

Report  
of the Ministry of Foreign Affairs of the Russian Federation

**Indigenous Peoples Rights Situation in Certain Countries**

Moscow

2024

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## **Introduction**

The United Nations estimates indigenous population at 476 million persons. They live in some 90 countries, representing over 6 per cent of the world's population and continue to face numerous problems.<sup>1</sup> Their rights are often violated.

Indigenous peoples are present on all continents from the Arctic to the Pacific: Eurasia, Africa, Australia and the Americas. Their races, cultures, language groups, religions, and levels of social, economic and cultural development differ. As a consequence, they have different needs, interests, aspirations and demands.

There is no single and generally accepted definition of indigenous peoples in the international law.

The United Nations Declaration on the Rights of Indigenous Peoples adopted on 13 September 2007 by resolution 61/295 of the UN General Assembly stipulates that indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned (Article 9). Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live (Article 33).

As a working definition of indigenous peoples, the United Nations uses the one formulated in 1982 by Jose R. Martinez Cobo, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, according to which indigenous peoples are "indigenous communities, peoples and nations that have a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their

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<sup>1</sup> <https://www.ohchr.org/ru/indigenous-peoples/about-indigenous-peoples-and-human-rights>

ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems".<sup>2</sup>

Unfortunately, for the last two decades the issues of the indigenous peoples' standards of living was used by a number of States (Canada, Norway, Finland, the United States etc.) and international organizations as a means of putting external pressure, including in order to question Russia's rights to its Arctic territories.

At the same time, almost all the Arctic States have at some periods of their history pursued the policy of assimilation and discrimination of their indigenous populations, which has left a legacy of socio-political and cultural problems. At the moment many countries are developing the mechanisms of coordination and cooperation with indigenous peoples.

Indigenous peoples of different countries are facing such common problems as gradual loss of traditional livelihoods resulting from the previous assimilation policy, the issues of respect of their rights to the lands they have traditionally occupied and their natural resources, the degradation of environment due to industrial development of territories and some States' militarist activities abroad, high unemployment rates and the indigenous communities' dependence on public subsidies.

The Arctic countries have been affected most by these negative developments, which has necessitated a separate report. This is what has determined the content of this paper examining the situation of indigenous peoples in the six members of the Arctic Council – Denmark, Canada, Norway, United States, Finland, and Sweden – and Australia, New Zealand and Japan, where the mentioned problems remain acute and, hence, demand solutions, including on the part of the international community.

These issues have been discussed in the first joint report on human rights situation in certain countries prepared by the ministries of foreign affairs of Russia and Belarus, and are regularly raised in the Russian foreign ministry's annual

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<sup>2</sup> [http://web.archive.org/web/20160530110622/http://www.intlaw-rudn.com/research/publications/humanrights/nekotorye-problemy-opredeleniya-ponyatiya-korennoi-narod/at\\_download/file](http://web.archive.org/web/20160530110622/http://www.intlaw-rudn.com/research/publications/humanrights/nekotorye-problemy-opredeleniya-ponyatiya-korennoi-narod/at_download/file); UN Documents: E/CN.4/Sub.2/1986/7/add.4, para. 379

reports on human rights issues, including on the situation with the glorification of Nazism and the spread of neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance (the most recent report was issued in September 2024).

## Australia

Aboriginal and Torres Strait Islander people<sup>3</sup> make up about three per cent of Australia's total population. Before European colonization, the mainland was inhabited by about 500 different tribes with a total population, according to various estimates, from 300 to 750 thousand people. They had primitive communal systems with hunting, fishing and gathering as their main livelihood activities. Each tribe inhabited a certain territory, which played a key role in terms of survival. Colonization involved the extermination of the local population defending their territory and their displacement into areas that were not suitable for full existence. Infections brought in by Europeans, to which the natives were not immune, also posed a significant challenge. As a result, by the early 20th century, their number was reduced to 60,000 people.

Slave labour was formally prohibited in the Australian colonies. However, Aboriginal people had to agree to work for free on pain of death or eviction. Most of them were employed in agriculture, pearl and sea cucumber fishing, and prostitution. Children worked as domestic servants. Although employers were formally required to pay their workers, local authorities could restrict the issuance of wages to the indigenous population under the pretext of preventing alcohol consumption and drug use. Aboriginal and Torres Strait Islander people often lacked access to the sums accumulated in bank accounts from where they were distributed to businesses and corrupt officials.

On top of effectively slave labour, the indigenous population was victimized by a policy of forced assimilation. Thousands of Aboriginal children were separated from their parents between 1910 and the 1970s as part of community integration measures. This resulted in the emergence of so-called "Stolen Generations" (a term commonly used in local media and scientific articles). They were not allowed to communicate in their own language or keep in touch with

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<sup>3</sup> The Torres Strait Islanders have a common origin with the Melanesians, while the Aborigines constitute a separate branch of the Australoid race. According to experts, the ancestors of today's aborigines could have migrated to the "green continent" from India, Southeast Asia or the Pacific islands. About 20,000 years ago, the rise in the global sea level isolated the continent from the rest of the world and contributed to the preservation of material and spiritual culture of the peoples who settled here.

family and friends. Authorities selected children to be placed in foster European families and forcibly enrolled them in state and church educational institutions.

The first version of the Commonwealth of Australia Constitution, which came into force on 1 January 1901, segregated Aboriginal and Torres Strait Islander peoples from the rest of the population. It is a common misconception that they were mentioned in the Constitution with reference to a certain Flora and Fauna Act. In fact, their status was characterized by the following two articles: Article 51, which stated that the Union shall have power to make laws with respect to people of any race, other than the aboriginal race, for whom it was deemed necessary to make special laws; and Article 127, which stated that natives in reckoning the numbers of the people of the Commonwealth aboriginal natives shall not be counted. The 1902 Franchise Act left them unable to vote.

The movement for indigenous peoples' rights only began to gain ground by the 1960s. Aboriginal and Torres Strait Islander peoples were formally recognized as part of the Australian population in 1967 following a referendum to revise the above-mentioned articles.

In 1973, the Whitlam government adopted an approach of improving the welfare of Indigenous Australians by empowering them to take part in important decision-making processes concerning the future; however, these plans were thwarted by a change of government in 1975.

In 2004, the New South Wales Government announced a program aimed at refunding so-called "stolen wages" on an indexed basis to all those who could provide documentary evidence specifying the amounts. A total of USD 9 million was repaid under the scheme. As this evidence was usually impossible to provide, since 2009, state authorities consider lump sum compensation requests of up to USD 7,680 based on circumstantial evidence. Similar programs are being implemented in Queensland and Western Australia.

In 2008, the Australian government issued an official apology to the continent's indigenous population for the "inhumane policies of its predecessors", announcing the Closing the Gap initiative to engage Aboriginal people in

economic and community activities. However, of the program's seven stated targets, only two have seen some progress: an increase in the proportion of Indigenous Australians completing Grade 12, and access to preschool education. Yet, there is still a gap in mortality rates, particularly child mortality. The targets for greater overall school attendance, literacy and employment rates have not been met.

The Indigenous population of Australia is still not recognized in the country's Constitution and has no special legal protection.

A failed constitutional referendum held on 14 October 2023 (more than 60 per cent voted "no") to establish an advisory body within the Australian parliament – the so-called "Indigenous Voice to Parliament" referred to in the 2017 Uluru Statement from the Heart. They have demonstrated not only the government's failure to address the entrenched problems of native Australians, but also the remnants of a colonial mindset in much of Australian society, about 90 per cent of which was formed by several "waves" of immigrants from Europe.

The results of the referendum were criticized by the Office of the UN High Commissioner for Human Rights. The High Commissioner was "deeply disappointed at the missed opportunity to officially recognize Aboriginal and Torres Strait Islander Peoples in Australia's Constitution and give them a greater voice alongside the country's Parliament."<sup>4</sup> The Special Rapporteurs of the UN Human Rights Council (HRC) on the right to development and the rights of Indigenous Peoples have also previously urged support for this legislative initiative.<sup>5</sup>

Today, the indigenous population remains the poorest and most vulnerable part of Australia's society. Most of them live in remote and rural areas, which also affects their incomes and limits access to health and education services. Poor living

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<sup>4</sup> Turk regrets Australia No vote as missed opportunity, urges inclusion and participation. 24 October 2023. <https://www.ohchr.org/en/press-releases/2023/10/turk-regrets-australia-no-vote-missed-opportunity-urges-inclusion>

<sup>5</sup> Australia: UN experts urge support for Indigenous Voice vote. 5 October 2023. <https://www.ohchr.org/en/press-releases/2023/10/australia-un-experts-urge-support-indigenous-voice-vote>



standards not only fuel criminality, but also affect both physical and mental health of the indigenous population.

According to the Committee on the Rights of Persons with Disabilities, a significant number of persons with disabilities expressing suicidal ideation, particularly within Aboriginal and Torres Strait Islander communities, due to, inter alia, lack of support, poverty and isolation.<sup>6</sup>

Persons with disabilities, women and minors are the most vulnerable group in indigenous communities. In November 2019, the Committee on the Rights of the Child criticized the Australian government noting "that Aboriginal and Torres Strait Islander children continue to be disproportionately affected by family and domestic violence, including sexual violence, both as victims and witnesses."<sup>7</sup>

In April 2024, the EMRIP notes that many of the concerns and recommendations contained in the concluding observations to Australia of the UN Committee on the Rights of the Child in November 2019 are still of relevance today in the State of Western Australia, including the concerns over the continuing overrepresentation of Aboriginal and Torres Strait Islander children in alternative care.<sup>8</sup>

According to the November 2023 Family Matters annual report,<sup>9</sup> as of June 2022 there were 22,328 Indigenous children in out-of-home care – the highest number on record ever monitored. Moreover, less than half of Indigenous children in care live within the community and maintain their identity. Ten years ago, the figure was over 65 per cent. SNAICC chairperson Muriel Bamblett said it was concerning to see little traction in improving outcomes across all states and

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<sup>6</sup> Concluding observations of the Committee on the Rights of Persons with Disabilities on the combined 2nd and 3rd periodic reports of Australia. October 2019.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fAUS%2fCO%2f2-3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fAUS%2fCO%2f2-3&Lang=en)

<sup>7</sup> Concluding observations of the Committee on the Rights of the Child on the combined 5th and 6th periodic reports of Australia. November 2019.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAUS%2fCO%2f5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAUS%2fCO%2f5-6&Lang=en)

<sup>8</sup> United Nations Expert Mechanism on the Rights of Indigenous Peoples. Country Engagement Mission Australia. Advisory Note. April 2024.

<https://www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/emrip/countryengagement/EMRI-Technical-advisory-note-April-2024.pdf>

<sup>9</sup> Family Matters Report 2023.

<https://www.snaicc.org.au/wp-content/uploads/2023/11/Family-Matters-Report-2023.pdf>

territories. She described current child protection systems as "racist" and urged authorities to work more closely with Indigenous communities to better understand the sector's complexities.<sup>10</sup>

Law enforcement officers continue to treat the indigenous population in a biased way. The information provided by "The Guardian" reveals the true scope of the problem. With reference to the Australian Institute of Criminology and several other line agencies, "The Guardian" reports 500 indigenous deaths over the last 30 years (1991 – 2021) at police stations and in similar circumstances.<sup>11</sup>

In December 2015, a 26-year-old Dunghutti man David Dungay died in his prison cell due to asphyxia. The prisoner was restrained by the guards after he had refused to follow their order to stop eating biscuits. A video footage shows that before fainting he screamed 12 times that he could not breathe. The coroner of the State<sup>12</sup> found that none of the guards shall be subjected to disciplinary measures, let alone criminal charge.<sup>13</sup>

The trial of police officer Zachary Rolfe, who shot dead 19-year-old Kumanjayi Walker from the Aboriginal community of Yuendumu in November 2019, was another high-profile case. The teenager had a criminal record and was wanted by the police; during his first attempted arrest, he had threatened officers with an axe; he had stabbed Rolfe in the shoulder with a pair of scissors before the officer shot him. Wounded Walker was brought to the police station where he received first aid. But the local hospital was closed, and the nearest city of Alice Springs is 300 km away. The boy died about an hour later. The incident sparked protests of the Aboriginal community demanding that those guilty of the death of their member be punished, thus, the murder charges were

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<sup>10</sup> Report finds Indigenous children 10.5 times more likely be in out-of-home care than non-Indigenous children. ABC News. 29 November 2023.

<https://www.abc.net.au/news/2023-11-29/snaicc-family-matters-report-examines-out-of-home-care/103165068>

<sup>11</sup> Indigenous investigation. "Beyond heartbreaking": 500 Indigenous deaths in custody since 1991 royal commission. 6 December 2021.

<https://www.google.co.uk/amp/s/amp.theguardian.com/australia-news/2021/dec/06/beyond-heartbreaking-500-indigenous-deaths-in-custody-since-1991-royal-commission>

<sup>12</sup> State coroner is a judicial official who is empowered to conduct or order an inquest into the manner or cause of death.

<sup>13</sup> The story of David Dungay and an Indigenous death in custody. The Guardian. 11 June 2020.

<https://amp.theguardian.com/australia-news/2020/jun/11/the-story-of-david-dungay-and-an-indigenous-death-in-custody>

filed within a few days. Chief Minister of the Northern Territory Michael Gunner promised that "consequences would flow." In March 2022, the police officer was acquitted.<sup>14</sup>

In September 2019, Joyce Clarke was shot by a police officer as she walked down a street outside her home in Geraldton holding a kitchen knife in her hand. The woman had mental issues and had been released from hospital a few days before, after a suicide attempt. The police officers called by her relatives asking to help them take her to hospital confirm that the woman stood almost still and there were no sudden movements or threats on her part. The jury found the police officer who fired the shot not guilty.

The said incident also highlighted the persisting problem of prejudice towards the indigenous population on the part of medical staff (Joyce Clarke was released from hospital despite her clearly psychotic state). Other high-profile cases include the death of Naomi Williams, a six months' pregnant 27-year-old woman. The young woman went to a hospital 18 times suffering from nausea and pain, but did not receive proper treatment or a referral. She and her unborn child died of sepsis. The infection proved treatable by a course of antibiotics. Following an inquest (that took three years) the State coroner merely issued recommendations, leaving their implementation to the discretion of the hospital administration. Those guilty remained unpunished.<sup>15</sup>

In 2023, indigenous Australians (3.8 per cent of the country's population) accounted for almost 32 per cent of Australia's total prison population a quarter of all prison deaths. Legal assistance centres have documented numerous cases of biased and cruel treatment of Aborigines in penitentiary facilities.

Many indigenous peoples live in remote and hard-to-reach areas, which severely limits their access to medical, educational, legal and other services and

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<sup>14</sup> Police officer Zachary Rolfe acquitted over death of Kumanjayi Walker. The Sydney Morning Herald. 11 March 2022.

<https://amp.smh.com.au/national/police-officer-zachary-rolfe-acquitted-over-death-of-kumanjayi-walker-20220311-p5a3sf.html>

<sup>15</sup> Naomi Williams inquest concludes, with coroner calling for change at NSW hospital. ABC. 29 July 2019. <https://amp.abc.net.au/article/11355244>

reduces their financial opportunities. So far, some progress has been made in education only. In other aspects, the gap remains, with the Aboriginal population still severely disadvantaged, in employment, mortality, and imprisonment rates.

In November 2017, the Committee on the Elimination of Racial Discrimination (CERD)<sup>16</sup> and the Special Rapporteur on the Rights of Indigenous Peoples of the UN Human Rights Council<sup>17</sup> also noted the plight of indigenous people in Australia, including in terms of political participation, the lack of protection of their land rights, socio-economic discrimination, disproportionate rate of violence against indigenous women, as well as extremely high imprisonment rate among Aboriginal people, especially children (they are imprisoned far more often than the descendants of the immigrant population.)

In September 2022, the UN Human Rights Committee found that Australia had failed to adequately protect Torres Strait Islanders against "the effects of climate change." The Committee arrived at this conclusion upon examination of a complaint filed by representatives of eight Australian islands. The plaintiffs claimed that the state's failure to adequately protect their territories against extreme weather conditions had resulted in the indigenous peoples' inability to engage in farming, traditional crafts, and many ceremonies inherent in their culture. The Committee called on the Australian government to compensate the indigenous Islanders for the harm suffered and engage in meaningful consultations with communities to develop measures to secure their safe existence on the islands.<sup>18</sup>

Australian laws governing Aboriginal cultural heritage need to be reformed because mining companies still manage to find loopholes to obtain consent for the

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<sup>16</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the 18th to 20th periodic reports of Australia. November 2017.  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fAUS%2fCO%2fI8-19&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fAUS%2fCO%2fI8-19&Lang=en)

<sup>17</sup> Report of the Special Rapporteur on the Rights of Indigenous Peoples on the visit to Australia undertaken from 20 March to 3 April 2017. Published on 8 August 2017.  
<https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F36%2F46%2FAdd.2&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>18</sup> Views adopted by the Human Rights Committee under Article 5 (4) of the Optional Protocol, concerning communication No. 3624/2019.  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FI35%2FD%2F3624%2F2019&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FI35%2FD%2F3624%2F2019&Lang=en)

destruction of indigenous artefacts when conducting extractive activities. Causing destruction or alterations to Aboriginal territories is a crime under Australian law. Yet regulations may be more flexible at the State level<sup>19</sup>.

In May 2017<sup>20</sup>, experts of the Committee on Economic, Social and Cultural Rights (CESCR) expressed concern over Australia's non-compliance with the principle of free, prior and informed consent of Indigenous Peoples while developing policies with regard to extractive activities on the lands traditionally used by them.

The Indigenous ancestral land of Murujuga in Western Australia, which is home to the world's oldest and largest collection of petroglyphs, is under threat of destruction by the country's biggest fossil fuel project, the Burrup Hub, owned by Woodside Energy. In this regard, protests erupted across the State in October 2023, which met a violent crackdown by the police. Some activists faced the strongest form of charges – some protesters can face up to 20 years in prison.<sup>21</sup> In New South Wales and Victoria, where protesters have been fighting logging on Indigenous lands, the State governments introduced penalties (from fines to years in prison) in 2022 targeting people whose actions (such as blocking roads and ports) disrupt businesses and economic activity.

In April 2024, the CERD strongly criticized the fact that, following the repeal of the Aboriginal Cultural Heritage Act of 2021 (WA) on 15 November 2023, the state government, without consultation with, or consent by, Aboriginal Peoples, decided to reinstate, with some amendments, the former Aboriginal Heritage Act of 1972.<sup>22</sup> The Committee is concerned that this may amount to a

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<sup>19</sup> Traditional owners in WA's north demand removal of gag clauses to help them protect ancient rock art. ABC. 24 March 2022.

<https://amp.abc.net.au/article/100935592>

<sup>20</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 5th periodic report of Australia. May 2017.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fAUS%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fAUS%2fCO%2f5&Lang=en)

<sup>21</sup> Australia crackdown on climate protesters grows amid fight against gas project. Mongabay. 31 October 2023. <https://news.mongabay.com/2023/10/australia-crackdown-on-climate-protesters-grows-amid-fight-against-gas-project/>

<sup>22</sup> Aboriginal Heritage Act in Western Australia. The Government of Western Australia.

breach of the State party's obligations enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and in this regard recalls its previous concluding observations in which it recommended the State party to ensure that the principle of free, prior and informed consent is incorporated into pertinent legislation and fully implemented in practice. The Committee calls upon the State party to ensure that no decisions directly relating to the rights and interests of Indigenous Peoples are taken without their informed consent. On that basis the Committee insists that the landowners cease and desist all operations that have negative implications for the cultural heritage rights of Indigenous peoples. Moreover, all consents to landowners given under the post 15 November 2023 legislative framework are duly reviewed or revoked in light of the State party's obligations under ICERD and other international human rights obligations and standards.<sup>23</sup>

To smooth out the impression of obvious failures of public policy on the issue, the Australian government demonstrates indifference to the problems of the indigenous population and a desire for maximum involvement. However, in practice Canberra fails to turn over the shameful page of its colonial past.

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[https://www.wa.gov.au/organisation/departments-and-divisional-structures/department-of-planning-lands-and-heritage/aboriginal-heritage-act-western-australia#:~:text=The%20Aboriginal%20Heritage%20Act%201972%20\(the%201972%20Act\)%20is%20the,Aboriginal%20heritage%20in%20Western%20Australia.](https://www.wa.gov.au/organisation/departments-and-divisional-structures/department-of-planning-lands-and-heritage/aboriginal-heritage-act-western-australia#:~:text=The%20Aboriginal%20Heritage%20Act%201972%20(the%201972%20Act)%20is%20the,Aboriginal%20heritage%20in%20Western%20Australia.)

<sup>23</sup> Letter from the Chairman of the Committee on the Elimination of Racial Discrimination to the Permanent Representative of Australia to the United Nations Office at Geneva. 26 April 2024

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FALE%2FAUS%2F9986&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FALE%2FAUS%2F9986&Lang=en)

UN committee says WA government's botched handling of Aboriginal heritage could be racial discrimination convention breach. ABC News. 27 May 2024.

<https://www.abc.net.au/news/2024-05-27/australian-government-breaches-racial-discrimination-convention/103886464>

## **Denmark**

According to the Declaration made by Denmark when ratifying the ILO Convention on Indigenous and Tribal Peoples in Independent Countries, the only indigenous peoples in the Kingdom's territory who fall under the definition of indigenous peoples are the Inuit, who live mainly in Greenland. According to Statistics Greenland, as of 2021, the island was home to 56,500 people with about 88 per cent of them being indigenous.

The Greenlandic indigenous population is also subject to EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, EU Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, and national legislation prohibiting any form of racial and ethnic discrimination in education, health care, employment, etc.

The two most important issues within the context of the impact of militarization on the rights of indigenous people in Greenland are the forced relocation of the Inuit in 1953 and environmental cost of US military activities on the island.

The construction of the Thule Air Base in the early 1950s violated the indigenous people's right to their ancestral land. In 1953, a decision was made to forcibly relocate 27 Inuit families (116 people in total) to the village of Qaanaaq, 120 kilometres north of Thule. The local residents were given three weeks' notice, after which they were relocated to a tent camp with the promise of later delivery of materials to build new homes.

The decision to relocate them was made by Copenhagen without the free, prior and informed consent of the Inuit, with the Danish authorities claiming at all levels that the relocation was entirely voluntary. This myth of voluntary resettlement was debunked only in 1985 after the publication of the book by Jens

Brosted and Mads Fægteborg on the impact of US military activity on indigenous people's way of life.<sup>24</sup>

In 1960, the resettled Inuit first wrote to the Ministry for Greenland to demand annual payments for damages suffered by the indigenous population from land loss. The Danish side left the appeal unanswered and the issue remained unaddressed until the publication of the above-mentioned study in 1985, which documented the forced nature of the Inuit resettlement.

In 1987, a special commission was established to investigate the case. However, several years of its work have not resulted in a definite conclusion regarding the damage to the indigenous population caused by the construction of the Thule airbase. In 1996, the Inuit filed a lawsuit in the Eastern District Court against the Danish Prime Minister's Office. The prosecution demanded to return to the natives their former land and to compensate them with DKK 25 million (later increased to DKK 235 million), as well as DKK 250,000 for each person who was forcibly relocated in 1953.

It was not until November 2003 that the final judgment in the Qaanaaq involuntary resettlement case was handed down. The Supreme Court described the transfer of Inuit ancestral land for the airbase as an "expropriation" and awarded compensation to the indigenous population. The Danish authorities recognized "a serious interference and unlawful conduct towards the local population." The Inuit received a total compensation of DKK 500,000. Each resettled person was additionally paid DKK 15-25 thousand depending on their age at the time of resettlement.

At the same time, servicing Tooele Air Force Base is a significant source of income for local residents. In 2004, in addition to the 1951 Greenland Defence Agreement, the United States, Denmark, and Greenland signed the "Igaliku Agreement," which, among other things, guarantees benefits to Greenlandic society from US military presence on the island.

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<sup>24</sup> [https://jura.ku.dk/jurabog/pdf/juridiske-monografier/broested\\_thule\\_fangerfolk\\_og\\_militaerlanlaeg\\_1987.pdf](https://jura.ku.dk/jurabog/pdf/juridiske-monografier/broested_thule_fangerfolk_og_militaerlanlaeg_1987.pdf)



On 17 December 2022, the US Air Force awarded Greenland-based Inuksuk A/S a 12-year contract worth USD 3.95 billion to maintain the airbase. Services to be provided by the company include airfield maintenance, engineering projects, environmental management, catering and medical services. The contract came into effect in early 2023, after which the Greenlandic company took on full maintenance of the airbase.

Danish Minister for Foreign Affairs Lars Løkke Rasmussen said that the Danish side's goal in the negotiations was "to ensure that Greenland and the Greenlandic people benefit as much as possible from US military presence." Vivian Motzfeldt, Minister of Independency and Foreign Affairs, also expressed hope that the large investments would create new jobs and attractive environment for internships on the island.

The Greenlandic side does not question the profitability of cooperation with the United States, however, the issue of the Americans' environmental responsibility for abandoned military facilities on the island is routinely raised in the local media. Back in 2003, the Danish Environmental Protection Agency recorded more than 30 potentially hazardous facilities on the autonomy's territory, which could pose a risk to the environment and the island's population in the face of climate change.

Denmark is also responsible for unaddressed pollution sources in the autonomy's territory, and the Inuit, referring to the ILO Convention on the Rights of Indigenous and Tribal Peoples in Independent Countries and the UN Declaration on the Rights of Indigenous Peoples, are calling on Copenhagen to take all possible measures to protect and preserve the environment in their areas of residence.

The Inuit Circumpolar Council (ICC), an NGO and a regular participant in the Arctic Council, and the Human Rights Council of Greenland are currently among the main platforms for the protection of the rights and legitimate interests of Greenland's indigenous population.

The Special Rapporteur of the UN Human Rights Council on the rights of indigenous peoples, José Francisco Calí Tzay, in his report<sup>25</sup> following his visit to Greenland from 1 to 10 February 2023, noted that that approximately 17,000 Inuit living in Denmark, despite having Danish citizenship, faced racism and discrimination, as well as a variety of constraints, including in accessing health care, education and housing. Persons with disabilities were among the most vulnerable groups. He also drew attention to the lack of statistics on the number of Inuit children living in Denmark and instances of denial of mother tongue education.

The report also addressed the forced removal of children in Greenland and their placement in foster families in Denmark. A special research study revealed that Inuit children were seven times more likely than Danish-born children to be placed in out-of-home care away from their parents.

It is noteworthy that in 2022, Denmark apologized for removing Inuit children and placing them with Danish families.

In addition, concern was expressed about the unresolved issue of compensation to Thule residents for their forced relocation in 1953 due to the construction of a US Air Force base in the area.

José Francisco Calí Tzay drew particular attention to the practice of the Danish authorities, used mainly in the 1960s and 1970s, when 4,500 women in Greenland received intrauterine devices in order to reduce the birth rate in Greenland.<sup>26</sup> The procedures were carried out without the consent of the patients or their parents. As a result, by the mid-1970s, the birth rate on the island had more than halved.

The practice of forced contraception applied to Greenlandic women and girls is also emphasized in a CPT report, which states that 67 women in 2023 went to court to claim compensation. In January 2024, the total number of Greenlandic women who had filed a lawsuit against the Danish government reached 143. The

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<sup>25</sup> Report of the Special Rapporteur on the rights of Indigenous Peoples on his visit to Denmark and Greenland from 1 to 10 February 2023. Published on 8 August 2023.

<sup>26</sup> <https://www.berlingske.dk/danmark/institutter-kraenkende-spiralkampagne-i-groenland-boer-undersoeget>

lawsuit was initiated by Naja Lyberth, who had fallen victim of the Danish doctors' actions at the age of 14. She stated that the women did not believe that the violations would be acknowledged or compensated by the Danish State following the investigation. They do not intend to await the outcome of the investigation (due to be completed in 2025) and are demanding DKK 43 million (USD 6.2 million) in compensation for the violation of their right to family life.

The Human Rights Council of Greenland and DIHR have issued a joint appeal to the Danish authorities to recognize their responsibility for this campaign, which has entailed a serious violation of girls' and women's right to self-determination and subjected them to degrading treatment.<sup>27</sup> In June 2022, Danish Prime Minister Mette Frederiksen made a formal apology to the victims.

In June 2022, work began on an expert report to create "conditions for reconciliation with Denmark's and Greenland's past."<sup>28</sup> Among other aspects, it will include the outcome of the investigation into the forced contraception campaign against Greenlandic women.

In May 2023, the Government of Greenland sharply criticized the passivity of the Danish authorities in establishing a special commission of inquiry into the case. Consequently, on 30 May 2023, the Danish Ministry of Health announced the launch of a team of scientists who will study the effects of contraceptive practices applied to Greenlandic women.

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<sup>27</sup> <https://menneskeret.dk/nyheder/spiralkampagne-groenland-udgoer-grov-kraenkelse-menneskerettighederne>

<sup>28</sup> <https://www.stm.dk/presse/pressemeddelelser/danmark-og-groenland-beslutter-historisk-udredning-af-de-to-landes-forhold/>

## **Canada**

Despite claiming its commitment to justice, equality and democratic values, the "Maple Leaf Country" has failed to turn the shameful pages of its history and prevent its impact on today's indigenous peoples' rights situation.

Until Europeans came to Canada, the country's territory had been populated entirely by Indian and Inuit tribes. According to historians, their overall population stood at from 350 to 500 thousand people, reaching up to 2 million people, according to some estimates. The contacts of indigenous peoples with French and British colonizers in 16<sup>th</sup>-19<sup>th</sup> centuries – involvement in fur trade, forced conversion to Christianity and involuntary familiarization with agriculture – led to disruption of the traditional way of life, diseases, starvation, decay in the indigenous culture, and a subsequent sharp drop in population.

At the time of the establishment of the confederation in 1867, Canada's population stood at 3.4 million people: there were 100-125 thousand members of "First Nations," 10 thousand mestizos and 2 thousand Inuit people left. European settlements were mostly concentrated in two areas – on the Atlantic Coast and in the valley of the St. Lawrence River. Outside these areas, Indian tribes dominated the Eastern part of the continent's forests, its vast interior plane and the Pacific Coast.

The 1763 Royal Proclamation recognized the British monarch's exclusive rights to obtain the aboriginal lands through agreements with the chiefs of the tribes or groups, which later had to be endorsed by all members of the communities at the meetings. The 1867 British North America Act enshrined exclusive rights of the federal parliament towards Indians and lands reserved for them.

The treaties signed between 1701 and 1923 constitute the basis of the legal relations between the government and Indian tribes to this day. Ottawa and aboriginal associations regularly dispute over the interpretation and realization of these treaties. The Canadian authorities believe that these treaties stripped of Indians' ownership of lands. "First Nations" think that they agreed to share their territories rather than sell them. Indians say that the main goal of the signed

documents was to ensure security guarantees, provide support and respect the rights. In practice, the treaties turned into a tool of the colonial authorities to relocate Indians from their lands, further expand the territories and strengthen the segregation of the aboriginal population.

The 1876 Indian Act, having absorbed federal and local legislative acts, became a tool to control the indigenous peoples and was of discriminatory character. With a number of amendments, the law is still effective. Under it, a system of Indian reservations was established. The authorities claimed that it would be beneficial for agriculture among "First Nations." However, many reservations were arranged on marginal lands. This caused economic and food issues for indigenous communities. Besides, some reservations were established outside the territories where First Nations had traditionally lived. The reshaping of the lands often came hand in hand with severing ties between clans and kindred tribes.

To ensure order in reservations, the police and Indian agents appointed by the Department of Indian Affairs were put to work. There was an unofficial system of passes. Every Indian who wanted to leave the reservations had to obtain a pass signed by a farm instructor or Indian agent. If an Indian without a pass was caught in the city, they were arrested and returned to the reservation. The pass system limited hunting and harvesting on the indigenous lands and contributed to Indians getting poorer and more dependent on the state.

According to the 2021 census, about 1,800,000 million people belong to Canada's indigenous peoples, which is about 5 per cent of the country's population. The indigenous minority remain one of the most oppressed and marginalized groups in the country's history, facing constant discrimination and living below the poverty line. Moreover, it has been reported that in the territories where indigenous peoples live, they have no representatives in Canadian local authorities. For example, the UN Human Rights Council Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, pointed out in a report to the 74th session of the UN General Assembly that the Inuit are underrepresented in the

Nunavut administration, preventing this body from adequately considering and implementing their traditional knowledge.<sup>29</sup>

It is noteworthy that, under public pressure, Canadian Prime Minister Justin Trudeau publicly referred to the government's policy toward indigenous Canadians as "Canadian genocide",<sup>30</sup> but later the Head of Cabinet and some of his ministers, concerned about the international legal consequences of such a hasty "honest confession," chose to use more muted language in public, describing the events in question as a "sociocultural oppression".

Report of the Special Rapporteur of the UN Human Rights Council on the rights of Indigenous Peoples, following a visit to Canada, (from 1 to 10 March 2023), states that in ten years (!) (the previous visit to the country took place in 2013) the situation related to economic, social and cultural rights of indigenous peoples in the country has not improved. Poor living conditions, violence against women and children, and high rates of incarceration are identified as the main problems among indigenous peoples. The Special Rapporteur has also called on Canada to compensate First Nations people who lost their Indian status as a result of the Indian Act<sup>31</sup> of 1876. Furthermore, it is emphasized that the provisions of the Act continue to discriminate against indigenous women, despite several amendments in 1985, 2010 and 2017.<sup>32</sup>

The greatest damage to this group of population was done by residential schools for Indian children between 1883 and 1996. The aim of the Indian Residential School System established by the Canadian government was to

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<sup>29</sup> Report of the UN Human Rights Council Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, in accordance with the HRC resolution 33/12. A/74/149.  
<https://undocs.org/en/A/74/149>

<sup>30</sup> Trudeau accepts Indigenous inquiry's finding of genocide. The Globe and Mail. 4 June 2019.  
<https://www.theglobeandmail.com/canada/british-columbia/article-trudeau-accepts-indigenous-inquirys-finding-of-genocide>

Trudeau says deaths and disappearances of Indigenous women and girls amount to genocide. CBC News. 4 June 2019. <https://www.cbc.ca/news/politics/trudeau-mmiwg-genocide-1.5161681>

<sup>31</sup> Under the Indian Act of 1876, Indian status was passed only through the paternal line. The Act required women who married British (or other Europeans) to live off the reservation. Children born of mixed marriages did not inherit Indian status.

The Act underwent several amendments in 1985, 2010, and 2017.

<sup>32</sup> Report of the Special Rapporteur on the rights of Indigenous Peoples following a visit to Canada, which was conducted from 1 to 10 March 2023. Published on 24 July 2023.  
<https://documents.un.org/doc/undoc/gen/g23/139/14/pdf/g2313914.pdf?token=uL0mo6ufmzz5kjHrG6&fe=true>

assimilate indigenous children by denying them the opportunity to adopt the traditions, customs, values and languages of their people. "Deliberate and often brutal strategies were used to destroy family and community bonds" under this system.<sup>33</sup>

Official Canadian statistics paint a grim and horrifying picture: More than 150,000 children passed through the so-called "domestication" and "introduction to civilization". More than 6,000 children died from starvation, sexual and other forms of violence, as well as unsanitary conditions in residential schools, and the survivors of these horrors broke down. They told stories of children constantly disappearing and of new-borns being burned in incinerators. They said there were cases of children being forced to dig graves for their dead classmates.<sup>34</sup> In the event of a child's death, neither the cause of death nor the child's name and surname were recorded. It is therefore impossible to determine the exact number of dead and missing.

Following the discovery of 215 unmarked graves in May 2021 on the grounds in Kamloops (British Columbia), indigenous communities started to search for new burials and continue their activities to this day. More than 2,000 remains were found between 2021 and 2024. The last discovery in July 2024 – during geological exploration in the territory where a similar boarding school was previously located (north of Manitoba), 187 unidentified objects were found, presumably the remains of children who died in the institution<sup>35</sup>.

In June 2022, Kimberly Murray was appointed to the position of Special Coordinator for the Search for Unmarked Graves of Indian Children.<sup>36</sup> In her interim reports (November 2022, June 2023) she complained about the lack of

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<sup>33</sup> Report of the Special Rapporteur to the UN Human Rights Council on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance prepared pursuant to General Assembly resolution 73/262 in relation to reparations for racial discrimination rooted in slavery and colonialism A/74/321. <https://undocs.org/ru/A/74/321>

<sup>34</sup> Report of the Special Rapporteur on the rights of Indigenous Peoples following a visit to Canada, which was conducted from 1 to 10 March 2023. Published on 24 July 2023.

<https://documents.un.org/doc/undoc/gen/g23/139/14/pdf/g2313914.pdf?token=uL0mo6ufmzz5kjHrG6&fe=true>

<sup>35</sup> Northern Manitoba First Nation reports 187 anomalies found at or near site of former residential school. CBC. 3 July 2024.

<https://www.cbc.ca/news/canada/manitoba/pimicikmamak-residential-school-anomalies-1.7253845>

<sup>36</sup> Mandate until October 2024.

sufficient government funding for searches, problems with getting access to records, and an increase in cases where violence against children of the First Nations was denied.<sup>37</sup> In July 2024, based on the study of historical documents, the expert came to the conclusion that the burials on the territory of former Indian boarding schools are 'evidence' of genocide and mass violations of human rights<sup>38</sup>.

In July 2024, the Senate Committee on Indigenous Peoples released the results of a study showing that representatives of the first Nations are still deprived of full access to archival materials from government and religious institutions on the activities of Indian boarding schools, despite existing legal obligations<sup>39</sup>.

In March 2023, the Jesuit Order of Canada released a list with names of 27 priests who were found to have abused minors in the mid-twentieth century.<sup>40</sup> After admitting guilt in 2008 for violence in former schools for indigenous communities, the federal government supported Indian leaders' demands that the Catholic Church (which ran up to 60 per cent of the schools) apologize for crimes committed in the 19th and 20th centuries. In his reaction to these demands, the Pope apologized to the First Nations twice, the first time on 1 April 2022, at the Vatican during a meeting with a group of Native Americans, Métis, and Inuit, and the second time on 25 July 2022, in Edmonton during an apostolic tour to Canada, officially called a "Pilgrimage of Penance". The Pope recognized the policy of forced assimilation and the destruction of the cultural identity of the Indigenous people in the residential schools as genocide. Previously, a 2015 Truth and Reconciliation Commission report had used the term "cultural genocide" in reference to Canada's colonial past.

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<sup>37</sup> Independent report details 48 findings about challenges of searches for unmarked graves. CBC News. 16 June 2023.

<https://www.cbc.ca/news/canada/saskatchewan/canada-interim-report-special-interlocutor-residential-school-unmarked-graves-1.6879187>

<sup>38</sup> History of residential school cemeteries is evidence of genocide, interlocutor says. CBC News. 3 July 2024. <https://www.cbc.ca/news/indigenous/interlocutor-kimberly-murray-historical-report-1.7253567>

<sup>39</sup> Missing Records, Missing Children. Interim report of the Standing Committee on Indigenous Peoples. Senate of Canada. [https://publications.gc.ca/collections/collection\\_2024/sen/yc28-0/YC28-0-441-20-eng.pdf](https://publications.gc.ca/collections/collection_2024/sen/yc28-0/YC28-0-441-20-eng.pdf)

<sup>40</sup> Jesuits of Canada release names of priests credibly accused of sexually abusing minors. CBC News. 13 March 2022.

<https://www.cbc.ca/news/canada/jesuits-canada-sex-abuse-list-clerics-priests-1.6776913>



In the period 2007-2020, only 28 thousand victims of violence received compensation from the federal government totaling CA\$3.23<sup>41</sup>. Despite some Canada's efforts to help establish accurate casualty figures and compensation payments, Canadian authorities have in some cases sought to challenge court decisions ordering significant monetary payments to victims of violence. For example, in March 2022, the Trudeau government asked the Federal Court of Appeal to overturn a ruling that satisfied an Indigenous class-action lawsuit seeking CA\$600,000,000 in compensation for material and moral damages caused by members of the Royal Canadian Mounted Police.<sup>42</sup>

Residents of Canada's far north have been victims of experiments of dubious purpose.

In the 1940s and 1950s, the government had conducted nutritional experiments on indigenous children in residential schools. During this study, which had been conducted since 1947 by Lionell Pett, Canadian medical doctor and biochemist (it was under his leadership that the federal Nutrition Services Division was established in 1941), children were literally subjected to the child wasting to examine the effects of malnutrition. Close to 1,000 children in six boarding schools across the country were tested in this experiment.<sup>43</sup>

In May 2019, the media reported on a mysterious study conducted in Igloolik, Nunavut, in the early 1970s. According to witnesses, within the International Biological Programme, DNA samples from 30 local residents were taken, allegedly to study the effects of vaccinations on the health of isolated communities (for this purpose, a thin layer of skin was removed from the subject's palm). Both the author of the study (Professor John Dossetor) and the official

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<sup>41</sup> More than 3\$B paid 28,000 victims of residential school abuse: report. CBC News. 12 March 2021. <https://www.cbc.ca/news/indigenous/iap-final-report-residential-schools-1.5946103>

<sup>42</sup> Ottawa appeals certification of class action lawsuit alleging RCMP excessive use of force in North. CBC News. 21 March 2022. <https://www.cbc.ca/news/canada/north/ottawa-appeals-certification-of-class-action-lawsuit-alleging-rcmp-excessive-use-of-force-in-north-1.6390669>

<sup>43</sup> The dark history of Canada's Food Guide: How experiments on Indigenous children shaped nutrition policy. CBC. 5 July 2021. <https://www.cbc.ca/radio/unreserved/how-food-in-canada-is-tied-to-land-language-community-and-colonization-1.5989764/the-dark-history-of-canada-s-food-guide-how-experiments-on-indigenous-children-shaped-nutrition-policy-1.5989785>

authorities, represented by the Ministry of Indigenous Affairs and Health Canada, refused to inform the public.

In February 2024, indigenous representatives filed a class-action lawsuit with information about an alleged secret medical experiment. For example, at least 60 people (indigenous people) were subjected to additional research during the MRI procedure, without their knowledge and consent.<sup>44</sup>

Of particular concern are the negative environmental impacts of economic activities on indigenous peoples' ancestral lands. Despite the steps Ottawa has taken in recent years to legally recognize the importance of consultations with indigenous peoples on major economic projects, in reality the federal authorities often side with business and neglect the rights and interests of indigenous peoples. As a result, conflicts arise, sometimes leading to lawsuits or confrontations with the police.

The situation around construction of the second pipeline of the Trans Mountain Pipeline in western Canada is evidence of the continuing mistrust of indigenous peoples towards the Canadian authorities regarding the realization of their rights. The project was launched in 2013, from its very start, the First Nations on whose territories the pipeline was to be built began regular protests demanding that the work be stopped.

On 30 August 2018, in response to public unrest, the Trudeau government bought the project from the U.S. company Kinder Morgan. On the same day, Canada's Federal Court of Appeal (FCA) revoked the Trans Mountain permit, citing a lack of consultation with First Nations and a failure to assess the environmental impact of an oil spill in the event of such an accident. Following the Court's recommendations, Natural Resources Canada organized consultations with 117 indigenous communities affected by the project. A positive Environmental Impact Assessment was also prepared. On 18 June 2019, the Trudeau government reapproved the project. On 4 February 2020, the FCA dismissed a complaint

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<sup>44</sup> Indigenous people sue over alleged Canadian secret medical experiment. The Guardian. 26 February 2024. <https://www.theguardian.com/world/2024/feb/26/medical-experiment-indigenous-canadians-lawsuit>

against the government's decision, also ruling that the consultation requirement did not give Indian organizations the right to block the project by delaying negotiations. In July 2020, the Supreme Court of Canada upheld the FCA's decision.

In May 2022, the Committee on the Elimination of Racial Discrimination (CERD) sent a letter to the Permanent Representative of Canada in Geneva criticizing Canadian law enforcement in British Columbia in February 2020, calling on them to stop using force to disperse Indians protesting the construction of the Coastal Gaslink and Trans Mountain pipelines and to suspend the projects. Despite appeals from international organizations, the construction was not stopped. The Coastal Gaslink Pipeline was completed in October 2023.

In 2023, Indian tribes again accused officials of violating their rights and causing environmental damage by building part of the second leg of the Trans Mountain pipeline in their traditional territory. They were particularly concerned about construction work near Lake Jaco, a sacred lake for indigenous people.<sup>45</sup>

The CERD cited the example of the Site C dam. Indigenous peoples opposed the project since their territories, including sacred lands and burial sites, were affected by it. Despite a joint review by the Canadian federal and provincial governments of the project's harmful environmental impacts and irreversible impacts on First Nations, work on the project has continued.

Another example is the Mount Polley field development project, which was approved without an environmental assessment or consultations with First Nations. The CERD noted with concern that the launch of the mine has resulted in the deterioration of water quality, fishing resources, and traditional medicines used by the indigenous peoples living in the area.<sup>46</sup>

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<sup>45</sup> Indigenous rights collide with \$35B Western Canada pipeline expansion. Global News. 22 November 2023. <https://globalnews.ca/news/10103531/indigenous-rights-collide-with-35b-western-canada-pipeline-expansion/>

<sup>46</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st to 23rd periodic reports of Canada. August 2017. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=ru)

Indigenous communities in Ontario are trying to stop the Ring of Fire mining and transportation project under the Doug Ford government. In early 2023, a delegation of Native Americans visited Toronto with the intention of protesting and meeting the premier in person. However, the protest was cut short and the participants were removed from the local legislative assembly building.<sup>47</sup>

Decades of open-pit mining in south-eastern British Columbia have contaminated waterways with selenium, an element toxic to fish. In 1985, it was estimated that just two tons of selenium flowed down the Elk River into Lake Koocanusa. In 2023, that figure had risen to nearly 11 tons. Indigenous representatives have repeatedly brought the problem to the attention of the authorities and demanded that the water contamination be investigated. In March 2024, it was reported that Canadian and American authorities had launched a joint investigation into the matter.<sup>48</sup>

In June 2019, water supplies in two tribal communities (Attawapiskat and Eabametung) were found to contain excessive levels of toxic chemicals that can cause cancer. In June 2022, the Committee on the Rights of the Child (CRC) raised serious concerns about the plight of Anishinaabe Indian children in north-western Ontario. The water in the area is contaminated with mercury, which has had an extremely negative impact on the health of local residents. In particular, the Committee noted that children suffer from speech disorder and learning disabilities and are prone to seizures.<sup>49</sup> An accident at the Kearl oil field in Alberta in February 2023 resulted in the release of 5,300,000 liters of industrial wastewater. Tribal

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<sup>47</sup> Two first Nation leaders escorted out of legislature after protesting Ontario's accelerated mining development plans. The Globe and Mail. 29 March 2023.  
<https://www.theglobeandmail.com/business/industry-news/energy-and-resources/article-ontario-first-nations-doug-ford-mining/>

<sup>48</sup> U.S, Canada agree to work on reducing B.C. coal mine pollution. CBC News. 11 March 2024.  
<https://www.cbc.ca/news/canada/british-columbia/coal-mine-pollution-teck-1.7140296>

<sup>49</sup> Concluding observations of the Committee on the Rights of the Child on the combined 5th and 6th periodic reports of Canada. June 2022.  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCAN%2fCO%2f5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCAN%2fCO%2f5-6&Lang=en)

elders in the area accused Imperial Oil and the provincial energy regulator of hiding information about the disaster.<sup>50</sup>

The authorities cannot provide access to clean drinking water on Indian reservations. As of July 2024, restrictions on the use of drinking water have been introduced in 29 remote settlements, and 31 warnings about the danger of drinking water use are in effect<sup>51</sup>. In July 2021, the Government of Canada reached a CA\$8,000,000,000 court settlement with First Nations to compensate 142,000 people, having previously acknowledged its inability to fully resolve the water access issue by a target date of March 2021.<sup>52</sup>

In February 2021, an inspection by Canada's Auditor General found that federal funding for the maintenance of wastewater treatment systems in some remote communities had remained unchanged for 30 years.<sup>53</sup>

In February 2016, the Committee on Economic, Social and Cultural Rights (CESCR) stressed the weakening of environmental regulations, including for extractive industries.<sup>54</sup> This has exacerbated the already adverse situation surrounding indigenous lands. Environmentally harmful decisions on resource development that affect the lives and territories of indigenous peoples continue to be made without their free, prior and informed consent. Costly, time-consuming and ineffective litigation is often the only way to resolve problems.<sup>55</sup> In this context, the CESCR has expressed concern about the limited access to remedy for

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<sup>50</sup> First Nations call on Ottawa to oversee investigation on Imperial Oil industrial leak. The Globe and Mail. 17 April 2023.

<https://www.theglobeandmail.com/business/article-first-nations-call-on-ottawa-to-oversee-investigation-on-imperial-oil/>

<sup>51</sup> Ending long-term drinking water advisories. Indigenous Services Canada. July 2024.

<https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660>

<sup>52</sup> First Nations and Ottawa agree to \$8 billion settlement on drinking water advisories. CBC News. 30 July 2021.

<https://www.cbc.ca/news/politics/drinking-water-class-action-proposed-settlement-1.6123251>

<sup>53</sup> Too many First Nations lack clean drinking water and it's Ottawa's fault, says auditor general. CBC News. 25 February 2021.

<https://www.cbc.ca/news/politics/auditor-general-reports-2021-1.5927572>

<sup>54</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 6th periodic report of Canada. February 2016.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=ru)

<sup>55</sup> For details see Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st to 23rd periodic reports of Canada in August 2017, Concluding observations of the Committee on Economic, Social and Cultural Rights on the 6th periodic report of Canada in February 2016, Concluding observations of the Human Rights Committee on the 6th periodic report of Canada in July 2015.

victims and about the fact that existing alternative remedy mechanisms (such as the Office of the Extractive Sector Corporate Social Responsibility (CSR) Counsellor) do not always achieve a fair resolution of the dispute.<sup>56</sup>

The UNHRC Special Rapporteur on the human rights to safe drinking water and sanitation, Pedro Arrojo-Agudo, visited the country from 8 to 19 April 2024.<sup>57</sup> In his statement at the conclusion of the country visit, he urged Canadian authorities to increase efforts to eliminate discrimination and marginalization of Indigenous peoples, to respect the human right to water and sanitation. Recognizing some progress made by Canada in this area, he stressed that there are still serious pending challenges, including the reiteration of recommendations on water resources, toxic contamination of the water sources, and criminalization of those defending water resources. During his visit, he received compelling testimonies about the harsh living conditions on-reserve where, in many cases, not even Indigenous Peoples' human right to drinking water is guaranteed.<sup>58</sup>

Arrojo Agudo noted that while First Nations' water supply is under federal jurisdiction, their water sources are often impacted by productive activities and discharges under the control of the Canadian provincial authorities, jeopardising their right to water and sanitation. The expert urged Canada to legally recognize the human rights to drinking water and sanitation at Federal level. "Indigenous Peoples disproportionately face the brunt of risks of toxic water contamination with serious health impacts," he said. He also expressed grave concern about the criminalisation, repression and persecution faced by Indigenous Peoples opposing large infrastructure projects.<sup>59</sup>

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<sup>56</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 6th periodic report of Canada. February 2016.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=ru)

<sup>57</sup> The final and more comprehensive report will be presented to the United Nations Human Rights Council in September 2024.

<sup>58</sup> End of Mission Statement by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr Pedro Arrojo-Agudo at the conclusion of the country visit to Canada. 19 April 2024

<https://www.ohchr.org/sites/default/files/documents/issues/water/statements/2024-04-19-eom-sr-water-canada-en.pdf>

<sup>59</sup> Ibid.

In 2023, Human rights activist Marie-Josée Houle has published a report on her visit to Inuit settlements. The Canadian criticized the federal government for the unacceptable housing conditions in which members of the small northern peoples are forced to live. In particular, some Inuit families do not have access to water, sewage and fuel to heat their homes.<sup>60</sup>

In March 2024, Karen Hogan, Canada's Auditor General, issued a report on the findings following the inspection in the housing in First Nations communities. According to the report, the situation in this field has not changed since 2015. In 2022, 19.7 per cent of residential properties were in a state of emergency and required major repairs, 6.5 per cent were subject to demolition. It also turned out that the government had abandoned a strategy to tackle the mould issue, which was launched in 2008. It was also found that the Ministry of Public Safety did not provide sufficient protection for indigenous settlements due to understaffing in the police force and failure to meet the budget expenditure plan.<sup>61</sup>

In January 2019, a state of emergency was declared on the Cat Lake First Nation reserve in Ontario due to the emergency condition of the housing stock. The crumbling cardboard houses of the locals without basic amenities were unable to retain heat for long, even when heated by potbelly stoves. As a result, there were outbreaks of diseases among indigenous people, including lung infection. The Municipal Council urgently asked the provincial and federal authorities to intervene and consider evacuation (the allocation of CAD 200,000 for the inspection of 110 houses was approved in December 2018).

There is still a problem with access to medical care. A report by the Manitoba Indian Health and Welfare Secretariat (November 2023) noted that adult citizens with disabilities living on Indian reservations do not have equal access to social assistance programs. Institutions serving the indigenous population in these areas are experiencing significant difficulties in obtaining funding, resources and

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<sup>60</sup> Federal advocate calls Inuit housing conditions a "staggering failure" of government. CBC News. 27 November 2023.

<https://www.cbc.ca/news/canada/north/inuit-housing-crisis-houle-report-1.7041217>

<sup>61</sup> Federal government failing Indigenous communities on housing, policing: AG report. CBC News. 19 March 2024. <https://www.cbc.ca/news/politics/auditor-general-indigenous-policing-housing-trade-1.7148255>

staffing<sup>62</sup>. Indian tribal leaders in remote parts of Manitoba and Ontario demanded in April 2023 that officials take swift action to fill staffing gaps in health care facilities, accusing them of negligence and racism. They said that two people had died in recent months, including a mother of five children, after they had not received professional medical care.<sup>63</sup>

In 2021, the Baby Law (officially known as Bill-79) was passed to combat the phenomenon of Quebec's "ghost babies," who went missing or died under suspicious circumstances while hospitalized away from their communities. Bill-79 gives the government the right to require hospitals or churches to hand over confidential documents and records, and to facilitate the exhumation of bodies for a full investigation. According to an expert panel, more than 130 infants have gone missing or died in Quebec hospitals since the 1950s.<sup>64</sup>

According to official data, Canada has one of the lowest Tuberculosis (TB) rates in the world. In 2021, the rate of active TB in Canada was 4.8 per 100,000 people. Indigenous people have the highest rates: Inuit at 135.1 per 100,000, First Nations at 16.1, and people born outside Canada at 12.3. To date, the federal government has failed to meet its commitment to eradicate tuberculosis in Inuit villages by 2030. According to the Nunavut Department of Health, a total of 206 cases were identified in the community between January 2021 and February 2023 and the number is gradually increasing.<sup>65</sup> The main reasons for the high prevalence of the disease among indigenous peoples are high levels of poverty, overcrowded settlements and limited access to health care.

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<sup>62</sup> First Nations adults with disabilities living on reserve lack equal access to services, report finds. CBC. 16 November 2023.

<https://www.cbc.ca/news/canada/manitoba/first-nations-adults-disability-report-1.7031129>

<sup>63</sup> First Nations leaders demand an end to short-staffing at nursing stations in remote communities. The Globe and Mail. 3 April 2023.

<https://www.theglobeandmail.com/politics/article-first-nations-leaders-demand-an-end-to-short-staffing-at-nursing/#:~:text=First%20Nations%20leaders%20in%20Manitoba,of%20government%20neglect%20and%20racism.>

<sup>64</sup> It's horrible: Quebec now searching for over 130 missing Indigenous children. APTN National News. 28 April 2023.

<https://www.aptnnews.ca/national-news/ghost-babies-report-quebec-indigenous-children-missing/>

<sup>65</sup> Spread of tuberculosis in Baffin Island hamlet the largest reported in Nunavut since 2018.

The Globe and Mail. 27 February 2023.

<https://www.theglobeandmail.com/canada/article-spread-of-tuberculosis-in-baffin-island-hamlet-the-largest-reported-in/#:~:text=The%20continued%20spread%20of%20TB,are%20really%20a%20big%20concern.>



Suicide is another acute problem among the peoples of the Canadian North. In October 2022, Garth Eggenberger, the chief investigator for the Northwest Territories, reported that the region had experienced its first recorded increase in suicides in a decade. In 9 months of 2022, 18 people committed suicide (11 people in 2021); 45 per cent of them were men between the ages of 20 and 29.<sup>66</sup>

Forced sterilisation is a manifestation of Canada's ongoing "colonial violence" against indigenous people. On 14 July 2022, the Canadian Senate Human Rights Committee released the second part of the report on the outcome of the 2019 inquiry into forced sterilisation<sup>67</sup> (the first was released a year earlier on 3 June 2021).<sup>68</sup> All the affected women complained to the parliamentarians that their consent to the surgery was not free, prior and informed. Medical staff threatened patients and misinformed them about the necessity, or the effects, of sterilization. In some facilities, tubal ligation is done without consent at all.

In November 2022, researchers at a Quebec university published a report saying that at least 22 indigenous women were forcibly sterilised in Quebec between 1980 and 2019 (the youngest victim was 17). More tellingly, Quebec is the only province to have declined to participate in a federal government initiative to examine the practice of forced sterilization.<sup>69</sup>

Moreover, there was a case where a similar surgery was performed on a 14-year-old girl, without her knowledge or consent. The fact of sterilisation did not find out until several years later.<sup>70</sup>

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<sup>66</sup> Decade-high suicide statistics in N.W.T. "devastating": health minister. The Globe and Mail. 4 October 2022. <https://www.theglobeandmail.com/canada/article-decade-high-suicide-statistics-in-nwt-devastating-health-minister/>

<sup>67</sup> Senate Committee on Human Rights The Scars that We Carry: Forced and Coerced Sterilization of Persons in Canada Part II. Report. July 2022.

[https://sencanada.ca/content/sen/committee/441/RIDR/reports/2022-07-14\\_ForcedSterilization\\_E.pdf](https://sencanada.ca/content/sen/committee/441/RIDR/reports/2022-07-14_ForcedSterilization_E.pdf)

<sup>68</sup> Senate Committee on Human Rights. Forced and Coerced Sterilization of Persons in Canada Part I. Report. June 2021.

[https://sencanada.ca/content/sen/committee/432/RIDR/reports/2021-06-03\\_ForcedSterilization\\_E.pdf](https://sencanada.ca/content/sen/committee/432/RIDR/reports/2021-06-03_ForcedSterilization_E.pdf)

<sup>69</sup> At least 22 Indigenous women underwent forced sterilization in Quebec from 1980–2019: report. CBC News. 25 November 2022.

<https://www.cbc.ca/news/canada/montreal/report-uncovers-forced-sterilization-in-quebec-1.6663340>

<sup>70</sup> She was sterilized without her consent at 14. Now she wants the practice made a crime. CBC News. 13 September 2023.

<https://www.cbc.ca/radio/whitecoat/she-was-sterilized-without-her-consent-at-14-now-she-wants-the-practice-made-a-crime-1.6450647>

In the light of the human rights violations identified, the senators called on the Canadian authorities to introduce a separate article in the Criminal Code to penalise forced sterilisation. A corresponding bill (Bill S-250) was introduced into the Parliament in June 2022.<sup>71</sup> However, the amendments have not yet been adopted.

International human rights monitoring bodies have paid considerable attention to disappearances and killings of First Nations, particularly women. The importance of investigating such cases and the need to establish a national body in this regard was touched upon in the concluding observations by the Committee on the Elimination of Discrimination against Women (CEDAW)<sup>72</sup>, the Human Rights Committee (HRCttee)<sup>73</sup>, CESCR<sup>74</sup>, CERD<sup>75</sup>, and the Committee against Torture (CAT)<sup>76</sup>. It should be noted that disappearances and killings of First Nations women were the subject of a CEDAW investigation in 2013, with a separate report published in March 2015.<sup>77</sup>

Pressured by international human rights mechanisms, the Canadian authorities established a National Inquiry into Missing and Murdered Indigenous Women and Girls (later referred to as the "National Inquiry"), which completed its

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<sup>71</sup> S-250. An Act to amend the Criminal Code (sterilization procedures).

<https://www.parl.ca/legisinfo/en/bill/44-1/s-250>

<sup>72</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women on the combined 8th and 9th periodic reports of Canada. November 2016.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCAN%2FCO%2F8-9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCAN%2FCO%2F8-9&Lang=en)

<sup>73</sup> Concluding observations of the Human Rights Committee on the 6th periodic report of Canada. July 2015.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCAN%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCAN%2fCO%2f6&Lang=en)

<sup>74</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 6th periodic report of Canada. February 2016.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=en)

<sup>75</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st to 23rd periodic reports of Canada. September 2017.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en)

<sup>76</sup> Concluding observations of the Committee against Torture on the 7th periodic report of Canada. November 2018.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fCAN%2fCO%2f7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fCAN%2fCO%2f7&Lang=en)

<sup>77</sup> Report of the inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. CEDAW/C/OP.8/CAN/1. 30 March 2015. <https://undocs.org/CEDAW/C/OP.8/CAN/1>

work in early June 2019.<sup>78</sup> The main conclusion of the experts was that for centuries the Canadian authorities had subjected indigenous people to systematic socio-economic, cultural and linguistic discrimination based on colonial, ethnocentric, racist beliefs embedded in local society. In this regard, the Government was recommended to urgently forge new social fabric without colonial ideology.

According to the National Inquiry's report, girls of Indian descent were six times more likely to be killed than white girls. Following a series of murders and disappearances of women in 2022, leaders of Indian organizations demanded that the authorities take steps to better protect the rights of this population.

The National Inquiry also came to disappointing conclusions when considering the issue of access to health care for First Nations women: when complaining to health centres, Indigenous women receive less quality care than their white compatriots. The National Inquiry also called for further scrutiny of Ottawa's international crimes, including crimes against humanity, describing Canada's policies toward its indigenous peoples as colonial genocide.

Former commissioners state the lack of considerable progress in addressing the issue, emphasizing that five years after a national inquiry delivered more than 200 recommendations aimed at protecting Indigenous people, there's been too little systemic change across the country. Former chief commissioner of the inquiry Marion Buller and fellow commissioner Michèle Audette, who now sits as a Quebec senator, told CBC News they aren't seeing evidence of the political will needed to deliver the paradigm shift in Canada's relationship with Indigenous people.<sup>79</sup>

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<sup>78</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls. Reclaiming power and place. Volume 1. [https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report\\_Genocide.pdf](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report_Genocide.pdf)  
National Inquiry into Missing and Murdered Indigenous Women and Girls. Reclaiming power and place. Volume 2. [https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final\\_Report\\_Vol\\_2\\_Quebec\\_Report-1.pdf](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_2_Quebec_Report-1.pdf)

<sup>79</sup> 5 years after MMIWG inquiry's final report, former commissioners still waiting for progress. CBC. 3 June 2024.  
<https://www.cbc.ca/news/politics/national-inquiry-mmiwg-final-report-fifth-anniversary-1.7221433>

One of the steps taken by Canadian authorities in this area is the launch of the Red Dress Alert system in the province of Manitoba, which will inform the public when an Indigenous woman or girl goes missing.<sup>80</sup>

At the same time, in April 2024, the leaders of Indian tribes demanded that the authorities disband the Thunder Bay police due to the lack of progress in funding those responsible for the murders of three representatives of the indigenous population<sup>81</sup>.

CEDAW was concerned about the high number of girls who suffer from discrimination and sexual harassment in schools and the disproportionate number of indigenous girls who continue to face difficulties in gaining access to quality education.<sup>82</sup>

In turn, CRC noted the difficulty for indigenous parents in accessing the birth registration. A structural nature of discrimination against indigenous children was also criticized by the CRC. Experts noted that the areas of greatest concern remained education, health and adequate standards of living.<sup>83</sup>

The issue of infringement of the linguistic rights of indigenous peoples is serious. For instance, in Nunavut, Inuit are virtually denied the opportunity to be educated in their native Inuktitut language. Most of schools teach in English, while 94 per cent of students are Inuit. Inuktitut is studied optionally up to grade 3 in only 10 out of 43 schools. In 2016, local authorities published statistics that the number of Inuktitut speakers had fallen by 12 per cent over the past decade. According to experts' estimations, with such dynamics the share of citizens speaking this language in the region will decrease to 4 per cent by 2050.

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<sup>80</sup> Canada, Manitoba to develop Red Dress Alert for missing Indigenous women and girls. 6 May 2024. <https://www.theglobeandmail.com/canada/article-canada-manitoba-to-develop-red-dress-alert-for-missing-indigenous/>

<sup>81</sup> First Nations leaders urge Ontario to disband Thunder Bay police, get outside service to investigate deaths. CBC. 22 April 2024. <https://www.cbc.ca/news/canada/thunder-bay/nan-thunder-bay-police-1.7180444>

<sup>82</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women on the combined 8th and 9th periodic reports of Canada. November 2016. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCAN%2FCO%2F8-9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCAN%2FCO%2F8-9&Lang=en)

<sup>83</sup> Concluding observations of the Committee on the Rights of the Child on the combined 5th and 6th periodic reports of Canada. June 2022. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCAN%2fCO%2f5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCAN%2fCO%2f5-6&Lang=en)

CERD was concerned at the reported disparity in resource allocation for education and the lack of sufficient funding of mother tongue education programmes. As a result, some groups of children, especially indigenous children, do not have equal access to quality education, which contributes to future socio-economic disparities.<sup>84</sup> This problem was also highlighted by the CESCR in February 2016, emphasizing that indigenous children have lower educational and academic achievements, resulting in higher dropout rates among this group at all school levels.<sup>85</sup>

Adolescent poverty and vagrancy among indigenous peoples has become widespread in Canada. According to a report by the Assembly of First Nations NGO, the percentage of low-income indigenous children is several times higher than among the white population in Canada. The highest rates – 47 per cent – are found among Indian tribes (up to 65 per cent in the Manitoba and Saskatchewan provinces).

Over the past years, the situation in British Columbia, one of the most economically developed provinces, has deteriorated dramatically. There is a poor situation in Kamloops and its suburbs (population about 300,000 people, including 84,000 Indians), where poverty among persons under 18 years of age reaches 30 per cent. According to experts, there are 7.7 socially disadvantaged children per 1,000 people (twice the national rate), 78 per cent of whom are indigenous children.<sup>86</sup> The lack of money due to parents' inability to support their families makes caregivers four times more likely to investigate them and 12 times more likely to remove children from their families. The HRCtee and CERD indicated

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<sup>84</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st to 23rd periodic reports of Canada. September 2017.  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en)

<sup>85</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 6th periodic report of Canada. February 2016.  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=en)

<sup>86</sup> The province of Manitoba topped the list, where, as of January 2019, of the 11,143 children receiving subsidies, 90 per cent are Indigenous children.

that First Nations children are more likely to be isolated from their families, communities and culture and placed in child care institutions.<sup>87</sup>

According to CRC experts, indigenous children are currently still dominant in terms of numbers in the alternative care system, realized including in the form of foster care. Moreover, they are often disconnected from other people of their ethnicity. These children are more likely than others to be victims of violence and abuse, and to suffer from a lack of attention from their carers.<sup>88</sup>

According to the Assembly of First Nations NGO, at least 200,000 people have fallen victim to Canada's social welfare system. In February 2023, the Newfoundland and Labrador provinces established a commission of enquiry into the causes of juvenile deaths in the welfare system at the request of an Innu chief who advocated for an end to the forced removal of juveniles from their families. The investigation is currently underway (the final report will be published in October 2024). During the hearing, one of the victims testified that as a 13-year-old in 2005, she was placed in a foster home in Ontario (1,600 kilometres away from her hometown) where her foster parents forbade her to talk in her native language to her grandmother over the phone.<sup>89</sup>

In May 2023, Karen Hogan, Canada's Auditor General, called on the Nunavut authorities for immediate action to protect children in foster care. The check revealed gross violations by the controlling authorities.<sup>90</sup>

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<sup>87</sup> Concluding observations of the Human Rights Committee on the 6th periodic report of Canada. July 2015. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCAN%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCAN%2fCO%2f6&Lang=en);

Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st to 23rd periodic reports of Canada. August 2017.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en)

<sup>88</sup> Concluding observations of the Committee on the Rights of the Child on the combined 5th and 6th periodic reports of Canada. June 2022.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCAN%2fCO%2f5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCAN%2fCO%2f5-6&Lang=en)

<sup>89</sup> Foster-care system maintains brutality of residential schools, Natuashish woman tells inquiry. CBC News. 5 December 2023.

<https://www.cbc.ca/news/canada/newfoundland-labrador/inquiry-natuashish-1.7048340>

<sup>90</sup> Auditor general calls for immediate action to protect children and youth in Nunavut. The Globe and Mail. 30 May 2023.

<https://www.theglobeandmail.com/canada/article-auditor-general-calls-for-immediate-action-to-protect-children-and/>

The National Aboriginal Circle Against Family Violence indicated that in most communities in Canada, social services were funded through the provincial or territorial governments. However, in First Nations reserves, these services were normally funded through the federal government, which in many areas provided significantly less money per person for programmes and services when compared to what was provided by the provincial and territorial governments.<sup>91</sup>

The over-representation of indigenous persons in Canada's penitentiaries remains a problem. The 2023 Report by Canada's Correctional Investigator Dr. Ivan Zinger states that indigenous communities remain disproportionately represented in the correctional system. The proportion of indigenous people has increased from 23 per cent to 32 per cent in the last 10 years (4,200 people in total), and indigenous women now account for half of all women.<sup>92</sup>

Indigenous people are mostly placed in maximum-security institutions, held longer and often placed in solitary confinement. In the western provinces, recidivism among indigenous people is as high as 70 per cent.<sup>93</sup> In February 2023, a B.C. auditor's audit of the province's correctional facilities criticised the system for providing health services for indigenous inmates with mental health and addictions diagnoses.<sup>94</sup>

The overrepresentation of indigenous people and African-Canadians at all stages of the justice system, from arrest to incarceration, was noted by CERD in September 2017.<sup>95</sup> In May 2022, the Karen Hogan, Canada's Auditor General, discovered as a result of a check of the Correctional Service of Canada that officers

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<sup>91</sup> Report of the Office of the United Nations High Commissioner for Human Rights (Summary of Stakeholders' submissions on Canada), prepared as part of the 3rd cycle of the Universal Periodic Review. March 2018. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/059/71/PDF/G1805971.pdf?OpenElement>

<sup>92</sup> Correctional Investigator Releases Updated Findings on the State of Indigenous Corrections in Canada: National Indigenous Organizations Issue Statements of Support. Office of the Correctional Investigator. 2 November 2023. <https://oci-bec.gc.ca/en/content/correctional-investigator-releases-updated-findings-state-indigenous-corrections-canada>

<sup>93</sup> Indigenous People in Federal Custody Surpasses 30%. Office of the Correctional Investigator. 21 January 2020. <https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx>

<sup>94</sup> Gap in services for Indigenous people in B.C. correctional centres: audit. CTV News Vancouver. 9 February 2023. <https://bc.ctvnews.ca/gap-in-services-for-indigenous-people-in-b-c-correctional-centres-audit-1.6267383>

<sup>95</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st to 23rd periodic reports of Canada. September 2017. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f21-23&Lang=en)

of this agency, guided by long-outdated instructions, disproportionately placed people of colour and Indigenous people in maximum security units. Consequently, inmates were forced to stay in the penitentiary institution longer than the court sentence required. Karen Hogan described the practice as clear evidence of systemic racism. However, investigators have already drawn attention to this problem in previous years (2015, 2016, and 2017).

Compared to other ethnic groups, the percentage of Blacks and Indians in maximum security cells is 51 per cent. The situation is even worse for convicted First Nations women: 70 per cent of them are in such cells. The statistics do not favour minorities of colour either: 53 per cent of women of colour, 46 per cent of men of colour, and only 33 per cent of white citizens are transferred to maximum security cells.<sup>96</sup>

For Canadian law enforcement officers, racial profiling is a common practice.<sup>97</sup> In the debate about systemic discrimination that took place in May and June 2020, the Canadian media extensively covered incidents in which police killed or brutalized Aboriginal people and people of colour. At the same time, there is the issue of law enforcement personnel's formal attitude against indigenous people and their unwillingness to investigate crimes committed against this community. The facts of the questionable quality of law enforcement officers' work on Indian reservations were confirmed in the pages of the report prepared by the Council of Canadian Academies, an NGO, at the request of Public Safety Canada. The research cited police officers' basic ignorance of local laws and tribal customs as the primary source of difficulties. Furthermore, the authors contend that a lack of conversation between government officials and local residents leads to

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<sup>96</sup> A "sobering, disturbing crisis within our prisons": audit questions CSC security assessment that continues to mark Indigenous, Black inmates as higher risk. The Hill Times. 31 May 2022.  
<https://www.hilltimes.com/story/2022/05/31/a-sobering-disturbing-crisis-within-our-prisons-audit-questions-csc-security-assessment-that-continues-to-mark-indigenous-black-inmates-as-higher-risk/230224/>

<sup>97</sup> Concluding observations of the Committee against Torture on the 7th periodic report of Canada. November 2018.  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fCAN%2fCO%2f7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fCAN%2fCO%2f7&Lang=en) ;



misunderstanding and outright hatred by the white majority against members of other racial and ethnic groups.<sup>98</sup>

The rule of law system in Indian reservations functions inefficiently. According to the Canadian Public Safety Ministry, crime in these areas increased from 2004 to 2018 by 31.9 per cent, while nationwide it decreased by 15.5 per cent. In September 2022, the RCMP employees did not prevent the massacre of 11 persons. (18 persons were injured) in a small community of Saskatchewan. Indian tribes ensuring security by their own forces receive assistance from the federal centre for grants and short-term contracts, however they complain about quick loss of resources. Quebec's 22 Indigenous police forces have filed a complaint with the Canadian Human Rights Commission, accusing the federal government of chronic underfunding.<sup>99</sup>

A recent high-profile example of systemic racism against Indigenous people by law enforcement agencies was an incident involving Indigenous people in the province of Nova Scotia. On 26 March 2024, Kevin Hartling and Blaise Silliboy (both Indigenous) claimed to have violated a ban on fishing for tiny baby eels in Nova Scotia and were detained by the Department of Fisheries and Oceans officers. They said police drove them 200 km out of town, took their shoes and cell phones and drove away, leaving them freezing at a gas station in the middle of the night.<sup>100</sup>

However, this is far from an isolated case. This practice of so-called "starlights tours" has been used for a long time. It involves taking an indigenous person to the outskirts of the city and leaving him or her to freeze to death in extreme cold when detained by law enforcement authorities. The Guardian article cites Darrell Night's (an Indigenous person) traumatic experience when, on a

<sup>98</sup> Council of Canadian Academies. Toward Peace, Harmony, and Well-Being: Policing in Indigenous Communities. <https://www.scienceadvice.ca/wp-content/uploads/2019/04/FullReport-Toward-Peace-Harmony-and-WellBeing.pdf>

<sup>99</sup> 22 Quebec Indigenous police forces file complaint with human rights commission. CBC News. 2 November 2023.

<https://www.cbc.ca/news/canada/montreal/22-quebec-police-forces-file-complaint-human-rights-commission-chronic-underfunding-1.7014300>

<sup>100</sup> Mi'kmaw harvesters say DFO officers took shoes, phones and left them stranded. APTN National News. 2 April 2024.

<https://www.aptnnews.ca/national-news/mikmaw-harvesters-say-dfo-officers-took-shoes-phones-and-left-them-stranded/>

freezing winter evening in 2000 (temperatures reached minus 25 degrees Celsius), he, in a vulnerable state of alcohol intoxication, was detained by Saskatoon police officers, taken away and abandoned by them in a deserted area on the outskirts of the city. He managed to survive after finding a nearby power station and calling for help. A few days later, two other men, Rodney Nystus and Lawrence Wegner, were found frozen to death in the same area where Darrell Night had been left by police.

The case of Neil Stonechild, a 17-year-old Cree boy, who was found dead in a field on the northwestern edge of Saskatoon in 1990, resonated. The temperature when he was last seen was close to minus 30 degrees Celsius.

Police initially suggested the allegations against officers involved in the "starlight tours" were isolated incidents, but in 2003, Saskatoon police chief Russell Sabo admitted there was a possibility that the force had driven other Indigenous people to the city limits and left them in the cold, including a woman in 1976, according to reporting by the Saskatoon StarPhoenix.<sup>101</sup>

The above facts and statistics clearly demonstrate the numerous chronic problems in the field of ensuring the rights of Indigenous peoples of Canada. Despite the slogans of the Trudeau cabinet about the desire to make amends to Indigenous peoples for the crimes of the colonial past and eradicate its negative consequences, the situation on the issue is not changing for the better.

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<sup>101</sup> Left to freeze by Canada police, Darrell Night exposed their deadly 'starlight tours'. The Guardian. 25 April 2023.

<https://www.theguardian.com/world/2023/apr/25/darrell-night-who-exposed-canada-police-freezing-deaths-scandal-dies-at-56>

## New Zealand

The indigenous population of New Zealand is the people of Māori that arrived from the islands of East Polynesia and settled there in 13th-14th centuries. In comparison with the rest of former British colonies, New Zealand carries significantly less "historical guilt" towards the indigenous population. The first contacts between the European settlers and Māori in late 18th – early 19th centuries were overall peaceful, despite separate incidents and skirmishes.

However, the arrival of colonizers provoked destabilization in the intertribal relations. In 1820s-1830s, a series of the so-called "Musket Wars" engulfed the New Zealand islands. The British did not participate in them directly but, in exchange of the resources they needed, actively supplied the rival aboriginal tribes with firearms. As a result of hostilities and calamities associated with them (hunger, disease, loss of housing), a total of more than 20 thousand Māori people died (in early 19th century their overall population was estimated to be about 100 thousand people), thousands of indigenous people were enslaved or forcibly displaced.

In 1840s-1870s, the active stage of the colonial exploration of the county was attended by numerous clashes between the English and Māori, which came to be known as New Zealand "Land Wars." In 1840s, the Treaty of Waitangi<sup>102</sup> was signed between the British Crown and the local tribes that guaranteed the indigenous population the right to own the territories that had belonged to them before the Europeans arrived. However, in violation of the treaty, many colonists often either illegally appropriated the Māori lands or bought them up at extremely low prices. The resistance of the indigenous population, outraged with such action of the colonizers, was suppressed by the armed forces. As a result of the "Land

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<sup>102</sup> The Treaty of Waitangi, Te Tiriti o Waitangi (Maori) – a treaty concluded in 1849 between the British authorities and 539 chiefs of Maori tribes. According to this document, Maori relinquish their sovereignty to the British crown and in return they keep their lands indefeasible. The Treaty of Waitangi was not ratified by the Great Britain, however it still is one of the defining documents for New Zealand's social order. Since 1975, the specially created Waitangi Tribunal has been monitoring the respect of the spirit of this treaty as constitutional act. The Tribunal issues recommendations following the consideration of complaints submitted by Maori with relation to violations of this document's provisions.

Wars," about 16 thousand square meters of territories that had belonged to Māori, were confiscated by the authorities. The ejectment process is yet to be finished. The claims on the majority of the confiscated lands were settled mostly through compensations. Nevertheless, lawsuits on some land sites are still being considered.

Due to impoverishment, loss of lands and disease, by 1896 the Māori population fell by almost one half: from 80 thousand people in 1840 to 42 thousand people. In early 20th century, the Māori population numbers gradually started to restore and by 1945-1950 reached the pre-contact levels.

According to the 2018 census, indigenous people make up 16.5 per cent of the country's population. In general, the Indigenous population is largely-integrated into the political life of the country, has quotas in the elected bodies, presented in all leading parties and has its own. The Maori King having no real power, enjoys authority in the country.

However, among other ethnic groups, Maori remain the most socially vulnerable part of the population, despite the policy of in favor of the indigenous people in the socio-economic sphere and the increased attention to their rights and interests.

According to social surveys in 2021, about 93 per cent of autochthonous respondents have experienced some form of intolerance and social injustice because of their race.<sup>103</sup> The reports of the Human Rights Commission, published in February 2023, emphasize<sup>104</sup> that 180 years of colonial rule in New Zealand have had a profoundly negative effect on indigenous development, as manifested in the more modest wealth and health of Maori and their lower life expectancy.

The New Zealand Human Rights Commission is particularly concerned about the actions of the new government (in power since November 2023) in the area of indigenous rights, which has planned to repeal and review a

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<sup>103</sup> Most Maori experience racism every day – new research. RNZ News. 22 March 2021.

<https://www.rnz.co.nz/news/ldr/438895/most-maori-experience-racism-every-day-new-research>

<sup>104</sup> Reports on racism raise challenges in election year. Newsroom. 5 February 2023.

<https://www.newsroom.co.nz/reports-on-racism-raise-challenges-in-election-year>

number of laws and programs that protect Maori interests, including health care, language status, preferences, and legislation referring to the Treaty of Waitangi.<sup>105</sup>

In December 2023, thousands of protesters took to the streets of New Zealand to express opposition to the new government's policies towards indigenous peoples. The protests coincided with the opening session of the country's 54th parliament, which ended the six-year rule of the center-left Labor Party. The new National Party-led coalition announced its intention to review its policy of "positive discrimination", changing the names of some departments from Maori to English and removing references to the Treaty of Waitangi principles from legislation, which angered indigenous people.<sup>106</sup>

The center-right coalition government of C.Lacson in power is not a stranger to playing the "race card" against the indigenous population of New Zealand. Deputy Prime Minister and Foreign Minister W.Peters (leader of the New Zealand First party) has been particularly successful in this area. In his March 2024 State of the Nation address, he accused the Maori of racism and drew parallels between their struggle for their rights and participation in the co-governance of the country alongside the descendants of European colonists under the provisions of the Treaty of Waitangi and the racist policies of Nazi Germany.

Despite widespread condemnation of his provocative statements by representatives of various social forces, W.Peters refused to make any corrections, on the contrary, doubled his racially charged rhetoric.<sup>107</sup> The representative of the Holocaust Center of New Zealand B.Kepes called the words of the high-ranking functionary "offensive", the leader of the opposition Labor Party C.Hipkins criticized them, stressing that the position of the current New Zealand leadership is an attempt to divide the country along racial lines.<sup>108</sup>

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<sup>105</sup> Statement by the New Zealand Human Rights Commission. 13 February 2024.  
<https://tikatangata.org.nz/cms/assets/Documents/Statement-of-New-Zealand-Human-Rights-Commission-pre-session-46.docx>

<sup>106</sup> Thousands gather in New Zealand to protest government's Indigenous policies. Al Jazeera. 5 December 2023.  
<https://www.aljazeera.com/news/2023/12/5/thousands-gather-in-new-zealand-to-protest-governments-indigenous-policies>

<sup>107</sup> Winston Peters "not going back" on co-governance Nazi reference. RNZ. 18 March 2024.  
<https://www.rnz.co.nz/news/political/511997/winston-peters-not-going-back-on-co-governance-nazi-reference>

<sup>108</sup> Labour leader Chris Hipkins strikes back after Winston Peters' Nazi comparison. Newshub. 17 March 2024.

The report of the Royal Commission of Inquiry into Abuse in Care<sup>109</sup>, released on 24 July 2024, has horrified the country's residents and the international community. According to the inquiry, between 1950 and 2019, at least 256,000 people (!) were subjected to various forms of abuse in a number of state and religious institutions that took them into care. Most of the victims are children, women and disabled people. It is emphasized that the true number of victims cannot be ascertained, as in many cases data was not recorded, or records and documents on persons in the care of a number of organizations were destroyed in order to cover up the crimes.

The Inquiry highlights the disproportionately high proportion of Indigenous and other Pacific peoples among the victims (44 per cent – 2.5 times their share of the population). Thus, once in care, Maori faced harsher treatment and were humiliated because of their ethnicity and skin colour. They were restricted in their access to knowledge of their specific cultural identity, their ability to learn their culture and to speak indigenous languages. Many indigenous victims have permanently lost touch with their community, culture and language.

The Commission's experts agreed with the Waitangi Tribunal's findings that the guardianship policy was intended to assimilate indigenous people, which in turn violated the Treaty of Waitangi. Against this backdrop, the Bill, which would repeal the rules that require guardianship agencies to be guided by the principles of the Treaty of Waitangi in the way they operate, was of particular concern, given that two thirds of children in social care were Maori children.

The effects of systemic violence and discrimination have left a mark on the fate of victims. Some died while in institutions and many committed suicide. Survivors still bear the burden of the consequences of the abuse, which has had a negative impact on all areas of life.

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<https://www.newshub.co.nz/home/politics/2024/03/labour-leader-chris-hipkins-strikes-back-after-winston-peters-nazi-comparison.html>

<sup>109</sup> Whanaketia – Through pain and trauma, from darkness to light. The Royal Commission of Inquiry into Abuse in Care. 2024. <https://www.abuseincare.org.nz/>

Judge C.Shaw, who headed the inquiry, described the scale of abuse as a “national disgrace” and called on the New Zealand authorities to familiarize themselves with the report in order to prevent a repetition. In turn, Prime Minister C.Lacson said the report marked a "dark and sad day" in New Zealand's history.

The investigation made 95 recommendations for reparations and 138 other recommendations, much of which require legislative changes. There are also demands to formally apologize to the Prime Minister, the Pope and other heads of churches, to rename streets and infrastructure that bear the names of identified perpetrators, and to reopen criminal investigations into possible infractions.<sup>110</sup> A formal apology is scheduled for November 2024. However, the pressing issue of material reparations to victims remains unresolved.

Discrimination against New Zealand's indigenous population has been highlighted by UN human rights treaty bodies such as the UN Human Rights Committee (HRCttee)<sup>111</sup>, the UN Committee on Economic, Social and Cultural Rights (CESCR)<sup>112</sup>, and the UN Committee on the Elimination of Discrimination against Women (CEDAW)<sup>113</sup>. This population has traditionally had disproportionately high unemployment rates compared to other ethnic groups. According to official data for December 2023, the Maori unemployment rate rose to 7.9 per cent (the overall national unemployment rate is 4 per cent).<sup>114</sup> At the same time, the life expectancy of indigenous people is on average 7 years shorter.

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<sup>110</sup> “National disgrace”: landmark New Zealand report finds 200,000 victims of abuse in care. The Guardian. 24 July 2024. <https://www.theguardian.com/world/article/2024/jul/24/new-zealand-royal-commission-abuse-state-religious-care-report-ntwnfb>

<sup>111</sup> Concluding observations of the Human Rights Committee on the 6th periodic report of New Zealand. March 2016.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNZL%2fCO%2f6&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNZL%2fCO%2f6&Lang=ru)

<sup>112</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 4th periodic report of New Zealand. March 2018.

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<sup>113</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women on the 8th periodic report of New Zealand. July 2018.

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<sup>114</sup> Labour market statistics: December 2023 quarter. Stats NZ. 7 February 2024.

<https://www.stats.govt.nz/information-releases/labour-market-statistics-december-2023-quarter/>

This has been highlighted by the HRCtee<sup>115</sup>, CERD<sup>116</sup>, CESCR<sup>117</sup>, CEDAW<sup>118</sup> and the UN Committee on the Rights of Persons with Disabilities (CRPD)<sup>119</sup>, among others.

Experts attribute this situation to the fact that Maori people are more likely than others to experience difficulties in accessing basic health services. In addition, disparities in the remuneration of Maori health workers persist.<sup>120</sup> CESCR has also criticized the New Zealand authorities for the fact that indigenous people have the highest rates of chronic illness and disability and statistically account for a disproportionately high rate of suicide and mental health problems.<sup>121</sup> Meanwhile, the practice of isolating patients in psychiatric hospitals to punish and discipline them is common. Maori are also the most frequently subjected to it.<sup>122</sup>

The UN Committee on the Rights of the Child (CRC) also noted the extremely high rate of suicide among indigenous children and young people (between the ages of 10 and 24), noting that men and boys are the most affected.

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<sup>115</sup> Concluding observations of the Human Rights Committee on the 6th periodic report of New Zealand. March 2016.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNZL%2fCO%2f6&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNZL%2fCO%2f6&Lang=ru)

<sup>116</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st and 22nd periodic reports of New Zealand. August 2017.

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<sup>117</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 4th periodic report of New Zealand. March 2018.

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<sup>118</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women on the 8th periodic report of New Zealand. July 2018.

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<sup>119</sup> Concluding observations of the Committee on the Rights of Persons with Disabilities on the combined 2nd and 3rd periodic reports of New Zealand. September 2022.

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<sup>120</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st and 22nd periodic reports of New Zealand. August 2017.

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<sup>121</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 4th periodic report of New Zealand. March 2018.

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<sup>122</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st and 22nd periodic reports of New Zealand. August 2017.

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Further to this theme, CRC expressed its concern at the high level of violence, including domestic and sexual violence, faced by indigenous children, and at the limited access to psychological and physical recovery services, as well as to reporting.<sup>123</sup>

Maori continue to be over-represented in the public care system, where CRC found that they are disproportionately more likely than other children to suffer some form of harm. For this reason, the New Zealand Government was again recommended in 2023 to take action to prevent the placement of minors in institutions, minimize the length of time they spend in institutions, provide Maori with appropriate support, and facilitate the return of these children to their family and community.<sup>124</sup>

Challenges also arise in the realization of the right to education. International monitoring bodies have noted in this context that Maori and indigenous Pacific students, particularly at secondary and tertiary levels, have lower levels of educational achievement than European children and are more likely to be stigmatized and disciplined in schools.<sup>125</sup> There has been a decline in native spoken language skills among indigenous people. This is primarily due to the low number of Maori-speaking teachers.<sup>126</sup>

According to CRC experts, efforts to promote and advance the use and teaching of the Maori language, culture and history in schools should help to address the problem of racism, discrimination, stigmatization and prejudice against indigenous people in New Zealand.<sup>127</sup>

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<sup>123</sup> Concluding observations of the Committee on the Rights of the Child on the 6th periodic report of New Zealand. February 2023.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNZL%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNZL%2FCO%2F6&Lang=en)

<sup>124</sup> Ibid.

<sup>125</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st and 22nd periodic reports of New Zealand. August 2017.

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<sup>126</sup> Ibid.

<sup>127</sup> Concluding observations of the Committee on the Rights of the Child on the 6th periodic report of New Zealand. February 2023.

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNZL%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNZL%2FCO%2F6&Lang=en)

The high percentage of indigenous people in the prison population is notable. The UN Committee against Torture remains concerned that Maori people, including women and youth, are disproportionately affected by imprisonment, reportedly accounting for about 50 per cent of the total prison population – with Maori making up only 17 per cent of the country's total population. However, access to culturally sensitive legal aid services, including interpretation and translation services, for marginalized people such as Maori and Pacific peoples remains inadequate.<sup>128</sup>

Maori are far more likely than white New Zealanders to be targeted by the police. In contrast, it is notable that the percentage of indigenous people in the judicial and law enforcement systems is low, at 10 per cent and 11 per cent respectively.<sup>129</sup>

The UN Committee on the Elimination of Racial Discrimination noted in August 2017 the lack of progress in implementing the recommendations of the Treaty of Waitangi Constitutional Advisory Council made back in 2013. In addition, the independent Maori initiative Matike Mai Aotearoa has put forward proposals for discussion on a number of constitutional models that have not even been considered by the New Zealand authorities.<sup>130</sup> At the same time, the need to ensure meaningful participation of Maori in decision-making processes affecting their rights was emphasized in March 2018 by CESCR.<sup>131</sup>

There have been incidents of desecration of indigenous burials in the country. The vandalism of two headstones at Waikato Military Cemetery in

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<sup>128</sup> Concluding observations of the Committee against Torture on the 7th periodic report of New Zealand. July 2023.

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<sup>129</sup> Concluding observations of the Human Rights Committee on the 6th periodic report of New Zealand. March 2016.

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<sup>130</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined 21st and 22nd periodic reports of New Zealand. August 2017.

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<sup>131</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 4th periodic report of New Zealand. March 2018.

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November 2023, where Maori killed in the Battle of Rangiriri (one of the bloodiest battles of the New Zealand Wars, during which Maori fought for their sovereignty and land), was particularly acute. The desecration of the graves occurred just days before the 160th anniversary of the battle.<sup>132</sup>

In December 2023, indigenous graves in the predominantly Maori part of the cemetery were vandalized. Significantly, it was stones with Maori national ornaments that were destroyed.<sup>133</sup>

Thus, the situation in the area of Indigenous people's rights of New Zealand has not changed significantly in recent years. The central problem remains discriminatory manifestations against Maori, a high percentage of this category of the population in places of detention, a more difficult socio-economic situation, and unequal labor market conditions. At the same time, since recently, the intentions of the new government to revise state policy in this area to the detriment of the interests of the indigenous population of the country raise concerns.

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<sup>132</sup> Headstones destroyed days before 160th anniversary of Rangiriri battle. 1News. 15 November 2023.

<https://www.1news.co.nz/2023/11/15/headstones-destroyed-days-before-160th-anniversary-of-rangiriri-battle/>

<sup>133</sup> Maori graves damaged by vandals at Waikumete Cemetery in West Auckland. The New Zealand Herald. 31 December 2023.

<https://www.nzherald.co.nz/nz/maori-graves-damaged-by-vandals-at-waikumete-cemetery-in-west-auckland/5LY7PNNZDZAZZHY4XTQVDRMQUI/>

## Norway

The Ministry of Local Government and Regional Development, together with the Ministry of Culture and Equality, is responsible for public policy in support of national minorities in Norway. Reportedly, the Norwegian society still harbours negative attitude towards certain nationalities and ethnic groups.

According to the NIM reports, indigenous minorities (Sámi) and national minorities (Kvens/Norwegian Finns, Jews, Forest Finns, Roma, and Tater/Romani), especially women and children, often face discrimination.<sup>134</sup>

On 26 August 2022, the NRK Troms og Finnmark, Norwegian Broadcasting Corporation, referring to NIM's survey "Attitudes towards Sámi and other minorities," stated that 11 per cent of the population in Northern Norway have a negative attitude towards national minorities. This is four times the national average.<sup>135</sup> The Kvens/Norwegian Finns have difficulties with education in their native language and insufficient media published in it, while the Forest Finns have difficulties with the preservation of their culture in general. For Jews, the main problem is hate speech and other manifestations of anti-Semitism.

According to the NIM survey, Norwegians have the most negative stereotypes of Taters and Roma, who already feel deprived in the housing and labour market and complain about insufficient opportunities to learn their native language. Approximately one third of the population consider many of them criminals (34 per cent and 32 per cent, respectively) and vagabonds (27 per cent and 28 per cent, respectively).<sup>136</sup>

Similar conclusions were made by human rights defenders from the Centre for Holocaust and Minority Studies,<sup>137</sup> according to which 46 per cent of

<sup>134</sup> See, for example: Menneskerettighetene i Norge 2019. NIMs årsmelding, Dokument 6 (2019–2020). [https://www.nhri.no/wp-content/uploads/2020/04/NIM\\_A%CC%8Aarmelding\\_2019\\_web.pdf](https://www.nhri.no/wp-content/uploads/2020/04/NIM_A%CC%8Aarmelding_2019_web.pdf);

Menneske-rettighetene i Norge 2018. NIMs årsmelding, Dokument 6 (2018-2019). [https://www.nhri.no/wp-content/uploads/2019/03/NIM\\_Arsmelding\\_2018\\_web-1.pdf](https://www.nhri.no/wp-content/uploads/2019/03/NIM_Arsmelding_2018_web-1.pdf).

<sup>135</sup> Report "Attitudes towards Sami and national minorities in Norway," August 2022.

<https://www.nhri.no/rapport/holdninger-til-samer-og-nasjonale-minoriteter-i-norge/?showall=true>.

<sup>136</sup> Report "Attitudes towards Sámi and national minorities in Norway," August 2022.

<https://www.nhri.no/rapport/holdninger-til-samer-og-nasjonale-minoriteter-i-norge/?showall=true>.

<sup>137</sup> Report on the "Attitudes towards Jews and Muslims in Norway 2022," November 2022.

<https://www.hlsenteret.no/forskning/jodisk-historie-og->

Norwegians would not like to have Roma as neighbours, and about 30 per cent would not like having Roma in their circle of friends.<sup>138</sup>

According to an Aftenposten investigation published on 5 March 2024, the Norwegian police have created an ethnic register of local Roma. It includes 655 people with names, personal numbers, dates of birth, addresses and relationship data, including children and deceased persons.<sup>139</sup>

According to police spokesmen in the Eastern Police District, the "lists" were compiled on the basis of Norwegian Roma crime data in order to "obtain a general picture of offences." The Data Protection Directorate (Datatilsynet) has initiated a check on the legality of the police action. Bjørn Erik Thon, Gender Equality and Anti-Discrimination Ombud in Norway, has not excluded that the collection of such information is a breach of Section 24 of the Equality and Anti-Discrimination Act 2017 and plans to send a report to the UN Committee on the Elimination of Racial Discrimination.<sup>140</sup>

Law enforcement practice in modern Norway is full of facts of harassment and violations of the rights of the Sámi indigenous people (densely populated within the northern counties of Troms, Finnmark, and Nordland). A number of cases of violations of their rights are directly linked to the effects of Norwegianization politics, including in the area of public health. This issue has been studied for more than 20 years by the Centre for Sámi Health Research as part of the three phases of the SAMINOR project. Sámi women are more likely to be subjected to violence.

In May 2023, the Norwegian Government presented the results of a study showing that 75 per cent (three out of four) of Sámi people face discrimination based on ethnicity, gender and place of residence (41 per cent of them more than once a year). And 95 per cent of Sámi youth experience prejudice against Sámi culture in society at large.

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[antisemittisme/holdningsundersokelsene/holdningsundersokelsen-2022/attitudes-towards-jews-and-muslims-in-norway-2022.pdf](https://www.antisemittisme/holdningsundersokelsene/holdningsundersokelsen-2022/attitudes-towards-jews-and-muslims-in-norway-2022.pdf).

<sup>138</sup> Aftenposten newspaper, 7 December 2022.

<sup>139</sup> Aftenposten newspaper, 6 March 2024.

<sup>140</sup> Aftenposten newspaper, 6 March 2024.

On 1 June 2023, the Truth and Reconciliation Commission appointed by the Norwegian Parliament in 2018, whose mandate is to analyse the consequences of the Norwegianization policy and injustice against Sámi, Kven and Finnish national minorities, and to develop possible "reconciliation" measures, submitted its report in this regard.<sup>141</sup>

The Commission's practical proposals include maintaining and more effective implementation of the existing support programmes for national minorities, especially in the area of language and cultural preservation (including the establishment of a "Centre for Knowledge, Research, Communication and Reconciliation").

The conclusions of the document are disappointing: the rejection of the Norwegianization policy at the State level did not reverse the consequences of the damage already caused. The continuous process of loss of the language, culture and identity makes the risk of extinction of these ethnic groups high.<sup>142</sup>

It is equally important that the negative social processes that developed during the period of the Norwegianization politics in relation to national minorities are still reproduced by society. It is noted that Norwegians know virtually nothing about the culture of national minorities living in Norway; a significant part of the population agrees with negative stereotypes about them. Many members of these ethnic groups face discrimination and abuse. There is a negative attitude towards the Sámi in the social networks and mass media, and a high vulnerability of Sámi women to domestic and sexual violence.

As President of the Norwegian Parliament Masud Gharakhani stated in connection with the presentation of the report, the establishment of the Commission was caused by "the understanding that Norwegian society has failed to cope with the task of protecting indigenous peoples and minorities."<sup>143</sup>

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<sup>141</sup> Truth and Reconciliation Commission Report, June 2023. <https://www.stortinget.no/globalassets/pdf/sannhets--og-forsoningskommisjonen/rapport-til-stortinget-fra-sannhets--og-forsoningskommisjonen.pdf>

<sup>142</sup> The most widespread of the Sámi languages, Northern Sámi, is now spoken by 25,000 people. Given current trends and in the absence of new incentives, this number could be reduced by 60 per cent in the coming years.

<sup>143</sup> Address by Masud Gharakhani on the occasion of presentation of the report by the Truth and Reconciliation Commission, 1 June 2023.

This picture is complemented by a study by the Norwegian branch of the NGO Amnesty International (Amnesty International Norge), published in September 2023, according to which every fourth comment on Sámi topics on Facebook reflects a negative attitude towards the Sámi (200,000 posts for 2019-2023 were analysed) and spreads established prejudices. Several statements can be openly characterized as hate speech.

The comments circulate negative stereotypes about the Sámi ("uneducated and wild," "prevent progress and development," and "are not indigenous people") and contain racist statements ("we need more power and less Sámi"). The number of such comments increased by 10 per cent in connection with the Sámi protests in spring 2023 against the installation of wind farms in reindeer pasture areas (the so-called "Fosen" case).<sup>144</sup>

In 2019, the Ministry of Local Government and Modernization of Norway submitted a report on the status of the Sámi language, culture and social life to the Storting for its consideration.<sup>145</sup>

The document revealed numerous negative trends in the Sámi environment, which the authorities have not yet been able to overcome. Thus, the size of the population in the areas where the Sámi are compactly settled remains relatively stable.<sup>146</sup> However, the proportion of elderly people is higher in these areas than in the rest of Norway, and Sámi's numbers are mainly supported by the influx of migrants of non-Sámi origin (their number has doubled since 2011). It is estimated that the Sámi population will continue to decline until 2030.

Among the Sámi, especially men, the percentage of people with higher education is lower than the national average. The same goes for secondary education (not all Sámi complete their studies).

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<https://www.stortinget.no/no/Stortinget-og-demokratiet/Organene/Presidentskapet/taler-og-artikler-2021-2025/tale-ved-overrekkelsen-av-sannhets-og-forsoningskommisjonens-rapport/>.

<sup>144</sup> The NRK State Broadcasting Corporation's website, 20 September 2023.

<sup>145</sup> Meld. St. 31 (2019–2020). Samisk språk, kultur og samfunnsliv — Digitalisering.

<https://www.regjeringen.no/no/dokumenter/meld.-st.-31-20192020/id2729805/?ch=1>.

<sup>146</sup> About 55,600 Sámi since 2011, with only about 17,000 Sámi listed in the unofficial lists of Sameting (the Sámi Parliament).

There is a high level of violence in Sámi society. According to surveys, up to 45 per cent of the Sámi have ever experienced violence (compared to 29 per cent of the population in the rest of Norway).

The indicators characterizing the level of discrimination of this category of the population in various areas look even worse. Sámi sources indicate a 10-fold increase compared to discrimination in the Norwegian population (35 per cent versus 3.5 per cent). The Sámi face negative attitude in social networks and mass media.

A separate chapter is dedicated to the state and trends of development of the Sámi language.<sup>147</sup> There is a weakening of its positions, and its gradual erosion by Norwegian "inclusions." There are few speakers of the Sámi language.

According to the report, the language issue also affects the social sphere: health care, social care, etc. Due to the lack of training of medical staff in the use of professional terminology in the Sámi language, there is a lack of competent diagnosis of diseases even in densely populated Sámi areas.

As for the general situation, the human rights defenders note that, despite the significant efforts made by the authorities to "atone" for the Sámi and national minorities who have become "victims" of the Oslo policy on their assimilation, there have recently been frequent cases of violations of Sámi rights. This is especially noticeable in situations related to the implementation of infrastructure and industrial projects in the territories of their traditional residence, in connection with which members of indigenous peoples regularly express dissatisfaction.

In spring 2023, the Sámi Parliament compiled an overview of cases in which there are disagreements between indigenous people, businesses and the authorities. According to their estimates, there are 39 explicit conflict situations, a list that does not exhaust the full range of potentially sensitive stories. All of them are connected with the growing exploitation of territories in the places of traditional residence and economic activities of the Sámi. The Norwegian Sámi actively use the terms

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<sup>147</sup> Includes six dialects: Northern Sámi, Southern Sámi, Lule Sámi, Pite Sámi, Ume Sámi, and Skolt Sámi. All of them are listed as endangered by UNESCO.



"green colonialism" and "green washing" to refer to climate measures that damage traditional Sámi lifestyles and interests, including exploitation of ancestral lands, extraction of resources and creation of protected nature areas in indigenous areas under the guise of "green transition" and climate rhetoric.

The most resonant cases of Sámi rights violations are connected with the construction of infrastructural and industrial facilities in the territories traditionally inhabited by the Sámi population.

One of the clear examples is the construction of a large complex of wind farms (set in operation in 2021) by Fosen Vind on the Fosen peninsula in Trøndelag (Central Norway),<sup>148</sup> as a result of which the Sámi reindeer herders lost about one third of the region's traditional winter pastures.

In June 2020, the court of second instance upheld the legality of the construction permits, but ruled that Fosen Vind must pay the Sámi NOK 89 million (USD 8.4 million) in compensation for the loss of grazing areas. Following a lengthy judicial proceeding, the Norwegian Supreme Court ruled in favour of the Sámi in October 2021 (ruled that Sámi rights had been violated in the construction of two of the six wind farms and declared the licences to install the turbines invalid).<sup>149</sup> However, the court decision did not provide for the demolition of the wind turbines, thus leaving the situation unchanged. In February 2023, the Sámi activists started their protests as a result of which the Government apologized to Sámi people due to "prolonged uncertainty."

A group of indigenous people violently opposing the illegal electricity production in Fosen<sup>150</sup> filed a complaint with Ekokrim (Norway's Central office for the investigation and prosecution of economic and environmental crimes), but the office found no grounds to open a case.

Negotiations with representatives of the companies and the indigenous people have been ongoing since May 2023 and have resulted in agreements

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<sup>148</sup> Article on the NRK State Broadcasting Corporation's website, 11 October 2022.

[https://www.nrk.no/trondelag/leif-arne-jama-fikk-medhold-i-hoyesterett\\_-ett-ar-senere-star-turbinene-fortsatt-i-fosen-fjellene-1.16132575](https://www.nrk.no/trondelag/leif-arne-jama-fikk-medhold-i-hoyesterett_-ett-ar-senere-star-turbinene-fortsatt-i-fosen-fjellene-1.16132575).

<sup>149</sup> <https://www.domstol.no/globalassets/upload/hret/avgjorelser/2021/oktober-2021/hr-2021-1975-s.pdf>.

<sup>150</sup> According to Article 7 of the Energy Law, a valid license is required for energy production.

between the Sami and the owners of the wind turbines that provide for a number of compensations to the affected party, support for reindeer husbandry and a number of other privileges; no demolition of the wind turbines is planned.

Twenty activists (most of them Sami) who took part in anti-government demonstrations in connection with the Fosen case were fined for blocking the entrances to the Ministry of Finance and the Ministry of Petroleum and Energy in Oslo in March 2023, but refused to pay, arguing that the government had provoked the demonstrations when it failed to implement the Supreme Court ruling. As a result, the case went to court. The trial officially began in 2024. The protesters face up to 3 months in prison.

According to Aftenposten, February 5, 2024<sup>151</sup>, Norwegian Prime Minister Jonas Gahr Støre was forced to cancel his traditional visit on National Sami Day to a kindergarten in Oslo<sup>152</sup> where Sami children are educated, because their parents did not want to see him due to their opposition to the state's policy on wind turbines in Fosen.<sup>153</sup>

According to NIM, the Fosen Vind case highlights the need for a clearer definition of interventions that violate indigenous cultural traditions. To this end, the Government was advised to prepare guidelines on the interpretation and application of Article 27 of the International Covenant on Civil and Political Rights in Norwegian judicial practice.<sup>154</sup>

Another notable case is the Norwegian government's decision announced in August 2023 to electrify Equinor's liquefied natural gas (LNG) plant on Melkøya Island. The package, worth a total of 13 billion kroner (\$1.2 billion), involves laying power lines through three reindeer herding areas and installing wind turbines to feed the lines in the northern Norwegian province of Finnmark.

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<sup>151</sup> Aftenposten website, <https://www.aftenposten.no/norge/politikk/abmq3d/stoere-skulle-besoeke-barnehage-maatte-snu-etter-sterke-protester-fra-foreldre?>

<sup>152</sup> In 2023, the Prime Minister visited the Nedre Bekkelaget school.

<sup>153</sup> <https://kmns.ru/blog/2024/02/06/8112/>

<sup>154</sup> Article 27 of the Covenant provides for the right of ethnic, religious and linguistic minorities to enjoy their own culture and language and to profess and practice their own religion.

Opponents of the project estimate that its implementation could affect up to half of the Sami reindeer herding areas in Norway. The Sami insist that the decision cannot be legally binding without consultation with Samediggi, and that the plans for the development, construction and operation of the facilities in question have not been assessed for their environmental and social impacts. In a resolution following Samediggi's September 2023 plenary session, the Sami Parliament demanded that the decision to electrify the Hammerfest power plant be reversed and that a comprehensive study be conducted on the impact of "energy and industrial development in Finnmark County" on Sami culture and economy.

The Sami in Norway regularly report on violations of their rights on international platforms. As a result of their efforts, the report of the 22nd session of the UN Permanent Forum on Indigenous Issues (April 2023) calls on the Norwegian authorities to "immediately implement" the Supreme Court's decision with regard to the "Fosen case" and to "urgently address the allegation that hate speech against the Sami on and offline has increased since the decision of the Supreme Court".

At the same time, the silencing of problems is evident at the level of some international organisations – during a visit to Norway in November 2023, the OSCE High Commissioner on National Minorities, K. Abdrakhmanov, stressed that the Norwegian experience could be used "to collect good examples and best practices".

Certain comprehensive measures have been taken to support the languages, cultures and ways of life of the Sami and national minorities.

The Norwegian Constitution (Article 108) was amended on 15 May 2023 to establish the status of the Sami as an "indigenous people".

On 1 July 2021, amendments to the Sami Act came into force, with a separate chapter stipulating that the authorities must consult the Sami Parliament on issues affecting the indigenous people.

On 1 January 2022, the Language Act came into force confirming the status of national minority languages. It should be noted that the status of the Sami

languages in relation to Norwegian is already specified in the current legislation. However, this is the first time that they have been given their official, clarified status at national level as a "language of indigenous peoples". The legislation highlights that the Norwegian and Sami languages have the same status. The Kven, Finnish, Gypsy and Romani languages have been officially defined as "national minority languages". The law also defined the Norwegian version of the sign language (as opposed to international sign language) as the "state sign language".

In September 2020, Norway submitted to the Council of Europe the eighth periodic report on the implementation of the European Charter for Regional or Minority Languages.

Following its review in March 2022, it was recommended that the Norwegian authorities allocate additional funds for the revitalisation and support of endangered minority languages (Kven, Lule Sami, Southern Sami, Roma and Tater); monitor the demand for learning Sami languages at all levels of education, especially pre-school level; and take measures to increase student enrollment in Sami and Kven language programmes.

In January 2023, Norway reported on the progress made in implementing the recommendations. The 9th periodic report is scheduled for 1 July 2025.

In September 2020, Norway also sent the 5th periodic report on the implementation of the Framework Convention for the Protection of National Minorities to the Council of Europe.<sup>155</sup>

Following its visit to Norway on August 23-27, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFCNM) made a number of recommendations, including with regard to the education of Sámi and national minorities.<sup>156</sup>

In July 2022, the Committee of Ministers called on Norway, inter alia, to take active steps to pursue the historic reconciliation process with regard to

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<sup>155</sup> Report submitted by Norway Pursuant to the Framework Convention for the Protection of National Minorities. Submitted on 14 September 2020. <https://rm.coe.int/5th-sr-norway-en/16809f9f59>

<sup>156</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities. Fifth Opinion on Norway. Adopted on 2 February 2022, published 19 May 2022. <https://rm.coe.int/5th-op-norway-en/1680a685c5>

the Romani/Tater minority, to elaborate and adopt an action plan to combat antigypsyism, to ensure access to bilingual preschool education for Romani children, to work with the Samediggi to ensure a full set of North Sami textbooks, to regularly update the Action Plan on anti-Semitism, to increase NRK broadcasting in minority languages (especially Romani and Tater), raise awareness among the Norwegian population about the Sami and national minorities living in the country, and provide uninterrupted funding for Kven language kindergartens.

In March 2022, the UN Human Rights Committee reviewed the measures taken by the Norwegian authorities to address the challenges identified in its 2018 concluding observations. Efforts to protect the rights of national minorities, in particular the amendment of the Sami Act and the adoption of an action plan to combat racism and discrimination based on religion and ethnicity, were welcomed.

At the same time, the Committee expressed concern about Norway's reluctance to strengthen the legal framework concerning the rights of Sami reindeer herders and requested further information on steps taken to increase the number of Sami language teachers and the opportunities for learning Sami languages in kindergartens.

The sixth monitoring round of the Council of Europe's European Commission against Racism and Intolerance (ECRI) country report expresses, inter alia, concern about the continuing practice of placing children of non-Norwegian origin in foster care without regard to language, culture and religious affiliation.<sup>157</sup>

ECRI's conclusions on Norway's implementation of the recommendations of the above-mentioned report<sup>158</sup>, published on 23 June 2022, refer to a number of measures taken by the government in this regard. At the same time, the report states that these measures do not apply to Roma, Tatter and indigenous peoples.<sup>159</sup>

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<sup>157</sup> Report of the European Commission against Racism and Intolerance on Norway (6th monitoring cycle). Adopted on 4 December 2020, published on 23 February 2021. <https://rm.coe.int/6th-report-on-norway-/1680a17dd8>

<sup>158</sup> ECRI conclusions on the implementation of the recommendations in respect of Norway. Adopted on 29 March 2023, published on 23 June 2023. <https://rm.coe.int/interim-follow-up-conclusions-on-norway-6th-monitoring-cycle/1680ab9e2f>

<sup>159</sup> Professional Guide to Religion for Guardianship Authorities Fagdag om religion med barnevernet i Stavanger (in Norwegian). <https://rm.coe.int/interim-follow-up-conclusions-on-norway-6th-monitoring-cycle/1680ab9e2f>

On 20 December 2023, the Government presented the Plan for Strengthening the Fight against Violence and Abuse against Children and Family Violence 2024-2028. The Plan includes more than a hundred measures aimed at preventing violence, identifying relevant cases and increasing the protection of vulnerable categories of persons. A significant role in the document is given to preventive police work, investigation and prosecution of offenders, including in relation to offences committed online. A separate chapter of the Plan is devoted to relevant work in the Sami community, including measures to strengthen language training and awareness of Sami culture in the police and support bodies, to establish care institutions for Sami children, and to guarantee equal treatment for Sami victims of violence.

## USA

As the media and human rights organizations routinely point out, indigenous people continue to be among the most socially disadvantaged Americans and the targets of racism.

Some 574 indigenous peoples are federally recognized under US law; more than 500 tribes do not have this status.<sup>160</sup> In general terms, we are talking about 4-7 million community members.<sup>161</sup> Their interaction with the central authorities is generally regulated on the basis of separate bilateral agreements (there are about 370 such treaties).<sup>162</sup> Human rights organizations often criticize these documents for being archaic, adhering to a colonial concept and declarative in nature.<sup>163</sup>

According to estimates by the American Civil Liberties Union Montana, the literacy rate of the Aboriginal population remains one of the lowest among all ethnic groups living in the United States. Children from Indian families are more likely to be victims of educational discrimination. Youth between the ages of 15 and 24 have suicide rates comparable to those of combat veterans<sup>164</sup>.

Over 20 per cent of Alaska's indigenous population lives below the poverty line. According to several experts, Native American peoples face socio-economic inequality and a marked income gap. Only 15 per cent of them have a bachelor's degree or higher.<sup>165</sup> Such indicators lead to the following negative social consequences: crime, alcoholism, high unemployment (11.1 per cent as of January 2022)<sup>166</sup> and suicides (50.9 cases per 100,000 people, which is four times the national average (or 700 per cent higher)).

The current US law contains a number of requirements that in practice discriminate against members of Native American communities. Among such

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<sup>160</sup> Tribal Nations & the United States: An introduction. National Congress of American Indians. February 2020. <https://www.ncai.org/about-tribes>

<sup>161</sup> The Indigenous World 2022: United States of America. IWGIA. 1 April 2022. <https://www.iwgia.org/en/usa/4684-iw-2022-united-states-of-america.html>

<sup>162</sup> Tribal Nations & the United States: An introduction. National Congress of American Indians. February 2020. <https://www.ncai.org/about-tribes>

<sup>163</sup> <https://www.culturalsurvival.org/sites>

<sup>164</sup> NGO American Civil Liberties Union of Montana: <https://www.aclumontana.org/en/news/contextualizing-federal-indian-boarding-school-initiative-report>

<sup>165</sup> <https://ncrc.org/racial-wealth-snapshot-native-americans/>

<sup>166</sup> <https://www.brookings.edu/blog/the-avenue/2022/02/09/despite-an-optimistic-jobs-report-new-data-shows-native-american-unemployment-remains-staggeringly-high/>

examples is the lack of residence addresses of Indians living on reservations, due to which they face denial of registration as voters. In addition, the long distance between polling stations and their places of residence affects the exercise of indigenous peoples' voting rights. Hence, many members of indigenous communities refuse to take part in elections.

In 2016, Arizona passed laws limiting ballot collection and out-of-precinct voting. This created significant barriers to voting for residents of rural Native American communities. Approximately 90 per cent of the state's counties assign voters to a particular precinct based on their home address. Meanwhile, traditional community boundaries often do not coincide with State-established precinct boundaries. Combined with the location of communities in remote areas with dirt roads that become impassable during November elections, lack of Internet and cell phone coverage abound on reservation, and insufficient transportation, the new rule has made it much more difficult for residents of rural communities to access basic government services. At the same time, the decision to criminalize ballot collection adds one more hurdle for Native voters who could carry ballots for friends and family.<sup>167</sup>

The Democratic National Committee and voters addressed to federal court in 2016 to overturn the new provisions of the law. They argued that the ban on ballot collection was the result of intentional discrimination by the state legislature and a violation of the Constitution, which prohibits states from denying the right to vote on the basis of race. However, Native voters were unable to assert their rights. On 1 July 2021, the US Supreme Court released its decision in *Brnovich v. Democratic National Committee*, which upheld two voting policies in Arizona.

Human rights organizations have pointed out that there were not enough consultations with indigenous peoples on matters of interest to their communities. Lengthy legal proceedings and high costs of litigation can also negatively impact Native American communities that try to defend their rights. There were noted problems related to protection of the sacred places of indigenous peoples against

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<sup>167</sup> <https://www.narf.org/brnovich/>



desecration, contamination and destruction as a result of extractive industries, tourism and toxic dumping. The problem of accessibility to such places for indigenous peoples themselves is also acute. These issues have been raised with concern by human rights treaty bodies, in particular the UN Human Rights Committee and the UN Committee on the Elimination of Racial Discrimination.

The main violation of the rights of the autochthonous population is still related to the land development of their ancestral habitats, which results in the depletion of environmental and economic resources and the destruction of sacred sites and cultural objects. At the same time, local tribes are essentially excluded from the decision-making process when approving business projects. They are formally consulted. In addition, the US Congress may at any time exercise its power<sup>168</sup> to deprive them of their rights by cancelling the above-mentioned treaties.

Against this background, Biden's team has emphasized its focus on addressing the problems of the aboriginal population and improving their socio-economic situation. Thus, for the third year in a row, the United States has held national summits of indigenous peoples to discuss the urgent needs of autochthons. The last one was held in December 2023.

Emphasis is placed on harmonizing standards for federal agencies to consult with tribes on various projects affecting their rights and freedoms. Thus, according to the Presidential Memorandum of 30 November 2022, each ministry is to establish a contact group to engage with communities, determine the need for and timing of notification of the launch of the "conciliation" procedure and response (as a rule, at least 30 days in advance).

Emphasis is also placed on substantial investment (compared to previous administrations) to improve the quality of life of indigenous peoples. A total of 32 billion USD has been allocated for this purpose under the American Rescue Plan programs (US National Economic Stimulus Act). Among the main objectives are: improving infrastructure, combating climate change, keeping communities safe, and funding reservation health services.

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<sup>168</sup> US Const. Art. I, §8, cl. 3. Commerce Clause. <https://www.law.comell.edu/constitution/articlei#section8>

At the same time, at the legislative level (within the framework of the Violence Against Women Act), the competence of tribal courts has been expanded in terms of conducting proceedings against non-autochthonous persons suspected of child abuse, trafficking for sexual exploitation, and attacks on law enforcement officers on tribal lands.

The administration is actively promoting steps to protect sacred sites of Aboriginal people in the course of implementation of the US Antiquities Act of 1906. These include the creation of new national monuments: Camp Hale (Colorado); Spirit Mountain, known as Avi Kwa Amoeb (Nevada); Baaj Nwaavjoo-Itah Kukweni (Arizona); and the signing of some 190 new tribal co-management agreements for indigenous territories.<sup>169</sup>

While acknowledging the administration's positive developments in addressing a number of indigenous issues in the United States, human rights organizations call on the American authorities to continue to address injustices and violations of the rights of autochthonous peoples. The main proposals and recommendations are summarized as follows.

Expand US international civil liberties commitments. In particular, ratify the 1966 International Covenant on Economic, Social and Cultural Rights, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, the 1989 International Labour Organization Convention 169 concerning Indigenous and Tribal Peoples, the 1989 Convention on the Rights of the Child, and the 2007 Convention on the Rights of Persons with Disabilities. In addition, the domestic procedures necessary for entry into force of the 1966 Optional Protocol to the International Covenant on Civil and Political Rights, the 2002 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, the 2007 International Convention for the Protection of All Persons from Enforced Disappearance must be signed and implemented.

US based NGOs, such as Cultural Survival, consider it important to develop a national action plan to implement the UN Declaration on the Rights of

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<sup>169</sup> <https://www.whitehouse.gov/wp-content/uploads/2023/12/2023.12.04-TNS-Progress-Report.pdf>

Indigenous Peoples, based on the Outcome Document of the World Conference on Indigenous Peoples of 22 September 2014. It also notes the need to comply with US regulations to protect tribal children and preferentially educate them in indigenous communities in order to preserve traditional ways of life.<sup>170</sup>

The establishment of a commission to study and evaluate the federal government's handling of Indian residential schools remains a painful issue. In the US, from 1869 to the 1960s, there was a practice of forcibly removing indigenous children from their families and placing them in institutions for re-education and identity deprivation.<sup>171</sup> In general terms, the abuses of power (based on the example of the autochthonous people of Minnesota) are clearly reflected in the April 2023 report of the TRUTH Human Rights Project.<sup>172</sup>

Following the traditional democratic priority of human rights issues in the electoral agenda, the Biden administration reported on the work done on the high-profile proceedings on the abuses of American authorities against Indians, Alaska Natives and Hawaiians.

In this context, on 31 July 2024, the US Department of the Interior presented to the public the final report with the results of the investigation initiated in June 2021 on the abuses of the autochthonous population of the United States by the US authorities between 1819 and 1969. The document is complemented by an interim report on this topic published in May 2022 with concrete evidence of genocide of the autochthonous population by the US government.

The collection, systematization and analysis of archival materials (more than 103 million pages), as well as experience-sharing meetings with officials and community leaders from Australia, Canada and New Zealand, were led by Deputy Chief of Interior Bryan Newland, who is from the Ojibwe tribe. The document recognizes the US government's responsibility for operating Indian Residential Schools (IRS) for forced assimilation (including conversion to Catholicism,

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<sup>170</sup> <https://www.indian-affairs.org/icwa-brackeen.html>

<sup>171</sup> <https://www.indian-affairs.org/icwa-brackeen.html>

<sup>172</sup> <https://www.insightintodiversity.com/report-details-university-of-minnesotas-historical-mistreatment-of-native-americans/#:~:text=Through%20analysis%20of%20archival%20records,lands%20and%20resources.%E2%80%9D%20These%20actions> <https://mn.gov/indian-affairs/truth-project/>

banning the use of native language and traditional dress). It states that Indian, Alaska Native and Hawaiian children have been separated from their families, abused and mistreated for decades in federally controlled IRS (some 417 facilities in 37 states). Experts estimate that the operations of such schools cost the treasury 23 billion USD in the current inflation-adjusted equivalent. Seventy-four burials were found on the grounds of educational institutions, indicating 973 (possibly more) juvenile deaths out of a total of 18,624. It is noted that the numbers could actually be much higher. Searches for new burial sites and interviews with eyewitnesses continue.

It is concluded that the current problems of indigenous peoples, such as mental disorders, drug addiction, alcoholism and low productivity, are the result of abuses that have taken place (the system of punishment of "offenders", living in overcrowded conditions, systematic malnutrition, lack of medical care, etc.).

The report makes eight recommendations to the federal government to remedy the situation – making amends for the deliberate destruction of autochthonous culture and way of life, taking over their habitats and plundering resources. In particular, the US government is pointed to the need to formally acknowledge and apologize for its role in organizing Indian residential schools, to fund programs to further study and address the negative consequences of the policies pursued against ethnic minorities, and to return to them the territories where IRS used to be located. It is also proposed to establish a national memorial to commemorate indigenous victims and to identify and repatriate the remains of deceased minors for burial on tribal lands.

The Department of Interior noted the increased attention of Biden's team to this issue and the Administration's efforts to restore justice to indigenous peoples. In this context, the Ministry informed about the operation of a historical route called "The Road of Healing" along the former boarding school sites and the implementation of a project to interview and document the oral testimonies of IRS pupils. The preparation of a 10-year strategy for the development of autochthonous mother tongues by the end of 2024 was also announced.

A special point of the public activists is to resolve the issue of release from prison of Leonard Peltier,<sup>173</sup> already mentioned above, a representative of aborigines, who was convicted for the murder of two FBI officers on the Pine Ridge Reservation (South Dakota) in 1975. Many legal experts agree that the case against the tribal resident was wrongly filed. Native Americans tend to view him as a political prisoner.<sup>174</sup>

In terms of the environmental agenda, human rights activists are proceeding from the need for strict adherence to the principle of "tribal sovereignty". In their view, economic activities in indigenous peoples' places of residence (including energy and infrastructure) should be carried out after proper (rather than declared) consultation with them, as well as their free, prior and informed consent to such projects. Profile NGOs note the relevance of further work on US mining and minerals law reform.<sup>175</sup>

The land issue remains unresolved. Between 1887 and 1934, the United States authorities seized 90 million acres (36 million hectares) – more than 2/3 of all the land belonging to the Indian reservations – from the indigenous population on a free-of-charge basis and in violation of previous agreements. Although in 1934 the Roosevelt administration launched a process to buy back plots of land for the autochthonous peoples of the United States, to date less than 8 per cent of the previously confiscated areas have been compensated.

It is estimated that indigenous peoples in the United States have lost 98.9 per cent of their historic land base since European settlers began colonizing the continent. Over 42 per cent of tribes currently have no federally or state recognized land, and the modern sites still owned by tribes are on average 2.6 per cent of the size of their presumed historic area.

The researchers note that the near-total loss of tribal lands has forced indigenous peoples to live in areas that are, on average, more susceptible to global

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<sup>173</sup> <https://nativenewsonline.net/currents/pressure-mounts-for-release-of-political-prisoner-leonard-peltier>

<sup>174</sup> <https://freeleonard.org/case/>

<sup>175</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/11/readout-of-the-white-houses-first-stakeholder-convening-on-mining-reform/>; <https://www.doi.gov/ocI/mining-iaaw-reform>

warming risks such as extreme heat and reduced precipitation. The Mojave Tribe (living along the Colorado River), for example, experiences extreme heat an average of 62 more days per year than on historic lands. Nearly half of the tribes live in areas with increased wildfire risk.

Mining poses a threat to the health of the indigenous population living near or in areas with the relevant facilities, and negatively affects the existing ecosystem in the area where they live.<sup>176</sup> At the same time, the effects are still felt after the work is completed. In 2015, for example, the abandoned Gold King mine spilled arsenic, lead and other metals into the lands of the Yute and Navajo tribes and contaminated them. In total, there are more than 160,000 abandoned mines in the western United States that pose a risk to indigenous peoples.<sup>177</sup>

Indians' rights to fish wealth are protected by a number of treaties with the central authorities,<sup>178</sup> which are not fully implemented in practice. For example, an open-pit mine in Idaho's Salmon River Mountains plans to mine gold and antimony for solar cell power supplies.<sup>179</sup> According to the Perpetua Corporation, the proposed works would have "disproportionately high and adverse impacts" on the local ecosystem by diverting water flows and contaminating them with mercury and other harmful substances. These activities May destroy up to 20 per cent of salmon and trout. For the Nez Perce and many other indigenous peoples in the region, these resources are not only a source of subsistence, but are also used in religious ceremonies.

In general terms, the United States has a history of approving permits for business projects that have obvious negative impacts on indigenous peoples and do

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<sup>176</sup> Just minerals for a just transition. Earthworks. 9 September 2021.

<https://earthshaking.blog/just-minerals-for-a-just-transition/>

<sup>177</sup> Earth Island. Navajos ban uranium mining.

[https://www.earthisland.org/journal/index.php/magazine/entry/navajos\\_ban\\_uranium\\_mining/](https://www.earthisland.org/journal/index.php/magazine/entry/navajos_ban_uranium_mining/)

<sup>178</sup> d. See also Galligan, T. & Reynvaan (1977). Pacific Northwest Indian Treaty Fishing Rights Vol 5:99.

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1150&context^sulr>

<sup>179</sup> <https://perpetuaresources.com/project/>

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=245607&DocumentContentId=79638>

As miners chase clean-energy minerals, tribes fear a repeat of the past. The New York Times. 27 December 2021.

<https://www.nytimes.com/2021/12/27/us/mining-clean-energy-antimony-tribes.html>

not take their views into account. These include, for example, the Dakota Access,<sup>180</sup> Keystone XL,<sup>181</sup> and Line 3<sup>182</sup> pipelines.

The Kuchin people (Alaska) are also opposed to oil production plans in the Arctic National Wildlife Refuge. The main claim is that the construction of infrastructure threatens to affect the population of reindeer (caribou), the meat of which is the basis of the local population's diet. The Biden administration suspended projects in the area in 2021.

In March 2023, the US authorities approved a project allowing the US energy corporation ConocoPhillips to drill oil wells in the north-western territories of Alaska – only in three areas. In a comment on the ruling, ConocoPhillips noted that the wells would produce up to 180,000 barrels of oil per day. The project is expected to generate between 8 billion and 17 billion USD in new revenue for the federal government, the state of Alaska and communities in the North Slope region. Eco-activists oppose the project and insist that drilling in Alaska would be a climate disaster and contradict the administration's clean energy transition policy.

In the Inyo Mountains in Death Valley, California, K2 Gold Corporation plans to build an open cyanide heap leaching pit for gold mining.<sup>183</sup> Indigenous people in the region, including the Shoshone Tribe, are opposed to development, road building in deer migration areas, hunting, gathering edible and medicinal plants, and ceremonies.

In Alaska, the Ambler Road project aims to build infrastructure for copper and zinc mines in the northwest region of the state.<sup>184</sup> The implementation of this initiative has the potential to pollute local water and wetlands, disappearance of

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<sup>180</sup> Army approves construction of Dakota Access Pipeline. The New York Times. 8 February 2017. <https://www.nytimes.com/2017/02/07/us/army-approves-construction-of-dakota-access-pipeline.html>

<sup>181</sup> Native American tribes file lawsuit seeking to invalidate Keystone XL Pipeline Permit. NPR. 11 September 2018. <https://www.npr.org/2018/09/10/646523140/native-american-tribes-file-lawsuit-seeking-to-invalidate-keystone-xl-pipeline-p>

<sup>182</sup> Bridget Line 3 divides indigenous lands, people. MPR News. 24 February 2021. <https://www.mprnews.org/story/2021/02/24/enbridge-line-3-divides-indigenous-lands-people>

<sup>183</sup> A corporation wants to mine for gold near Death Valley. Native Tribes are fighting it. Los Angeles Times. 14 March 2021. <https://www.latimes.com/environment/story/2021-03-14/a-corporation-wants-to-mine-for-gold-near-death-valley-native-tribes-are-fighting-it>; <https://k2gold.com/>

<sup>184</sup> Environmentalists and Alaska villages continue court challenge of permits for Ambler Road Project. 1 December 2021. Anchorage Daily News. <https://www.adn.com/alaska-news/rural-alaska/2021/12/10/environmentalists-and-alaska-villages-continue-court-challenge-of-permits-for-ambler-road-project/>

flora and fauna used for subsistence. Chiefs of the Tanana, Huslia, Allakaket, Alatna, and Evansville tribes have filed a class action lawsuit against the US government for implementing the program without proper consultation with the autochthonous population. The Department of the Interior requested that the permits remain in effect. In February 2023, however, the Allakaket and Huslia tribal councils dropped their claims.<sup>185</sup> Nevertheless, the judicial process continues. The central authorities are consulting with the tribes. Additional assessments by environmentalists have been requested.<sup>186</sup>

A significant proportion of developments affect lands of significant religious or sacred significance to indigenous peoples, particularly in the south-western United States. In the ancestral lands of the Tohono-O'odham, Pascua Yaqui and Hopi tribes in Arizona, Hudbay Minerals is developing the Rosemont Mine (an open pit gold mine in the Santa Ritas Mountains).<sup>187</sup>

These lands contain burial grounds, sacred sites and critical resources for the tribes such as water, fish and game. Affected indigenous people have sued to stop the development of the project, which would desecrate sacred lands, block waterways and harm wildlife.<sup>188</sup> They managed to win the lawsuit.<sup>189</sup> However, another lawsuit to stop development in the region was dismissed in June 2022, allowing the company to continue its operations.<sup>190</sup> If completed, Rosemont will be

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<sup>185</sup> <https://www.alaskanewsresource.com/2023/02/18/2-tribal-councils-withdraw-ambler-road-lawsuit/>

<sup>186</sup> <https://www.washingtonpost.com/climate-environment/2023/07/19/alaska-ambler-road-critical-minerals-climate/>  
Earthworks Biden administration acknowledges legal problems with Interior's Ambler road approval. 20 February 2022. <https://earthworks.org/releases/biden-administration-acknowledges-legal-problems-with-interiors-ambler-road-approval/>

<sup>187</sup> As miners chase clean-energy minerals, tribes fear a repeat of the past. The New York Times. 27 December 2021. <https://www.nytimes.com/2021/12/27/us/mining-clean-energy-antimony-tribes.html>

<sup>188</sup> Tribes, Enviro say copper mine suit must go on. Law360. 10 December 2021.

<https://www.law360.com/articles/1491023/ariz-tribes-enviros-say-copper-mine-suit-must-go-on>

<sup>189</sup> 9th US Circuit Court of Appeals Upholds Landmark Ruling Blocking Arizona Copper Mine. EarthJustice 12 May 2022. <https://earthjustice.org/news/press/2022/9th-u-s-circuit-court-of-appeals-upholds-landmark-ruling-blocking-arizonacopper-mine>

<sup>190</sup> Hudbay wins latest court battle over the Rosemont Mine as heavy equipment continues to roll in the Santa Rita Mountains. Arizona Mirror. 13 June 2022. <https://www.azmirror.com/2022/06/01/hudbay-wins-latest-court-battle-over-the-rosemont-mine-as-heavy-equipment-continues-to-roll-in-the-santa-rita-mountains/>



one of the largest mines in the US, leaving a 1.6-km-wide crater and 2 billion tons of mining waste behind.<sup>191</sup>

Northwest of the Rosemont mine in Arizona is the Big Sandy River Valley, where a lithium mine is also slated to open.<sup>192</sup> This mine threatens the Hualapai tribe's sacred hot spring, known as Ha'Kamwe and reflected in local folklore.<sup>193</sup> Indigenous peoples make extensive use of the land, including gathering native plants from riverbanks.

Another controversial project in Arizona is the Resolution copper mine on Chichil Bildagotil, sacred land for the San Carlos Apache tribe.<sup>194</sup> The territory was protected in 1955 by President D. Eisenhower from mining projects. Under the Obama administration, the "land swap" law repealed this ban, opening the territory to mining operation.<sup>195</sup> The Resolution copper mine, jointly owned by Rio Tinto and BHP Billiton, could supply up to a quarter of US copper demand.

Apache Stronghold, a non-profit indigenous organization, sued to stop the mine, saying the mine violated their religious rights and the 1852 Santa Fe Treaty.<sup>196</sup> On 24 June 2022, a US court dismissed Apache's lawsuit against Oak Flat, noting that the transfer of land to mining companies does not force the Apache to abandon their religion, nor does it threaten their habitat.<sup>197</sup> However, human rights activists fear the mine will leave a three-kilometre-wide crater, destroying sacred sites where Apache peoples pray and perform religious rituals.<sup>198</sup>

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<sup>191</sup> Environmentalists, tribes battle Rosemont mine in Southeastern Arizona. KJZZ. 29 August 2019. <https://kjzz.org/content/960201/environmentalists-tribes-battle-rosemont-mine-southeastern-arizona>

<sup>192</sup> As miners chase clean-energy minerals, tribes fear a repeat of the past. The New York Times. 27 December 2021. <https://www.nytimes.com/2021/12/27/us/mining-clean-energy-antimony-tribes.html>

<sup>193</sup> Mining for lithium, at a cost to indigenous religions. Energy News Network. 10 June 2021. <https://energynews.us/2021/06/10/mining-for-lithium-at-a-cost-to-indigenous-religions/>

<sup>194</sup> As miners chase clean-energy minerals, tribes fear a repeat of the past. The New York Times. 27 December 2021. <https://www.nytimes.com/2021/12/27/us/mining-clean-energy-antimony-tribes.html>

<sup>195</sup> A copper mine near Superior and Oak Flat Campground is set to destroy a unique, sacred recreation area – for fleeting benefits. Phoenix New Times. 22 April 2015. <https://www.phoenixnewtimes.com/news/a-copper-mine-near-superior-and-oak-flat-campground-is-set-to-destroy-a-unique-sacred-recreation-area-for-fleeting-benefits-7287269>

<sup>196</sup> Biden administration says Oak Flat Land Swap should proceed despite lawsuit. Phoenix New Times. 2 July 2022.

<sup>197</sup> US Court of Appeals denies Apache claim to Oak Flat, approves copper mine in Arizona. Native News Online. 28 June 2022. <https://nativenewsonline.net/environment/u-s-court-of-appeals-denies-apache-claim-to-oak-flat-approves-copper-mine-in-arizona>

<sup>198</sup> As miners chase clean-energy minerals, tribes fear a repeat of the past. The New York Times. 27 December 2021. <https://www.nytimes.com/2021/12/27/us/mining-clean-energy-antimony-tribes.html>

Plans to build a large telescope on top of Mount Mauna Kea, Hawaii, considered a sacred site for the island's indigenous people, have been widely publicized. The construction site has been blocked twice by local demonstrators (2014-2015 and 2019). Currently, the project implementation is "frozen".

There is information on the use of exploitative labour practices and other abuses against indigenous workers in infrastructure projects.<sup>199</sup>

There is yet another problem. There is also another problem. These temporary workers often fail to comply with local laws, attacking indigenous women and girls.<sup>200</sup> For example, after the discovery of oil fields in the Bakken Formation in North Dakota in 2006, the region experienced an influx of workers and a sharp increase in violence against the autochthonous population.<sup>201</sup>

In general, despite the progress declared by the democratic administration in improving the socio-economic situation of the indigenous population, problems remain. A significant part of them is related to the non-observance of tribal rights during the implementation of infrastructure and energy projects in the places of their homes.

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<sup>199</sup> Human rights abuse cannot be the price paid for Essential Energy Transition. Business & Human Rights Resource Centre. 2 February 2021. <https://www.business-humanrights.org/en/from-us/media-centre/liuman-rights-abuse-cannot-be-the-price-paid-for-essential-energy-transition/>

<sup>200</sup> 'Man camps' May be a threat to Yukon Indigenous women and girls, say advocates. Yukon News. 4 July 2019. <https://www.yukon-news.com/news/man-camps-may-be-a-threat-to-yukon-indigenous-women-and-girls-say-advocates/>

<sup>201</sup> Recalibrating risk assessment for indigenous women. GreenMoney Journal. 30 March 2020. <https://greenmoney.com/recalibrating-risk-assessment-for-indigenous-women/>

## Finland

In terms of discrimination, significant shortcomings have been identified with regard to the situation of Finland's indigenous people, the Sami (some 10,000 people in total, with about 2,000 native speakers). International human rights mechanisms have identified a number of significant shortcomings in the enjoyment of the rights by Finland's indigenous people – the Sami. Most often, attention is focused on problems related to the practical realization of the right to use the Sami language, which is enshrined in legislation. The ratification by Finland of the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples, signed by Finland in 1989 along with other countries, has been "in limbo" for a long time. The issue of ratification of the instrument to strengthen the protection of the rights of the Sami people has been repeatedly raised by States during the Universal Periodic Review of Finland at the HRC in November 2022.<sup>202</sup>

The right of citizens to participate in elections to the Sami Parliament is high on the agenda: In the thirty-five years of the existence of the Finnish Sami Parliament, a new version of the Sami Parliament Act, promoted by the Sami themselves, has been fought over for more than ten years. One of the most important points of change is the issue of voting rights in elections to the Sami Parliament.

In recent years, there have been numerous cases in which persons who have been rejected from the electoral list by the Sami authorities have challenged the rejection before the Supreme Administrative Court of Finland and have eventually been included in the list. The court's judgements have been based on an expansive interpretation of the criteria for membership of the Sami community as set out in the Sami Parliament Act. This interpretation was first applied by the court in connection with the 2011 Sami elections. Subsequently, similar practices have occurred in other elections to the Sami representative body. The Saami view such decisions as a violation of their legal rights, including the right to self-

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<sup>202</sup> Report of the Working Group on the Universal Periodic Review on Finland. January 2023.  
<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F52%2F9&Language=E&DeviceType=Desktop&LangRequested=False>

determination within the meaning of article 3 of the UN Declaration on the Rights of Indigenous Peoples.

The Sami believe that by using the wording of the relevant law, which allows for an expansive interpretation of the notion of belonging to the Sami, the Finnish authorities are deliberately introducing elements into the Sami Parliament that are far from understanding the specifics and needs of the indigenous people. Thus, in 2019 alone, the board of the Sami assemblies rejected 200 applications for inclusion in the electoral list (with a total electoral list of the Sami Parliament of 5,800 people). According to the Sami Union (a non-governmental organisation uniting the Sami people of Norway, Russia, Finland and Sweden), with a total electoral roll of 5,800 persons for the Sami Parliament, 161 people have been admitted by the court since 2011, against the will of the Parliament itself. To date, as mentioned above, the demands of the Sami authorities have consisted of cancelling previous court judgements and amending legislation in order to avoid ambiguities in the interpretation of the definition of Sami.

Consequently, there have been disputes between the Sami and the Finnish authorities for many years, as a result of the fact that the Sami are not satisfied with a number of candidates included in the voting lists by the court and have challenged these decisions in court.

The 2023 electoral lists (approved in February 2023) have had a record number of eligible voters, exceeding 6,000.<sup>203</sup> Besides, there are twice as many newly registered voters as in the previous election cycle. According to the Sami representatives, this indicates not so much an increase in the consciousness of the Sami themselves or in the size of the community, but confirms the fact that the Finnish authorities have deliberately expanded the electoral list of the Sami Parliament.

The updated draft law on the Sami Parliament is aimed at changing this order of things. A total of 23,000 signatures were collected in favour of this

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<sup>203</sup> <https://www.samediggi.fi/2023/03/16/tiedote-saamelaiskarajien-vuoden-2023-vaaliluettelin-vahvistamiseen-liittyen/>

document, which was proposed by Sami representatives. Despite this, in February 2023, the Eduskunta Constitutional Law Committee stopped consideration of the bill for the formal reason of the expiry of the current body's term of office. In their petition from the Sami Parliamentary Council to Prime Minister of Finland Sanna Marin on 23 March 2023, Sami expressed disappointment at the failure of the process of amending the Sami Act. They also noted that many statements made by Finnish authorities and municipalities during the consideration of the bill made it clear that the rights of the Sami as indigenous peoples, "even though they are also specified in the Finnish Constitution, are not understood or seen as necessary for realization in Finland."<sup>204</sup>

As of March 2024, the reform of the Sami Parliament Act has not been implemented, as the completed cabinet headed by Prime Minister S. Marin failed to rush it through the previous supreme legislature, so the renewed body of deputies, formed following the April 2023 elections, is forced to consider the issue "from scratch", but the bill was again postponed in April 2024.

The issue of Sami rights is also receiving attention in the international arena. Thus, during Finland's next round of the Universal Periodic Review at the HRC in November 2022, among the recommendations relating to the rights of the indigenous people of Finland, the early completion of the process of adopting the updated draft Act on the Sami Parliament, taking into account the views of the Sami themselves, was frequently mentioned.<sup>205</sup>

The Sami perspective is shared by international human rights bodies, including the UN Human Rights Committee and the UN Committee on the Elimination of Racial Discrimination, which issued observations and

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<sup>204</sup> [https://dokumentit.solinum.fi/samediggi/download/?d=documenttipankki/kansainv%C3%A4linen\\_toiminta/saamelainen\\_parlamentaarinen\\_neuvosto/saamelaisen\\_parlamentaarisen\\_neuvoston\\_vetoomus\\_p%C3%A4%C3%A4ministeri\\_mainille.pdf](https://dokumentit.solinum.fi/samediggi/download/?d=documenttipankki/kansainv%C3%A4linen_toiminta/saamelainen_parlamentaarinen_neuvosto/saamelaisen_parlamentaarisen_neuvoston_vetoomus_p%C3%A4%C3%A4ministeri_mainille.pdf)

<sup>205</sup> Report of the Working Group on the Universal Periodic Review on Finland. January 2023. <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F52%2F9&Language=E&DeviceType=Desktop&LangRequested=False>

recommendations on this topic to the Finnish authorities in February 2019 and June 2022, respectively.<sup>206</sup>

Land use issues are often involved in legal disputes between the Finnish Sami and the State. Indigenous people are dissatisfied with the disregard of their interests in certain issues related to economic activities in the Sami region, such as the granting of permits to resource extraction companies. In decisions on claims by the Sami community, Finnish courts have ruled that the Sami communities and the Sami Parliament have no authority to challenge licences. According to the law, the hereditary rights to Sami land are based on the principle of permanent use, but these rights have not been documented for the Sami, and the territories are therefore under the jurisdiction of the State. Also in this context, the ratification by Finland of the above-mentioned International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries has long been on the agenda.

It should be noted that the issue of mineral development on Sami pastures has received considerable attention in scientific studies (e.g. plans to develop the Sokli ore deposit in Finland's largest pastoral area, Kemin-Sompio). There are also examples where infrastructure projects, which are steadily increasing in number, have an impact on the areas where they are located. For example, it is a common phenomenon when wind turbines benefit local remote settlements but also provoke conflicts between Sami and the companies that own the facilities (as they are installed mainly in Sami pasture areas).<sup>207</sup> In the case of Sami pastoral reindeer herding, the construction of such a facility affects the surrounding neighbourhood and causes a deterioration of the traditional way of life of the indigenous peoples.

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<sup>206</sup> <https://www.ohchr.org/en/press-releases/2019/02/un-human-rights-experts-find-finland-violated-sami-political-rights-sami>, <https://www.euronews.com/2022/06/15/un-finds-finland-violated-political-rights-of-indigenous-sami-people>

<sup>207</sup> Examples of conflicts between the Sami and private companies over the construction of wind energy facilities can be found in the "Sapmi." section of *The Indigenous World*, 2020, ed. by Dwayne Mamo. p. 526-535. IWGIA, 2020.

According to researchers, Finland's legislation in this area has not yet been applied positively in practice.<sup>208</sup>

The Finnish authorities' policy towards Sami children who have been sent to boarding schools also remains on the agenda. The Finnish way of life promoted in these institutions, aimed at forming "true" Finnish citizens, has led to the fragmentation of Sami children's identity or contributed to a sense of being "between" two worlds and an inability to fully integrate into Sami or dominant Finnish society.<sup>209</sup>

The wide range of problems faced by Sami children in the field of education was highlighted by the HRC Special Rapporteur on the right to education, F. Shaheed, following her visit to Finland in November 2023.<sup>210</sup> In particular, she pointed to the lack of both qualified teachers with knowledge of the Sami language and teaching materials in that language. The situation is aggravated by the serious general problems in Finnish education identified by the Special Rapporteur during her visit. In particular, referring to the School Health Promotion Study 2023, she highlighted worrying trends of increasing loneliness, depression and anxiety among young people in Finland, which contribute to their psychological problems. The main reason for "study leave" during school is mental health, which the report indicates is often linked to the lack of social interaction among young people, as more and more children and young people are spending time on social media to the detriment of face-to-face interaction, sport or other forms of leisure. There has also been an increase in bullying and harassment of fellow students, including online. There are problems related to ensuring equal access to education due to segregation of certain ethnic groups. In the Special Rapporteur's opinion, the Finnish education system does not sufficiently ensure the social mobility of certain

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<sup>208</sup> S. Nysten-Haarala, T. Joona, I. Hovila. Wind energy projects and reindeer herders' rights in Finnish Lapland: A legal framework. / *Elem Sci Anth (ELEMENTA Science of Anthropocene)*. 2021.

<sup>209</sup> This issue is explored in more detail in the following document: Sandra Alexis Juutilainen. Structural racism and indigenous health. A critical reflection of Canada and Finland. (Academic dissertation). University of Oulu, Faculty of medicine. Oulu 2017.

<sup>210</sup> Statement by the HRC Special Rapporteur on the right to education, F. Shaheed, following her visit to Finland. 29 November 2023. <https://www.ohchr.org/sites/default/files/documents/issues/education/statements/20231129-eom-statement-finland-sr-education.pdf>

groups of the population and does not contribute to overcoming existing inequalities based on socio-economic status, language, place of birth or residence, religion and disability. Furthermore, the principle of equality in access to education, which, according to F. Shaheed, is essential for successful integration into Finnish society, is undermined by the fact that Finnish schools may have up to 80 percent of pupils whose mother tongue is not Finnish. While noting that the authorities are taking measures to remedy the situation, F. Shaheed pointed out that they still do not address the root causes of the problem and recommended a more thorough study of the issue.

The Special Rapporteur also noted with concern the Finnish authorities' stated intention to reduce budgetary allocations to municipalities in the long term, which would have a serious impact on the education sector, as well as budgetary expenditures for the further digitalisation of education in the country. The Special Rapporteur noted that she had received signals from pupils and their parents who reported that they were learning only with electronic learning materials, without sufficient books or paper copies of learning materials for the whole class, and in some schools sometimes even without computers. It was also noted that the ongoing digitalisation of education is not accompanied by a discussion of its shortcomings, including the physical and mental health problems of students, the protection of their personal data on the Internet, and the risks of students becoming withdrawn and possibly unable to communicate in person.

In such conditions the situation with the rights of Sami children in the Finnish education system cannot but cause concern.

In addition to the problems listed above, in her 56th session of the UN Human Rights Council report following her visit, F. Shaheed noted that the teaching of the Sami language is uneven and of varying quality in Sami neighbourhoods in Finland (including, according to the Special Rapporteur, the fact that three Sami languages are used – North Sami, Inari Sami and Skolt Sami; all three languages are equally protected but not equally used, which creates difficulties in organising teaching in the less used languages). It was also noted that



there are very few Sami language teachers and support staff also fluent in Sami. Furthermore, the lack of resources for the development of teaching materials has a direct impact on the quality of education and equality of Sami-speaking children and youth. At the same time, the Special Rapporteur noted that Finland has taken measures to organise instruction in Sami for small groups of pupils.<sup>211</sup>

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<sup>211</sup> Report of the Special Rapporteur of the United Nations Human Rights Council on the right to education, F. Shaheed, on her visit to Finland from 20 to 29 November 2023, submitted to the 56th session of the HRC. April 2024. <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F56%2F58%2FAdd.1&Language=E&DeviceType=Desktop&LangRequested=False>

## Sweden

The question of the situation and status of the Sámi – the country's indigenous population living up north – remains a specific human rights problem for Sweden, given the historical conflict between the Sámi and the Swedish state (Sámi used to be forcibly converted to Christianity and subjected to racial experiments, with their culture and language being deliberately suppressed). Industrial and urban development continues to claim Sámi lands, and military exercises in northern territories create obstacles to reindeer herding and their traditional livelihoods.

The proposals made by the special commissions that operated in Sweden from 1997 to 2019 to settle the "land" conflict between the state and the Sámi have not been implemented in practice. According to experts, the reason for this is that they primarily affect areas of special economic interest to state and commercial mining corporations or "reserved" for the location of energy infrastructure.<sup>212</sup>

According to the Living History Forum, Amnesty International and other NGOs, discrimination and racism against the Sámi remain a problem in Sweden in relation to their traditional livelihoods. Often members of national minorities have to defend their right to reindeer herding, hunting, gathering, and shooting predators that threaten the free grazing of livestock and their livestock in years-long legal proceedings.

In particular, in January 2020, in an unprecedented ruling (spanning more than 10 years), the Supreme Court of Sweden found in favour of the inhabitants of a Sámi village in Ellivare, northern Sweden, regarding their exclusive right to hunt and fish in their traditional habitat, *inter alia*, granting it to third parties without state approval. However, since the Supreme Court's verdict, threats have been made against the Sámi community, even violence and sabotage have been reported

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<sup>212</sup> The gaps in legal protection of Sámi land use rights in Sweden and their vulnerability to these kinds of problems are examined using the situation around the Kallak mining projects (one of the biggest undeveloped iron ore deposits in Europe) in the province of Norrbotten in northern Sweden, where a large part of the Sámi population lives. See A. Tsiouvalas. Indigenous rights to defend land and traditional activities: a case study of the Sami in Northern Sweden // *Revista de Direito da Faculdade Guanambi*. 2018, Volume 5, Nº 1.

(such incidents were mentioned in a joint article by the Norwegian, Finnish and Swedish line ministers in February 2022).

However, individual Sámi victories in the "court field" do not solve the problem of displacement of the indigenous population from their historical homeland. The main culprits are extractive industries and green energy, which have had a negative impact on the environment and the traditional livelihoods of the Swedish Sámi.

A key episode in this track is the concession granted by the government on 22 March 2022 to a local company, Jokmökk Iron Mines AB, to mine iron ore in the country's largest undeveloped deposit in the municipality of Jokmökk (northern Sweden) as well as and the British mining company, Beowulf Mining plc, for the rights to develop the Kallak iron ore deposit near the Bjerkholmen settlement in the same municipality. The application was submitted as early as 25 April 2013, but due to widespread criticism from a number of Swedish authorities, NGOs and international organizations, the review process has been delayed for many years. In particular, the State Office for the Protection of Cultural Monuments, the Swedish Environmental Protection Agency, the regional authorities of Norrbotten county and UNESCO recommended that the project should not be implemented in the light of environmental and cultural and humanitarian aspects.

Independent UN experts have also voiced their concerns. In particular, on 10 February 2022, the UN Special Rapporteur on the Rights of Indigenous Peoples, Francisco Cali Tzay, and the UN Special Rapporteur on Human Rights and the Environment, David Richard Boyd, issued a joint statement calling on the Swedish authorities not to grant an iron ore mining license for the deposit in question. They have pointed out that a mine in the Sámi area will generate huge amounts of pollutants and toxic waste and threaten the protected ecosystem of the nearby World Heritage Site of Laponia and reindeer migration.<sup>213</sup>

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<sup>213</sup> Sweden: Open pit mine will endanger indigenous lands and the environment – UN expert. HRC Special procedures' press release. 10 February 2022. <https://www.ohchr.org/en/press-releases/2022/02/sweden-open-pit-mine-will-endanger-indigenous-lands-and-environment-un>

In January 2023, since unveiling plans of the government and the mining LKAB concern to develop the largest rare earth metals deposit in Kiruna, northern Sweden, representatives of Sámi organizations have severely criticized this decision due to serious environmental risks as well as violation of the rights and interests of indigenous peoples of the North.<sup>214</sup>

However, Swedish business is trying to follow international standards and recommendations in the area of corporate social responsibility when developing projects (primarily mining, wind power generation etc.) in the territories of traditional residence of indigenous and local communities.

Various local environmental NGOs have closely monitored Swedish businesses' compliance with corporate standards, including the "Agüey-gu Voluntary Guidelines for Conducting Cultural, Environmental and Social Impact Assessments of Proposed or Possible Project Impacts in Sacred Areas and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities" (2004).

However, the public debate on the issue, due to the non-binding nature of the Agüey-gu principles, rarely goes beyond municipal or regional debates.

However, Swedish credit institutions declare their adherence to the Equator Principles<sup>215</sup> when considering financing a project.

In Sweden, the effectiveness of the so-called Sámi Parliament, the main platform for the Sámi people in the Swedish and North European public space, has been questioned. In November 2023, the Swedish Public Administration Agency published a report in which it pointed out significant shortcomings in the performance of the Sámi Parliament's tasks, including the development of reindeer husbandry, public programmes and others. It should not be ruled out that the Sámi

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<sup>214</sup> Samiska protester mot gruvnäringen i Kiruna: "Greenwashing på elitnivå". SVT Nyheter. 13 January 2023. <https://www.svt.se/nyheter/lokalt/norrboten/sameprotest-mot-gruvnaringen-i-kiruna-sveriges-jakt-pa-grona-metaller-ar-skamlos>

<sup>215</sup> "The Equator Principles" are a set of voluntary principles developed and adopted in 2003 by some banks belonging to the world's largest financial market players to assess the environmental and social risks of project finance. They have subsequently been joined by others.

self-government body may face increased scrutiny from central government institutions.

Over the past decades, Sweden has repeatedly been the target of criticism from international bodies (including the UN Human Rights Council, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, the ILO, the HRC Special Rapporteur on Indigenous Issues, and numerous NGOs) regarding the rights of national minorities (especially the Sámi), but there has been no real progress on the issue.

The range of problems faced by the Swedish Sámi was pointed out, in particular, by the Human Rights Committee in March 2016<sup>216</sup>, the Committee on Economic, Social and Cultural Rights in June 2016<sup>217</sup> and 2024<sup>218</sup>, the Committee on the Elimination of Racial Discrimination in April 2018 and ECRI in December 2017<sup>219</sup>. In the conclusion of ECRI, referring to the opinion of representatives of the Sámi community, it is noted that discriminatory manifestations against them continue to take place in everyday life, especially in cities. In some cases, the Sámi are forced to hide or deny their ethnic origin in order not to face hostile and biased attitudes.

CESCR notes a number of measures taken by the Swedish authorities to improve the situation of the Sámi people (in particular, the information provided on the entry into force of the Act on Consultation (2022:66), which requires the Government and government agencies to consult the Sámi representative organizations on issues concerning the Sámi. The Committee also notes that the Truth Commission for the Sámi People was established in November 2021, and

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<sup>216</sup> Concluding observations of the Human Rights Committee on the 7th periodic report of Sweden. March 2016. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSWE%2fCO%2f7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSWE%2fCO%2f7&Lang=en)

<sup>217</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 6th periodic report of Sweden. June 2016. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSWE%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSWE%2fCO%2f6&Lang=en)

<sup>218</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights on the 7th periodic report of Sweden. March 2024. <https://www.undocs.org/Home/Mobile?FinalSymbol=E%2fC.12%2fSWE%2fCO%2f7&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>219</sup> Report of the European Commission against Racism and Intolerance on Sweden (fifth monitoring cycle), adopted on 5 December 2017, published on 27 February 2018. <https://rm.coe.int/fifth-report-on-sweden/16808b5c58>

that a bill concerning elections to the Sámi Parliament is being drafted. Nevertheless, it drew attention to a significant problem in the area of indigenous peoples' rights. The Committee regrets, in particular, the lack of specific information on effective guarantees, both in law and in practice, to ensure effective consultation with the Sámi in the decision-making that affects them, as well as to ensure their free, prior and informed consent. The Committee has thus questioned the effectiveness of all actions taken by the Swedish authorities in this area. CESCR is also concerned about the lack of adequate consideration of the impact on the Sámi people of the development of industries such as wind power and mining of critical minerals on Sámi land, which are being implemented in the context of the green transition, adversely affecting the Sámi people's right to an adequate standard of living and enjoyment of their culture.

The Committee's doubts about the effectiveness of the actions taken by the Swedish authorities were also reflected in its recommendations to Stockholm: ensure the effective implementation of the Act on Consultation and ensure that the development of a bill concerning elections to the Sámi Parliament and a strategy for climate adaptation involve extensive consultation with the Sámi Parliament and reflect the needs and priorities of the Sámi. The Swedish authorities are also recommended to ensure the Truth Commission for the Sámi People has access to all necessary information and resources to conduct its investigations thoroughly, while guaranteeing that its findings and recommendations are fully considered and implemented, where appropriate, to address historical injustices and promote reconciliation. In terms of extractive companies and other economic activities on Sámi land, Stockholm is recommended to adopt comprehensive measures to protect the rights of the Sámi people against the adverse effects of large development projects, including through environmental and human rights impact assessments in consultation with the Sámi, ensuring their free, prior and informed consent before initiating such projects, and establish mechanisms to mitigate and compensate for any negative impacts on their traditional lifestyles and reindeer herding activities. While welcoming the plans of the Swedish authorities to take

steps towards the repatriation of cultural objects to communities abroad, the Committee regrets the limited information on steps taken towards the return of cultural heritage items to the Sámi people within the Swedish territory.

## Japan

As of today, a legal framework prohibiting discrimination on racial, national or religious grounds lacks in Japan, where 97 per cent of the population is ethnic Japanese. The issue of a comprehensive legislation in this area has been raised by the UN Committee on the Elimination of Racial Discrimination (CERD) established under the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>220</sup>

The UN Human Rights Council, as well as other international monitoring structures and a significant number of human rights NGOs have consistently criticized the Japanese government for the continuing gap in living standards between indigenous peoples, the Ainu and Ryukyuan, on the one hand, and the state-forming Japanese population on the other.

There are cases of harassment of members of these indigenous groups both in the labour market and in terms of access to education and a number of social programs. At the same time, discrimination against the Burakumin,<sup>221</sup> the descendants of the "impure" medieval caste, persists in the areas of employment, housing and marriage.

In recent years, the Japanese government has made considerable efforts to protect the identity of indigenous peoples. In implementing the provisions of the Law on the Promotion of Policies to Foster Public Respect for the Heritage of the Ainu People adopted in May 2019, it is now recognized that the Ainu people face biased and discriminatory attitudes, including in everyday life.

According to 2020 surveys, about a quarter of people who identify themselves as the Ainu said they have experienced such problems firsthand, and another 13 per cent were aware of such cases among acquaintances. Public discrimination against the Ainu is quite common, including in the mainstream media,<sup>222</sup> in particular Japan's largest public broadcaster NHK. Various Ainu and

<sup>220</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/287/65/PDF/G1828765.pdf?OpenElement>

<sup>221</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fJPN%2fCO%2f10-11&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fJPN%2fCO%2f10-11&Lang=ru)

<sup>222</sup> <https://www.asahi.com/sp/ajw/articles/14367406>



human rights organizations continue to criticize the opportunistic nature of the law that, in their opinion, was adopted without sufficient consideration of the Ainu people viewpoint and "actually means exploiting their cultural and historical heritage". It is noteworthy that doubts as to where the efforts by the central authorities are useful, also appear periodically in the expert and journalist communities.

The Cabinet of Japan is accused of exaggerating the positive effects of the proposed social and economic measures, since the real beneficiaries of the allocated financial resources are the Hokkaido Prefecture and its administrative and territorial entities, and not the Ainu community itself. The need is emphasized to supplement the basic policy with provisions detailing the steps to be taken to ensure the small people's rights to practice traditional methods of fishing, forestry and religious ceremonies. From November 2020 to April 2024, the Sapporo District Court (Hokkaido Prefecture) was hearing a lawsuit filed by the Ainu Raporo Nation group demanding recognition of river fishing as their inalienable right under the UN Declaration on the Rights of Indigenous Peoples and the lifting of salmon fishing ban imposed by Japanese regulations (the verdict is negative). This is the first lawsuit of its kind in the Japanese legal practice.

In 2020, the Upopoy Ethnic Harmony Center dedicated to the Ainu people, their history, cultural characteristics and traditions was opened on the island of Hokkaido. However, in 2021, the Honbetsu City Council (Hokkaido Prefecture) rejected the Ainu Association's request for permission to build traditional ceremonial structures on the island.

The situation of the indigenous people of the Ryukyu Islands remains difficult. The official Tokyo denies them benefits and support for their cultural identity. Experts from non-governmental structures point out to the distorted school courses that contain virtually no information about the identity and ethnic and linguistic uniqueness of the Ryukyu people. On the contrary, the municipal authorities of the Okinawa Prefecture call on the government to persuade the UN structures to withdraw resolutions recognizing the Ryukyu as an indigenous

people. Therefore, the Ryukyu people appealed to the international community to protect their indigenous rights on 4-8 July 2022, on the sidelines of the 15th session of the Human Rights Council's Expert Mechanism on the Rights of Indigenous Peoples.

In addition to these problems, residents of the northernmost and southernmost Japanese islands continue to face other manifestations of discrimination.

There have been cases of incitement to ethnic hatred and crimes against ethnic minorities, especially Koreans, who are frequently subjected to open discrimination.<sup>223</sup> Official representatives do not shy away from offensive statements either. However, neither officials nor private individuals have ever been held accountable for racist hate speech or committing hate crimes.

Another scandal broke out in December 2022. Mio Sugita, Parliamentary Vice Minister of Internal Affairs, Local Government, Communications and Telecommunications of Japan, posted derogatory comments in her private blog about traditionally dressed ethnic Koreans and Ainu who attended a Committee on the Elimination of Discrimination against Women meeting. The politician had to apologize under public pressure, but according to local observers, her forced "repentance" was not convincing.<sup>224</sup> The fact that she was removed from office by Prime Minister Kishida after a month following opposition demands only and retained her parliamentary mandate caused particular resentment.

The adoption (June 2016) of the Law on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behaviour against Persons Originating from Countries other than Japan was a positive step toward eliminating hate rhetoric.

At the same time, critics note that the normative act contains limited legal remedies for ethnic minorities,<sup>225</sup> as its scope of application is narrowed to the

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<sup>223</sup> <https://www.bloomberg.com/news/features/2021-10-17/koreans-in-japan-hate-speech-case-highlights-workplace-racism>

<sup>224</sup> <https://www.asahi.com/ajw/articles/14783372>

<sup>225</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fJPN%2fCO%2f10-11&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fJPN%2fCO%2f10-11&Lang=ru)

actions vis-a-vis persons "legally" residing in the state, and there is no description of specific measures to punish violators.

Japan's General Police Department (GPD) published a report in November 2022 evaluating the 2021 performance of law enforcement agencies, according to which there were six cases of ethnic or racial profiling by local law enforcement officers during the reporting period.<sup>226</sup> These incidents involved police officers from the Metropolitan Department, Kanagawa, Miyagi and Osaka Prefectures. Inappropriate behaviour included the attempts to inquire about "ethnicity" instead of "citizenship," checking up the contents of personal belongings of a young man with African and Japanese roots, and prejudicial comments, etc. The head of the Department claimed that the officers "had no racially or ethnically biased discriminatory intent". Plans were voiced to provide necessary training and instructions to police officers so that they interact with citizens in an appropriate manner.

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<sup>226</sup> [https://www.npa.go.jp/policies/evaluation/04jigo-hyouka/jisseki\\_hyouka/r4\\_jizen\\_bunseki.pdf](https://www.npa.go.jp/policies/evaluation/04jigo-hyouka/jisseki_hyouka/r4_jizen_bunseki.pdf)