December 14, 2022

Climate Racism in Canada

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Matter commented on: U.N. Human Rights Committee (UNHRC), Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 3624/2019 (22 September 2022) UN Doc CCPR/C/135/D/3624/2019

Legislation Commented On: "Bill C-226 - An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice," 1st Sess, 44th Parl, 2022

Policy Commented On: Canada's National Adaptation Strategy, Environment and Climate Change Canada, released for final comment on 24 November 2022

People around the world are facing a range of struggles related to political, civil, social, and economic justice. Increasingly, this includes the fight for environmental well-being and the need for solutions to address the increasing threat of climate change on their daily lives.

Climate change is declared in the preamble to the *1992 United Nations Framework Convention on Climate Change* (UNFCCC) and the *2015 Paris Agreement* to be a "common concern of humankind." This statement communicates the idea that the causes and adverse effects of climate change are global, and, in that sense, partly indiscriminate. At the same time, however, climate change does not affect everyone in the same way. Often the impacts of climate change are felt most acutely by those in our communities who are already most vulnerable. The justice dimensions of climate change were recently acknowledged in the Supreme Court of Canada's 2018 decision (*References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 (CanLII)) with respect to the *Greenhouse Gas Pollution Pricing Act*, SC 2018, c 12, s 186, where the Court recognized that climate change is "an existential challenge" and "a threat of the highest order to the country, and indeed to the world" (at para 167). More specifically, it has the potential to cause "irreversible harm [that] would be felt across the country and would be borne disproportionately by vulnerable communities and regions, with profound effects on Indigenous peoples, on the Canadian Arctic and on Canada's coastal regions" (at para 206).

One way of understanding the differential impacts of climate change is through the lens of racial oppression and racial justice. 'Environmental racism' is an aspect of environmental injustice, and refers to a form of systemic, institutional racism that results in the disproportionate impact of environmental threats on communities of colour and marginalized groups. Studies indicate that racialized groups and communities may be more exposed to environmental impacts, such as extreme heat, floods, storms, and sea level rise (see summaries, e.g., here and here). They also have the fewest resources to cope with such threats due to social, economic, political, and cultural

disparities, which are also product of racist and colonialist laws and policies. These groups often lack the political clout to fight against the institutions and corporations responsible for causing the environmental harm. They are often low-income and underrepresented in decision-making forums. This can result in slow rates of response to environmental threats from racialized groups and communities, and a lack of accountability for harms caused.

Our use of the term 'climate racism' in this blog post refers to a specific form of environmental racism linked to the threat of climate change in racialized groups and communities. The term could be used in the sense of environmental injustices and disparities between the Global North and Global South linked to the principles of intragenerational equity and 'Common But Differentiated Responsibilities and Respective Capabilities' (CBDR-RC). But here we mainly refer to systemic, institutionalized racism and colonialism within Canada that is resulting in the disproportionate impact of climate change on racialized groups, including Indigenous peoples in Canada.

This blog post was developed from a lecture given by Prof. Anna-Maria Hubert this Fall Term as part of the University of Calgary Faculty of Law's upper-year seminar course, Law 627: International Environmental Law. It represents a further research collaboration between professor and law students to raise awareness about the very real problem of climate racism in Canada, and to show the role of law, in particular Canada's international human rights obligations, in framing a better, more comprehensive response to these issues in our country.

We begin with an example of climate racism in Canada by highlighting the risks and damage faced by the Lennox Island Mi'Kmaq First Nation in P.E.I. The challenges faced by the Lennox Island Mi'Kmaq bear remarkable similarities to that of the Australian Torres Strait Islanders. On 13 May 2019, eight Australian nationals and six of their children (the 'authors'), all Indigenous inhabitants of four small, low-lying islands in Australia's Torres Strait region, filed a joint complaint to the U.N. Human Rights Commission (UNHRC). The Islanders claimed their rights had been violated by Australia failing to take adequate adaptation measures and to adequately reduce its greenhouse gas emissions. In a ground-breaking decision, released on 22 September 2022, the UNHRC found that Australia's failure to adequately protect Indigenous Torres Islanders against adverse impacts of climate change violated their rights to enjoy their culture under Article 27 of the *International Covenant on Civil and Political Rights* (ICCPR), and their right to be free from arbitrary interferences with their private life, family, and home under Article 17. This blog post will comment on this recent UNHRC decision and will analyze its implications for climate change policy in Canada going forward.

Climate Racism in Canada: The Existential Threat Faced by the Lennox Island Mi'Kmaq First Nation

Climate change is exacerbating the already vulnerable status of Indigenous peoples in Canada in a way faced uniquely by them. Threats faced include the increasing loss and degradation of land, food and water insecurities, and eroding sites and infrastructures that are of vital importance to Indigenous culture and religion, as well as to Indigenous health and safety. Consider the current plight of the Lennox Island Mi'Kmaq First Nation.

Lennox Island is a 540-hectare island located on the northwest coast of P.E.I. in the Malpeque Bay. It is reserve land, and home to the Lennox Island First Nation, who are a part of the greater

Mi'Kmaq First Nation. Lennox Island's economy is largely dependent on fisheries, including harvesting lobster, crab, and oysters, as well as tourism promoting local Indigenous art, culture, and history. The community has seen a recent surge in median annual income of $62,400 per person annually, a drastic change from the previous median income of $22,848, resulting in the Lennox Island moving from the fifth poorest community on P.E.I. to being just below average.

The growing vulnerabilities of the Lennox Island Mi'Kmaq to climate impacts can be traced back to structural policies of environmental racism that go back hundreds of years. The Mi'Kmaq have been using the lands and the waters of Malpeque Bay for over 10,000 years. Prior to contact, the Mi'Kmaq would migrate with changes in food supply and seasons, moving inland for the winter and camping on the shores in the summer. In the 18th century, the British took measures to deter Mi'Kmaq presence both on P.E.I. and the mainland. The Mi'Kmaq were forced to settle on Lennox Island as a result of the geographical detachment policies of British governance, forcing them to become sedentary and to abandon their migratory livelihoods. The Lennox Island Mi'Kmaq, like all Indigenous Peoples in Canada, have experienced disproportionately low physical and mental health outcomes linked to environmental conditions, such as undrinkable water, poor air quality, and lack of autonomy over their lands as a result of colonial occupation.

It is therefore deeply ironic that Lennox Island Mi'Kmaq First Nation may again be forced to leave their present lands, this time as a result of human-caused climate change. P.E.I. is composed largely of sand and sandstone, making it particularly vulnerable to climate impacts such as coastal erosion, coastal inundation, more severe storms and storm surges, and sea level rise. The changing patterns of sea ice are also resulting in less protection for its coastline in the winter. Lennox Island is eroding twice as fast as the mainland and is now losing about a hectare a year.

Climate change already poses an immediate and growing (possibly existential) threat to the communities of Lennox Island from continuing land erosion and sea level rise. Residences and commercial centres are primarily located along the coastline, which is only three meters above sea level, making this infrastructure particularly vulnerable to the intensifying effects of land erosion and rising sea levels. Residents are at risk of being displaced from their homes, and the Lennox Island's roads and sewage infrastructure are also threatened. The community has already taken some measures to reinforce the shoreline to protect the graveyard of Lennox Island's Catholic church. But there are also concerns that rising waters could damage the community's only bridge to P.E.I., or damage its sewage treatment facility, which is located near to the shore, resulting contamination of the community's water supply. Also at risk are important cultural and religious sites, including sacred lands, important medicinal plant sites and traditional hunting and fishing areas. Sacred ancestral burial grounds have already had to be relocated to protect them from erosion. As a result of its shrinking territory and rapidly growing population, the Lennox Island First Nation have purchased land on P.E.I. off of its original reserve.

UNHRC Decision on Climate Change Impacts on the Human Rights of the Torres Strait Islanders

In this landmark decision, the UNHRC held that Australia's failure to adequately protect Indigenous Torres Strait Islanders against adverse impacts of climate change constituted a breach of Australia's obligations under the ICCPR. After making several important findings with respect to the admissibility of the claim of the Torres Strait Islanders complainants (the authors) (which

are broadly useful for advancing climate change litigation efforts, but will not be covered here for reasons of space), the Committee turned to its consideration of the merits.

The Right to Life

With regard to a possible violation of the right to a life with dignity guaranteed by Article 6(1) of the ICCPR, the UNHRC noted that the obligation of state parties to respect and ensure the right to life was forward-looking, in that it extended to all real and reasonably foreseeable threats and life-threatening situations that can result in loss of life. In other words, a violation of the right can be found even if such threats and situations do not result in an actual loss of life (at para 8.3). Where there is a reasonably foreseeable threat, states parties have a due diligence obligation to take positive measures to protect the right to life (at para 8.3).

Accordingly, the Committee found that the adverse effects of climate change easily fell within the scope of the right, constituting one of "the most pressing and serious threats to the ability of present and future generations to enjoy the right to life" (at para 8.3). It further noted that that the subsistence livelihoods of many Indigenous groups may make them more vulnerable to climate change impacts, due to a lack of alternatives (at para 8.6). However, it found that many of the concerns raised did not reach the threshold amounting to breach of the obligation, stating:

> while the authors evoke feelings of insecurity engendered by a loss of predictability of seasonal weather patterns, seasonal timing, tides and availability of traditional and culturally important food sources, they have not indicated that they have faced or presently face adverse impacts to their own health or a real and reasonably foreseeable risk of being exposed to a situation of physical endangerment or extreme precarity that could threaten their right to life, including their right to a life with dignity (at para 8.6).

With regard to the authors' other claims regarding the uninhabitability of their islands within 10 to 15 years, the Committee held that, even though the submergence of their islands could amount to a violation of the right to life, there was still no violation in this case, because the relevant timeframe still allowed for Australia to take affirmative measures to protect, and, where necessary, relocate the Torres Strait Islanders. In this regard, the Committee also noted evidence that Australia was already taking adaptive measures, such as those under its Torres Strait Seawalls Program (2019-23), to upgrade coastal infrastructures to address ongoing coastal erosion and storm surge impacts (at para 8.7).

The Right to Private, Family, and Home Life

The authors also claimed a violation of their right to private, family, and home life pursuant to Article 17 of the ICCPR. They provided evidence that coastal erosion and flooding had already resulted in some of them having to abandon their homes. Here, the Committee noted that states parties had an obligation to prevent interference with the privacy, family, and home of individuals under their jurisdiction, including as a result of foreseeable and serious environmental damage, even from conduct not attributable to the state itself (at para 8.9).

The Torres Strait Islanders are dependant on fish, other marine resources, land crops, and fruit trees for their subsistence and livelihoods, as well as on the health of their surrounding ecosystems for their wellbeing. The Committee held that these were aspects of their traditional Indigenous

way of life, which were also covered by Article 17 of the ICCPR, and which required that states parties take positive measures to protect against interferences (at para 8.10).

Australia argued that it had taken numerous measures to address the adverse impacts caused by climate change and greenhouse gas emissions generated in its territory. However, Australia's response left many of the authors' specific allegations regarding the loss of their homes and livelihoods unanswered (at para 8.12). Particularly interesting for the questions posed in this post are those aspects of the decision which articulate how the right to private, family, and home life includes within its scope climate impacts which affect traditional Indigenous ways of life and culture:

> The Committee notes the authors' specific descriptions of the ways in which their lives have been adversely affected by flooding and inundation of their villages and ancestral burial lands; destruction or withering of their traditional gardens through salinification caused by flooding or seawater ingress; decline of nutritionally and culturally important marine species and associated coral bleaching and ocean acidification. The Committee also notes the authors 'allegations that they experience anxiety and distress owing to erosion that is approaching some homes in their communities, and that the upkeep and visiting of ancestral graveyards relates to the heart of their culture, which requires feeling communion with deceased relatives. The Committee further notes the authors 'statement that their most important cultural ceremonies are only meaningful if performed on native community lands. The Committee considers that when climate change impacts – including environmental degradation on traditional [indigenous] lands in communities where subsistence is highly dependent on available natural resources and where alternative means of subsistence and humanitarian aid are unavailable – have direct repercussions on the right to one's home, and the adverse consequences of those impacts are serious because of their intensity or duration and the physical or mental harm that they cause, then the degradation of the environment may adversely affect the well-being of individuals and constitute foreseeable and serious violations of private and family life and the home (at para 8.12).

Taking this information into account, the Committee found a violation of Article 17 of the ICCPR arising from an overall failure on the part of Australia to discharge its positive obligation to implement adequate adaptation measures to protect the authors' home, private life, and family.

The Right to Culture

The UNHRC began its decision on the alleged violation of the right to culture by noting that Article 27 of the ICCPR recognizes a right conferred on individuals belonging to Indigenous groups "which is distinct from, and additional to, the other rights which all persons are entitled to enjoy under the Covenant" (at para 8.13). The enjoyment of culture for Indigenous peoples may relate to a way of life that is closely connected with land, surrounding ocean, and the use of surrounding resources, including traditional activities as fishing or hunting. Article 27 is further interpreted in light of the *United Nations Declaration on the Rights of Indigenous Peoples*, which recognizes the right of Indigenous peoples to enjoy their traditional lands, territories, waters and coastal seas, and other resources used for their subsistence and cultural identity.

The authors argued that their right to culture had already been impaired by climate change impacts on their islands and coastal seas, by eroding traditional lands and natural resources that they use for traditional fishing and farming and for cultural ceremonies that can only be performed on the islands (at para 8.14). Because of the close nexus between traditional territory and culture, they further pointed out that they could not practice their culture on mainland Australia, where they would not have land that would allow them to maintain their traditional way of life, and these aspects of their claim were not refuted by Australia. The authors had raised the issues of climate impacts to their islands already in the 1990s. The Committee held therefore that the risks were reasonably foreseeable even then, and that the adaptation measures taken by Australia, including the seawall construction on the islands, which was significantly delayed, constituted an "inadequate response" to the impending climate threat (at para 8.14). Accordingly, the Committee held that Australia violated the authors' right to enjoy their minority Indigenous culture by failing to adopt timely adequate adaptation measures to protect their collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and sea resources.

Remedies

Having found a violation of Articles 17 and 27 of the ICCPR, Australia was under an obligation to provide the authors with an effective remedy in accordance with Article 2(3)(a) of the Covenant. This meant that Australia was required to provide full reparation to the Torres Strait Islanders whose rights had been violated, including:

> to provide adequate compensation, to the authors for the harm that they have suffered; engage in meaningful consultations with the authors 'communities in order to conduct needs assessments; continue its implementation of measures necessary to secure the communities 'continued safe existence on their respective islands; and monitor and review the effectiveness of the measures implemented and resolve any deficiencies as soon as practicable (at para 11).

Australia was also found to be under an obligation to prevent similar violations in the future, in accordance with the remedy of non-repetition under the general international law of state responsibility. As an extra layer of accountability, the Committee required that Australia report within 180 days, information about the measures taken to give effect to the decision (at para 12).

Implications of the UNHRC's Torres Strait Islanders Decision for Canada

Canada is party to the ICCPR, and, as such, is bound by all of the substantive articles analyzed in the UNHRC's Torres Strait Islanders decision. It is also party to the *Optional Protocol to the International Covenant on Civil and Political Rights*, which would allow the UNHRC to receive and consider complaints from individuals in Canada who allege that their human rights have been violated. The factual resemblances of this decision with the situation of the Lennox Island Mi'Kmaq First Nation may be a good indicator of what is expected of Canada under international human rights law in respect of the growing threat of climate threat to their livelihoods and continued existence there.

In our view, the full implementation of the UNHRC's Torres Strait Islanders decision would require that Canada institute the following measures:

- ***That Canada, in consultation and cooperation with Indigenous groups, establishes a needs assessment for evaluating climate impacts on Indigenous lands, coastal waters, and natural resources, as well as on homes, infrastructure, cultural and religious sites etc.***

In the Torres Strait Islanders decision, the UNHRC stated that the Indigenous minority right to culture under Article 27 of the ICCPR should be interpreted in the light of the UNDRIP, which, in several different articles, recognizes the inalienable right of Indigenous peoples to enjoy the territories and natural resources that they have traditionally used for their subsistence and cultural identity (at para 8.13). The UNDRIP is implemented in Canada through the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, (*UNDRIP Act*) which requires that the Minister, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement an action plan that, *inter alia*, will "address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination, including systemic racism and discrimination, against Indigenous peoples" (*UNDRIP Act*, at s 5(2)(a)(i)) and that it adopt "measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration" (*UNDRIP Act*, at s 5(2)(b)). This legislation may provide an additional basis for consultation and cooperation between the federal government and Indigenous peoples on climate change actions, including the assessment of impacts (but also on monitoring and reporting, as described below).

- ***That Canada, in consultation and cooperation with Indigenous groups, put in place an adequate system for fully compensating for harms suffered by victims of Indigenous groups as a result of climate change impacts***

It is unclear how much funding, if any, the members of the Lennox Island Mi'Kmaq First Nation have received from the federal and provincial governments to protect their homes and other important infrastructure and sites from increasing climate change impacts. There is some indication in the press that the Nation has taken measures on its own initiative.

We suggest that Canada ought to adopt a systematic approach to compensation for Canadian victims of loss and damage from climate change impacts, rather than simply providing *ad hoc* funding in specific cases. A quick word search of the federal government's recently released National Adaptation Strategy (final version available for comment) makes no mention of compensation in the document. However, at the international level, the provision of financing for adaptation measures is distinguished from that for loss and damage. In the most recent COP 27 in Sharm el-Sheikh, Egypt, states parties reached a breakthrough agreement for the establishment of a Loss and Damage Fund to provide financial assistance to nations most vulnerable and impacted by the effects of climate change. The question is whether a similar mechanism is warranted within Canada to provide compensation to victims of climate impacts including fires, heatwaves, floods, and so forth, which currently seems to be provided by the federal, provincial, and territorial governments, e.g., through various forms of *ad hoc* disaster relief.

- ***That Canada take measures to secure the safe existence of Indigenous groups on their respective lands***

In our view, measures for the safe existence of Indigenous groups ought to include both mitigation and adaptation measures. Here, it is worth noting that the distinction between mitigation and adaptation was not clearly drawn in main body of the Torres Strait Islanders decision. However,

in his individual opinion, Committee Member Gentian Zyber clarified that both mitigation and adaptation measures are required by states, not only under international climate law, but also to satisfy their international human rights obligations.

With respect to mitigation, Committee Member Zyber explains that states must exercise due diligence to ensure the protection of human rights:

> When it comes to mitigation measures, assessing the nationally determined contributions taken by States parties to the ICCPR under the 2015 Paris Agreement, when the State is party to both treaties, is an important starting point. States are under a positive obligation to take all appropriate measures to ensure the protection of human rights. In this context, the due diligence standard requires States to set their national climate mitigation targets at the level of their highest possible ambition and to pursue effective domestic mitigation measures with the aim of achieving those targets. When a State is found to not have fulfilled these commitments, such a finding should constitute grounds for satisfaction for the complainant(s), while the State concerned should be required to step up its efforts and prevent similar violations in the future (at para 3, emphasis added).

Committee Member Zyber also emphasized in his individual opinion that a higher standard of due diligence applies to states with significant total greenhouse gas emissions or very high per capita emissions (whether past or current emissions), given the greater burden that their emissions place on the global climate system. States with higher capacities to take high ambitious mitigation action are also subject to a higher standard. Canada clearly falls within all of these categories, and based on this interpretation, may be at risk of breaching its obligations under international human rights law.

In particular, Canada has recently adopted some mitigation measures, such as mandatory carbon pricing, which, though positive, are considered by many to be wholly insufficient for meeting the ambition of the Paris Agreement goals to hold global average temperature increase to well below 2°C above preindustrial levels (see, e.g., Country Summary Canada, Climate Action Tracker).

It is also worth pointing out here that in its consideration of issues of admissibility relating to the Torres Strait Islanders' petition, the Committee also rejected Australia's argument that it could not be held legally responsible because climate change is a global problem attributable to the actions of many States (at para 6.3), and, as such, it was not possible on its own to protect against the threat (at para 6.9). It held that despite the complex causal pathways for attributing climate change impacts, Australia could nevertheless be held responsible for its own acts and omissions. In particular, it noted that Australia was "in recent decades among the countries in which large amounts of greenhouse gas emissions have been produced" and that it "ranks high on world economic and human development indicators" (at para 7.8).

With regard to adaptation measures, as noted above, the federal government recently released a final version of its National Adaptation Strategy for comment, which seeks to provide a framework to organize federal adaptation actions going forward in accordance with provisions in the Paris Agreement which require that states parties prepare and implement national adaptation plans. The strategy acknowledges that "First Nations, the Métis Nation, and Inuit peoples each experience disproportionate impacts from climate change caused in part by historic and ongoing government practices and policies" including "cultural suppression, disruption of families, forced displacement

from traditional territories, lack of clean drinking water, infrastructure gaps, health inequities, lower socio-economic status, and degradation of their lands and territories" (National Adaptation Strategy at 10). Consistent with the UNHRC's Torres Strait Islanders decision, the strategy also recognizes that for Indigenous Peoples, "their close relationships to the natural environment mean that climate change impacts can have deep and serious impacts on their well-being, including through pressing concerns about food security" (at 10). The strategy is to be implemented on the basis of the principles that it "respect jurisdictions and uphold Indigenous rights" and that it "advance equity and environmental justice", including by rectifying "racial inequities" and "prioritizing those populations and communities at greater risk of climate change impacts, including due to historical and ongoing practices and policies that shape lived experiences, capacity, and access to resources" (at 17). The National Adaptation Strategy will also be informed by assessments on current and projected climate change risks, as well as local and Indigenous knowledge.

These high-level principles are all well and good. Canada tends to talk a big game on climate, but often falls well short on implementation and is slow to act. At least two points are worth emphasizing here: First, there is evidence to suggest that Canada, like Australia, may be at risk of being in violation of its due diligence obligations under Articles 17 and 27 of the ICCPR by failing to take adequate adaptation measures to protect homes, critical infrastructure, and important cultural sites on Lennox Island. (Previously, the UNHRC has found Canada in violation of its obligations to Indigenous people under the ICCPR, (see, e.g., *McIvor and Grismer v Canada*, Communication No. 2020/2010, U.N. Doc. CCPR/C/124/D/2020/2010 (November 1, 2018); *Ominayak and the Lubicon Lake Band v Canada*, Communication No. 167/1984, U.N. Doc. CCPR/C/38/D/167/1984 (March 26, 1990); *Lovelace v Canada*, Communication No. 024/1977, U.N. Doc. CCPR/C/13/D/24/1977 (July 30, 1981)) Second, there needs to be a mechanism which links-up climate risk assessments and information with efforts to eliminate racism, racial discrimination and colonialism in an environmental context. Canada's National Adaptation Strategy includes a Monitoring and Evaluation (M&E) component as part of the adaptation process, which includes a plan to disaggregate adaptation indicators by equity factors to highlight gaps and contribute to informed decisions. In addition, the framework will seek to find opportunities to highlight Indigenous climate leadership and knowledge systems, while recognizing Indigenous data sovereignty (National Adaptation Strategy at 50). Additional, more comprehensive actions would be for the Liberal government to support Private Member's "*Bill C-226 - An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice*." The bill, if passed, would require the federal environment minister to develop a strategy on environmental racism and environmental justice.

- ***That Canada put in place a system to monitor and review the effectiveness of the measures implemented and resolve any deficiencies as soon as practicable***

For mitigation, at the federal level, various mechanisms are in place for monitoring and review of progress. For example, the *Canadian Net-Zero Emissions Accountability Act*, SC 2021, c 22, seeks to hold the Government of Canada to account on its national emissions reductions targets by requiring the Minister of Environment and Climate Change to report to Parliament with respect to each target. If a target is missed, the Minister must include in its assessment report for that target the reasons why the government failed to meet the target and describe the actions it will take to

address the failure. On the adaptation side, as mentioned above, Canada's National Adaptation Strategy includes a monitoring and evaluation framework, which also considers equity factors as a part of its indicator analysis.

However, these actions are those taken at the federal level, and climate change mitigation and adaptation measures fall within the ambit of provincial jurisdiction as well. For example, P.E.I. has its own *Climate Adaptation Plan* which was developed through consultation with the Mi'kmaq Peoples. Its Action 10: Adaptation Plans for At-Risk Historical, Cultural and Archaeological Assets states:

> Erosion and coastal flooding have and will continue to put historical and cultural landscapes, areas and infrastructure at risk. The loss of sites significantly impacts our mental health, cultural ties, and sense of place. Additionally, erosion and other impacts will increase the uncovering of archaeological matter. It is crucial to partner with Indigenous communities and cultural groups throughout this work.
>
> The Province will:
>
> - Identify and evaluate at-risk historical, cultural and archaeological assets and collaboratively develop plans for adaptation with affected communities, including Indigenous, Acadian, and other ethnocultural groups;
> - Design appropriate solutions to preserve, wherever possible, historical and cultural artefacts significant to the history of the Island; and
> - Work with Indigenous communities to allow for a comprehensive approach to and analysis of archaeological artefacts, sites, and regions.

Conclusion

Canada is warming at twice the rate of the global average. The adverse impacts of climate change are already evident in many parts of the country and are projected to intensify. Our rapidly warming climate represents a growing threat to the advancement of human rights, especially for Indigenous peoples across Canada due to their unique vulnerabilities and as a result of longstanding and systemic discrimination and colonization (see, e.g., Canada country chapter, 2021 Human Rights Watch World Report).

The UNHRC's recent Torres Strait Islanders decision sets out some basic guideposts for how the federal, provincial, and territorial governments, cooperatively and in meaningful partnership and collaboration with Indigenous groups, could begin to get a better handle on problem of climate change and the threat that it poses to Indigenous peoples' fundamental human rights. On the other hand, with the Supreme Court of Canada about the hear the Appeal of the *Reference Re. the Impact Assessment Act*, and with the governments of both Alberta and Saskatchewan seemingly intent on asserting essentially unilateral authority with respect to resource development, it might be predicted that federalism and division of powers conflicts will continue to complicate and impede the performance of Canada's international human rights obligations in this respect.

This post may be cited as: Anna-Maria Hubert and the students of Law 627: International Environmental Law, "Climate Racism in Canada" (December 14, 2022), online: ABlawg, http://ablawg.ca/wp-content/uploads/2022/12/Blog_AMH_Climate_Racism.pdf

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