

# ***RIGHT TO EDUCATION***

Submission to the Universal  
Periodic Review of the United  
Nations Human Rights Council

4<sup>th</sup> Cycle – 44<sup>th</sup> Session

## **Country Review: Canada**

March 2023

By Caren Thomas



**BROKEN  
CHALK**

Kingsfordweg 151, 1043 GR

Amsterdam, Netherlands

+31687406567 | [upr@brokenchalk.org](mailto:upr@brokenchalk.org) | [www.brokenchalk.org](http://www.brokenchalk.org)

<https://twitter.com/brokenchalk>

<https://www.youtube.com/brokenchalk>

<https://www.linkedin.com/company/brokenchalk>

<https://www.facebook.com/BrokenChalk>

[https://www.instagram.com/brokenchalk\\_](https://www.instagram.com/brokenchalk_)

**Submission to the  
Universal Periodic Review of the  
United Nations Human Rights Council  
4th Cycle – 44<sup>th</sup> Session  
Country Review: Canada  
March 2023  
By Caren Thomas**

**Broken Chalk** is an Amsterdam-based NGO established in 2020 that monitors and minimises worldwide human rights violations in education. We aim to promote universal and equal access to education for all.

We encourage and support achieving societal peace with our international sponsors and partners by advocating for intercultural tolerance, preventing radicalism and polarisation, and tackling educational inequalities.

Table of Contents

**I. Introduction..... 3**  
**II. Indigenous Peoples and Right to Education..... 3**  
**III. Person with Disabilities and Right to Education..... 4**  
**IV. Immigrants, COVID-19 and the Right to Education.....4**  
**V. African Canadian Children and the Right to Education..... 5**  
**VI. Recommendations..... 5**

## I. Introduction

1. This report drafted by Broken Chalk contributes to the fourth cycle of the Universal Periodic Review for Canada. This report focuses exclusively on human rights issues in Canada's education field.
2. In the previous UPR cycle, Canada received 275 recommendations and accepted 208 recommendations. Of this, 7% of the recommendations were based on the Sustainable Development Goal of "Quality Education".
3. This report first explores the main issues in the educational field in Canada, reflecting on the recommendations Canada received in the 3<sup>rd</sup> cycle UN UPR review in 2018 and its progress since. Finally, Broken Chalk offers some suggestions to Canada on further improving its human rights in the educational field.
4. As per the letter by the High Commissioner to the Foreigner Minister, issues were raised explicitly for the right to education, which included making education accessible for the Indigenous students, making education culturally acceptable to them, increasing the level of educational attainment of African Canadian children, prevent marginalisation, reduce dropout rates of African Canadian children, emphasis to be laid on non-discrimination and focusing on inclusivity in education, particularly for minority groups and the person with disabilities.<sup>i</sup>

## II. Indigenous Peoples and Right to Education

5. In the National Report submitted in April 2018, Canada recognises that Indigenous peoples in Canada experience lower educational outcomes. The federal government of Canada has also announced its full support of the UNDRIP as a step to implement the Calls to Action of the Truth and Reconciliation Commission of Canada<sup>ii</sup>. However, this is not followed, as is evident from the report on March 2023 by the Special Rapporteur on the Rights of Indigenous People. It has been noted that the impact of colonialism and the history of abuse and discrimination these communities face have caused deep mistrust in Canadian institutions.<sup>iii</sup> To fully acknowledge, understand and include these Indigenous communities has been a constant struggle, especially in education. Canada has historically excluded Indigenous languages to some extent.
6. Despite the report of the Truth and Reconciliation Commission of Canada being published in 2015, there has been no significant change in the treatment towards Indigenous groups. For instance, in the most recent case,<sup>iv</sup> the UN Special Rapporteur urges Canada to fully implement the recommendations given in 2015 by the Truth and Reconciliation Commission of Canada. Eight years later and we are still in the same position. Children continue to be physically and sexually abused, and the correct total of the deaths of these children is yet to be known. The systematic racism and discrimination against Indigenous children, particularly girls, continue to grow, and the lack of safety in these educational institutions does not offer any respite either.
7. In a statement released by Ingenious groups such as the Tk'emlúps te Secwépemc, it can be understood that Canada has caused serious eradication and destruction to the

languages and cultures through residential schools. The government has agreed to place the settlement into a trust fund for different programs, such as educational programs and supporting former students to reconnect with their culture.<sup>v</sup>

8. Section 8 of the Inuit Language Protection Act provides Inuit language education for every child enrolled in the education program in Nunavut. This section was to come into force in 2019 but was suspended temporarily from grades 4 to 12 because of the need for certified Inuit language teachers. Amendments to the Inuit Language Protection Act extended the implementation of Inuit language education from 2026 to 2039. This is still an ongoing case. Even though Canada just settled a case where \$2 billion was provided to the Indigenous communities for the atrocities at residential schools sanctioned by the government, Canada continues to show grossly negligent treatment towards Indigenous communities within Canada.
9. Because each province and territory have its own action plan for identifying funding commitments and performance indicators, there needs to be more stability in how Indigenous community issues are dealt with, especially in terms of education.

### III. Person with Disabilities and Right to Education

10. In its National Report, Canada did say that the FPT governments would adopt measures for education.<sup>vi</sup> The Accessible Canada Act came into force in 2019. However, the Act remains silent and fails to address the educational challenges faced by people with disabilities.
11. In a case in 2022, the Quebec Human Rights and Youth Rights Commission upheld a complaint against the English Montreal School board for discrimination against a student with learning disabilities.<sup>vii</sup> Children with learning disabilities need access to an equitable and meaningful education.
12. Canada has ratified the Convention on the Rights of Persons with Disabilities. Canada had previously accepted recommendations that it would take steps to counter the absence of inclusive education in a school setting. Despite this, there need to be more steps taken by Canada to implement the same. Article 24 of the Convention on the Rights of Persons with Disabilities mandates the right to inclusive education. It requires that all barriers preventing inclusive education be removed.

### IV. Immigrants, COVID-19 and the Right to Education

13. Canada has a vast immigrant population. One of the significant issues these immigrant children face in education is the issue of language. While Canada has made great leaps in this matter, it is seen that barriers still exist. In an analysis that was conducted in 2021, it was observed that it is because of the different school approaches and policies implemented.<sup>viii</sup> This difference in the methods has led to immigrant children needing help to achieve their full potential since they need help to overcome the language barrier.
14. With relation to the pandemic, there were technological products that could surveil children online, giving these specialised products the ability to invade the personal lives

of these children. It also transmitted the personal data of these children to advertising technology companies.<sup>ix</sup> So far, action has yet to be taken, mainly by the Ontario and Quebec education ministries.

15. As per the OECD Indicators: Education at a Glance 2022, it was stated that while programmes were carried out at a sub-national level, no national-level programmes were carried out by Canada to support the students affected by the pandemic in the country.<sup>x</sup>

## V. African Canadian Children and the Right to Education

16. In the 2020 case of JKB v. Regional Municipality of Peel Police Services Board, the Human Rights Tribunal awarded damages against the Peel Regional Police Board. The tribunal ruled that the action taken by the Peel Police was a racially discriminatory force against a six-year-old Black girl while she was attending school. The Tribunal saw this case as severely violating the child's human rights. The Tribunal adjudicator held that because the victim was a Black person, she was treated differently than a white child. The child having to experience anti-Black racism at such a tender age was alarming. She had been teased, felt humiliated and isolated herself from her friends.<sup>xi</sup>
17. Cases such as the ones above and others in the past continue to highlight the systemic racism in Canada. School children experiencing racism in an environment such as a school considered a safe environment have suffered implicit harm at a very fragile age. Experiencing anti-Black racism in school at such tender ages dramatically affects self-confidence, shame, and humiliation. It is an injury to dignity, feelings and self-respect. It causes a severe lack of distrust and instability in the safety of not just one individual but the entire Black community. Canada needs to engage actively in countering this problem.

## VI. Recommendations

18. Based on the above analysis, Broken Chalk would like to offer some recommendations to encourage Canada to improve the educational quality within the country further.
19. Have adequate funding be provided to the Indigenous peoples so that their languages may be taught in institutions with fully qualified teachers to do so. Canada had, in its 3<sup>rd</sup> cycle, supported this recommendation. However, Canada needs to put in better efforts to enhance the rights of Indigenous peoples, particularly concerning the right to education.
20. Implement Jordan's Principle urgently. While Canada is taking steps to work on the legal framework regarding the same, Canada needs to redouble its efforts so that the Indigenous peoples can receive the same health and social services as other Canadian children. The Indigenous peoples must not continue to suffer because of this absence. This is a severe disregard for their human rights.
21. Canada needs to consciously hire more teachers equipped to teach these Indigenous languages within educational institutions. People from within the Indigenous communities could be given the training to teach their language and train other teachers from outside of the Indigenous communities so that more certified teachers capable of teaching Indigenous languages are available. Including the parents of these Indigenous

children in managing minority language schools is a guaranteed right under section 23 of the Canadian Charter of Rights and Freedoms.

- 22.** Another way to counter this problem is to mobilise among the student community nationwide. The students from schools and universities would be successful volunteers. They can be encouraged to learn the language to teach the same to the children from Indigenous communities within their province or territory.
- 23.** Adequate funding needs to be provided by the Government for these Indigenous languages to be implemented and taught within the various educational institutions.
- 24.** While Canada continues to provide some funding for Indigenous purposes, more than an acknowledgement of money is needed. Despite having codified laws, the attitudes of the Canadian government towards their general treatment towards Indigenous peoples remain the same. Canada needs to showcase that Indigenous people are one with society positively. It is not enough to have monetary settlements and codified laws exist; Canada must consciously try to end discriminatory practices towards Indigenous people.
- 25.** Take steps to remove the inequalities faced by the person with disabilities keeping in mind the right to education through the implementation of complete and adequate classroom catering to the needs of the person with disabilities and ensuring an inclusive education, particularly in the case of special needs children.
- 26.** Supporting services in schools provided to persons with disabilities in educational settings must be offered free.
- 27.** Mobilising the student community to create a more inclusive space for the person with disabilities can also be incorporated by Canada. This could be through encouraging them to learn different skills, such as sign language, to help those with hearing difficulties.
- 28.** Justice needs to be brought for issues related to online education during the pandemic, particularly after implementing the Protecting Canadians from the Online Crime Act in 2015.
- 29.** Targeted intensive learning programmes must be implemented for those minority groups affected most by Covid-19.
- 30.** Policymakers and school authorities should address the non-linguistic needs of immigrant students. This can be done by implementing policies focusing on their social, cultural and economic conditions.
- 31.** Ensure the elimination discriminatory treatment and harsh disciplinary practices towards African Canadian children.
- 32.** Implement legally binding remedies to address systemic racism to prevent and eradicate situations as seen in *JKB v. Regional Municipality of Peel Police Services Board*.
- 33.** Conduct professional development sessions for safeguarding the rights, within an educational setting, of vulnerable groups such as African Canadians, Indigenous peoples and other vulnerable groups.

<sup>i</sup> Letter by the High Commissioner to the Foreign Minister, 2018.

<sup>ii</sup> Truth and Reconciliation Commission of Canada (2015), *Honouring the truth, reconciling for the future: summary of the final report of the Truth and Reconciliation Commission of Canada*, Winnipeg, [https://irsi.ubc.ca/sites/default/files/inline-files/Executive\\_Summary\\_English\\_Web.pdf](https://irsi.ubc.ca/sites/default/files/inline-files/Executive_Summary_English_Web.pdf)

<sup>iii</sup> United Nations Special Rapporteur on the rights of Indigenous Peoples, March 2023.

<sup>iv</sup> <https://www.ohchr.org/en/press-releases/2023/03/canada-un-expert-decries-appalling-legacy-residential-schools-calls>

<sup>v</sup> <https://www.nytimes.com/2023/01/21/canada-indigenous-settlement.html>

<sup>vi</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Paragraph 71, May 2018.

<sup>vii</sup> <https://www.dyslexiacanada.org/en/news/discrimination-against-a-young-student-with-learning-disabilities> January 12<sup>th</sup>, 2022.

<sup>viii</sup> The Education and Integration of Immigrant Children in Ontario: A Content Analysis of Policy Documents Guiding Schools' Response to the Needs of Immigrant Students. Canadian Journal of Educational Administration and Policy, 191, 2-21, Carla Camila Lara and Louis Volante <https://files.eric.ed.gov/fulltext/EJ1238333.pdf>

<sup>ix</sup> <https://www.hrw.org/world-report/2023/country-chapters/canada>

<sup>x</sup> Education at a Glance 2022: OECD Indicators. <https://www.oecd-ilibrary.org/sites/5ea1485d-en/index.html?itemId=/content/component/5ea1485d-en>

<sup>xi</sup> JKB v. Regional Municipality of Peel Police Services Board <https://www.hrlsc.on.ca/sites/default/files/docs/en/Media/2017-29780-1%20JKB%20Remedy%2031-Dec-2020.pdf>



Kingsfordweg 151, 1043 GR

Amsterdam, Netherlands

+31687406567 | [upr@brokenchalk.org](mailto:upr@brokenchalk.org) | [www.brokenchalk.org](http://www.brokenchalk.org)

<https://twitter.com/brokenchalk>

<https://www.youtube.com/brokenchalk>

<https://www.linkedin.com/company/brokenchalk>

<https://www.facebook.com/BrokenChalk>

[https://www.instagram.com/brokenchalk\\_](https://www.instagram.com/brokenchalk_)