmes aimed at reducing inequalities that still exist between the Aboriginal, recent immigrants and other Canadians* (Recommended by Viet Nam).

IRI: *not implemented*

Commonwealth Human Rights Initiative (CHRI) response:

See response to recommendation n°32

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Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the Games were awarded to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver. The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole. In March 2009, the Special Rapporteur on the right to housing presented the Council with the findings of his mission report to Canada. It highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous people and a need to expand public housing. In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population.

International Indian Treaty Council (IITC) response:

Again, lip service may be offered, but the fundamental policies remain unchanged.

First Nations Summit - Etal (FNS) response:

The Government of Canada has refused to provide the funding required to support the meaningful implementation of the 2005 Kelowna Accord, which was signed by the previous federal government, provincial governments and the five national Aboriginal organizations. The principal goal of the Accord was to close the socio-economic gaps that exist between Aboriginal and non-Aboriginal people. While the previous federal government had committed to spend \$5 billion over 10 years to implement the Accord, the current government has not made the implementation of the Accord a priority.

LCAC response:

The Government of Canada's continuing failure to fully and meaningfully implement modern treaties with Aboriginal peoples includes a persistent failure to acknowledge that comprehensive land claims agreements can and should serve to bring about the inclusion of Aboriginal peoples into the regional, provincial/ territorial and national economies of which they and their lands and resources are part, and, over time, to improve the material well being of Aboriginal peoples while enriching the country as a whole.

## Methodology

### A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted both the delegate who represented the State at the UPR and the Permanent Mission to the UN in Geneva or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

### B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage using the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, or when the comments are defamatory or

inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed on the follow-up webpage.

### C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show both disputed and agreed recommendations.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is noted as 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review says the recommendation has been fully implemented and a stakeholder says it has been partially implemented, score is 0.75.

Then the score is transformed into an implementation level, according to the table hereafter:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

### **Disclaimer**

*The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.*

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