



Government of Canada
Permanent Mission of Canada
to the United Nations and the
Conference on Disarmament

Gouvernement du Canada
Mission permanente du Canada
auprès des Nations Unies et de
la Conférence du désarmement

Note No.: GENEV-1879

Reference: Canada's supplemental response to the JAL concerning the situation of Dr. Cindy Blackstock

The Permanent Mission of Canada to the Office of the United Nations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to submit its supplemental response to the joint letter AL 04/2013 of 7 November 2013 from the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the rights of indigenous peoples.

The submission consists of one document and one annex.

The Permanent Mission of Canada to the Office of the United Nations at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 9 October 2015.



**SUPPLEMENTAL RESPONSE OF THE GOVERNMENT OF CANADA
TO THE JOINT ALLEGATION LETTER OF 7 NOVEMBER 2013
BY THREE SPECIAL RAPORTEURS,
CONCERNING THE SITUATION OF DR. CINDY BLACKSTOCK**

No. CAN 4/2013

1. On 7 November 2013, Canada received a joint allegation letter from three United Nations Special Rapporteurs: the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the rights of indigenous peoples. The letter brought to Canada's attention information that was received by the Special Rapporteurs concerning the situation of Dr. Cindy Blackstock, who is the Executive Director of the First Nations Child and Family Caring Society of Canada ("the Caring Society").
2. On 10 January 2014, Canada provided its response. In that response, Canada noted that one domestic remedial mechanism initiated by Dr. Blackstock was still ongoing: a retaliation complaint under the *Canadian Human Rights Act*, alleging that the Government of Canada had retaliated against the Caring Society (and Dr. Blackstock in particular) in relation to an ongoing discrimination complaint that had been brought under the *Act*.¹ Four of the five specific allegations in the ongoing domestic retaliation complaint had also been raised in the Special Rapporteurs' letter.
3. At the time Canada provided its response to the Special Rapporteurs, the Canadian Human Rights Tribunal ("CHRT") had completed its hearings on the retaliation allegations, and the parties were awaiting the CHRT's decision. Canada undertook to notify the Special Rapporteurs once the retaliation proceedings had been concluded.
4. On 5 June 2015, the CHRT released its decision on the retaliation allegations.² That decision is attached as **Annex 1**.
5. The CHRT rejected all but one of the complainant's retaliation allegations. Importantly, the CHRT rejected three allegations that had also been included in the Special Rapporteurs' letter: first, that Dr. Blackstock's public appearances had been improperly monitored by government officials;³ second, that Dr. Blackstock's Facebook page had

¹ The retaliation complaint (and the underlying discrimination complaint) are described in Canada's response of 10 January 2014, at paras. 11-13, 46-47. The retaliation allegations were made under section 14.1 of the *Canadian Human Rights Act*: "It is a discriminatory practice for a person against whom a complaint has been filed ..., or any person acting on their behalf, to retaliate or threaten retaliation against the individual who filed the complaint or the alleged victim."

² *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2015 CHRT 14 ("CHRT decision"), online: <http://canlii.ca/t/gjfgv>.

³ CHRT decision, at paras. 61-71. See also Canada's response of 10 January 2014, at paras. 33-36.

been improperly monitored by government officials;⁴ and third, that Dr. Blackstock's "Registered Indian Record" had been improperly accessed by government officials.⁵ The CHRT's decision contains a number of factual findings, as well as detailed analysis.

6. The CHRT concluded that there had been retaliation in one instance: Dr. Blackstock's exclusion from a meeting on 9 December 2009.⁶ The CHRT concluded that the complainant's ongoing discrimination complaint formed the basis for Dr. Blackstock's exclusion from the meeting, and that this constituted a retaliatory action.
7. The CHRT ordered a total remedy of \$20,000 in compensation to the complainant, namely the Caring Society: \$10,000 for moral pain and suffering, and an additional \$10,000 in light of the wilful and reckless conduct of the respondent.⁷ The CHRT declined to order other forms of remedy, concluding that the actions at issue, "though clearly wrong, were not necessarily representative of what any other managers employed by the Respondent would have done under the circumstances."⁸
8. The deadline has now passed for either party to seek judicial review of the CHRT's decision. The Government of Canada has complied with the CHRT's specified damages award and issued payment to the complainant, in relation to the specific instance that the CHRT concluded was a retaliatory measure.
9. In sum, Canada has engaged fully with the domestic remedial processes initiated by Dr. Blackstock to address her concerns. Canada would like to thank the Special Rapporteurs for the opportunity to respond to the joint allegation letter. Canada trusts that its initial response and this supplemental information have clarified the matters at issue.

Ottawa
5 October 2015

⁴ CHRT decision, at paras. 72-89. See also Canada's response of 10 January 2014, at paras. 28-32.

⁵ CHRT decision, at paras. 90-119. See also Canada's response of 10 January 2014, at para. 27.

⁶ CHRT decision, at paras. 57-60.

⁷ CHRT decision, at paras. 123-125.

⁸ CHRT decision, at para. 126.