



**Submission to the OHCHR for
the 4th Periodic Review of
Canada on the Implementation
of the Universal Declaration of
Human Rights**

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Canadian Poverty Institute



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By the Canadian Poverty Institute

About the Canadian Poverty Institute

The Canadian Poverty Institute is an inter-disciplinary institute housed within Ambrose University, located in Calgary, Alberta, Canada. The mission of the Canadian Poverty Institute is to advance the eradication of poverty in Canada through teaching, research and action that promotes systems change. The mandate of the Canadian Poverty Institute is to enable key stakeholders to effectively address systemic causes of poverty by connecting knowledge to practice.

Response to Recommendations of the Third Periodic Review

This submission provides a response and update to recommendations in the Report of the Working Group on the Universal Periodic Review – Canada (2018).

a. Theme A43: Human Rights Policies

- i. Recommendation 142.36: Strengthen the coordination on human rights implementation across levels of government in order to ensure better implementation domestically.

Discussion: Lack of conditionality on federal social transfers to the provinces has continued to allow restrictions in eligibility and reductions in benefit levels for social security in contravention of Article 22 of the Universal Declaration of Human Rights.

Accordingly, the Canadian Poverty Institute supports the recommendation (7) of the UN Economic and Social Council, Committee on Economic, Social and Cultural Rights in its concluding observations on the sixth periodic review of Canada:

- “... that economic, social and cultural rights be incorporated into inter-governmental agreements and enabling legislation for municipalities, and that transfer of payments take into due account compliance with Covenant rights.”

b. Theme A44: Structure of the National Human Rights Machinery

- i. Recommendation 142.37: Establish a mechanism to follow up and implement human rights at all levels of government.

Discussion: The federal poverty reduction strategy “Opportunity for All” has established national poverty reduction targets aligned with the UN Sustainable Development Goals, and identifies poverty as a violation of human rights. The strategy, however, failed to establish a national accountability framework that provides sub-national targets and associated monitoring and reporting processes.

Accordingly, the Canadian Poverty Institute recommends that a national rights-based poverty reduction framework be developed that provides targets and associated monitoring and reporting processes for sub-national orders of government.

c. Theme B31: Equality and Non-Discrimination

- i. Recommendation 142.47: Continue to implement policies to reduce inequalities, especially among Indigenous peoples, racial and religious minorities, and increase access to basic social services for all.
- ii. Recommendation 142.39: Further intensify its efforts for the elimination of structural inequality and intersectional discrimination faced by vulnerable groups.

Discussion: Inequalities persist among equity deserving communities including racialized and Indigenous persons, recent immigrants, women and sexual minorities, and persons with disabilities. This is reflected in lower incomes, heightened levels of un- or under-employment, elevated rates of housing and food insecurity and disproportionately high poverty rates. This is related to a variety of historical and current structural factors that reproduce patterns of social exclusion. This includes the history of colonization and Residential Schools that has produced intergenerational trauma among Indigenous peoples. Among immigrants, the lack of recognition of foreign credentials inhibits full economic participation. Finally, over the past three years, Canada has witnessed an alarming rise in overt racism, discrimination and acts of hate targeting minority communities.

Accordingly, the Canadian Poverty Institute recommends that increased measures be taken by all orders of government to enforce existing human rights protections and address hate speech. Additional efforts at public awareness and promotion of the values of diversity and respect for human rights are also needed.

d. Theme E1: Economic, Social and Cultural Rights

- i. Recommendation 142.161: Guarantee universal access to health care, education and a high standard of living without discrimination.
- ii. Recommendation 142.168: Continue promoting the living conditions of racial and ethnic minorities, especially in the areas of health care and decent housing.

Discussion: Inequalities persist among equity deserving communities including racialized and Indigenous persons, recent immigrants, women and sexual minorities, and persons with disabilities. This is reflected in increased rates of food insecurity and core housing need. Workers from minority communities are also disproportionately employed in precarious work that typically does not provide extended health benefits. This limits access to supplemental health care such as vision care, dental care, pharmaceuticals and mental health supports. Current efforts by some Provinces to de-insure certain services and allow private for-profit care are also of concern. Further, steep increases to post-secondary tuition jeopardizes access to higher education by lower-income youth, particularly from equity-deserving communities.

Accordingly, the Canadian Poverty Institute recommends that:

- Canada's program of universal health care be expanded to include vision, dental, pharmaceutical and mental health care.

- The National Housing Strategy specifically target and address the particular needs of households from equity-deserving communities.
- The federal government impose conditions on Education transfers to the Provinces to restrict tuition increases, and increase the amount of federal student loans and grants.

iii. Recommendation 142.149: Ensure the justiciability of economic, social and cultural rights.

Discussion: Economic, social and cultural rights continue to be non-justiciable in domestic courts of law. Recent court decisions, however, have suggested that such rights may in certain circumstances be considered in judgments. In particular, the case of the Region of Waterloo (Ontario) that sought an injunction to allow the forced eviction of residents of a homeless encampment on public land was denied on the basis that it violated the right to life and the security of the person for the homeless residents due to the unavailability of alternative safe shelter.

The Canadian Poverty Institute applauds this decision as a step forward in establishing economic, social and cultural rights in Canadian domestic case law. The Canadian Poverty Institute also applauds the federal government for establishing a Housing Advocate to advance the right to housing in Canada. The Canadian Poverty Institute further reiterates and supports recommendation (18) of the UN Economic and Social Council, Committee on Economic, Social and Cultural Rights in its concluding observations on the sixth periodic review of Canada:

- “... that the State party include social condition among the prohibited grounds of discrimination in the Canadian Human Rights Act, and in the provincial human rights acts as necessary.”

e. Theme E23: Right to Adequate Housing

i. Recommendation 142.160: Ensure that adequate measures are put in place to prevent homelessness.

Discussion: Homelessness and the risk of it continues to escalate across Canada due to rapid and steep increases in the cost of housing. A particular manifestation of this crisis is the emergence of homeless encampments in major urban centres. The response of local governments to the presence of such encampments has been punitive, involving forced evictions in violation of the civil, political, economic, social and cultural rights of the residents.

Accordingly, the Canadian Poverty Institute applauds the recent court decision that affirmed the rights of residents of homeless encampments to remain in such encampments in the absence of appropriate alternate shelter. The Canadian Poverty Institute further recommends that all orders of government work together to provide services to, and ensure the safety of, encampment residents and seek any and all alternatives to forced displacement until appropriate and dignified alternative shelter can be provided.

f. Theme E24: Right to Social Security

- i. Recommendation 142.138: Continue to support the social assistance programme and improve individual and family income.

Discussion: The current level of provincial income support is woefully insufficient, falling far below the respective poverty lines. This is a clear violation of the right to social security and to an adequate standard of living. Similarly, federal Employment Insurance eligibility is restricted such that a sizable portion of Canada's unemployed remain unprotected.

Accordingly, the Canadian Poverty Institute reiterates and supports recommendations (7, 30 and 32) of the UN Economic and Social Council, Committee on Economic, Social and Cultural Rights in its concluding observations on the sixth periodic review of Canada:

- (7) “... that economic, social and cultural rights be incorporated into inter-governmental agreements and enabling legislation for municipalities, and that transfer of payments take into due account compliance with Covenant rights.”
- (30) “... that the State party ensure that Social Assistance rates are increased in all provinces to levels that allow a decent living for beneficiaries and their families so as to ensure an effective income safety net ...”
- (32) “... that the State party revise the eligibility thresholds and amounts of employment insurance, with a view to ensuring that all workers, including part-time and temporary foreign workers, can access adequate employment insurance benefits without discrimination.”

The Canadian Poverty Institute further recommends that the federal government work with the Provinces and Territories to establish a Universal Basic Income that would guarantee all citizens a decent standard of living.

g. Theme E25: Human Rights and Poverty

- i. Recommendation 142.150: Ensure that those living in poverty are not unduly criminalized.

Discussion: Persons living in poverty, particularly those who are unsheltered, are at greater risk of being criminalized due to their living conditions. This is particularly true with respect to local by-laws. This includes matters such as loitering, public urination, failure to purchase transit fares, or sleeping / sheltering in restricted places. In particular, during periods of extreme weather, such as cold, unsheltered people may take shelter in public spaces such as transit stations or vehicles without payment of the proper fare. They then risk being fined and / or removed from that place of shelter. This poses great risk to their life, health and security of person if forced to leave the shelter into life-threatening weather conditions.

Accordingly, the Canadian Poverty Institute recommends that the right to shelter be affirmed such that during extreme weather conditions, persons without shelter have

the right to remain in public places for shelter until appropriate alternate shelter and transportation to it can be arranged.

- ii. Recommendation 142.159: Continue to holistically address poverty and homelessness, taking into consideration the needs of the most vulnerable communities, in particular Indigenous communities.

Discussion: The condition of poverty involves more than just a lack of money. It is equally a social condition characterized by social exclusion, and a spiritual condition characterized by a loss of meaning, dignity and hope. These interdependencies reflect the indivisibility of economic, social and cultural rights. The holistic nature of poverty is reflected in the official definition of poverty provided in the federal government's poverty reduction strategy which defines poverty as "*The condition of a person who is deprived of the resources, means, choices and power necessary to acquire and maintain a basic level of living standards and to facilitate integration and participation in society.*" The Canadian Poverty Institute affirms this definition but recommends that lack of dignity also be included as a constitutive element of poverty and consequently foundational to efforts to eradicate it. The official definition of poverty should be so amended. Further, poverty reduction must be integrated across the public service through a whole-of-government approach that reflects the holistic nature of the condition.

- iii. Recommendation 142.154: Introduce all measures necessary to combat poverty more effectively while paying particular attention to vulnerable groups and individuals.

Discussion: Poverty and the risk of poverty remain elevated in Canada, and are disproportionately high among equity deserving communities including women, racialized and Indigenous persons, persons with disabilities and female-headed single parent households. Due to the relative wealth of Canadian society, this disparity should not exist given the principle of "maximum available resources".

While the Canadian Poverty Institute applauds the federal government for the development of a national poverty strategy, we reiterate and support recommendation (10) of the UN Economic and Social Council, Committee on Economic, Social and Cultural Rights in its concluding observations on the sixth periodic review of Canada:

- "... *that the State party increase national spending to guarantee Covenant rights so as to achieve the progressive realization of economic, social and cultural rights.*"

In Canada, social protection is a three-way responsibility of the State, civil society and the business community. Failure by the business community to provide decent work and a living wage impose a cost on the State and civil society. Consequently, the Canadian Poverty Institute recommends that these costs be recouped through a tax policy that imposes a higher rate of taxation on employers that fail to provide decent work as defined by the International Labour Organization. This proposal is aligned with the recommendation (10) of the UN Economic and Social Council, Committee on Economic, Social and Cultural Rights in its concluding observations on the sixth

periodic review of Canada to:

- “... *implement a tax policy that is adequate and socially equitable and improve tax collection so as to ensure the mobilization of resources sufficient for implementing economic, social and cultural rights.*”

Finally, it is imperative that efforts to reduce and eradicate poverty be evidence-based. Accordingly, the Canadian Poverty Institute recommends that the federal government develop and fund a research, data and knowledge mobilization strategy that aims to increase knowledge of the causes and impacts of poverty and best or promising practices in poverty reduction.

h. Theme E31: Right to Work

- i. Recommendation 142.132: Take all measure to ensure the adoption of employment equity legislative and policy measures in all jurisdictions to address unemployment faced by disadvantaged and marginalized groups.

Discussion: Rates of un- and under-employment remain elevated for persons from equity-deserving communities, despite typically having equal or higher rates of education and skill than the general population. Workers from such communities remain disproportionately employed in precarious employment conditions and were most affected by unemployment associated with the Covid-19 pandemic.

Accordingly, the Canadian Poverty Institute supports all efforts to ensure the adoption and full enforcement of employment equity policy and legislation in all jurisdictions. The Canadian Poverty Institute further recommends that the scope of the Court Challenges Program be broadened to include cases involving breaches of economic, social and cultural rights.

- ii. Recommendation 142.130: Ensure equality of opportunity for all citizens, so that each eligible person would be able to work in high-level and professional job positions.

Discussion: Foreign trained professionals continue to struggle to achieve certification in their professions upon arrival in Canada, leaving many in conditions of un- or under-employment and in or at risk of poverty. Accordingly, the Canadian Poverty Institute recommends that the federal government continue to work with the Provinces to increase and / or mandate the recognition of foreign qualifications.

i. Theme E32: Right to Just and Favourable Conditions of Work

- i. Recommendation 142.136: Take steps to reduce the employment gap among immigrants by the provision of employment opportunities without discrimination.
- ii. Recommendation 142.135: Promote fairer working conditions for all, including migrant workers.

Discussion: Working poverty remains an important issue due to the continued and growing prevalence of precarious employment. Accordingly, the Canadian Poverty Institute recommends that the federal government promote the development of Decent Work as defined by the International Labour Organization through the

following measures:

- Establish a corporate tax structure that imposes higher rates of taxation on employers that do not protect the economic, social and cultural rights of workers;
- Include social and environmental performance, including the provision of decent work, as a criteria for awarding federal contracts;
- Establish the Benefit Corporation (B-Corp) as a legally recognized form of Corporation;
- Provide support to small and medium sized enterprises to achieve certification as a B-Corp or other relevant certification of social and environmental performance.

The Canadian Poverty Institute further reiterates and supports the recommendation (26) of the UN Economic and Social Council, Committee on Economic, Social and Cultural Rights in its concluding observations on the sixth periodic review of Canada:

- “... that the State party ensure that the minimum wage is increased in all jurisdictions and adjusted and regularly indexed to the cost of living so as to allow a decent living for all workers and their families.”

j. Theme B73: Human Rights and Climate Change

- i. Recommendation 142.87: Engage actively with the international community in efforts to promote and protect human rights in the context of climate change.

Discussion: Climate change continues to impact the most vulnerable households and communities. This includes increased exposure to environmental hazards and extreme weather events, as well as reduced capacity to absorb the shocks associated with them. In particular, there is an important Insurance Protection Gap associated with such vulnerability as many households remain un- or under-insured with little financial resiliency in the event of a shock. Lower-income households are also more likely to experience energy poverty as they may live in less energy efficient housing and are least able to afford the upgrades required to reduce their energy consumption.

Accordingly, the Canadian Poverty Institute recommends:

- The federal government work with the Provinces and Territories to develop an Inclusive Insurance Strategy for Canada to reduce the Insurance Protection Gap among vulnerable households and communities.
- The federal government work with the Provinces and Territories to develop a robust program that supports low-income households to make meaningful climate adaptations to their living environments.

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