**The National Association of Friendship Centres’ Written Contribution for the Draft General Comment No. 26 (2021) on Land and Economic, Social and Cultural Rights by the Committee on Economic, Social and Cultural Rights (CESCR)**

# About NAFC

The National Association of Friendship Centres (NAFC) is a network of Indigenous owned and operated civil society, not for profit, and service delivery organizations across Canada. Collectively, we refer to our network of over 100-member local Friendship Centres (FCs) and Provincial/Territorial Associations as the Friendship Centre Movement (FCM). The FCM is the most significant urban Indigenous service delivery infrastructure in Canada. For over half a century, FCs have been developed and advanced by Indigenous peoples[[1]](#footnote-1) living in urban[[2]](#footnote-2) environments and helped individuals access the vital culturally appropriate services they need to succeed in urban settings across Canada.

**Comments on the Draft**

The National Association of Friendship Centre (NAFC) asserts that the General Comment should include more of a focus on self-determination and land rights of Indigenous peoples. The general draft should consider that urban Indigenous peoples are holders of rights outlined in the United Nations Declaration on the Rights of Indigenous People (UNDRIP) regardless of residency and they apply to Indigenous peoples as both individuals and as a collective. The NAFC supports the United Nations Permanent Forum on Indigenous Issues (UNPFII) submission on the Draft General Comment No. 26 of the CESCR. The following are NAFC’s recommended additions to the draft to ensure it is reflective of the needs of urban Indigenous peoples.

**\*Add a phrase to #1**

1. Eradication of hunger and poverty, and guaranteeing the livelihoods **and self-determination** of individuals, groups and communities depend on the secure and equitable access to and control over land of those individuals, groups and communities.

Rationale: Article 3 of the United Nations Declaration on the Rights of Indigenous People (UNDRIP) states that Indigenous people have the right to self-determination, which allows them to freely pursue economic, social, and cultural development. This is also in line with the language of Article 1 of the CESCR.

**\*Add sentence to #2**

2. Against that background, concerns have been expressed about the impacts of “land grabs” and other processes of land concentration often fuelled by fears about the volatility of agricultural prices. **Gentrification often leads to land dispossession for people with low-incomes and disproportionality impacts Indigenous people in urban spaces.** All those processes are becoming complicated through weak or non-existent legal and institutional frameworks…

Rationale: In Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari (2005), the Special Rapporteur outlines how gentrification is more likely to adversely affect people with low-incomes. The report outlines how the lack of “adequate housing” is a major issue for Indigenous peoples.[[3]](#footnote-3)

**\*Add sentence to #3** 3. Many of those conflicts are fuelled when land governance is weak, **shrinking access to adequate and reasonably priced housing,** wheretenure is not, or only insufficiently, documented, and where planning fails to clarify long-term use patterns and tenure security.

Rationale: In Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari (2005), the Special Rapporteur points to gentrification, which includes rising property values and rates, as leading to displacement and dispossession of low-income people.

**\*Add sentence to #5**

5.Therefore, States parties should guarantee that in all land governance processes, policies and institutions, land is not treated as a mere commodity, but that its role as a social and cultural good is recognized, **particularly as it relates to creating and maintaining urban spaces for Indigenous peoples.**

**Rationale:** Article 25 and 26 of UNDRIP outline that residency, geographic location, including forced relocation should not negatively affect Indigenous peoples’ ability to participate in decisions that affect them, their families, and their nations.

**\*Add phrase to #6**

6. While recognizing the existence of different models and systems of governance of those natural resources under national contexts, States parties should take the governance of such resources into account in the implementation of their obligations relating to land. **This includes consultation with Indigenous people in both urban and rural spaces.**

**Rationale:** According to the UN OHCHR Land and Human rights Report[[4]](#footnote-4) the lack of transparency in decision-making in urban planning undermines the rule of law. Consultation with urban Indigenous communities, is essential to create sustainable relationships with the land.

\***Add sentence to #7**

7. A stewardship approach is vital and needed to protect common ecosystem resources, including for the preservation of intact forests, wetlands and grasslands. **Participation by Indigenous peoples, communities and nations is crucial to this process, as traditional and cultural knowledge contributes to biodiversity and a healthy ecosystem.** Consequently, the Committee also recognizes….

**Rationale:** The UNESCO statement on endangered languages[[5]](#footnote-5) makes a direct connection between Indigenous languages and biodiversity. They stress that efforts to preserve biodiversity can benefit from working with local Indigenous communities in recovery and restoration efforts.

**\*Add Sentence to #9**

9. Access to land in urban areas not only provides space for a shelter; household-related areas, including gardens, can also be places for domestic work in the informal and formal economy, as well as non-domestic work performed in the home. **Dedicated physical spaces is crucial in fostering culture and community for Indigenous people in urban spaces.**

**Rationale:** The United Nations Backgrounder on Urban Indigenous people and migration[[6]](#footnote-6) notes that Indigenous people face discrimination and difficulty sustaining their language, identity and culture. Having access to dedicated physical spaces that promote Indigenous perspectives and cultures is vital to the urban Indigenous experience.

**\*Add phrase to #10**

The Committee is of the view that effective agrarian reforms aiming at equitable access to land will ensure the realization of the right to adequate food and that such reforms should include special measures to address the situation of landless persons, **urban and rural** Indigenous peoples and other disadvantaged and marginalized groups…

Rationale: Article 25 and 26 of UNDRIP outline Indigenous peoples right to maintain control over their traditional territories which includes access to land in urban centres that that was occupied due to colonialism. UNDRIP asserts the rights of Indigenous peoples regardless of residency.

**\*Add an additional sentence to #14.**

14. States parties are required to eliminate all forms of discrimination, formal, substantive, direct, indirect and multiple, and to take appropriate measures to ensure substantive equality. **State parties must not discriminate on the grounds of race[[7]](#footnote-7), sex, gender[[8]](#footnote-8), sexual orientation[[9]](#footnote-9), residency, geography, ability[[10]](#footnote-10), and age[[11]](#footnote-11) and consider intersectional identities.** Accordingly, States parties must not only regularly undertake reviews to ensure that domestic laws…

Rationale: Article 2(2) of the Covenant specifically lists intersectional identities that need to be considered when discussing all forms of discrimination. See added footnotes for support from several UN declarations and conventions.

**\*Add sentence to #17**

17. For women, land is a pivotal resource for meeting subsistence needs and for accessing other goods and services, such as credit. **Land is tied to cultural practises for Indigenous women and girls including ceremonies, social and community events held in rural and urban areas.** Land is also important to enhance women’s engagement in household decision-making and…

Rationale: The International Covenant on Economic, Social and Cultural Rights outlines the right to cultural development in Article 1 (1). Indigenous women and girls’ cultural development are tied to the land regardless of residency. For example, many Indigenous women hold healing ceremonies that are connected to their traditional territory.

**\*Add phrase to #17**

17. Land is also important to enhance women’s engagement in household decision-making and for their participation in **rural and urban** institutions that could strengthen their decision-making power and leverage over collective rights and resources.

Rationale: Women should be able to participate in all institutions in rural and urban areas. Including a reference to only rural institutions limits the ways that women can engage in decision making processes.

**\*Add phrases to #18**

18. Such processes should be transparent, organized in the relevant languages, **including Indigenous languages**, widely publicized and grant access to all relevant documents. Affected persons **or peoples** need to be contacted prior to any decision that might affect their livelihood rights.

Rationale: The UN General Assembly has drawn attention to the need for Indigenous language revitalization and declared an International Decade of Indigenous Languages, to begin in 2022. The UN General Assembly resolution 71/178 was adopted “to draw attention to the critical loss of Indigenous languages and the urgent need to preserve, revitalize, and promote Indigenous language" and to "take urgent steps at the national and international levels.”[[12]](#footnote-12)

**\*Suggested added para. on Intimate Partner Violence During the COVID-19 Pandemic for the section Participation, Consultation and Transparency**

**19. Intimate partner violence has increased globally during the COVID-19 pandemic. Lockdowns during the pandemic have put women and girls at greater risk of violence from their abusive partners and decreased their access to socioeconomic programs and services. Gender-based violence does not allow people to freely practice their culture, engage in political processes or benefit from rights under the covenant.**

**Rationale:** The WHO has released publications[[13]](#footnote-13) outlining the rise of intimate partner violence internationally during the COVID-19 pandemic. The WHO asserts that lockdowns during the pandemic have put women and girls at greater risk of gender-based violence.

\***Add phrase to #21**

21. States parties should identify all existing tenure rights and rights holders, not only those on written records, **but also oral records and histories.**

**Rationale:** Oral records and histories have long been dismissed as being relevant, or legitimate.[[14]](#footnote-14) There needs to be a recognition of their authenticity and usage in land management.

\***Add phrase to #30**

30. States parties should develop laws and policies to guarantee that land-based investments are done in a responsible manner. That requires early participation **and consultation** of all affected parties and fair regulation of transfer processes.

**Rationale:** States must provide effective mechanisms for the prevention of actions that aim to dispossess them of their lands, territories, or resources as per Article 8 (2b) of UNDRIP

\***Add phrase to #37**

37. States should create the conditions for regeneration of biological and other natural capacities and cycles and should be obliged to cooperate with local communities, **Indigenous peoples,** investors and others to ensure that land use for agricultural...

**Rationale:** Urban Indigenous people have the skills and knowledge that support ecological regeneration. Article 8 j. of the Convention of Biological Diversity (CBD) emphasizes the need for states to consult Indigenous communities in the preservation of biodiversity.

**\*Add phrase to #40**

40. Such assessments must be conducted with substantive public participation and **engagement with Indigenous peoples. The assessment** results should be made public and inform measures to prevent, cease and remedy any human rights violations or abuses.

**Rationale:** Article 38 of UNDRIP outlines that States need to consult and cooperate with Indigenous peoples and Article 25 outlines their right to maintain control over their traditional territories.

**\*Add phrase to #43**

43. States should take steps through international assistance and cooperation under article2 (1) of the Covenant, with a view to progressively achieving the full realization of Covenant rights relating to land, which would also benefit peoples and communities outside their territories**, including Indigenous peoples living in rural and urban areas.** Support should include technical cooperation…

Rationale: UNDRIP outlines that Indigenous peoples culture and traditions are tied to the land regardless of residency. Achieving the full realization of Covenant rights relating to land would be of great benefit to Indigenous peoples in rural and urban areas.

**\*Add sentence to #54**

54. Moreover, States have an obligation to design climate change adaptation policies at the national level that take into consideration all forms of land use change induced by climate change, to register all affected persons and to use the maximum available resources to address the impacts of climate change, particularly on disadvantaged groups. **Climate change affects land use, which contributes to homelessness in both rural and urban centres, often contributing to rural migration to the urban centres.**

**Rationale:** A report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination states that climate change is a major contributor to rural and urban homelessness.

**\*Add sentence to #56**

56. Access to justice is key; States parties must guarantee that even in remote areas, it is accessible and affordable, particularly for disadvantaged and marginalized groups. **One of the key components to access to justice is working with community stakeholders and self-governing communities.**

**Rationale:** Article 38 of UNDRIP states that States need to consult and cooperate with Indigenous peoples to achieve the mandates of UNDRIP, which includes access to justice.

**\*Add sentence to #57**

57. States parties should recognize and cooperate with customary and other established forms of dispute settlement where they exist, ensuring that they provide fair, reliable, accessible and non-discriminatory ways of promptly resolving disputes over tenure rights, in accordance with human rights. **Self-governing actors must be engaged in the process of mediating disputes in order to be fair.**

**Rationale:** Article 26 (3) of UNDRIP states that legal recognition and protection of lands, territories, and resources shall be given to places which Indigenous peoples have traditionally owned. This works in conjunction with Indigenous peoples rights to self-governance.

1. The term “Indigenous” will be used to include peoples in Canada who are First Nations, Métis and Inuit, regardless of their legal status with the government of Canada. [↑](#footnote-ref-1)
2. The term “urban” encompasses Indigenous peoples who are living in large metropolitan cities, rural, remote and northern communities. Specifically, First Nations who are living off-reserve, Métis living outside of Métis homelands, and Inuit living outside of Inuit Nunangat (Inuit homelands). [↑](#footnote-ref-2)
3. See: <https://digitallibrary.un.org/record/649445?ln=en> [↑](#footnote-ref-3)
4. See: <https://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf> [↑](#footnote-ref-4)
5. See: <http://www.unesco.org/new/en/culture/themes/endangered-languages/biodiversity-and-linguistic-diversity/> [↑](#footnote-ref-5)
6. See: <https://www.un.org/esa/socdev/unpfii/documents/6_session_factsheet2.pdf> [↑](#footnote-ref-6)
7. UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, online: < <http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf>>> [↑](#footnote-ref-7)
8. UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180 online <<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>> [↑](#footnote-ref-8)
9. UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), online: < <https://www.un.org/en/about-us/universal-declaration-of-human-rights>> [↑](#footnote-ref-9)
10. UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106, online: [https:/www.un.org/ga/search/view\_doc.asp?symbol=A/RES/61/106](https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/61/106) [↑](#footnote-ref-10)
11. UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, online: < [https://www.ohchr.org/en/professionalinterest/pages/crc.aspx](https://www.ohchr.org/en/professionalinterest/pages/crc.aspx%20) > [↑](#footnote-ref-11)
12. General Assembly resolution 71/178, *Rights of Indigenous peoples*, A/RES/71/178 (19 December 2016), available from <https://undocs.org/en/A/RES/71/178> [↑](#footnote-ref-12)
13. World Heath Organization, *Violence Against Women,* (2021) See: [https:www.who.int/news-room/fact-sheets/detail/violence-against-women](https://www.who.int/news-room/fact-sheets/detail/violence-against-women) [↑](#footnote-ref-13)
14. University of British Columbia, *Indigenous Foundations* See: <https://indigenousfoundations.arts.ubc.ca/oral_traditions/> [↑](#footnote-ref-14)