



Universal Periodic Review

Joint Submission

Human Rights in Canada

Submitted by:

IIMA - Istituto Internazionale Maria Ausiliatrice

ERI - Edmund Rice International

**VIDES International - International Volunteerism Organization for
Women, Education, Development**

(NGOs in consultative status with ECOSOC)

With the support of

VIDES Canada

Vancouver College

St. Thomas More Collegiate

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A. INTRODUCTION

1. The following report is a *joint submission* of the above-mentioned organizations. Taking note of the significant advances achieved by Canada to guarantee the full enjoyment of human rights in the country, this report focuses on major issues affecting the **elderly, disabled and mentally ill as well as the Indigenous Peoples in Canada**. Each section of the report conveys recommendations to the Government of Canada.

2. This report is a result of an intensive consultation process that took place over the course of three months. Employing a methodology of empirical investigation, the data and information reflect the experience of the submitting organizations and of their partners in the field. With specific regard to the implementation of Indigenous peoples' rights, the report obtained is the result of the survey carried out by our coalition of NGOs mainly on the rights of Indigenous people living in remote Northern regions of the country, trying to reflect the greatest possible diversity in the sample obtained. The observations, analyses and recommendations presented here are mainly based on data prepared by official agencies and first-hand testimonies. In-depth interviews were conducted with elders and other adults living in remote Northern communities¹. Considering the vast geography of Canada, the samples were selected to be as representative as possible in order to reflect the diversity of Canada's Indigenous communities. The interviews were conducted in at least two communities in each of Ontario, Quebec, Saskatchewan, Northwest Territories, Nunavut, taking into account varying degrees of remoteness. Further information was obtained via data analysis of statistics provided by research organizations and the Government of Canada.

3. **IIMA** is an international NGO in special consultative status with the Economic and Social Council. IIMA is present in 97 countries where it provides education to children, adolescents, youth and women, particularly the most disadvantaged and vulnerable.

4. **VIDES International**, established in 1987, is an international NGO in special consultative status with the Economic and Social Council operating in 43 countries. It promotes volunteer service at the local and international levels to ensure the implementation of human rights to vulnerable groups, especially children and women.

5. **VIDES Canada** is a volunteer mission organization that is dedicated to education and development for children, youth and women in situations of poverty, marginalization, or difficulty, both in Canada and worldwide. VIDES Canada is part of VIDES International.

6. **Edmund Rice International** is an international non-governmental organization, founded in 2005 with Special Consultative Status with ECOSOC since 2012. ERI is supported by two Catholic Religious Congregations, the Christian Brothers, and the Presentation Brothers. It works with network of like-minded organizations and in the countries where the two Congregations are present. ERI has a special interest in the rights of the child, the right to education and in eco-justice.

7. **Vancouver College** is a Catholic school committed to advocating for those marginalized through poverty and injustice.

¹ <https://www150.statcan.gc.ca/n1/pub/11-633-x/11-633-x2020002-eng.htm>

8. **St. Thomas More Collegiate** is a Catholic school committed to advocating for those marginalized through poverty and injustice.

B. GENERAL REMARKS ON THE 3rd UPR OF CANADA

9. This NGO coalition welcomes the constructive participation of Canada in the 3rd cycle of the Universal Periodic Review (UPR). We value the work carried out by the different agencies of Canada in the framework of the promotion and guarantee of human rights. The present joint submission represents the follow-up to the UPR recommendations accepted by Canada in 2018 in order to contribute to the upcoming Universal Periodic Review of Canada during the 44th session (4th cycle).

C. HUMAN DIGNITY OF THE MOST VULNERABLE

10. This NGO coalition perceives that the **elderly, disabled and mentally ill**, are part of the most vulnerable groups in Canada, due to the lack of human dignity offered to them by society. In 2018, the Government of Canada accepted several recommendations,² which directly or indirectly aimed at improving the situation of these specific groups.

11. With specific regards to the elderly, the government had agreed to:

- *Continue efforts made to protect the rights of the elderly.*³

12. With specific regards to the disabled, the government had agreed to:

- *Develop and apply mechanisms for combating inequality and discrimination affecting persons with disabilities and for gathering data on progress made.*⁴
- *Allocate the necessary resources to enable persons with disabilities to be afforded opportunities to improve their overall well-being and live in dignity.*⁵

13. With specific regards to the mentally ill, the government has agreed to:

- *Develop people- and community-centred mental health services that do not lead to institutionalization, over-medicalization or practices that do not respect the rights, will and preferences of all persons.*⁶

14. Nevertheless, we regret that Canada has not done enough to fully implement these recommendations.

Covid 19 Impacts on the Elderly

15. When covid-19 hit, the elderly was disproportionately impacted. Not only did nursing home deaths account for 69% of Canada's overall COVID-19 deaths⁷, but residents were isolated from the friends and families who play a vital role in their caregiving due to staff

² See Report of the Working Group on the Universal Periodic Review, Canada, UN Doc. A/HRC/39/11, 11 July 2018, and its Addendum, UN Doc. A/HRC/39/11/Add.1, 18 September 2018.

³ Recommendation n. 84 (Morocco), *ibid.*

⁴ Recommendation n. 217 (Panama), *ibid.*

⁵ Recommendation n. 220 (Malaysia), *ibid.*

⁶ Recommendation n. 170 (Portugal), *ibid.*

⁷ <https://www.cbc.ca/news/canada/ottawa/canada-record-covid-19-deaths-wealthy-countries-cihi-1.5968749>

shortages. Media coverage of the neglect of the elderly in nursing homes was extensive, articles were written by CNN, the Washington Post, the NY times etc⁸. The situation became so serious that Canadian Military were called in to help at long-term care facilities in the provinces of Ontario and Quebec. When this occurred, revelations of the horrific treatment of the elderly came to light-

- Covid 19 positive patients allowed to wander around
- Staff not changing PPE
- Poor Palliative Care Standards
- Residents who routinely soil their beds not permitted to have an extra soaker pad or towel in their beds
- Severe understaffing
- People sedated with narcotics when they are likely just depressed or sad
- Aggressive/Inappropriate/Abusive behaviour by staff
- Forceful feeding
- Patients observed crying for help with staff not responding for 30 minutes to 2 hours.

16. These were only a few of the findings documented by the military in a report issued in May 2020 and signed off on by the commander of the 4th Canadian Division, Brig.-Gen. Conrad Mialkowski.⁹

Medical assistance in dying (MAID)

17. Canada's revised medical assistance in dying (MAID) came into force on March 17, 2021. More than 30,000 Canadians have died with medical assistance since it became legal in 2016 – more than 10,000 of them in 2021, accounting for 3.3% of Canadian deaths that year, according to official data. The vast majority were deemed close to their "natural" death.¹⁰

18. Eligibility for MAID is for those who meet these criteria:

- be eligible for health services funded by the federal government, or a province or territory (or during the applicable minimum period of residence or waiting period for eligibility)
- generally, visitors to Canada are not eligible for medical assistance in dying
- be at least 18 years old and mentally competent. This means being capable of making health care decisions for yourself.
- have a grievous and irremediable medical condition
- make a voluntary request for MAID that is not the result of outside pressure or influence
- give informed consent to receive MAID¹¹

19. Unfortunately, a “grievous and irremediable medical condition” includes having a disability (excluding a mental illness until March 17, 2023). A person need not have a fatal or terminal condition to be eligible for medical assistance in dying.

⁸ <https://www.cnn.com/2021/02/28/americas/canada-care-homes-pandemic/index.html>

<https://www.nytimes.com/2020/04/17/world/canada/canada-coronavirus.html>

<https://www.washingtonpost.com/opinions/2021/04/06/canada-covid-deaths-long-term-care-nursing-homes/>

⁹ <https://www.documentcloud.org/documents/6928480-OP-LASER-JTFC-Observations-in-LTCF-in-On.html>

¹⁰ <https://www.reuters.com/world/americas/canada-prepares-expand-assisted-death-amid-debate-2022-12-11/>

¹¹ <https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html>

20. The general attitude in Canada is that those deemed not to have a good enough quality of life should be given the option of death as opposed to community supports in order to live a life of human dignity. The Canadian government also desires to expand MAID to the mentally ill. This desire was met with public backlash and resulted in the delay of its implementation.

21. Reports have come to light that a paraplegic veteran Christine Gauthier, who competed for Canada at the 2016 Rio de Janeiro Paralympics and the Invictus Games that same year, was offered MAID when all she wanted was a home wheel chair ramp.¹² Other instances of veterans been offered MAID instead of social supports have been identified.¹³

22. With healthcare being paid for by the Government of Canada, there is an incentive for the government to offer MAID to the vulnerable as it saves money. Providing counselling, treatment, healthcare and accommodation to the vulnerable costs a lot more money. The government can easily save resources by offering MAID with the justification of “freedom of choice.”

23. According to the Canadian Institute for Health Information few Canadians (15%) have early access to palliative care in the community.¹⁴ As a result vulnerable people may feel pressured to accept MAID as they feel as if there is no other option.

24. The situation just described in Canada is unfortunately part of a generalized trend that is spreading worldwide. Accordingly, on 25 January 2021, Gerard Quinn, Special Rapporteur on the rights of persons with disabilities; Olivier De Schutter, Special Rapporteur on extreme poverty and human rights; and Claudia Mahler, Independent Expert on the enjoyment of all human rights by older persons had expressed alarm at a growing global trend to enact legislation enabling access to medically assisted dying based largely on having a disability or disabling conditions, including in old age.

25. “We all accept that it could never be a well-reasoned decision for a person belonging to any other protected group – be it a racial minority, gender or sexual minorities - to end their lives because they experience suffering on account of their status [...]. **Disability should never be a ground or justification to end someone’s life directly or indirectly.**” - the UN experts said.

26. In fact, such legislative provisions risk to institutionalize and legally authorize ableism, and directly violate Article 10 of the UN Convention on the Rights of Persons with Disabilities, which requires States to ensure that persons with disabilities can effectively enjoy their inherent right to life on an equal basis with others. The UN experts said that when life-ending interventions are normalised for people who are not terminally ill or suffering at the end of their lives, such legislative provisions tend to rest on - or draw strength from - ableist assumptions about the inherent ‘quality of life’ or ‘worth’ of the life of a person with a disability.

27. “These assumptions, which are grounded in ableism and associated stereotypes, have been decisively rejected by the Convention on the Rights of Persons with Disabilities. Disability is not a burden or a deficit of the person. It is a universal aspect of the human condition. **Under**

¹² <https://www.cbc.ca/news/politics/christine-gauthier-assisted-death-macaulay-1.6671721>

¹³ <https://nationalpost.com/news/canadian-veterans-assisted-suicide>

¹⁴ <https://www.chpca.ca/wp-content/uploads/2020/03/CHPCA-FactSheet-D.pdf>

no circumstance should the law provide that it could be a well-reasoned decision for a person with a disabling condition who is not dying to terminate their life with the support of the State.” The experts said that **even when access to medical assistance in dying is restricted to those at the end of life or with a terminal illness, people with disabilities, older persons, and especially older persons with disabilities, may feel subtly pressured to end their lives prematurely due to attitudinal barriers as well as the lack of appropriate services and support.**

28. “The proportion of people with disabilities living in poverty is significantly higher, and in some countries double, than that of people without disabilities,” they said. “People with disabilities condemned to live in poverty due to the lack of adequate social protection can decide to end their lives as a gesture of despair.” Finally, the UN experts also expressed concern at the lack of involvement of people with disabilities, as well their representative organizations, in drafting relevant legislation.¹⁵

29. This coalition of NGOs recommends Canada to:

- a) Increase funding and staffing to Long Term Care Facilities in order to provide adequate assistance to residents;***
- b) Ensure adequate and meaningful participation of people with disabilities, as well their representative organizations, in drafting laws, policies and regulations that affect their rights, including with regard to assisted dying, as a key component of Canada’ obligations to promote, protect and fulfill everyone’s right to life on an equal basis;***
- c) Continue its efforts to support the role of NGOs to address current gaps in the protection of the most vulnerable in Canada, especially elderly, disabled and mentally ill persons.***

D. THE RIGHTS OF INDIGENOUS PEOPLES

30. With regard to the rights of Indigenous Peoples, the present report recovers the commitments assumed by Canada before the United Nations. Such commitments emanate both from international agreements and treaties, as well as from the past Universal Periodic Review of 2018, in particular Recommendations n. 140, 141, 143, 144, 145, 146, 147, 148, 173, 174, 231, 232, 236, 240, 242, 243, 244, 246, 247 and 248.¹⁶ We welcome the numerous initiatives undertaken by Canada to improve the delivery and quality of services for First Nations, Inuit and Métis.

31. 12% of Canada’s population lives in a region of Canada defined as moderately, more or most remote¹⁷. Conversely, over half of the people living in communities identified as Indigenous live in a region identified as more or most remote.¹⁸ Therefore, human rights

¹⁵ <https://www.ohchr.org/en/press-releases/2021/01/disability-not-reason-sanction-medically-assisted-dying-un-experts>

¹⁶ See Report of the Working Group on the Universal Periodic Review, Canada, UN Doc. A/HRC/39/11, 11 July 2018, and its Addendum, UN Doc. A/HRC/39/11/Add.1, 18 September 2018.

¹⁷ <https://www12.statcan.gc.ca/census-recensement/2021/as-sa/98-200-x/2021002/98-200-x2021002-eng.cfm>

¹⁸ <https://www12.statcan.gc.ca/census-recensement/2016/ref/dict/geo012-eng.cfm>

issues affecting people living in Canada's remote North disproportionately affect Indigenous people, comprised of First Nations, Métis and Inuit people.¹⁹

32. In 2018, Canada accepted several UPR recommendations concerning the implementation of the rights of Indigenous people²⁰ and has undertaken numerous initiatives to improve access to services for Indigenous Peoples.

Lack of equitable access to drinking water (SDG# 3, SDG# 6, SDG# 10)

33. Despite the considerable progress made by the Government of Canada to end all long term drinking water advisories in Indigenous Communities, as of February 2023, 32 long term drinking water advisories remain in 28 communities.²¹ Some of these drinking water advisories have been in place for 25 years or more.

34. While Canada has been successful in lifting many long term drinking water advisories, 34 new such advisories have been added since 2018.²² Drinking water advisories can include an advisory to boil water, an advisory to avoid consumption of the water and an advisory to not use the water for any purpose, necessitating the purchase of water. The cost of purchasing bottled water is exorbitant in Northern Communities and further increases financial strain on residents. C.M. reports paying nearly \$50 for a 40 pack of 500ml water bottles, nearly eight times the cost of the same product in a southern Canadian city.

35. *This coalition of NGOs recommends Canada to:*

- a. Update existing legislation to provide remote First Nations communities with legally enforceable safe drinking water protections.*
- b. Use the model provided by the Atlantic First Nations Water Authority to expedite the transfer of responsibility for water services to First Nations Communities.*
- c. Increase accountability, including punitive financial measures, for organizations involved in environmental degradation resulting in water contamination of Northern communities.*
- d. Continue to increase funding from Indigenous Services Canada to First Nations organizations and engage these organizations in order to determine new models of service delivery that meet their own diverse needs, priorities and approaches.*

Lack of equitable access to food security (SDG# 2, SDG# 3, SDG# 10)

36. Food insecurity is an important determinant of health. 1 in 10 Canadians²³ suffer from some form of food insecurity. However, despite the establishment of the Local Food Infrastructure Fund, Indigenous People in Canada's remote North remain disproportionately

¹⁹ <https://www.rcaanc-cirnac.gc.ca/eng/1100100013785/1529102490303>

²⁰ Recommendations n. 140, 141, 143, 144, 145, 146, 147, 148, 173, 174, 231, 232, 236, 240, 242, 243, 244, 246, 247 and 248. See Report of the Working Group on the Universal Periodic Review, Canada, UN Doc. A/HRC/39/11, 11 July 2018, and its Addendum, UN Doc. A/HRC/39/11/Add.1, 18 September 2018.

²¹ <https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660>

²² <https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660>

²³ <https://www150.statcan.gc.ca/n1/pub/82-003-x/2022002/article/00002-eng.htm>

vulnerable to food insecurity. For Indigenous and Inuit people living in Canada's remote North, 45-69% report living with moderate to severe food insecurity.²⁴

37. As a result of the interviews conducted by this NGO coalition in at least two communities in each of Ontario, Quebec, Saskatchewan, Northwest Territories, Nunavut, taking into account varying degrees of remoteness, M.W. reports the existence of 2 grocery stores in their community, with very limited selection and prices often double that of a more southern, populous community. This experience is echoed by S.D.M. of another northern Indigenous community. C.M., a teacher living in a remote Northern community, states that it is not unusual for stores in remote communities to sell goods for up to five times the price they would be farther south. F.W. reports needing to drive 3-7 hours in order to secure food from a different store other than the limited, expensive options available in the community. S.D.M. reports being unable to leave the community in search of cheaper food options due to lack of transportation.

38. Moreover, S.W. reports a comparative scarcity of game available for traditional hunting practices due to environmental and pollution concerns, change in climate and noise pollution from increased skidoo and airplane traffic.

39. *This coalition of NGOs recommends Canada to:*

- a. Further expand and update the Nutrition North subsidy²⁵ to be of more benefit to the consumer than the supplier. This includes adding policies to hold Northern retailers accountable for price increases.*
- b. Create additional subsidies for transportation companies to lower the shipping cost of food to remote Indigenous communities with assurance in place that these lower shipping costs are reflected in lower prices for the consumer.*
- c. Increase accountability, including punitive financial measures, for organizations involved in environmental degradation resulting in loss of traditional hunting habitat and species diversity.*
- d. Increase engagement with First Nations remote communities to determine new models of service delivery that meet their own diverse needs, priorities and approaches.*

²⁴ Chantelle Richmond, Marylynn Steckley, Hannah Neufeld, Rachel Bezner Kerr, Kathi Wilson, Brian Dokis, First Nations Food Environments: Exploring the Role of Place, Income, and Social Connection, *Current Developments in Nutrition*, Volume 4, Issue 8, August 2020, nzaa108, <https://doi.org/10.1093/cdn/nzaa108>

²⁵ <https://www.nutritionnorthcanada.gc.ca/eng/1415538638170/1415538670874#tpc2>