

**AMNESTY**  
INTERNATIONAL



# The 2022 Human Rights Agenda

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Recentering Human Rights  
in Canada







# PREFACE

Three years into the devastating impact of COVID-19, our world stands at a critical juncture. A deadly virus, global recession, deepening socio-economic inequities, unprecedented climate crisis and the most aggressive assault on a sovereign state in this new millennium and century have placed our globe at a crossroads unlike any other in human history.

The assault on human rights is not only global. Anti-rights movements and leaders are growing more audacious, sophisticated, transnational, and better resourced than they have in decades. On the other hand, international institutions created to protect these rights are in paralysis, often rendered ineffective by states who no longer wish to play by the basic rules and conventions of international law. An acute vacuum on human rights is palpable on the global scene and risks being filled by further defiance on international norms. Never has our world needed leadership, fortitude, and the moral spine to protect human rights as it does today.

**Canada has been and remains a strong voice for the respect of international human rights on the global scene.**

How are these commitments reflected domestically? Are recent and unforeseen global challenges renewing Canada's drive to protect those most at risk at home? Have the calls made by numerous rights-holders, historically marginalized communities, and civil society these recent years been addressed?

The 2022 Human Rights Agenda is our attempt to critically answer these questions. The Agenda reviews the year 2022 through the lens of Canada's multiple international human rights obligations and sheds a light on progress and gaps for leaders, decision-makers, and the Canadian public.

**Most of all, it is a call to action.**

Canada's numerous, eloquent commitments to reconciliation with First Nations, Métis and Inuit Peoples, ending racial discrimination, climate change and refugee protection must be commended. But these are far from enough. Public pledges and investments are insufficient markers of human rights protection, they demand robust, sustained, and measurable implementation. Only the lived experience of those whose rights are most at risk can tell us the full story and whether progress was indeed made.

Amnesty International's *2022 Human Rights Agenda for Canada* should be read in this context. This year's edition, far from being exhaustive, provides evidence-informed recommendations aligned with Amnesty International Canada's strategic priorities in [Amnesty International Canada's 2022-2030 Strategic Plan](#):

**The Rights of Indigenous Peoples;**

**Discrimination and Racial Justice;**

**Gender Justice;**

**People on the Move: Refugee and Migrants Rights;**

**Climate Justice and Corporate Accountability.**

On the threshold of 2023, the verdict is far from encouraging.

Canada's fossil fuel emissions at home and globally are endangering our future as a species. These emissions rank among the highest in the G20, higher than our southern neighbour, the United States, with a population ten times the size of Canada's. United Nations Secretary General, Antonio Guterres, aptly refers to investments in new fossil fuels infrastructures as "*moral and economic madness*." Will Canada finally hear his impassionate call? As our young people so often remind us, there is no planet B.



Despite countless recommendations from international human rights bodies, Canadian inquiries and commissions and affected communities, Indigenous, Black, racialized, and gendered peoples continue to experience the most severe and persistent violations of their rights today.

Indigenous women face an indefensible intersection of inequities and carry the heaviest cost of systemic gaps. Indigenous women are one of the fastest growing populations of incarcerated persons in federal correctional institutions in Canada and now total 50% of all federally sentenced women. Of all women held in maximum security today, close to 65% are Indigenous women.

From access to clean water, discrimination in the healthcare, education, or criminal system, forced or coerced sterilization, to land protection, murder, gender-based violence and disappearances, the daily experience of Indigenous women is one of incessant violence, pain, trauma, and disillusion. This profound and systemic injustice must end.

**Canada is failing to uphold its international human rights obligations on many fronts. It must urgently change course.**

And change is possible. It is in this spirit that we, at Amnesty International, have outlined concrete, actionable recommendations, to support Canada's adherence to its international commitments. Our calls are non-partisan and require clear and strong commitment from decision-makers across the political spectrum.

Canada must recenter human rights, from coast to coast and rise to challenge the global assault on fundamental rights facing us all. A just and equitable society does not just fulfill international obligations, it strengthens the social fabric and guarantees a whole, more secure future for our young and forthcoming generations. The existential concerns of Canadians and Canada's youth must be met with the urgency and resolve they deserve and crucially need.

More than ever, we urge federal, provincial, and territorial governments to take immediate and resolute steps to close the climate gap and protect the rights of those rendered invisible and inaudible by the crushing weight of inequity.

My ardent hope is to report on greater progress in our 2023 Human Rights Agenda. But first, Canada must get to work.

**Ketty Nivyabandi**  
Secretary General

Amnesty International Canadian Section  
(English Speaking)



**SYSTEMATIC INJUSTICE MUST END**

**RESPECT  
INDIGENOUS  
LANDS**



## EXECUTIVE SUMMARY

The Human Rights Agenda (HRA) provides an intersectional and human rights-based analysis of Canada's compliance with international human rights commitments in 2022. This report identifies priority reform and action areas for decision-makers aligned with the strategic priorities of Amnesty International Canadian Section (English Speaking).<sup>1</sup>

**IN COOPERATION AND CONSULTATION WITH INDIGENOUS PEOPLES, THE GOVERNMENT OF CANADA HAS A DUTY TO ENSURE THE FULL DOMESTIC IMPLEMENTATION OF THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP) AND THE CALLS TO ACTION OF THE TRUTH AND RECONCILIATION COMMISSION (TRC).**

Progress lags in the domestic implementation of UNDRIP, and consultation and cooperation in developing an action plan has been limited. Indigenous peoples, particularly women, are disproportionately overrepresented and discriminated against in Canada's criminal justice system. The right to access safe and clean drinking water and sanitation remains elusive in 27 First Nations communities operating with boil water advisories. A comprehensive, resourced, and consultative devolution of child welfare jurisdiction is still lacking in certain provinces, as is equitable access to child and family services and social protection, as required under UNDRIP and the United Nations Convention on the Rights of the Child (CRC).

The Government of Canada must create a national action plan for UNDRIP implementation. Further, the Government of Canada is called upon to

implement the TRC's Calls to Action that pertain to missing children from residential schools, the reparation owed to victims and survivors of discriminatory child and family services, inequitable access to quality education and systemic discrimination in the criminal justice system. In consultation with Indigenous communities, a clear timeline to end boil water advisories must be accompanied by the immediate development and implementation of new legislation that will ensure safe drinking water for Indigenous peoples.

Amnesty International calls on the Government of Canada to respect Indigenous peoples' right to self-determination from which the principle of free, prior, and informed consent flows, as well as their rights to life, lands, territories, and food systems, which are under threat by climate change and environmental racism.

<sup>1</sup> Also referred to as Amnesty International Canada, or AICES.

**THE GOVERNMENT OF CANADA HAS A DUTY TO PROHIBIT ALL FORMS OF RACIAL DISCRIMINATION AND PRIORITIZE TRANSFORMATIVE APPROACHES TO SYSTEMIC AND INSTITUTIONALIZED RACISM.**



Systemic racial discrimination is embedded in Canada's institutions, including the federal government, the criminal justice system, the military, and the healthcare and education sectors. Canada's failure to address issues of systemic discrimination has been the subject of lawsuits and has been called out by international organizations.

The federal government must report on progress made in the implementation of Canada's Anti-Racism Strategy 2019-2022, following meaningful consultation with Black, Indigenous, and racialized communities. The federal government needs to implement a responsive whole-of-government plan that includes the consensual collection and publication of disaggregated and anonymized data; the prohibition of racial profiling practices, including the use of facial recognition technology and a comprehensive overhaul of police oversight and criminal justice. Anti-racist and non-oppressive approaches to public safety informed by meaningful consultation with Black and racialized communities must be prioritized.

In addition, Amnesty International Canada echoes the calls made by the Black Class Action to establish a fund to compensate Black employees within the federal public service for workplace discrimination, to establish a Black Equity Commission to investigate and address systemic barriers and to create a designated category for Black employees under the Employment Equity Act.



**TO PROTECT ALL WOMEN AND GENDER-DIVERSE PERSONS FROM VIOLENCE AND DISCRIMINATION, THE GOVERNMENT OF CANADA HAS A RESPONSIBILITY TO ADDRESS INTERSECTIONAL POLICY GAPS, ENSURE WHOLE-OF-GOVERNMENT POLICY IMPLEMENTATION AND REMOVE INTERSECTING BARRIERS TO SURVIVOR-CENTRED SUPPORTS, JUSTICE, AND COMPENSATION.**

Indigenous, Black, and racialized women in public-facing roles, such as politics, social justice, and journalism, are subject to alarming rates of online threats and abuse. Indigenous women, girls and Two Spirit people continue to face disproportionate rates of violence, disappearances, and murders, compounded by the lack of police accountability and insufficient survivor-centred responses. Gender discrimination is also evident in the criminalization of sex workers and Indigenous, Black, and racialized women's inequitable access to health care. Amnesty International calls on the Government of Canada to respect and protect the rights of women and gender-diverse persons.

The long-awaited National Action Plan to End Gender-Based Violence needs detailed targets and implementation steps. The 2021 MMIWG and 2SLGBTQQIA+ National Action Plan requires accountability mechanisms and public implementation plans, informed by meaningful consultation with First Nations, Métis, and Inuit communities. Stronger gender due diligence and cultural competence is required by law enforcement agencies.

Furthermore, the Government of Canada should implement the United Nations Committee Against Torture and the Senate Committee's recommendations for Canada to criminalize and investigate forced and coerced sterilization, as well as compensate survivors.

The criminalization of sex work between consenting adults must be repealed, and greater protections afforded to sex workers, particularly migrant sex workers, subjected to violence.

Amnesty International calls on the Government of Canada to consult with rights-holders and civil society to address intersectional policy gaps in the new 2SLGBTQQIA+ National Action Plan and ensure coordinated whole-of-government implementation. It also calls on the government to follow through on rights commitments in international development and humanitarian assistance, particularly in support of gender-diverse refugees and the appointment of a Special Envoy on 2SLGBTQI+ rights.

**THE GOVERNMENT OF CANADA HAS AN OBLIGATION TO REPEAL LEGISLATION AND POLICY THAT FAILS TO SAFEGUARD THE RIGHTS AND DIGNITY OF REFUGEES, MIGRANTS, AND PERSONS ON THE MOVE.**





Canada continues to violate international human rights law and standards with respect to people on the move. Canada detains refugee claimants and migrants solely on administrative immigration grounds in provincial jails, and the Safe Third Country Agreement bars many from seeking refugee protection in Canada. The Interim Federal Health Program continues to deny essential healthcare to migrants with irregular status. Programs enabling people to seek safety in Canada are not accessible and responsive for those fleeing danger, and obvious disparities in refugee resettlement based on country of origin prevail.

Amnesty International calls on the Government of Canada to withdraw from the Safe Third Country Agreement and enable people to safely make claims for refugee protection in Canada. The federal government must end immigration detention in provincial jails and immediately address discrimination against racialized people and people with psycho-social disabilities within the immigration detention system.

Moreover, the federal government has an obligation to respect internationally protected rights to essential healthcare for migrants with irregular status by amending the Interim Federal Health Program, as called for by the United Nations Human Rights Committee. Amnesty International calls on the Government of Canada to build a system of refugee protection that is based on equality and fair access for all and is responsive to the needs of people who are facing intersectional barriers and are fleeing immediate situations of danger.

## **THE GOVERNMENT OF CANADA MUST TAKE URGENT ACTION TO ADDRESS ENVIRONMENTAL RACISM, ENSURE CORPORATE ACCOUNTABILITY, PROMOTE A GENDER-RESPONSIVE JUST ENERGY TRANSITION AND RESPECT THE RIGHTS OF INDIGENOUS PEOPLES.**

Amnesty International calls on the Government of Canada to safeguard human rights by implementing a rapid, equitable fossil fuel phaseout without relying on harmful and unproven ‘shortcuts’ such as carbon removal mechanisms. This requires an immediate end to fossil fuel subsidies, exploration, expansion, extraction, and production. It requires legislative commitments to a just energy transition, support for workers and communities reliant on income generated by fossil fuels, gender-responsive climate finance for developing countries on the frontlines of the climate crisis, and respect for the rights of Indigenous peoples, notably in the context of resource development, as outlined in the UNDRIP and Indigenous governance systems.

Canada needs a national strategy to identify, address and prevent environmental racism and to advance environmental justice. The federal government must strengthen corporate accountability to prevent, address and remedy the adverse environmental and human rights impacts of corporations abroad. These challenges can be met by passing Bill C-226, Bill C-262, Bill C-263 and Senate Bill S-5. Calls to Action for Extractive and Development Industries by the National Inquiry into Missing and Murdered Indigenous Women must also be implemented.

## **THE GOVERNMENT OF CANADA HAS AN OBLIGATION TO SAFEGUARD THE RIGHTS TO FREEDOM OF EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION, AND LIFE, LIBERTY, AND SECURITY OF PERSON OF HUMAN RIGHTS DEFENDERS IN CANADA AND OTHER COUNTRIES.**

Contrary to the recommendations of the United Nations Committee on the Elimination of Racial Discrimination, human rights defenders across Canada continue to be intimidated, threatened, and criminalized. In accordance with its obligations under the International Covenant on Civil and Political Rights, Amnesty International calls on the Government of Canada to safeguard freedom of expression and freedom of peaceful assembly and association by ensuring that human rights and land defenders are protected from acts of violence and discrimination.

In presenting this human rights analysis, Amnesty International recognizes the courage and commitment of rights-holders, human rights defenders and organizations that have been on the front lines of addressing systemic discrimination for many years. Amnesty stands in support of the legitimate demands of these groups in the fight for the realization and protection of fundamental rights and freedoms.







# TABLE OF CONTENTS

Preface	2
Executive Summary	6
Abbreviations	14
Limitations	16
<b>01 CHAPTER: RIGHTS OF INDIGENOUS PEOPLES</b>	<b>18</b>
UN Declaration on the Rights of Indigenous Peoples	21
Residential Schools	22
Indigenous Child Welfare	24
Indigenous Peoples and the Criminal Justice System	26
Right to Water	28
<b>02 CHAPTER: DISCRIMINATION AND RACIAL JUSTICE</b>	<b>32</b>
Policing and the Criminal Justice System	36
Systemic Racism in the Military	38
Anti-Black Racism in Federal Public Service	39
Healthcare and Racial Discrimination	40
Bias in Facial Recognition and Artificial Intelligence Technologies	42
<b>03 CHAPTER: GENDER JUSTICE</b>	<b>46</b>
Gender-based Violence	50
Violence against Indigenous Women and Girls	52



Forced and Coerced Sterilization	53
The Rights of Sex Workers	54
2SLGBTQI+ Rights	56
Conversion Therapy	56
2SLGBTQI+ Action Plan	57
Transphobia and Online Hate	58
<b>04 CHAPTER: PEOPLE ON THE MOVE: REFUGEES AND MIGRANTS' RIGHTS</b>	<b>62</b>
Safe Third Country Agreement	64
Immigration Detention	66
Canada's Responses to People Seeking Safety	68
Access to Healthcare for People with Irregular Migration Status	70
<b>05 CHAPTER: CLIMATE JUSTICE AND CORPORATE ACCOUNTABILITY</b>	<b>74</b>
Breakthrough, failure, and false solutions	80
Discrimination and Social Inequalities	81
Corporate Accountability	84
Gender and Environmental Justice	86
To tackle the climate crisis, we must defend the defenders	87



# ABBREVIATIONS

AICESC	Amnesty International Canadian Section (English Speaking)
AFN	Assembly of First Nations
CBSA	Canada Border Services Agency
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CHRT	Canadian Human Rights Tribunal
CASWLR	Canadian Alliance for Sex Work Law Reform
CIRG	Community-Industry Response Group
CORE	Canadian Ombudsperson for Responsible Enterprise
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECOSOC	UN Committee on Economic, Social and Cultural Rights
EDC	Export Development Canada
HRA	Human Rights Agenda
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination
MMIWG	Missing and Murdered Indigenous Women and Girls
MMIWG2S	Missing and Murdered Indigenous Women, Girls, and Two-Spirit People
NAP	National Action Plan
OCI	Office of the Correctional Investigator
OHCHR	United Nations Office of the High Commissioner for Human Rights
PCEPA	Protection of Communities and Exploited Persons Act
RCMP	Royal Canadian Mounted Police
STCA	Safe Third Country Agreement
US	United States of America
UN	United Nations
UNCERD	United Nations Committee on the Elimination of Racial Discrimination
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNCAT	United Nations Committee against Torture
UNCSW	United Nations Commission on the Status of Women
WAGE	Women and Gender Equality Canada
2SLGBTQI+	Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, + (referring to the use of terminologies by other sexual- and gender-diverse communities)





## LIMITATIONS

Although this report provides an analysis of domestic human rights priorities in Canada, considered in relation to Canada's international human rights commitments, the human rights issues discussed in this report are not exhaustive. The contents are closely aligned with AICSES's 2022-2030 strategic framework, and certain issues, such as religious discrimination, the rights of seniors, peoples with disabilities, housing and labour rights will not be addressed fully.

An intersectional lens has informed our analysis of human rights priorities, but editorial constraints have limited a nuanced analysis of *all* intersections and the barriers these have created for the realization of human rights for all in Canada.

The needs and priorities of rights-holders with whom Amnesty International Canada has allied and collaborated on human rights campaigns and litigation cases over the last year have been identified; recognizing that more must be done to foreground the voices of rights-holders, their bravery and everyday struggles for freedom and equality.

We have had to carefully consider the diversity of views among Indigenous communities in particular, our own positionality and legitimacy in identifying and analysing certain human rights issues. We recognize that as an organization Amnesty International Canada must do more to support and co-create human rights campaigns with – and under the leadership of – Indigenous peoples and other human rights defenders and have prioritized this in our new Strategic Framework.





# RIGHTS OF INDIGENOUS PEOPLES

MY MOM,  
SISTERS, AUNTIES  
& GRANDMAS  
ARE  
SACRED

01



# RIGHTS OF INDIGENOUS PEOPLES

First Nations, Inuit and Métis peoples continued to assert their right to self-determination and self-governance, as well as the full realization of their human rights and treaty rights, as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Implementation of UNDRIP is key to achieving those rights, but progress has been slow and requires cooperation and political will across all sectors of government in Canada. Indigenous peoples face the most persistent and systemic human rights violations in Canada, such as overrepresentation in the child welfare and criminal justice system, lack of access to clean drinking water, discriminatory experiences in healthcare, gender violence and unequal exercise of their treaty rights.



## UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

In 2021, Parliament adopted legislation committing to work in “consultation and cooperation” with Indigenous peoples to implement UNDRIP. This includes measures to ensure that laws, policies, and regulations are consistent with the provisions of the Declaration as well as co-development of an action plan. Progress on the implementation of this historic legislation has been insufficient. In its statutorily mandated annual progress report published in June, the government “acknowledged that the extent of consultation and cooperation in the development of the first report has been limited.”<sup>2</sup> A draft action plan had not yet been released at the time of publication, despite it being targeted for Fall 2022.<sup>3</sup> Under the United Nations Declaration on the Rights of Indigenous Peoples Act, an action plan must be tabled in Parliament by 21 June 2023.<sup>4</sup> The government, therefore, must prioritize consultations with Indigenous peoples and ensure that its action plan upholds their rights and fully implements Canada’s treaty obligations. Concerns have also been raised that requirements of the Act were not fully understood or implemented across all government departments.<sup>5</sup>

On 30 March 2022, the British Columbia Ministry of Indigenous Relations and Reconciliation released its first action plan to implement similar provincial legislation,<sup>6</sup> which contains 89 actions that the government intends to take over the next five years to achieve the objectives of UNDRIP. British Columbia remains the only province to have adopted legislation to implement UNDRIP, although the Northwest Territories Special Committee on Reconciliation and Indigenous Affairs published an interim report on the topic in March 2022.<sup>7</sup>

In October, the City of Vancouver’s UNDRIP Task Force – a collaboration between councillors and representatives of several First Nations – issued a final report with calls to action to guide implementation in the city.<sup>8</sup> The initiative was welcomed by the BC First Nations Leadership Council, composed of the political executives of the BC Assembly of First Nations (AFN), First Nations Summit and Union of BC Indian Chiefs.<sup>9</sup>

<sup>2</sup> Justice Canada, Annual Progress Report on Implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act, June 2022, [justice.gc.ca/eng/declaration/report-rapport/2022/pdf/UNDA\\_AnnualReport\\_2022.pdf](https://justice.gc.ca/eng/declaration/report-rapport/2022/pdf/UNDA_AnnualReport_2022.pdf), p. 12.

<sup>3</sup> Justice Canada, Annual Progress Report on Implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act, June 2022, [justice.gc.ca/eng/declaration/report-rapport/2022/pdf/UNDA\\_AnnualReport\\_2022.pdf](https://justice.gc.ca/eng/declaration/report-rapport/2022/pdf/UNDA_AnnualReport_2022.pdf), p. 25.

<sup>4</sup> Canada, United Nations Declaration on the Rights of Indigenous Peoples Act, 2021, [laws-lois.justice.gc.ca/eng/acts/u-2.2/page-1.html](https://laws-lois.justice.gc.ca/eng/acts/u-2.2/page-1.html), Chapter 14, section 6(4).

<sup>5</sup> Sheryl Lightfoot and Cheryl Knockwood, “UNDRIP 15 years on: Genuine truth and reconciliation requires legislative reform,” *The Conversation*, 29 September 2021, [theconversation.com/undrip-15-years-on-genuine-truth-and-reconciliation-requires-legislative-reform-191038](https://theconversation.com/undrip-15-years-on-genuine-truth-and-reconciliation-requires-legislative-reform-191038)

<sup>6</sup> BC Ministry of Indigenous Relations and Reconciliation, Declaration on the Rights of Indigenous Peoples Act Action Plan 2022-2027, 30 March 2022, [gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration\\_act\\_action\\_plan.pdf](https://gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf)

<sup>7</sup> Northwest Territories Legislative Assembly Special Committee on Reconciliation and Indigenous Affairs, Interim Report: What we Heard about the United Nations Declaration on the Rights of Indigenous Peoples and Negotiating Agreements, 30 March 2022.

<sup>8</sup> City of Vancouver, City of Vancouver’s UNDRIP Strategy: Report of the UNDRIP Task Force to the City of Vancouver Mayor & Council, 25 October 22, [council.vancouver.ca/20221025/documents/p1.pdf](https://council.vancouver.ca/20221025/documents/p1.pdf)

<sup>9</sup> First Nations Leadership Council, “FNLC supports city of Vancouver’s UNDRIP Task Force; Calls on all BC Municipalities to follow city of Vancouver’s example on implementation of UN Declaration”, 19 October 2022, [ubcic.bc.ca/fnlc\\_supports\\_city\\_of\\_vancouver\\_undrip\\_task\\_force](https://ubcic.bc.ca/fnlc_supports_city_of_vancouver_undrip_task_force)



RESIDENTIAL SCHOOLS

Pope Francis’s apology on 1 April 2022 for the Catholic Church’s role in the residential school system, marked a new step. Shortly after the Pope’s statement, Prime Minister Justin Trudeau acknowledged the role of the Church and Government of Canada in creating, maintaining, and operating the residential school system. He committed to support Indigenous communities with funding and resources for further investigations and psycho-social assistance.<sup>10</sup> This was immediately followed by a directive from the Minister of Crown-Indigenous Relations instructing departmental officials to preserve “all information that is relevant or potentially related to historic harms committed against Indigenous children.”<sup>11</sup> On 8 June 2022 Kimberly Murray was appointed as the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools<sup>12</sup> and on 20 July 2022, the Government of Canada and the National Centre for Truth and Reconciliation announced the creation of a new National Advisory Committee on Residential Schools, Missing Children and Unmarked Burials to help communities access and share expert information related to the search process.<sup>13</sup> On 27 October 2022, the House of Commons passed a unanimous consent motion recognizing human rights abuses committed in residential schools as genocide.<sup>14</sup>

Despite some notable progress on this issue over the past year, much remains to be done to address the injustices and harms perpetrated in residential schools in Canada. During a national gathering on residential school unmarked burials, Natan Obed, President of the Inuit Tapiriit Kanatami, explained the significance of identifying and protecting burial sites at former residential schools:

**“[t]here are so many family realities - intergenerational, personal realities - that are so fundamentally connected to not knowing where your grandfather is buried or not knowing what happened to the infant brother or sister you had.”<sup>15</sup>**

Others have called for independent criminal investigations of residential institutions; for example, AFN Yukon Regional Chief Kluane Adamek noted that the organization “will continue to press for an independent criminal investigation so those responsible for the crimes that took place are held accountable.”<sup>16</sup> Indigenous peoples assert that formal apologies are tokenistic if they are not accompanied by real and meaningful commitments to decolonization in order to address systemic racism and respond to the intergenerational effects of residential schools in Canada today.

10 Prime Minister of Canada, “Statement by the Prime Minister on the apology from His Holiness Pope Francis regarding the residential school system in Canada”, 1 April 2022, [pm.gc.ca/en/news/statements/2022/04/01/statement-prime-minister-apology-his-holiness-pope-francis-regarding#:~:text=E2%80%9CCanada's%20history%20will%20forever%20be, and%20traditions%2C%20and%20speaking%20their](https://pm.gc.ca/en/news/statements/2022/04/01/statement-prime-minister-apology-his-holiness-pope-francis-regarding#:~:text=E2%80%9CCanada's%20history%20will%20forever%20be, and%20traditions%2C%20and%20speaking%20their)

11 Crown-Indigenous Relations and Northern Affairs Canada, “Directive to preserve all information related to historical harms committed against Indigenous children”, 4 April 2022, [rcaanc-cirnac.gc.ca/eng/1650554077064/1650554104202](https://rcaanc-cirnac.gc.ca/eng/1650554077064/1650554104202)

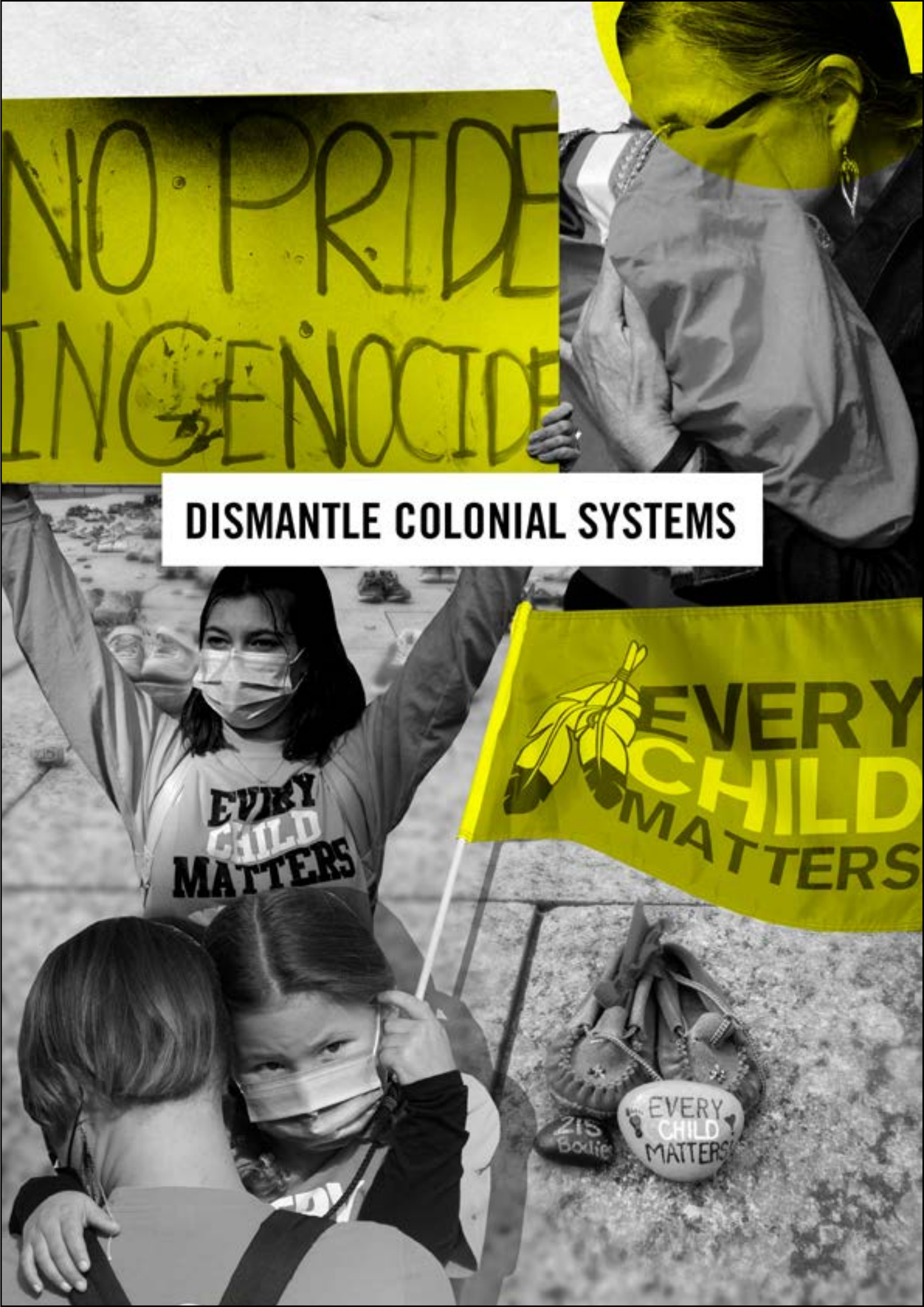
12 Justice Canada, “Independent Special Interlocutor for missing children and unmarked graves and burial sites associated with Indian residential schools”, 8 June 2022, [justice.gc.ca/eng/interlocutor-interlocuteur/index.html#:~:text=On%20June%208%2C%202022%2C%20Kimberly,associated%20with%20Indian%20Residential%20Schools](https://justice.gc.ca/eng/interlocutor-interlocuteur/index.html#:~:text=On%20June%208%2C%202022%2C%20Kimberly,associated%20with%20Indian%20Residential%20Schools)

13 Crown-Indigenous Relations and Northern Affairs Canada, “The Government of Canada and the National Centre for Truth and Reconciliation announce the new National Advisory Committee on residential schools missing children and unmarked burials”, 20 July 2022, [canada.ca/en/crown-indigenous-relations-northern-affairs/news/2022/07/the-government-of-canada-and-the-national-centre-for-truth-and-reconciliation-announce-the-new-national-advisory-committee-on-residential-schools-m.html](https://canada.ca/en/crown-indigenous-relations-northern-affairs/news/2022/07/the-government-of-canada-and-the-national-centre-for-truth-and-reconciliation-announce-the-new-national-advisory-committee-on-residential-schools-m.html)

14 House of Commons Canada, House of Commons Debates, 27 October 2022, [ourcommons.ca/DocumentViewer/en/44-1/house/sitting-119/hansard#Int-11886954](https://ourcommons.ca/DocumentViewer/en/44-1/house/sitting-119/hansard#Int-11886954)

15 CBC News, “1st national gathering on residential school unmarked burials begins in Edmonton”, 13 September 2022, [cbc.ca/news/indigenous/residential-school-burials-gathering-1.6580850](https://cbc.ca/news/indigenous/residential-school-burials-gathering-1.6580850)

16 Assembly of First Nations, “AFN Yukon Regional Chief Adamek says independent criminal investigation of residential institutions still needed”, 8 June 2022, [afn.ca/afn-yukon-regional-chief-adamek-says-independent-criminal-investigation-of-residential-institutions-still-needed/](https://afn.ca/afn-yukon-regional-chief-adamek-says-independent-criminal-investigation-of-residential-institutions-still-needed/)





INDIGENOUS CHILD WELFARE

The discrimination faced by Indigenous children continues to be the subject of multiple lawsuits. The UNCRC guarantees the right of an Indigenous child “to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language,”<sup>17</sup> and UNDRIP affirms the right of Indigenous peoples to be free from “any act of genocide or any other act of violence, including forcibly removing children of the group to another group.”<sup>18</sup>

On 4 January 2022, the Government of Canada, AFN, First Nations Child and Family Caring Society, Chiefs of Ontario and the Nisnawbe Aski Nation announced an agreement in principle on how to implement a Canadian Human Rights Tribunal (CHRT) order to end discrimination in the provision of child and family services to First Nations children.<sup>19</sup> The AFN and the Government of Canada subsequently reached a \$20 billion-dollar Final Settlement Agreement for compensation to those who experienced discrimination under the First Nations Child and Family Services programs and the federal government’s application of Jordan’s Principle.<sup>20</sup> However, the CHRT held that the agreement did not fully satisfy its prior decision concerning the compensation owed to victims and survivors.<sup>21</sup>

On 18 May 2022 the Manitoba Court of Queen’s Bench ruled that the provincial government discriminates against First Nations children in the provision of its Child and Family Services and that it’s holding back of the federal Children Special Allowance was unconstitutional.<sup>22</sup> The Government of Manitoba did not to appeal the ruling<sup>23</sup> and the Assembly of Manitoba Chiefs (AMC) maintains its calls for restitution to be paid to the affected children.<sup>24</sup> On 6 October 2022, the AMC and the First Nations Family Advocate Office launched a class action lawsuit to compensate “off-reserve” children who were apprehended by Child and Family Services officers and placed into foster care.<sup>25</sup>

Although this summary cannot fully describe the context-specific nuances related to devolving jurisdiction in relation to child welfare, several developments are worth highlighting. Throughout 2022 Indigenous peoples across the country signed agreements or otherwise announced intentions to exercise jurisdiction over child and family services as provided for in the 2019 federal Act Respecting First Nations, Inuit and Métis Children, Youth and Families.<sup>26</sup> In October, British Columbia became the first province in Canada to bring its legislation in line with the right of Indigenous peoples to exercise jurisdiction over child welfare, which was generally welcomed by Indigenous leaders in the province.<sup>27</sup>

17 UN Convention on the Rights of the Child, Article 30.  
18 UN Declaration on the Rights of Indigenous Peoples, Articles 7(2).  
19 Indigenous Services Canada, “Long-term reform of First Nations child and family services and long-term approach for Jordan’s Principle”, 4 January 2022, [sac-isc.gc.ca/eng/1646942622080/1646942693297](https://sac-isc.gc.ca/eng/1646942622080/1646942693297)  
20 Assembly of First Nations, “AFN Reaches \$20B Final Settlement Agreement to compensate First Nations children and families”, 4 July 2022, [afn.ca/afn-reaches-20-b-final-settlement-agreement-to-compensate-first-nations-children-and-families/](https://afn.ca/afn-reaches-20-b-final-settlement-agreement-to-compensate-first-nations-children-and-families/) Jordan’s Principle is a child-first principle requiring that all public services otherwise available to other children must be available to First Nations children without delay or denial.  
21 Canadian Human Rights Tribunal (CHRT), First Nations Child and Family Caring Society and others v. Attorney General of Canada, Tribunal File: T-1340/7008, Decision Letter, 24 October 2022, [fncaringsociety.com/sites/default/files/2022-10/CHRT%20Letter-Decision%20FSA\\_24%20October%202022.pdf](https://fncaringsociety.com/sites/default/files/2022-10/CHRT%20Letter-Decision%20FSA_24%20October%202022.pdf)  
22 Manitoba Queen’s Bench, Flette and others v. Government of Manitoba and others, Order, 18 May 2022, [canlii.org/en/mb/mbqb/doc/2022/2022mbqb104/2022mbqb104.html?searchUrlHash=AAAAQAblmNoaWxklGFuZCBmYW1pbHkgc2VydmljZXMiAAAAAAE&resultIndex=3](https://canlii.org/en/mb/mbqb/doc/2022/2022mbqb104/2022mbqb104.html?searchUrlHash=AAAAQAblmNoaWxklGFuZCBmYW1pbHkgc2VydmljZXMiAAAAAAE&resultIndex=3)  
23 Global News, “Manitoba decides not to appeal court ruling on child benefit payments”, 4 August 2022, [globalnews.ca/news/9036476/manitoba-wont-appear-child-benefit-payment-court-ruling](https://globalnews.ca/news/9036476/manitoba-wont-appear-child-benefit-payment-court-ruling)  
24 Assembly of Manitoba Chiefs, “AMC demands full restitution of CSA funds unlawfully taken from First Nations children in care”, 5 August 2022, [manitobachiefs.com/amc-demands-full-restitution-of-csa-funds/](https://manitobachiefs.com/amc-demands-full-restitution-of-csa-funds/)

In Alberta, the members of the Loon River Cree Nation, Peerless Trout First Nation and Lubicon Lake Band voted in favour of a law that would give them jurisdiction over child welfare in their communities, which is now pending a funding arrangement with the provincial and federal governments.<sup>28</sup> In Ontario, the Wabaseemoong community became the first in Ontario to sign a trilateral agreement with the federal and provincial governments to coordinate child and family services under the Wabaseemoong customary childcare law.<sup>29</sup> In New Brunswick, the Tobique (Neqotkuk) First Nation passed child welfare legislation that will allow it to take over responsibility from the province.<sup>30</sup>

In Manitoba, however, the Assembly of Manitoba Chiefs expressed concerns about the lack of partnership with the provincial government as it considers making changes to child and family services legislation, noting that “[t]o be legislated under the realms of the provincial government only provides an illusion of First Nations jurisdiction.”<sup>31</sup>



25 Assembly of Manitoba Chiefs, “The AMC FNFAO files class action lawsuit on behalf of First Nations children, families and nations impacted by the Manitoba child welfare system”, 6 October 2022, [manitobachiefs.com/the-amc-fnfao-files-class-action-lawsuit](https://manitobachiefs.com/the-amc-fnfao-files-class-action-lawsuit)  
26 Government of Canada, An Act respecting First Nations, Inuit and Métis children, youth and families, SC 2019, c 24, 2019, [laws.justice.gc.ca/eng/acts/F-11.73/index.html](https://laws.justice.gc.ca/eng/acts/F-11.73/index.html)  
27 Office of the Premier, “Historic changes to B.C. child-welfare laws lay path to upholding Indigenous jurisdiction”, 26 October 2022, [news.gov.bc.ca/releases/2022PREM0061-001594](https://news.gov.bc.ca/releases/2022PREM0061-001594)  
28 Edmonton Journal, “Truth and reconciliation: Alberta First Nations taking next steps on authority over child welfare”, 20 September 2022, [edmontonjournal.com/news/local-news/truth-and-reconciliation-alberta-first-nations-taking-next-steps-on-authority-over-child-welfare](https://edmontonjournal.com/news/local-news/truth-and-reconciliation-alberta-first-nations-taking-next-steps-on-authority-over-child-welfare)  
29 The Observer, “Wabaseemoong makes history with Ontario’s first child and youth coordination agreement”, 16 March 2022, [theobserver.ca/news/wabaseemoong-makes-history-with-ontarios-first-child-and-youth-coordination-agreement](https://theobserver.ca/news/wabaseemoong-makes-history-with-ontarios-first-child-and-youth-coordination-agreement)  
30 CBC News, “N.B. First Nation adopts ‘historic’ child welfare legislation”, 15 June 2022, [cbc.ca/news/canada/new-brunswick/tobique-child-welfare-act-1.6489685](https://cbc.ca/news/canada/new-brunswick/tobique-child-welfare-act-1.6489685)  
31 Assembly of Manitoba Chiefs, “AMC responds to the Manitoba provincial government’s amendments to the Child and Family Services Act”, 26 May 2022, [manitobachiefs.com/amc-responds-to-the-manitoba-provincial-governments-amendments-to-the-child-and-family-services-act/](https://manitobachiefs.com/amc-responds-to-the-manitoba-provincial-governments-amendments-to-the-child-and-family-services-act/)



INDIGENOUS PEOPLES AND THE CRIMINAL JUSTICE SYSTEM

The UNDRIP enshrines the principle that Indigenous persons have the rights to life, physical and mental integrity, liberty, and security of the person.<sup>32</sup> States have an obligation to take effective measures, in cooperation and consultation with Indigenous peoples, to combat prejudice and eliminate discrimination, and to ensure that Indigenous women enjoy the full protection and guarantees against all forms of violence and discrimination.<sup>33</sup> Despite these rights and protections, Indigenous people continue to face overrepresentation and systemic discrimination in Canada’s criminal justice system.

Indigenous peoples are overrepresented in the federal correctional system, with Indigenous women bearing a disproportionate overrepresentation in federal custody. Indigenous people account for 28% of all federally sentenced persons and nearly one third of all individuals in federal custody, despite making up only 5% of the adult population in Canada.<sup>34</sup> Indigenous women are one of the fastest growing populations of incarcerated persons in federal correctional institutions in Canada. On 28 August 2022, the proportion of incarcerated Indigenous women reached 50% of all federally sentenced women for the very first time.<sup>35</sup> Of all women held in maximum security, almost 65% are Indigenous women.<sup>36</sup>

Federal and provincial governments have adopted financial commitments to address ongoing overrepresentation of Indigenous people in the criminal justice system. On 1 November 2022, the federal government announced it would begin planning to develop an Indigenous Justice Strategy to address systemic racism and the legacy of colonialism with respect to the overrepresentation of Indigenous people in federal prisons. The projected release of its strategy is 2024.<sup>37</sup>

The federal government has also collaborated with several provinces and Indigenous organizations to address the issue of overrepresentation. In January, Canada signed a Memorandum of Understanding with British Columbia and the BC First Nations Justice Council (BCFNJC) to support the implementation of the BC First Nations Justice Strategy to reduce overrepresentation in the province’s criminal justice system.<sup>38</sup> Canada will similarly support the Manitoba Métis Federation’s Métis Justice Institute to address the overrepresentation of the Red River Métis in Manitoba’s provincial jails.<sup>39</sup> Although these are welcoming initiatives, the overrepresentation of Indigenous peoples, in particular women, in the criminal justice system is a grave human rights concern. Canada must prioritize eradicating all forms of intersectional discrimination of Indigenous individuals in the criminal justice system in 2023.

32 United Nations Declaration on the Rights of Indigenous Peoples, Article 7.  
33 United Nations Declaration on the Rights of Indigenous Peoples, Article 22.  
34 Government of Canada, Office of the Correctional Investigator, Annual Report 2021-2022, 30 June 2022, oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20212022-eng.aspx  
35 Government of Canada, Office of the Correctional Investigator, Annual Report 2021-2022, 30 June 2022, oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20212022-eng.aspx. The report indicated that there are 298 Indigenous and 298 non-Indigenous women in federal custody.  
36 Government of Canada, Office of the Correctional Investigator, Annual Report 2021-2022, 30 June 2022, oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20212022-eng.aspx. According to the report, 29 out of 45 (64.5%) women held in maximum security are Indigenous.  
37 Justice Canada, “Engaging with Indigenous partners to address systemic discrimination and overrepresentation in the Canadian justice system”, 1 November 2022, canada.ca/en/departement-justice/news/2022/10/engaging-with-indigenous-partners-to-address-systemic-discrimination-and-overrepresentation-in-the-canadian-justice-system.html. See also, Government of Canada, “Indigenous Justice Strategy”, 1 November 2022, justice.gc.ca/eng/csj-sjc/ijr-dja/ijr-sja/index.html  
38 Justice Canada, “Canada, British Columbia and the BC First Nations Justice Council to collaborate on revitalizing Indigenous legal traditions and addressing systemic racism in British Columbia”, 20 January 2022, canada.ca/en/departement-justice/news/2022/01/canada-british-columbia-and-the-bc-first-nations-justice-council-to-collaborate-on-revitalizing-indigenous-legal-traditions-and-addressing-systemic.html. See also, BC First Nations Justice Council, “The BC first Nations Justice Strategy”, 6 March 2020, bcfnjc.com/landing-page/justice-strategy/

Racial profiling and conditional sentencing are also human rights concerns in the judicial system. In September, the Court of Appeal for Ontario ruled that the criminal records of Indigenous persons can be excluded from criminal trials to preserve trial fairness given the overt and systemic racism and historical discrimination experienced by Indigenous persons in the criminal justice system.<sup>40</sup>

Considering systemic discrimination within the criminal justice system and the over-policing of Indigenous people, particularly Indigenous women, conditional sentences are an important alternative that enable sentences to be served in the community rather than in jail. In 2020, the Court of Appeal for Ontario ruled that making conditional sentences unavailable for some criminal offences with mandatory minimum terms

of imprisonment is unconstitutional, as it has the effect of reinforcing, perpetuating, or exacerbating the disadvantage of Indigenous offenders.<sup>41</sup> In November 2022, the Supreme Court of Canada overturned this decision, ruling the evidentiary burden required to make such a finding was not met.<sup>42</sup>

As a result, the Indigenous woman who challenged the provision, a single mother of Ojibwa ancestry and member of the Saugeen First Nation, as well as others charged with certain criminal offences, cannot receive conditional sentences. In November, Bill C-5 was passed to remove some of Canada’s mandatory minimum sentences,<sup>43</sup> but does not enable judges to impose conditional sentences for all offences,<sup>44</sup> contrary to the TRC’s Call to Action 32.<sup>45</sup>



39 Justice Canada, “Addressing the overrepresentation of Red River Métis people in the justice system in Manitoba”, 11 October 2022, canada.ca/en/departement-justice/news/2022/10/addressing-the-overrepresentation-of-red-river-metis-people-in-the-justice-system-in-manitoba.html  
40 Court of Appeal for Ontario, R. v. King, appellate court decision, 26 September 2022, ontariocourts.ca/decisions/2022/2022ONCA0665.htm  
41 Court of Appeal for Ontario, R. v. Sharma, appellate court decision, 24 July 2022, https://coadecisions.ontariocourts.ca/coa/coa/en/item/18930/index.do, para 89.  
42 Supreme Court of Canada, R. v. Sharma, Supreme Court decision, 4 November 2022, decisions.scc-csc.ca/scc-csc/scc-csc/en/item/19540/index.do  
43 Parliament of Canada, Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act, 17 November 2022, https://www.parl.ca/DocumentViewer/en/44-1/bill/C-5/royal-assent  
44 Justice Canada, “Bill C-5: Mandatory Minimum Penalties to be repealed”, 12 July 2021, https://www.canada.ca/en/departement-justice/news/2021/12/mandatory-minimum-penalties-to-be-repealed.html; Canada’s National Observer, “One-third of Canada’s mandatory minimums have been repealed, but advocates don’t believe it will lessen incarceration crisis”, 22 November 2022, https://www.nationalobserver.com/2022/11/22/news/third-canada-mandatory-minimums-repealed-advocates-incarceration-crisis  
45 Truth and Reconciliation Commission of Canada, Calls to Action, 2015, ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Calls\_to\_Action\_English2.pdf, p. 3.



## RIGHT TO WATER

Access to safe and clean drinking water and sanitation is an essential human right for the enjoyment of life and all human relationships and is fundamental to maintaining human dignity.<sup>46</sup> In November 2019, Tataskweyak Cree Nation, Curve Lake First Nation and Neskantaga First Nation launched a class action lawsuit that led to the Safe Drinking Water Class Action Settlement Agreement in December 2021, which recognizes First Nations' right to reliable access to safe drinking water and compensates those who were deprived of it. The federal government then repealed the Safe Drinking Water for First Nations Act on 23 June 2022 and made a commitment to consult with First Nations and develop and introduce replacement legislation that improves access to safe drinking water for current and future generations by 31 December 2022.<sup>47</sup> Despite the federal government's commitment to end long-term water advisories in Indigenous communities by March 2021, 31 are still in place as of November affecting 27 First Nations communities.<sup>48</sup>

In June, Senator Dennis Patterson representing the Territory of Nunavut in the Senate of Canada argued that “it is inexcusable that an entire territory of Canada has inconsistent access to safe drinking water.”<sup>49</sup> He welcomed the federal government's announcement in April of \$214 million for upgrades to the Iqaluit's water distribution system intended to address aged infrastructure and chronic underfunding, but also argued that real commitment from the federal government is lacking and that the

absence of targeted investments is likely to be “catastrophic”. He was not wrong. In August, a water shortage forced the Territory of Nunavut to declare a 14-day State of Emergency for the City of Iqaluit and an alternative source of water from a nearby lake was found to sustain the population.

At the 66th session of the UN Commission on the Status of Women in March, Indigenous women in Canada highlighted the burden of care they bear sourcing clean water for themselves and their families, and caring for children, people with disabilities and elders, who are at risk of waterborne and infectious diseases associated with unsafe drinking water and poor sanitation.<sup>50</sup> In addition to targeted investments to strengthen infrastructure and address the housing crisis facing Indigenous communities, Indigenous women argue that the right to water and sanitation can only be realized through a firm commitment to Article 25 of UNDRIP, which provides protections for Indigenous peoples' “distinctive, spiritual relationship” with water.<sup>51</sup> In a statement submitted to OHCHR in July, Indigenous women called for the domestic application of Article 25 and the recognition of their “unbreakable and sacred connection with the land and the water”, and argued that as holders of scientific, technical and cultural knowledge, women are the “on the ground first responders” who should be recognized as leaders in the preservation of water and intergenerational scientific and technical knowledge transfer.<sup>52</sup>

46 United Nations General Assembly, The Human Right to Water and Sanitation, 28 July 2010, UN Doc. A/RES/64/292.

47 Indigenous Services Canada, “Developing laws and regulations for First Nations drinking water and wastewater: engagement 2022”, 2022, sac-isc.gc.ca/eng/1330528512623/1533729830801

48 Indigenous Services Canada, “Ending long-term drinking water advisories”, 12 October 2022, sac-isc.gc.ca/eng/1506514143353/1533317130660

49 Hon. Dennis Patterson, “Solving Nunavut's drinking water crisis will take innovative and targeted solutions”, 29 June 2022, sencanada.ca/en/senca-plus/opinion/solving-nunavuts-drinking-water-crisis-will-take-innovative-and-targeted-solutions-senator-patterson/

50 The Canadian Federation of Business and Professional Women, “Access to clean water in Indigenous communities - NGO/CSW65 Event”, 21 March 2022, youtube.com/watch?v=jFULzfc36BQ

51 United Nations Declaration on the Rights of Indigenous Peoples, Article 25.

52 Alexa Alexander-Trusiak and Myrle Ballard, “Sacred science – Indigenous women and our relationship with water”, 28 July 2022, ohchr.org/sites/default/files/documents/issues/indigenouspeoples/sr/callforinputsindigenouswomen/2022-07-28/EnvironmentandClimateChange-Canada.pdf







## **AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF CANADA TO:**

- In consultation and cooperation with Indigenous peoples, ensure the adoption of an action plan for implementing UNDRIP, including an impartial and resourced accountability mechanism to monitor all aspects of implementation and ensure effective recourse for deficiencies.
- Implement the Truth and Reconciliation Commission's Calls to Action 71 through 76, pertaining to missing children and unmarked burials at residential schools.
- Immediately pay the reparation owed to the victims and survivors of the discriminatory provision of child and family services.
- In coordination with the provinces and territories, ensure that all efforts to support Indigenous peoples to exercise jurisdiction over child and family services are done based on cooperation and consultation.
- In coordination with the provinces and territories, address the overrepresentation of Indigenous peoples in jails, with priority on the disproportionate number of Indigenous women in the criminal justice system.
- Fulfil the right of Indigenous peoples to safe, clean water.



# DISCRIMINATION AND RACIAL JUSTICE



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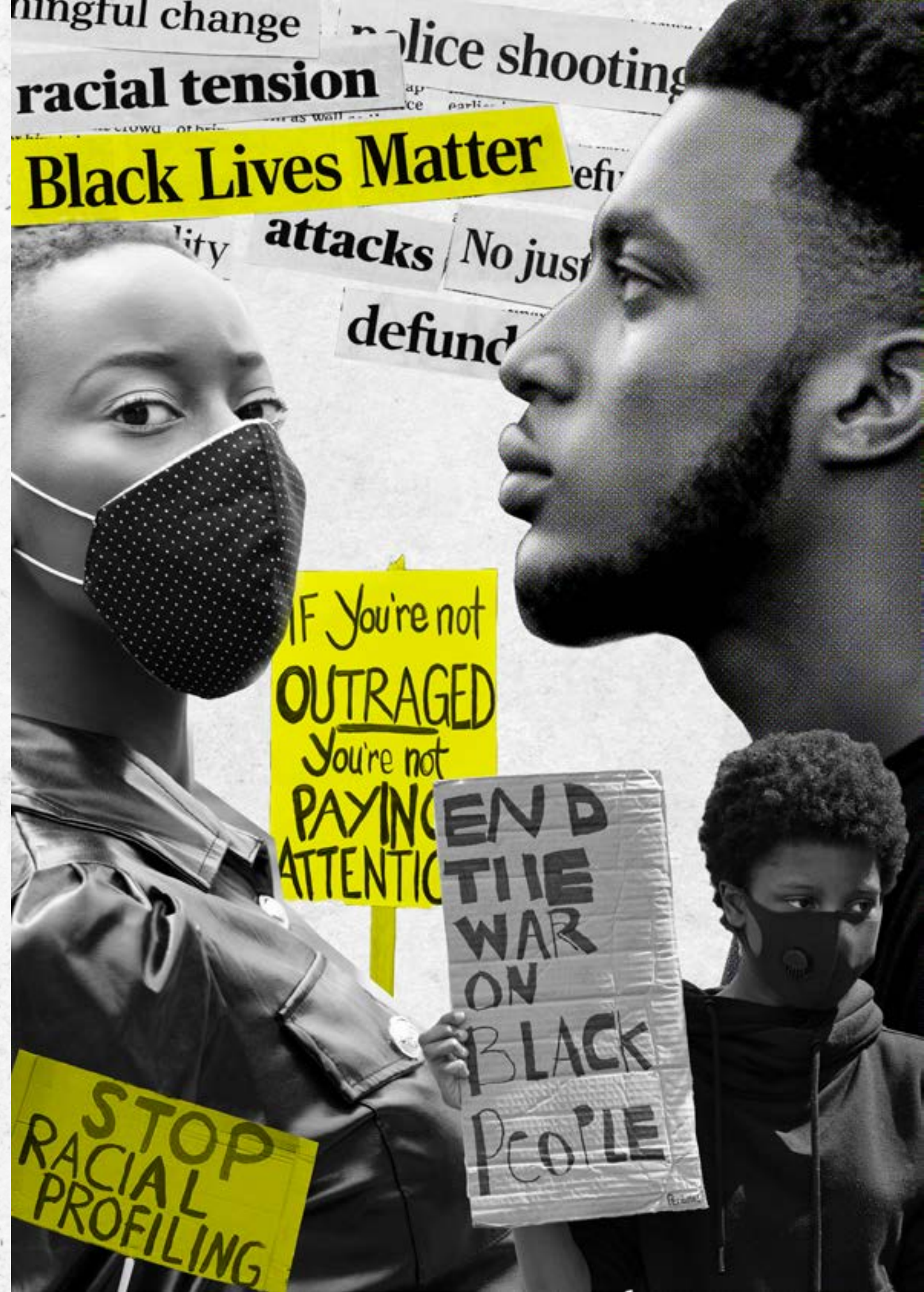


## DISCRIMINATION AND RACIAL JUSTICE

In his statement on 21 March 2022 condemning all forms of racial discrimination, hatred and systemic injustice, Prime Minister Justin Trudeau referred to the Federal Anti-Racism Strategy, Federal Anti-Racism Secretariat and action plans to address racial inequities in the criminal justice system, and in relation to social, economic and health well-being.<sup>53</sup> However, countless recommendations from international human rights bodies, Canadian inquiries and commissions<sup>54</sup> and affected communities remained unaddressed. Communities and individuals continue to experience significant ongoing harms that prevent the realization of a wide range of human rights. Substantial concrete action is urgently needed to address longstanding patterns of racial discrimination at all levels within Canadian institutions.

<sup>53</sup> Prime Minister of Canada, Justin Trudeau, "Statement by the Prime Minister on the International Day for the Elimination of Racial Discrimination", 21 March 2022, <https://pm.gc.ca/en/news/statements/2022/03/21/statement-prime-minister-international-day-elimination-racial>

<sup>54</sup> See, for example, CHRC, Submission to the working group of experts on people of African descent, June 2021, [policycommons.net/artifacts/2246284/submission-to-the-working-group-of-experts-on-people-of-african-descent/3004981/](https://policycommons.net/artifacts/2246284/submission-to-the-working-group-of-experts-on-people-of-african-descent/3004981/)





## POLICING AND THE CRIMINAL JUSTICE SYSTEM

The UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance described racial profiling by law enforcement officials (based on race, descent or national or ethnic origin) in detailed searches, identity checks and investigations as violating the rights to equality and non-discrimination that underpin all international human rights instruments and bodies.<sup>55</sup> Such profiling further violates the right to equality before the law, due process and fair trial rights. Many recommendations for reforming the criminal justice system outlined in the 2017 report of the United Nations Working Group of Experts on People of African Descent on its mission to Canada remain unaddressed, particularly those dealing with forms of racial profiling and overrepresentation.<sup>56</sup>

In June, the Toronto Police Service released the findings of race-based data collected in 2020, which identified systemic discrimination in policing, noting a disproportionate impact on racialized people. Black and Indigenous people were more likely to be subject to use of force during “person in crisis” calls for service. Indigenous people were the most overrepresented in strip searches relative to their proportion in arrests, which the authors note may be the result of “policing practices, policies, and procedures that result in disadvantages for some groups and increased enforcement within communities.”<sup>57</sup>

In October the Edmonton Police Service apologized for releasing a composite sketch based on DNA phenotyping of a Black suspect in a sexual assault case because images generated through this technology are of a general nature and all too easily lead to racial profiling.<sup>58</sup>

The Annual Report of the Office of the Correctional Investigator (OCI) released in November found that Black prisoners make up 9.2% of the total incarcerated population, despite representing about 3.5% of the overall Canadian population. Most incarcerated Black persons are young men, with the largest proportion falling between the ages of 18 and 30 years (38%). They continue to experience disproportionately poorer outcomes and systemic barriers, including discrimination and stereotyping. Despite lower rates of reoffending, Black persons were more likely to be assessed as higher risk and serve more of their time at higher security levels, negatively impacting their access to services and programming. Black persons were also more likely to be involved in a use of force incident regardless of other factors such as age, gender, or sentence. The Correctional Investigator called on the Correctional Service of Canada to work in close partnership with Black community organizations and experts to improve the situation of Black prisoners. Specific recommendations included improved diversity training, a systemic review of the use of the Security Threat Groups classification criteria, and a national strategy that specifically addresses the unique lived experiences and barriers faced by federally sentenced Black individuals.<sup>59</sup>

55 UNCERD, General Recommendation 36: Preventing and Combating Racial Profiling by Law Enforcement Officials, 17 December 2020, [ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-36-2020-preventing-and](https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-36-2020-preventing-and), paras 16, 21.

56 Working Group of Experts on People of African Descent, Report on its Mission to Canada, 16 August 2017, UN Doc. A/HRC/36/60/Add.1, [digitallibrary.un.org/record/1304262?ln=en](https://digitallibrary.un.org/record/1304262?ln=en)

57 Toronto Police Service, Race & Identity Based Data Collection Strategy: Understanding Strip Searches in 2020 Methodological Report, October 2022, [tps.ca/media/filer\\_public/e4/b1/e4b1b125-2a2e-4d69-ad02-77ab3f3d5878/4e217e01-3cd6-4fe8-8898-39cf8693e871.pdf](https://tps.ca/media/filer_public/e4/b1/e4b1b125-2a2e-4d69-ad02-77ab3f3d5878/4e217e01-3cd6-4fe8-8898-39cf8693e871.pdf), pp. 17-18

58 Edmonton Police Service, “Statement on DNA Phenotyping”, 6 October 2022, [edmontonpolice.ca/News/MediaReleases/StatementonDNAphenotyping](https://edmontonpolice.ca/News/MediaReleases/StatementonDNAphenotyping)

59 Office of the Correctional Investigator, Annual Report 2021-2022, 30 June 2022, [oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20212022-eng.aspx](https://oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20212022-eng.aspx)





SYSTEMIC RACISM IN THE MILITARY

The Final Report of the Minister of National Defence Advisory Panel on Systemic Racism and Discrimination emphasized the need to dismantle colonial cultures that have informed discriminatory norms and practices within the military. In addition to inward looking recommendations such as improved training and internal complaints mechanisms and increased representation of Indigenous and racialized people (particularly women), the report called for discussions with First Nations communities whose land was seized for military bases and installations.

While reiterating a zero-tolerance policy, the report noted growing white supremacy and extremism within the ranks, coupled with confusion about proper procedures for dealing with members who are affiliated with hate groups.<sup>60</sup> When receiving the report, Minister of Defence Anita Anand noted that “building a more inclusive Defence Team is crucial for the employees who work here, but also for the security of our country.”<sup>61</sup> On 9 July 2022, the Prime Minister formally apologized to the descendants of the No. 2 Construction Battalion, the only all-Black unit to serve in the First World War, for anti-Black hate and systemic racism faced by the battalion.<sup>62</sup> In doing so, he acknowledged that systemic racism and discrimination continues within the Canadian military and made a commitment to advancing meaningful change.



60 Minister of National Defence Advisory Panel on Systemic Racism and Discrimination, Final Report, January 2022, [canada.ca/en/department-national-defence/corporate/reports-publications/mnd-advisory-panel-systemic-racism-discrimination-final-report-jan-2022.html](https://canada.ca/en/department-national-defence/corporate/reports-publications/mnd-advisory-panel-systemic-racism-discrimination-final-report-jan-2022.html), p. 40.  
61 Minister of Defence Anita Anand, Twitter post, 25 April 2022, [twitter.com/AnitaAnandMP/status/1518653906062086148?s=20&t=HuYkeQL2v-zUqMYZ4oTH-Q](https://twitter.com/AnitaAnandMP/status/1518653906062086148?s=20&t=HuYkeQL2v-zUqMYZ4oTH-Q)  
62 Prime Minister of Canada, “Prime Minister delivers apology to descendants of No. 2 Construction Battalion”, 9 July 2022, [pm.gc.ca/en/videos/2022/07/09/prime-minister-delivers-apology-descendants-no-2-construction-battalion](https://pm.gc.ca/en/videos/2022/07/09/prime-minister-delivers-apology-descendants-no-2-construction-battalion)

ANTI-BLACK RACISM IN THE  
FEDERAL PUBLIC SERVICE

Despite calls from Black employees and the United Nations Working Group of Experts on People of African Descent<sup>63</sup> to address anti-Black racism, discrimination persists across the federal public service. Black employees continue to face denials of their rights under Canadian and international human rights law, including the right to be free from discrimination and the right to have equal promotion opportunities based only upon seniority and competence.<sup>64</sup>

In October, the federal government filed to dismiss a proposed class action lawsuit launched on behalf of 45,000 Black federal public service employees, which alleges the federal government engaged in systemic discrimination against current, former, and prospective federal public service workers. Since the launch of the “Black Class Action” in December 2020, nearly 1,500 Black employees have described how they were confined to low-level positions and denied promotions, mentorship, and other opportunities that were available to non-Black colleagues. The Black Class Action alleges that while all “visible minorities” are underrepresented at the executive level, Black employees are disproportionately underrepresented, reflecting 3.8% of federal public service workers but only 1.9% of those at the executive level. For Black employees who are also members of other marginalized groups, such as Black women, Black people with disabilities, and Black 2SLGBTQI+ individuals, the impacts of discrimination are even greater.

63 Working Group of Experts on People of African Descent, Report on its Mission to Canada, 16 August 2017, UN Doc. A/HRC/36/60/Add.1, [digitallibrary.un.org/record/1304262?ln=en](https://digitallibrary.un.org/record/1304262?ln=en)  
64 International Covenant on Economic, Social, and Cultural Rights (ICESCR), Articles 2, 7; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5; International Covenant on Civil and Political Rights (ICCPR), Article 26.  
65 Black Class Action, “BCAS submits historic complaint to the United Nations against Canada”, 28 September 2022, [blackclassaction.ca/post/un-complaint](https://blackclassaction.ca/post/un-complaint)

Black women represent 70% of federal employees who have come forward with allegations of systemic discrimination in the public service.

In September, a formal complaint was also submitted by the Black Class Action Secretariat to the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance.<sup>65</sup>





HEALTHCARE AND RACIAL  
DISCRIMINATION

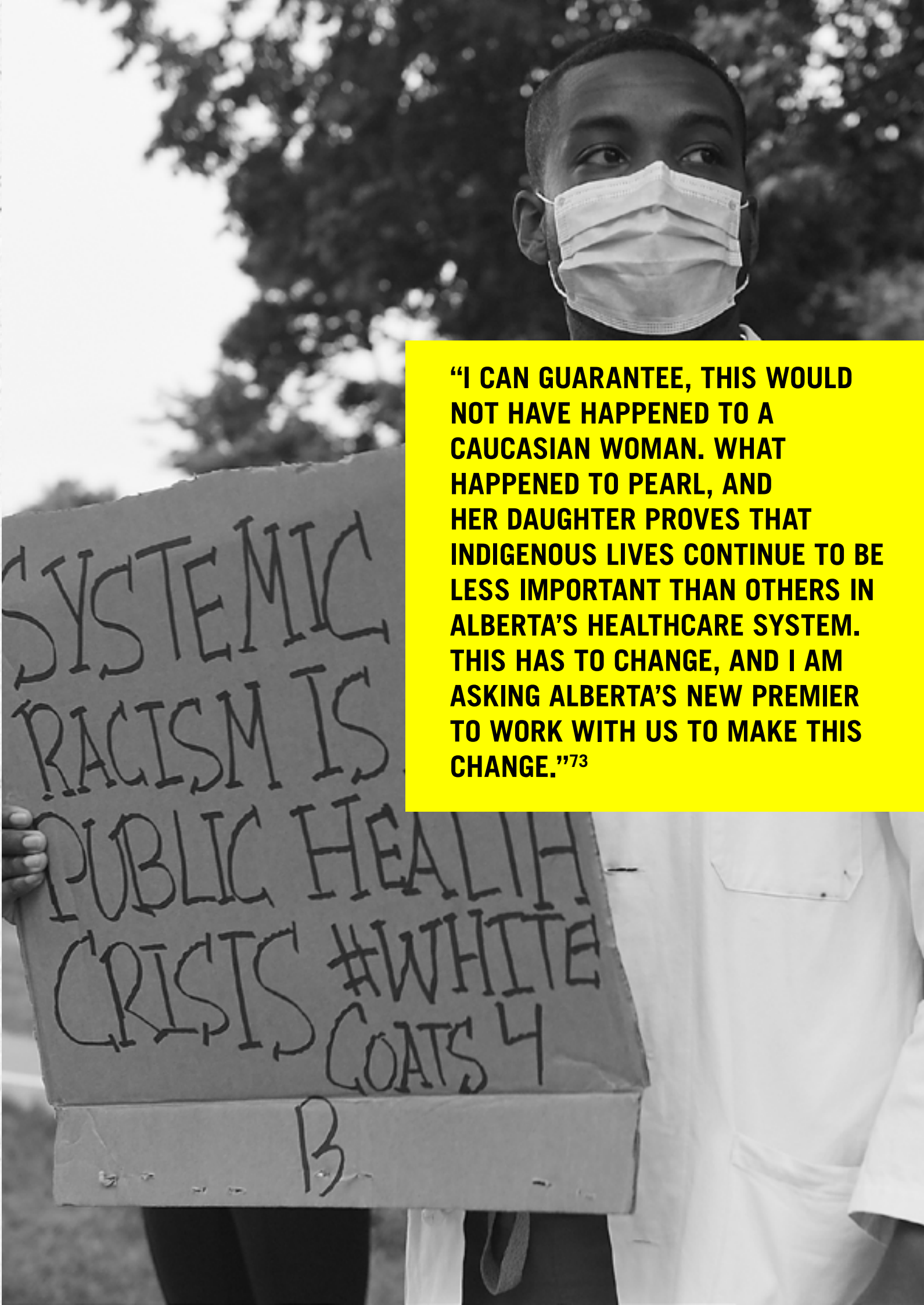
Everyone has the right under international human rights law to enjoy the highest attainable standard of physical and mental health.<sup>66</sup> The right to health is mutually dependent on the rights to non-discrimination, food, housing, work, education, information, and participation among others.<sup>67</sup> Canada has an international obligation to promote the full realization of the right to health of its citizens, including the duty to promote public health and to assure medical services and attention in the event of sickness, and to do so without discrimination on any ground.<sup>68</sup> The UN Special Rapporteur has identified racism as a key social determinant of health and a driver of health inequities that has a lasting impact on future generations.<sup>69</sup>



Numerous studies across Canada - ranging from an analysis of 11 million emergency room visits in Alberta<sup>70</sup> to a report on *Indigenous-Specific Racism in Health Care Across the Champlain Region*<sup>71</sup> - found that Indigenous People experienced systemic racism in the health care system leading to both poorer outcomes and increased hesitancy to seek medical care. Indigenous persons were consistently rated by medical practitioners as requiring less urgent care than non-Indigenous persons regardless of the nature of the illness or injury. Among the many recommendations were calls to address the underrepresentation of Indigenous health personnel, greater engagement with Indigenous partners, mandatory anti-Indigenous racism training, and review of practices such as “birth alerts” and the role hospitals and other agencies play in the removal of Indigenous babies and children. In October, a Cree woman filed a lawsuit against an Edmonton hospital alleging that racism played a role in the level of care she received and the death of her preterm baby.<sup>72</sup> In response, Treaty 8 Grand Chief Arthur Noskey called for a public inquiry into systemic anti-Indigenous discrimination in the healthcare system in Alberta:

“I CAN GUARANTEE, THIS WOULD NOT HAVE HAPPENED TO A CAUCASIAN WOMAN. WHAT HAPPENED TO PEARL, AND HER DAUGHTER PROVES THAT INDIGENOUS LIVES CONTINUE TO BE LESS IMPORTANT THAN OTHERS IN ALBERTA’S HEALTHCARE SYSTEM. THIS HAS TO CHANGE, AND I AM ASKING ALBERTA’S NEW PREMIER TO WORK WITH US TO MAKE THIS CHANGE.”<sup>73</sup>

66 International Covenant on Economic, Social, and Cultural Rights (ICESCR), Article 12.  
67 ECOSOC, General Comment No. 14 (2000) on the right to the highest attainable standard of health, E/C.12/2000/4, 11 August 2000, <https://digitallibrary.un.org/record/425041?ln=en>  
68 International Covenant on Economic, Social, and Cultural Rights (ICESCR), Articles 2, 12; International Convention on the Elimination of All Forms of Racial Discrimination, Articles 4, 5.  
69 UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report, 20 July 2022, UN Doc. A/77/197, [documents-dds-ny.un.org/doc/UNDOC/GEN/N22/432/64/PDF/N2243264.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/432/64/PDF/N2243264.pdf?OpenElement)  
70 CBC News, “Study suggests Alberta First Nations people tend to get lower level of emergency care”, 17 January 2022, [cbc.ca/news/canada/edmonton/study-suggests-alberta-first-nations-people-tend-to-get-lower-level-of-emergency-care-1.6317508](https://www.cbc.ca/news/canada/edmonton/study-suggests-alberta-first-nations-people-tend-to-get-lower-level-of-emergency-care-1.6317508)  
71 Wabano Centre for Aboriginal Health in Partnership with the Ottawa Aboriginal Coalition, Share Your Story Indigenous-Specific Racism in Health Care Across the Champlain Region: Full Report, 2022, <https://wabano.com/wp-content/uploads/2022/05/ShareYourStory-FullReport-EN.pdf>  
72 Global News, “Lawsuit filed after alleged ‘inhumane’ treatment of Indigenous woman and baby at Edmonton hospital”, 3 November 2022, [globalnews.ca/news/9249962/lawsuit-pearl-gambler-birth-indigenous-edmonton-hospital-racism](https://globalnews.ca/news/9249962/lawsuit-pearl-gambler-birth-indigenous-edmonton-hospital-racism)  
73 Edmonton City News, “Alberta First Nation calls for investigation after Indigenous baby’s hospital death”, 3 November 2022, [edmonton.citynews.ca/2022/11/03/hospital-denial-baby-death](https://edmonton.citynews.ca/2022/11/03/hospital-denial-baby-death)





## BIAS IN FACIAL RECOGNITION AND ARTIFICIAL INTELLIGENCE TECHNOLOGIES

The use of facial recognition technology violates international human rights to privacy and threatens the international human rights of freedom of peaceful assembly and expression and of equality and non-discrimination.<sup>74</sup>

In July, the Federal Court granted a judicial review of a 2020 decision to revoke the refugee status of two Somali women. The court found that the Canadian Border Services Agency's use of photo comparison in the case was unreliable and lacked transparency. The federal judge noted that racialized women are "more likely to be misidentified by facial recognition software than their white cohorts" and described photo comparisons involving people of different ethno-racial backgrounds as "highly subjective."<sup>75</sup>

In October, a parliamentary committee recommended improvements to the federal legislative framework that applies to facial recognition and artificial intelligence technologies, including the recommendation to impose a federal moratorium on the use of facial recognition technology by policing services and Canadian industries unless implemented in confirmed consultation with the Office of the Privacy Commissioner or through judicial authorization.<sup>76</sup>

<sup>74</sup> Amnesty International, "Amnesty International calls for ban on the use of facial recognition technology for mass surveillance", 11 June 2020, [amnesty.org/en/latest/research/2020/06/amnesty-international-calls-for-ban-on-the-use-of-facial-recognition-technology-for-mass-surveillance/](https://www.amnesty.org/en/latest/research/2020/06/amnesty-international-calls-for-ban-on-the-use-of-facial-recognition-technology-for-mass-surveillance/); International Covenant on Civil and Political Rights (ICCPR), Articles 19, 21; International Covenant on Cultural, Economic, and Social Rights (ICESCR), Article 3; UN Human Rights Council (UNHRC), Report, The Right to Privacy in the Digital Age, 13 September 2021, UN Doc. A/HRC/48/31, documents-dds-ny.un.org/doc/UNDOC/GEN/G21/249/21/PDF/G2124921.pdf? OpenElement

<sup>75</sup> Barre v. Canada (Citizenship and Immigration), 2022 FC 1078, 20 July 2022, [decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/521971/index.do](https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/521971/index.do), paras

<sup>76</sup> House of Commons of Canada, Report of the Standing Committee on Access to Information, Privacy and Ethics, October 2022, [ourcommons.ca/DocumentViewer/en/44-1/ETHI/report-6](https://ourcommons.ca/DocumentViewer/en/44-1/ETHI/report-6)







## AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF CANADA TO:

- Report on progress made in the implementation of Canada's Anti-Racism Strategy 2019-2022,<sup>77</sup> following meaningful consultation with Black, Indigenous, and racialized communities.
- Ban the use, development, production, and sale of facial technology for mass surveillance purposes by the police and other government agencies.
- Prohibit racial profiling practices by law enforcement and engage in broad consultations about community-led efforts that reimagine and propose new, transformative approaches to uphold public safety and to set and apportion police budgets.
- Implement the recommendations of the Correctional Investigator and the Minister of National Defence Advisory Panel to address systemic racism and discrimination in the criminal justice system and military.
- Establish a fund to compensate Black employees for the harms experienced because of workplace discrimination, create a Black Equity Commission to investigate and address systemic barriers and create a designated category for Black employees under the Employment Equity Act.
- Provide sustained resources to community-led organizations and movements directly impacted by and working against racism, as well as community-led organizations supporting the needs of racialized and Black peoples.



<sup>77</sup> Government of Canada, Canadian Heritage, Building a Foundation for Change: Canada's Anti-Racism Strategy 2019-2022, [canada.ca/en/canadian-heritage/campaigns/anti-racism-engagement/anti-racism-strategy.html](https://canada.ca/en/canadian-heritage/campaigns/anti-racism-engagement/anti-racism-strategy.html)



**GENDER JUSTICE**

**03**



## GENDER JUSTICE

The ongoing lack of intersectional feminist mainstreaming across all social and policy areas continues to be the greatest hindrance to gender justice in Canada. As a result of the intersections of gender, disability, race, Indigeneity, immigration status, religion and sexual orientation, many individuals and communities do not have equitable access to employment, health care, resettlement, housing, and education. The revelation that Hockey Canada had, for decades, used reserved funding to quietly settle sexual assault lawsuits,<sup>78</sup> and the wholly negligent provision of maternal health care towards a Cree woman that resulted in the death of her infant,<sup>79</sup> are grim reminders of how prevalent systemic racist and sexist practices are in Canada and the level of inaction in response. Collecting disaggregated gender data and utilizing it for policy guidance would create a more equitable gender rights landscape and enhance gender mainstreaming in Canada.

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<sup>78</sup> CBS, Austin Nivison, “Hockey Canada scandal explained”, 12 October 2022, [cbssports.com/nhl/news/hockey-canada-scandal-explained-organization-losing-sponsors-due-to-handling-of-sexual-assault-allegations/](https://www.cbssports.com/nhl/news/hockey-canada-scandal-explained-organization-losing-sponsors-due-to-handling-of-sexual-assault-allegations/)  
<sup>79</sup> Alberta Native Friendship Centres Association, “Call for immediate action and accountability to address racism in healthcare system”, 4 November 2022, [twitter.com/anfca/status/1588642927991205888/photo/1](https://twitter.com/anfca/status/1588642927991205888/photo/1)





## GENDER-BASED VIOLENCE

Levels of gender-based violence (especially sexual violence) have remained consistent for years, with the rate of incidents still being underreported and few perpetrators held to account. In November, the federal government released its long-awaited National Action Plan to End Gender-Based Violence.<sup>80</sup> The plan outlined a coordinated approach with federal, provincial, and territorial governments centred on five foundational pillars. These pillars include support for victims, survivors, and their families, violence prevention, a responsive justice system, Indigenous-led approaches, social infrastructure, and an enabling environment.

Implementation plans, detailed targets, indicators, and reporting mechanisms for the Plan across federal, provincial, and territorial governments have not yet been outlined, which the government has indicated will be forthcoming.<sup>81</sup>

Newer forms of gender-based violence are taking the form of online threats and harassment, specifically targeting women in public-facing professions such as politics, activism, or journalism. From sexist attacks to rape and death

threats, these impacts range from problematic to abusive,<sup>82</sup> calling for Canada's necessary attention to political and social gender-based violence. In January, the constituency office of Toronto's Member of Provincial Parliament Jill Andrew was vandalized, adding to her already disturbing experience of anti-Black racism and ongoing abusive hate mail.<sup>83</sup> Many of these kinds of attacks are unfairly aimed at Black, Indigenous, and racialized women,<sup>84</sup> who now represent an unprecedented number of political and other public-facing professions, exposing the alarming and ever-present trend of threatening rhetoric based on the intersections of gender, race, class, or religious affiliation.

In September, the Canadian Association of Journalists wrote an open letter to Prime Minister Justin Trudeau, asking policymakers and the police to protect women journalists experiencing an "increasing number of targeted, vile threats of violence" and recommended strengthened reporting protocols, gender responsiveness and survivor-centred treatment by the police.<sup>85</sup> A coordinated government response is needed to end social and political violence and to fully uphold systems of protection for women.

<sup>80</sup> Government of Canada, In Brief: National Action Plan to End Gender-Based Violence, 9 November 2022, [femmes-egalite-genres.canada.ca/en/ministers-responsible-status-women/national-action-plan-end-gender-based-violence/first-national-action-plan-end-gender-based-violence.html](https://femmes-egalite-genres.canada.ca/en/ministers-responsible-status-women/national-action-plan-end-gender-based-violence/first-national-action-plan-end-gender-based-violence.html)

<sup>81</sup> Government of Canada, "National Action Plan to End Gender-Based Violence", 9 November 2022, <https://women-gender-equality.canada.ca/en/ministers-responsible-status-women/national-action-plan-end-gender-based-violence/first-national-action-plan-end-gender-based-violence.html>

<sup>82</sup> Problematic content is that which contains hurtful or hostile content, especially if repeated to an individual on multiple occasions, but does not necessarily meet the threshold of abuse. Such content can reinforce negative or harmful stereotypes about a race or people who follow a certain religion. Abusive content promotes violence against or threatens people based on their race, ethnicity, national origin, sexual orientation, gender, gender identity, religious affiliation, age, disability, or serious disease. It could include physical or sexual threats, racism, slurs, wishes for physical harm or death, or other degrading content. Amnesty International India, Troll Patrol India, Exposing Online Abuse Faced by Women Politicians in India, 2020, [https://decoders.blob.core.windows.net/troll-patrol-india-findings/Amnesty\\_International\\_India\\_Troll\\_Patrol\\_India\\_Findings\\_2020.pdf](https://decoders.blob.core.windows.net/troll-patrol-india-findings/Amnesty_International_India_Troll_Patrol_India_Findings_2020.pdf), p. 5.

<sup>83</sup> Toronto.com, Joanna Lavoie, "Toronto NDP MPP's constituency office vandalized with feces, eggs", 24 January 2022, [toronto.com/news/crime/toronto-ndp-mpps-constituency-office-vandalized-with-feces-eggs/article\\_838a5e4f-bc1b-5634-a210-207b0fe4ec2d.html](https://toronto.com/news/crime/toronto-ndp-mpps-constituency-office-vandalized-with-feces-eggs/article_838a5e4f-bc1b-5634-a210-207b0fe4ec2d.html)

<sup>84</sup> TVO, Ashley Okwuosa, "It's political violence: What women and racialized candidates face on the campaign trail", 25 May 2022, [tvo.org/article/its-political-violence-what-women-and-racialized-candidates-face-on-the-campaign-trail](https://tvo.org/article/its-political-violence-what-women-and-racialized-candidates-face-on-the-campaign-trail)

<sup>85</sup> The Canadian Association of Journalists, "Open letter to PM Justin Trudeau concerning the online hate and harassment of journalists", 1 September 2022, [caj.ca/open-letter-to-pm-justin-trudeau-concerning-the-online-hate-and-harassment-of-journalists/](https://caj.ca/open-letter-to-pm-justin-trudeau-concerning-the-online-hate-and-harassment-of-journalists/)







VIOLENCE AGAINST INDIGENOUS WOMEN AND GIRLS

Indigenous women, girls, and Two Spirit people continue to face disproportionate rates of violence, disappearances, and murders.<sup>86</sup> Despite Canada’s launch and \$2.2 billion investment in the 2021 National Action Plan: Ending Violence Against Indigenous Women, Girls and 2SLGBTQIA+ People, violence endures, and cases of Missing and Murdered Indigenous Women, Girls, and Two-Spirit People (MMIWG2S) are still underreported. Police investigations are fraught with negligence and discrimination, as evidenced in the cases of Tatyanna Harrison, Noelle O’Soup, and Chelsea Poorman, whose families publicly called attention to the police force’s failure to thoroughly investigate their disappearances and deaths.<sup>87</sup>

**“We need to end the careless disregard for human life based on stigma, race, and class,”** said Natasha Harrison, mother of Tatyanna Harrison, in a press conference on police accountability in MMIWG2S with media in October 2022. Indigenous peoples call for more police accountability, targeted survivor-centered responses, and prioritization of Indigenous and vulnerable missing person cases.<sup>88</sup>

The government’s *2022 Progress Report of the Missing and Murdered Indigenous Women, Girls, and 2SLGBTQIA+ National Action Plan* (NAP)<sup>89</sup> revealed a gross lack of progress toward its commitments. A standing key priority to create an independent national committee tasked with ensuring the coordination, accountability and progress on the NAP has, one year on, not been completed.<sup>90</sup> In addition, the urgent next step to develop and publicly release an implementation plan with short-, medium-, and long-term priorities and timelines toward the full achievement of the NAP, has not yet been undertaken.<sup>91</sup> The Native Women’s Association of Canada (NWAC) called Canada’s transparency into question over the distribution of the \$2.2 billion in federal funding for the NAP<sup>92</sup> and Les Femmes Michif Otipemisiwak announced that it was withdrawing from consultations for the Progress Report, citing that it was a rushed process and did “not fully describe the lack of tangible action in the implementation of the [NAP].”<sup>93</sup> They argued that Canada must end its inaction and slow-moving efforts and renew its relationships with First Nations, Métis, and Inuit peoples.

86 Government of Canada, 2022 Progress Report on the Missing and Murdered Indigenous Women, Girls, and 2SLGBTQIA+ People National Action Plan, 23 May 2022, <https://mmiwg2splus.wpenginpowered.com/wp-content/uploads/2022/06/NAP-progress-report-2022-1.pdf>, p. 81-82.  
87 Amnesty International and Families of Sisters in Spirit, “MMIWG2S & police accountability press conference”, 3 October 2022, [dropbox.com/scl/fo/bgiyqrsxr4r83cq2or5/h?dl=0&rlkey=49fty6tepgs2zhflnroOrmw6m](https://dropbox.com/scl/fo/bgiyqrsxr4r83cq2or5/h?dl=0&rlkey=49fty6tepgs2zhflnroOrmw6m)  
88 Amnesty International and Families of Sisters in Spirit, “MMIWG2S & police accountability press conference”, 3 October 2022, [dropbox.com/scl/fo/bgiyqrsxr4r83cq2or5/h?dl=0&rlkey=49fty6tepgs2zhflnroOrmw6m](https://dropbox.com/scl/fo/bgiyqrsxr4r83cq2or5/h?dl=0&rlkey=49fty6tepgs2zhflnroOrmw6m)  
89 Government of Canada, 2022 Progress Report on the Missing and Murdered Indigenous Women, Girls, and 2SLGBTQIA+ People National Action Plan, 23 May 2022, <https://mmiwg2splus.wpenginpowered.com/wp-content/uploads/2022/06/NAP-progress-report-2022-1.pdf>  
90 Government of Canada, 2022 Progress Report on the Missing and Murdered Indigenous Women, Girls, and 2SLGBTQIA+ People National Action Plan, 23 May 2022, <https://mmiwg2splus.wpenginpowered.com/wp-content/uploads/2022/06/NAP-progress-report-2022-1.pdf>, p. 75.  
91 Government of Canada, 2022 Progress Report on the Missing and Murdered Indigenous Women, Girls, and 2SLGBTQIA+ People National Action Plan, 23 May 2022, <https://mmiwg2splus.wpenginpowered.com/wp-content/uploads/2022/06/NAP-progress-report-2022-1.pdf>, p. 75.  
92 Native Women’s Association of Canada, Annual Scorecard: MMIWG2S National Action Plan, 3 June 2022, [nwac.ca/assets-knowledge-centre/FEDERAL\\_ANNUAL\\_SCORECARD\\_ACTIONPLAN\\_2022\\_2022-06-03-132116\\_mfnq.pdf](https://nwac.ca/assets-knowledge-centre/FEDERAL_ANNUAL_SCORECARD_ACTIONPLAN_2022_2022-06-03-132116_mfnq.pdf)  
93 Les Femmes Michif Otipemisiwak, “Les Femmes Michif Otipemisiwak responds to the 2022 progress report on the missing and murdered indigenous women girls and 2SLGBTQIA people national action plan”, 3 June 2022, [metiswomen.org/news-post/les-femmes-michif-otipemisiwak-responds-to-the-2022-progress-report-on-the-missing-and-murdered-indigenous-women-girls-and-2slgbtqia-people-national-action-plan/](https://metiswomen.org/news-post/les-femmes-michif-otipemisiwak-responds-to-the-2022-progress-report-on-the-missing-and-murdered-indigenous-women-girls-and-2slgbtqia-people-national-action-plan/)



FORCED AND COERCED STERILIZATION

Forced sterilization, a form of gender-based violence, occurs when a person is sterilized without their knowledge or consent. Coerced sterilization occurs when a person consents to sterilization because of incorrect information or coercive tactics. Due to systemic racism against Indigenous peoples in the healthcare system, Indigenous women are disproportionately impacted by forced and coerced sterilization and “its prevalence is underreported and underestimated” as was noted by the Standing Senate Committee on Human Rights.<sup>94</sup>

In 2018, the United Nations Committee against Torture (UNCAT) affirmed this practice as a form of torture, calling on Canada to stop the “extensive forced or coerced sterilization” of Indigenous women and girls in the country; ensure that all allegations of forced or coerced sterilization are impartially investigated; ensure that the persons responsible are held accountable; and ensure that adequate redress is provided to the victims.<sup>95</sup>

Indigenous women have initiated class action lawsuits for forced and coerced sterilizations across several provinces.<sup>96</sup> Proposed class actions lawsuits have similarly been reported between 2017 and 2021 in Saskatchewan,<sup>97</sup> Alberta,<sup>98</sup> Manitoba, B.C. and

Quebec.<sup>99</sup> On 28 October 2022, the Northwest Territories Health and Social Services Authority filed to dismiss a lawsuit launched in 2021 that alleged that a gynecologist in Yellowknife sterilized a woman from Tuktoyaktuk during a surgery without her consent.<sup>100</sup>

In July, the Standing Senate Committee on Human Rights released Part II of *The Scars that We Carry: Forced and Coerced Sterilization of Persons in Canada* report with recommendations for a criminal offence to be added to the Criminal Code<sup>101</sup> that specifically prohibits forced and coerced sterilization.<sup>102</sup> It recognized the disproportionate impact of this practice on Indigenous women, Black and racialized women, and people with disabilities. It amplified the Truth and Reconciliation Commission’s Call to Action 24 to ensure that all medical and nursing schools in Canada mandate students to take a course dealing with Indigenous health issues, including skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.<sup>103</sup> In addition, it found that those who were subjected to forced and coerced sterilization deserve compensation and a formal government apology.<sup>104</sup> Canada has not yet fulfilled these recommendations.

94 Senate Canada, Standing Senate Committee on Human Rights, Forced and Coerced Sterilization of Persons in Canada, 3 June 2021, [sencanada.ca/content/sen/committee/432/RIDR/Reports/2021-06-03\\_ForcedSterilization\\_E.pdf](https://sencanada.ca/content/sen/committee/432/RIDR/Reports/2021-06-03_ForcedSterilization_E.pdf)  
95 Amnesty International, “Sterilizing Indigenous women without consent is torture, says UN Committee”, 7 December 2018, [amnesty.ca/news/sterilizing-indigenous-women-without-consent-is-torture-says-un-committee/](https://amnesty.ca/news/sterilizing-indigenous-women-without-consent-is-torture-says-un-committee/)  
96 CBC News, “Indigenous women come forward with accounts of forced sterilization, says lawyer”, 18 April 2018, [cbc.ca/news/canada/north/forced-sterilization-lawsuit-could-expand-1.5102981](https://cbc.ca/news/canada/north/forced-sterilization-lawsuit-could-expand-1.5102981)  
97 Amnesty International, “Amnesty International submission to standing senate committee on human rights study on sterilization without consent”, 1 April 2019, [amnesty.ca/sites/amnesty/files/Amnesty%20Sterilization%20Briefing%20Senate%20HR%20Committee%20March%202019\\_0.pdf](https://amnesty.ca/sites/amnesty/files/Amnesty%20Sterilization%20Briefing%20Senate%20HR%20Committee%20March%202019_0.pdf)  
98 CBC News, “Class action lawsuit proposed on coerced sterilization in Alberta”, 19 December 2018, [cbc.ca/news/canada/edmonton/class-action-law-suit-alberta-forced-coerced-sterilization-1.4953430](https://cbc.ca/news/canada/edmonton/class-action-law-suit-alberta-forced-coerced-sterilization-1.4953430)  
99 CBC Radio, “She was sterilized without her consent at 14. Now she wants the practice made a crime”, 15 May 2022, [cbc.ca/radio/whitecoat/she-was-sterilized-without-her-consent-at-14-now-she-wants-the-practice-made-a-crime-1.6450647](https://cbc.ca/radio/whitecoat/she-was-sterilized-without-her-consent-at-14-now-she-wants-the-practice-made-a-crime-1.6450647)  
100 CBC News, “N.W.T. health authority asks court to dismiss lawsuit alleging forced sterilization”, 28 October 2022, [cbc.ca/news/canada/north/nwt-supreme-court-andrew-kotaska-sterilization-lawsuit-1.6632210](https://cbc.ca/news/canada/north/nwt-supreme-court-andrew-kotaska-sterilization-lawsuit-1.6632210)  
101 Senate of Canada, Standing Senate Committee on Human Rights, Forced and Coerced Sterilization of Persons in Canada, 14 July 2022, [sencanada.ca/en/info-page/parl-44-1/ridr-the-scars-that-we-carry-forced-and-coerced-sterilization-of-persons-in-canada-part-ii/](https://sencanada.ca/en/info-page/parl-44-1/ridr-the-scars-that-we-carry-forced-and-coerced-sterilization-of-persons-in-canada-part-ii/), pp. 28, 30.  
102 Senate of Canada, Standing Senate Committee on Human Rights, Forced and Coerced Sterilization of Persons in Canada, 14 July 2022, [sencanada.ca/en/info-page/parl-44-1/ridr-the-scars-that-we-carry-forced-and-coerced-sterilization-of-persons-in-canada-part-ii/](https://sencanada.ca/en/info-page/parl-44-1/ridr-the-scars-that-we-carry-forced-and-coerced-sterilization-of-persons-in-canada-part-ii/), pp. 26, 30.  
103 Truth and Reconciliation Commission of Canada, Calls to Action, 2015, [ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Calls\\_to\\_Action\\_English2.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Calls_to_Action_English2.pdf), p. 3.  
104 Senate of Canada, Standing Senate Committee on Human Rights, Forced and Coerced Sterilization of Persons in Canada, 14 July 2022, [sencanada.ca/en/info-page/parl-44-1/ridr-the-scars-that-we-carry-forced-and-coerced-sterilization-of-persons-in-canada-part-ii/](https://sencanada.ca/en/info-page/parl-44-1/ridr-the-scars-that-we-carry-forced-and-coerced-sterilization-of-persons-in-canada-part-ii/), p. 40.



## THE RIGHTS OF SEX WORKERS

The criminalization of sex work creates a barrier to the realization of the human rights of sex workers in Canada.<sup>105</sup> States have an obligation under international human rights law to combat intersectional and gender-based discrimination and to achieve substantial equality.<sup>106</sup> Under the Convention on the Elimination of Discrimination Against Women (CEDAW), states have a specific obligation to eliminate discrimination against women in the field of employment, including to guarantee the right to protection of health and safety in working conditions.<sup>107</sup> Amnesty International defines sex work as the exchange of sexual services (including sexual acts) between consenting adults, with the terms agreed between the seller and the buyer.<sup>108</sup>

In Canada, sex work is criminalized under the Protection of Communities and Exploited Persons Act (PCEPA).<sup>109</sup> In October, the Canadian Alliance for Sex Work Law Reform (“the Alliance”) joined individual applicants in court to challenge the constitutionality of the PCEPA.<sup>110</sup> According to the Alliance, the increased prevalence of violence against sex workers is more likely to go undetected and underreported since PCEPA.<sup>111</sup>

The Alliance argued that the PCEPA forces sex workers to operate covertly in isolated areas, limits sex workers’ ability to screen clients and negotiate terms of consensual sexual transactions and prohibits sex workers from legally hiring third-party services to help manage their work and provide safety and security screening. Criminalization of sex work has resulted in heightened risks of violence, harassment, stigma, and discrimination.<sup>112</sup> In particular, the PCEPA results in legal conflicts for migrant sex workers that may lead to loss of immigration status, detention and deportation, even if they are not charged with a criminal or municipal offence.<sup>113</sup> Butterfly, a sex work advocacy organization, asserts that Indigenous, Black, Asian, and trans sex workers are especially targeted by law enforcement and are often charged with unfounded and unwarranted charges, in addition to enduring hostile treatment from officers.<sup>114</sup>

As an intervener, Amnesty International Canada submitted in court that PCEPA infringes the rights to liberty, security of the person, and equality, and has foreseeably negative impacts on the right to life, contrary to Canada’s obligations under international human rights law.<sup>115</sup> A decision by the court is pending.



105 Amnesty International, “Explanatory note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers”, (Index: POL 30/4063/2016), 26 May 2016, [amnesty.org/en/documents/pol30/4063/2016/en/](https://www.amnesty.org/en/documents/pol30/4063/2016/en/)

106 See, for example, the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of all forms of Racial Discrimination (ICERD); the Convention on the Elimination of all forms of Discrimination against Women (CEDAW); the Convention on the Rights of Persons with Disabilities (CRPD); and the International Convention on the Rights of all Migrant Workers and Members of their Families.

107 Convention on the Elimination of Discrimination Against Women (CEDAW), Article 11.

108 Amnesty International, Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers, (Index: POL 30/4062/2016), 26 May 2016, [amnesty.org/en/documents/pol30/4062/2016/en/](https://www.amnesty.org/en/documents/pol30/4062/2016/en/), p. 3.

109 Government of Canada, Protection of Communities and Exploited Persons Act, 2014, Chapter 25, [laws-lois.justice.gc.ca/eng/AnnualStatutes/2014\\_25/page-1.html](https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2014_25/page-1.html)

110 Ontario Superior Court, Canadian Alliance for Sex Work Law Reform v. Canada (Attorney General), Factum of the Applicants, 7 June 2022, [sexworklawreform.com/wp-content/uploads/2022/09/Applicant-Factum-5.pdf](https://sexworklawreform.com/wp-content/uploads/2022/09/Applicant-Factum-5.pdf), p. 33. See also, Canadian Alliance for Sex Law Reform, Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada, March 2017, [sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf](https://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf), p. 7.

111 Ontario Superior Court, Canadian Alliance for Sex Work Law Reform v. Canada (Attorney General), Factum of the Intervenor, Amnesty International Canadian Section (English Speaking), 10 August 2022, [sexworklawreform.com/wp-content/uploads/2022/09/Amnesty-Factum-3.pdf](https://sexworklawreform.com/wp-content/uploads/2022/09/Amnesty-Factum-3.pdf), pp. 5, 9, 15.

112 Ontario Superior Court, Canadian Alliance for Sex Work Law Reform v. Canada (Attorney General), Factum of the Applicants, 7 June 2022, [sexworklawreform.com/wp-content/uploads/2022/09/Applicant-Factum-5.pdf](https://sexworklawreform.com/wp-content/uploads/2022/09/Applicant-Factum-5.pdf), pp. 55-60; Amnesty International, “Amnesty International’s submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of Communities And Exploited Persons Act (PCEPA)”, 25 February 2022, [ourcommons.ca/Content/Committee/441/JUST/Brief/BR11643817/br-external/AmnestyInternational-e.pdf](https://ourcommons.ca/Content/Committee/441/JUST/Brief/BR11643817/br-external/AmnestyInternational-e.pdf).

See also, Amnesty International, Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers, (Index: POL 30/4062/2016), 26 May 2016, [amnesty.org/en/documents/pol30/4062/2016/en/](https://www.amnesty.org/en/documents/pol30/4062/2016/en/), p. 5; Canadian Alliance for Sex Law Reform, Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada, March 2017, [sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf](https://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf), p. 7.

113 Butterfly, A Pathway to End Violence Against Migrant Sex Workers: Access, Safety, Dignity and Justice, 2020, 576a91ec-4a76-459b-8d05-4ebb-f42a0a7e.filesusr.com/ugd/5bd754\_d680b25295cb40bdbbcc03f34a88c267.pdf

114 Butterfly, A Pathway to End Violence Against Migrant Sex Workers: Access, Safety, Dignity and Justice, 2020, 576a91ec-4a76-459b-8d05-4ebb-f42a0a7e.filesusr.com/ugd/5bd754\_d680b25295cb40bdbbcc03f34a88c267.pdf

115 Ontario Superior Court, Canadian Alliance for Sex Work Law Reform v. Canada (Attorney General), Factum of the Intervenor, Amnesty International Canadian Section (English Speaking), 10 August 2022, [sexworklawreform.com/wp-content/uploads/2022/09/Amnesty-Factum-3.pdf](https://sexworklawreform.com/wp-content/uploads/2022/09/Amnesty-Factum-3.pdf), pp. 6-15.





2SLGBTQI+ RIGHTS

In April, Canada announced a funding commitment of \$100 million spread over the next five years to support the implementation of its first 2SLGBTQI+ National Action Plan,<sup>116</sup> which was launched in August 2022. 2SLGBTQI+ people, particularly transgender people, experience more discrimination and violence than heterosexual and cisgender people.<sup>117</sup> 2SLGBTQI+ people also face discrimination that leads to barriers in accessing health care services, high rates of houselessness, poverty, social isolation, and (online) harassment and threats to their safety.<sup>118</sup> Because of their multiple and intersecting identities, Black and racialized trans women, and those belonging to official language minority communities, are at a particular risk of experiencing rights violations.<sup>119</sup> Greater disaggregated race, gender and 2SLGBTQI+ data is needed to enhance the government’s policy response.

CONVERSION THERAPY

In January, the federal government banned and criminalized conversion therapy, marking a triumphant moment for 2SLGBTQI+ rights. After years of advocacy from survivors and activists, among whom lower-income, Indigenous and racialized individuals were disproportionately represented, Bill C-4 made it illegal to promote, advertise, benefit from, or subject another person to this practice.<sup>120</sup> The Bill expressly describes the harm caused from this practice, noting that stereotypes about sexual orientation, gender identity and gender expression prevent the fulfillment of “human dignity and equality of all Canadians.”<sup>121</sup> To date, the Department of Justice Canada has provided \$469,000 through the Victims Fund to support the implementation of this new law in British Columbia, Alberta, Manitoba and Quebec, including the coordination of a pan-Canadian consultation and needs assessment.<sup>122</sup>

116 Government of Canada, Federal 2SLGBTQI+ Action Plan 2022, 28 August 2022, [women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html](https://women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html)  
117 Government of Canada, Federal 2SLGBTQI+ Action Plan 2022, 28 August 2022, [women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html](https://women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html), p. 16.  
118 Government of Canada, Federal 2SLGBTQI+ Action Plan 2022, 28 August 2022, [women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html](https://women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html)  
119 Government of Canada, Federal 2SLGBTQI+ Action Plan 2022 28 August 2022, [women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html](https://women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html), p. 6.  
120 Parliament of Canada, Bill C-4: An Act to Amend the Criminal Code (conversion therapy), 9 November 2021, [parl.ca/DocumentViewer/en/44-1/bill/C-4/first-reading](https://parl.ca/DocumentViewer/en/44-1/bill/C-4/first-reading)  
121 Parliament of Canada, Bill C-4: An Act to amend the Criminal Code (conversion therapy), 9 November 2021, [parl.ca/DocumentViewer/en/44-1/bill/C-4/first-reading](https://parl.ca/DocumentViewer/en/44-1/bill/C-4/first-reading)  
122 Government of Canada, “Raising awareness in British Columbia about the new conversion therapy Criminal Code offences”, 20 July 2022, <https://www.canada.ca/en/department-justice/news/2022/07/raising-awareness-in-british-columbia-about-the-new-conversion-therapy-criminal-code-offences.html>; Government of Canada, “Raising awareness in Alberta and Manitoba about the new conversion therapy Criminal Code offences”, 26 May 2022, [canada.ca/en/department-justice/news/2022/05/raising-awareness-in-alberta-and-manitoba-about-the-new-conversion-therapy-criminal-code-offences.html](https://canada.ca/en/department-justice/news/2022/05/raising-awareness-in-alberta-and-manitoba-about-the-new-conversion-therapy-criminal-code-offences.html); Government of Canada, “Raising awareness in Québec about the new conversion therapy offences in the Criminal Code and the rights of 2SLGBTQI+ sexual assault survivors”, 7 November 2022, [canada.ca/en/department-justice/news/2022/11/raising-awareness-in-quebec-about-the-new-conversion-therapy-offences-in-the-criminal-codeand-the-rights-of-2slgbtqi-sexual-assault-survivors.html](https://canada.ca/en/department-justice/news/2022/11/raising-awareness-in-quebec-about-the-new-conversion-therapy-offences-in-the-criminal-codeand-the-rights-of-2slgbtqi-sexual-assault-survivors.html)



2SLGBTQI+ ACTION PLAN

In August, Canada launched its first Federal 2SLGBTQI+ Action Plan,<sup>123</sup> following its Budget 2022 announcement of \$100 million in funding for 2SLGBTQI+ communities.<sup>124</sup> The Plan directs targeted attention to sustaining 2SLGBTQI+ community organizations, prioritizing Black, racialized, Indigenous, disability-identifying, youth, seniors, official language minority communities, and those living in rural areas. It also includes support for Indigenous 2SLGBTQI+ resilience and resurgence, and the strengthening of 2SLGBTQI+ data collection and evidence-based policy making. However, the actions related to these new priority areas are absent of substantive direction, new initiatives, or policy guidance that could better enhance Canada’s intersectional response and create innovative policy implementation.<sup>125</sup>

In its annex, the Plan includes important research findings for 2SLGBTQI+ communities in policy areas such as safety and justice, employment, health and well-being, housing, global protection of 2SLGBTQI+ rights, and stigma, social isolation, and discrimination.

However, these core policy issues are not connected to the key actions and priorities of the Plan itself, which could have better coordinated the government’s response in developing a mental health strategy, eliminating key barriers to 2SLGBTQI+ rights and adhering to international human rights standards.

Many 2SLGBTQI+ organizations flagged that the “whole-of-government approach” Canada promised is not actually reflected in the Plan.<sup>126</sup> There is little cross-governmental action and nearly all public-focused funding is directed to Women and Gender Equality Canada (WAGE). The 2SLGBTQI+ civil society’s demands for advancing 2SLGBTQI+ rights globally were not met, including 2SLGBTQI+ refugee assistance and protection in times of armed conflict. Furthermore, despite concerted advocacy, the plan did not create the position of Canada’s Special Envoy on 2SLGBTQI+ rights.<sup>127</sup> In order to achieve full 2SLGBTQI+ mainstreaming in Canada, the government’s programmatic commitments should be expanded to non-public service areas such as Immigration, Refugees, and Citizenship Canada.

123 Government of Canada, Federal 2SLGBTQI+ Action Plan 2022, 28 August 2022, [women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html](https://women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html)  
124 Government of Canada, Federal 2SLGBTQI+ Action Plan 2022, 28 August 2022, [women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html](https://women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgbtqi-plus-action-plan.html)  
125 Egale Canada, Egale Canada’s Response to the Federal 2SLGBTQI Action Plan, September 2022, [egale.ca/wp-content/uploads/2022/09/Egale-Canadas-Response-to-the-Federal-2SLGBTQI-Action-Plan-3.0.pdf](https://egale.ca/wp-content/uploads/2022/09/Egale-Canadas-Response-to-the-Federal-2SLGBTQI-Action-Plan-3.0.pdf)  
126 The Canadian Centre for Gender and Sexual Diversity, “CCGSD reacts to newly announced 2SLGBTQI+ Action Plan”, 1 September 2022, [ccgsd-ccdgs.org/action-plan/](https://ccgsd-ccdgs.org/action-plan/); Egale Canada, Egale Canada’s Response to the Federal 2SLGBTQI Action Plan, September 2022, [egale.ca/wp-content/uploads/2022/09/Egale-Canadas-Response-to-the-Federal-2SLGBTQI-Action-Plan-3.0.pdf](https://egale.ca/wp-content/uploads/2022/09/Egale-Canadas-Response-to-the-Federal-2SLGBTQI-Action-Plan-3.0.pdf)  
127 Egale Canada, Egale Canada’s Response to the Federal 2SLGBTQI Action Plan, September 2022, [egale.ca/wp-content/uploads/2022/09/Egale-Canadas-Response-to-the-Federal-2SLGBTQI-Action-Plan-3.0.pdf](https://egale.ca/wp-content/uploads/2022/09/Egale-Canadas-Response-to-the-Federal-2SLGBTQI-Action-Plan-3.0.pdf)



## TRANSPHOBIA AND ONLINE HATE

International law guarantees the fundamental human right that all persons are equal under the law and are afforded equal and effective protection against any ground of discrimination.<sup>128</sup> Despite legal protections under international human rights law against discrimination based on gender identity and expression,<sup>129</sup> 2SLGBTQI+ organizations report that transgender people experience disproportionately high rates of violence and systemic risks of transphobia in healthcare and education.<sup>130</sup>

Compared to the general population, **transgender people in Canada are more than five times likely to attempt suicide and to have mental health issues, which are compounded by other intersectional identity and positional factors,** including geographic location where access to specialized health services is limited.<sup>131</sup>

The Federal 2SLGBTQI+ Action Plan, which Canada launched in August 2022, detailed key findings on the unmet health needs of transgender people. However, despite mental health services being urgently required, a strategy to improve access to healthcare and make mental health services more accessible was excluded from the list of priorities.<sup>132</sup>

Furthermore, the Federal 2SLGBTQI+ Action Plan does not deal adequately with online forms of gender-based violence. Transgender individuals have become the targets of newer forms of cyberbullying such as doxxing and swatting.<sup>133</sup> In August, a high-profile trans woman activist was targeted, resulting in her unjust arrest at gunpoint, misgendering during the arrest, and use of her deadname in her criminal record.<sup>134</sup> While the police force has since acknowledged the arrest as unjust and opened an investigation into this incident of swatting, systems that thwart swatting attempts and the incorporation of gender-sensitive due diligence are required.

<sup>128</sup> International Covenant on Civil and Political Rights (ICCPR), Article 26.

<sup>129</sup> ICCPR, Article 26; UN Human Rights Council (UNHRC), Resolution 17/19: Human Rights, Sexual Orientation and Gender Identity, May 2011, UN Doc. A/HRC/RES/17/19.

<sup>130</sup> Trans PULSE Canada, “Report – Health and health care access for trans and non-binary people in Canada”, 10 March 2020, <https://transpulsecanada.ca/results/report-1/>, p. 8.

<sup>131</sup> Government of Canada, Women and Gender Equality Canada, Canada’s first Federal 2SLGBTQI+ Action Plan... Building our future, with pride, 28 August 2022, <https://women-gender-equality.canada.ca/en/free-to-be-me/2SLGBTQI+-Federal-Action-Plan.pdf>, p. 16.

<sup>132</sup> Government of Canada, Federal 2SLGBTQI+ Action Plan 2022, 28 August 2022, [women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgtqi-plus-action-plan.html](https://women-gender-equality.canada.ca/en/free-to-be-me/federal-2slgtqi-plus-action-plan.html)

<sup>133</sup> “Doxxing” is the act of non-consensually and publicly revealing identifying information about someone online, such as their real name, home or work address, phone number, email address, or other personal information. The information is used tactically to harass or intimidate the person; targets are usually civil society activists and human rights defenders. “Swatting” is the criminal and deceptive harassment tactic of submitting a false claim of an emergency or risk of public violence to a law enforcement agency that results in the police or emergency force being sent to a person’s address, putting them at risk of weaponized violence.

<sup>134</sup> Global News, Ahmar Khan, “Trans woman, Twitch streamer Keffals doxxed, arrested at gunpoint by London, Ont. Police”, 9 August 2022, [globalnews.ca/news/9048763/trans-woman-twitch-streamer-keffals-london-police/](https://globalnews.ca/news/9048763/trans-woman-twitch-streamer-keffals-london-police/)







## AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF CANADA TO:

- Fulfill the promise to develop a fully intersectional and coherent National Action Plan on gender-based violence that includes collecting disaggregated race- and gender- data and creating priorities to end online abuse towards Black, Indigenous (further disaggregated by First Nations, Métis, and Inuit), and racialized women.
- Ensure law enforcement and police forces improve the intake processes for making complaints of racism (especially anti-Black racism), harassment, and online abuse, and employ stronger gender due diligence and cultural competence to ensure that police interactions do not perpetuate discrimination based on (perceived) gender, gender expression or identity.
- Promptly and publicly share implementation plans and accountability mechanisms for the MMIWG and 2SLGBTQIA+ National Action Plan, and uphold and maintain the perspectives of First Nations, Métis, and Inuit at the forefront in processes to end the violence against their communities.
- Implement UNCAT's and the Senate Committee's recommendations for Canada to fully address and investigate instances of forced and coerced sterilization and to create a specific offence in the Criminal Code to hold persons responsible accountable.

- Repeal the sections of PCEPA that criminalize sex work between consenting adults and refrain from introducing new laws that criminalize or penalize directly or in practice the consensual exchange of sexual services between adults for remuneration.
- Ensure that criminal laws that are applied to sex work are circumscribed to address harms to sex workers, including through clearly defined acts of coercion or exploitation.
- Employing a whole-of-government approach, expand 2SLGBTQI+ commitments in all areas of the government beyond Women and Gender Equality Canada, and integrate disaggregated gender and 2SLGBTQI+ data in policy guidance, especially in core issues such as health and well-being, employment, social participation, and discrimination.
- Strengthen the commitment to international 2SLGBTQI+ issues by increasing and following through on rights commitments in international development and humanitarian assistance, including support for refugees and the appointment of a Special Envoy on 2SLGBTQI+ rights.
- Actively promote trans-inclusion in all government policies and programs, including in the development of a mental health strategy and the implementation of an anti-swatting strategy.
- Ensure transgender people are free of risks to their personal safety and that police interactions do not perpetuate transphobia, employ stronger gender due diligence, and better support the intake of reports of transphobia, harassment, and abuse.
- Create a special program to be able to provide shelter and protection in Canada for women human rights defenders whose lives are in danger and who need a respite but want to return to their vital work in their country when the level of risk has diminished.





# PEOPLE ON THE MOVE: REFUGEES AND MIGRANTS' RIGHTS

04



# PEOPLE ON THE MOVE: REFUGEES AND MIGRANTS' RIGHTS

Although Canada has established new emergency travel and resettlement programs, significant disparities in refugee resettlement are prevalent. Serious concerns remain with respect to immigration detention, the ability for refugees to make claims for protection in Canada, healthcare for people with irregular migration status, and experiences of ongoing impacts of multiple and intersectional forms of discrimination.

## SAFE THIRD COUNTRY AGREEMENT

In October, the Safe Third Country Agreement (STCA)<sup>135</sup>, a bilateral refugee agreement between Canada and the United States of America (US) that bars many people from seeking refugee protection in Canada, was challenged before the Supreme Court of Canada.<sup>136</sup> Under the STCA, most refugee claimants entering Canada from an official US land border crossing are denied entry and forcibly returned to the US.

They are then often detained in conditions that violate international standards, including solitary confinement, inadequate or delayed medical care, cold temperatures, inadequate food and water, religiously inappropriate meals, and little to no time outdoors, and experience staggering rates of sexual assault.<sup>137</sup> Some people forcibly returned to the US, particularly those facing gender-based persecution, are unfairly denied protection in the US and risk being sent back to danger in their countries of origin.<sup>138</sup>

Amnesty International, the Canadian Council of Refugees and the Canadian Council of Churches, together with eight individual applicants, argued in court that the STCA violates the Canadian Charter of Rights and Freedoms (1982), including the rights to liberty, security of the person, and equality,<sup>139</sup> as well as the principle of *non-refoulement* under international law.<sup>140</sup>

<sup>135</sup> Government of Canada, Agreement between the Government of Canada and the Government of the United States of America for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries (Safe Third Country Agreement), 5 December 2002, [canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement/final-text.html](https://canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement/final-text.html)

<sup>136</sup> Amnesty International, "Leading human rights groups challenge Safe Third Country Agreement at Supreme Court", 4 October 2022, [amnesty.ca/news/uncategorized/canada-leading-human-rights-groups-challenge-safe-third-country-agreement-at-supreme-court/](https://www.amnesty.ca/news/uncategorized/canada-leading-human-rights-groups-challenge-safe-third-country-agreement-at-supreme-court/)

<sup>137</sup> Supreme Court of Canada, Canadian Council for Refugees and others v. Minister of Citizenship and Immigration and others, SCC File No 39749, Factum of the Appellants, 14 March 2022, [scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010\\_Appellant\\_Canadian-Council-for-Refugees-et-al..PDF](https://scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010_Appellant_Canadian-Council-for-Refugees-et-al..PDF)

<sup>138</sup> Supreme Court of Canada, Canadian Council for Refugees and others v. Minister of Citizenship and Immigration and others, SCC File No 39749, Factum of the Appellants, 14 March 2022, [scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010\\_Appellant\\_Canadian-Council-for-Refugees-et-al..PDF](https://scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010_Appellant_Canadian-Council-for-Refugees-et-al..PDF), paras. 102-106.

<sup>139</sup> Supreme Court of Canada, Canadian Council for Refugees and others v. Minister of Citizenship and Immigration and others, SCC File No 39749, Factum of the Appellants, 14 March 2022, [scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010\\_Appellant\\_Canadian-Council-for-Refugees-et-al..PDF](https://scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010_Appellant_Canadian-Council-for-Refugees-et-al..PDF), paras. 3, 45, 47, 77; Canada, Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, [https://laws-lois.justice.gc.ca/PDF/CONST\\_TRD.pdf](https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf), Sections 7 and 15.

<sup>140</sup> Supreme Court of Canada, Canadian Council for Refugees and others v. Minister of Citizenship and Immigration and others, SCC File No 39749, Factum of the Appellants, 14 March 2022, [scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010\\_Appellant\\_Canadian-Council-for-Refugees-et-al..PDF](https://scc-csc.ca/WebDocuments-DocumentsWeb/39749/FM010_Appellant_Canadian-Council-for-Refugees-et-al..PDF), paras. 54, 112. Under international law, Canada is prohibited from the direct or indirect removal of refugees to a territory where they run a risk of serious human rights violations. See, for example, Supreme Court of Canada, *Németh v. Canada* (Minister of Justice), 2010, [decisions.scc-csc.ca/scc-csc/scc-csc/en/item/7899/index.do](https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/7899/index.do), para 19; UNCAT, Article 3; Convention Relating to the Status of Refugees, Article 33.





## IMMIGRATION DETENTION

Over the past five years, tens of thousands of refugee claimants and migrants have been detained by the Canada Border Services Agency (CBSA)<sup>141</sup> based solely on administrative immigration grounds, such as questions regarding the veracity of an identity document. Despite not being held on criminal charges or convictions, they experience harsh conditions of confinement, including being held in maximum security prisons and solitary confinement, without a release date.

In June 2021, Amnesty International and Human Rights Watch published a joint report documenting serious human rights violations against people detained for immigration purposes.<sup>142</sup> For example, Black and other racialized people appear to be incarcerated for longer periods of time in immigration detention and are often detained in provincial jails rather than immigration holding centres. People with mental health conditions are subjected to disproportionately coercive treatment, including being incarcerated in provincial jails and placed in solitary confinement.<sup>143</sup> Rainbow Refugee, an LGBTQI+ refugee resettlement organization, raised concerns about discrimination faced by trans and gender diverse people in the decision to detain, and during detention where the risks of harassment and violence are increased by the intersections of racism, homophobia, and transphobia.<sup>144</sup> Such discrimination is contrary to international human rights law<sup>145</sup> and the Canadian Charter of Rights and Freedoms.<sup>146</sup>

Immigration detention has devastating and long-term impacts on people who are detained, as well as their families and loved ones. Because there is no legal limit on the duration of immigration detention, people are at risk of being detained indefinitely. As a result, many people develop suicidal ideation as they lose hope, particularly those who fled persecution to seek safety and protection in Canada. When parents are incarcerated in immigration detention, they may be separated from their children, causing further trauma and harm.

Amnesty International and Human Rights Watch launched a joint #WelcomeToCanada campaign, calling for an immediate end to the use of provincial jails for immigration detention. On 21 July 2022, British Columbia announced it was terminating its immigration detention contract with the CBSA, citing human rights concerns.<sup>147</sup> The provinces of Nova Scotia, Alberta and Manitoba have since terminated their contracts with the CBSA.<sup>148</sup> When the decisions take effect,<sup>149</sup> there will no longer be a legal basis to use those provinces' jails for immigration detention. Amnesty International and other advocates continue to call on Prime Minister Trudeau and the Government of Canada to immediately stop using provincial jails for immigration detention across the country and take steps to abolish immigration detention entirely.



141 Canada Border Services Agency, "Detentions", [cbsa-asfc.gc.ca/security-securite/detent/menu-eng.html#s8](https://cbsa-asfc.gc.ca/security-securite/detent/menu-eng.html#s8), accessed on 23 November 2022.

142 Amnesty International, 'I Didn't Feel Like a Human in There': Immigration Detention in Canada and its Impact on Mental Health, (Index: AMR 20/4195/2021), 17 June 2021, [amnesty.org/en/documents/amr20/4195/2021/en/](https://amnesty.org/en/documents/amr20/4195/2021/en/)

143 Amnesty International, 'I Didn't Feel Like a Human in There': Immigration Detention in Canada and its Impact on Mental Health, (Index: AMR 20/4195/2021), 17 June 2021, [amnesty.org/en/documents/amr20/4195/2021/en/](https://amnesty.org/en/documents/amr20/4195/2021/en/)

144 Rainbow Refugee, "Submission to the review of BC Corrections' contract with Canada Border Services Agency", 25 March 2022, [static1.squarespace.com/static/5f85d82966bb203a90d1375a/t/6281344f5a7a59233baf2c86/1652634704414/RRS\\_reBCCorrections+Review\\_20220325+ADMSJ+final.pdf](https://static1.squarespace.com/static/5f85d82966bb203a90d1375a/t/6281344f5a7a59233baf2c86/1652634704414/RRS_reBCCorrections+Review_20220325+ADMSJ+final.pdf)

145 See, for example, International Covenant on Civil and Political Rights, Article 26; International Covenant on Economic, Social and Cultural Rights.

146 Amnesty International, 'I Didn't Feel Like a Human in There': Immigration Detention in Canada and its Impact on Mental Health, (Index: AMR 20/4195/2021), 17 June 2021, [amnesty.org/en/documents/amr20/4195/2021/en/](https://amnesty.org/en/documents/amr20/4195/2021/en/), p. 36.

147 Amnesty International, "British Columbia to end immigration detention in jails", 21 July 2022, [amnesty.ca/news/canada-british-columbia-to-end-immigration-detention-in-jails/](https://amnesty.ca/news/canada-british-columbia-to-end-immigration-detention-in-jails/)

148 Amnesty International, "Nova Scotia to end immigration detention in provincial jails", 21 September 2022, [amnesty.ca/news/uncategorized/nova-scotia-to-end-immigration-detention-in-provincial-jails/](https://amnesty.ca/news/uncategorized/nova-scotia-to-end-immigration-detention-in-provincial-jails/); Amnesty International, "Manitoba becomes 4th province to say it will end immigration detention", 24 October 2022, [amnesty.ca/blog/manitoba-becomes-4th-province-to-say-it-will-end-immigration-detention/](https://amnesty.ca/blog/manitoba-becomes-4th-province-to-say-it-will-end-immigration-detention/)

149 The agreements between the provinces and CBSA, which allow for immigration detention to take place in provincial jails, have a 12-months' notice termination clause. British Columbia and Nova Scotia's decisions are expected to take effect in the summer of 2023. Manitoba did not have a formal agreement but notified CBSA that it would need to make alternative arrangements by January 2024. The date Alberta's decision will take effect has not been publicized.





CANADA’S RESPONSES TO PEOPLE SEEKING SAFETY

Canada has created several programs to enable people seeking safety to come to Canada. Such programs include the authorization for emergency travel program in 2022, which enables an unlimited number of Ukrainian nationals and their family members to come to Canada and obtain work and study permits,<sup>150</sup> programs to resettle Afghans<sup>151</sup> and the program to resettle up to 250 human rights defenders and their family members each year.<sup>152</sup> However, important inequities remain.

Efforts to ensure that people can access protection in Canada are welcome, however, such efforts should be implemented equally and must consider the intersecting vulnerabilities that racialized people, people with disabilities, young people, older adults, members of the LGBTQI+ community, women and gender diverse people face. In addition, measures that allow

people to efficiently seek safety in Canada should also be made available to “forgotten refugees” – most of whom are Black and Brown people, come from Muslim-majority countries, or otherwise face marginalization. For example, refugees fleeing the conflict in Yemen, which Canada has fueled through arms transfers to Saudi Arabia,<sup>153</sup> and those fleeing a two-year conflict and serious rights violations in Ethiopia,<sup>154</sup> do not have access to any extraordinary measures. The difference in treatment of refugees can lead to the stigmatization of groups and provides a stark reminder that Canada’s immigration system is built on racist, exclusionary, and colonial policies. All refugees deserve to be treated equally and with empathy, dignity, and respect.

Canada’s response to the crisis in Ukraine shows it can receive large numbers of people within a short period of time; as of 26 October 2022, over 338,000 applications were approved and over 108,000 Ukrainians had arrived in Canada.<sup>155</sup>

150 Government of Canada, “Canada-Ukraine authorization for emergency travel measures”, 22 March, 2022, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/03/canada-ukraine-authorization-for-emergency-travel.html>  
151 Government of Canada, “Supporting Afghan nationals: About the special programs”, 29 September 2022, <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/afghanistan/special-measures.html>  
152 Government of Canada, “Providing protection to human rights defenders at risk”, 16 July 2022, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/07/providing-protection-to-human-rights-defenders-at-risk.html>  
153 Human Rights Council, Report of the Group of Eminent International and Regional Experts on Yemen, Situation of human rights in Yemen, including violations and abuses since September 2014, 28 September 2020, A/HRC/45/6, [ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/GEE-Yemen/2020-09-09-report.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/GEE-Yemen/2020-09-09-report.pdf), para 25.  
154 Amnesty International, ‘We will erase you from this land’: Crimes against humanity and ethnic cleansing in Ethiopia’s Western Tigray Zone (Index: AFR/25/5444/2022), 6 April 2022, [amnesty.org/en/documents/afr25/5444/2022/en/](https://www.amnesty.org/en/documents/afr25/5444/2022/en/)  
155 Government of Canada, “Ukraine immigration measures: Key figures”, 18 November 2022, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/ukraine-measures/key-figures.html>



This contrasts with Canada’s commitment to resettle 40,000 Afghan refugees,<sup>156</sup> including family members of former interpreters; Afghans who assisted the government; and women leaders, human rights defenders, persecuted religious or ethnic minorities, LGBTI individuals, and journalists and those who helped Canadian journalists.<sup>157</sup> On 22 September, Canada announced that 20,000 Afghan refugees had arrived in Canada since August 2021.<sup>158</sup> Many have expressed frustration at the slow processing times and other barriers to resettlement, and concerns have been raised that people who supported the Canadian government and Canadian development organizations have been left behind and are at risk in Afghanistan.<sup>159</sup> In October, Immigration, Refugees and Citizenship Canada introduced a new program that enables private sponsorship of up to 3,000 Afghan refugees without needing to submit a Refugee

Status Determination, documentation which previously presented a significant practical barrier to private sponsorship.<sup>160</sup> Despite these positive developments, disparities in refugee resettlement are prevalent.

Decisions that dispense with procedural requirements (and thus enable a larger number of people to seek safety in Canada more quickly) are welcome and should be applied for all groups at risk. For example, Canada’s current refugee stream for human rights defenders is not suitable for emergency evacuation, due to the lengthy application process. In addition, Canada requires that the individual be outside their home country and referred by the United Nations Refugee Agency,<sup>161</sup> which is not always feasible. The government should establish an emergency, accelerated visa process for human rights defenders and women human rights defenders at risk to manage the unique protection needs of defenders at risk.

156 Government of Canada, “Welcoming Afghans to Canada”, 30 August 2022, <https://www.canada.ca/en/immigration-refugees-citizenship/news/video/welcoming-afghans-to-canada.html>.  
157 Government of Canada, “Humanitarian program for Afghan nationals in need of resettlement: Who is eligible”, 28 April 2022, <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/afghanistan/special-measures/eligible-humanitarian-program.html>  
158 Government of Canada, “Canada marks 20,000 Afghan arrivals with help from partners at home and abroad”, 22 September 2022, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/09/canada-marks-20000-afghan-arrivals-with-help-from-partners-at-home-and-abroad.html>  
159 Global News, “A year into Taliban rule, Afghans fear Canada has left them behind”, 8 August 2022, [globalnews.ca/news/9040127/year-of-taliban-rule-afghans-canada-left-behind/#:~:text=A%20year%20into%20Taliban%20rule%2C%20Afghans%20fear%20Canada%20has%20left%20them%20behind,-By%20Stewart%20Bell&text=On%20the%20day%20the%20Taliban,late%2C%20she%20is%20still%20hiding;NPR,“Canada%20is%20criticized%20for%20not%20getting%20more%20endangered%20Afghans%20into%20the%20country;Toronto%20Star,“With%20thousands%20of%20Afghans%20still%20desperate%20to%20flee%20the%20Taliban,“is%20Canada%20set%20to%20close%20its%20doors?%27%2C%20the%20star.com%2Fnews%2Fcanada%2F2022%2F06%2F17%2Fis-canada-about-to-close-the-door-on-afghans-looking-to-flee-the-taliban.html](https://globalnews.ca/news/9040127/year-of-taliban-rule-afghans-canada-left-behind/#:~:text=A%20year%20into%20Taliban%20rule%2C%20Afghans%20fear%20Canada%20has%20left%20them%20behind,-By%20Stewart%20Bell&text=On%20the%20day%20the%20Taliban,late%2C%20she%20is%20still%20hiding;NPR,“Canada%20is%20criticized%20for%20not%20getting%20more%20endangered%20Afghans%20into%20the%20country;Toronto%20Star,“With%20thousands%20of%20Afghans%20still%20desperate%20to%20flee%20the%20Taliban,“is%20Canada%20set%20to%20close%20its%20doors?%27%2C%20the%20star.com%2Fnews%2Fcanada%2F2022%2F06%2F17%2Fis-canada-about-to-close-the-door-on-afghans-looking-to-flee-the-taliban.html”)  
160 Government of Canada, “Special program to sponsor Afghan refugees without refugee status from the UNHCR or a foreign state”, 17 October 2022, [canada.ca/en/immigration-refugees-citizenship/services/refugees/afghanistan/special-measures/sponsor-without-rsd.html](https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/afghanistan/special-measures/sponsor-without-rsd.html).  
161 Government of Canada, “Providing protection to human rights defenders at risk”, 16 September 2021, [canada.ca/en/immigration-refugees-citizenship/news/2021/07/providing-protection-to-human-rights-defenders-at-risk.html](https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/07/providing-protection-to-human-rights-defenders-at-risk.html).



## ACCESS TO HEALTHCARE FOR PEOPLE WITH IRREGULAR MIGRATION STATUS

Canada has an obligation under international human rights law to guarantee the right of everyone to enjoy the highest attainable standard for physical and mental health,<sup>162</sup> yet not all people in Canada have access to essential healthcare. The Interim Federal Health Program provides limited, temporary coverage of healthcare benefits to refugee claimants and other people not eligible for provincial or territorial health insurance.<sup>163</sup> People with irregular migration status are not covered and as a result, do not have access to essential healthcare.

In 2018, the United Nations Human Rights Committee (UNHRC) found that Canada had violated an individuals' rights to life and equality after she was denied essential health care under the Interim Federal Health Program based on her immigration status.<sup>164</sup> The Committee noted that protection of the right to life can require a state to adopt positive measures, including providing access to existing and available essential health-care services. The Committee also found that drawing a distinction between those with regular and irregular immigration status for the purpose of administering the Health Benefit Program constituted discrimination.

Based on its findings, the Committee called on Canada to make full reparation by compensating the impacted individual, Ms. Toussaint. It also called on Canada to take steps to prevent similar

violations in the future, including by reviewing its legislation to ensure migrants with irregular status had access to essential health care. In response, Canada stated it did not agree with the Committee's views and as such, would not implement the remedies called for.

Ms. Toussaint launched a legal challenge of the government's continued denial of essential public health care to migrants with irregular status, despite the UNHRC's decision. In August, the Ontario Superior Court of Justice denied Canada's efforts to dismiss the claim, noting the efforts were based on a "dog whistle argument that reeks of the prejudicial stereotype that immigrants come to Canada to milk the welfare system."<sup>165</sup>



<sup>162</sup> International Covenant on Economic, Social, and Cultural Rights (ICESCR), Article 12.

<sup>163</sup> Government of Canada, "Interim Federal Health Program", 13 September 2017, [canada.ca/en/immigration-refugees-citizenship/services/refugees/help-within-canada/health-care/interim-federal-health-program.html](https://canada.ca/en/immigration-refugees-citizenship/services/refugees/help-within-canada/health-care/interim-federal-health-program.html).

<sup>164</sup> UN Human Rights Committee (UNHRC), Views: Article 5 (4) of the Optional Protocol, Concerning Communication No. 2348/2014, adopted on 30 August 2018, UN Doc. CCPR/C/123/D/2348/2014.

<sup>165</sup> Ontario Superior Court of Justice, *Toussaint v. Canada (Attorney General)*, 2022 ONSC 4747, August 17 2022, [canlii.org/en/on/onsc/doc/2022/2022onsc4747/2022onsc4747.html?autocompleteStr=toussaint%202022&autocompletePos=1](https://canlii.org/en/on/onsc/doc/2022/2022onsc4747/2022onsc4747.html?autocompleteStr=toussaint%202022&autocompletePos=1).





## AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF CANADA TO:

- Uphold human rights obligations by withdrawing from the Safe Third Country Agreement, thus allowing people to make claims for refugee protection in Canada in a safe, humane, and orderly manner.
- Immediately and permanently end the use of provincial prisons for immigration detention and take steps to abolish immigration detention in Canada, investing instead in community-based organizations, which can provide compassionate and tailored supports.



- In the interim, introduce a legislative limit on the length of time that someone can be held in immigration detention and address discrimination against racialized people and people with psycho-social disabilities within the immigration detention system.
- Establish an independent body responsible for oversight of CBSA, which allows people in immigration detention and third parties to lodge complaints about both individual and systemic issues.
- Build a refugee protection system based on equality and fair access for all, recognizing that crises are not experienced equally. Respond to the needs of people who are already marginalized and ensure that people fleeing danger can seek safety in Canada quickly.
- Establish an emergency evacuation program and visa framework for human rights defenders at high risk.
- Amend the Interim Federal Health Benefit Program to ensure that migrants with irregular status can access essential health care.
- Implement the remedies called for by the Human Rights Committee, including providing compensation to Ms. Toussaint for violating her internationally protected rights.



# CLIMATE JUSTICE AND CORPORATE ACCOUNTABILITY

05



# CLIMATE JUSTICE AND CORPORATE ACCOUNTABILITY

Unprecedented storms, flooding, extreme heat, and wildfires are the visible face of the worsening climate crisis. The World Health Organization predicts that climate change will cause 250,000 deaths per year between 2030 and 2050.<sup>166</sup> Those most at risk are people who already experience multiple and intersecting forms of discrimination that arise from structural inequities and policies that unfairly distribute resources, power, and privilege.

The role of fossil fuels in the worsening climate crisis is indisputable, prompting dire warnings from experts like the Intergovernmental Panel on Climate Change (IPCC). The IPCC reported that unless we make drastic and immediate cuts in fossil fuel use, the accelerated climate breakdown that is already affecting the lives of billions of people will create more food and water shortages, deadly heat stress, droughts, and other life-threatening disasters.<sup>167</sup>

166 World Health Organization, "Climate change and health", 30 October 2021, [who.int/news-room/fact-sheets/detail/climate-change-and-health](https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health)  
 167 Intergovernmental Panel on Climate Change (IPCC), "Climate change a threat to human wellbeing and the health of the planet," 28 February 2022, [https://www.ipcc.ch/report/ar6/wg2/downloads/press/IPCC\\_AR6\\_WGII\\_PressRelease-English.pdf](https://www.ipcc.ch/report/ar6/wg2/downloads/press/IPCC_AR6_WGII_PressRelease-English.pdf); Intergovernmental Panel on Climate Change, IPCC Sixth Assessment Report, 28 February 2022, [https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC\\_AR6\\_WGII\\_HeadlineStatements.pdf](https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_HeadlineStatements.pdf)  
 168 World Population Review, "Carbon footprint by country", 2022, [worldpopulationreview.com/country-rankings/carbon-footprint-by-country](https://worldpopulationreview.com/country-rankings/carbon-footprint-by-country)  
 169 Government of Canada, 2030 Emissions Reduction Plan: Canada's Next Steps for Clean Air and a Strong Economy, 2022, [https://publications.gc.ca/collections/collection\\_2022/eccc/En4-460-2022-eng.pdf](https://publications.gc.ca/collections/collection_2022/eccc/En4-460-2022-eng.pdf)  
 170 Karen Hamilton and Ketty Nivyabandi, "It's time to stop bankrolling and exporting climate destruction", Toronto Star, 24 June 2022, <https://www.thestar.com/opinion/contributors/2022/06/24/its-time-to-stop-bankrolling-and-exporting-climate-destruction.html>  
 171 Oil Change International and Friends of the Earth US, At a Crossroads: Assessing G20 and MDB International Energy Finance Ahead of Stop Funding Fossils Pledge Deadline, 1 November 2022, <https://priceofoil.org/content/uploads/2022/11/G20-At-A-Crossroads.pdf>, p. 33.  
 172 Oil Change International and Friends of the Earth USA, At a Crossroads: Assessing G20 and MDB International Energy Finance Ahead of Stop Funding Fossils Pledge Deadline, 1 November 2022, <https://priceofoil.org/content/uploads/2022/11/G20-At-A-Crossroads.pdf>; Export Development Canada, Disclosure, Aggregate Business Facilitated by Industry Sub-sector for the period ending June 30, 2022, [edc.ca/en/about-us/corporate/disclosure/reporting-transactions/canadian-industry-sub-sector-2022.html](https://edc.ca/en/about-us/corporate/disclosure/reporting-transactions/canadian-industry-sub-sector-2022.html)  
 173 United Nations, "Secretary-General Warns of Climate Emergency, Calling Intergovernmental Panel's Report 'a File of Shame', While Saying Leaders 'Are Lying', Fuelling Flames", 4 April 2022, [press.un.org/en/2022/sgsm21228.doc.htm](https://press.un.org/en/2022/sgsm21228.doc.htm)  
 174 Antonio Guterres, Twitter post, 21 March 2022, "Addiction to fossil fuels is mutually assured destruction. We need to fix the broken global energy mix. Instead of hitting the brakes on the decarbonization of the global economy, now is the time to race towards a renewable energy future", [twitter.com/antonioguterres/status/1505992640843685899](https://twitter.com/antonioguterres/status/1505992640843685899)



Canada is among the highest per capita CO2 emitters in the G20.<sup>168</sup> Ottawa's Emissions Reduction Plan,<sup>169</sup> released in March, allows for increased oil and gas production because emissions generated in countries that burn exported Canadian fossil fuels are not counted in Canada's emission tally.<sup>170</sup> Such accounting hides the dimensions of Canada's responsibility for the climate crisis.

Canada is also the second largest provider of public finance for fossil fuels in the G20, according to a November 2022 report by Oil Change International and Friends of the Earth US that assesses traceable public finance for fossil fuels from 2019 to 2021.<sup>171</sup> Canada's export bank, Export Development Canada (EDC), continues to direct billions of dollars in loans, insurance, and other support to climate-destructive fossil fuel activity in Canada and other countries.<sup>172</sup>

At the launch of the third Intergovernmental Panel on Climate Change (IPCC) report, UN Secretary General António Guterres called investment in new fossil fuels infrastructure "moral and economic madness,"<sup>173</sup> saying "addiction to fossil fuels is mutually assured destruction."<sup>174</sup> Approving and financing new or expanded pipelines - like the Coastal Gaslink and Trans Mountain pipelines - and other fossil fuel infrastructure - such as liquified natural gas in British Columbia or the Bay du Nord Project in Atlantic Canada - is a mass scale assault on human rights, including the right to health, as well as Indigenous laws and rights.



Intimidation, harassment, criminalization, and attacks on people who oppose these projects is a further disturbing reality. On 29 April, the United Nations Committee on the Elimination of Racial Discrimination (UNCERD) issued a third letter to Canada expressing concern over reports that “the Governments of Canada and of the Province of British Columbia have escalated their use of force, surveillance, and criminalization of land defenders and peaceful protestors” in relation to the Trans Mountain Pipeline and the Coastal Gaslink pipeline project.<sup>175</sup>

This has included surveillance and intimidation of a group of Secwepemc women called the Tiny House Warriors, and violent evictions and arbitrary detentions of Secwepemc and Wet’suwet’en land defenders by the RCMP, the RCMP’s Community-Industry Response Group (CIRG) and private security firms.<sup>176</sup> In 2022, British Columbia approved criminal charges against 19 water defenders who were arrested in November 2021 for their peaceful opposition to the Coastal Gaslink Pipeline.<sup>177</sup> The case will be heard in early 2023.

**“WE INDIGENOUS PEOPLE STAND UP FOR THE EARTH AND HUMAN RIGHTS. THIS SHOULD NOT BE INTERFERED WITH BY INDUSTRIES OR GOVERNMENTS WHO IGNORE AND ABUSE HUMAN RIGHTS,” WET’SUWET’EN HEREDITARY CHIEF NA’MOKS TOLD AMNESTY INTERNATIONAL AS COASTAL GASLINK, ARMED WITH A COURT INJUNCTION, COMMENCED DRILLING UNDER THE WEDZIN KWA (MORICE RIVER).**

<sup>175</sup> Letter from Verene Shepherd, Chair of the Committee on the Elimination of Racial Discrimination to H.E. Mrs Leslie Norton, Permanent Representative of Canada to the United Nations Office, Geneva, 29 April 2022, [tbiinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT\\_CERD\\_ALE\\_CAN\\_9554\\_E.pdf](https://tbiinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT_CERD_ALE_CAN_9554_E.pdf)

<sup>176</sup> Amnesty International, “Indigenous Land Defenders at Risk”, UA 61/22 Update 1 (Index: AMR 20/5932/2022), 9 August 2022, [amnesty.ca/wp-content/uploads/2022/08/61a-Canada.pdf](https://www.amnesty.ca/wp-content/uploads/2022/08/61a-Canada.pdf)

<sup>177</sup> CBC News, “Wet’suwet’en leader charged with criminal contempt over Coastal GasLink pipeline blockade”, 7 July 2022, <https://www.cbc.ca/news/canada/british-columbia/wet-suwet-en-leader-charged-with-criminal-contempt-over-coastal-gaslink-pipeline-blockade-1.6513690>

<sup>178</sup> Hereditary Chief Na’Moks, Office of the Wet’suwet’en and Amnesty International, #LivingSolutions campaign of Amnesty International’s Americas Climate Justice for COP27. For more, see: Amnesty International, “Climate Justice”, <https://amnesty.ca/what-we-do/climate-justice/>





## BREAKTHROUGH, FAILURE, AND FALSE SOLUTIONS

In November, Canada supported a breakthrough agreement at the 2022 United Nations Climate Change Conference (“COP27”) to establish a new fund called for by countries of the global south to compensate them for loss and damage.<sup>179</sup> This sends a ray of hope to people whose human rights have been harmed by climate change and sets in motion a process to redress historical injustices. Now it is up to Canada and other major oil producers, whose emissions are driving climate change, to step up and ensure the fund is expedited, resourced, and responds to the needs of climate-vulnerable countries.

Compensation for loss and damage, however, is not enough. In a huge setback for human rights, demands from a growing number of civil society groups and many states to secure agreement on the phasing out of all fossil fuels did not prevail at COP27.<sup>180</sup> Environment Minister Steven Guilbeault reiterated a prior commitment to phase out fossil fuel subsidies by 2023<sup>181</sup> but much more is urgently needed, including an end to all public financial support for fossil fuels and a rapid phase out of fossil fuel use.

The COP27 implementation plan commits countries to accelerate a transition towards “low-emission energy systems.”<sup>182</sup> Lack of definition of what that term means must not be used as a loophole to justify new fossil fuel development with false solutions like carbon capture and fossil hydrogen, against the clear guidance of the UN Intergovernmental Panel on Climate Change.<sup>183</sup>

Environment Minister Jonathan Wilkinson and Environment Minister Steven Guilbeault signalled in March that carbon capture technology is a “key part” of the government’s climate action strategy.<sup>184</sup> In July, Minister of Natural Resources Jonathan Wilkinson announced a \$81.5 million call for expressions of interest to support research, development and demonstration projects in carbon capture, utilization and storage (CCUS).<sup>185</sup> In January, more than 400 climate scientists and other academics sent a letter to Finance Minister Chrystia Freeland arguing against a tax credit for carbon capture.<sup>186</sup> Even if Canadian oil and gas companies were to capture the totality of their emissions - and so far, CCUS projects are yet to meet targets - burning the fuels produced will continue to exacerbate climate change, wreaking havoc on vulnerable populations, deepening inequalities and triggering severe, irreversible impacts.<sup>187</sup>

179 CBC News, “Two weeks into COP27, Canada part of progress on loss and damage funding”, 18 November 2022, [cbc.ca/news/science/cop27-canada-loss-and-damage-1.6655871](https://www.cbc.ca/news/science/cop27-canada-loss-and-damage-1.6655871)

180 Amnesty International, “COP27: Loss and Damage fund is welcome but failure to deliver on phasing out fossil fuels is a huge setback”, 21 November 2022, [amnesty.org/en/latest/news/2022/11/cop27-loss-and-damage-fund-is-welcome-but-failure-to-deliver-on-phasing-out-fossil-fuels-is-a-huge-setback/](https://www.amnesty.org/en/latest/news/2022/11/cop27-loss-and-damage-fund-is-welcome-but-failure-to-deliver-on-phasing-out-fossil-fuels-is-a-huge-setback/)

181 Government of Canada, “Minister Guilbeault’s statement on Canada’s position and achievements on climate change at COP27”, 21 November 2022, <https://www.canada.ca/en/environment-climate-change/news/2022/11/minister-guilbeaults-statement-on-canadas-position-and-achievements-on-climate-change-at-cop27.html>

182 The United Nations Framework Convention on Climate Change, Sharm el-Sheikh Implementation Plan, November 2022, [https://unfccc.int/sites/default/files/resource/cma4\\_auv\\_2\\_cover\\_decision.pdf](https://unfccc.int/sites/default/files/resource/cma4_auv_2_cover_decision.pdf), para 28.

183 UN News, “COP27 closes with deal on loss and damage: ‘A step towards justice’, says UN chief”, 20 November 2022, [news.un.org/en/story/2022/11/1130832](https://news.un.org/en/story/2022/11/1130832)

184 Jonathan Wilkinson and Steven Guilbeault, “Every tool in the toolbox: Why we need carbon capture, utilization and storage in the fight against climate change”, 14 March 2022, National Observer, [nationalobserver.com/2022/03/14/opinion/every-tool-toolbox-why-we-need-carbon-capture-utilization-and-storage-fight](https://nationalobserver.com/2022/03/14/opinion/every-tool-toolbox-why-we-need-carbon-capture-utilization-and-storage-fight)

185 Government of Canada, Canada Opens Call for Carbon Capture Research, Development and Demonstration Projects, 7 July 2022, [canada.ca/en/natural-resources-canada/news/2022/07/canada-opens-call-for-carbon-capture-research-development-and-demonstration-projects.html](https://www.canada.ca/en/natural-resources-canada/news/2022/07/canada-opens-call-for-carbon-capture-research-development-and-demonstration-projects.html)

186 Financial Post, “More than 400 academics urge Canada to ditch carbon capture tax credit”, 20 January 2022, <https://financialpost.com/commodities/energy/academics-urge-canada-to-ditch-carbon-capture-tax-credit-letter>

187 Karen Hamilton and Ketty Nivyabandi, “It’s time to stop bankrolling and exporting climate destruction”, Toronto Star, 24 June 2022, [thestar.com/nd/opinion/contributors/2022/06/24/its-time-to-stop-bankrolling-and-exporting-climate-destruction.html](https://www.thestar.com/nd/opinion/contributors/2022/06/24/its-time-to-stop-bankrolling-and-exporting-climate-destruction.html)

188 Ontario Human Rights Commission, “OHRC statement on human rights, extreme heat waves and air conditioning”, 19 August 2022, [ohrc.on.ca/en/news\\_centre/ohrc-statement-human-rights-extreme-heat-waves-and-air-conditioning](https://www.ohrc.on.ca/en/news_centre/ohrc-statement-human-rights-extreme-heat-waves-and-air-conditioning)

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190 BC Coroners Service, Extreme Heat and Human Mortality: A Review of Heat-Related Deaths in B.C. in Summer 2021, 7 June 2022, [gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/extreme\\_heat\\_death\\_review\\_panel\\_report.pdf](https://www.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/extreme_heat_death_review_panel_report.pdf), pp. 13-14.

191 BC Coroners Service, Extreme Heat and Human Mortality: A Review of Heat-Related Deaths in B.C. in Summer 2021, 7 June 2022, [gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/extreme\\_heat\\_death\\_review\\_panel\\_report.pdf](https://www.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/extreme_heat_death_review_panel_report.pdf), pp. 17.

## DISCRIMINATION AND SOCIAL INEQUALITIES

According to the Ontario Human Rights Commission, as temperatures rise due to climate change, extreme heat waves have and will continue to disproportionately impact groups protected under Ontario’s Human Rights Code.<sup>188</sup> At most risk are people with disabilities, older adults, and low-income communities.<sup>189</sup>

In British Columbia, in June the Coroner’s Service called for greater support for populations at risk during extreme heat emergencies following a review of 619 heat-related deaths during a heat dome in 2021 when temperatures surpassed 40°C for days. Most of those who died were older adults and people living with chronic conditions in buildings without air conditioning.<sup>190</sup> People experiencing homelessness also face increased risks of exposure-related illnesses associated with the rise in temperature.<sup>191</sup> This is especially true in urban areas where heat is more extreme.<sup>192</sup>

Indigenous, Black, and other racialized communities are also disproportionately affected by climate change and environmental disasters in Canada. A study of health outcomes in Mi’kmaw and African Nova Scotian communities by the Canadian Climate Institute identified the connection between environmental racism and climate change. Structural inequities such as poverty and discrimination, which

are associated with inadequate housing, health care and food, contribute to poor health outcomes for many racialized and marginalized people, which in turn enhances their susceptibility to the negative health impacts of climate change.<sup>193</sup>

In response to environmental racism, Bill C-226, An Act Respecting the Development of a National Strategy to Assess, Prevent and Address Environmental Racism and to Advance Environmental Justice, was introduced as a private Member’s Bill in February 2022.<sup>194</sup> It calls for Canada’s Minister of Environment and Climate Change to “develop a national strategy to promote efforts across Canada to advance environmental justice and to assess, prevent and address environmental racism.”<sup>195</sup> This strategy should include data collection, amendments to federal laws, policies and programs, and compensation for individuals or communities, who as a result of the intersection of race and socio-economic status, face environmental racism and negative health outcomes.

Bill S-5, Strengthening Environmental Protection for a Healthier Canada Act, would modernize the Canadian Environmental Protection Act, by recognizing the right to a healthy environment and calling on Canada to remove the provision that seeks to ‘balance’ the right to a healthy environment with ‘economic factors.’<sup>196</sup> These economic factors have been used for decades to put Black, Indigenous and racialized communities at harm from toxic pollution.<sup>197</sup>

192 Under the CRPD, the federal and provincial governments have an obligation to ensure equal rights for people with disabilities, including older people with disabilities, and ensure their protection and safety during natural disasters. See, Convention on the Rights of Persons with Disabilities (CRPD), Articles 5, 11. Under the CRPD and the ICESCR, everyone has the right to the highest attainable standard of physical and mental health. See, Convention on the Rights of Persons with Disabilities (CRPD), Articles 25; International Covenant on Economic, Social, and Cultural Rights (ICESCR), Article 12. The ICCPR requires governments to protect the right to life. See, International Covenant on Civil and Political Rights (ICCPR), Article 6.

193 Canadian Climate Institute, Ingrid Waldron, Environmental Racism and Climate Change: Determinants of Health in Mi’kmaw and African Nova Scotian Communities, 22 July 2021, [climateinstitute.ca/publications/environmental-racism-and-climate-change/](https://climateinstitute.ca/publications/environmental-racism-and-climate-change/)

194 Parliament of Canada, Bill C-226, An Act Respecting the Development of a National Strategy to Assess, Prevent and Address Environmental Racism and to Advance Environmental Justice, 2 February 2022, [https://parl.ca/Content/Bills/441/Private/C-226/C-226\\_1/C-226\\_1.PDF](https://parl.ca/Content/Bills/441/Private/C-226/C-226_1/C-226_1.PDF). It closely resembles a previous bill, which passed a Second Reading in the House of Commons but did not move forward when Parliament dissolved for the 2021 federal election, see: Parliament of Canada, Bill C-230, An Act respecting the development of a national strategy to redress environmental racism, 22 June 2021, <https://www.parl.ca/legisinfo/en/bill/43-2/c-230>

195 Parliament of Canada, Bill C-226, An Act Respecting the Development of a National Strategy to Assess, Prevent and Address Environmental Racism and to Advance Environmental Justice, 2 February 2022, [https://parl.ca/Content/Bills/441/Private/C-226/C-226\\_1/C-226\\_1.PDF](https://parl.ca/Content/Bills/441/Private/C-226/C-226_1/C-226_1.PDF), section 3(1), p. 2.

196 Senate of Canada, Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, 22 June 2022, [parl.ca/DocumentViewer/en/44-1/bill/S-5/third-reading](https://parl.ca/DocumentViewer/en/44-1/bill/S-5/third-reading)

197 National Observer, “A rights-based approach can address environmental threats to Canadians”, 30 March 2022, [nationalobserver.com/2022/03/30/opinion/rights-based-approach-can-address-environmental-threats-canadians](https://nationalobserver.com/2022/03/30/opinion/rights-based-approach-can-address-environmental-threats-canadians); Amnesty International Canada, “Tell Canada to Strengthen Environmental Protections,” 20 April 2022, [amnesty.ca/blog/tell-canada-to-strengthen-environmental-protections/](https://www.amnesty.ca/blog/tell-canada-to-strengthen-environmental-protections/)



## JUST ENERGY TRANSITION

“It is our collective challenge to deal head on with the climate crisis while not deepening existing power and privilege imbalances. In fact, it is incumbent upon everyone – especially those most responsible for the climate crisis, to end these inequities.”<sup>198</sup>

Protecting human rights requires a rapid, equitable transition to renewable energy alternatives. In November 2021, Canada signed the Statement on International Public Support for the Clean Energy Transition at the COP26 climate change conference in Glasgow, Scotland, and committed to “powering up the shift to clean sources of energy.”<sup>199</sup> The urgent need for transition to renewable energy and green technologies, including rechargeable batteries to power electric vehicles and renewable energy storage units, carries its own risks of environmental harm and human rights abuses, requiring careful attention to ensure lasting solutions that sacrifice neither people nor the planet.<sup>200</sup>

Development of the so-called Ring of Fire area in the James Bay Lowlands of northern Ontario, to create a supply of minerals for electric vehicle production, was a key plank in the Progressive Conservative Party of Ontario’s 2022 election platform.<sup>201</sup> In a region of peatlands which are a major carbon sink, First Nations have expressed

concern about lack of meaningful consultation around a comprehensive regional impact assessment. As a result, the Attawapiskat, Fort Albany, and Neskantaga First Nations declared a moratorium in 2021 in accordance with their laws and customs and UNDRIP, including its requirement for free, prior, and informed consent, stating:



**“WE HAVE A PROFOUND AND SACRED DUTY TO ENSURE THAT THIS PART OF THE EARTH IS NOT SO WOUNDED FROM RING OF FIRE DEVELOPMENT THAT IT CAN NO LONGER SUPPORT OUR RELATIONS AND WAYS OF LIFE OR HELP PROTECT THE WORLD FROM CATASTROPHIC CLIMATE CHANGE; AS THE JAMES BAY LOWLANDS STAND AS ONE OF THE LAST AND MOST IMPORTANT BASTIONS OF DEFENCE AGAINST CLIMATE COLLAPSE.”<sup>202</sup>**

In 2022, Canada set aside nearly four billion dollars to back its Critical Minerals Strategy to develop a domestic energy transition mining sector.<sup>203</sup> The strategy acknowledges that success is contingent on respect for Indigenous and treaty rights, since Indigenous peoples are the rights-holders and, in many cases, title holders to the land upon which mineral development takes place. The strategy also commits to consultations on specific projects and asserts that Natural Resources Canada will work with Indigenous partners and industry to promote a mutually supportive climate for economic partnerships and sustainable critical mineral development.<sup>204</sup>

However, a just energy transition requires not only consultation but the right of Indigenous peoples to give or withhold consent to a project that may affect them or their territory<sup>205</sup> – and it requires much more than partnerships with elected band councils. Indigenous peoples have an inherent right to self-determination. The principle of free, prior, and informed consent flows from this right and

it is the obligation of governments to ensure this right is respected and protected.<sup>206</sup> The greater the potential for human rights impact of an economic development proposal on rights-holders, the greater the need for all Indigenous Peoples to be included in robust processes of engagement and decision-making. Canada must not devolve human rights obligations to companies and ensure that communities have access to information about the risks of resource extraction projects and ensure that operations that affect Indigenous Peoples are subject to their free, prior, and informed consent.<sup>207</sup>

**Canada must recognize that not all Indigenous Peoples wish to become partners in the extraction of critical minerals and must ensure that actions to seek partnerships between Indigenous peoples and companies do not serve to divide Indigenous communities.**

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202 Attawapiskat, Fort Albany, and Neskantaga First Nations, “First Nations declare moratorium on Ring of Fire development”, 5 April 2021, [newswire.ca/news-releases/first-nations-declare-moratorium-on-ring-of-fire-development-854352559.html](https://www.newswire.ca/news-releases/first-nations-declare-moratorium-on-ring-of-fire-development-854352559.html)

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206 Amnesty International, Powering Change: A New Approach to a Just Energy Transition (Index: ACT 30/6178/2022), 8 November 2022, [amnesty.org/en/documents/act30/6178/2022/en/](https://www.amnesty.org/en/documents/act30/6178/2022/en/), p. 4.

207 Amnesty International, Powering Change: A New Approach to a Just Energy Transition (Index: ACT 30/6178/2022), 8 November 2022, [amnesty.org/en/documents/act30/6178/2022/en/](https://www.amnesty.org/en/documents/act30/6178/2022/en/), p. 7.



## CORPORATE ACCOUNTABILITY

Canadian mining and energy companies, and projects that have received financing from Export Development Canada, continue to be implicated in human rights abuses and environmental damage around the globe. Canada is “a laggard for not having binding rules to protect people and the planet,” relying instead on a suite of voluntary measures.<sup>208</sup> Experience shows that voluntary measures have not worked.

Two critical Private Members’ bills were introduced in March 2022. These bills are crucial for Canada to shift its approach, tackle corporate impunity and fulfill its international human rights obligations.

Bill C-262, An Act Respecting the Corporate Responsibility to Prevent, Address and Remedy Adverse Impacts on Human Rights Occurring in Relation to Business Activities Conducted Abroad,<sup>209</sup> would require companies to review all their business activities, identify actual and potential risks to people and the planet, take steps to mitigate the risks, and ensure remedy for those harmed. If this bill is passed and a company causes harm or fails to do its human rights and environmental due diligence, those affected would have the statutory right to bring a civil lawsuit against that company in a Canadian court to seek justice and remedy.

Bill C-263, An Act to Establish the Office of the Commissioner for Responsible Business Conduct Abroad and to Make Consequential Amendments to Other Acts,<sup>210</sup> would invest the Canadian Ombudsperson for Responsible Enterprise (CORE) with the powers needed to do its job to investigate allegations of abuses by Canadian companies. Without powers to order the production of documents and compel witness testimony under oath, the CORE is currently an ineffective office.



208 For example, “[s]everal European countries have already taken action and similar laws to the bills put forward today are already in place or are being developed in France, Germany and Norway, among others.” See, Canadian Network on Corporate Accountability, “Bills introduced to protect people and the planet warrant all-party support”, 29 March 2022, [cnca-rcrce.ca/2022/03/29/news-release-bills-introduced-to-protect-people-and-the-planet-warrant-all-party-support/](https://cnca-rcrce.ca/2022/03/29/news-release-bills-introduced-to-protect-people-and-the-planet-warrant-all-party-support/)

209 House of Commons of Canada, Bill C-262, An Act Respecting the Corporate Responsibility to Prevent, Address and Remedy Adverse Impacts on Human Rights Occurring in Relation to Business Activities Conducted Abroad, 29 March 2022, [https://parl.ca/Content/Bills/441/Private/C-262/C-262\\_1/C-262\\_1.PDF](https://parl.ca/Content/Bills/441/Private/C-262/C-262_1/C-262_1.PDF)

210 House of Commons of Canada, Bill C-263, An Act to Establish the Office of the Commissioner for Responsible Business Conduct Abroad and to Make Consequential Amendments to Other Acts, 29 March 2022, [https://parl.ca/Content/Bills/441/Private/C-263/C-263\\_1/C-263\\_1.PDF](https://parl.ca/Content/Bills/441/Private/C-263/C-263_1/C-263_1.PDF)





## GENDER AND ENVIRONMENTAL JUSTICE

Gender inequality in the context of climate change and environmental disasters was identified as a priority for member states in the 66th session of the United Nations Commission on the Status of Women (UNCSW), which was held from 14-25 March 2022. The final Declaration underscored the unique impacts of climate change, environmental degradation and disasters on women and girls, and the heightened risks of violence. The UNCSW called for systematic integration of gender perspectives into climate change, environmental and disaster risk reduction policies, and programmes, including provisions for the prevention of sexual and gender-based violence, survivor-centred responses, a gender-responsive just transition and Indigenous women's leadership in the context of climate change.<sup>211</sup>

Media reporting on lawsuits filed in British Columbia alleging sexual harassment and sexual

assault at work camps for the LNG Canada and Coastal GasLink pipeline projects have shone a spotlight on continuing concerns about industrial housing camps for extractive projects (often referred to as 'man camps') and fears of gender-based violence.<sup>212</sup> Indigenous people argue that more must be done to hold the private sector accountable for sexual and gender-based violence in the context of extractive industries.<sup>213</sup> Indigenous leaders have written letters directly to companies and have tried to enlist the assistance of the courts.<sup>214</sup>

The Calls to Action of the National Inquiry into Missing and Murdered Indigenous Women (MMIWG) hold extractive industries accountable for the safety of Indigenous women, girls and 2SLGBTQQIA peoples, as well as their equitable benefit from any project. The National Inquiry into MMIWG further calls on governments to complete gender-based socio-economic impact assessments on all proposed projects, ensure provisions and plans to mitigate risks and impacts and establish public enquiries into racism and sexual violence in extractive projects.<sup>215</sup>

211 The United Nations Economic and Social Council, CSW 66th Session, Agenda item 3(a)(i), Agreed Conclusions, 29 March 2022, <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N22/303/59/PDF/N2230359.pdf?OpenElement>

212 See, for example, The Tyee, "Lawsuits allege sexual harassment, assaults at Northern work camps", 3 June 2022, [thetyee.ca/News/2022/06/03/Lawsuits-Allege-Sexual-Harassment-Assaults-Work-Camps/](https://thetyee.ca/News/2022/06/03/Lawsuits-Allege-Sexual-Harassment-Assaults-Work-Camps/); CBC News, "Coastal GasLink, contractor deny liability for alleged sexual assault at pipeline work camp", 29 June 2022,

[cbc.ca/news/canada/british-columbia/coastal-gaslink-civil-suit-response-1.6503564](https://cbc.ca/news/canada/british-columbia/coastal-gaslink-civil-suit-response-1.6503564)

213 Jamie-Leigh Gonzales, "Man camps are temporary; trauma from violence lasts generations", 11 February 2022, [raventrust.com/man-camps-are-temporary-trauma-from-violence-lasts-generations/](https://raventrust.com/man-camps-are-temporary-trauma-from-violence-lasts-generations/)

See press clippings, blogs and articles on sexual and gender-based violence associated with extractive industries, available at [pipelinefighters.org/resources/indigenous-resources/missing-murdered-indigenous-persons/](https://pipelinefighters.org/resources/indigenous-resources/missing-murdered-indigenous-persons/)

214 For instance, in February 2020 the Wet'suwet'en hereditary chiefs requested a judicial review of a decision made by the B.C. Environmental Assessment Office to extend the environmental certificate for the 670-kilometre Coastal GasLink pipeline on the grounds that the recommendations of Canada's National Inquiry on Missing and Murdered Indigenous Women have not been taken into account. See, Office of the Wet'suwet'en, "Wet'suwet'en Hereditary Chiefs launch court challenge to Coastal GasLink pipeline's environmental approval", 6 February 2020, [wetsuweten.com/files/Media\\_Release\\_Feb\\_6\\_2020\\_-\\_CGL.pdf#:~:text=Feb%203%2C%20Vancouver%20\(BC\)%20-%20Wet'suwet'en%20Hereditary%20Chiefs,pipeline%20in%20Northwest%20BC%20for%20another%20five%20years](https://wetsuweten.com/files/Media_Release_Feb_6_2020_-_CGL.pdf#:~:text=Feb%203%2C%20Vancouver%20(BC)%20-%20Wet'suwet'en%20Hereditary%20Chiefs,pipeline%20in%20Northwest%20BC%20for%20another%20five%20years)

215 Government of Canada, Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, June 2019, [publications.gc.ca/collections/collection\\_2019/bcp-pco/CP32-163-2-2-2019-eng.pdf](https://publications.gc.ca/collections/collection_2019/bcp-pco/CP32-163-2-2-2019-eng.pdf), Vol. 1b, p. 196.

## TO TACKLE THE CLIMATE CRISIS, WE MUST DEFEND THE DEFENDERS

People who speak up for land, Indigenous territory, water, forests, and a healthy environment play a vital role for their communities and for our climate. They are living solutions. Yet more defenders than ever are being killed, while others are threatened, criminalized, and attacked. In its 2022 report, Global Witness recorded that 200 land and environmental defenders were killed in 2021, four people a week. The report observes that Indigenous defenders once again suffer a disproportionate number of attacks, while women defenders continue to be the target of gender-based violence, rooted in discriminatory gender norms.<sup>216</sup> Climate justice requires justice and protection for climate defenders, and an agile mechanism to provide temporary refuge to defenders whose lives are endangered.

**“HOW CAN WE TURN THE TIDE ON THE CLIMATE CRISIS IF LAND DEFENDERS ARE SYSTEMATICALLY ATTACKED? HOW CAN WE SPEAK OF A JUST TRANSITION IF WE LEAVE BEHIND THE COMMUNITIES THAT HAVE ALREADY SUFFERED THE WORST OF CLIMATE CHANGE? HOW CAN WE END ANOTHER YEAR WITH MORE DEATHS THAN THE LAST?” - EXILED COLOMBIAN DEFENDER SANDRA RAMIREZ ACUNA<sup>217</sup>**



216 Global Witness, Decade of Defiance: Ten Years of Reporting Land and Environmental Activism Worldwide, 29 September 2022, [globalwitness.org/en/campaigns/environmental-activists/decade-defiance/#a-global-analysis-2021](https://globalwitness.org/en/campaigns/environmental-activists/decade-defiance/#a-global-analysis-2021)

217 Atmos, The Frontline, "A New Year's Wish for Peace", 3 January 2022, [atmos.earth/colombia-environmental-human-rights-deaths/](https://atmos.earth/colombia-environmental-human-rights-deaths/)





## AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF CANADA TO:

- Adopt and implement the most ambitious emission reduction targets possible that would enable Canada to reduce emissions by half well before 2030 and reach zero carbon emissions by 2030 or as soon as is feasible after that, while ensuring a just transition that enhances human rights.
- Phase out fossil fuels, rather than relying on carbon markets and carbon removal mechanisms that delay meaningful climate action and negatively impact human rights, and shift to renewable energy produced in ways consistent with human rights obligations by 2030 or as soon as possible after that. For a full list of Amnesty's recommendations to ensure human rights and environmental protection are at the heart of Canada's energy transition, see *Powering Change*.<sup>218</sup>
- End fossil fuel subsidies immediately; prohibit, in law and practice, further investments to expand fossil fuel exploration, extraction and production in Canada and end the financing of fossil fuel projects in other countries.
- Meet Canada's commitment to a just transition through legislation, funding to retrain fossil fuel workers and support for communities reliant on income generated by fossil fuel industries to ensure that no one gets left behind. Priority must be given to working collaboratively with Indigenous peoples to address their needs, including fair redress for past extractive activities on their territories.
- Invest in gender-responsive public services, accessible, sustainable transportation in both rural and urban settings, universal social protection, health, and care systems to reduce the unpaid care and domestic work of women and girls, increase paid decent work for women and facilitate their participation in just transitions.
- Commit new and additional climate finance for developing countries for human rights-consistent mitigation and adaptation measures, integrating gender perspectives, to reach the USD 100 billion annual goal for 2022 and provide USD 500 billion between 2022-2025 to make up for earlier gaps.
- Ensure that gender-responsive climate funding is additional to existing commitments for overseas development assistance, that climate finance to low-income countries is in the form of grants, not loans, and that a better balance is achieved between mitigation and adaptation funding.
- Provide additional and dedicated financial means, technical support, and access to remedy, including compensation, to people in developing countries whose rights have been negatively affected as the result of loss and damage caused by the climate crisis.



- Pass legislation requiring resource extraction companies to carry out human rights and environmental due diligence both in Canada and abroad and ensure both compliance and public reporting from companies profiting from the energy transition. Make compliance a requirement to receive public financing, risk insurance, or other types of supports. Guarantee access to remedy for human rights and environmental abuses.
- Ensure implementation of all the measures called for by the UNCERD with regards to the situation of Secwepemc and Wet'suwet'en communities in relation to the Trans Mountain and Coastal Gas Link pipelines, including a stop to construction until free, prior, and informed consent is obtained following the full and adequate discharge of the duty to consult.
- Ensure full implementation of the Calls for Extractive and Development Industries (13.1-13.5) by the National Inquiry into Missing and Murdered Indigenous Women.
- Develop and implement a national strategy to identify, address and prevent environmental racism and to advance environmental justice.
- Create a special program to be able to quickly provide shelter, protection, training, and support in Canada for land and environmental defenders whose lives are in danger.



Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

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