

**Report of the Honourable Kim Pate to the Standing Committee on Internal  
Economy, Budgets and Administration on International Travel to Geneva,  
Switzerland, for the UN Committee on the Elimination of Racial  
Discrimination's Review of Canada, August 12-16, 2017**

**Background and Objective of Travel**

I was invited by the Feminist Alliance for International Action (FAFIA) to act as a civil society representative during the UN Committee on the Elimination of Racial Discrimination's (CERD's) review of the Government of Canada's report on its progress toward eliminating racial discrimination. The review before the Committee took place in Geneva, Switzerland, on August 14-15, 2017. FAFIA invited me to participate based on my expertise as an advocate working with and for imprisoned men, women and youth. It was felt that being present to speak about my over 35 years of experience as an advocate would help encourage a more in-depth consideration of Canada's human rights record, particularly as it concerns Indigenous Peoples' experience of the justice system and prisons.

As a member of the Senate, I view my participation in the CERD review as an effort to contribute to upholding the Senate's collective obligation to defend and give "voice to underrepresented groups like Indigenous [P]eoples, visible minorities and women," by reviewing Canada's record on Indigenous rights, anti-Black racism, racism, racial discrimination and human rights protection, with a view to holding the Canadian government accountable in this important international forum.

**Report of Activities**

I travelled to Geneva part of a delegation of civil society representatives from over two dozen Canadian non-governmental organizations acting for Canada's state party report on compliance with the *International Convention on the Elimination of All Forms of Racial Discrimination* to CERD.

Upon my arrival in Geneva on August 13, I took part in a meeting with Canadian civil society and Indigenous representatives to co-ordinate participation in the review of Canada's report.

On the morning of August 14, I participated in an informal meeting and briefing session between Canadian civil society representatives and members of the UN Committee. On the afternoon of August 14 and on August 15, I observed the presentation of Canada's state party report and the responses of the Canadian government's representatives to questions posed by CERD, and offered feedback to the Committee in my capacity as a civil society representative. Throughout my interactions with CERD, the information that I provided focused on discrimination in the context of Canada's prisons and justice system, and in particular on the overrepresentation of Indigenous

Peoples, especially Indigenous women and young women, in prisons; the need for implementation of protocols for reducing the numbers of racialized prisoners and detainees; human rights concerns relating to the use of segregation (solitary confinement) within prisons; and the need for independent judicial oversight of administrative decisions relating to prisoners.

On the evening of August 15, I was pleased to join governmental, Indigenous and civil society representatives at a gathering hosted by Ambassador Rosemary McCarney at the Canadian Mission in Geneva.

### **Next Steps**

Following the review of Canada's state party report, I released a public statement to the Senate community and media in Canada concerning the work of the Committee and the outcomes of the review. I also provided follow-up recommendations to CERD concerning discrimination in the prison system for consideration during the drafting of its Concluding Observations on Canada.

With the release of these Concluding Observations in late August, I have reached out to the Senate Human Rights Committee, of which I am a member, to encourage consideration of CERD's conclusions in the context of our ongoing study on the human rights of prisoners. I will likewise encourage the Aboriginal Peoples Committee, of which I am also a member, to consider CERD's conclusions on Indigenous rights and racial discrimination in the context of our ongoing study on a new nation-to-nation relationship between Canada and Indigenous Peoples.

### **Conclusions**

Canada enjoys a reputation globally as a country that respects human rights, yet it has in many ways failed to comply with its international human rights obligations, including the obligation to guarantee equal rights and protection to all people in Canada from discrimination on the basis of race, gender, sexual orientation, (dis)ability, as well as other related grounds. While Canada espouses a commitment to non-discrimination and indicated that there are a number of plans for future action with respect to the issues examined by CERD, the Committee expressed concern with our country's failure to comply with its own domestic human rights laws regarding racial discrimination and Indigenous rights.

For example, the federal government has yet to abide by four Canadian Human Rights Tribunal orders issued between January 2016 and May 2017 to cease racially discriminating against 165,000 First Nations children. Canada also has yet to comprehensively address gender discrimination rooted in the Indian Act, despite being made aware of it by courts, the Senate Standing Committee on Aboriginal Peoples, and outside legal experts. In so doing, Canada is sending the disturbing message to Canadians that discrimination is not allowed – unless it is the government doing it.

State control over Indigenous Peoples in Canada has not changed. Indigenous Peoples are still treated as wards of the State. Un-ceded territorial lands and resources are continually taken away

and Indigenous Peoples do not hold title even on reserve lands. In addition, very little is provided by the State in the form of programs and services, creating a dependency and entrenching poverty.

CERD questioned whether all governments in Canada have acted to comprehensively deliver on the 94 Calls to Action of the Truth and Reconciliation Commission and on the UN Declaration on the Rights of Indigenous Peoples.

CERD heard from civil society representatives how racism has affected Indigenous Peoples and communities of colour in both profound and different ways. For Indigenous Peoples in particular, racism is a matter of life and death as they experience the lowest socio-economic indicators, the highest rates of suicide and incarceration in the world, premature deaths, and the murders and disappearances of thousands of Indigenous women and girls, as well as men.

CERD was encouraged to adopt an intersectional approach to examining the impact of racism on different racialized communities in Canada, paying particular attention to the intersection between race and gender as it affects Indigenous communities and communities of colour, while also recognizing the deeply harmful reframing of Indigenous women's roles as a result of gender discrimination in legislation and as a legacy of residential schools, and the disruption in roles and relationship between Indigenous mothers and children.

CERD examined the discriminatory impact of Canada's immigration and refugee laws as they affect immigrants, refugees, other migrants, and people with precarious status, particularly those from the Global South.

Access to justice is a fundamental component of an effective human rights system in order to ensure non-discrimination. Canada has failed to provide sufficient support to persons or organizations filing equity-seeking claims, and it has taken no meaningful measures to ensure the full and proper implementation of the UN Declaration on Human Rights Defenders domestically. Furthermore, Canada's revised Court Challenges Program limits funding to Charter-based litigation (excluding cases pursued under the Canadian Human Rights Act and other legal avenues for challenging discrimination) and offers no funding for cases involving Indigenous rights or human rights defenders. The lack of protection for human rights defenders and the failure to ensure access to justice mute the ability of persons in Canada to seek redress for racial discrimination.

Canada devotes significant resources to defending its failure to address the marginalization and victimization – including the criminalization and incarceration – of racialized communities, particularly Indigenous Peoples and African Canadians. Indigenous women represent 39% of women in prison and 43% of 12–18-year-old young women imprisoned in Canada. In 2010, the Parliamentary Budget Officer calculated the cost to keep one woman in a federal penitentiary as \$348,000 per year – therefore more than \$125 million per year is being spent to jail Indigenous women and more than \$25 million per year to jail African Canadian and other racialized women in federal penitentiaries alone. Canada can and must remedy these egregious and problematic rights-delaying and rights-denying policy decisions.

As an institution defined in large part by its duty to represent minority and equality-seeking groups and to uphold the constitution, including its guarantees of equality, the Senate has a particularly important role to play in addressing ongoing discrimination in Canada. The work and conclusions of CERD in seeking to hold Canada accountable with respect to its international human rights obligations are an important consideration for the Senate, which I look forward to referencing in my work and sharing with my colleagues on the Aboriginal Peoples Committee, as we continue our nation-to-nation study, and on the Human Rights Committee, as we continue our study on the human rights of prisoners. I believe that my participation as a Senator in Canada's CERD review and the public statements that I have made concerning CERD contribute to affirming, at home and internationally, the Senate's role in representing minority groups and to upholding Canada's constitutional guarantees of equality, as well as my commitment as an individual Senator to this role.

## **Budget Report**

### **Estimated Cost**

A.	Ground Transportation		<b>\$ 315.98 CAD</b>
B.	Air Transportation		<b>\$3641.04 CAD</b>
C.	Accommodation Daily Cost	\$152.86	
	Accommodation Sub-Total	\$152.86 x 3 nights =	<b>\$ 458.59 CAD</b>
D.	Daily Meals	Breakfast: 37.60 CHF x 4 days (Su, M, Tu, W) Lunch: 51.00 CHF x 4 days (Su, M, Tu, W) Dinner: 68.75 CHF x 3 days (Su, M, Tu)	
	Daily Incidentals	50.35 CHF x 5 days (Sa, Su, M, Tu, W)	
	Daily Sub-Total	_____ x ___ days =	<b>\$ 1071.88 CAD</b>
E.	Other (Registration Fees, etc.)*		n/a
	<b>Total Estimated Cost</b>		<b>\$ <u>5487.49 CAD</u></b>

### **Actual Cost**

A.	Ground Transportation		<b>\$ 81.26 CAD</b>
B.	Air Transportation*		<b>\$5599.12 CAD</b>
C.	Accommodation Cost		<b>\$ 467.62 CAD</b>
D.	Daily Meals	Breakfast: 37.60 CHF x 4 days (Su, M, Tu, W) \$197.19 CAD Lunch: 51.00 CHF x 4 days (Su, M, Tu, W) \$267.46 CAD Dinner: 68.75 CHF x 3 days (Su, M, Tu) \$270.41 CAD	
	Daily Incidentals	50.35 CHF x 5 days (Sa, Su, M, Tu, W) \$330.07 CAD	
	Daily Sub-Total	_____ x ___ days =	<b>\$ 1065.13 CAD</b>
E.	Other (Registration Fees, etc.)*		n/a
	<b>Total Cost</b>		<b>\$ <u>7207.14 CAD</u></b>

\*Please note that the actual cost of air transportation was higher than the estimate due to a price increase between the day the Application for International Travel was submitted to CIBA and the day that approval for travel was received from CIBA. This price increase was brought to the attention of Karine Déquier prior to booking the air transportation, who confirmed with my office that she had notified CIBA and that we could proceed with the booking.

  
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Signature

  
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Date