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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Visit to Canada

Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*, **

Summary

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (toxics), Baskut Tuncak, on his mission to Canada. In the report, submitted pursuant to Council resolution 36/15, the Special Rapporteur shares his findings and recommendations from his official country visit, from 24 May to 6 June 2019.

* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.

** The present report was submitted after the deadline in order to reflect recent developments.

Annex

Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his visit to Canada

I. Introduction, background and context

1. The Special Rapporteur extends his most sincere gratitude to the Government of Canada for the invitation to carry out this visit, and for the full support and collaboration. He thanks all individuals and organizations he met in Canada, for sharing their thoughts, struggles, challenges, and opportunities to drive greater protection of human rights in the context of exposure to hazardous substances and wastes (toxics).¹

2. The Special Rapporteur, Mr. Baskut Tuncak, visited Ottawa, Toronto, Asubpeeschoseewagong Netum Anishinabek (also formerly known as Grassy Narrows First Nation), Aamjiwnaang First Nation, Sarnia, Fort McMurray, Edmonton, Vancouver, and Montréal, where he met representatives of the federal government and the Ontario, Québec, Alberta, and British Columbia Government counterparts. He met with Indigenous peoples' representatives and elders, civil society representatives, defenders,² academics, youth representatives, and representatives of the business community.

3. The Special Rapporteur is grateful to all who spared their time and opened their doors to dialogue, for a crosscutting debate on protection of human rights impacted by toxic exposures.

A. Implications of toxics for Canada's human rights obligations

4. Canada has recognized various human rights implicated by hazardous substances and wastes through its ratification of or accession to seven United Nations human rights treaties. Under these treaties, Canada has the obligation to protect, respect and fulfil the human rights to life and dignity, health, security of the person and bodily integrity, safe food and water, adequate housing, safe and healthy working conditions, among others. Canada has obligations regarding the rights to information, participation, access to justice and remedies, and specific obligations regarding the rights of Indigenous peoples, children, different genders, workers, minorities, migrants, and persons with disabilities, among other vulnerable groups, as discussed further below. These are all underpinned by the fundamental principle of non-discrimination.

5. Together, these rights and obligations create a duty for Canada to prevent exposure to toxic and otherwise hazardous substances. The only way to protect against violations of the above human rights is to prevent exposure.³ This is a fundamental obligation that rests with the State.⁴ However, businesses have critical responsibilities to prevent exposure as well.

¹ Consistent with the previous reports of the current mandate holder and those of his predecessors, hazardous substances and wastes are not defined strictly; they include, inter alia, toxic industrial chemicals and pesticides, pollutants, contaminants, explosive and radioactive substances, certain food additives and various forms of waste. For ease of reference, the Special Rapporteur refers to hazardous substances and wastes as "toxics", and therefore, in the present report, the term "toxics" (or "toxic substances") should be understood to also include non-toxic but hazardous substances and wastes.

² See <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>.

³ A/74/480.

⁴ A/74/480.

B. Canadian businesses and human rights

6. All business enterprises in Canada have responsibilities to respect human rights. In fulfilling these responsibilities, business enterprises should carry out robust due diligence of their supply chains and business relationships, to identify and assess impacts of toxic exposure, and ensure prompt and accurate public reporting.⁵

7. Of particular focus to the Special Rapporteur in the context of this mission were extractive industries, exemplified through mining of metals and oil sands, and oil and gas pipelines, and chemical industries including pesticides in agriculture. Over 50% of multinational mining companies are based in Canada.⁶ In 2015, agriculture and agribusiness including food processing and contributed approximately 2.6% of Canada's GDP.

C. Cooperation, collaboration and shared jurisdiction

8. Canada has taken positive steps in increasing collaboration between relevant authorities to protect human rights from toxic exposures. Federal and provincial jurisdiction overlap in important areas, namely health, environment, and agriculture. Health Canada and Environment and Climate Change Canada share responsibilities for many toxic chemicals under the Canadian Environmental Protection Act (CEPA), 1999. This is a good practice that other States may wish to emulate. Other examples include the Chemicals Management Plan⁷, which brings existing federal chemical programs together under a single strategy. Strengthened collaboration between various government bodies can be leveraged to address intersectional inequalities in accessing rights in relation to toxic exposure.

9. In some respects, discussed below, the flexibility for provinces and territories to set standards more stringent than the federal requirements has reduced actual and potential exposures to toxic substances. For example, the legally binding and more stringent air pollution limits in certain provinces illustrates the potential positive role of provincial autonomy.

10. However, shared jurisdiction of federal and provincial and territorial authorities has created challenges. One example is the “jurisdictional quagmire” faced by Indigenous peoples, where often reserves fall between the cracks of federal and provincial jurisdiction, posing a risk for unregulated exposures. For example, throughout Canada, provincial drinking water quality standards are not applicable on reserves, and federal standards are not legally-binding, as they have yet to be set. Jurisdictional separation is not an excuse for shortcomings by the Government in taking prompt action to address toxic exposures.

11. Canada's active participation in international fora on toxics is welcome. Canada has ratified all international chemicals and wastes treaties, and is co-chair of the “Beyond 2020” process of SAICM, a non-binding global policy framework for toxic chemicals and wastes.

D. Implementation of international obligations

12. The Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, and provincial and territorial human rights codes, form the main national human rights framework. The Canadian Human Rights Commission (CHRC) is established under the Act.⁸ As discussed below, these instruments, the various courts and tribunals that make decisions in relation to them, and the CHRC, lay the foundation for addressing discrimination from disproportionate impacts of toxic exposures.

⁵ A/74/480.

⁶ Assembly of First Nations (2019).

⁷ See <https://www.canada.ca/en/health-canada/corporate/about-health-canada/accountability-performance-financial-reporting/evaluation-reports/evaluation-phase-chemicals-management-plan-2011-2012-2015-2016.html#exsum>.

⁸ Part II.

13. However, the CHRC faces various challenges, including limited public awareness of available avenues for filing complaints, and a limited mandate to handle human rights issues relating to discrimination. Therefore, with regard to human rights violations or abuses linked to toxics, the Commission is hindered from offering much-needed services.

14. A repeated concern was that Canada does not give appropriate regard to implementation of relevant international obligations and recommendations. Various recommendations of United Nations Human Rights mechanisms, including on justiciability of economic, social, and cultural rights, have not been cohesively implemented.⁹ While Canada's international human rights obligations may be implemented in law and policy, economic, social and cultural rights are not directly actionable in Canadian courts. Further, insufficient funding at provincial, territorial and municipal levels of government to strengthen implementation of these rights poses a hindrance.¹⁰ Thus, the rights to health, safe water and food, adequate housing, safe and healthy working conditions, and others implicated by toxics, do not appear to be directly actionable under Canadian law.

15. Reports cited the tendency of the Government to focus on reporting obligations at the expense of comprehensive planning, assessment and action on human rights recommendations. The intergovernmental Continuing Committee of Officials on Human Rights has reportedly not realised consistent follow-up on recommendations in practice.¹¹ Noting that the Federal-Provincial-Territorial Meeting of Ministers Responsible for Human Rights met in 2018, this body had not met for nearly 30 years beforehand. Furthermore, environmental rights do not feature prominently in the CHRC's mandate. As further illustrated in this report, the Special Rapporteur considers that the Government must strengthen its legal and institutional frameworks and mechanisms to implement all of Canada's obligations under international human rights law.

16. CEPA and various Government plans and programs offer pertinent opportunities to further integrate human rights protection in Canada's legal framework, as discussed below.

II. Right to life, health and bodily integrity

17. Pollution and exposure to toxic chemicals threaten the right to life, and a life with dignity, where environmental degradation threatens or causes poisoning of persons or communities, poses health challenges, and violates their opportunities to maintain bodily integrity.¹²

18. Canada has taken steps in several areas to implement its duty to prevent exposure. One example relates to air pollution, which accounts for millions of premature deaths globally.¹³ Air quality in Canada has improved by some metrics in recent years.¹⁴ For example, the phase-out of coal-based power plants in Ontario has had a positive impact.¹⁵ Canada has also taken action to prevent exposure to other substances of concern. For example, since the 1970s various measures have contributed to a 90% reduction in mercury emissions.¹⁶

⁹ CESCR (2016) *E/C.12/CAN/CO/6*.

¹⁰ *ibid.*

¹¹ A/HRC/22/50/Add.1 para 21, E/C.12/CAN/CO/4, E/C.12/CAN/CO/5, para. 12.

¹² A/74/480.

¹³ WHO (2019).

¹⁴ See <https://www.canada.ca/en/environment-climate-change/services/environmental-indicators.html> and <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2016-151/index.html>.

¹⁵ Ontario (2019) <https://www.ontario.ca/page/end-coal>.

¹⁶ Parliament of Canada (6 June 2019) <https://www.ourcommons.ca/DocumentViewer/en/42-1/INAN/meeting-155/evidence>.

19. The recent restriction on the use and export of asbestos,¹⁷ and collaborative initiatives for protection of workers from toxic exposures,¹⁸ are notable.

20. Canada's efforts to better understand the nuanced ways early age exposures to toxics can affect health are encouraging. As often said, children are not little adults. Impacts of exposure to toxics during sensitive periods of development are unique and multifaceted. The silent pandemic of diseases and disabilities linked to childhood exposure adversely affects human rights at various stages of life, with profound economic costs including health care, and lost productivity.

21. However, problems persist. Canada had the second highest number of known mining accidents from 2007-2017, increasing significantly from previous years.¹⁹ Such accidents display only one avenue through which the rights of workers and nearby communities are threatened and in certain instances ignored.

22. Despite noted advancements, people and peoples in Canada are chronically exposed to a multitude of toxic substances, which can and should be prevented. Chronic exposure to various hazardous substances in Canada contributes tremendously to premature deaths and numerous diseases and disabilities. For example, exposure to just three anthropogenic air pollutants prematurely kills an estimated 14,600 people annually in Canada.²⁰ In 2015, urban air pollution including exposure to PM2.5 accounted for 7,712 deaths, with health and wellbeing costs estimated at \$36 billion.²¹

23. Air pollution poses significant health risks to children in Canada, including adverse pregnancy outcomes in their mothers, and respiratory health effects.²² One study found that vehicle emissions contribute to about 20% of childhood asthma cases.²³ Further, studies suggest links between increased risk of early childhood cancers and prenatal exposure to ambient air pollution.²⁴

24. In 2011, occupational exposure to toxics accounted for 3.9% to 4.2% of cancer cases, a significant contribution to Canada's cancer burden.²⁵ A 2018 study in British Columbia found cancer causes more than 86% of firefighter deaths, noting that firefighters are often exposed to toxic carcinogens from fire sites.²⁶ Another study found strikingly high rates of acute myeloid leukaemia in areas highly populated by industrial facilities including Sarnia and Hamilton, above the national average.²⁷ Canadians continue to be exposed to pesticides banned in foreign countries for health and environmental reasons, but still in use in Canada.

25. Canada's environmental health laws are not adequately health protective. Canada does not have national legally binding ambient air pollution standards, and some provincial emission source specific laws offer considerable flexibility for industry to develop their own

¹⁷ SOR/2018-196 <https://pollution-waste.canada.ca/environmental-protection-registry/regulations/view?id=150>.

¹⁸ Health Canada (2019) <https://www.canada.ca/en/health-canada/programs/consulting-integrated-strategy-protection-canadian-workers-exposure-chemicals.html>.

¹⁹ UNEP, GRID-Arendal (2017) p 27, https://gridarendal-website-live.s3.amazonaws.com/production/documents/s_document/371/original/RRA_MineTailings_lores.pdf?1510660693.

²⁰ Health Canada (2017) http://publications.gc.ca/collections/collection_2018/sc-hc/H144-51-2017-eng.pdf, Health Canada (2019) http://publications.gc.ca/collections/collection_2019/sc-hc/H144-51-2019-eng.pdf; Health Canada (2019) <https://www.canada.ca/en/health-canada/services/air-quality/health-effects-indoor-air-pollution.html>.

²¹ IISD (June 2017) <https://www.iisd.org/story/costs-of-pollution-in-canada/>.

²² Samuel Koranteng et al (March 2007) <https://doi.org/10.1093/pch/12.3.225>.

²³ Vancouver Coastal Health Research Institute (3 July 2019) <https://www.vchri.ca/articles/2019/07/03/1-5-new-cases-childhood-asthma-canada-are-caused-traffic-pollution>; Pattanun Achakulwisut (10 April 2019) DOI:[https://doi.org/10.1016/S2542-5196\(19\)30046-4](https://doi.org/10.1016/S2542-5196(19)30046-4).

²⁴ Éric Lavigne et al (March 2017) <https://doi.org/10.1016/j.envint.2017.01.004>.

²⁵ Occupational Cancer Research Institute (September 2019) http://www.occupationalcancer.ca/wp-content/uploads/2019/09/OCRC_National-Burden-Report_2019.pdf.

²⁶ Canadian Occupational Safety (2019) <https://www.thesafetymag.com/ca/topics/occupational-hygiene/millions-of-canadians-exposed-to-cancer-causing-agents-at-work/184489>.

²⁷ Feras M. Ghazawi et al (27 February 2019) <https://doi.org/10.1002/cncr.32034>.

standards, for example in Sarnia, Ontario. This flexibility impedes enforcement of health-based standards and accountability for violations. For example, concerning the oil sands industry, between 2010 and 2014, some substances were present in the air in concentrations exceeding provincial health thresholds, elevating the likelihood of adverse health impacts.²⁸ Notable ongoing efforts by the Government include supporting Indigenous community-led initiatives, contributing to data generation through air quality and odour investigation.²⁹

26. While not particular to Canada alone, there is increasingly a need to formulate binding caps on ambient pollution. An opportunity for corrective action is present in the CEPA review, which could mandate Ministers to establish binding caps on ambient air pollution, and water quality.³⁰ This would contribute towards addressing acute air pollution in hotspots. Failing to consider this, a province may remain within the provincial air quality levels yet communities in hot-spots suffer inordinately higher levels of pollution than the general population, posing heightened risks to their life and health.

27. CEPA unfortunately requires exposure to be factored into assessments to designate substances as “toxic,” which manipulates classification of hazardous substances and denies the public their right to know.³¹ Where substances are determined to be toxic at an international level, such as the European Union or OECD, the Government should implement interim measures such as preliminary bans, to expedite exposure reduction.

28. Contamination from extractive industries, including the massive tailing ponds in Alberta, and the possibility of seeping into local water supplies, is of concern. Local communities reported limitations in accessing traditional foods or water sources, citing sickened animals, contaminated meat, and mutations in fish. Despite apparent adherence to regulations, evidence confirms claims of local communities including regarding access to food and water. For example, despite compliance with the Fisheries Act, 76% of metal mines have confirmed effects on fish, fish habitat or both. Among these mines, 92% confirmed at least one effect of a magnitude that may be indicative of a higher risk to the environment.³²

29. Finally, Canadian’s face health impacts including cancers, reproductive health issues, behavioural and developmental challenges linked to childhood exposures to toxics.³³ For example, children ingest “acceptable” traces of harmful pesticides in food.³⁴ Children are also exposed to air pollution such as particulate matter, at home, in school, and outdoors, from phthalates in fragrances, or volatile organic compounds in cleaning products, and other consumer products.³⁵ Other pollutants include lead, mercury, dioxins, PCBs and some solvents, polyhalogenated compounds such as flame retardants and so-called “forever chemicals” are widely acknowledged, with the list of nuanced adverse effects identified growing steadily.³⁶

²⁸ Alberta Energy Regulator, Alberta Government (September 2016) https://www.aer.ca/documents/reports/FortMcKay_FINAL.pdf.

²⁹ Government of Canada (2019).

³⁰ CELA et al (November 2015) <https://cela.ca/wp-content/uploads/2019/07/CEPA-CCSPA-Cosmetics-Regs-Briefing-Note.pdf>.

³¹ Government of Canada (12 March 2020) <https://www.canada.ca/en/health-canada/services/chemical-substances/canada-approach-chemicals/risk-assessment.html>.

³² Environment and Climate Change Canada (December 2015) http://publications.gc.ca/collections/collection_2016/eccc/En14-64-2016-eng.pdf.

³³ Tyshenko et al (2007) <https://www.tandfonline.com/doi/abs/10.1080/10937400601034613>; Nicole E De Long and Alison C Holloway (2017) doi: 10.2147/DMSO.S95296.

³⁴ Environmental Defence Canada and Equiterre (2019) <https://d36rd3gki5z3d3.cloudfront.net/wp-content/uploads/2018/09/Whats-In-Your-Lunch-Glyphosate-Report-Sept-2018.pdf?x19835>.

³⁵ Environmental Defence Canada (2018) <https://environmentaldefence.ca/2018/04/23/asthma-rates-children-toxics/>.

³⁶ Toronto Public Health (September 2005) https://opha.on.ca/OPHA/media/Resources/Resource%20Documents/boh_environmental_threats_summary_all.pdf?ext=.pdf.

III. Non-discrimination

30. The Canadian Charter of Rights and Freedoms and legislation at all levels of government guarantee the right of every individual to equality and equal protection and benefit of the law without discrimination on various grounds.³⁷

31. While constitutional recognition of protection against discrimination is applauded, it does not appear to have served as a significant safeguard or recourse for disproportionately affected communities. A 2018 analysis found health inequalities exist on various socio-economic statuses including income, employment, and occupation status, and that certain groups such as Indigenous peoples, immigrants and racial minorities, had less favourable health outcomes than the general population.³⁸ In examining toxic exposures in Canada, the question of discrimination becomes simply unavoidable. Canada has not explicitly recognized the right to a healthy environment at the federal level,³⁹ unlike Québec, Ontario and most countries of the world. While it has been argued that the Charter may be implicitly read to include environmental rights protections, as shown in recent climate change litigation,⁴⁰ constitutional provision would place Canada at the forefront of global efforts. In the interim, provision under CEPA,⁴¹ would extend application of the right to everyone in Canada.

32. Equality and non-discrimination require urgent attention in Canada. This section focuses on those at risk of being “left behind”, notwithstanding the general progress made. Different levels of discrimination intersect, exacerbating the problem, and necessitating consideration of intersectional discrimination manifesting in impacts of toxic exposures.

A. Indigenous peoples

33. The struggles of Indigenous peoples in Canada for recognition of their human rights is nothing new. Canada’s history has shaped its laws, policies and practices today regarding Indigenous rights.

34. Many interlocutors spoke positively about the Truth and Reconciliation Commission and the National Inquiry into Missing and Murdered Indigenous Women and Girls in moving forward from what both determined to be a sad history of cultural genocide and assimilation.⁴² The Government acknowledges the “unacceptable socio-economic gap” resulting from the development of colonial structures, and negatively impacting Indigenous peoples in Canada,⁴³ and has begun strengthening institutional frameworks.

35. While welcome, the struggle for Indigenous peoples across Canada is deeper than acknowledged. Indigenous peoples face various challenges in comparison to the rest of the population. Higher poverty rates and food insecurity levels, greater incidences of inadequate living conditions and incarceration, lower education rates, and higher health inequalities persist.⁴⁴ The invisible violence inflicted by toxics is an insidious burden disproportionately borne by Indigenous peoples in Canada.

³⁷ Canadian Charter of Rights and Freedoms, section 15; Canada’s Common Core Document (2019).

³⁸ Health Canada (2018) https://www.canada.ca/content/dam/phac-aspc/documents/services/publications/science-research/key-health-inequalities-canada-national-portrait-executive-summary/key_health_inequalities_full_report-eng.pdf.

³⁹ David R. Boyd (2012) <https://www.ubcpres.ca/asset/9095/1/9780774824125.pdf>.

⁴⁰ ENvironnement JEUnesse v. Attorney General of Canada (2019) <https://enjeu.qc.ca/justice-eng/>.

⁴¹ Ecojustice (February 2020) <https://www.ecojustice.ca/cepa-turns-20-its-time-to-modernize-canadas-cornerstone-environmental-law/>; Niladri Basu and Bruce P. Lanphear (2019) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6964550/>; Lynda Collins (2019).

⁴² Truth and Reconciliation Commission <http://nctr.ca/reports2.php>; National Inquiry into Missing and Murdered Indigenous Women and Girls <https://www.mmiwg-ffada.ca/final-report>.

⁴³ Canada’s Common Core Document (2019).

⁴⁴ Pan-Canadian Health Inequalities Reporting Initiative (2018) https://www.canada.ca/content/dam/phac-aspc/documents/services/publications/science-research/key-health-inequalities-canada-national-portrait-executive-summary/key_health_inequalities_full_report-

36. Emblematic is the mercury poisoning of the Grassy Narrows First Nation community and the Wabaseemoong (Whitedog) Independent Nations. From 1963 to 1970, a pulp and paper mill released several tons of highly toxic mercury into the water, contaminating the English-Wabigoon River system, including the traditional fish and game they depended upon.⁴⁵ A 2016 study found mercury at 130 times higher in river sediment near the mill site than immediately upstream.⁴⁶ A 2017/2018 assessment of the soil and groundwater at the site revealed continued presence of elevated levels of mercury,⁴⁷ giving credence to claims that these communities are still at risk of exposure due to the failure to remediate contamination for over 50 years (see IV).

37. Mercury exposure poses various health risks, especially to the foetus and children whose developing nervous systems are extremely sensitive.⁴⁸ Over 58% of the community members examined have or are suspected to have Minamata disease, a serious neurological disease resulting from mercury exposure.⁴⁹ Socio-economic impacts include destruction of fisheries, tourism, and related industries, and severe impacts on hunting and gathering, forcing changes in their modes of sustenance, culture, and pride.⁵⁰ Access to safe water and nutritious food has been a persistent problem. Further, the communities report delays, lack of funding, and inadequate political will to secure a dignified life for them and future generations.⁵¹

38. The health risks posed to Indigenous peoples by the multibillion-dollar oil sands industry are another example of concerns. Fort McMurray, Fort MacKay and Fort Chipewyan (Fort Chip) paint a disturbing picture of health impacts of the oil sands (i.e. tar sands) that were not properly investigated for years, despite increasing evidence of health impacts on local communities. Fort Chip was repeatedly raised as having alarming health trends.⁵² The situation with the oil sands cannot be divorced from the troubling Trans Mountain Pipeline Expansion Project, strenuously opposed by many. Landfills, incinerators and other waste disposal sites are often closest to Indigenous reserves, for example concerns relating to the Swan Hills hazardous waste Treatment Centre, which receives waste including highly toxic PCBs from around Canada for incineration.

39. Further, the situation of the Aamjiwnaang First Nation in Sarnia is profoundly unsettling. Deeply connected with their land, residents on the reservation invaded by industry as far back as the 1940s are now surrounded on three sides by over 60 industrial facilities that create the physiological and mental stress among community members regarding the risk of impending explosions or other disasters, and health impacts from unquestionably poisonous chronic exposures. It is one of the most polluted places in Canada, dubbed “chemical valley.”

40. Various interlocutors acknowledged that existing regulations do not protect the health of Aamjiwnaang. Improvements can be made in investigating health impacts, conducting proper monitoring, and enforcing existing standards. Cumulative impacts remain of grave concern regarding the manner in which risks are assessed. The environmental injustice is an ongoing tragedy, a legacy of land use planning that would not be allowed today.

eng.pdf; Canada, UPR (May 2018) para 8, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/39/11&Lang=E>.

⁴⁵ Indigenous Services Canada (3 April 2020) <https://www.canada.ca/en/indigenous-services-canada/news/2020/04/the-government-of-canada-and-asubpeeschosesewagong-netum-anishinabek-grassy-narrows-first-nation-sign-a-framework-agreement-to-build-a-mercury-care-.html>.

⁴⁶ Environmental Commissioner of Ontario (2017) <http://docs.assets.eco.on.ca/reports/environmental-protection/2017/Good-Choices-Bad-Choices-03.pdf>.

⁴⁷ Parliament of Canada (June 2019) <https://www.ourcommons.ca/DocumentViewer/en/42-1/INAN/meeting-155/evidence>.

⁴⁸ Parliament of Canada (June 2019) <https://www.ourcommons.ca/DocumentViewer/en/42-1/INAN/meeting-155/evidence>.

⁴⁹ Environmental Commissioner of Ontario (2017) <http://docs.assets.eco.on.ca/reports/environmental-protection/2017/Good-Choices-Bad-Choices-03.pdf>.

⁵⁰ Parliament of Canada (June 2019) <https://www.ourcommons.ca/DocumentViewer/en/42-1/INAN/meeting-155/evidence>; *ibid.*

⁵¹ *ibid.*

⁵² See https://landuse.alberta.ca/Forms%20and%20Applications/RFR_ACFN%20Reply%20to%20Crown%20Submission%206%20-%20TabD11%20Report_2014-08_PUBLIC.pdf.

Encouragingly, the community and companies have increased cooperation and engagement in recent years, including financing for the communities to hire their own environmental scientists to facilitate meaningful participation.

41. Despite suffering from greater exposure levels to hazardous substances, Indigenous peoples face considerable challenges in accessing quality healthcare in comparison to non-Indigenous peoples in Canada.⁵³ Sixty-two percent of Grassy Narrows First Nation members, those living on reserve, report barriers to healthcare compared to those living off reserve (38%).⁵⁴ Only through robust campaigns have strides been made to establish a primary healthcare facility.⁵⁵ Access to adequate health care on reserves is less favourable than in other parts of Canada. Challenges including remoteness and physical inaccessibility of health centres, and perceived racial discrimination when accessing health facilities, serve as some of these barriers, which may not be reflected among non-Indigenous Canadian populations. This different reality for Indigenous peoples concretises systematic lack of consideration of their particular challenges in environmental health policies. Policies should pursue funding for all public services on reserves, including health care, water, food, housing, sanitation and waste management, in lieu of piece-meal steps which do not appear to conclusively address the rights of Indigenous peoples in a wholesome manner.

42. Addressing the cumulative impact of toxic chemicals must be informed by an understanding of the deep connection of Indigenous peoples with their land and water. Their reliance on natural resources for traditional foods and medicine, culture and identity, and traditional knowledge and economy, must be considered in assessments of risks and impacts. For example, the multidimensional impact of aerial spraying of pesticides such as glyphosate on Indigenous territories and lands poses serious threats to their life, health and environment.⁵⁶

43. The Special Rapporteur was informed of examples where such efforts are taken through remediation and closure planning and impact assessment, but there appears to be room for improvement. While illegal dumping off reserve (i.e. on provincial lands) is subject to fines up to hundreds of thousands of dollars under provincial laws, the maximum fine for illegal dumping on reserves is \$100.⁵⁷

44. The Aamjiwnaang First Nation raising concern about the shrinking of their ancestral grounds due to petrochemical processing plants, and Indigenous communities agitating for free prior and informed consent with the Trans Mountain Pipeline Expansion serve as just two examples of how existing and proposed megaprojects crisscross the lands of Indigenous peoples.⁵⁸ Yet often these incidences are not straightforward opposition to economic development, as some critics have alluded to. Instead they illustrate an underlying trend of duty-bearers' failure to resolve issues relating to their rights and titles, unless forced to do so through lengthy and costly litigation.⁵⁹

B. Income, race and ethnicity

45. Poverty contributes to higher vulnerability both to exposure to toxics and less power to take action to protect oneself from such exposure.⁶⁰ Poverty-health-environment

⁵³ Government of Canada (2019).

⁵⁴ Asubpeeschosesewagong Netum Anishinabek (May, 2018).

⁵⁵ Parliament of Canada (June 2019) <https://www.ourcommons.ca/DocumentViewer/en/42-1/INAN/meeting-155/evidence>.

⁵⁶ Traditional Ecological Knowledge (TEK) Elders (2019).

⁵⁷ https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._960/page-1.html#h-599822;
http://www.woodwardandcompany.com/wp-content/uploads/pdfs/2016-09-20-Contaminated_Sites_on_First_Nation_Lands-Final.pdf.

⁵⁸ UBCIC (2019).

⁵⁹ David Suzuki Foundation (February 2020) <https://davidssuzuki.org/story/pipeline-actions-signal-need-for-true-reconciliation/>.

⁶⁰ Cardona, O.D., et al (2012) https://www.ipcc.ch/site/assets/uploads/2018/03/SREX-Chap2_FINAL-1.pdf.

intersections are especially prominent regarding water and air pollution.⁶¹ More than one million low-income Canadians live within one kilometre of a major source of industrial pollution, resulting in elevated risks of hospitalization for respiratory and cardiovascular illnesses.⁶² The burden of such disproportionate exposure has plagued poor communities. A 2003 study in Ontario found a correlation between exposure impacts of particulate matter and SO₂ depend on income level.⁶³ A 2008 mapping of poverty and pollution in Toronto, showed 17 neighbourhoods with high release of combined air pollutants and poverty rates.⁶⁴ The concentration of poverty in Hamilton and health inequalities between different neighbourhoods, including with respect to air pollution amplify social deprivation.⁶⁵

46. Inequality among low-income Canadians regarding toxic exposures must be considered with complex and overlapping inequalities that together form a cumulative barrier to the fulfilment of rights. Approximately 20.8% of racialized people are low-income compared to 12.2% non-racialized people.⁶⁶ According to the 2016 census, about 81% of reserves had median incomes below the low-income measure.⁶⁷ Indigenous and racialized people in Canada tend to be locked in a vicious, inter-generational cycle of poverty,⁶⁸ to which their disproportionate exposure to toxic substances contribute. For example, the First Nations Food Nutrition and Environment Study confirms that some heavy metal, exposures have been found to be higher in Indigenous peoples in various geographic areas than among the general Canadian population.⁶⁹ Exposure to heavy metals not only leads to reduced income when diseases or disability manifest, but also well-documented cognitive and behavioural impacts that reduce earning potential across lifetimes.

47. Environmental injustice persists in Canada. A significant proportion of the population in Canada experience racial discrimination, with Indigenous, and racialized people, the most widely considered to experience discriminatory treatment.⁷⁰ The Canadian Human Rights Commission recently raised concerns of “environmental racism” to the UN Human Rights Council citing “landfills, waste dumps and other environmentally hazardous activities [that] are disproportionately situated near neighbourhoods of people of African descent, creating serious health risks.”⁷¹ Garbage dumps are disproportionately situated in African-Canadian communities in Nova Scotia.⁷² The disproportionate exposure to pollution is worsened by pre-existing and long-standing socio-economic inequalities resulting from Canada’s colonial legacy. Outside Canada, communities in low and middle-income countries raise similar concerns regarding the harmful effects of Canadian extractive industries (see V).⁷³

⁶¹ OECD and WHO (2010)

https://www.who.int/tobacco/research/economics/publications/oeed_dac_pov_health.pdf.

⁶² Canadian Institute for Health Information. Urban Physical Environments and Health Inequalities, 2010.

⁶³ Finkelstein MM et al. (2003); WHO (2010)

http://www.euro.who.int/__data/assets/pdf_file/0003/78069/E93670.pdf.

⁶⁴ PollutionWatch (November 2008) https://cela.ca/wp-content/uploads/2019/07/633B_PWSES_TOfacts.pdf.

⁶⁵ McMaster Health Forum (6 October 2011).

⁶⁶ Colour of Poverty (2019) <https://colourofpoverty.ca/wp-content/uploads/2019/03/cop-coc-fact-sheet-2-an-introduction-to-racialized-poverty-3.pdf>.

⁶⁷ *ibid.*

⁶⁸ Canadian Centre for Policy Alternatives (2019)

<https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/12/Canada%27s%20Colour%20Coded%20Income%20Inequality.pdf>.

⁶⁹ See http://www.fnfnes.ca/docs/FNFNES_draft_technical_report_Nov_2__2019.pdf.

⁷⁰ Canadian Race Relations Foundation and Environics Institute for Survey Research (2019) https://www.environicsinstitute.org/docs/default-source/project-documents/race-relations-2019-survey/race-relations-in-canada-2019-survey---final-report-english.pdf?sfvrsn=ef8d61e3_2.

⁷¹ Canadian Human Rights Committee (2017) https://www.upr-info.org/sites/default/files/document/canada/session_30_-_may_2018/chrc_upr30_can_e_main.pdf ; A/HRC/36/60/Add.1 para 63.

⁷² Ingrid Waldron (2019).

⁷³ CERD (2007), (2012), (2017).

48. Systemic racism has contributed to overrepresentation of Indigenous, and racialized people, in the criminal justice system.⁷⁴ Similarly, living on the fringes of protection from toxics, Indigenous, and racialized communities, are more likely to be exposed because they lack enforceable environmental rights, typically do not have the political or financial means to challenge powerful polluting industries, and often face societal pressures to accept such industries because of the need for employment, among other realities. As insult to injury, “lifestyle choices” associated with poverty are cited to dismiss, discredit and even blame victims of discriminatory toxic exposures who develop diseases and disabilities, instead of placing the burden on polluting actors to demonstrate that they did not contribute to adverse health impacts.

49. For example, some Indigenous peoples amidst the oil sands in Alberta are living in relative poverty, which points to whether the industry is really as beneficial to the communities as has been postulated.⁷⁵

50. There are very limited examples of mapping of pollution and poverty in Canada. Ontario’s commitment to developing an online platform for public community reporting is welcome.⁷⁶ Civil society previously tried to fill the gap.⁷⁷ However, it has not sufficed and a Parliamentary committee recently called for mandatory robust mapping at the federal level to support identification of hotspots requiring priority attention. The Canada Centre for Mapping and Earth Observation (CCMEO) could be helpful in such an initiative.⁷⁸

C. Age

51. Every child has a right to survive and develop to the maximum extent possible.⁷⁹ Canada has an obligation to prevent childhood exposure to toxics, and to take into account the dangers and risks of polluted water and contaminated food, to ensure fulfilment of children’s rights.

52. Children are more likely than adults to absorb toxic contaminants. Yet those living in poverty, in sub-standard housing conditions, and with lower nutrition levels, are more prone.⁸⁰ Children in Indigenous communities, which tend to be relatively poor, face elevated risks of exposure compared to children in non-Indigenous communities.⁸¹ Studies have revealed that in northern Canada, children in Indigenous communities, whose diet relies heavily on wild foods, had higher blood mercury levels compared with other populations.⁸² Moreover, for malnourished children, the impacts of toxic chemicals on their bodies is even more acute than children with proper nutrition. Identifying and protecting children whose bodies bear such enormous, toxic burdens must be a priority.

53. Canada has an obligation to provide every child the opportunity to be heard. All children, capable of forming their own views, should be supported to express those views in fulfilment of this right.⁸³ From visiting communities in Canada, such as Sarnia, where children are born pre-polluted and are exposed through crucial periods of development before they can voice their views, it is clear that more efforts need to be taken by the Government to ensure every child is afforded the full enjoyment of their rights.

⁷⁴ Department of Justice (May 2019) <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/may01.html>.

⁷⁵ Brenda L. Parlee (2015) <https://www.sciencedirect.com/science/article/pii/S0305750X15000637>.

⁷⁶ Ontario (2019).

⁷⁷ PollutionWatch (November 2008) https://cela.ca/wp-content/uploads/2019/07/633B_PWSES_TOfacts.pdf.

⁷⁸ Government of Canada (2020) <https://www.nrcan.gc.ca/science-and-data/science-and-research/earth-sciences/geomatics/10776>.

⁷⁹ CRC art 6.

⁸⁰ Canadian Paediatric Society (Jun 2019) <https://www.cps.ca/en/documents/position/lead-toxicity>.

⁸¹ Margo Lianne Greenwood and Sarah Naomi de Leeuw (2012) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3448539/>.

⁸² McLean Pirkle et al (2016) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5047817/>; Keepers of the Athabasca (2019).

⁸³ A/HRC/33/41.

D. Gender

54. Discrimination based on gender is a crucial consideration in discussions on protection from toxic exposures. An improved focus on gender analyses of adverse health impacts is necessary for a gendered approach to addressing toxic exposures.

55. Environmental health policies in Canada inadequately address the root of differential impacts on men and women, including physical, biological, social, and environmental factors, running the risk of inequality and discrimination.⁸⁴ The Government's programmes have identified the need for enhanced risk communication efforts focusing on women of childbearing age including in more northern areas of Saskatchewan, Manitoba, Ontario, and Québec, a positive step towards addressing the gender inequalities that persist and aggravate impacts of toxic exposures across Canada.

56. Varying gender roles contribute to differentiated burdens and impacts from toxic exposures.⁸⁵ Yet, CEPA inadequately factors this, with male models for toxics exposure dominating research, and various chemicals inordinately affecting women including many endocrine-disrupting chemicals not classified as toxic.⁸⁶

57. The intrinsic hazards of toxic chemicals pose gendered risks such as miscarriages and reduced sperm count, as well as various cancers. For example, neurotoxic effects of heavy metals such as lead and mercury on children can differ by gender.⁸⁷ In addition, consideration of differing exposure levels between genders is necessary. For example, in Canada, men are more exposed to toxics such as asbestos in the construction industry,⁸⁸ and women to endocrine disrupting chemicals in plastics, raising their relative risk in developing cancer and other health conditions.⁸⁹ Exposure of consumers to toxic chemicals in cosmetic products and intense exposures predominantly of female workers at beauty salons offer further examples.⁹⁰ Indigenous women endure some of the highest levels of exposure in Canada.⁹¹

E. Occupation

58. Workers are unquestionably vulnerable regarding their unique and elevated risks to chemical exposures. In Canada, occupational diseases and disabilities due to such exposures pose a major challenge to fulfilment of workers' rights. Recent estimates show over 2.9 million workers are exposed to carcinogens and other hazardous substances at work, which is a gross underestimation.⁹² The exposures that many workers endure are much higher than the exposure levels of the general population, often to substances with no safe level of exposure.

⁸⁴ Pederson et al (2013) http://bcewh.bc.ca/wp-content/uploads/2012/05/2013_RethinkingWomenandHealthyLiving.pdf.

⁸⁵ Lewis, Sarah and Scott, Dayna Nadine (2014) <https://digitalcommons.osgoode.yorku.ca/olsrps/40>.

⁸⁶ Breast Cancer Action Québec (2018/2019) http://acsqc.ca/sites/default/files/feminist_statement_on_cepa.pdf; *ibid*; Dayna Nadine Scott & Sarah Lewis (2014) <https://ssrn.com/abstract=2441322>.

⁸⁷ Vahter M et al (2007) <https://www.ncbi.nlm.nih.gov/pubmed/16996054>.

⁸⁸ Carex Canada (2020) <https://www.carexcanada.ca/profile/asbestos-occupational-exposures/>; Institut national de santé publique du Québec (2011).

⁸⁹ IPEN and Pesticide Action Network (January 2017) <http://www.saicm.org/Portals/12/documents/meetings/IP1/Beyond-2020-Women-and-chemical-safety-24-Jan-2017.pdf>.

⁹⁰ Vahter M et al (2007) <https://www.ncbi.nlm.nih.gov/pubmed/16996054> Ami R. Zota and Bhavna Shamasunder (October 2017) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5614862/>; Jessica S. Helm et al (May 2019) <https://www.sciencedirect.com/science/article/pii/S0013935118301518#!>.

⁹¹ Assembly of First Nations (March 2009) https://www.afn.ca/uploads/files/rp-enviro_health_and_women.pdf; see also First Nations Food and Environment Study re mercury and hair.

⁹² CAREX Canada (2019).

59. There remains significant opportunity for action, including on the intersectionality of occupational exposures for some subpopulations.⁹³ These workers, including different genders, racialized persons, and Indigenous persons, and workers living in poverty, already in situations of vulnerability, are more likely to hold precarious positions than other workers,⁹⁴ further entrenching their vulnerability to exposure to toxics.

60. The Chemicals Management Plan could help to better protect workers. Canada does not recognize workers as a vulnerable population under the Plan, despite workers being one of the most vulnerable groups to toxic chemicals.⁹⁵ Further, the CMP does not account for occupational exposure in risk assessments, resulting in chemicals being misclassified as non-toxic under the scheme, because the general public is not exposed at the level of workers.⁹⁶ While progress has been made to assess the risks of over 3000 chemicals to the general public, exposures of and corresponding risks to workers were not adequately evaluated under these assessments.

61. Many cases of occupational-disease-related deaths remain unrecorded, due to various challenges including lack of data or accurate health reports.⁹⁷ Diagnoses of diseases often decades after employment poses a significant challenge for victims to access participation channels to advocate for compensation,⁹⁸ especially for latent occupational diseases including mesothelioma, asbestosis, and lung cancer, which result from asbestos exposure.⁹⁹ Asbestos exposure is the leading cause of occupational death in Canada.

62. While healthcare is available and accessible in Canada to many, it can reduce motivation to pursue judicial remedies, which artificially lowers recorded incidences and prevents both improvements in prevention and accountability. In Canada, mesothelioma is a compensable disease, yet less than 50% of potential claimants do not pursue their rights with some reporting they incorrectly believe at the time they were exposed none of the duty bearers knew of the potential harm it would cause to workers.¹⁰⁰ Without concerted efforts at awareness raising and support in accessing the justice system to pursue compensation, such victims are left with their rights unfulfilled.

F. Foreign countries

63. Groups disproportionately affected by impacts of business activities in Canada,¹⁰¹ are the same groups subjected to the effects of these activities abroad. In these respects, Canada has a duty to ensure that Canadian businesses do not abuse the rights of victims in foreign countries, regardless of their race, colour, nationality, or other distinction.¹⁰²

64. One overarching global trend is the export of toxic impacts from wealthier countries like Canada with relatively stronger environmental health protections, to poorer countries with lower standards of protection. Exporting hazardous substances and wastes from developed countries to developing countries is a form of environmental discrimination at an

⁹³ Government of Canada (2019) <https://www.canada.ca/en/health-canada/services/chemical-substances/consulting-future-chemicals-management-canada/what-we-heard-defining-vulnerable-populations.html>.

⁹⁴ Law Commission of Ontario (December 2012) <https://www.lco-cdo.org/wp-content/uploads/2013/03/vulnerable-workers-final-report.pdf>.

⁹⁵ Office of Evaluation Health Canada and the Public Health Agency of Canada (2016) <https://www.canada.ca/en/health-canada/corporate/about-health-canada/accountability-performance-financial-reporting/evaluation-reports/evaluation-phase-chemicals-management-plan-2011-2012-2015-2016.html#exsum>.

⁹⁶ *ibid.*

⁹⁷ Sean Tucker and Anya Keefe (April 2019) https://www.uregina.ca/business/faculty-staff/faculty/file_download/2019-Report-on-Workplace-Fatalities-and-Injuries.pdf.

⁹⁸ Oliver Wyman (February 2015) Actuarial Consulting, 14 <https://www.cia-ica.ca/docs/default-source/2015/215005e.pdf>.

⁹⁹ *ibid.*

¹⁰⁰ Canadian Society for Asbestos Victims (2017); <http://cansav.ca/compensation>; The Mesothelioma Center (2020) <https://www.asbestos.com/mesothelioma/canada/>.

¹⁰¹ Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017).

¹⁰² *ibid.*

international level.¹⁰³ Through the actions or inactions of the State and the businesses, implicated rights of individuals and communities where such exposure takes place are not equally respected. The most seriously impacted are the poor, who often face inordinate challenges in accessing recourse and pursuing protection.¹⁰⁴ Stricter regulations and the cost of managing such wastes in the country that generated it being higher than in the importing countries is no excuse for placing the safety and health of the populations in the destination country at risk.¹⁰⁵

65. Various extraterritorial impacts of Canadian businesses activities on human rights in the context of toxics were raised, in addition to the impacts of Canadian businesses in Canada discussed in other parts of this report. An evaluation of these cases suggests that Canada does not fully uphold its obligations concerning extraterritorial impacts of Canadian businesses, embodied in part through the failure to implement sufficient measures to ensure accountability for these companies in a vast number of cases.¹⁰⁶ Certain Canadian companies are implicated in intentional releases of toxic waste, tailings dam failures, beginning activities without meaningful participation let alone the free, prior informed consent of Indigenous peoples, and other conduct resulting in exploitation and abuse of human rights of workers and local communities (see V).

III. Rights to information, participation and FPIC

A. Right to information and participation

66. The right to information is crucial for protection of human rights of all people.¹⁰⁷ Information must be available, accessible and in an appropriate and usable form, including to those most vulnerable.¹⁰⁸

67. Non-personal health and safety information should never be confidential.¹⁰⁹ However, various stakeholders reported the tendency for information to be withheld from the public to protect commercial interests.¹¹⁰ For example in the context of pesticide spraying, various interlocutors stressed that the confidentiality of information about chemical properties and constituents of mixtures hinders efforts to address associated health and safety risks.

68. The legal framework should better empower the public to demand health and safety information on hazardous substances from industry, and ensure it is made publicly available.¹¹¹ Toronto passed the first “Community Right to Know By Law” which legislates that local business have to disclose toxic chemicals used in their processes.¹¹²

69. Canada has made certain positive steps to ensure availability of health data.¹¹³ Health Canada’s platform on Maternal-Infant Research on Environmental Chemicals (MIREC) is contributing towards improved understanding of the impact of chemicals on children’s health and vulnerable populations.¹¹⁴ Ongoing research raises important questions on the adequacy

¹⁰³ Rozelia S. Park (1998)

<https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1138&context=ijgls> .

¹⁰⁴ E/CN.4/2004/46.

¹⁰⁵ Laura A. Pratt (2011), <https://scholarship.law.wm.edu/wmelpr/vol35/iss2/5>.

¹⁰⁶ E/CN.4/2003/56/Add.2; E/C.12/CAN/CO/6; A/HRC/38/48/Add.1; CERD/C/CAN/CO/19-20, para. 14; CRC/C/CAN/CO/3-4.

¹⁰⁷ A/74/480; A/HRC/30/40.

¹⁰⁸ A/HRC/30/40.

¹⁰⁹ A/74/480; A/HRC/30/40.

¹¹⁰ Government of Canada (October 2018)

<https://www.canada.ca/content/dam/eccc/documents/pdf/pded/cbi-flowchart/Confidential-business-information-approach.pdf>.

¹¹¹ A/74/480; A/HRC/30/40.

¹¹² Joanna Mestre (2019).

¹¹³ A/74/480; A/HRC/30/40.

¹¹⁴ Health Canada (2019) <https://www.canada.ca/en/health-canada/services/environmental-workplace-health/environmental-contaminants/human-biomonitoring-environmental-chemicals/maternal-infant-research-environmental-chemicals-mirec-study/findings.html>.

of basing policies on determining “acceptable” exposure levels for children, considering impacts of even very low toxic exposure.¹¹⁵

70. The Special Rapporteur was encouraged that 71% of Canadian children understand complex environmental issues including nuclear waste and air pollution, and that 81.5% of children between 12 – 17 years old feel confident to express their own ideas and opinions.¹¹⁶

71. Canada already generates data on health inequalities, recognising their existence and increases in certain instances.¹¹⁷ Measures to address this include environmental policies and decision-making, monitoring and surveillance, integrating an equity-sensitive approach, strengthened collaboration between environmental and health entities, enhanced concentration on exposure hot-spots in implementation of environmental law, targeted interventions which address the vulnerable populations, and giving due regard to procedural rights in environmental matters, securing participation of disadvantaged populations in decision-making processes.¹¹⁸

72. Unfortunately, no socio-economic mapping has been done by the Government of the proximity of sources of exposure to toxics with Indigenous peoples, or others at elevated risk, such as low income or minority communities. Disaggregated data including economic and social indicators for ethnic minority groups, Indigenous peoples and non-citizens,¹¹⁹ consistently collected and maintained, would support monitoring and evaluation regarding actions to achieve environmental justice.¹²⁰ For example, comprehensive health studies have not been undertaken on all communities affected by the oil sands in Alberta by either Federal or provincial authorities noting, however, Alberta's attempt to conduct a comprehensive health study about a decade ago.

73. Initiatives such as the Northern Participant Funding Program which supports the informed engagement of Indigenous governments and other northerners in the environmental and socio-economic assessment processes established under land claims agreements in Canada's three territories, are promising, as are similar programs supporting Indigenous participation in federal environmental assessments in the provinces.¹²¹ Scale-up of such initiatives and implementation across Canada for socio-economically disadvantaged population groups may be useful.

74. Neither the Canada Consumer Product Safety Act nor CEPA require producers to identify in the labelling, substances that are carcinogenic or otherwise toxic, for non-food consumer products.¹²² Without such information, consumers cannot fully realise their right to know the toxic properties of products they purchase.¹²³ CEPA reform should include mandatory labelling of chemicals of concern¹²⁴ on various consumer products, including cosmetics, to implement the right to know for all in Canada.

¹¹⁵ Bruce Lanphear (2017)

<https://journals.plos.org/plosbiology/article?id=10.1371/journal.pbio.2003066>.

¹¹⁶ Health Canada (2018) https://www.canada.ca/content/dam/phac-aspc/documents/services/publications/science-research/key-health-inequalities-canada-national-portrait-executive-summary/key_health_inequalities_full_report-eng.pdf.

¹¹⁸ WHO (2019) http://www.euro.who.int/__data/assets/pdf_file/0018/404640/WHO-report-SUMMARY-ENG-WEB.pdf?ua=1.

¹¹⁹ CERD/C/CAN/CO/21-23.

¹²⁰ E/CN.4/2003/56/Add.2; CERD/C/CAN/CO/21-23.

¹²¹ Crown-Indigenous Relations and Northern Affairs Canada (2019) <https://www.rcaanc-cirnac.gc.ca/eng/1545150205116/1547478360408>.

¹²² Standing Committee on Environment and Sustainable Development (June 2017) <https://www.ourcommons.ca/Content/Committee/421/ENVI/Reports/RP9037962/envirp08/envirp08-e.pdf> ; CELA et al (November 2015) <https://cela.ca/wp-content/uploads/2019/07/CEPA-CCSPA-Cosmetics-Regs-Briefing-Note.pdf> .

¹²³ David R. Boyd (7 November 2016) <https://www.ourcommons.ca/Content/Committee/421/ENVI/Brief/BR8603235/br-external/BoydDavid-e.pdf>.

¹²⁴ Environment and Climate Change Canada and Health Canada (29 June 2018) <https://www.canada.ca/content/dam/eccc/documents/pdf/cepa/FollowUpCepaReport-eng.pdf>.

75. Reports of insufficient public participation in the CEPA review, including of inadequate consideration of civil society input, are concerning. All stakeholders should have guaranteed participation in formulation and implementation of environmental law, including CEPA. Further, where a substance has been banned by other countries, citizen enforcement action should be envisioned, for members of the public to initiate review of substances – and to call for enforcement when CEPA violations occur, on a public interest basis and without the requirement to show specific actual environmental damage. Periodic review of the National Pollutant Release Inventory is also useful, upholding the principle of public participation.

B. Freedom of expression

76. The Special Rapporteur reiterates utmost concern at repeated reports of harassment, prosecution and persecution of defenders of Indigenous and environmental rights.¹²⁵ The Special Rapporteur heard of scientists discredited for highlighting impacts of toxic industries, as well as threats, arrests, and intimidation of youth and elders expressing their rights to be heard and freedom of expression. It was repeatedly stated that impacted community members do not feel free to express their health concerns for fear of a lack of protection and potential consequences.

77. For example, it was alleged that hundreds of people have been arrested for peaceful protests against the proposed Trans Mountain Pipeline Expansion, resulting in jail sentences as lengthy as five months. Reports were received that indigenous women have gone missing after alleging health impacts from oil sands operations. The chilling effects of such actions can be telling of a trend to preserve the status quo. Canadian businesses are repeatedly allegedly implicated in attacks against human rights defenders outside Canada, which is of grave concern.

C. Free, prior, and informed consent

78. Current constitutional protections of Indigenous peoples' rights, including in relation to the duty to consult, do not adequately implement UNDRIP standards for consultation and consent. Canada should ensure that State and non-state actors cooperate in good faith with Indigenous peoples and obtain their free, prior and informed consent (FPIC) for measures that may affect them, including storage or disposal of hazardous materials in their lands or territories.¹²⁶

79. It was appreciated that the Federal government and certain provinces stated they are working to improve FPIC in Canada, looking to move beyond consultation, towards partnership and collaboration with Indigenous peoples. In November 2019, British Columbia passed landmark legislation to implement UNDRIP, developed with Indigenous peoples' participation.¹²⁷ This is a tremendous achievement, and one to be emulated in other provinces and federally.

80. It has taken Indigenous peoples significant efforts to compel some project proponents to consult and even more effort to compel the Government to carry out its duty. For example, Indigenous and civil society organizations repeatedly raised the aerial spraying of a pesticide categorized as probably carcinogenic (glyphosate) in and around Indigenous peoples' reserves and traditional lands without consultation or consent. They reported that they did not receive any response from the Government.

81. Various interlocutors highlighted that often, a proponent would complete the bare minimum regarding the duty to consult thus rendering Indigenous peoples inadequately informed for decision-making processes. Various examples can be cited, including pesticides spraying overall and the impacts on workers, the environment, the water and human health;

¹²⁵ UBCIC (2019).

¹²⁶ UNDRIP, Art 19, 29.

¹²⁷ British Columbia (2019) <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>.

extraction in the Atlantic Region; fracking affecting the community of Penobscis in New Brunswick; the Alton Gas project where grassroots leaders from the Mi'kmaq nation are concerned with asserting their treaty rights; the Sisson Brook mine in the area of the Nashwaak river shed, New Brunswick; the pulp and paper mill in Abercrombie, Nova Scotia; impacts of dumping effluent into nearby Boat Harbour on the local Mi'kmaq reserve; and offshore drilling in the North Atlantic waters.

82. While certain examples suggest improved consultation with Indigenous peoples, the Muskrat Falls hydroelectric project raised questions regarding the extent of such improvements.¹²⁸ Concerns were raised regarding meaningful participation of two affected First Nations, the risk of methyl mercury releases contaminating traditional foods and impacting health, the unaddressed risk of dam failure, and the flooding of sites containing toxic military waste.¹²⁹

83. While Canada removed its permanent objector status to UNDRIP in 2016 and committed to implementation,¹³⁰ there is inadequate execution at a national level. Free, prior and informed consent should be applied nationally. Canada's 2017 Principles Respecting the Government of Canada's Relationship with Indigenous Peoples appear promising,¹³¹ yet further efforts are necessary including for non-state actors. For example, the Canadian Nuclear Safety Commission strives to better engage Indigenous peoples, including its participant-funding program.¹³² Initiatives such as the Indigenous Centre of Expertise on Cumulative Effects Assessment and Management present opportunities for action.¹³³ In all consideration of implementing FPIC including at the Federal Level, an Indigenous-informed relational approach should be paramount.¹³⁴

IV. Access to justice and remedies

84. Every victim of violation or abuse of human rights impacted by toxic exposures has a human right to justice, and to an effective remedy.¹³⁵ This may require restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition, remediation of contamination, or an apology. Binding legal standards, enforcement and the rule of law are basic pre-requisites.

85. Access to justice remains a considerable challenge, particularly for victims of chronic exposure and vulnerable groups. Various obstacles include information asymmetries, an unjust burden of proof on victims, and the limited availability of class actions and limited legal aid.¹³⁶ Courts remain the preserve of Canadians with sufficient financial resources, leaving out disgruntled rights-holders with inadequate capacity to pursue legal avenues, further embedding them in disadvantaged positions. Overlapping jurisdictions between territorial, provincial and federal laws, notwithstanding cross-jurisdictional impacts of toxic exposure, contribute to the lack of clarity on proper forum. For example, Indigenous women have found it especially difficult to pursue discrimination cases for various reasons including

¹²⁸ Innu Nation (2019); Commission of Inquiry Respecting the Muskrat Falls Project (5 March 2020) <https://www.muskratfallsinquiry.ca/files/Volume-1-Executive-Summary-Key-Findings-and-Recommendations-FINAL.pdf>.

¹²⁹ Ontario-Muskrat Solidarity Coalition (2019); *ibid*.

¹³⁰ Government of Canada (2017) <https://www.aadnc-aandc.gc.ca/eng/1309374407406/1309374458958>.

¹³¹ Department of Justice Canada (2018) <https://www.justice.gc.ca/eng/csj-sjc/principles.pdf>.

¹³² Canadian Nuclear Safety Commission (February 2019) <https://www.nuclearsafety.gc.ca/eng/pdfs/reports/compendium-of-indigenous-consultation-and-engagement-eng.pdf>.

¹³³ Government of Canada (2019) <https://www.aadnc-aandc.gc.ca/eng/1553539034821/1553539063871>.

¹³⁴ Mitchell, T., Arseneau, C., Thomas, D., & Smith, P. (2019) doi:<https://doi.org/10.18584/iipj.2019.10.4.8372>.

¹³⁵ A/RES/60/147.

¹³⁶ Canadian Bar Association (2013) http://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf; Department of Justice Canada (2000) https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/op00_2-po00_2/op00_2.pdf.

jurisdictional confusion, or where such discrimination does not fit within the delineation under the Canadian Human Rights Act.¹³⁷

86. There appears a pervasive trend of inaction of the Canadian Government in the face of existing health threats from decades of historical and current environmental injustices and the cumulative impacts of toxic exposures on Indigenous peoples.¹³⁸ The case of Grassy Narrows and White Dog is emblematic of Indigenous communities denied truth, justice, remedies and accountability for decades.¹³⁹ The failure to provide these communities an effective remedy for 50 years, still enduring the impacts of 10 tons of highly toxic mercury dumped in their rivers legally and without their consent, is a clear case of discrimination and a gross violation of their human rights under ICCPR. The failure to investigate claims of aerial spraying of glyphosate on Indigenous territories and lands, illustrates the systemic challenge that continues to exist today.

87. Initiatives such as the Contaminated Sites on Reserve Program, the First Nations Waste Management Initiative, and the Northern Contaminants Program (NCP) present an opportunity for action including on waste management and decontamination.¹⁴⁰ Scaling up such programmes may be useful for deeper involvement of Indigenous peoples. Improved capacity and institutional support to marginalised communities towards self-governance, to strengthen their own mechanisms established to address environmental protection, should be prioritised.

88. Other cases raised questions of compliance and enforcement. For example, the selenium pollution from coalmines in the Elk Valley raised concerns about lack of compliance with water quality guidelines at provincial and federal levels, resulting in transboundary pollution from British Columbia into the United States of America. Government and industry efforts should strengthen compliance and enforcement mechanisms, to prevent repetition of similar incidences.

89. The aftermath of the 2014 Mount Polley tailing dam disaster illustrated the need for enhanced accountability measures to help prevent recurrence. Canada has the second highest number of tailing dams in the world (256), and has the 5th highest number of upstream dams categorizes as high-risk.¹⁴¹ Preventable dam failures may occur in the future, especially without sufficient early detection mechanisms at Federal and provincial levels including independent and dedicated “investigation, compliance and enforcement” teams.¹⁴²

90. Remediation remains a widespread concern. Concerns were raised regarding the adequacy of financial guarantees on polluting enterprises for site clean-up and remediation, leaving so-called orphan contaminated sites. The National Orphaned/Abandoned Mines Initiative is a welcome step.¹⁴³ Efforts by Québec and British Columbia are encouraging, towards ensuring polluters pay for various costs of closure and remediation of contaminated sites.¹⁴⁴ However, thousands of such sites remain across Canada, particularly in Alberta, with considerable concern that the public and future generations will bear the \$100 billion price of restoration, monitoring and remediation.¹⁴⁵

¹³⁷ Canadian Human Rights Commission (2013/2014) <https://www.chrc-ccdp.gc.ca/eng/content/honouring-strength-our-sisters-increasing-access-human-rights-justice-indigenous-women-and>.

¹³⁸ A/HRC/38/48 para 49; A/HRC/10/7/Add.3; A/HRC/18/35/Add.1; E/C.12/CAN/CO/4-E/C.12/CAN/CO/5.

¹³⁹ Asubpeeschoseewagong Netum Anishinabek (2019); Lynda Collins (2019).

¹⁴⁰ Crown-Indigenous Relations and Northern Affairs Canada (2019); Indigenous Services Canada (2020) <https://www.sac-isc.gc.ca/eng/1583779185601/1583779243216>.

¹⁴¹ Reuters (2019) <https://graphics.reuters.com/MINING-TAILINGS1/0100B4S72K1/index.html>.

¹⁴² British Columbia (2015) <https://news.gov.bc.ca/releases/2015MEM0030-002119>.

¹⁴³ National Orphaned/Abandoned Mines Initiative <https://www.abandoned-mines.org/en/>; Am Keeling, John Sandlos, and Caitlynn Beckett (2019).

¹⁴⁴ Sarah Cox (13 May 2020) <https://thenarwhal.ca/environmental-stain-bc-announces-clean-up-2000-oil-gas-wells/>.

¹⁴⁵ Benjamin Dachis, Blake Shaffer and Vincent Thivierge (2017) https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/Commentary_%20492

91. The Special Rapporteur was concerned to hear allegations that the aforementioned acts of intimidation and harassment against human rights defenders have not been properly investigated. For example, it was alleged that the Government still has not fully investigated the disappearance of an Indigenous woman who raised concerns of exposure to toxic pollution from oil sands operations.

V. Extraterritorial impacts of business enterprises

92. Canada's obligations to ensure companies respect human rights do not stop at Canada's territorial borders, including the duty to prevent exposure to toxics and help provide remedies to those affected by Canadian business activities.¹⁴⁶

A. Waste exports

93. In the case of waste exports, certain Canadian companies sent shipments of waste to a number of countries in Asia, in apparent contravention of the Basel Convention. Despite repeated protests in importing countries, the Government of Canada was unable to compel the business involved to return the waste, which was finally after 5 years repatriated to Canada.¹⁴⁷ Illegal shipments were also reported in Malaysia.¹⁴⁸

94. Only 9-11% of Canadian plastic waste is recycled,¹⁴⁹ amidst concerns that recycling of plastic is technically a myth. There is an urgent need to dramatically decrease consumption and use of plastics in Canada. Despite global regulation on plastic waste exports under the Basel Convention, the only way to minimize externalized impacts on people and peoples throughout the lifecycle of plastics is by reducing their consumption and production.

B. Extractive industries

95. A perpetual pattern of human rights abuses by Canadian extractive industries operating abroad is undeniable. The limited efforts of the State to deter well-documented and widespread abuses has inspired much of the need for global standards on business and human rights.

96. Concerning reports raised the complicity of the Canadian Government in these abuses. The Special Rapporteur was troubled by reports of the extent to which the Canadian Government may be extending financial and political support to weaken or impede enforcement of environmental health laws and laws protecting environmentally sensitive areas of host States. Overseas diplomats allegedly pressure host States to refrain from strengthening environmental standards to protect human rights, including threats of legal action under international investment agreements.

97. Certain Canadian mining companies are using, or propose to use, practices not permitted in Canada. For example, Barrick Gold's riverine tailings disposal of mine waste at the Porgera Joint Venture Mine in Papua New Guinea, affects an 800 km fish-bearing river system. In Canada, environmental standards effectively prohibit such uncontained disposal. Studies have recorded high levels of heavy metals in the waste presenting health risks, and

_0.pdf; Lucija Muehlenbachs (2017) <https://www.policyschool.ca/wp-content/uploads/2017/03/Inactive-Oil-Wells-Muehlenbachs-1.pdf>.

¹⁴⁶ A/74/480.

¹⁴⁷ Kathleen Ruff (2019) <https://www.wcel.org/blog/canada-should-stop-opposing-un-ban-exporting-waste-developing-countries>.

¹⁴⁸ Greenpeace (10 January 2019) <https://www.greenpeace.org/canada/en/qa/6971/media-briefing-canadas-plastic-waste-export-trends-following-chinas-import-ban/>.

¹⁴⁹ Environment and Climate Change Canada (January 2020) <https://www.canada.ca/content/dam/eccc/documents/pdf/pded/plastic-pollution/Science%20Assessment%20Plastic%20Pollution.pdf>; Laurin Wuennenberg and Cai May (2019) <https://www.iisd.org/sites/default/files/publications/plastic-waste-canada.pdf>.

legal analyses have found the Canadian corporation in breach of its responsibility to respect the Porgerans' right to water.¹⁵⁰

98. Differences in political power between Canadian-based companies and individuals and communities in countries in which they operate, solicit concern.¹⁵¹ At the Marlin Mine in Guatemala, affected communities, including Indigenous peoples, reportedly suffer mental health impacts from the long battle against the operation of the mine and the uncertainty of what future physical health impacts may develop from contaminated water.¹⁵²

99. In the Peruvian Amazon, Frontera Energy Corporation began servicing an oil and gas concession (Block 192) on Indigenous territories in 2015, relying on a dilapidated pipeline.¹⁵³ The pipeline was known for many years before 2015 to leak and rupture. Evidence suggests that Indigenous peoples in these territories have elevated blood levels of heavy metals above recommended limits.¹⁵⁴ Since then, there have been at least 65 oil spills from the pipeline. Frontera is clearly contributing to the incessant abuse of Indigenous rights from the contamination, and failing to uphold its responsibilities under the UN Guiding Principles to help secure an effective remedy.¹⁵⁵ To the contrary, it continues to pump oil well aware of the impacts that will result with the next rupture.

C. Canadian Ombudsperson for Responsible Enterprise (CORE)

100. In an effort to help address abuses by Canadian businesses operating abroad, the Canadian Ombudsperson for Responsible Enterprise (CORE) was established in 2018.

101. The establishment of the CORE is generally welcomed. CORE has the potential to use economic and other incentives to compel necessary actions by Canadian businesses to prevent and redress abuses in their operations. Yet, the originally envisioned role of CORE did not materialize, in particular regarding the extent of investigative powers and the timeliness of such investigations. For example, CORE carries out an advisory role, not investigative, and its position suggests that it does not operate truly independently of the Government. The body lacks an adequate budget for the magnitude of its task. Reports of lack of consultation with affected communities for investigative missions are concerning. To date, CORE has not taken up a single case,¹⁵⁶ bringing into question its ability to adequately carry out an urgent mandate in a timely and effective manner. It is critical that CORE is given the necessary powers, funding and independence required to fulfil its mandate and promise.

102. Policy interest among various government representatives, in adherence to the UN Guiding Principles on Business and Human Rights, is noteworthy. Yet, marginal effort has been employed towards establishing a National Action Plan on Business and Human Rights, while various countries and the European Union are now progressing toward mandatory human rights due diligence requirements.

¹⁵⁰ Columbia University (2019), <https://ac4.earth.columbia.edu/sites/default/files/content/2019%20Knuckey%2C%20Hoffman%2C%20Fisher%20and%20Russo%20Red%20Water%20Report%20-%20FINAL.pdf>

¹⁵¹ Committee on Economic, Social and Cultural Rights, General comment No. 24 (2017).

¹⁵² Amnesty International (2014) <https://www.amnesty.org/download/Documents/4000/amr340022014en.pdf>.

¹⁵³ Oxfam (2 November 2018) <https://politicsofpoverty.oxfamamerica.org/righting-the-many-wrongs-at-perus-polluted-oil-block-192/>.

¹⁵⁴ Defensoria del Pueblo (2018) (Spanish) <https://www.defensoria.gob.pe/wp-content/uploads/2018/10/Informe-de-Adjunt%C3%ADa-N%C2%BA-001-2018-DP-AMASPPI-PI.pdf>; Observatorio Petrolero de la Amazonía Norte (2018) (Spanish) <https://observatoriopetrolero.org/analisis-toxicologico-en-el-lote-192-niveles-de-plomo-por-encima-del-limite-permitido/>.

¹⁵⁵ UNGP 22.

VI. Conclusions and recommendations

A. Conclusions

103. In various ways, Canada has made welcome improvements to address human rights violations and abuses from exposure to toxic substances. Just as there are recent examples of shortcomings, there are also examples of the new energy to finding pathways to pollution prevention, informed consent, and working in partnership with Indigenous peoples and other groups disproportionately affected by toxic exposures. However, there is still much work to be done and deep concerns to be addressed.

104. It was clear from the visit that many communities in Canada continue to be exploited by toxic exposures. Some key concerns that persist include the limited degree of protection of human health and ecosystems under various legislations, and the lack of environmental information and monitoring in areas of high risk. Long delays or absences of health impact assessment persist for affected communities. Inadequate compliance with and enforcement of laws and policies, and other systemic obstacles to access to justice, in particular for cases of health impacts due to chronic exposures, reinforce the recalcitrance to ensure that victims can realize their right to an effective remedy.

105. The prevalence of discrimination in Canada's laws and policies regarding hazardous substances and wastes is clear. There exists a pattern in Canada where marginalized groups, and Indigenous peoples in particular, find themselves on the wrong side of a toxic divide, subject to conditions that would not be acceptable elsewhere in Canada. A natural environment conducive to the highest attainable standard of health is not treated as a right, but unfortunately for many in Canada today an elusive privilege.

106. Similarly, communities abroad in States hosting Canadian business enterprises endure enormous burdens that would not be acceptable in Canada. Impacts on these communities are compounded by the inordinate power imbalance in low- and middle-income countries relative to Canadian corporations.

107. In general, Canada must better acknowledge that decisions, actions and inactions regarding toxic pollution have profoundly affected the health of communities exposed, including Indigenous peoples. Reconciliation through a process of building trust, establishing and maintaining healthy relationships, and entrenching respect for Indigenous peoples sit at the cornerstone of realization of Indigenous peoples' rights including in the context of toxics.

108. These needs can be met through legal recognition of the human right to a healthy environment, including Canada's duty to prevent exposure to hazardous substances.

109. In all, Canada should take action with a precautionary approach, to mitigate continued exposure and to allow timely regulatory processes to take their course, while guaranteeing protection of local populations.

110. Despite the challenges, the Special Rapporteur was left with the impression that Canadians deeply value their environment. Canada has the financial and technical capacity to be on the path of sustainable development, where a healthy environment is more than a privilege. The Special Rapporteur remains optimistic that Canada will embrace the many opportunities to transition to a cleaner, healthier and more equitable economy. The well-being of people and peoples depends on this, not only in Canada but also around the world.

B. Recommendations

111. The Special Rapporteur recommends that Canada:

- (a) **Recognize the right to a healthy environment through legislation and eventually a constitutional amendment, including the duty to prevent exposure to hazardous substances;**
- (b) **Ratify and establish mechanisms for implementation of the Basel Ban Amendment;**¹⁵⁷
- (c) **Bring Federal law and Provincial and territorial legislation to full consistency with UNDRIP;**¹⁵⁸
- (d) **Ensure that the environmental standards on reserves are as strong as or stronger than the standards on neighbouring provincial, territorial and federal lands, to ensure equal protection for Indigenous persons;**
- (e) **Use the Federal Government’s leverage as the largest investor in various megaprojects, including the Muskrat Falls Dam and the Trans Mountain Pipeline Expansion, to review implementation of UNDRIP compatible procedures and address safety concerns of provincial governments;**
- (f) **Amend the federal Impact Assessment Act to require consideration of the impacts of proposed projects and policies on human rights, particularly the rights of vulnerable populations;**
- (g) **Establish legally binding and enforceable health-based standards for air quality and drinking water quality;**
- (h) **Improve capacities of the CHRC to initiate investigations and pursue environment and human rights-based initiatives, including on toxic exposures, including through budgetary allocations and research promotion;**
- (i) **Consider potential environment and health risks in developing regulatory criteria for treatment and discharge of process-affected water, including for oil sands;**
- (j) **Review federal and provincial and territorial law to prevent upstream mine waste dams which place communities downstream at risk of exposure, require independent review panels of extractive industry projects, and apply best practices on mine tailing safety;**
- (k) **Set clear and ambitious timelines to phase-out industrial chemicals and pesticides that are prohibited by other OECD countries;**
- (l) **Prohibit the export of industrial chemicals and pesticides banned from use in Canada to non-OECD countries;**
- (m) **Increase traceability and transparency of chemicals in products to protect inter alia the rights of the child and reproductive health**
- (n) **Fully incorporate the Convention on the Rights of the Child in policies and procedures relating to toxics and ratify its Optional Protocol on a communication procedure;**
- (o) **Adopt a requirement for protection of vulnerable populations in all stages of CEPA review, and categorize chemicals as toxic based on their hazards, not risk;**
- (p) **Include workers as a vulnerable group under its Chemicals Management Plan and expeditiously re-evaluate previously assessed substances for exposure of workers to toxics;**
- (q) **Ensure that mine regulatory structures enforce robust planning for mine closure before development and assessment of projects, and enforce strict financial securities, ensuring industry accountability for the long-term care of mines;**
- (r) **Take stringent measures to halt economic and political support to business enterprises operating abroad especially where human rights abuses are reported;**

¹⁵⁷ See also E/CN.4/2003/56/Add.2.

¹⁵⁸ See also E/C.12/CAN/CO/6 para 14.

(s) **Respect concerns of risk of harm including where host countries have established no-go-zones for resource extraction, to guarantee accountability and ensure access to justice for people affected abroad;**

(t) **Implement legal requirements for robust mandatory human rights due diligence and provide redress where activities of business enterprises both at home and abroad are associated with impacts of toxic exposures, with a cause of action for victims both in the host country and in Canada;**

(u) **Expand the mandate of CORE to include other economic sectors, providing additional investigative powers including the ability to compel documents and witnesses, and providing required resources to carry out its mandate;**

(v) **Revise available avenues to access justice to give full effect to the justiciability of economic, social and cultural rights through the court system in Canada, engaging civil society and Indigenous peoples in that revision;**

(w) **Conduct continuous national and regional cumulative environmental and socio-economic assessments, including environmental health inequality assessments, and facilitate environmental justice mapping;**

(x) **Establish a sound environmental justice framework based on the principles of procedural justice, geographic justice, and social justice;**

(y) **Involve Indigenous peoples and other population sub-groups to facilitate self-assessments to complement assessments by actors of other population sub-groups.**

112. **The Special Rapporteur recommends that business enterprises in Canada:**

(a) **Invest in technologies to phase-out chemicals of concern and increase the traceability and transparency of chemicals in products, especially consumer products;**

(b) **Take proactive measures to prevent environmental harm and respect concerns of risk of harm including where host countries have put in place no-go-zones for resource extraction;**

(c) **Implement robust and transparent human rights due diligence and provide redress where activities both at home and abroad cause, contribute or are linked with impacts of toxic exposures. These processes should mandate human rights risk assessments of the business enterprises' activities on communities, throughout the supply chain.**