

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the right to education; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the rights of indigenous peoples

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur on the right to education; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on the rights of indigenous peoples, pursuant to Human Rights Council resolutions 43/8, 44/3, 42/16 and 42/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the persistent challenges faced by members of the Inuit indigenous community of Nunavut, Canada in receiving essential public services in their language, in particular public education, healthcare and the justice system. Some 75% of Inuit in Nunavut speak Inuktitut as their first language. The Inuit of Nunavut live mostly along the Arctic coast in the northern regions of Canada. Nunavut is a semi-autonomous territory with regional self-governance created in 1999 through a series of agreements with Canada. Approximately 85% of the population of Nunavut are Inuit, one of the three Aboriginal groups recognized under section 35 the Constitution of Canada. As such, Canada must recognize and protect the rights of the Inuit people to self-determination to pursue their social and cultural development, and autonomy or self-government over their internal and local affairs.

According to the information received:

Nunavut is the only jurisdiction in Canada that has a language spoken by most of the population that is not one of the federally recognized official languages – French or English. Despite this, Inuktitut is not the working language of the territorial government nor the main or even significant language used to provide essential services, including education, healthcare and in the administration of justice.

Access to education in mother tongue

Of the 9,700 students in Nunavut schools, only around 400 are Anglophone, yet English is the main language of instruction in all 42 schools. Despite multiple and long-term demands of the Inuktitut community, there has been no increase in the use of Inuit in the schools since before Nunavut was created in 1999. Major changes outlined in the 2008 Education Act including the provision of bilingual

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education for all students by 2019–20 school year (in Inuit language and either English or French) have yet to be implemented. Nunavut is the only jurisdiction in Canada where the majority of children are attending a school in a language that is not their mother tongue.

Children are instructed in the Inuit language from grades one to three, after which classes are taught in English. There is no form of supportive transition from Inuktitut in Grade three to English in Grade four.

A small percentage of schools in Nunavut have identified their capacity to use Inuktitut as the medium of instruction in kindergartens and in the first three primary grades. There are no designated resources nor standardized curricula across subjects and grades in Inuktitut, or any plan to produce one. Inuktitut which is only taught as a subject sporadically, and some higher level courses include Inuit cultural content but they are not taught in Inuktitut. Such ‘early-exit’ bilingualism contributes to high levels of student drop-out and low matriculation levels. 70% of students in Nunavut do not graduate from high school—the worst rate in North America. In addition, schools of Nunavut are not producing graduates truly competent in Inuktitut. To make matters even worse, the Inuit of Nunavut have the lowest rate of literacy in English in the country.

The lack of capacity to use Inuktitut in schools as medium of instruction is also partly due to the dramatic shortage of qualified teachers. This will be an even greater shortage once current Inuktitut speaking teachers retire. With a population increase, brings about the need for additional teachers. While, at the moment there is a need for at least 450 Inuktitut-speaking teachers, there are currently 140, out of the 705 teachers in the territory.

English-speaking teachers from southern Canada constitute almost the entire teaching force of Nunavut teachers. 97% of the Inuit student body in Nunavut is taught by mostly non-Inuktitut (over 75%) speaking teachers. Inuit students do not see themselves represented in the curricula or in the teaching staff.

Currently, bilingual education in Nunavut is delivered through three different models chosen through public consultation: The Qulliq, Immersion and Dual models. The educational system does not provide for human and other resources to enable District Education Authority and schools to deliver on any of its chosen model. There is especially reduced capacity after the first three grades evidenced by the fact that in 2016, 24 schools were not delivering the minimum Inuktitut-medium education from kindergarten to Grade 3, as required by the Nunavut Education Act. In addition, schools of Nunavut are not producing graduates truly competent in Inuktitut. To make matters even worse, the Inuit of Nunavut have the lowest rate of literacy in English in the country.

Furthermore, there is no adequate funding from the Government to support Inuktitut as an official language of the Nunavut territory to a comparable extent with which it supports the other official languages of Canada. According to the Calls to Action of the Truth and Reconciliation Commission’s Final Report, Canada spends \$14 million annually for the preservation and revitalization of (all 90) Aboriginal languages, while the Official Languages Program for English

and French cost in the order of \$350 million for the promotion of linguistic duality and the development of official language minority communities across Canada. The Canadian federal government ‘delivers \$8,189 per francophone for language programs in Nunavut, while providing \$186 per Inuktitut speaker, meaning the federal government spends 44 times more on French in Nunavut than it does on Inuktitut’. In 2006, the Department of Education published the Qalattuq 10 Year Educator Training Strategy, a plan for which no action has been taken. The Strategy contains a set of concrete recommendations to address the need for more teachers with quality training, as well as greater accessibility to courses for all educators involved with students in schools of Nunavut. The Strategy points to the need for fundamental changes and massive support for the education system in order to improve graduation rates and the approval of the Government for the Nunavut Bilingual Education Strategy, which requires teachers who can work in Inuktitut across the education system".¹

It is reported that the Inuit lack participation in decision making regarding the educational process as well as the challenging environment for Inuit educators. This is particularly noticeable in the Education ministry of Nunavut, where a disproportionate number of non-Inuit and monolingual-English-speaking are occupying senior administrative and teaching positions. There is also the shortfall of Inuit school principals. In 2018, 37 out of 42 school principals were English-speaking non-Inuit, the majority being from Southern Canada.

As the education system appears to be insensitive to indigenous peoples’ needs, and is conducted mainly in English, it would therefore point to Inuit being pushed out by a linguistically and culturally unresponsive and inappropriate school system rather than simply dropping out. While the average Canadian high school drop-out rate was 8%, 41% of adults in Nunavut (16,485) aged 25 to 64 had not completed high school in 2016.

Also in 2016, 49% of non-Inuit adults in Nunavut had a university degree, compared with 3% of Inuit adults. In Canada, the unemployment rate in 2016 was 7.7%, while Nunavut has the highest rate in the country, increasing from 17.9% in 2011 to 21.5% in 2016. Inuit employment rate was much lower than non-Inuit, with 45.0% compared to 88.7%. In 2016, Inuit aged 15 and over in Nunavut comprised 80% of the working-age population, but represented only 67% of the employed people in the territory.’

Access to health and other public services in mother tongue

The proportion of primary care practitioners in Nunavut is approximately 1 doctor for every 3,000 residents, compared to 1 for 400 residents in Canada’s southern regions. Communications and the provision of services are offered primarily in English, despite language laws in effect in Nunavut.

With regard to other public services, there is a non-mandatory course on medical terminology available for clerk interpreters in Nunavut. Yet there are concerns that clerk interpreters had either not received such training in a timely manner,

¹ <https://assembly.nu.ca/library/GNedocs/2006/000075-e.pdf>

had not received it at all. Furthermore, there are no competency tools to evaluate language proficiency of medical interpreters.

Moreover, the barriers separating health care providers from Inuktitut patients are not only linguistic but also cultural. In Northern communities, oral, in-person communication is the most effective and culturally appropriate method of delivering information. This approach, however, requires both fluency in the patient's language and familiarity with culturally relevant communication styles. According to a report², linguistic and cultural barriers that separate health care providers from patients, can lead to incomplete or incorrect diagnosis and treatment of health problems. Many Inuit have limited confidence in the current health service delivery model and, to a certain degree, in the staff at health care centres. There is a sense that their needs are not well understood at the community level, and that the communication gap is even greater when they are forced to travel to regional centres for care. Qikiqtani General Hospital. There is no language policy or procedure in effect at the Qikiqtani General Hospital.

The majority of communications with patients and services are offered in English only, along with all recommendations, instructions, prescriptions and other types of related information, both verbal and written. Interpreters for Inuktitut speaking patients have limited or no training to work in the medical field and no knowledge of anatomical and medical terminology and jargon.

The administration of justice and related services in Nunavut

The administration of courts, law enforcement, emergency response, corrections and child protection are also delivered in English, which is not the first language spoken by the vast majority in the Territory. Failure to provide these essential public services in Inuktitut can have life threatening consequences, especially during interactions with law enforcement or correctional officers. According to reports, the lack of knowledge of Inuit culture and language results in discrimination and inequality in the delivery of diversion and prison programs and can interfere with proper administration of justice in court proceedings.

We wish to further express our concern that the lack of measures to ensure education in the Inuktitut language beyond the primary level. The failure to provide Inuktitut instruction is discriminatory and may have a chilling effect on school drop-outs and employment levels of the Inuit in Canada as well as preservation of the Inuktitut language and identity as a whole. Inuktitut is a language at risk. Every year, the number of Inuit language speakers in Nunavut declines by 1%. At the current rate of decline, by 2051, the Inuit language will be spoken at home by only 4% of Inuit in Nunavut.³

Without prejudging the accuracy of the information received, we wish to express our concern over the claims that the Inuit of Nunavut do not have access to education in their mother tongue. In this connection, we wish to refer to the 2017 report by the Special Rapporteur on minority issues on the language rights of linguistic minorities, and indigenous peoples, which indicates that where "there is a sufficiently

² Recruitment and Retention of Inuit Nurses in Nunavut, Iqaluit" by Nunavut Tunngavik Incorporated, 2019

³ "Inuit Language Loss in Nunavut: Analysis, Forecast, and Recommendations" by Ian Martin, Glendon College, York University March 7, 2017

high numerical demand, public education services must be provided in a minority language to the appropriate degree, broadly following a proportional approach [...] instruction in the mother tongue should last for a minimum of between six to eight years – more when this is feasible... Using one language as the medium for instruction just for a few years at primary level, and then switching over completely to another language should be avoided...”. The failure to provide linguistically and culturally appropriate quality instruction negatively impacts on academic performance and contributes to school dropouts, and therefore possibly constituting discriminatory practices in education. (Language rights of linguistic minorities: A practical guide for implementation, pp. 16-20). Furthermore, there are serious concerns that the Inuit of Nunavut lack access to a health care in their mother tongue and culturally acceptable and health care facilities and trained medical and professional personnel are not available in sufficient quantity, in disregard of their entitlements under the right to health.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures taken by the Government to address allegations of lack of adequate actions to ensure access to public education in Inuktitut language in Nunavut, particularly after Grade 3, and how to ensure indigenous students are able to receive education in their own language.
3. Please provide information on the government’s actions to reduce disparities between Inuit and non-Inuit populations who have not completed high school and university.
4. Please provide information on the implementation of the Qalattuq 10 Year Educator Training Strategy and its current status.
5. Please provide information on funding allocation to support Inuktitut as an official language of the Nunavut territory. In particular, in the field of education, please provide a breakdown on the budget for teaching in Inuktitut compared to funding for teaching in English.
6. Please provide information on any efforts made to establish an Inuktitut-language justice system including the recruitment of Inuktitut-speaking lawyers, judges, court workers, police, first responders, and others.
7. Please provide information on the measures taken by the Government to address allegations of lack of access to a culturally acceptable public

healthcare services provided in the Inuktitut language in Nunavut with health care facilities, goods, services and programs including trained medical staff available in sufficient quantity and within safe physical reach for the Inuit indigenous community of Nunavut.

8. Please provide information on existing competency tools to evaluate language proficiency of medical interpreters in Inuktitut.
9. Please provide information on the measures taken to investigate the complaints from citizens regarding their inability to communicate with and receive services in the official language of their choice from the Qikiqtani General Hospital.
10. Please provide information on the measures taken by the Government to address allegations of shortage of Inuktitut speakers at the Marine Communications and Traffic Services centre in Iqaluit.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on minority issues

Koumbou Boly Barry
Special Rapporteur on the right to education

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

José Francisco Cali Tzay
Special Rapporteur on the rights of indigenous peoples

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to article 26 (2) of the Universal Declaration of Human Rights (UDHR), which stipulates that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms and that it shall promote understanding, tolerance and friendship among all nations.

We would like to recall your Excellency's Government's obligations that your Excellency's Government has undertaken. In particular, we would like to refer to the International Covenant on Civil and Political Rights (ICCPR) signed by Canada on 19 May 1976. We would like to remind your Excellency's Government that upon signing the ICCPR, a State is obliged to refrain, in good faith, from acts that would defeat the object and purpose of the treaty (Vienna Convention on the Law of Treaties, article 18).

Article 27 of the Covenant states that: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language". Article 26 of ICCPR also prohibits any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds, including race, language, religion, national or social origin, property, birth or other status.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) to which Canada has been a party since 19 May 1976, establishes in article 15 that States Parties recognize the right of everyone to take part in cultural life. As stressed by the Committee on Economic, Social and Cultural Rights, article 15, paragraph 1 (a), of "the Covenant also includes the right of minorities and of persons belonging to minorities to take part in the cultural life of society, and also to conserve, promote and develop their own culture. This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership". (General Comment 21, para. 32).

In the same General Comment, the Committee on Economic, Social and Cultural Rights also recalled that the protection of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, and requires the full implementation of cultural rights, including the right to take part in cultural life (para. 40). Thus, States are reminded that in many instances, the obligations to respect and to protect freedoms, cultural heritage and diversity are interconnected (para. 50).

Article 13 of the same Covenant recognizes the right of everyone to education directed to the full development of the human personality and the sense of its dignity, that strengthens respect for human rights and fundamental freedoms.

The International Convention on the Rights of the Child, ratified by Canada on 2 March 1992, establishes under article 29 (c) that the education of the child shall be directed to: “The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.” Article 30 of the Convention requires that “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”

Furthermore, we also wish to draw the attention of your Excellency’s Government to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights clarifies that all health facilities, goods and services must be within safe physical reach for all sections of population including indigenous peoples, must be culturally appropriate and that health care staff are trained to recognize and respond to the specific needs of vulnerable or marginalized groups; (GC 14, Para. 12 c, Para 37). Furthermore, it interprets the right to health as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information. (GC 14, Para.4)

Furthermore, we also wish to draw the attention of your Excellency’s Government to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights interprets the right to health as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information. (GC 14, Para.4)

The International Convention on the Elimination of all Forms of Racial Discrimination to which Canada is also party stipulates under article 5 that States Parties should undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to education and training. Article 7 of the Convention requires that “States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups.”

We would also like to refer your Excellency's Government to the Durban Declaration and Programme of Action, and in particular to article 47, that "urges States to guarantee the rights of persons belonging to national or ethnic, religious and linguistic minorities, individually or in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference, and to participate effectively in the cultural, social, economic and political life of the country in which they live, in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance that they are or may be subjected to". Paragraph 82 of the Outcome Document of the Durban Review Conference requires that "the existence and the national or ethnic, cultural, religious and linguistic identity of minorities shall be protected, and that the persons belonging to these minorities should be treated equally and enjoy human rights and fundamental freedoms without discrimination of any kind."

We would like to recall your obligations under the UN Declaration on the Rights of Indigenous Peoples, which Canada endorsed in 2016 and is currently in the process of passing implementing legislation. As a universal framework setting out the minimum standards of protection of indigenous peoples' rights, the Declaration reflects existing legal obligations sourced in international human rights treaties.

Article 13 (1) of the Declaration affirms indigenous peoples' right to language, specifically to "revitalize, use, develop and transmit to future generations." Part 2, requires States to take measure to ensure interpretation in political, legal and administrative proceedings. The Declaration recognize the right of indigenous peoples to self-determination. "By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development." (Article 3) and "have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions." (Art. 4).

Articles 14 and 15 of the Declaration are worth quoting in their entirety:

Articles 14 1.

Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Articles 14 2.

Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

Articles 14 1.3.

States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living

outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15 1.

Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations, which shall be appropriately reflected in education and public information.

The Declaration also establishes, at Article 18 that “Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.”

Furthermore, we draw the attention of your Excellency’s Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1 requires that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity”. Article 2 states that “Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

In addition, article 4 (1) of the Declaration states that: “States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law”. Article 4 (2) requires that “States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.” Article 4 (3) establishes that “States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.”

With respect to the rights of minorities to quality education and education in their mother-tongue languages, we draw attention to the recommendations of the first Forum on Minority Issues (A/HRC/10/11/Add.1) and urge your Excellency’s Government to consider implementation of relevant recommendations of the Forum.