

BY PUROLATOR

Halifax, Nova Scotia
June 20th 2002

Mr. Kurt Herndl
Country Rapporteur for Canada
&
CERD Committee Members

c/o CERD Secretariat
Office of the High Commissioner for Human Rights
Geneva, Switzerland

**AN AFRICAN CANADIAN OPEN LETTER
TO THE UNITED NATIONS CERD MEMBERS
EXAMINING CANADA'S 13th & 14th REPORTS
ON COMPLIANCE WITH THE ICERD**

Dear Mr. Herndl and CERD Members,

In my capacity as the first holder of the **James Robinson Johnston Chair in Black Canadian Studies**, established at Dalhousie University to “bring Black culture, reality, perspectives, experiences and concerns into the Academy”, as the convenor of the 2001 International Symposium, *Racism and the Black World Response*, and on behalf of African Descendants in Canada, I address to your Committee’s attention the present Open Letter concerning your Committee’s examination of Canada’s 13th and 14th periodic Reports on its compliance with the *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*.

INTRODUCTION

1. Significantly, throughout the half century of its existence, issues of ‘Race’ and Racism have consistently commanded the United Nations’ attention, yet, in spite of these efforts and

initiatives, Racism and Racial Discrimination doggedly continue to persist around the world.

289409060. It is the cloying pervasiveness of Racism and Racial Discrimination in Canada, the ineffectiveness of the plethora of measures already undertaken, and the superficially descriptive nature of Canada's 13th and 14th Reports that together motivate the present submission, which itself, cannot and does not purport to exhaustively address the subject of Racism in the Reports under consideration.

3. The purpose of this Open Letter is to formally record, for the global community of African Descended peoples, the front-line experiences, 'Voices of Authenticity', and marginalized perspectives of the African Canadian Community.
4. Its aim is also to register before CERD, in an open and transparent way, those deficits we discern in Canada's current Reports and the correctives we envisage, all in an effort to better instruct and assist Committee members in carrying out a more meaningful examination of our country's compliance with this cornerstone Convention.

289431260. The enclosed documents, *Racism and the Black World Response Symposium Proceedings* <www.dal.ca...> and the article, *Multicultural and Intercultural Education: The Canadian Experience*, not only provide supplementary evidence of the on-going persistence of Racism in Canada, but they also offer a critical backdrop and perspective on the inefficacies and shortcomings of those measures already undertaken by our country.

6. The 2001 *United Nations 3rd World Conference Against Racism (WCAR)* held in Durban, South Africa, set a new benchmark whose standard now dictates that subsequent discourse and on-going global efforts to eliminate Racism and Racial Discrimination, *a priori*, must begin to embrace and integrate *in meaningful ways* formerly excluded voices, marginalized front-line experiences and side-lined perspectives.

289430084. In this spirit, African Canadian contributions are critical to the contextualizing backdrop that will help instruct and alert both Canada and CERD members to those deficits that require redress in the fight to eliminate Racism.

REPORTS ARE FATALLY FLAWED

289430085. A glaring and fatal flaw of the Reports under examination is that these 13th and 14th Reports, filed simultaneously, are filed late—(almost a full decade behind schedule!)—and they restrictively cover only the time period from 1993-1997; this tardy filing not only vitiates the ICERD Treaty Compliance Examination Process, but more significantly, it ends up distorting the ‘material reality’ of on-going Racism in Canada, even as it technically puts Canada beyond the reach of proper accountability.

289430086. More specifically, the Reports are a-historical and de-contextualized. Strictly confining the Reports to the years 1993 -1997, enables the Canadian government to recite, in parrot-like fashion, a repertoire of measures or initiatives that were initiated or implemented during this time period without any critical analysis or assessment of their impact or efficacy as viable solutions to Racism.

289430087. The 13th and 14th Reports maintain a conspicuous silence about previous ICERD Reports, making it a quasi-impossible task to judge if and how the different levels of government have either followed up on, or acted upon previous CERD recommendations.

289430088. Commensurate with the spirit of the ICERD Treaty Compliance Examination Process, and to counter the chronic late filing of Compliance Reports, complementary, more contemporaneous material should be accessible to CERD to help provide members with much needed *perspective* and *context* that would enhance its examination of

Canada's Reports.

289430089. For example, the non-exhaustive sampling of relevant *Reports & Studies* listed in **Annex I** of this submission reveals the on-going pattern of a multiplicity of efforts being deployed in the name of combating Racism, without regard to any auditing of their effectiveness; such important supplementary elements could prove valuable in helping CERD members contextualize the Canadian reality.

COMMENTS ON THE REPORT: RHETORIC vs. REALITY

289430090. Overall, from our African Canadian perspective, much of the rhetoric in the Reports glosses over and/or distorts the ‘material reality’ of Racism faced daily by African Descended Peoples and other front-line Communities.

289430091. Public Policy measures end up *creating* rather than *correcting* deficits when measures of redress, such as Multiculturalism and Employment Equity, are implemented and manipulated without any critical impact assessment of their fall-out and effect on front-line Communities; this only serves to further exonerate authorities of their responsibility and accountability to front-line Communities.

289430092. What should be robust anti-racist action under Multiculturalism is routinely confined to Education initiatives of ‘Sensitivity’ or ‘Diversity’ Training that is itself predicated on and geared to the comfort level of dominant group perpetrators— all at the expense of Resistor-Survivors’ empowerment and rights to and remedy, relief and reparation from Racism.

289430093. The perfunctory superficial listing of jurisprudence that sporadically peppers the Reports is tantamount to cosmetic window-dressing, and the rote-like recitation of Human Rights Commission decisions, complete with letters of apology, fail abysmally as tangible evidence of *Justice* being dispensed, or of Canada’s concrete compliance with the CERD Convention. The current Reports *do not demonstrate how* the judgements in these individual cases constitute effective measures against Racism, or to what extent they have established or generated compelling national norms.

289430094. There is no consistency within these Reports; each province’s Report differs from the

Federal Report and a wide variation characterizes the Provincial and Territorial Reports. This inconsistency reveals the degree to which, unlike Canadian government attitude towards *Income Tax* for example, in the case of Racism, no clear standard exists for national policy formulation, implementation, or enforcement.

289430095. These Reports adroitly evade government responsibility for eliminating Racism by shifting emphasis from the Federal Government to the Provincial and Territorial Governments. The Reports tend to exploit Federal-Provincial rules of engagement as clever ploys that effectively shield both levels of government from scrutiny, thus putting them beyond the reach of ownership and accountability for eliminating Racism and Racial Discrimination.

289430096. The Reports are out of context; decontextualizing Racism makes it appear as an accidental phenomenon— an isolated, individualized aberration.

289430097. There is no acknowledgment of the ‘material reality’ of Racism in these Reports which, throughout their entirety, minimize, evade and erase Racism by cloaking it in the language and trappings of ‘equality’, while front-loading ‘tolerance’ and ‘awareness’, all to the exclusion and denial of existing oppression and the pressing need for action.

289430098. Unwilling to even acknowledge the legacy of Racism, much less the responsibility for eliminating it, these Reports make no mention of *Justice* and *Government responsibility* for ensuring the implementation and enforcement of societal norms, thus implying by default that the ultimate and residual responsibility for both the existence and the elimination of Racism lies with the individual or groups on the *perceiving end* of Racism.

AFRICAN CANADIAN CONCERNS & POTENTIAL DIRECTIONS

FOR CERD'S EXAMINATION OF CANADA'S COMPLIANCE

CONCERNS

289430128. The *ICERD* is a legal and binding standard-setting instrument that codifies the international consensus reached on those principles and norms that should prevail when it comes to addressing Racism, and Racial Discrimination world-wide.

289430129. From our African Canadian perspective, there is cause for concern. It disturbs us to note the lack of any consistently clear government volition in the form, for example, of a national radar mechanism to track and measure *Anti-Racism success rate*. This signifies to us that, by default, Canada has inappropriately left the elimination of Racism largely to individual good intent and happenstance.

289430130. The glaring absence of National Standards to eliminate Racism is further eloquently attested by the heavily *descriptive* rather than *prescriptive* nature of the 13th and 14th Reports.

289430131. The existing cognitive dissonance or gaping gap between Canada's official rhetoric and the *de facto* reality betrays the spirit and principles laid down in the ICERD. Canada's failure to make the elimination of Racism a public policy agenda priority is an affront to Resistor-Survivors like the African Canadian Community and others.

POTENTIAL LINES OF QUESTIONING

289430132. Accordingly, during the examination of Canada's 13th and 14th Reports, we would encourage members of CERD generally to instruct Canada on *how to better comport itself in the future*.

289430133. It is crucial for CERD, Canada, and other member states to *acknowledge the fatal flaw*

inherent in tardy reporting; and Canada should be exhorted to file more timely Reports.

289430134.CERD members should consider directing Canada to better calibrate its progress on compliance with the ICERD Treaty by providing *more clarification on the levels and degrees of front-line Communities' (dis)satisfaction* with the efficacy of those measures already undertaken to combat and eliminate Racism and Racial Discrimination.

289430135.In addition, we would encourage the Committee to invite Canada *to provide evidence of flexibility and evolution* by explaining the degree of progress and improvements since its previous reporting, and by analyzing, against the backdrop of both previous CERD examination and Civil Society critique, those changes and/or novelties contained in its current Report.

289430136.In other words, Canada's Report should present evidence that demonstrates a *real dialogue* taking place with front-line Communities.

CONCLUSION

289458972. ICERD was conceived as and constitutes a universally recognized *corrective*. The *transformative* nature of this corrective was never meant to be undermined, or short-circuited by trivial tinkering, superficial platitudes or empty, routinized gestures.

289458973. Therefore, ratification of the *International Convention on the Elimination of All Forms of Racial Discrimination* signifies concretely that the signatory nation state freely complies, deferring

or yielding its own sovereign will in good faith, to both the spirit as well as the greater and more compelling force that is the principles entrenched in the *Convention*.

It is our desire that the information contained in this Open Letter will prove useful in helping CERD members to form a more balanced and comprehensive view of the 'material reality' of Racism in Canada. And we do hope that this submission will assist CERD members in leading a more meaningful, fruitful and constructive dialogue with the national delegation during its upcoming examination of Canada's 13th and 14th Reports.

I would invite you to communicate with me directly should the need arise.

Sincerely,

Dr. Esmeralda M.A. Thornhill
Professor of Law
**James Robinson Johnston Chair
in Black Canadian Studies, 1996-2002**

Enclosures

Annex I - *Sample Record of Past Reports & Studies on Racism & Racial Discrimination in Canada*

List of CERD Committee Members

Report - *Racism and the Black World Response Symposium Proceedings*

Article - *Multicultural and Intercultural Education: The Canadian Experience* (E.M.A. Thornhill)

*An African Canadian Open Letter to the UN CERD Committee Re Canada's 13th & 14th Reports*10

- c.c.** The Honorable Sheila Copps, Minister of Canadian Heritage
The Honorable Jean Augustine, Minister of State for Multiculturalism & Status of Women
Ms. Margaret Parsons, Executive Director, African Canadian Legal Clinic
Ms. Anki Flores, Secretary-General, Anti-Racism Information Service
Irvine Carvery, Co-Chair, *Racism & the Black World Response Symposium*