OBSERVATIONS OF THE GOVERNMENT OF CANADA ON THE AUTHOR'S COMMENTS IN FOLLOW-UP TO THE COMMITTEE'S VIEWS IN COMMUNICATION NO. 2348/2014 SUBMITTED BY MS. NELL TOUSSAINT

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1. On 17 June 2026, the Secretariat of the United Nations, Office of the High Commissioner for Human Rights transmitted to Canada observations on behalf of the author and of a third party regarding Human Rights Committee communication No. 2348/2014, *Nell Toussaint v. Canada*. Both submissions were dated 23 March 2023.

2. The Human Rights Committee (the Committee) adopted final views in this communication on 24 July 2018. In its views, which were transmitted to Canada on 6 August 2018, the Committee had found that, by denying the author state-funded health care coverage under the Interim Federal Health Program (IFHP) between 2009 and 2013, Canada had violated the author's right to life under article 6 of the *International Covenant on Civil and Political Rights* (the "*Covenant*"), as well as her right to equality under article 26.

3. The Committee asked that Canada provide the author with compensation for the harm she suffered, and that Canada take steps to prevent similar violations in the future, including reviewing its national legislation to ensure that irregular migrants have access to essential health care to prevent a reasonably foreseeable risk that can result in loss of life. The Committee's views suggested that such healthcare should be state-funded.

4. On 1 February 2019, Canada submitted its response (dated 29 January 2019) to the Committee's views. In this response, Canada explained that, having carefully and in good faith considered the Committee's views, Canada cannot agree with the Committee's reasoning in this case. The response sets out detailed reasons for Canada's disagreement with the Committee's views, both with respect to articles 6 and 26 of the *Covenant*.

5. Consequently, Canada informed the Committee that, while it had taken steps to disseminate the Committee's views by posting them on a government website, it would not be taking any further measures to give effect to the Committee's views.

6. In response to an information request from the Committee, Canada again informed the Committee on 6 April 2022 that it would not be following up further on the Committee's recommendations and that it had closed its file in this communication. It requested that the Committee also close its file.

7. Canada remains committed to the effective implementation of its obligations under the Covenant. While Canada has accepted and acted upon the Committee's views in many communications, there are exceptional cases, including the present communication, in which Canada respectfully disagrees with the Committee's views on how those obligations apply in the specific factual circumstances of the case. Such disagreement does not diminish Canada's commitment to the Covenant or its support of the Committee's role.

8. In the new submissions that were filed with the Committee on 23 March 2023, but only transmitted to Canada on 17 June 2026, representatives of the author asked the Committee not to close its file and informed the Committee of an action that had been commenced in the Ontario Superior Court of Justice to seek a domestic judicial enforcement of the Committee's views.

9. Indeed, the author filed an action in the Ontario Superior Court on 14 October 2020 that in part seeks enforcement of the Committee's views. The proceedings are ongoing with the author's mother now acting as plaintiff following the author's very unfortunate passing. Canada anticipates that the litigation will soon be moving forward with examinations for discoveries. Canada is not in a position to comment further on the author's domestic litigation while it remains active.

10. In their latest submissions to the Committee, the author and the supporting third parties ask the Committee to pronounce, *inter alia*, on "whether the Committee considers that a refusal to implement the Views because of a disagreement about the correct interpretation of the provisions of the ICCPR meets the standard of good faith" as well as on the role of different branches of government, and of domestic courts in particular, in considering the Committee's views.

11. Canada is concerned that the author's representatives may be asking the Committee to make these pronouncements to influence the ongoing domestic proceedings. The joint third party submission similarly appears aimed, at least in part, at obtaining further views from the Committee that they believe advantageous to the author in the ongoing domestic proceedings. Canada respectfully submits that it would not be appropriate for the Committee to express further views on issues that are actively being considered in Canada's domestic courts.

12. Article 5(2)(b) of the Optional Protocol to the Covenant makes clear that the Committee shall not consider any communication unless the author has exhausted all domestic remedies. One reason for requiring individuals to exhaust domestic remedies prior to bringing a complaint to an international court or body is respect for sovereignty; that is, to allow states to manage their own legal systems without external influence.

13. It is improper for the author's representatives (and third parties) to use the follow-up process to communications to assist them in ongoing domestic legal proceedings in circumstances where a new communication raising the same issues would be clearly inadmissible under the Optional Protocol.

14. Canada therefore respectfully requests that the Committee refrain from issuing views or observations that risk constituting intervention in domestic legal proceedings.

Ottawa, Canada
9 September 2026