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**Response to 19th and 20th Periodic Reports of Canada:  
Alternative Report on Canada's Actions on *Housing & Infrastructure Crisis,  
Youth Suicide & Non-Medical Prescription Opioid Epidemics and  
Inequality in First Nations Policing***

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## EXECUTIVE SUMMARY

This Alternative Report addresses Canada's discriminatory actions against Indigenous peoples in Nishnawbe Aski Nation ("NAN"), in the context of a number of crises, epidemics and inequalities that are symptomatic of Canada's discriminatory relationship with Indigenous peoples for over 100 years.

At the outset of this Alternative Report, it should be known that it is the view of Indigenous peoples in NAN that Canada, as a successor to Britain has the authority to implement Treaties No. 9 and 5 but not change them. Unfortunately, this has been the case. It is time that this is redressed so Indigenous people can be free from racial discrimination.

Indigenous peoples in NAN are of the view that the government of Canada is the State and Indigenous peoples are the Nation in Canada and that consideration of this should be made at the international level so that State oversight committees such as the Committee on the Elimination of Racial Discrimination ("CERD") could address Indigenous peoples accordingly. The wishes of a State cannot take precedence over a Nation. The land, government, language and culture in Canada, originate from Indigenous peoples.

This Alternative Report describes discriminatory acts by Canada that have led to the untimely deaths of a number of Indigenous people, including children and youth. It is the voice for those who can no longer speak and for those who succumbed to the victimization created by colonization.

For Indigenous peoples, there are few avenues in which to report racial discrimination and human rights abuses outside of State processes. As this Alternative Report describes, there are a number of human rights complaints that have been filed or are in the process of being filed by Indigenous peoples in NAN with the Canadian Human Rights Commission (CHRC).<sup>2</sup> Given the CHRC's arms-length but connected relationship, it remains to be seen if these will be appropriately addressed.

**Response to Canada's 19th and 20th Periodic Reports:  
Alternative Report on Canada's Actions on the *Housing & Infrastructure Crisis,  
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**I. INTRODUCTION**

1. NAN considered the concluding observations of CERD to Canada's seventeenth and eighteenth periodic reports from 25 May 2007.<sup>3</sup>
2. This Alternative Report addresses Canada's discriminatory actions against Indigenous peoples in NAN in Treaties No. 9 and 5 (Northern, Ontario, Canada), in the context of recommendation 21 of CERD's concluding observations<sup>4</sup> with respect to the housing/infrastructure crisis, youth suicide and non-medical prescription opioid epidemics and inequality in First Nations policing experienced by its peoples, preventing the enjoyment of economic, social and cultural rights.
3. This Alternative Report also considers Canada's 2011 Report to the Committee on the Elimination of Racial Discrimination<sup>5</sup> outlining "key measures adopted in Canada from June 2005 to May 2009, to enhance the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination ("ICERD")" in relation to the above.<sup>6</sup>
4. NAN has advocated for the elimination of racial discrimination in many international forums including the Fourth Russell Tribunal on the Rights of the Indians of the Americas in 1980, to the United Nations ("UN") Special Rapporteur on the Rights of Indigenous Peoples,<sup>7</sup> and the Expert Mechanism on the Rights of Indigenous Peoples, both in 2011.<sup>8</sup>
5. Indigenous peoples in NAN have repeatedly raised the issue of the violation of human rights and racial discrimination outlined in this Alternative Report as these actions are resulting in the loss of human lives<sup>9</sup> and perpetuating living conditions that are unhealthy, unsafe and impoverished. These concerns have been virtually ignored by the Canadian government.

**II. HOUSING/INFRASTRUCTURE – CANADA'S DISCRIMINATORY ACTIONS**

6. In relation to housing and infrastructure, actions by Canada in this Alternative Report point to fact that Indigenous peoples in NAN are not given the opportunity to enjoy the rights contained in the ICERD, the United Nations UN Declaration on the Rights of Indigenous Peoples ("UNDRIP") and the Universal Declaration of Human Rights, particularly Article 25.<sup>10</sup>

7. In 2008, NAN conducted an infrastructure study<sup>11</sup> confirming housing and infrastructure deficits in its First Nations at alarming rates. The study highlighted deficiencies, shortages, and sub-standard conditions related to infrastructure/essential services including housing,<sup>12</sup> water and sewer systems,<sup>13</sup> energy,<sup>14</sup> land fill sites,<sup>15</sup> roads/bridges,<sup>16</sup> communications services, airstrips/airport facilities,<sup>17</sup> and educational facilities,<sup>18</sup> and police detachments.<sup>19</sup>

## 2.1 Funding Based on Discriminatory Canadian Laws and Policies

8. In 1996, the Royal Commission on Aboriginal Peoples<sup>20</sup> (“RCAP”) concluded, “Aboriginal peoples must have room to exercise their autonomy and structure their own solutions. The pattern of debilitating and discriminatory paternalism that has characterized federal policy for the past 150 years must end.” The Commission also stressed, “re-balancing of political and economic power between Aboriginal nations and other Canadian governments represents the core of the hundreds of recommendations contained in this report.”<sup>21</sup> Canada continues to ignore these conclusions and the balance of power continues to rest on the side of the Canadian government.
9. Despite RCAP, indigenous peoples in NAN, and throughout Canada, continue to be governed by paternalistic laws and policies, continue to be dispossessed of their land and resources from where their economies can be developed.
10. Not politically recognizing Indigenous peoples’ proprietary land tenure (or at least a sharing role of the benefits received from the resources coming from the land), perpetuates poverty and the racial discrimination of Indigenous peoples. Taxes and royalties derived from natural resources and extractive industries are the drivers of the Canadian economy, yet the government of Canada excludes Indigenous peoples from receiving these economic builders.
11. Despite the availability of programs and services<sup>22</sup> for housing and infrastructure -- third world conditions exist in Indigenous communities<sup>23</sup> largely because programs and services are based on an imbalance of power and discriminatory laws and policies that are crafted to maintain exclusive jurisdiction by the government of Canada.
12. The majority of the funding for housing and infrastructure in Indigenous communities is controlled by a large government bureaucracy<sup>24</sup> created by the *Indian Act* (first enacted in 1867).<sup>25</sup> The *Indian Act* also marked the beginning of an era of sustained, systematic oppression and subjugation of Indigenous peoples and moved away from the original spirit and intent of Treaties No. 9 and 5 which were co-existence and sharing.

13. The *Indian Act* has created a dependency on the government of Canada which also eliminates Indigenous peoples' ability to get funding for housing and infrastructure from non-government sources.

## 2.2 Canada's Awareness and Inaction

14. Canada has been aware of the housing and infrastructure deficit in First Nations for decades, including during the period of the 19<sup>th</sup> and 20<sup>th</sup> CERD Periodic Report. In 2006, the Office of the Auditor General of Canada reported in their May Report, Chapter 5, Management of Programs for First Nations, that "progress was generally unsatisfactory in implementing the recommendations that are most important to the lives and well-being of First Nations peoples."<sup>26</sup>
15. In 2010, Canada self-admitted that there was no relative progress in the living conditions on reserves between 2001 and 2006. This was based on a Community Well-Being Index they had developed. Instead, the average well-being of these communities ranked significantly below that of other Canadian communities.<sup>27</sup>
16. When the UN Special Rapporteur on the Rights of Indigenous Peoples issued a statement expressing concern about disparities in services in Canada,<sup>28</sup> the Canadian government characterized his statement as a "publicity stunt."<sup>29</sup>

## 2.3 Blaming Indigenous Peoples and Retaliatory Actions of Canada

17. A number of Indigenous nations/First Nations within NAN have brought to public light the deplorable living conditions of their communities and the role of the government of Canada in creating them.<sup>30</sup> When they have done so, they have been penalized by the Canadian government by being imposed third party management ("TPM").<sup>31</sup>
18. Because Indigenous peoples have viewed these actions as retaliatory and racially discriminatory they have been forced to seek alternative remedies including legal battles lasting up to 10 years, against the Government of Canada.<sup>32</sup> In 2010, an *Ontario Superior Court of Justice* made a ruling that found the Government of Canada to be acting improperly in assigning an outside financial TPM manager.
19. The government of Canada also does little to clarify the historical treaty relationship between Indigenous peoples and the Crown and do little to alleviate public misperception on government spending on Indigenous peoples (i.e. many Canadians believe that spending is derived *directly* from their tax payments to government, rather than on dues as a result of the fiduciary relationship). This has perpetuated racial discrimination between Indigenous peoples and non-Indigenous peoples.<sup>33</sup>

***In regards to the housing and infrastructure crisis in NAN, it is recommended that Canada:***

- **Re-balance the political and economic power between Indigenous peoples and the government as intended in Treaties No. 9 and 5**
- **Play a role in eliminating discriminatory ideology prevalent in the Canadian public with respect to the treaty fiduciary relationship**
- **Discontinue the dispossession of Indigenous peoples' land and share in the benefits derived from natural resources and extractive industries (i.e. royalties and taxes) so that Indigenous peoples will have the resources in which to build and maintain sustainable housing and infrastructure**
- **Undertake a comprehensive review in partnership with Indigenous peoples of existing housing and infrastructure funding programs, to determine how its First Nations Indigenous peoples are able to access them and remove barriers where identified**

### **III. YOUTH SUICIDE EPIDEMIC- CANADA'S DISCRIMINATORY ACTIONS**

20. In relation to the youth suicide epidemic, actions by Canada in this Alternative Report point to fact racial discrimination exists and that Indigenous victims, survivors and families affected by youth suicide are not given the opportunity to enjoy the rights contained in the ICERD, the UNDRIP, and the Universal Declaration of Human Rights. The rate of youth suicide in Indigenous communities in NAN is unacceptable at two to three times (2-3x) higher than that of the Canadian average.
21. Actions by Canada in this Alternative Report have contributed to social determinants of health being unequal between Indigenous peoples in NAN compared to the general Canadian public. The March 2011 "State of Health Report for the Nishnawbe Aski Nation Territory"<sup>34</sup> outlined some of these key findings and trends.
22. With respect to the education determinant, the quality of education for Indigenous peoples in NAN is drastically lower than that of the average Canadian. In a draft report examining the issues,<sup>35</sup> the unequal standard of education was identified as being due to the low level of funding based on inadequate funding formulas in comparison to provincial schools.<sup>36</sup> This is discriminatory to Indigenous peoples/First Nations in NAN. Furthermore, this report highlights the fact that due to limited number of high schools in the majority of the Indigenous First Nation communities, children 13 – 14 years old must be removed from their homes to attend high school. Since 2007, this has resulted in the death of seven (7) Indigenous children from NAN.<sup>37</sup>

23. From 1986 – 2010 (many during the period of the 19<sup>th</sup> and 20<sup>th</sup> periodic review), 427 suicides were completed. Of the 427, 57 occurred in children 10-14 years of age and 174 occurred in children and youth 15-20 years of age. Out of the 427, 322 completed suicides were as a result of hanging, 30 from gunshot, and 13 from overdose. Males accounted for more completed suicides at 262 than females at 145.
24. A number of inquests into the deaths of children and youth in NAN have taken place.<sup>38</sup> With respect to the review of 16 deaths of children and youth in Pikangikum First Nation from 2006 – 2008, the office of the Ontario Chief Coroner undertook an in-depth systemic review of the factors that contributed to their deaths and made a number of recommendations. The report stated:

*“Pikangikum is an impoverished, isolated First Nations community where basic necessities of life are absent. Running water and indoor plumbing do not exist for most residents. Poverty, crowded substandard housing, gainful employment, food and water security are daily challenges. A lack of integrated health care system, poor education by provincial standards and a largely absent community infrastructure are uniquely positioned against the back drop of colonialism, racism and social exclusion arising from the historical plight of First Nations people including the effect of residential schools. These all contribute to the troubled youth, who appear to exist in a dysphoric state, caught between the First Nations traditions and cultures of their forefathers, and contemporary society which they are poorly equipped to navigate and engage.”<sup>39</sup>*

25. Since 1999, NAN has been working to address recommendations made as a result of these inquests with an intergovernmental committee comprised of government departments from both the Province of Ontario and the Government of Canada.

### **3.1 Underlying Causes Related to Canada’s Economic and Political Marginalization**

26. In 2007, an International Symposium on the Social Determinants of Indigenous Health conference which occurred in Adelaide, Australia (of which the government of Canada participated), determined colonization and the lack resolution of Indigenous poverty and economic inequality as key factors contributing to suicide and negative health outcomes for indigenous peoples.<sup>40</sup>
27. The view of the above symposium was that rather than being a historical fact, colonization was a “contemporary actuality.”
28. Canada continues to deny the effects of colonization on Indigenous peoples and as a result, prevents Indigenous peoples’ the ability to enjoy human rights contained in the ICERD and other international human rights instruments. During the G20 Summit in 2009, Prime Minister Stephen Harper announced that... *“We also have no history of colonialism. So we have all of the things that many people admire about the great powers but none of the things that threaten or bother them.”<sup>41</sup>*

### **3.2 Failure to Consider Unique Needs of Remote Indigenous Communities**

29. Canada fails to take into account needs of remote/fly-in Indigenous communities and the added costs associated to deliver services at comparable levels delivered in mainstream settings. When issues are brought forward, Canada provides the response that funding falls under the jurisdiction of the province of Ontario.
30. Canada does not offer the same level of services to address youth suicide in remote Indigenous communities as the rest of the country. This results in Indigenous peoples needing to travel outside their communities to access basic human right essential services, policies of the government of Canada dictate how these services are accessed. Many Indigenous peoples are denied access.

**In regard to the youth suicide epidemic in NAN, it is recommended that Canada:**

- **Discontinue denying the effects of colonization on Indigenous peoples**
- **Discontinue viewing colonization as a historical fact, but as a contemporary reality that is contributed to negative social determinants for Indigenous peoples**
- **In conjunction with Indigenous peoples, develop a strategy for de-colonization**
- **Address economic inequality and a share in the benefits derived from natural resources and extractive industries (i.e. royalties and taxes) so that Indigenous peoples will have the resources to address youth suicide, build healthy communities including infrastructure**
- **Amend funding formulas and provide required funding for education so that Indigenous children and youth receive the same learning as any other child in Canada**
- **In addition to the above, and as part of the de-colonization strategy, provide additional resources to take into account the effects of colonization on Indigenous children and youth**
- **Re-examine how mental health and other services are being provided and accessed by remote/fly-in Indigenous communities, and remove barriers where they exist**

#### **IV. NON-MEDICAL PRESCRIPTION OPIOID USE EPIDEMIC - CANADA'S DISCRIMINATORY ACTIONS**

31. In relation to the non-medical prescription opioid use epidemic (described below), actions by Canada in this Alternative Report point to fact racial discrimination exists and that Indigenous families affected by non-medical prescription opioid use are not given the opportunity to enjoy the rights contained in the ICERD, the UNDRIP, and the Universal Declaration of Human Rights.
32. Non-medical prescription opioid use and prescription opioid-related harms have emerged as a public health crisis in North America in recent years. While prescription opioids are crucial medications for the treatment of severe and chronic pain, they are dispensed in North America at rates far higher than anywhere else in the world.
33. Prescription opioid dispensing in Canada has doubled in the past decade, and is proportionally highest in Ontario compared to other provinces. Consequently, 6.5% of the Ontario general adult population – or ~600,000 – reported non-medical prescription use for the past year. It is reported to be markedly prevalent among young people, and specifically among high-school students, as well as street drug users where, in many Canadian cities, prescription opioids have replaced heroin as the major opioid drug of choice.
34. The above trends have translated into substantial increases in prescription opioid-related harms. In Ontario, the number of individuals with prescription opioid problems admitted to both addiction treatment, as well as methadone maintenance treatment (“MMT”) has more than doubled in recent years.
35. Similar to developments in the United States, prescription opioid-related accidental overdose deaths have steeply risen in Canada, now accounting for 30 – 50% of deaths by overdose. In Ontario, prescription opioid deaths doubled between 1991 and 2004, and more recently increased from 88 in 2002 to 135 in 2006.
36. Recent data from Health Canada (Non-Insured Health Benefits Program for eligible Status Indians) which has the ability to systematically track prescription drugs dispensed to Indigenous peoples in Ontario, reported that 841 prescription opioid prescriptions were dispensed per 1,000 individuals in 2007, 111/1,000 for the opioid drug Oxycodone alone. The determinants of health in Indigenous peoples in NAN increase the frequency of physician contacts, including the possible number of prescription opioids prescriptions written and, consequently, opportunities for abuse.<sup>42</sup>
37. The rapidly rising prevalence of non-medical prescription opioid use<sup>43</sup> and related health harms have resulted in a major epidemic and public health crisis in the Indigenous nations in NAN.<sup>44</sup> In 2009, 49 Indigenous leaders (NAN Chiefs) declared a state of emergency.<sup>45</sup> In October 2010, the Indigenous community, Eabametoong First Nation of 1,200 people in a remote location declared a state of emergency as a result of

“extreme social disruption” after the community experienced 3 murders, 73 drug charges, 61 assaults, and 47 arson cases (35 structural fires).

38. Despite repeated calls for help, Indigenous leaders in NAN have stated, “there has been a lack of response by both levels of government to the epidemic of opioid addiction in our territory.” They called for urgently required resources and programs to stabilize communities currently in crisis based on the NAN Prescription Drug Abuse Framework<sup>46</sup> which was developed by a group of Indigenous leaders, community members, Elder and youth representatives, and external experts from the public health, mental health and addictions field.

#### **4.1 Unequal Access to Treatment Drugs**

39. Due to geographical location, lack of infrastructure and essential services (amongst other barriers), a majority of Indigenous communities in NAN do not have access to detoxification, treatment and maintenance services which are 100% available to the Canadian public.
40. Some of the methodologies and drugs utilized for treatment of opioid addiction include MMT and a substitution drug called Suboxone (*Buprenorphine/Nalaxone*), which was approved for use in Canada in 2007. Suboxone is an effective drug in the treatment of opioid addiction.
41. Suboxone was identified by Indigenous communities to be the most suitable treatment drug given the conditions that exist, these include: (a) high rates of opioid addiction and its devastating impacts on communities as a whole, (b) lack of access to addictions treatment and/or long waiting lists, (c) lack of available opioid detoxification programming, (d) lack of human and financial resources at the Indigenous community level to respond to the opioid epidemic, and (d) its suitability for usage in community-based and/or land-based treatment programming.
42. The government of Canada regulates access to health benefits for drug coverage for Indigenous people through policy.<sup>47</sup> In the case of Suboxone, they have adopted an exception policy position on approval that makes it difficult for Indigenous people to access. It was also added to their drug formulary as an exception that requires case-by-case review, for approval. They also issued an interim directive to prevent Health Canada Nurses nursing in Indigenous communities from administering the drug for clients undergoing detoxification, treatment and maintenance.

#### **4.2 Unresponsiveness of Canada to State of Emergency**

43. Prior to declaring a state of emergency, Indigenous leaders had worked towards engaging the Government of Canada and the Province of Ontario on the need for developing immediate solutions. As part of their efforts, they advocated for Suboxone

criteria to include the unique considerations for northern remote communities (as indicated in 42 above). These efforts resulted in a disinterested government.

44. Indigenous leaders in NAN have been highly concerned with the lack of significance placed on this issue by the Government of Canada. On two occasions in 2011, the federal Minister responsible for health cancelled two meetings (July 26, 2011 and September 13, 2011).

### 4.3 Canadian Human Rights Commission Complaint

45. As part of their efforts in declaring a state of emergency, Indigenous leaders in NAN have called for the submission of a human rights complaint against the government of Canada and Ontario for failing to provide resources, programs and services that are urgently required to deal with prescription drug abuse.<sup>48</sup> The decision made to do so was based on not having another alternative, given the disinterest in the Government of Canada to respond.

**In regard to the opioid addiction epidemic in NAN, it is recommended that Canada:**

- **Invoke a public welfare emergency, in addition to, and in support of, the state of emergency declared by Indigenous leaders in NAN**
- **Appoint a government of Canada liaison or federal Minister to immediately develop a and fund a strategy with NAN to *stabilize* Indigenous communities in crisis due to non-medical prescription opioid use**
- **Allocate resources to implement strategies contained in the NAN Prescription Drug Abuse Framework, 2011, including the NAN Prescription Drug Abuse Task Force**
- **Remove policy barriers in Health Canada's Non-Insured Health Benefits Program so that all Indigenous peoples have access to the drug Suboxone (*Buprenorphine/Nalaxone*) for dextoxification, treatment and maintenance for NAN Indigenous peoples with an opioid addiction.**

## V. INEQUALITY IN FIRST NATIONS POLICING - CANADA'S DISCRIMINATORY ACTIONS

46. Indigenous communities in NAN face a lack of funding parity and inequality in policing services/standards compared to the rest of Canada. This harms service levels, provides inadequate protection and safety in communities, resulting in the threatening of lives. In some cases, it has lead to deaths.

47. In the 2007 Ipperwash Inquiry,<sup>49</sup> Honorable Sidney B. Linden stated that “First Nation police services are working with restricted budgets and substandard facilities, which frustrates their efforts to provide high quality police services.”<sup>50</sup> He also stated, “there is no reason why residents of First Nations in Ontario should have lower-quality policing than non-Aboriginal Ontarians do.”<sup>51</sup> The research conducted as part of this inquiry and evidence provided while it was being undertaken confirmed, “First Nation police services are working with restricted budgets and substandard facilities, which frustrates their efforts to provide high quality police services.”<sup>52</sup>
48. The First Nations Policing Program conducted a Comprehensive review in 2010. During the consultation phase, key issues of common concern were identified across the country. Inadequate funding was the most prominent issue, as the lack of funding inevitably affects all aspects of service delivery to varying degrees. A second important agreement among the program users was that the FNPP should not merely be a government program but should instead have legislative status.<sup>53</sup> Canada has failed to act upon this review. Since the inception of its police service, Nishnawbe Aski Nation Police Services has continually inquired about having a legislative base for its police service.

## **5.1 Inquiries into the Deaths of Indigenous Peoples While in Custody**

49. In 2009, a coroner’s inquest was undertaken investigating the deaths of Ricardo Wesley and Jamie Goodwin who perished in a fire while they were locked in their cells in Kashechewan First Nation, an Indigenous community in NAN. The inquest tabled 80 recommendations.<sup>54</sup> Key contributing factors in these deaths were cited as being inadequate fire safety standards, inadequacy of resources, officer training and a need for infrastructure that meets provincial code requirements. The inquest jury also recommended that Canada provide sufficient funding to ensure equality in policing between First Nations and non-First Nations communities. The government of Canada was aware of this coroner’s report but failed to act upon its recommendations.

## **5.2 Canadian Human Rights Commission Complaint**

50. In 2007, an Indigenous organization within NAN called the Mushkegowuk Council<sup>55</sup> filed a complaint with the Canadian Human Rights Commission against the government of Canada about the inequality in policing between First Nations and non-First Nations communities. They argued that the inequality stems from Canada’s lack of funding and support, and from fatal flaws in Canada’s First Nations Policing Program (“FNPP”), and that Canada’s actions amounted to systemic discrimination against First Nations people.
51. A preliminary report from the Canadian Human Rights Commission found that “the level of funding ... leads to a shortage of police officers and services, difficult and unsafe

working conditions for officers, and concerns about the safety and quality of the infrastructure.” It also stated that the evidence “suggests that individuals living in [the Mushkegowuk communities] are disadvantaged as compared to other, non-First Nations communities in regard to the police services they are receiving.”<sup>56</sup> Those findings were based on evidence gathered during the initial human rights investigation; the complaint is now proceeding to a full hearing at the Canadian Human Rights Tribunal.

### 5.3 Unresponsiveness to Call for Equality in Police Services

52. In this above human rights complaint, rather than focusing on trying to improve First Nations policing, the government of Canada aggressively fought against the discrimination complaint, and openly defended its right to continue its discriminatory practices. In the Tribunal process, Canada is arguing that it is not legally required to ensure that First Nations policing is equal to non-First Nations policing. In other words, Canada is bluntly stating that services in First Nations communities *do not need to be equal* to services in non-First Nations communities. Many First Nations and human rights advocates are shocked and appalled by Canada’s defiant position.
53. In 2003, the government of Canada self-admitted in a federal government assessment<sup>57</sup> that inadequate police facilities are a major concern in many Indigenous communities/First Nations stating “many of the First Nations police services demonstrably have the poorest quality policing facilities in Canada.”

**In regard to the inequality in First Nations policing in NAN, it is recommended that Canada:**

- **Provide funding parity for First Nations policing**
- **Provide legislative status for First Nations policing so that the discriminatory practice of chronic underfunding could be addressed**

## VI. SUMMARY OF RECOMMENDATIONS

1. Re-balance the political and economic power between Indigenous peoples and the government as intended in Treaties No. 9 and 5.
2. Play a role in eliminating discriminatory ideology prevalent in the Canadian public with respect to the treaty fiduciary relationship.
3. Discontinue the dispossession of Indigenous peoples’ land and share in the benefits derived from natural resources and extractive industries (i.e. royalties and taxes) so that Indigenous peoples will have the resources in which to build and maintain sustainable housing and infrastructure.

4. Undertake a comprehensive review in partnership with Indigenous peoples of existing housing and infrastructure funding programs, to determine how its First Nations Indigenous peoples are able to access them and remove barriers where identified.
5. Discontinue denying the effects of colonization on Indigenous peoples.
6. Discontinue viewing colonization as a historical fact, but as a contemporary reality that is contributed to negative social determinants for Indigenous peoples.
7. In conjunction with Indigenous peoples, develop a strategy for de-colonization.
8. Address economic inequality and a share in the benefits derived from natural resources and extractive industries (i.e. royalties and taxes) so that Indigenous peoples will have the resources to address youth suicide, build healthy communities including infrastructure.
9. Amend funding formulas and provide required funding for education so that Indigenous children and youth receive the same learning as any other child in Canada.
10. In addition to the above, and as part of the de-colonization strategy, provide additional resources to take into account the effects of colonization on Indigenous children and youth.
11. Re-examine how mental health and other services are being provided and accessed by remote/fly-in Indigenous communities, and remove barriers where they exist.
12. Invoke a public welfare emergency, in addition to, and in support of, the state of emergency declared by Indigenous leaders in NAN on the non-medical prescription opioid epidemic in NAN.
13. Appoint a government of Canada liaison or federal Minister to immediately develop and fund a strategy with NAN to *stabilize* Indigenous communities in crisis due to non-medical prescription opioid use.
14. Allocate resources to implement strategies contained in the NAN Prescription Drug Abuse Framework, 2011, including funding for the NAN Prescription Drug Abuse Task Force.
15. Remove policy barriers in Health Canada's Non-Insured Health Benefits Program so that all Indigenous peoples have access to the drug Suboxone. (*Buprenorphine/Naloxone*) for detoxification, treatment and maintenance for NAN Indigenous peoples with an addiction.
16. Provide funding parity for First Nations policing.
17. Provide legislative status for First Nations policing so that the discriminatory practice of chronic underfunding could be addressed.

## ENDNOTES

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<sup>1</sup> Nishnawbe Aski Nation is a political organization that represents 49 Indigenous nations who are located on First Nations (reservations) in Northern, Ontario in Canada's Treaties No. 9 and 5. Of the 49 Indigenous nations, approximately 35 (72%) are found north of the 50<sup>th</sup> parallel and are remote, being accessible only by air. Some of these communities are accessible through winter roads for 6-8 weeks a year. For more information, go to: [www.nan.on.ca](http://www.nan.on.ca).

<sup>2</sup> Information on the Canadian Human Rights Commission can be obtained at: <http://www.chrc-ccdp.ca/default-eng.aspx>

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<sup>3</sup> Committee on the Elimination of Racial Discrimination, “Consideration of Reports Submitted by States Parties under Article 9 of the Convention,” UN Doc. CERD/C/CAN/CO/18 (25 May 2007).

<sup>4</sup> CERD concluding observation and recommendation 21 states: “*In light of article 5 (e) and of general recommendation no. 23 (1997) on the rights of indigenous peoples, the Committee urges the State party to allocate sufficient resources to remove the obstacles that prevent the enjoyment of economic, social and cultural rights by Aboriginal peoples. The Committee also once again requests the State party to provide information on limitations imposed on the use by Aboriginal people of their land, in its next periodic report, and that it fully implement the 1996 recommendations of the Royal Commission on Aboriginal Peoples without further delay.*”

<sup>5</sup> Committee on the Elimination of Racial Discrimination, “Nineteenth and twentieth periodic reports of States parties due in 2009: Canada,” UN Doc. CERD/C/CAN/19-20 (8 June 2011) [“Canada’s 2011 Report”], para 1.

<sup>6</sup> Committee on the Elimination of Racial Discrimination, “Nineteenth and twentieth periodic reports of States parties due in 2009: Canada,” UN Doc. CERD/C/CAN/19-20 (8 June 2011) [“Canada’s 2011 Report”], para 1.

<sup>7</sup> On the occasion of the 10<sup>th</sup> Session of the United Nations Permanent Forum on Indigenous Issues (May 18, 2011), NAN met with Special Rapporteur James Anaya and provided him with a “Report on the Situation of Human Rights of Indigenous Peoples in Treaties No. 9 and 5 (Northern, Ontario, Canada).” This report measured four Canadian provincial statutes against the: (1) United Nations Declaration on the Rights of Indigenous Peoples, (2) Indigenous and Tribal Peoples Convention, (3) Charter of the United Nations, (4) Universal Declaration of Human Rights, (5) International Covenant on Civil and Political Rights, (6) International Covenant on Economic, Social and Cultural Rights, and lastly, the (7) ICERD. The report determined that the actions of the provincial government do are not in compliance with these international human rights instruments and laws.

<sup>8</sup> On the occasion of the Fourth Session, Geneva, regarding Agenda item 4: Study on Indigenous Peoples and right to participate in decision-making (11 – 15 July 2011).

<sup>9</sup> For information on a January 2012 plane crash due to inadequate airport services, go to: <http://www.cbc.ca/news/canada/thunder-bay/story/2012/01/19/tby-north-spirit-lake-crash-site-visit.html>. For information on two children perishing in a house fire in 2011 due to inadequate fire protection services, go to: <http://www.tbnewswatch.com/news/184116/One-year-later>.

<sup>10</sup> Article 25 of the Universal Declaration of Human Rights states:

*“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”*

<sup>11</sup> Heather Ross and Nishnawbe Aski Nation, “Infrastructure in the Nishnawbe Aski Nation First Nations: An Overview” (February 28, 2008).

<sup>12</sup> *Ibid.* The study confirmed that new housing construction rates meets only 1% of the need and does not take into account population growth. It also pointed out that the housing conditions within NAN in comparison to First Nations across Canada appear to be outside the norm.

<sup>13</sup> *Ibid.* The study indicated that 29% of participating NAN First Nations lack water and sewer services. In addition, 60% of responding First Nations are or have been on boil water advisories. Water supply systems are at capacity in 64% of participating First Nations and 6% are unable to hook up new homes to the system. While water supply systems are being up-graded in the First Nation communities, 55% of participating First

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Nations are in need of an up-grade for which there is no plan. Very few homes are on septic systems, most are connected to sewers. Twenty five percent of participating First Nations have recently had improvements to their sewer system, the remaining 75%, while needing an up-grade, are not scheduled.

<sup>14</sup> *Ibid.* The study revealed that the high cost of off-grid electricity has forced First Nations people in NAN to abandon electrical services entirely or to vastly limit their use of power. It also confirmed that in these off-grid areas, diesel power is used, costing each household 31.5cents/kwh., six times the cost of power from the grid and that of all the First Nations utilizing diesel generation, all are at capacity and requiring an up-grade (which many are delayed by 5 years).

<sup>15</sup> *Ibid.* Almost all NAN First Nations who participated in this study indicated that their land fill sites are at capacity and that plans to expand the sites, if they existed at all, were 3 to 5 years in the future.

<sup>16</sup> *Ibid.* All NAN First Nations who participated in this study noted that their roads, bridges, etc. are deteriorating and that the cost of repair is high.

<sup>17</sup> *Ibid.* The study confirmed that 60% of the participating NAN First Nations reported inadequate airports and airstrips, with no improvements scheduled. This has lead to the loss of lives happening as recently as January 11, 2012 (see link for news article: <http://tbnewswatch.com/news/national/183090/Relieved>).

<sup>18</sup> *Ibid.* The study found that 87% of the participating First Nations indicated that their schools were over crowded. Respondents indicated that their schools have been closed in the past due to fuel spills, mould, and leaky roofs. In several First Nations, students are educated in portables. In one community even the portables are condemned. Of the participating First Nations who are/have been scheduled for a new school, the proposed construction has been delayed between 5 and 10 years.

<sup>19</sup> *Ibid.* The study found that of the 35 police detachments within NAN, only 1 meets national standards and that 15 are in need of immediate and priority repairs or replacement. In addition to this, police officers also face an issue with lack of community housing if they do not have home in the community from which they are policing.

<sup>20</sup>For highlights from the Royal Commission on Aboriginal Peoples (RCAP), go to: <http://www.aadnc-aandc.gc.ca/eng/1100100014597>.

<sup>21</sup> RCAP 1996, (Vol. 1:1-3).

<sup>22</sup> Indigenous peoples are eligible to apply for housing and infrastructure funding assistance through government programs and services such as: Canada Mortgage and Housing Corporation, First Nations Market Housing Fund, Health Canada, Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), and/or Canada's Economic Action Plan. Many barriers exist for accessing these funding programs such lack of ability to obtain loan guarantees, financial deficit positions of Indigenous communities, geographical location and inaccessibility tools/equipment, etc. for infrastructure projects.

<sup>23</sup> See the following links highlighting the housing and infrastructure crisis for Indigenous peoples in NAN which existed during the time of Canada's 19<sup>th</sup> and 20<sup>th</sup> Periodic Review:

- i) <http://www.youtube.com/watch?v=6abZ0LFT5CQ>
- ii) <http://netnewsledger.com/2011/11/23/three-weeks-since-state-of-emergency-was-declared-charlie-angus/>
- iii) <http://rabble.ca/blogs/bloggers/making-waves/2011/11/international-aid-agency-steps-help-community-canada>
- iv) <http://www.cbc.ca/news/canada/story/2011/11/30/attawapiskat-wednesday.html?cmp=rss>

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- v) <http://aptn.ca/pages/news/2011/11/30/federal-officials-visited-attawapiskat-3-times-in-october-triggered-no-red-flags-on-housing/>
  - vi) <http://www.nan.on.ca/article/friday-december-2-2011-554.asp>
  - vii) <http://www.cbc.ca/news/politics/story/2011/12/03/pol-attawapiskat-thehouse-strahl-fontaine.html>
  - viii) <http://www.ctv.ca/CTVNews/TopStories/20111201/attawapiskat-funding-spending-government-audit-111201/>
  - ix) <http://www.canada.com/sports/Attawapiskat+chief+cool+offer+relocate+residents/5837049/story.html>

<sup>24</sup> The large government bureaucracy, formerly known as 'Indian and Northern Affairs Canada' was renamed 'Aboriginal Affairs and Northern Development Canada' (AANDC) on May 18, 2011. In August 2011, Indigenous leaders in NAN formally rejected this name change as they felt that it diminishes the legal rights and fiduciary obligations **to treaty peoples** and breaches Article 37 of the UNDRIP. AANDC has capped expenditure increases for Indigenous peoples in Canada at two percent a year since 1996.

<sup>25</sup> The *Indian Act* ("An Act respecting Indians"), R.S., 1951, c. I-5, is a Canadian statute that concerns registered Indians, their bands, and the system of Indian reserves. The Indian Act was enacted in 1876 by the Parliament of Canada under the provisions of Section 91(24) of the *Constitution Act*, 1867, which provides Canada's federal government exclusive authority to legislate in relation to "Indians and Lands Reserved for Indians."

<sup>26</sup> Office of the Auditor General of Canada. "Status Report of the Auditor General of Canada to the House of Commons. Chapter 5 – Management of Programs for First Nations" at para. 5.50 and 5.61 (May 2006).

<sup>27</sup> Office of the Auditor General of Canada. "Status Report of the Auditor General of Canada to the House of Commons . Chapter 4 – Programs for First Nations on Reserves" (2011).

<sup>28</sup> United Nations, "Special Rapporteur On Indigenous Peoples Issues Statement On The Attawapiskat First Nation In Canada, 20 December 2011," [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear\\_en\)/F2496F6E43E46883C125796C0033DCC6?OpenDocument&cntxt=0D4FB&cookieLang=en](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/F2496F6E43E46883C125796C0033DCC6?OpenDocument&cntxt=0D4FB&cookieLang=en): "The social and economic situation of the Attawapiskat seems to represent the condition of many First Nation communities living on reserves throughout Canada, which is allegedly akin to third world conditions. Yet, this situation is not representative of non-Aboriginal communities in Canada, a country with overall human rights indicators scoring among the top of all countries of the world." [emphasis added]

<sup>29</sup> Kim Mackrael, "UN official blasts 'dire' conditions in Attawapiskat", *Globe and Mail* (20 December 2011), <http://www.theglobeandmail.com/news/politics/un-official-blasts-dire-conditions-in-attawapiskat/article2278146/>. :

A spokeswoman for Aboriginal Affairs Minister John Duncan quickly fired back, characterizing the special rapporteur's missive as an attention-grabbing stunt.

"Anyone who reads the letter will see it lacks credibility," Michelle Yao wrote in an e-mail to The Globe and Mail. "Our government is focused on the needs of the residents of Attawapiskat – not publicity stunts." [emphasis added]

<sup>30</sup> These two Indigenous communities are in the NAN territory and include Pikangikum First Nation (at: <http://www.ifna.ca/article/pikangikum-116.asp>) and Attawapiskat First Nation (at: <http://www.attawapiskat.org/>).

<sup>31</sup> TPM is a government of Canada "high-level" funding intervention policy that involves a third-party being appointed by the crown to administer funding otherwise payable to an Indigenous community and to execute

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funding arrangement obligations provided to them. For a news article on the imposition of TPM, go to: <http://www.guardian.co.uk/commentisfree/2011/dec/11/canada-third-world-first-nation-attawapiskat>.

<sup>32</sup> For the Ontario Superior Court of Justice ruling on *Pikangikum First Nation vs. Robert Nault & the Attorney General of Canada*, see: <http://www.canlii.com/en/on/onsc/doc/2010/2010onsc5122/2010onsc5122.html>.

<sup>33</sup> See the public comments posted at the end of this news article for an example of racially discriminatory public Canadian opinion against Indigenous peoples: <http://www.ctv.ca/CTVNews/TopStories/20111129/short-term-solutions-attawapiskat-111129/>.

<sup>34</sup> NAN Health Policy and Planning Department and NAN Health Advisory Group, "State of Health Report for the Nishnawbe Aski Nation Territory" (March 2011).

<sup>35</sup> Nishnawbe Aski Nation, "Draft NAN Submission on Education" (January 4, 2011).

<sup>36</sup> In the "Report The Office of the Chief Coroner's Death Review of the Youth Suicides at the Pikangikum First Nation: 2006 – 2008," commissioned by the Ontario Ministry of Community Safety and Correctional Services, the Ontario Coroner recommended that Canada "should provide funding at a level comparable to that provided to other children and youth being educated in the province of Ontario" (Recommendation 71 at: [http://www.mcscs.jus.gov.on.ca/english/DeathInvestigations/office\\_coroner/PublicationsandReports/Pikangikum/PartIConsolidatedRecommendations/PIK\\_partI.html](http://www.mcscs.jus.gov.on.ca/english/DeathInvestigations/office_coroner/PublicationsandReports/Pikangikum/PartIConsolidatedRecommendations/PIK_partI.html)).

<sup>37</sup> See news article "Seven native teens dead or missing while away at school" at: <http://www.parentcentral.ca/parent/article/987930>.

<sup>38</sup> "Coroner's Inquest into the death of Selena Sakanee (November/December 1999)" and "Death Review of the Youth Suicides at the Pikangikum First Nation (June 2011, for the period covering 2006 – 2008)" at: <http://www.mcscs.jus.gov.on.ca/stellent/groups/public/@mcscs/@www/@com/documents/webasset/ec093490.pdf>.

<sup>39</sup> Ontario Ministry of Community Safety and Correctional Services, "Death Review of the Youth Suicides at the Pikangikum First Nation from 2006 – 2008," also available at the above link (June 2011).

<sup>40</sup> Social determinants and Indigenous health: The International experience and its policy implications. Report on the International Symposium on Social Determinants of Indigenous Health Adelaide, 29-30 April 2007 for the Commission on the Social Determinants of Health (CSDH), p. 5.

<sup>41</sup> For media statements of Prime Minister Harper on Canada not having a history of colonialism: <http://www.reuters.com/article/2009/09/26/columns-us-g20-canada-advantagesidUSTRE58P05Z20090926>

<sup>42</sup> Wardman, D. and N. Khan. Antidepressant medication use among First Nations peoples residing within British Columbia. *American Indian and Alaska Native Mental Health Research*. 11(3), p. 43-48 (2004).

<sup>43</sup> The rapidly rising prevalence of non-medical prescription opioid use in Indigenous communities in NAN has been corroborated by the following observations:

- i) The number of babies born in the hospital that has a large number of patients from Indigenous communities in NAN have reported that that babies who have been exposed before birth to opiate drugs has doubled from 2009 to 2010; from 8.6% to 17.2%. Of these, 66% had mothers who were using opioid drugs daily.

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- ii) This same hospital has reported that 1 in 5 babies (nearly 20%) have been exposed to opioids like drug OxyContin and the number of babies experiencing withdrawal doubled from 2009 to 2010; they report that this trend continues to increase.
  - iii) They also report that the Hepatitis C rate has increased four-fold between 2009 and 2010 and the youth population has the highest infection rate as many are injecting the ultra-addictive drug OxyContin, the also increases potential for HIV infection.
  - iv) A municipal district highly populated by Indigenous peoples from NAN has been reported as having the highest prescription rate and the second highest opioid-related death rate in Ontario based on data reviewed from 2004 to 2006 (Gomes. ICES. 2011).
  - v) In comparison to municipal districts, this same municipal district Crime Severity Index is high at 268.9 in comparison to other areas (i.e. Timmins, Ontario - 116; Cornwall, Ontario - 112.3; St. Thomas, Ontario - 74.3; and, Stratford, Ontario - 68.9).
  - vi) In a session for public health strategy on mental health and addictions that took place in March 2011, a drug unit providing police services in Indigenous communities in NAN have reported a steady rise in policing services - 13,437 calls in 2005 to 20,325 calls in 2010, most likely linked with increased OxyContin use. They reported that in 2010, 8,500 tablets of OxyCodene worth an estimated \$3.4 million were confiscated.
  - vii) A high school exclusively providing education services to Indigenous youth from NAN reported a 42.3% opioid addiction rate requiring them to implement a pilot project for opiate detoxification called Physician Office-Based Clinical Withdrawal. This project uses the substitution drug Suboxone and is unfunded for professional fees (for physician and nurse practitioners).
  - viii) A child welfare agency providing services to Indigenous families in NAN have reported prescription drug abuse as one of the most serious issues affecting our children and families, with increased child apprehensions reported due to the high opioid addiction rates.
  - ix) One remote Indigenous community in NAN First Nation reported an estimated 150-200 injection drug users, with the total on-reserve population of approximately 600.
  - x) In one intake of Indigenous peoples entering a community-based Suboxone detoxification/treatment program in a remote/fly-in Indigenous community, the injection rate was 92%.

<sup>44</sup> See Thunderstone Pictures, "The Life You Want: A Young Woman's Struggle Through Addiction," for a documentary illustrating the epidemic at: <http://vimeo.com/31881132> (34 minutes, HD, 2011).

<sup>45</sup> Nishnawbe Aski Nation Chiefs Resolution 11-59, "Prescription Drug Abuse State of Emergency" (November 24, 2011).

<sup>46</sup> The *NAN Prescription Drug Abuse Framework* includes four components: (a) treatment and detoxification, (b) security and policing, (c) prevention and, (d) creating healthy communities by working on the root causes of abuse and addiction.

<sup>47</sup> In Canada, Provinces and territories are responsible for delivering health care services, guided by the provisions of the Canada Health Act. Health care services include insured hospital care and primary health care, such as physicians and other health professional services. Like any other resident, First Nations people and Inuit access these insured services through provincial and territorial governments.

However, there are a number of health-related goods and services that are not insured by provinces and territories or other private insurance plans. To support First Nations people and Inuit in reaching an overall health status that is comparable with other Canadians, Health Canada's Non-Insured Health Benefits (NIHB) Program provides coverage for a limited range of these goods and services when they are not insured elsewhere.

NIHB program is Health Canada's national, medically necessary health benefit program that provides coverage for benefit claims for a specified range of drugs, dental care, vision care, medical supplies and

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equipment, short-term crisis intervention mental health counselling and medical transportation for eligible First Nations people and Inuit.

<sup>48</sup> Nishnawbe Aski Nation Chiefs Resolution 11-59, "Prescription Drug Abuse State of Emergency" (November 24, 2011).

<sup>49</sup> The Ipperwash Inquiry was established by the Government of Ontario on November 12, 2003, under the *Public Inquiries Act*. Its mandate was to inquire and report on events surrounding the death of Dudley George, who was shot in 1995 during a protest by First Nations representatives at Ipperwash Provincial Park and later died. The Inquiry was also asked to make recommendations that would avoid violence in similar circumstances in the future. More information can be found at: <http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/index.html>

<sup>50</sup> The Honorable Sidney B. Linden, Report of the Ipperwash Inquiry 2007, page 265.

<sup>51</sup> The Honorable Sidney B. Linden, Report of the Ipperwash Inquiry, 2007, page 249.

<sup>52</sup> The Honorable Sidney B. Linden, Report of the Ipperwash Inquiry 2007, page 265.

<sup>53</sup> Public Safety Canada, "Comprehensive Review of the First Nations Policing Program – National Report from the Community Engagements Sessions," (2010).

<sup>54</sup> Recommendations Concerning the Coroner's Inquest into the Death of Ricardo Wesley & Jamie Goodwin, (May 21, 2009).

<sup>55</sup> Mushkegowuk Council (found at: <http://www.mushkegowuk.ca/>) represents 7 Indigenous communities on the James Bay Coast and within southern traditional inland boundaries.

<sup>56</sup> Canadian Human Rights Commission - Investigation Report, dated December 23, 2010 (File no. 2007 0826).

<sup>57</sup> Public Works and Government Services Canada, "Renewal of First Nations Policing Facilities" (February 2003).