



International Indian Treaty Council

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**United Nations Committee on the Elimination of Racial Discrimination 80th Session, Review of
Canada's 19th and 20th Periodic Reviews,
Oral Intervention by the International Indian Treaty Council, February 20th, 2012
Presented by Danika Littlechild**

Thank you Mr. Chairman. Respectful greetings to the CERD members and to all delegations.

Injustices and oppression in the lives of Canada's Indigenous peoples are not merely relics of a distant or even a recent past. Instead, these injustices are entrenched in the contemporary political, social and economic conditions of inequality in which a great many of Canada's Indigenous peoples live. Indigenous peoples in Canada experience higher rates of abuse in childhood, higher rates of domestic violence, shorter life expectancies, lower birth rates, higher rates of disease, higher rates of violence and death, higher infant mortality rate, higher suicide rates, higher rates of substance abuse, and higher rates of a range of other chronic health conditions. Social and economic conditions of many Indigenous people's lives are shaped by inadequate housing, substandard sanitation conditions, a lack of clean water, inadequate nutrition, lower education levels, unemployment and poverty, and racism. Exacerbating these circumstances is the lack of adequate state accountability for ameliorating these situations and injustices.

These ongoing injustices can be attributed to: the lack of implementation of our Treaties and other agreements with the Crown; Canada's rejection of Indigenous rights in the international arena; the loss of culture, language and identity related to forced assimilation policies; the denial of land, Aboriginal title, Treaty rights and disruption of traditional life-ways and forms of governance; the absence of the free, prior and informed consent of Indigenous peoples in Canada related to development and legislation impacting our rights and title; the legacy of state-run residential schools and inter-generational trauma as well as ongoing removal of Indigenous children from their homes and communities; and the high levels of violence perpetuated against Indigenous women and girls.

Based on these injustices, the 11 First Nations and organizations that submitted the Indigenous Joint Alternative Report to the 80th Session of the CERD have raised specific and urgent concerns regarding Canada's 19th and 20th Periodic Reports. In November 2010, Canada issued a "Statement of Support for the UN Declaration on the Rights of Indigenous Peoples" endorsing the United Nations Declaration as an *aspirational document* and in a manner "*fully consistent with Canada's Constitution and laws*". However, all of the concerns enumerated in our Alternative Report represent a failure of Canada to implement the UN Declaration in good faith and in collaboration with Indigenous Peoples.

We endeavored in our Joint Alternative Report to ensure that Members of CERD are made aware of Indigenous perspectives, and that these varied and diverse perspectives encompass different knowledge systems and Indigenous legal orders based on custom, tradition and inherent rights. Aboriginal title is recognized under Canadian law, and yet the Government of Canada persists in making every attempt to "extinguish" Aboriginal title through onerous negotiations and terms of modern land claims and self-

government agreements. The Committee has made recommendations in the past to Canada respecting this matter, and yet nothing in the policy approach of Canada has changed.

The nation-to-nation relationship upon which all other relations are built are recognized and affirmed in the Treaties that continue to be legally binding on the successor Government of Canada concluded between Indigenous Peoples and the Crown. The spirit and intent of Treaties is found not only in the written text, but also in the oral histories and Indigenous understandings based on our sacred laws and Indigenous legal orders. Treaties are not being implemented, or ignored outright, with respect to industrial, legislative and policy developments initiated or facilitated by Canada (without Indigenous participation or consent) respecting lands; water; natural resources such as tar sands; international representations respecting climate change and biodiversity; and the collective and individual rights of Indigenous peoples in Canada.

The imposed development of Indigenous lands and territories has severely impacted the life ways and livelihoods of Indigenous Peoples. Free, Prior and Informed Consent (FPIC) is a recognized principle of law, affirmed by General Recommendation 23 of the CERD, recognizing the right of Indigenous Peoples to provide or withhold consent respecting activities or actions that affect their lands, territories and resources. The Government of Canada has directly refuted the applicability of international standards respecting FPIC in Canada, which is of great concern, particularly in the context of rampant, unsustainable developments such as the tar sands.

FPIC extends to another major issue of concern presented in our Alternative Report, being Indigenous Children in State Care or Custody. There are more Aboriginal children in Canada in care today than there ever was during the infamous era of residential schools. This is partially due to the legacy of residential schools, but it is also due to the pervasiveness of racism and discrimination against Aboriginal families and communities in Canada. Some issues include the inequality of funding provided to Aboriginal child and family services authorities compared to similarly situated provincial child and family services authorities; the absence of support for cultural or community connection for children in care; the wide ranging impacts of removal of children from family and community.

Canada has demonstrated discriminatory practices against Indigenous Peoples within Canada and beyond the borders of Canada – whether that is through representations regarding Indigenous rights under other international treaties, or Canada’s complete lack of regard for upholding the human rights of Indigenous Peoples in other countries where Canadian companies operate.

Canada’s actions, detailed in our Alternative Report, are discriminatory and violate the rights of Indigenous Peoples as affirmed in the ICERD. As Indigenous Peoples, we face exclusion, restriction and distinction based on our Indigenous identity not only “on occasion” but in our daily lives – we experience the full impact and effect of discrimination as individuals and as collective nations, Peoples, tribes and communities. We are concerned by a lack of follow up and implementation regarding previous recommendations in CERD/C/CAN/CO/18. For example, disproportionate violence against Indigenous women continues, as well as government cutbacks on funding to Indigenous organizations who are trying to address this issue. We respectfully call the attention of CERD Members to the section on Questions and Recommendations in our Joint Alternative Report. Thank you.