

# Justice for Girls-NGO-Canada-Session

SUBMISSION TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

Parallel report in relation to review of Combined fifth and sixth reports submitted by Canada at its 90th Session

(03 May 2022 - 03 Jun 2022)

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Justice for Girls

Justice for Girls is a Canadian non-government organization based in Vancouver, British Columbia that works to promote the health, well-being, and human rights of teenage girls who are homeless or living in poverty. Since 1999, the organization has worked locally, nationally, and internationally to promote and protect the rights of teenage girls who face poverty, violence, colonization, and environmental injustices. Justice for Girls has maintained consultative status with the UN Economic and Social Council (ECOSOC) since 2009.

This submission outlines issues for consideration at Canada's periodic review by the Committee on the Rights of the Child (Committee) at its 90th session. We focus our submission on the rights of girl-children, specifically highlighting the rights of Indigenous girls.

Article 2 - Girl Child

Recalling Article 2 of the Convention, we urge the Committee to give special consideration to the situation and fundamental rights of the girl-child by identifying Canada's obligations to prevent and respond to persistent inequality, discrimination and violence that characterizes their lived realities in Canada and across the globe. Intersectionality is a basic framework for interpreting the scope of Canada's obligations contained in article 2. Further, the Convention is part of a comprehensive international human rights framework that integrates norms and standards set out by the Committee on the Elimination of Discrimination against Women and other international norms such as the UN Declaration on the Rights of Indigenous Peoples and the rights of the girl-child framework.

The rights of girls and the specific conditions of oppression they encounter are frequently overlooked by the Canadian government. Indeed, the issues that affect girls are often eclipsed by concerns general to children, youth, or adult women. A gender-neutral approach leaves the girl-child's particular vulnerability due to her age, gender, and position in the family unacknowledged. We urge the Committee to review Canada's implementation of the Convention as it applies to the specific situation and rights of girl-children.

Children's Rights & Environment

The Committee will note that Justice for Girls also submitted a pre-sessional report in coalition with the David Suzuki Foundation, the Canadian Feminist Alliance for International Action, Just Planet and Greenpeace Canada (2020), emphasizing Canada's human rights violations in relation to climate change. Regrettably, we note climate change was not included on the list of issues for Canada. We strongly urge the Committee to ask Canada to report on its human rights obligation to reduce greenhouse gas emissions, especially with respect to children's right to life under article 6.

Canada's 2021 National Inventory Report to the UNFCCC shows emissions of 730mt of carbon, a mere 1.1% decrease from 2005 levels and far from Paris targets. As of September 2021, Canada's actions are rated as "highly insufficient" by Climate Action Tracker, a reputable monitor of Paris Agreement compliance. Since 2009,

Canada's carbon emissions have steadily increased, largely driven by growth in oil and gas extraction. Despite dire warnings from the IPCC about continued fossil fuel development, Canada continues to develop oil and gas, with the most recent announcement of oil and gas development on 6 April 2022.

As the Committee is aware, climate change is the greatest threat to children's rights today and all state parties must take urgent and ambitious actions to reduce GHG emission in order to be in compliance with obligations set out under the Convention. By allowing the threat of climate change to go unabated, Canada is in breach of article 6 of the Convention, a child's right to life, Article 24, a child's right to the highest attainable standard of living, and Article 30, the right of Indigenous children to practice their culture. This failure to address climate change disproportionately impacts girl children, especially Indigenous girls, domestically and around the world. Canada's continued oil and gas development is a serious breach of children's human rights requiring urgent action.

#### Recommendations:

Based on the science and recommendations of the IPCC, Canada must immediately cease all new fossil fuel development and end fossil fuel subsidies.

Canada must ensure that laws and policies related to the environment, climate change, and disaster risk reduction reflect the specific impacts of climate change and other forms of environmental degradation and harm, including the triple planetary crisis.

Canada must ensure that Indigenous girls have equal opportunities to meaningfully and effectively participate in decision-making related to the environment, disaster-risk reduction, and climate change.

Canada must prevent human-induced environmental degradation from negatively impacting the territories, lands, and natural resources of Indigenous children.

Canada must ensure that effective remedies and accountability mechanisms are in place to hold the authors of environmental harm responsible and ensure access to justice for Indigenous girls in environmental matters.

Canada must take action to mitigate climate change and build the adaptive capacities of Indigenous girls.

#### Rights of Indigenous Children

We urge the Committee to give special consideration to the situation and fundamental rights of the Indigenous girl-child by identifying Canada's obligations to prevent and respond to persistent inequality, discrimination and violence that characterizes their lived realities. We trust the Committee's concluding observations and recommendations will provide Canada with special guidance on how to implement obligations under the Convention to respect, protect and fulfill the specific rights of Indigenous girls pursuant to article 2, CRC General Comment No. 11 on the rights of Indigenous children, and draft CEDAW General Recommendation No. 39 on the rights of Indigenous women and girls.

We appreciate Canada's response to Question 5(A) regarding their Anti-Racism Strategy, with a focus on funding for organizations to help diverse youth overcome barriers to employment and develop skills and knowledge to participate in the labor market. Justice for Girls received funding under this initiative, and we were able to hire Indigenous teen girls, assist them to overcome barriers to employment, and support their economic security, freedom from violence, and leadership within the organization and community. We encourage Canada to continue to invest and allocate funding for anti-racism and youth initiatives. In particular, we encourage Canada to prioritize programs for Indigenous young women and teen girls. The full realization of their economic, social, and cultural rights is essential to fully implementing Canada's obligations under the Convention and ending the genocide of Indigenous women and girls.

#### Resource Extraction

The Committee has asked Canada to report on its efforts to ensure that resource extraction leading to land destruction does not violate the rights of Indigenous children. Canada's response to this issue was inadequate, citing insufficient impact assessments and consultations with Indigenous governments and organizations as their measures taken to ensure Indigenous and/or treaty rights are protected.

#### Failure to obtain free, prior, and informed consent

Current consultation mechanisms with Indigenous governments and organizations have proven to be inadequate to fully discharge Canada's obligations to secure the free, prior, and informed consent (FPIC) of Indigenous peoples. Canada's failure to secure FPIC of Indigenous peoples on resource extraction projects has been recognized and recently strongly admonished by the Committee on the Elimination of Racial Discrimination (CERD) under its Early Warning & Urgent Action Procedures. CERD's Decision 1(100) stated concern about, "Canada's refusal to acknowledge FPIC as a prerequisite to [resource extraction] project's approvals and were concerned by the continuation of projects like Site C, TMX, and CGL without FPIC." CERD called on Canada "to Suspend all construction of these projects until FPIC is achieved" and urged Canada to "freeze present and future approvals of these large scale resource projects affecting Indigenous peoples where the FPIC of all affected Indigenous peoples has not been secured." Following an inadequate response from Canada to CERD's concerns, CERD continued to emphasize the inadequacy of Canada's current consultation processes, stating,

The Committee regrets the State party interprets the free, prior and informed consent principle, as well as the duty to consult, as a duty to engage in a meaningful and good faith dialogue with Indigenous peoples and to guarantee a process, but not a particular result. In this regard, the Committee would like to draw its attention on the Committee's general recommendation No. 23 (1997) on the rights of Indigenous peoples, in which it calls upon States parties to ensure that no decisions directly relating to the rights or interests of Indigenous peoples is taken without their informed consent.

#### Recommendations:

Canada must ensure the free, prior, and informed consent of Indigenous peoples—with an emphasis on obligations under the Convention to respect, protect and fulfill the rights of the girl child—in matters affecting their environment, lands, and natural resources— particularly before authorizing economic and development projects on their lands, territories, and using their natural resources. This includes their participation in environmental and social impact assessments.

Canada must prevent and regulate activities by private actors that may undermine the rights of Indigenous children and girls to their lands, territories and environment. Canada must employ a precautionary approach.

Canada must adopt a comprehensive strategy to address discriminatory stereotypes, attitudes, and practices, which undermine Indigenous girls' rights to land, territories, and natural resources.

Canada must take proactive steps to recognize, support, and protect the life, integrity, and work of Indigenous youth human rights defenders—particularly girls— and ensure they are able to conduct their human rights activities in conditions of safety, and in an enabling environment. States' measures should include the creation of specialized government agencies to protect women and girls, with the effective, real, and meaningful participation of Indigenous women and girl human and environmental rights defenders.

#### Environmental racism/colonization - toxics

Indigenous and racialized peoples, including those who live in poverty, are more likely to live near extractive industries and to be disproportionately harmed by environmental pollutants. Extractive economies, especially those governed by colonial regimes, threaten Indigenous girls' rights, territories, and ability to live on their ancestral lands. Extractive projects occupy and toxify Indigenous lands without consent, forcing Indigenous people to defend their ancestral territories against environmental destruction, toxification, and impacts of climate change.

On a visit to Canada, the Special Rapporteur on Toxic Wastes identified that,

The health risks posed to Indigenous peoples by the multibillion-dollar oil sands industry are another example of concerns. Fort McMurray, Fort MacKay and Fort Chipewyan (Fort Chip) paint a disturbing picture of health impacts of the oil sands (i.e. tar sands) that were not properly investigated for years, despite increasing evidence of health impacts on local communities. Fort Chip was repeatedly raised as having alarming health trends. The situation with the oil sands cannot be divorced from the troubling Trans Mountain Pipeline Expansion Project, strenuously opposed by many. Landfills, incinerators and other waste disposal sites are often closest to Indigenous reserves.

The health and environmental risks posed by extractive industries seriously threaten the rights of Indigenous children. The Government of Canada has failed to fully understand, map, monitor and mitigate the impacts of these industries on Indigenous peoples, especially children. The Special Rapporteur on Toxic Waste's 2020 report asserts that,

Unfortunately, no socio-economic mapping has been done by the Government of the proximity of sources of exposure to toxics with Indigenous peoples, or others at elevated risk, such as low income or minority communities. Disaggregated data including economic and social indicators for ethnic minority groups, Indigenous peoples and non-citizens, consistently collected and maintained, would support monitoring and evaluation regarding actions to achieve environmental justice. For example, comprehensive health studies have not been undertaken on all communities affected by the oil sands in Alberta by either Federal or provincial authorities noting, however, Alberta's attempt to conduct a comprehensive health study about a decade ago.

Indigenous children's culture, sustenance, self-determination, and survival are closely linked to the natural environment. Land destruction dislocates Indigenous peoples from their lands and territories, increasing loss of language and culture through loss of biodiversity, including critical traditional plants and animals. Furthermore, pollution and toxins also impact their access to clean water and their ability to live off the land.

Recommendation: Canada must fully understand, map, document, monitor, and mitigate the impacts of these industries on Indigenous children's lives and rights.

Recommendation: Canada must collect and provide updated statistical data, disaggregated by age, sex, ethnic origin, socioeconomic background, national origin, geographic location and socioeconomic status on the health and wellbeing of children living in proximity to resource extraction projects.

#### Extractive violence against Indigenous girls

Extractive industries are connected to violations of Indigenous girls' rights to safety, freedom from violence, health, and life, survival, and development. Extractive projects increase violence against Indigenous women and girls. The influx of a transient male workforces and 'man camps' (where male workers live in close quarters for weeks or months at a time) to Indigenous territories is linked to sexual violence, trafficking, and murder of Indigenous women and girls.

The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has long recognized the relationship between violence against Indigenous women and girls, state militarization of indigenous lands, corporate impunity, and extractive industries:

Violence against Indigenous women and girls by State and non-State actors and corporate actors in the public domain [includes]: "militarization and the activities of multinational corporations and extractive industries that operate with impunity on Indigenous peoples' territories. Those actors and their activities have a detrimental impact on Indigenous women and girls, which manifests itself in sexual assault, sex trafficking, prostitution, bonded labour, the exploitation of overseas contract workers, the internal displacement of women and environmental violence".

Canada has a history of militarized forcible removal of Indigenous peoples from their territories for resource extraction projects. A 2013 report by UNICEF et al. found that the forced dispossession of Indigenous peoples from ancestral lands is a risk for increased violence against women and girls. Once removed from their territories, women and girls are often forced to migrate from rural communities to urban centres, where they experience extreme poverty, state apprehension, violence, and exploitation, including human trafficking. These violations of their rights to peace and security, including freedom from all forms of genocide and violence, are committed globally with near-impunity, highlighting the urgency of requiring Canada to fulfill its legal duty to protect women and girls, especially in rural and isolated areas, against such violence.

We recognize and appreciate that Canada has passed the federal United Nations Declaration on the Rights of Indigenous Peoples Act, which provides a roadmap for the implementation of the UN Declaration on the Rights of Indigenous Peoples in Canada. Canada must implement article 10, which protects against the forcible removal of Indigenous peoples.

#### Recommendations:

Canada must ensure the safety and support the work of Indigenous child human rights defenders engaged in advocacy for environmental protection and climate justice.

Canada must investigate and fund further studies to fully understand the relationship between resource extraction and other development projects and violence against Indigenous girls, in line with the National Inquiry into MMIWG Final Report's Call for Justice 13.4

Canada must implement human rights impact assessments (HRIA), with a gender and socio-economic analysis (Call for Justice 13.4), as part of the decision making and ongoing monitoring of these projects. Project proposals must include provisions and plans to mitigate risks and impacts identified in the impact assessments prior to being approved. Based on the science and recommendations of the IPCC, Canada must not approve new fossil fuel projects or subsidize fossil fuels.

#### Murdered and Missing Indigenous Women and Girls & Truth and Reconciliation

We endorse the analysis and recommendations of the Native Women's Association of Canada (NWAC) to the Committee at this session. We encourage the Committee to accept NWAC's evidence and recommendations. We also support NWAC's decision to file a Human Rights complaint in Canada and request International intervention and investigation by the Organization of American States (OAS) and United Nations (UN) regarding Canada's failure to take the steps necessary to end genocide against Indigenous women and girls.

#### Prioritize and Expedite Recommendations

Paragraph no. 6 in the Committee's List of Issues for Canada requested an update on the implementation of child-related recommendations of the Truth and Reconciliation Commission (TRC) and the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), and the establishment of an institutional body to coordinate and monitor implementation. While Canada's response outlined some measures taken to implement the recommendations, Canada's actions are too few and too slow.

Recommendation: Canada must urgently prioritize and expedite the recommendations of the TRC and National Inquiry into Missing and Murdered Indigenous Women and girls, including specific timelines and resources for full implementation, in accordance with the gravity of the rights violations associated with the genocide.

#### Indigenous Oversight

Canada must develop an appropriate national mechanism to monitor the progress and implementation of their 2021 National Action Plan. Canada's response to the Committee cited reports, advisory councils, and the 2021 National Action Plan itself as mechanisms to monitor the progress of implementation, but no institutional

oversight body. Those who are perpetrating the genocide should not be monitoring the transition out of genocide.

Recommendation: Canada must follow the leadership of Indigenous peoples and support them to form their own institutional body to monitor Government actions and implementation of the 2021 National Action Plan.

#### Clear timelines & deliverables

Furthermore, the 2021 National Action Plan is insufficient and vague in its steps, deliverables, and budgets, and fails to meet the calls for action set out in the national inquiry. At the time of the release of the National Action Plan, an implementation plan was promised for the fall of 2021, but, as of April 2022, no such implementation plan has been issued.

The National Inquiry's final report outlined very clear instructions—231 key recommendations framed as Calls for Justice which have been described in the Final Report as 'legal imperatives'. Call for Justice 1.1 states that government action plans must have dedicated funding, timelines for implementation, measurable goals, and resources dedicated to capacity building, sustainability and long-term solutions. The government's 2021 National Action Plan fails to meet these standards, including an implementation plan.

Recommendation: Canada must commit to a clear timeline and implementation plan is required to hold Canada accountable to its plan and avoid a lengthy and delay-ridden process.

#### Comply with Convention & adopt 3rd Optional Protocol

Recommendation: Canada must fully implement the Convention and adopt the 3rd Optional Protocol as called for by the National Inquiry into MMIWG Calls for Justice 1.2 (i).

#### Policing

Canada's 2021 National Action Plan also didn't specifically address the failure of law enforcement authorities, such as the Royal Canadian Mounted Police (RCMP) to deal effectively with the problem of missing and murdered Indigenous women and girls in Canada. Indigenous women and girls are both under-protected by the RCMP and subjects of police abuse and violence. Despite numerous calls for independent police oversight and accountability, no concrete measures to increase police accountability were included in the 2021 National Action Plan. Canada must implement the recommendations of the Inter-American Commission on Human Rights, CEDAW, the Bastarache Report, and Human Rights Watch.

The 2021 National Action Plan failed to specifically discuss the relationship between resource extraction and MMIWG, trafficking of Indigenous women and girls, or legacy of residential schools. Instead, it presented general issues without concrete actions, measures, plans, and timelines for action or implementation of specific Calls for Justice.

One of the Calls for Justice also corresponds to # 13 (d) of the Committee's LOI regarding Gladue reports, whereby the National Inquiry called upon federal, provincial, and territorial governments and all actors in the justice system to consider Gladue reports as a right, to resource them appropriately, and to create national standards for Gladue reports, including strength-based reporting. As with many of Canada's responses to the LOI, Canada was asked for information regarding development of national standards and, rather, responded with updates from specific provinces. Unfortunately, as demonstrated by Canada's response, standards for Gladue reports have not been implemented nationally nor in every Province and Territory.

Recommendation: Canada must provide information to the Committee detailing substantive actions—including policies, budgets, programs, governance, and reconciliation measures—in response to the National Inquiry Calls for Justice.

Recommendation: Canada must provide information to the UN Committee on the Rights of the Child about its substantive actions to ensure concrete follow-up to all 231 National Inquiry Calls to Justice, including in the wake of COVID-19-related global health emergency.

Recommendation: Canada must ensure National plans and standards are implemented and upheld so as to avoid the unequal implementation and protection of children's rights across various Provinces and Territories.

## Water

In response to LOI #10 (d), Canada pointed to lifting 120 long-term drinking water advisories on Indigenous reserves since 2015. Despite this progress, the Canadian government continues to fail to deliver on its promises for safe drinking water in many communities. Canada aimed to eliminate all drinking water advisories by March 2021, but at least 34 drinking water advisories remain in place. Furthermore, the underlying systemic issues contributing to water and wastewater for Indigenous people in Canada remain, including a lack of binding water quality regulations on reserves.

We endorse Human Rights Watch's pre-sessional submission to the Committee on the Right to Water and the Right to Education during armed conflict, particularly in reference to the water crisis in First Nations Communities.

We further endorse Save the Children's pre-sessional submission on First Nations Water Rights and would like to reiterate the importance of not only addressing the current water crisis and rights violations, but also putting systems, mechanisms and plans in place for preventing these crises in the future; this is especially important in the context of climate change and environmental degradation. The climate crisis directly impacts long term water advisories and, with the increasing impacts of climate change we will likely see increasing challenges accessing clean drinking water in First Nations communities. Furthermore, in the face of environmental degradation, Indigenous people as a whole face the highest risks to their health, economy, and culture, with children and women being disproportionately impacted.

Recommendation: Canada must work with First Nations communities to develop long-term solutions to these systemic problems and implement enforceable drinking water and sanitation standards.

Recommendation: Canada must implement meaningful, binding measures to ensure Indigenous children have access to clean water before, during and after climate-induced disasters.

## Indigenous Education

The Committee's question 12 (c) called on Canada to ensure that Indigenous and African Canadian children receive culturally appropriate education that respects their heritage and language. Canada's response identified that there have been some positive developments in the introduction of more accurate and Indigenous-specific curricula, however this does not address the need for culturally-specific and supportive education models and environments.

The legacy of colonialism continues to harm Indigenous girls and permeate the mainstream education system. A Justice for Girls report, *A Space to Thrive*, identified that the scars of colonialism and Indian residential schools continue to have a profound impact on Indigenous youth. In British Columbia, Canada, 40% of Indigenous people aged 20 to 24 have not graduated from high school. Across Canada, this number grows to 70 per cent for those on reserves. In our consultations, young women explained that educators "gave up" on them. Stakeholders noted "intense, visible racism" and stereotyping of Indigenous girls, which has been linked to misdiagnosed or undiagnosed learning disabilities, school failure, or girls being "pushed through" without adequate levels of literacy. Within the education system, Indigenous girls face multiple intersecting forms of oppression that ultimately lead to diminished educational attainment. Racism permeates the education system, so their knowledge and experience as Indigenous peoples is devalued. They also face sexism that makes them vulnerable to racialized sexual violence from male teachers, school administrators and peers.

For Indigenous girls and girls from racialized or ethnic minorities, school cultures can be extremely hostile. Young women told us that racialized harassment, stereotyping and tokenism was commonplace in schools and rarely addressed by staff. One stakeholder in alternative education explained that many youth she supported had “no confidence due to the classism and racism they had experienced.” Young women in our focus groups cited racist bullying and harassment as major contributors to their school disconnection.

Our report demonstrates that one of the greatest barriers to Indigenous girls’ academic success is not the curriculum or learning materials, but the educational environment. Indigenous children will not only benefit from a de-colonized curriculum and culturally supported education systems, but also education on their children's and Indigenous rights under CRC and UNDRIP.

Recommendation: Canada must implement mandatory anti-racist, anti-homophobia, anti-sexist education, and culturally appropriate training and policy development, as part of the education system.

Recommendation: Canada must incorporate education on Children’s Rights and Indigenous Rights under CRC and UNDRIP into every Province and Territory’s curricula.

### Indigenous Overrepresentation in the Criminal Justice System

The Committee’s question 13 (c) aims to gain a clear understanding of Canada’s actions to reduce the overrepresentation of Indigenous and African Canadian children in the Canadian criminal justice system. Despite the numerous calls to action, the extent of the problems remains that the proportion of incarcerated Indigenous persons continues to increase at a substantive rate while the overall number of people incarcerated has only increased slightly. In 2018, Indigenous female youth accounted for 60 percent of all female youth admitted to provincial and territorial corrections systems (compared to 47 percent for Indigenous male youth). This gross over-representation can be attributed to simultaneous sexist and racist over-policing/criminalization of Indigenous girls, systemic failure to meet due diligence obligations to prevent, investigate and prosecute violence against Indigenous girls, and systemic social and economic inequalities that are the result of intergenerational impacts of colonization.

It is worth noting that the data submitted in Annex 2 by Canada with regards to # 21 in the LOI does not include disaggregation by ethnic and national origin or socioeconomic status, therefore it fails to identify the most recent statistical breakdown of the overrepresentation of Indigenous and African Canadian children in the criminal justice system. Furthermore, the data is provided only up until 2019 and fails to account for the past 3 years.

Recommendation: Canada must collect and provide updated statistical data disaggregated by age, sex, type of offence, ethnic and national origin, geographic location, and socioeconomic status, for the past three years, on children in conflict with the law who have been:

Arrested;

Referred to diversion programmes;

In pretrial detention, including the duration;

Tried as adults; and

Serving a sentence in detention, including the length of the sentence.

### Immigration Detention

We endorse the Joint Submission by Human Rights Watch and the University of Toronto’s International Human Rights Program to the Committee on the Rights of the Child’s Consideration of Canada’s fifth and sixth periodic reports and its recommendations to the Committee.

Recommendation: Canada must collect disaggregated data on children separated from their detained parents.

Recommendation: Canada must guarantee that children will no longer be detained in segregation and in correctional facilities.

Recommendation: Canada must ensure that where children are detained, they have regular access to adequate in-person healthcare professionals, social workers, and other care providers with expertise in working with children.

#### Poverty

We endorse the joint submission of *Canada Without Poverty* (with Campaign 2000 Citizens for Public Justice & Dignity for All Campaign) to the Committee at this session, and encourage the Committee to accept their evidence and recommendations.