



RECOMMENDATIONS TO CANADA

2016 SUBMISSION TO THE UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

This briefing highlights opportunities for advancing stronger economic, social, and cultural (ESC) rights protections in Canada. Amnesty International recommends that the Government of Canada:

IMPLEMENTATION OF HUMAN RIGHTS OBLIGATIONS

- Convene periodic meetings of all ministers responsible for human rights and initiate a process of reform that ensures effective, transparent, and politically accountable implementation of Canada's international human rights obligations.
- Recognize the indivisibility of human rights and comply with its international economic, social, and cultural rights obligations when interpreting and applying the *Charter of Rights and Freedoms*.
- Cease arguing in court that ESC rights are not amenable to judicial enforcement and commit to reviewing all legislation so as to ensure that Covenant rights are subject to meaningful and accessible remedies in all jurisdictions.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

INDIGENOUS PEOPLES

- Ensure that the positions taken by government in negotiations or litigation over Indigenous land disputes are consistent with the obligation to respect, protect and fulfil the rights of Indigenous peoples under Canadian and international law.
- Recognize the right of free, prior and informed consent (FPIC) of Indigenous peoples, fully incorporate FPIC in all laws, policies, and practices related to extractive industries at home and abroad.
- Reject or rescind approval of projects with potential harm to the rights of Indigenous peoples.
- Take immediate measures to eliminate inequities in funding for education for First Nations children and youth on reserves and ensure that the level of funding takes account of First Nations children's culture and specific circumstances.
- Foster on-reserve educational systems consistent with preserving the best interests of the child, protecting Indigenous languages and cultures, honouring treaty rights, and respecting the rights of self-government and self-determination.
- Work with First Nations to eliminate the gap in funding for First Nations child and family services, provide a level of funding that takes the specific needs and circumstances of First Nations communities into account, and ensure equitable access to culturally-appropriate programmes and support services within families and communities.
- Ensure that Treaty and Aboriginal rights to harvest wild foods are recognized and protected and that the food security of Indigenous peoples is prioritized in development decisions.
- Collaborate with First Nations to ensure that all First Nations communities have access to clean drinking water and adequate sanitation, including through provision of adequate, sustained funding for such services.
- Amend the *Safe Drinking Water for First Nations Act* to ensure respect for First Nations self-government rights in regulating First Nations water systems. Ensure follow-up to its commitment to support the construction of an all-weather road providing access to the Shoal Lake 40 First Nation, work collaboratively with the First Nation to take all necessary measures to ensure safe year-round travel to and from the community, and provide access to clean, safe drinking water at Shoal Lake 40.
- Ensure adequate treatment of and compensation to the victims of mercury poisoning at Grassy Narrows and neighbouring First Nations, undertake measures to effectively reduce the risk of continued exposure to mercury poisoning, and work with Grassy Narrows to carry out a comprehensive health study to identify their needs.
- Refrain from licensing logging on the traditional territory of Grassy Narrows without the free, prior and informed consent of the First Nation.
- Suspend construction of the Site C dam and commit to ensuring that the project will not proceed so long as affected Indigenous peoples have withheld their free, prior and informed consent.

GENDER EQUALITY

- Develop a comprehensive national plan of action to address violence against women and girls in the country.
- Ensure that the independent public inquiry into missing and murdered Indigenous women and girls examines issues of due diligence, systemic discrimination, and access to justice in all jurisdictions in Canada, leads to the adoption of a

comprehensive plan of action to address the social and economic factors placing Indigenous women and girls at risk, and ensure appropriate and unbiased responses from police and the justice system.

- Take immediate measures to implement outstanding recommendations from UN human rights bodies and others to address urgent and longstanding right violations related to violence and discrimination against Indigenous women and girls, including increased funding for women's shelters and other supports in Indigenous communities.
- Increase and enhance data collection on incidents of violence against women and girls in Canada.
- Ensure that all provinces investigate the gendered implications of funding policies in the development of annual budgets and the extent to which austerity policies disproportionately impact women, and make revisions where the effect is to perpetuate systematic discrimination against women.
- Amend its foreign policy stance so that Canada upholds international standards on sexual and reproductive rights and funds safe abortion services for survivors of sexual violence as part of its overseas development assistance.
- Pass legislation that would add gender identity and gender expression to the prohibited grounds of discrimination under the *Canadian Human Rights Act* and the hate crimes provisions of the Criminal Code.

MIGRANTS AND REFUGEES

- Follow up on the commitment to restore the Interim Federal Health Program for refugee claimants and refugees in Canada.
- Ensure equal access to essential health care for all individuals in Canada, including irregular migrants, regardless of immigration status.
- Allow migrant domestic workers to move freely between employers by offering open work permits, thereby improving working and living conditions and rendering them less susceptible to abuse.
- Provide a guaranteed pathway to permanent residency for migrant domestic workers, including reasonable extensions to temporary visas.
- Ensure that migrant domestic workers who experience human rights violations have effective access to justice, including legal aid.

PERSONS WITH DISABILITIES

- Ensure that the education policy across all provinces prohibits the use of restraint, seclusion, and aversive interventions.
- Prioritize inclusive assessments that recognize the diverse needs of the student body, including students with disabilities.
- Provide teachers with sufficient resources and expertise to ensure that children with disabilities and their families receive adequate support both inside and outside the classroom.

BUSINESS AND HUMAN RIGHTS

- Pass laws that ensure access to domestic courts for victims of human rights abuses arising from the overseas operations of Canadian extractive firms.
- Ensure the creation of an extractive-sector Ombudsperson, with the power to independently investigate complaints into human rights abuses and make recommendations.
- Institute legal and policy reforms to require companies domiciled or headquartered in Canada to carry out adequate human rights due diligence throughout their global operations.
- Institute a policy of ensuring that all trade deals are subject to independent and comprehensive human rights impact assessments before they are concluded and at regular intervals after coming into force.

PRISONERS

- End Canada's practice of solitary confinement, limiting its use as a measure of last resort, for as short a time as possible, prohibiting its use against children and individuals with mental health issues, and ensuring the possibility of judicial review.

ADEQUATE LIVELIHOOD

- Follow-up to its commitment to develop a national housing strategy designed to respect, protect, promote and fulfil the right to adequate housing including prioritising the crisis of homelessness.
- Develop a comprehensive, human rights-based national food strategy, in consultation with civil society, for combatting food insecurity which ensures that discriminated groups are prioritised and protected against barriers to accessing food.
- Repeal Bill C-43 and ensure that all individuals seeking Canada's protection receive adequate social security.
- Promote a practice whereby all governments in Canada—federal, provincial and territorial—assess budgetary cuts so as to ensure compliance with the Covenant.
- Ensure that the government of Quebec adequately considers the extent to which its austerity policies disproportionately impact disadvantaged and marginalized groups and revises its budget accordingly to ensure such groups are prioritised and safeguarded against any retrogressive measures.