

Oral Statement for the NGO Formal Briefing on Canada

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Thank you, Chair.

I speak on behalf of the Social Rights Advocacy Centre and ESCR-Net regarding Canada's follow-up to the Committee's Views in *Toussaint v. Canada*, referenced in paragraph 1 of the List of Issues. In this historic case, the Committee found that the denial of access to essential health care because of her irregular immigration status violated Nell Toussaint's right to life and non-discrimination and that Canada must take measures to ensure access to essential health care for irregular migrants where life is at risk.

In its reply, Canada informed the Committee that it does not agree with the Committee's interpretation of the right to life as requiring access to publicly funded health care, or that immigration status is a prohibited ground of discrimination, and that it would therefore not implement further measures.

We first acknowledge the individual behind this precedent-setting case. Even after suffering a devastating stroke, blindness, and the amputation of a leg, Nell Toussaint continued to advocate for the implementation of the Views. She died in 2023, but her mother, supported by many human rights organizations, is continuing Nell's campaign, including through a precedent-setting legal case.

The *Toussaint* case raises four important issues for the Committee to clarify:

First, that it is incompatible with good-faith performance of treaty obligations to refuse to implement the Committee's Views simply because Canada disagrees with the Committee's interpretation and without meaningful stakeholder engagement or a transparent process.

Second, that although Views are considered non-binding, victims must have access to domestic courts to seek effective remedies under domestic law interpreted in light of the Views.

Third, that immigration status must be recognized as a prohibited ground of discrimination subject to effective remedies.

And fourth, that Canada should revise its interpretation of the right to life in accordance with paragraph 26 of General Comment No. 36.

Thank you.