

Proposed Framework for a New Anti-Racism Strategy for Canada

Submitted by Colour of Poverty - Colour of Change

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Introduction

Colour of Poverty-Colour of Change (COP-COC) welcomes the opportunity to contribute to the Canadian Government's cross-country consultations on a new national Anti-Racism Strategy.

This submission draws on work by COP-COC over the last ten years. It is further informed by a recent community consultation on an Anti-Racism Strategy for Canada organized by COP-COC and held on January 11, 2019.

In February 2018, the Government of Canada announced in its 2018 budget that it will:

“... provide support for events and projects that help individuals and communities come together, the Government proposes to provide \$23 million over two years, starting in 2018–19, to increase funding for the Multiculturalism Program administered by Canadian Heritage. This funding would support cross-country consultations on a new national anti-racism approach, would bring together experts, community organizations, citizens and interfaith leaders to find new ways to collaborate and combat discrimination, and would dedicate increased funds to address racism and discrimination targeted against Indigenous Peoples and women and girls.”

Prior to the release of the Budget, on February 1, 2018 the Standing Committee on Canadian Heritage presented to Parliament the report, “Taking Action Against Systemic Racism and Religious Discrimination Including Islamophobia”. Certain COP-COC Steering Committee members had an opportunity to appear as witnesses to the Committee’s study and offer concrete recommendations for action, specifically **the collection of disaggregated data and the principle of targeted universality** – to draw special attention to communities that are most affected.

I. Principles for the Anti-Racism Strategy

To ensure that the new Anti-Racism Strategy will lead to meaningful outcome, for both the Government and the community, COP-COC proposes the following as guiding principles:

- We acknowledge the deep-rooted history and present-day reality of colonialism, racism and cultural genocide faced by first peoples in Canada. We recognize that First Nations and first people organizations and groups will decide whether and how they choose to engage with the government on an Anti-Racism Strategy.
- While recognizing that Indigenous communities will choose their process of engagement, we believe it is important for communities of colour to work collaboratively with Indigenous communities to the extent possible towards a shared vision and this understanding should be incorporated in developing the Strategy.
- We assert that after Indigenous peoples, communities of colour - particularly those of African descent - are most affected by racism in Canada. They must therefore be a prime focus for the Strategy, and must play a key role in the development and implementation of any strategy, and provided with sufficient support and resources to do so, including support to develop a distinct strategy to address anti-Black racism.
- Within these communities, women, LGBTQ and two-spirited peoples, and people with disabilities not only face racism but other forms of intersecting discrimination such as precarious immigration status, and religious identity such as Islam. As such, while the Strategy must be grounded in critical race theory (recognizing that racism is socially constructed and embedded in social structures, and is not simply a matter of individual prejudice) and tackle racism head on, it must use an intersectional lens to recognize and understand how individual identities affect the impact of racism.
- Recognizing that racism affects different communities differently, the Strategy must be inclusive and contain targeted measures to address the different realities of each community.
- The Strategy should contain concrete plans with actionable goals, measurable targets and timetables, and the necessary resource allocation for each.

The new Anti-Racism Strategy should build on previous actions by various governments (example: Canada's Action Plan Against Racism – 2005-2010) while ensuring it is responsive to contemporary experiences of racism such as, but not limited to, Islamophobia.

II. Themes of the Framework

Systemic racism affects every aspect of life for members of Indigenous communities and communities of colour. Racism has the most devastating impact when it serves to deny members of these communities the equal opportunity to succeed, when it takes away their fundamental dignity, liberty and security, and when it further exacerbates pre-existing inequities.

Systemic racism and racial discrimination know no jurisdictional bounds. While the Anti-Racism Strategy is a Federal Government initiative it is essential to secure the involvement and cooperation of provincial and territorial governments in order to effectively tackle the challenges faced by Indigenous communities and communities of colour. Like other issues of national importance such as climate change and global migration, the Federal Government can and must take leadership in tackling racism, and must work with provinces and territories to advance the goal of racial equality.

As such, the government's Anti-Racism Strategy must be used to target the key areas where structural racism has done the most damage in our society. These areas include, but are not limited to:

- Racial inequities in the labour market
- Racialization of Poverty
- Systemic racism in the criminal justice system and access to justice
- Systemic racism in national security
- Systemic racism in child welfare
- Systemic racism in health care and health inequities
- Inequities in access to basic necessities including housing and other social benefits
- Inequities in access to education, and in education outcomes
- Systemic racism in immigration legislation and policy, including temporary immigration and the interdiction regime
- Systemic racism in citizenship legislation and policy
- Hate Crimes

Where necessary, the Federal Government should work to secure provincial co-operation through transfer programs, bilateral agreements and other equivalent mechanisms.

III. Structural/Institutional Framework for the Anti-Racism Strategy

To be effective, the Anti-Racism Strategy must be results-oriented and must produce long term, sustainable change that will withstand the test of time, and any change in political power. As such, the Strategy must be supported by the following structural/institutional components:

- The development of an Anti-Racism Legislation
- The establishment of an independent, ongoing body with oversight on implementing legislation across the federal government, that reports annually to Parliament, and that has the authority to engage with provincial and territorial governments for cooperation and collaboration
- The collection and use of Disaggregated Data (on the basis of race and other demographics) for each and every component of the strategy
- The development of Racial Impact Analysis for all government policies and laws
- The creation of transparency and accountability measures within each government department, including at the Ministerial level
- Other relevant measures identified by community groups

Specifically, the Federal Government should require all Departments, Ministries, Divisions and relevant institutions to collect and track disaggregated data with respect to ethno-racial background, and use this data to develop strategies for addressing systemic racism. Immigration status should not be used as a proxy or substitute category for race, and racial groups should not be homogenized under the category of “visible minority.” Data should be collected in a way that enables analysis of the intersecting effects of ethno-racial background with gender identity, sexual orientation, socioeconomic status, immigration status, age, (dis)ability and religious or faith identity.

IV. Key Components of the Anti-Racism Strategy

In addition to the above key principles and structural support, the Anti-Racism Strategy should contain concrete actions to address specific challenges faced by Indigenous communities and communities of colour. Colour of Poverty – Colour of Change proposes the following concrete actions:

Actions to address racial inequities in the labour market

The Federal Government should:

- Reinstatement mandatory compliance with employment equity for federal contractors and effectively enforce that regime;
- Incorporate Community Benefits Agreements as a mandatory requirement for all transfer payments to provinces and territories, and all investment projects that are not subject to the Federal *Employment Equity Act*;
- Amend human rights legislation to protect individuals from discrimination, including discrimination in employment, on the basis of police records of conviction or non-conviction, and facilitate providing pardons and/or record suspensions;
- Work with provinces and territories to introduce, implement and effectively enforce employment equity legislation;
- Work with provinces and territories to remove barriers to recognition of international training and credentials by institutions, regulatory bodies and employers, and invest in bridging programs for better employment outcomes;
- Broaden eligibility criteria beyond permanent residence for federally funded immigrant settlement services to provide access on the basis of need rather than immigration status;
- Ensure that any economic strategy is tied to a federal housing strategy and a childcare strategy;
- Examine strategies for increasing access to business capital and increased ownership and control of businesses by racialized groups, including by ensuring racialized entrepreneurs have equitable access to financing, capital, and advisory services provided by the Business Development Bank of Canada and by utilizing federal regulatory jurisdiction over financial institutions to enforce equitable approval procedures;
- Ensure equity in hiring for all bilingual and unilingual positions in the federal public service and in all public appointments for Indigenous peoples and peoples of colour, and ensure the intentional application of equity for Indigenous peoples and peoples of colour in the implementation of Federal Employment Equity legislation;
- Expand the Wage Earner Protection Program to businesses that are insolvent but have not filed for bankruptcy;
- Better protect public service employees from racism, aggression, and reprisals and all other forms of discrimination against Indigenous peoples and peoples of colour, including mandating an independent oversight body to compel reporting, document, and report publicly on such incidents;

- Adopt standardized data collection such as the framework developed by Ontario's Anti-Racism Directorate and collect disaggregated data on the labour market and income/wealth distribution, including re-introducing disaggregated racial data into the Canadian Income Survey; and
- Increase protection for vulnerable migrant workers, including through:
 - providing permanent residency upon arrival;
 - providing access to social entitlements;
 - eliminating Labour Market Impact Assessment fees;
 - including migrant workers in government consultations on all programs implicating temporary migrant labour; and
 - adopting the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*.

Actions to address racialization of poverty

The Federal Government should:

- Adopt a strategy to regularly consult with community groups that work with racialized communities and other marginalized communities;
- Adopt a racial equity and gender equity lens to evaluate the impacts of all economic and social policies on racialized communities;
- Adopt a "targeted universalism" approach to poverty reduction and eradication that
 - Incorporates effective measures to address at a minimum the disproportionate rates of poverty among First Peoples, peoples of colour, single mothers, persons with (dis)abilities and racialized newcomers; and
 - Takes into account the intersectionality of marginalization of race (and ethnicity) with gender, age, disability, sexual and gender identity, religious or faith identity and immigration status.
- Adopt ethno-racial and other appropriate disaggregated approach to all poverty reduction interventions and success indicators and measurements;
- Amend the *Income Tax Act* to remove immigration status as an eligibility criteria for accessing Canada Child Benefits;
- Reform and Review Old Age Security (OAS)
 - Conduct a review of Service Canada's OAS suspension decisions to eliminate any bias based on race and immigration status of the applicants;
 - Impose a timeline on Service Canada to respond to requests for review of OAS suspension;
 - Grant interim OAS benefits to seniors while their suspension is under review and appeal; and

- Repeal residency requirements that disproportionately disqualify certain low-income racialized seniors from access to OAS.
- Review the refugee, immigration and citizenship program to identify and address areas of disproportionate inequities, including but not limited to the following priorities:
 - Forgive all transportation loans for sponsored refugees (government assisted – GARs, and privately sponsored - PSRs), and interest on said loans;
 - Reduce Citizenship fees;
 - Remove the Minimum Necessary Income for the sponsorship of parents and grandparents; and
 - Expand eligibility for immigrant settlement services, employment services, healthcare, housing and any economic, social and health services to include migrant workers and others with precarious immigration status (for example – EI contributions are deducted from migrant workers but they are not allowed to use the program or are prevented from using it due to systemic barriers).

Actions to address systemic racism in the criminal justice system and access to justice

The Federal Government should:

- Collect national data on ethno-racial discrimination in the criminal justice system, from bail hearings to sentencing to custody ratings;
- Create a robust complaints mechanism for in-corrections abuses, including access to courts and protection from reprisals;
- Implement independent oversight of the Royal Canadian Mounted Police (RCMP);
- Adopt anti-racial profiling legislation for the RCMP, Canada Border Services Agency (CBSA), and Canadian Security Intelligence Service (CSIS);
- Adhere to international law limitations on the use of solitary confinement;
- Implement all of the recommendations in *Segregation in Ontario: Independent Review of Ontario Corrections (2017)* by Howard Sapers, Independent Advisor with respect to solitary confinement;
- Significantly increase Federal Government funding for legal aid programs in all provinces and territories specifically to address systemic racism;
- Adopt a racial equity impact analysis tool to examine and evaluate all laws and policies at the federal level – including but not limited to criminal laws - to minimize, if not eliminate, adverse impact of such laws and policies on racialized group members;

- Revamp and sufficiently resource the Court Challenges Program to reaffirm the Program’s historic mandate to protect and advance substantive equality and access to justice for historically disadvantaged groups;
- Work with provinces and territories to develop their own Court Challenges Program or other similar test case program;
- Work with provinces and territories to develop a centrally accredited interpretation and translation program for all courts and administrative tribunals;
- Develop a National Access to Justice Strategy in tandem with the National Poverty Strategy based on social determinants of health that recognizes the particular vulnerability of marginalized groups on the basis of race, gender, disability, sexual identity, faith and religious identity and other human rights grounds, and on the basis of immigration status;
- Develop national legal aid benchmarks for all legal aid programs:
 - Require that the national benchmarks not be set at a standard lower than that exists in Ontario as of January 2019;
 - Include a policy statement in the national legal aid benchmarks which include the principles of equality and equity, accessibility and responsiveness to community needs, and the goals of combatting social exclusion, racism and other forms of discrimination, while contributing to an accessible, effective and democratic justice system that respects and promotes equal respect for all;
 - Require all legal aid programs to adopt racial equity impact analysis and gender analysis to examine all aspects of the programs’ policies, practices and services, and include specifically funded programs that are community based, and are representative of and accountable to the communities they serve;
 - Require all legal aid programs to allocate funds for interpretation and translation services; and
 - Require all legal aid programs to provide funding for a spectrum of services including community legal education, community development, law reform and other advocacy initiatives.

Actions to address racial discrimination in violence against women

The Federal Government should:

- Prohibit immigration sponsorship investigation of sponsored women for misrepresentation solely on the basis of marriage breakdown, or on the basis of a sponsor’s allegation. Such investigations disproportionately target racialized women immigrants; and

- Replace GBA+ with GRBA + (Gender and Race Based Analysis +) as a tool to address the needs of disadvantaged racialized women and girls, including women and transwomen sex trade workers.

Actions to address racial discrimination in national security

The Federal Government should:

- Collect and publish ethno-racially disaggregated data regarding counter-terrorism practices, including on visitations by security officials, composition of the no-fly list, and security clearance denials;
- Completely repeal the Passenger Protect Program (also known as the 'no fly list') [as recommended by International Civil Liberties Monitoring Group](#);
- Abolish the security certificate regime, and cease deportation proceedings under it.
- Repeal the *Anti-Terrorism Act, 2015*;
- Adhere to obligations under the *United Nations Convention Against Torture* to compensate the tortured and prosecute complicity in torture; and
- Revoke the torture memos, and implement the recommendations from *Final Report – Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin (2008)* by former Justice Frank Iacobucci and *Report of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar (2006)* presided by Justice Dennis O'Conner.

Actions to address systemic racism in child welfare

The Federal Government should:

- Expedite transfer of Indigenous child welfare systems to Indigenous Authorities through legislated process and with full funding support;
- Work with all provincial and territorial governments to systematically collect ethno-racially disaggregated data regarding child welfare apprehensions (including with respect to reasons for removal and involvement of police) and placements; and
- Work with all provincial and territorial governments to implement a plan for addressing systemic racism, including anti-Black racism in child welfare and to institute mandatory inquests for all child deaths in the child welfare system.

Actions to address health inequities

The Federal Government should:

- Require the Canadian Institute for Health Information (CIHI) to collect and analyze ethno-racially disaggregated data on health outcomes and experiences across the health care system, incorporate a racial equity impact analysis on all of its research projects and budget allocations, identify research gaps on health matters that disproportionately affect racialized populations and develop and implement a plan of remedial action;
- Substantially increase funding for research on health issues as they affect Indigenous communities and communities of colour;
- Require all health related research funded by the Federal Government to incorporate a racial equity impact lens and the collection of data disaggregated by race and related intersecting grounds to analyse the differential health priorities, outcomes and access to health care;
- Work with provincial and territorial governments to collect and analyze ethno-racially disaggregated data on health outcomes and experiences across the health care system;
- Require all provincial and territorial governments to remove waiting periods for health coverage for newcomers to enable equitable access to health care;
- Ensure all of the above recommendations apply equally to the area of mental health and
- Fully and expansively implement Jordan's Principle.

Actions to address inequities in accessing to basic necessities including housing and other social benefits

The Federal Government should:

- Adopt a strategy to regularly consult with community groups working with racialized communities and other marginalized communities;
- Adopt a "targeted universalism" approach to homelessness and poverty reduction-eradication that:
 - incorporates effective measures to address disproportionate rates of poverty and homelessness among First Peoples, peoples of colour, single mothers, persons with (dis)abilities and newcomers including people with precarious immigration status; and
 - takes into account the intersectionality of marginalization of race (and ethnicity) with gender, age, disability, sexual and gender identity, immigration status, etc.

- Adopt ethno-racial and other appropriate disaggregated approach to all homelessness prevention-reduction, housing interventions, and success indicators and measurement;
- Develop a National Housing Strategy to expand affordable housing nationally, and in the process deliver equitably accessible construction and labour market opportunities to Indigenous communities, communities of colour and other historically disadvantaged communities through an Employment Equity Policy and/or Community Benefits Agreement:
 - the strategy should revamp policies to accommodate extended, multi-generational and non-traditional family households in need of social housing; and
 - the strategy should include legislation which adopts a right-based approach to housing, and recognizes access to housing as a fundamental human right.
- Review access to existing and new interventions to ensure that residents with precarious immigration status can access shelters and affordable housing programs and services, as well as related supports that will enable them to secure and retain housing such as information and legal representation to access tenant rights and emergency housing funds; and

Actions to address inequities in access to education

The Federal Government should:

- Inject new funding in post-secondary education through federal grant and scholarship programs to enable fair and equitable access for racialized and other marginalized communities; and
- Expedite full transfer of educational matters from pre-school to post-secondary education to local Indigenous authorities.

Actions to address systemic racism in immigration legislation and policy including temporary immigration and the interdiction regime

The Federal Government should:

- Evaluate the impacts of all immigration policies on racialized communities, and adopt measures to mitigate ethno-racially-disparate effects, including eliminating long processing times, and increasing Canadian visa posts in countries with primary racialized populations particularly in Africa;
- Repeal criminal inadmissibility or at the very least provide the right to appeal from all removal orders arising from criminal inadmissibility determinations in a manner consistent with the *Canadian Charter of Rights and Freedoms*;

- Remove discriminatory barriers to family reunification by:
 - repealing the application cap and minimum income requirement for sponsorship of parents and grandparents;
 - repealing s.117(9)(d) of the Immigration and Refugee Protection Regulations, the excluded family member provision; and
 - ending the application of medical inadmissibility to family members, including de facto family members.
- Reform the refugee system by:
 - withdrawing from the *Safe Third Country Agreement* with the United States;
 - removing the Designated Countries of Origin scheme; and
 - implementing mechanisms for tracking and remedying racial discrimination in refugee hearings.
- Eliminate immigration detention, and in the interim adopt the measures below to reduce detention while moving to eventual and timely elimination:
 - impose a time limit on immigration detention;
 - make detention truly a last resort, and develop robust and meaningful community-based alternatives to detention;
 - end all solitary confinement in immigration detention;
 - cease holding immigration detainees in provincial jails;
 - to ensure compliance with the Best Interests of the Child, immediately end all detention of children, including in cases where only the parents are detained but children are in detention together with parents;
 - ensure that the Best interests of the Child is a primary consideration in all adult immigration detention decisions; and
 - collect and publish data disaggregated by ethno-racial background and country of origin with respect to all aspects of detention (including data regarding reasons for detention and length of detention) with the goal of demonstrating that racial profiling is not a factor.

Actions to address systemic racism in citizenship legislation and policy

The Federal Government should:

- Recognize all periods of physical residency regardless of immigration status of the applicant for the purpose of determining the applicant's eligibility; in the alternative, apply the 1 out of 2 year rule of residency requirements for the pre-permanent resident status to cover all periods of physical residency regardless of immigration status;
- Return to the pre-2011 language and knowledge test for citizenship; and
- Expand grounds for exemption from the language and knowledge requirements to include educational background of the applicants, health

factors, and such other factors (e.g. trauma that does not rise to the level of a medical diagnosis of PTSD) that make it difficult for individual applicants to meet the language and knowledge test but would not meet the grounds to qualify for a medical exemption.

Combat hate crimes

The Federal Government should:

- Monitor White Supremacist motivated hate speech, harassment and social and political violence, including in social media and traditional media;
- Explore ways to counter hate speech and racist populism, including through ongoing initiatives in public education, and promotion of anti-racism and equity;
- Amend the *Criminal Code* to take hate motivation into account more effectively and consistently;
- Mandate standards for identifying and recording all hate incidents and their dispensation in the justice system;
- Establish consistent minimum policing standards and require ongoing police training for dealing with and investigating reported hate crimes; and
- Mandate a federal civil authority to receive hate complaints and report of hate incidents, and provide legal support and other assistance or recourse to those targeted.

V. Support Communities' Initiatives

Any action plan on racism can only succeed if it has the support of all Canadians, especially those who are most affected by it.

To ensure long term success of the Anti-Racism Strategy, and to build a society free from racism, Indigenous communities and communities of colour must play a key role in developing actions, and must be given the resources to do so. To that end, the Federal Government must:

- Provide substantial and sustainable funding to community organizations led by Indigenous communities and communities of colour to engage in anti-racism and anti-oppression advocacy work;
- Significantly increase funding to community led research on racism and related intolerance;
- Ensure cultural investments are equitable and inclusive of the diversity of communities including ethno-racial diversity in primarily French or English

speaking communities, and that diverse racialized communities are adequately supported to develop cultural initiatives.

- Require all federally funded research programs, for instance, the Social Science and Humanity Research Council grants, to incorporate racial equity lens and racial impact analysis and to encourage the collection of data disaggregated by race and related issues; and
- Amend the *Income Tax Act* to recognize, as a charitable purpose, any community led activities (including any advocacy activities) to combat racism and other forms of oppression