

POVERTY IN BRITISH COLUMBIA IS A VIOLATION OF HUMAN RIGHTS

The existence of poverty in Canada is a violation of human rights. There is not only a moral duty to eradicate poverty but also a legal obligation under international human rights law.

A human rights approach to poverty reduction is based on a fundamental respect for human dignity as opposed to a charitable approach, and is grounded in the experiences and engagement of low-income people and communities. It recognizes people in poverty as rights-bearers entitled to assert legal claims rather than being passive recipients of charitable aid.

The Universal Declaration of Human Rights (UDHR, 1948) begins with

“...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

Basic civil and political rights, such as freedom of speech and the right to vote, are relatively well protected in Canadian law, but economic and social rights to basic necessities such as food, water, housing and education are routinely violated.

Without these rights secured, poverty is a barrier to accessing civil and political rights in a meaningful and effective way. This has a disproportionate impact on marginalized groups including women, LGBTQ+ communities, racialized and Indigenous persons, and people with disabilities, among others.

In 1976, Canada ratified the United Nations International Covenant on Economic, Social and Cultural Rights. Yet BC continues to have one of the highest rates of poverty in Canada. In order to protect and fulfill our economic, social and cultural rights, we need increased accountable, bold and comprehensive action to eliminate poverty. It's time for our governments to comply with their obligations under international law.



We are a coalition of over 100 members and over 400 supporting organizations, who have come together around a campaign aimed at seeing the introduction of an accountable, bold and comprehensive poverty reduction plan for British Columbia. It's time to tackle poverty at its roots. Get involved at bcpovertyreduction.ca

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HUMAN RIGHTS COMMITMENTS

At the international level, Canada has committed to several human rights obligations that guarantee social and economic rights to all. The *International Covenant for Economic, Social and Cultural Rights (ICESCR, 1966)*, Article 11(1) recognizes:

the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

As highlighted by the Office of the UN High Commissioner for Human Rights, **“all persons should, by virtue of their essential humanity, enjoy all human rights.”**¹ So human rights protection and fulfillment should be extended to migrants, refugees, asylum-seekers and other groups of non-citizens, as well as citizens.

Other protected rights include:²

- social protections (pensions, legal aid, workers’ compensation, employment insurance, etc.)
- adequate healthcare
- free public education
- a unionized workforce
- and the rights of women, people with disabilities, children, Indigenous peoples, and racial minorities related to specific aspects of poverty experienced by these groups

The Federal Government makes these international commitments in consultation with provincial and territorial governments. Article 28 of the ICESCR states that that Covenant’s provisions *“shall extend to all parts of federal States without any limitations or exceptions,”*³ and the Vienna Convention on the Law of Treaties highlights that the domestic constitutional division of powers cannot be invoked as a justification for non-compliance.⁴ This means that municipal, provincial and federal governments are all primary duty bearers for fulfilling these obligations.

If taken seriously, a commitment to respect, protect and fulfill these rights would eliminate poverty in Canada.

CANADA HAS RATIFIED 7 CORE ENFORCEABLE HUMAN RIGHTS CONVENTIONS:⁵

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1970)
- International Covenant on Civil and Political Rights (ICCPR, 1976)
- International Covenant on Economic, Social and Cultural Rights (ICESCR, 1976)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1981)
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 1987)
- Convention on the Rights of the Child (CRC, 1991)
- Convention on the Rights of Persons With Disabilities (CRPD, 2010)

POVERTY IN BC

The government of British Columbia is failing to meet its human rights obligations. The BC government is not ensuring an adequate standard of living (including the right to housing or food), access to legal aid, or adequate healthcare for all. Nor is it respecting the rights of marginalized groups. This remains the case despite the 2019 launch of BC's poverty reduction strategy.

Income inadequacy is the crucial determinant affecting all those in or at risk of poverty. In 2019, BC's welfare rate of \$760 per month is too low to provide an adequate standard of living, and the minimum wage of \$13.85 per hour is not enough to lift a full-time worker out of poverty. The UN Committee on Economic, Social and Cultural Rights has expressed particular concern about women's poverty, noting that inadequate welfare rates present an additional obstacle for women fleeing abusive relationships.⁶ Policy changes such as raising welfare rates and the minimum wage are an effective way to fulfill human rights obligations, but recent changes are not enough. The increase of \$150 to welfare over the last two years still maintains deep poverty and the minimum wage needs to reach \$15/hour immediately, not in June 2021 as promised.

While the BC government has made housing a priority, more substantial investment in social housing is necessary. The BC Homeless Count in 2019 identified 7,655 individuals experiencing homelessness (a severe underestimate as noted in the Count's report) and the City of Vancouver's count was the highest ever.⁷ According to the Canadian Observatory on Homelessness, *"Over the past 25 years, Canada's population has increased by 30% and yet, annual national investment in housing has decreased by 46%. Due to the epidemic of unaffordable housing in Canada, almost 1 in every 5 households experience serious housing affordability issues (spending over 50% of their low income on rent) which puts them at risk of homelessness."*⁸

Many essential health care services are not included in the public health care system, like dental care and eye exams. The costs of accessing dental care and eye exams, as well as eyeglasses or contact lenses, are a significant barrier for those living on low incomes. Almost 1 in 4 Canadian households reported that over the previous 12 months, they or someone in their household did not take their medicines as prescribed, if at all, because of the cost.⁹ Many people in Canada also remain locked out of our health care system. In 2019, the UN Human Rights Committee concluded that Canada violated the rights of Nell Toussaint by denying her essential health-care when she was an undocumented migrant.¹⁰ Canada refused to accept the decision.¹¹

Many marginalized groups are disproportionately impacted by poverty, including indigenous people, people with disabilities and mental health issues, recent immigrants and refugees, single mothers, single senior women, and queer and transgender people. The government continues to fail to address the distinct needs of these groups adequately.

CHILD POVERTY

The high rates of child poverty in BC violate BC's obligations to respect children's rights as enshrined in the United Nations Convention on the Rights of the Child (UNCRC).¹² Specifically:

Article 3: The best interests of the child shall be a primary consideration

Article 6: Children's right to their survival and development "to the maximum extent possible"

Article 19: Children's right to protection from neglect or negligent treatment

Article 24: Children's right to the enjoyment of the highest attainable standard of health

Article 27: Children's right to a standard of living adequate for their physical, mental, spiritual, moral and social development

Article 31: Children's right to full and equal participation in cultural, artistic, recreational and leisure activities

However, BC's poverty reduction legislation in November 2018 includes a target of reducing child poverty by 50% in five years and the government plans to introduce a Child Opportunity Benefit in January 2020 to move towards this target.¹³ This has the potential to support fulfilling some of these rights.

40-YEAR GAP BETWEEN PROMISE & ACTION

There is a huge gap between obligation and implementation that undermines the realization of human rights in Canada. This was identified by the Standing Senate Committee on Human Rights in 2001¹⁴ and has yet to be addressed.¹⁵ Canada should be held accountable for its lack of action.

According to the United Nations High Commissioner for Human Rights: International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfill human rights.¹⁶

The obligation:

- to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights;
- to protect requires States to protect individuals and groups against human rights abuses;
- to fulfill means that States must take positive action to facilitate the enjoyment of basic human rights.

Poverty reduction should centre on people's positive rights ensuring governments are accountable for promoting and fulfilling those rights not just protecting them against violations. See the sidebar on Canada's Obligations for examples of what that looks like in relation to the Right to Food.

Under Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), **States are required to use the maximum of their available resources to progressively realize all of the rights contained in the Covenant.**¹⁷ While recognizing that not all countries have the resources to immediately fulfill every protected right, the concept of "progressive realization" does not allow countries to delay the implementation of rights. In fact, it requires that States implement some obligations immediately, such as non-discrimination and equality, regardless of the country's financial situation. All States must then take steps and continue to move towards full realization of the rights protected by the Covenant, without moving backwards in regards to rights.

Despite Canada's human rights obligations, not one provincial poverty reduction initiative, including British Columbia's, is grounded in an understanding of poverty as a human rights issue. Only Quebec's plan references human rights in a short recognition of the international standards of living, while BC's briefly alludes to the re-establishment of the BC Human Rights Commission. If BC is serious about meeting its international human rights obligations, its poverty reduction legislation should start with a preamble expressing that its spirit and intent is in line with the ratification of the *International Covenant on Economic, Social and Cultural Rights* and other relevant treaties and agreements.

A POSITIVE STEP

Individuals must have an avenue to claim their rights and report violations. Canada is obligated to provide **effective domestic remedies** to meet human rights obligations (ICESCR, General Comment 9). Legislation may be one avenue but it is an expensive route to securing adequate solutions.

Human rights commissions and other administrative bodies, such as those involved in administering housing programs, tenancy laws, income assistance or social programs may provide important venues through which rights claimants can obtain a hearing and secure effective remedies. In November 2018, the B.C. government took the first legislative steps to re-establish a provincial human rights commission.¹⁸

CANADA'S OBLIGATIONS

Canada has an obligation to respect, protect and fulfill human rights. What does that look like in practice? Let's examine the Right to Food as a case study:

- **Respect the Right to Food**
Governments should not arbitrarily take away people's right to food or restrict people's access to food by legislating inadequate welfare benefits and denying assistance.
- **Protect the Right to Food**
Governments must pass and enforce laws to prevent powerful people or organizations from violating the right to food for example by protecting the food sovereignty of Indigenous peoples, land rights, agricultural lands and ensuring food safety.
- **Fulfill the Right to Food**
Governments should take positive actions to identify vulnerable groups and take the necessary budgetary and administrative steps to ensure they have access to adequate food and have the ability to feed themselves.

REVIEW OF CANADA: IS CANADA MEETING ITS HUMAN RIGHTS OBLIGATIONS?

The United Nations oversees a process of Periodic Review of each member State's performance in meeting their human rights obligations including: coordinating treaty monitoring bodies and committees, which are panels of experts that review each State's compliance with a particular treaty; sending independent experts (Special Rapporteurs) to the country; and engaging the Human Rights Council, which is a collection of 47 Member States that currently and notably does not include Canada.¹⁹

The UN has repeatedly advised Canada of its violation of a number of economic and social rights and expressed its concerns about:

- Inadequate social assistance rates
- Evictions into homelessness and lack of security of tenure
- Inadequate minimum wages
- Lack of right to food and inadequate food security
- Lack of rights-based housing or anti-poverty strategy
- Inadequate legal protections
- Lack of right to housing

NATIONAL HOUSING CRISIS

In 2007, Miloon Kothari, then-Special Rapporteur on **adequate housing as a component of the right to an adequate standard of living**, called for immediate attention to tackle the "national housing crisis" in Canada.²⁰ He highlighted the lack of a national poverty reduction strategy and, in particular, inadequate social assistance rates. In his final report, he called for:

*Canada to adopt a comprehensive and coordinated national housing policy based on the indivisibility of human rights and the protection of the most vulnerable. This national strategy should include measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures, and transparent accountability mechanisms.*²¹

In 2017, the current Special Rapporteur Leilani Farha commended Canada for announcing the adoption of its first-ever national housing strategy, but was disappointed by the Government's failure to commit to ending all forms of homelessness by 2030 in keeping with Sustainable Development Goal 11.²²

The 2018 Universal Periodic Review of Canada included the following recommendation for Canada:

*Holistically address homelessness, housing affordability, inadequate housing conditions and insufficient supply of social housing stock particularly focusing on the needs of the most vulnerable communities; and to ensure that the National Housing Strategy commits to end all forms of homelessness by 2030 in keeping with Sustainable Goal 11.*²³

GOOD JOBS AS A HUMAN RIGHT

Many approaches to poverty reduction, both formalized within provincial plans and not, push employment as the central solution. The creation of jobs could be a way for Canada to prevent poverty as part of its human rights obligations, **but only if those jobs provide a living wage.**²⁴

Article 23 of the Universal Declaration of Human Rights states that everyone has the right to "just and favourable conditions of work," which includes ensuring that all workers are remunerated so that they can provide a decent living for themselves and their families.²⁵

Under international law, "decent living" means a living wage that considers the cost of shelter, food, clothing, transportation and child care among other household needs. The UN has told Canada on several occasions that this is the standard it has to meet in order to comply with its human rights obligations. While the provincial government is investigating the living wage, it is still not a living wage employer.

A POSITIVE STEP

Due to the continued advocacy of Canada Without Poverty and other advocates and organizations, for the first time, housing as a human right, and the progressive realization of that right, is now recognized in Canadian legislation: Bill C-97, which includes the National Housing Strategy Act. However, we have yet to see how this right will be implemented.

REVIEW OF CANADA (CONTINUED)

UNACCEPTABLE FOOD INSECURITY

Health Canada defines food insecurity as when one or more members of a household “do not have access to the variety or quantity of food that they need due to lack of money.”²⁶ Currently it is estimated that 4 million Canadians experience food insecurity²⁷ of whom close to half a million live in British Columbia²⁸ - including 100,000 who are dependent on charitable food aid.²⁹ Why is this when food poverty is caused by inadequate wages and social assistance?

UN Special Rapporteur Olivier de Schutter visited Canada in 2012 to review Canada’s progress in ensuring the right to food, which includes “*physical and economic access at all times to adequate food*” (ICESCR, General Comment No. 12). After his visit, he noted that “*reliance on food banks is symptomatic of a broken social protection system and the failure of the State to meet its obligations to its people.*”³⁰

He went on to say that:

*What I’ve seen in Canada is a system that presents barriers for the poor to access nutritious diets and that tolerates increased inequalities between rich and poor, and aboriginal and non-aboriginal people... These rates of food insecurity are unacceptable, and it is time for Canada to adopt a national right-to-food strategy.*³¹

As the federal government remains silent on this matter, the BC government could meet its obligations under international law by implementing a right to food strategy as a key component of its poverty reduction plan. Reducing food insecurity should be a measurable outcome of a poverty reduction plan.

2018 UNIVERSAL PERIODIC REVIEW

The most recent universal review completed in 2018 included 12 general recommendations to combat poverty more effectively while paying particular attention to groups and individuals that are more vulnerable to poverty.³²

The federal government accepted these recommendations “*based on existing and upcoming measures to reduce poverty, improve individual and family income, and address housing needs.*”³³ The government has introduced legislation that commits to a target of reducing poverty by 50%; the establishment of the method to calculate Canada’s first official poverty line; and a poverty advisory council mandated to hold the government accountable for progress on poverty.³⁴ The BC government has also introduced poverty reduction legislation but the target is lower — reducing overall poverty by 25% in five years.³⁵ However, we do not see a road-map outlining how they will reach this goal, nor will the government commit to addressing poverty for the other 75%, especially those in deep poverty.

Our reputation in the international arena is crumbling as Canada continually fails to live up to its human rights commitments and fails to uphold the values of fairness, equality and respect for the democratic rights of all peoples.

Canada is failing all of us, and those at the bottom are living with the daily consequences.

Is this the Canada we believe in?

CANADA’S RACE-BASED GENOCIDE OF INDIGENOUS PEOPLES

In 2019, the National Inquiry into Missing and Murdered Indigenous Women and Girls shared its Final Report describing actions that amount to “a race-based genocide of Indigenous Peoples, including First Nations, Inuit and Métis, which especially targets women, girls, and 2SLGBTQIA people. This genocide has been empowered by colonial structures, evidenced notably by the Indian Act, the Sixties Scoop, residential schools and breaches of human and Indigenous rights, leading directly to the current increased rates of violence, death, and suicide in Indigenous populations.”³⁶

The report is the most recent of a long history of reports identifying Canada’s violations of indigenous peoples’ human rights.³⁷ In particular, the Final Report shares violations of the:

- International Convention on the Prevention and Punishment of the Crime of Genocide (PPCG)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

It’s important to note that “Indigenous rights” and “human rights” are complementary but distinct ideas and we must be careful not to harm Indigenous women by violating some rights while trying to uphold others.

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