UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: *3rd Cycle, 30th Session*

CANADA

I. BACKGROUND INFORMATION

Canada acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), in 1969. It maintains reservations to articles 23 and 24 of the *1951 Convention* by interpreting "lawfully staying" as referring only to refugees admitted for permanent residence. Canada has ratified most major international human rights instruments – with the exception of *1954 Convention relating to the Status of Stateless Persons* inter alia – although not all have been fully incorporated into domestic law.

In 2012, Canada underwent a major refugee reform. Positive changes for asylum-seekers included shortening processing timelines, a new system of first instance independent decision-makers that has resulted in higher recognition rates and the implementation of a Refugee Appeal Division (RAD) at the Immigration and Refugee Board (IRB). However, this reform led to new strains on the asylum system as it had to comply with shorter timelines and inadequate funding to recruit sufficient decision-makers. In its first year after reform, asylum claims dropped dramatically – to less than half of the claims received in 2011. However, since 2014, asylum claims have steadily been increasing and in 2016, there was an increase of almost 70 per cent compared to 2015. In 2016, the total number of asylum claims received by the IRB was 23,619 of which 16, 449 were processed. In the first four months of 2017, claims have seen a spike of over 56 per cent compared to 2016.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 146: "Revise the legal provisions on mandatory detention of migrants and asylum seekers included in the category of irregular entries, in accordance with the recommendation of the Committee on the Elimination of Racial Discrimination (Committee on CERD) (Mexico)"; **and no. 148:** "Take the necessary measures to prevent cruel and discriminatory treatment against asylum seekers, migrants and refugees, especially if these are minors, and ensure compliance with the principle of non-refoulement of the Convention relating to the Status of Refugees (Ecuador)".

While some issues in the detention regime still require review, such as the commingling of asylum-seekers with criminal detainees in provincial jails and the absence of a comprehensive framework for alternatives to detention (ATD) , the Canada Border Services Agency (CBSA),

whose mandate is to ensure border and immigration enforcement, has recently made solid progress in its stated objective of creating a better and fairer immigration detention system policy. The CBSA drafted a National Immigration Detention Framework which includes a tool called National Risk Assessment for Detention (NRAD) identifying different levels of individual risk affecting the location of detention and allowing for referral to either detention or ATDs, the *National Directive on the Detention and Housing of Minors*, and a mental health assessment tool as part of its medical assessment form for screening at registration. The drafting of these tools benefitted from inputs from civil society organizations and UNHCR.

CBSA has also significantly reduced the detention of children in recent years (232 in the 2014-2015 fiscal year, 201 in the 2015-2016 fiscal year and 162 in the 2016-2017 fiscal year) and is resorting more frequently to ATD. This is a positive trend that it is likely to continue as the implementation of the abovementioned policies continue in 2018 and beyond.

In May 2017, CBSA shared its draft *National Directive on the Detention and Housing of Minors* and a set of factors to be considered by officers when assessing the Best Interests of the Child (BIOC) for consultation with non-governmental organizations, academia and UNHCR. Following the feedback from these consultations, CBSA is conducting internal consultations with its officers before finalizing the policy.

Canada is one of several focus countries implementing UNHCR's Global Strategy - Beyond Detention 2014-2019 and has consistently engaged with UNHCR in constructive dialogue to ensure that detention in the immigration remains a measure of last resort.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Detention of asylum-seekers

Linked to 2nd cycle UPR recommendation no. 146: *"*Revise the legal provisions on mandatory detention of migrants and asylum seekers included in the category of irregular entries, in accordance with the recommendation of the Committee on the Elimination of Racial Discrimination (Committee on CERD) (Mexico)".

Canada's practice with respect to the use of detention in the immigration context continues to be of concern despite recent progress (see positive developments). In August 2016, the Minister of Public Safety and Emergency Preparedness announced an investment of CAD $138 million for several immigration-related detention reforms, including an increase in the availability of ATD, reducing the use of provincial jails for immigration detention to prevent the commingling of immigration and criminal detainees, avoiding the detention of minors, improving physical and mental health services for detainees, maintaining access to facilities for key stakeholders and increasing transparency.

Despite CBSA's commitments to transform its detention regime, several protection gaps remain. First, there is no provision in the law that limits the length of detention, so individuals may be detained for lengthy periods of time, including for administrative reasons, such as inability to remove them from Canada for lack of travel documents. Second, while the law provides that children should only be detained as a measure of last resort, taking into account their best interests, there is at this time no assessment procedure in place. Third, there is no uniform or

consistent national practice for the use of ATDs and there is a limited number of alternative options available.

It is noted, however, that through the announced comprehensive review of the national immigration detention framework, these issues would be further addressed in 2018 and beyond.

Of particular concern is the fact that children, both unaccompanied and with their families, continue to be held in detention either on the basis of their own detention order (for identity purposes or because of a flight risk) or the detention order of a family member. The absence of a best interests assessment/determination procedure for minors and the limited role of child guardians in the asylum process (the current role of the Designated Representative is limited to providing support at detention reviews and asylum hearings before the IRB) are also key concerns to UNHCR. As noted above, CBSA is working on a *National Directive on the Detention and Housing of Minors* which seeks to address some of these concerns.

Recommendations:
UNHCR recommends that the Government of Canada:

(a) Adhere to the principle that detention of asylum-seekers and refugees should be used only as a measure of last resort, after a thorough consideration of possible alternatives, and it should be maintained for as short a period as possible and promptly and regularly reviewed as to its necessity and proportionality in each individual case;
(b) Progressively end the detention of asylum-seeking and refugee children, establishing and implementing ATDs which fully consider their best interests;
(c) Apply an ethic of care, not enforcement, in decisions regarding asylum-seeking and migrant children, including those with families;
(d) Develop and apply a best interests of the child assessment prior to any decision to detain, and subsequently on an ongoing basis to ensure appropriate protection of the child's rights;
(e) Apply the best interests of the child principle in all asylum procedures by developing a procedure ensuring a child guardian is present throughout all steps of the asylum process for unaccompanied and separated children; and,
(f) Implement a national framework for ATD which allows for the consistent and coordinated release of minors and their families.

Issue 2: <u>Accession to the *1954 Convention*</u>

Linked to 2nd cycle UPR recommendation no. 10: *"*<u>Ratify the *Convention relating to the Status of Stateless Persons (Ecuador)".*</u>

As noted above, Canada has not acceded to the *1954 Convention relating to the Status of Stateless Persons*. Furthermore, there is no specific mechanism to determine and address statelessness in Canada because the Government is of the opinion that the refugee determination system, or an application for permanent residence based on humanitarian and compassionate (H&C) considerations, adequately responds to the situation of stateless persons. However, the H&C process does not contain statelessness among the criteria upon which legal status can be granted and, therefore, the majority of H&C claims submitted by stateless persons are rejected. Without a legal status in Canada, stateless persons have limited access to education, employment and social benefits. For example, stateless children who are in Canada without a status may not have access to free elementary education because they do not meet provincial residency requirements. Moreover, stateless persons who cannot be removed due to the absence of travel documents remain in a legal limbo for several years

without proper access to employment, free education, health services, or social assistance. In some cases, they are subject to indefinite detention pending their removal from Canada. It should also be noted that, it is not currently possible to understand the extent of the statelessness situation in Canada because there is no accurate mechanism to track or identify stateless individuals.

While some positive amendments to the Citizenship Act were introduced in 2016 under Bill C-6, *an Act to amend the Citizenship Act and to make consequential amendments to another Act*, mainly that statelessness was added as a stand-alone ground that can be considered for a discretionary grant of citizenship, the Bill still does not address the lack of a statelessness definition or statelessness determination procedure.

Recommendations:
UNHCR recommends that the Government of Canada:

(a) Accede to the *1954 Convention relating to the Status of Stateless Persons* in order to recognize and safeguard all the rights of stateless persons;
(b) Establish a statelessness determination procedure and a protected "stateless person status" which would enable stateless persons to work, study, access healthcare and social assistance, acquire travel documents, and apply for permanent residence, and would reduce their risk of indefinite detention and removal; and,
(c) Facilitate the naturalization procedure for stateless persons in order to speed up the attainment of citizenship for stateless persons.

Issue 3: RSD backlog and processing times at the Immigration and Refugee Board

Linked to 2nd cycle UPR recommendation no. 147: "Ensure the protection of refugees, migrants and members of their families in full compliance with international standards (Belarus)"; **and no. 148:** "Take the necessary measures to prevent cruel and discriminatory treatment against asylum seekers, migrants and refugees, especially if these are minors, and ensure compliance with the principle of non-refoulement of the Convention relating to the Status of Refugees (Ecuador)"

As of December 2016, Canada currently has a backlog of 18,300 refugee claim cases, accumulated since new asylum procedures were put in place in 2012, plus an additional 5,631 cases pre-dating the 2012 refugee reform. The IRB indicates they have resources to process 17,000 cases a year only, which could signify an 11-year wait for a hearing. Moreover, designated country of origin (DCO)[1] asylum-seekers have shorter timeframes to make their refugee claims (30-45 days depending on mode of arrival) in comparison to those who are from non-DCO countries (60 days), giving them less time to prepare for their refugee claim hearing. This regime has also contributed to this backlog as short timelines make it more difficult for asylum-seekers to gather all the information for the refugee hearing and lead to many postponements resulting in delayed hearings.

The IRB is currently putting in place several initiatives to reduce its backlog, such as a short hearing process for asylum-seekers from countries with an over 80 per cent approval rate, and an expedited process that will allow cases to be decided without a hearing for nationals from Afghanistan, Burundi, Egypt, Eritrea, Iraq, Syria and Yemen if certain requirements are met. The IRB is hoping that these measures will prevent an increase of its backlog. However, no extra

[1] Government of Canada, *Designated countries of origin*, modified 2017-04-03, available at: http://www.cic.gc.ca/english/refugees/reform-safe.asp

funding was provided to the IRB to increase its staff in order to handle the increasing numbers of claims and current backlog in 2017. Efforts to triage cases, increase paper-based decisions, conduct case conferences/initial interviews to reduce hearing times, and providing adequate funding to the IRB to match resources with the numbers of claims to be processed, are some of the measures the Government should be encouraged to consider if it hopes to clear the current backlog and prevent further delays in it asylum procedures.

On 9 June 2017, the Canadian Government announced a review by an independent third party expert of the asylum process and of the IRB's procedures. UNHCR wishes to stress the importance of maintaining the independence of the Refugee Protection Division (first instance decision making level of the IRB) that guarantees procedural fairness, as well as high quality standards in decision-making in any potential reform of the system.

Recommendations:

UNHCR recommends that the Government of Canada:

(a) Reinforce strategies to reduce the Immigration and Refugee Board's current backlog and prevent additional delays in asylum procedures; and,
(b) Eliminate the DCO regime to ensure that all asylum-seekers have equal access to the same asylum procedure.

UNHCR
October 2017

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

CANADA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Canada.

I. Universal Periodic Review (Second Cycle – 2013)

Recommendation[2]	Recommending State/s	Position[3]
Accession to international instruments		
128.10. Ratify the Convention relating to the Status of Stateless Persons	Ecuador	Noted[4]
128.12. Consider the ratification of ILO Convention No. 169 (Ecuador, Nicaragua, Paraguay);	Ecuador, Nicaragua, Paraguay	Noted[5]
Refugees and asylum-seekers		
128.147. Ensure the protection of refugees, migrants and members of their families in full compliance with international standards	Belarus	Supported
128.148. Take the necessary measures to prevent cruel and discriminatory treatment against asylum seekers, migrants and refugees, especially if these are minors, and ensure compliance with the principle of non-refoulement of the Convention relating to the Status of Refugees	Ecuador	Supported[6]
Trafficking in persons		
128.107. Continue effectively implementing its action plan to combat human trafficking and further promote gender equality in the country with an increase in funding for the protection and promotion of women's rights	Cambodia	Supported[7]
128.108. Continue placing special emphasis on the victim-oriented approach to address the challenges of human trafficking in the country	Thailand	Supported
128.109. Intensify efforts made so far to identify and eradicate trafficking in children and women for the sex trade	Holy See	Supported
128.110. Establish mechanisms and procedures for the protection of rights of child victims of human trafficking	Uzbekistan	Supported
128.111. Develop mechanisms and procedures to better protect the rights of children victims of trafficking, and provide training for police and	Republic of	Supported

[2] All recommendations made to Canada during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Canada" (28 June 2013), A/HRC/24/11, available at: http://www.ohchr.org/EN/HRBodies/UPR/Pages/CAIndex.aspx.

[3] Canada's views and replies can be found in: *Addendum* (17 September 2013), A/HRC/24/11/Add.1, available at: http://www.ohchr.org/EN/HRBodies/UPR/Pages/CAIndex.aspx.

[4] ***Addendum*: "**Ratification of these instruments is not currently under consideration. Canada is a party to seven of the core international human rights treaties and efforts are focused on the implementation of these treaties."

[5] Id.

[6] ***Addendum*: "**Canada has an aggregate of legislation, policies and strategies in place across the country to combat racism, but does not accept the recommendation to adopt a national strategy."

[7] ***Addendum*: "**Canada accepts in principle the second part of recommendations 107. Canada is committed to continuing to support policies and programs that advance the equality of the sexes under the law and promote women's and girl's rights."

prosecutors in this regard	Moldova	
Racial violence		
128.17. Incorporate in its legislation a specific offence criminalizing and punishing acts of racist violence	Burundi	Noted
128.18. Introduce legislations to criminalize acts of violence on the basis of race and religion	Pakistan	Noted
128.19. Adopt a legislation concerning xenophobia, incitement to hatred and hatred to blacks, and to criminalize racial violence	Sudan	Supported[8]
128.20. Define racial violence as an offence	Togo	Noted
128.48. Intensify ongoing efforts in the fight against racism, particularly against racial violence	Djibouti	Support
128.49. Continue to eliminate racial discrimination, and put racial violence as criminal offence, with a view to protecting all the rights of minorities including newly arrived immigrants and better integrating into the society	China	Noted
Sexual and gender-based violence		
128.81. Continue its laudable efforts to fight all forms of violence against women and girls	Botswana	Support[9]
128.82. Continue fighting violence against women and girls so as to incite the majority of states to follow suit	Côte d'Ivoire	Support
128.83. Continue its efforts to prevent and punish all forms of violence against women and girls, particularly indigenous women and girls	Peru	Support
128.84. Take all appropriate measures to address violence against indigenous women	Sweden	Support
128.85. Take effective measures to combat violence against Aboriginal girls and women	Cape Verde	Support
128.86. Put an end to all forms of violence against Aboriginal women and girls	Honduras	Support
128.88. Expand services and support to prevent violence and discrimination against Aboriginal women and girls	United States of America	Support
128.92. Strengthen measures to eradicate violence against women and children, especially those belonging to indigenous peoples and diverse ethnic groups	Ecuador	Support
128.106. Continue to effectively address domestic violence, ensuring to victims operational access to means of protection and reinforcing prosecution of perpetrators	Cyprus	Support

[8] ***Addendum*: "**Canada will continue to work to ensure that systematic racism does not become a problem in Canada, but does not accept the recommendations to adopt new federal laws to implement the *International Convention on the Elimination of All Forms of Racial Discrimination*. Anti-discrimination protection already exist across the country."

[9] ***Addendum*: "**Canada accepts recommendations: 57, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 102, 103 and 106. With respect to 86, 95 and 102, Canada has numerous measures in place that support the objective of putting an end to all forms of violence against Aboriginal women and girls.

Measures to prevent and reduce violence against all women and children, and to hold perpetrators accountable, include the *Criminal Code,* PT civil family violence prevention legislation, and the *Family Homes on Reserve and Matrimonial Interests or Rights Act*. Non-legislative measures include the Government of Canada's seven-point strategy to improve law enforcement and justice system responses to missing and murdered Aboriginal women and girls and to make communities safer. In addition, Canada will continue to support Aboriginal peoples and Northerners, to enhance the safety of women in Aboriginal communities and in their efforts to improve social well-being and economic prosperity.

Further, several FPT committees and working groups are addressing violence against Aboriginal women and girls. FPT governments, including through the FPT Forum of Ministers Responsible for the Status of Women, also share information and work collaboratively on initiatives related to women's equality."

II. Treaty Bodies

Committee on the Elimination of Racial Discrimination

Concluding Observations, (4 April 2012), CERD/C/CAN/CO/19-20

14. While noting that the State party has enacted a Corporate Responsibility Strategy, the Committee is concerned that the State party has not yet adopted measures with regard to transnational corporations registered in Canada whose activities negatively impact the rights of indigenous peoples outside Canada, in particular in mining activities (art. 5).

The Committee recommends that the State party take appropriate legislative measures to prevent transnational corporations registered in Canada from carrying out activities that negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada, and hold them accountable.

15. The Committee is concerned that Bill C-11, The Balanced Refugee Act, which received Royal Assent in 2010, and which proposes to establish a list of "safe countries" and to expedite asylum requests introduced by persons from "safe countries", may not be in full compliance with the Convention, in not providing all required legal procedural guarantees as well as the protection of the non-refoulement principle. The Committee is also concerned that under Bill C-4, any migrant and asylum-seeker designated as an "irregular arrival" would be subject to mandatory detention for a minimum of one year or until the asylum-seeker's status is established (arts. 1 and 5).

The Committee recommends that the State party take appropriate measures to ensure that procedural safeguards will be guaranteed when addressing asylum requests of persons considered coming from "safe countries", without any discrimination based on their national origin. The Committee also recommends that the State party review Bill C-4 in order to repeal the provision on the mandatory detention.

23. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Convention 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries and the 1954 Convention relating to the Status of Stateless Persons.

Committee against Torture

Concluding Observations, (25 June 2012), CAT/C/CAN/CO/6

Non-refoulement

9. The Committee notes the State party's information that the law allowing deportation despite a risk of torture is merely theoretical. However, the fact remains that it is the law in force at present. Therefore, the Committee remains seriously concerned that (art. 3):

(a) Canadian law, including subsection 115(2) of the Immigration and Refugee Protection Act, continues to provide legislative exceptions to the principle of non-refoulement;

(b) The State party continues to engage in deportation, extradition or other removals, in practice, often using security certificates under the **Immigration** and **Refugee Protection Act** and occasionally resorting to diplomatic assurances, which could result in violations of the principle of non-refoulement; and

(c) Insufficient information is provided in relation to investigations into all allegations of violation of article 3 of the Convention, remedies provided to victims and measures taken to guarantee effective post-return monitoring arrangements.

Recalling its previous recommendation (CAT/C/CR/34/CAN, paras. 5 (a) and (b)), the Committee urges the State party to amend relevant laws, including the Immigration and Refugee Protection Act, with a view to unconditionally respecting the absolute principle of non-refoulement in accordance with article 3 of the Convention, and take all necessary measures to fully implement it in practice in all circumstances. Furthermore, the State party should refrain from the use of diplomatic assurances as a means of returning a person to another country where there are substantial grounds for believing that he would be in danger of being subjected to torture.

10. The Committee regrets the State party's failure to comply in every instance with the Committee's decisions under article 22 of the Convention and requests for interim measures of protection, particularly in cases involving deportation and extradition (with reference to communications Nos. 258/2004, *Dadar* v. *Canada*, and 297/2006, *Sogi* v. *Canada*), might undermine its commitment to the Convention. The Committee recalls that the State party, by ratifying the Convention and voluntarily accepting the Committee's competence under article 22, undertook to cooperate with the Committee in good faith in applying and giving full effect to the procedure of individual complaints established thereunder. Consequently, the Committee considers that, by deporting complainants despite the Committee's decisions or requests for interim measures, the State party has committed a breach of its obligations under articles 3 and 22 of the Convention (arts. 3 and 22).

The State party should fully cooperate with the Committee, in particular by respecting in every instance its decisions and requests for interim measures. The Committee recommends the State party review its policy in this respect, by considering requests for interim measures in good faith and in accordance with its obligations under articles 3 and 22 of the Convention.

11. While noting the State party's statement that the Canadian Forces assessed the risk of torture or ill-treatment before transferring a detainee into Afghan custody (CAT/C/CAN/Q/6/Add.1, para. 155), the Committee is concerned about several reports that some prisoners transferred by Canadian Forces in Afghanistan into the custody of other countries have experienced torture and ill-treatment (art. 3).

The State party should adopt a policy for future military operations that clearly prohibits the prisoner transfers to another country when there are substantial grounds for believing that he or she would be in danger of being subjected to torture and recognizes that diplomatic assurances and monitoring arrangements will not be relied upon to justify transfers when such substantial risk of torture exists.

Security certificates under the Immigration and Refugee Protection Act

12. While taking note of the system of special advocates introduced by the amended Immigration and Refugee Protection Act in response to concerns raised by different actors and the judgement by the Supreme Court in the case of *Charkaoui* v. *Canada***,** the Committee remains concerned that (arts. 2, 3, 15 and 16):

(a) Special advocates have very limited ability to conduct cross-examinations or to seek evidence independently;

(b) Individuals subject to security certificates have access to a summary of confidential materials concerning them and cannot directly discuss full content with the special advocates. Accordingly, the advocates cannot properly know the case against them or make full answer or defence in violation of the fundamental principles of justice and due process;

(c) The length of this detention without charge is indeterminate and some individuals are detained for prolonged periods; and
(d) Information obtained by torture has been reportedly used to form the basis of security certificates, as evidenced by the case of Hassan Almrei.

The Committee recommends that the State party reconsider its policy of using administrative detention and immigration legislation to detain and remove non-citizens on the ground of national security, inter alia, by extensively reviewing the use of the security certificates and ensuring the prohibition of the use of information obtained by torture, in line with relevant domestic and international law. In that regard, the State party should implement the outstanding recommendations made by the Working Group on Arbitrary Detention following its mission to Canada in 2005, in particular that detention of terrorism suspects be imposed in the framework of criminal procedure and in accordance with the corresponding safeguards enshrined in the relevant international law (E/CN.4/2006/7/Add.2, para. 92).

Immigration detention
13. While noting the State party's need for a legal reform to combat human smuggling, the Committee is deeply concerned about Bill C-31 (the Protecting Canada's Immigration System Act), given that, with its excessive Ministerial discretion, this Act would (arts. 2, 3, 11 and 16):
(a) Introduce mandatory detention for individuals who enter irregularly the State party's territory; and
(b) Exclude "irregular arrivals" and individuals who are nationals of designated "safe" countries from having an appeal hearing of a rejected refugee claim. This increases the risk that those individuals will be subject to refoulement.

The Committee recommends the State party to modify Bill C-31, in particular its provisions regulating mandatory detention and denial of appeal rights, given the potential violation of rights protected by the Convention. Furthermore, the State party should ensure that:
(a) **Detention is used as a measure of last resort, a reasonable time limit for detention is set, and non-custodial measures and alternatives to detention are made available to persons in immigration detention; and**
(b) **All refugee claimants are provided with access to a full appeal hearing before the Refugee Appeal Division.**

Committee on the Rights of the Child

Concluding Observations, (6 December 2012), CRC/C/CAN/CO/3-4

Best interests of the child
34. The Committee is concerned that the principle of the best interests of the child is not widely known, appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings and in policies, programmes and projects relevant to and with an impact on children. In particular, the Committee is concerned that the best interest of the child is not appropriately applied in asylum-seeking, refugee and/or immigration detention situations.

35. **The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide**

guidance for determining the best interests of the child in every area, and to disseminate them to the public or private social welfare institutions, courts of law, administrative authorities and legislative bodies. The legal reasoning of all judicial and administrative judgements and decisions should also be based on this principle, specifying the criteria used in the individual assessment of the best interests of the child.

Birth registration

38. While the Committee notes as positive that birth registration is almost universal in the State party, it is seriously concerned that some children have been deprived of their identity due to the illegal removal of the father's name on original birth certificates by governmental authorities, especially in cases of unwed parents.

39. **The Committee recommends that the State party review legislation and practices in the provinces and territories where birth registrations have been illegally altered or the names of parents have been removed. The Committee urges the State party to ensure that the names on such birth certificates are restored and change legislation if necessary to achieve this.**

Nationality and citizenship

40. While welcoming the positive aspects of the April 2009 amendment to the Citizenship Act, the Committee is nevertheless concerned about some provisions of the amendment which place significant limitations on acquiring Canadian citizenship for children born to Canadian parents abroad. The Committee is concerned that such restrictions, can in some circumstances, lead to statelessness. Furthermore, the Committee is concerned that children born abroad to government officials or military personnel are exempted from such limitations on acquiring Canadian citizenship.

41. **The Committee recommends that the State party review the provisions of the amendment to the Citizenship Act that are not in line with the Convention with a view to removing restrictions on acquiring Canadian citizenship for children born abroad to Canadian parents. The Committee also urges the State party to consider ratifying the 1954 Convention relating to the Status of Stateless Persons.**

Sexual exploitation and abuse

48. The Committee notes with appreciation the launching of the National Strategy for the Protection of Children from Sexual Exploitation on the Internet in 2004 and the significant amount of resources allocated to the implementation of this programme by the State party. The Committee further notes as positive that the State party has demonstrated considerable political will to coordinate law enforcement agencies to combat sexual exploitation of children on the Internet. Nevertheless, the Committee is concerned that the State party has not taken sufficient action to address other forms of sexual exploitation, such as child prostitution and child sexual abuse. The Committee is also concerned about the lack of attention to prevention of child sexual exploitation and the low number of investigations and prosecutions for sexual exploitation of children as well as at the inadequate sentencing for those convicted. In particular, the Committee is gravely concerned about cases of Aboriginal girls who were victims of child prostitution and have gone missing or were murdered and have not been fully investigated with the perpetrators going unpunished.

49. **The Committee urges the State party to:**

(a) **Expand existing government strategies and programmes to include all forms of sexual exploitation;**

(b) **Establish a plan of action to coordinate and strengthen law enforcement investigation practices on cases of child prostitution and to vigorously ensure**

that all cases of missing girls are investigated and prosecuted to the full extent of the law;

(c) **Impose sentencing requirements for those convicted of crimes under the Optional Protocol on the sale of children, chilled prostitution and child pornography to ensure that the punishment is commensurate with the crime;**

(d) **Establish programmes for those convicted of sexual exploitation abuse, including rehabilitation programmes and federal monitoring systems to track former perpetrators.**

Children deprived of a family environment

55. The Committee is deeply concerned at the high number of children in alternative care and at the frequent removal of children from their families as a first resort in cases of neglect or financial hardship or disability. The Committee is also seriously concerned about inadequacies and abuses committed within the alternative care system of the State party, including:

(a) Inappropriate placements of children because of poorly researched and ill-defined reasons for placement;

(b) Poorer outcomes for young people in care than for the general population in terms of health, education, well-being and development;

(c) Abuse and neglect of children in care;

(d) Inadequate preparation provided to children leaving care when they turn 18;

(e) Inadequate screening, training, support and assessment of care givers;

(f) Aboriginal and African Canadian children often placed outside their communities.

56. **The Committee urges the State party to take immediate preventive measures to avoid the separation of children from their family environment by providing appropriate assistance and support services to parents and legal guardians in performance of child-rearing responsibilities, including through education, counselling and community-based programmes for parents, and reduce the number of children living in institutions. Furthermore, the Committee calls upon the State party to:**

(a) **Ensure that the need for placement of each child in institutional care is always assessed by competent, multidisciplinary teams of professionals and that the initial decision of placement is done for the shortest period of time and subject to judicial review by a civil court, and is further reviewed in accordance with the Convention;**

(b) **Develop criteria for the selection, training and support of childcare workers and out-of-home carers and ensure their regular evaluation;**

(c) **Ensure equal access to health care and education for children in care;**

(d) **Establish accessible and effective child-friendly mechanisms for reporting cases of neglect and abuse and commensurate sanctions for perpetrators;**

(e) **Adequately prepare and support young people prior to their leaving care by providing for their early involvement in the planning of transition as well as by making assistance available to them following their departure;**

(f) **Intensify cooperation with all minority community leaders and communities to find suitable solutions for children from these communities in need of alternative care, such as for example, kinship care.**

Asylum-seeking and refugee children

73. The Committee welcomes the State party's progressive policy on economic migration. Nevertheless, the Committee is gravely concerned at the recent passage of the law entitled, Protecting Canada's Immigration System Act, in June 2012 authorizing the detention of children from ages 16 to 18 for up to one year due to their irregular migrant status. Furthermore, the Committee regrets that notwithstanding its previous recommendation (CRC/C/15/Add.215, para. 47, 2003), the State party has not adopted a national policy on

unaccompanied and asylum-seeking children and is concerned that the Immigration and Refugee Protection Act makes no distinction between accompanied and unaccompanied children and does not take into account the best interests of the child. The Committee is also deeply concerned that the frequent detention of asylum-seeking children is being done without consideration for the best interests of the child. Furthermore, while acknowledging that a representative is appointed for unaccompanied children, the Committee notes with concern that they are not provided with a guardian on a regular basis. Additionally, the Committee is concerned that Roma and other migrant children often await a decision about their deportation, in an uncertain status, for prolonged periods of time, even years.

74. **The Committee urges the State party to bring its immigration and asylum laws into full conformity with the Convention and other relevant international standards and reiterates its previous recommendations (CRC/C/15/Add.215, para. 47, 2003). In doing so, the State party is urged to take into account the Committee's general comment No. 6 (2005) on. In addition, the Committee urges the State party to:**

(a) **Reconsider its policy of detaining children who are asylum-seeking, refugees and/or irregular migrants; and ensure that detention is only used in exceptional circumstances, in keeping with the best interests of the child, and subject to judicial review;**

(b) **Ensure that legislation and procedures use the best interests of the child as the primary consideration in all immigration and asylum processes, that determination of the best interests is consistently conducted by professionals who have been adequately applying such procedures;**

(c) **Expeditiously establish the institution of independent guardianships for unaccompanied migrant children;**

(d) **Ensure that cases of asylum-seeking children progress quickly so as to prevent children from waiting long periods of time for the decisions;**

(e) **Consider implementing the United Nations High Commission for Refugees Guidelines on International Protection No.8: Child Asylum Claims under articles 1(A)2 and 1(F) of the 1951 Convention. In implementing this recommendation, the Committee stresses the need for the State party to pay particular attention to ensuring that its policies and procedures for children in asylum-seeking, refugee and/or immigration detention give due primacy to the principle of the best interests of the child and that immigration authorities are trained on the principle and procedures of the best interest of the child.**

Children in armed conflict

75. While noting with appreciation oral responses provided by the delegation during the dialogue, the Committee seriously regrets the absence of information to the follow up on implementation of the Optional Protocol to the Convention on the involvement of children in armed conflict pursuant to article 8, paragraph 2. The Committee expresses deep concern that despite the recommendation provided in its concluding observations (CRC/OPAC/CAN/C0/1, para. 9, 2006) to give priority, in the process of voluntary recruitment, to those who are oldest and to consider increasing the age of voluntary recruitment, the State party has not considered measures to this effect. The Committee additionally expresses concern that recruitment programmes may in fact actively target Aboriginal youth and are conducted at high school premises.

76. **The Committee reiterates its previous recommendations (CRC/OPAC/CAN/C0/1) and recommends that the State party include their implementation and follow up to the Optional Convention on the involvement of children in armed conflict in its next periodic report to the Committee on the Rights of the Child. The Committee further recommends that the State party consider raising the age of voluntary recruitment to 18, and in the meantime give priority to those who are oldest in the process of voluntary recruitment. The Committee further recommends that Aboriginal or any**

other children in vulnerable situations not be actively targeted for recruitment and that the State party reconsider conducting these programmes at high school premises.

77. The Committee welcomes the recent return of Omar Kadr to the custody of the State party. However, the Committee is concerned that as a former child soldier, Omar Kadr has not been accorded the rights and appropriate treatment under the Convention. In particular, the Committee is concerned that he experienced grave violations of his human rights, which the Canadian Supreme Court recognized, including his maltreatment during his years of detention in Guantanamo, and that he has not been afforded appropriate redress and remedies for such violations.

78. **The Committee urges the State party to promptly provide a rehabilitation programme for Omar Kadr that is consistent with the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups and ensure that Omar Khadr is provided with an adequate remedy for the human rights violations that the Supreme Court of Canada ruled he experienced.**

Economic exploitation, including child labour

79. The Committee regrets the lack of information provided in the State party's report regarding child labour and exploitation, and notes with concern that data on child labour is not systematically collected in all provinces and territories. The Committee is also concerned that the State party lacks federal legislation establishing the minimum age of employment within the provinces and territories. The Committee also expresses concern that in some provinces and territories, children of 16 years of age are permitted to perform certain types of hazardous and dangerous work.

80. **The Committee recommends that the State party:**

(a) **Establish a national minimum age of 16 for employment, which is consistent with the age of compulsory education;**

(b) **Harmonize province and territory legislation to ensure adequate protection for all children under the age of 18 from hazardous and unsafe working environments;**

(c) **Take steps to establish a unified mechanism for systematic data collection on incidences of hazardous child labour and working conditions, disaggregated by age, sex, geographical location and socio-economic background as a form of public accountability for protection of the rights of children;**

(d) **Consider ratifying ILO Convention No. 138 (1973) concerning the minimum age for admission to employment.**

Sale, trafficking and abduction

81. The Committee welcomes the passage of Bill C-268 in 2010, which requires minimum mandatory sentences for persons convicted of child trafficking. However, the Committee is concerned about the weak capacity of law enforcement organizations to identify and subsequently protect child victims of trafficking and the low number of investigations and prosecutions in this respect. The Committee is also concerned that due to the complexity of most child trafficking cases, law enforcement officials and prosecutors do not have clear guidelines for investigation and are not always aware of how to best lay charges.

82. **The Committee urges the State party to provide systematic and adequate training to law enforcement officials and prosecutors with the view of protecting all child victims of trafficking and improving enforcement of existing legislation. The Committee recommends that such training include awareness-raising on the applicable sections of the Criminal Code criminalizing child trafficking, best practices**

for investigation procedures, and specific instructions on how to protect child victims.

Human Rights Committee
Concluding Observations, (13 August 2015), CCPR/C/CAN/CO/6

Violence against women
8. The Committee is concerned about the continued high prevalence of domestic violence in the State party, in particular violence against women and girls, that mostly affects indigenous and minority women. The Committee is also concerned about reports of (a) the low number of cases reported to the police by victims; (b) the insufficiency of shelters, support services and other protective measures for victims that reportedly prevent them from leaving their violent partner; and (c) a failure to effectively investigate, prosecute, convict and punish perpetrators with appropriate penalties. The Committee is further concerned about the lack of statistical data on domestic violence, including on investigations, prosecutions, convictions, sanctions and reparation (arts. 3, 6 and 7).

The State party should enhance its efforts to firmly combat domestic violence, including violence against women in all forms, paying particular attention to minority and indigenous women. Specifically, the State party should (a) take measures to effectively enforce its criminal legislation at the federal, provincial and territorial levels; (b) provide complaint mechanisms to victims of domestic violence, protect them from any retaliation and provide them with support at the police level; (c) investigate all reported cases, prosecute and punish those responsible with appropriate penalties; (d) increase the number of shelters, support services and other protective measures; and (e) effectively implement policies and programmes adopted at all levels, and ensure an effective application of the Victims Bill of Rights Act.

Murdered and missing indigenous women and girls
9. The Committee is concerned that indigenous women and girls are disproportionately affected by life-threatening forms of violence, homicides and disappearances. Notably, the Committee is concerned about the State party's reported failure to provide adequate and effective responses to this issue across the territory of the State party. While noting that the Government of British Columbia has published a report on the Missing Women Commission of Inquiry and adopted legislation related to missing persons, and that the Government of the State party is implementing the Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls, the Committee is concerned about the lack of information on measures taken to investigate, prosecute and punish those responsible (arts. 3 and 6).

The State party should, as a matter of priority, (a) address the issue of murdered and missing indigenous women and girls by conducting a national inquiry, as called for by the Committee on the Elimination of Discrimination Against Women, in consultation with indigenous women's organizations and families of the victims; (b) review its legislation at the federal, provincial and territorial levels, and coordinate police responses across the country, with a view to preventing the occurrence of such murders and disappearances; (c) investigate, prosecute and punish the perpetrators and provide reparation to victims; and (d) address the root causes of violence against indigenous women and girls.

Immigration detention, asylum-seekers and non-refoulement
12. The Committee is concerned that individuals who enter onto the territory of the State party irregularly may be detained for an unlimited period of time and that, under section 20.1 (1) of the Immigration and Refugee Protection Act, any migrant and asylum-seeker designated as an "irregular arrival" would be subject to mandatory detention until the asylum-

seeker's status is established, and would not enjoy the same rights as those who arrive "regularly". The Committee is also concerned that individuals who are nationals of Designated Countries of Origin are denied an appeal hearing against a rejected refugee claim before the Refugee Appeal Division and are only allowed judicial review before the Federal Court, thus increasing the risk that those individuals may be subjected to refoulement. The Committee is further concerned about the 2012 cuts to the Interim Federal Health Program, which has resulted in many irregular migrants losing access to essential health-care services (arts. 2, 7, 9 and 13).

The State party should refrain from detaining irregular migrants for an indefinite period of time and should ensure that detention is used as a measure of last resort, that a reasonable time limit for detention is set, and that non-custodial measures and alternatives to detention are made available to persons in immigration detention. The State party should review the Immigration and Refugee Protection Act in order to provide refugee claimants from "safe countries" with access to an appeal hearing before the Refugee Appeal Division. The State party should ensure that all refugee claimants and irregular migrants have access to essential health-care services, irrespective of their status.

13. The Committee is concerned that subsection 115 (2) of the Immigration and Refugee Protection Act provides for two exceptions to the principle of non-refoulement which may result in deporting migrants that are at risk in their country of origin. The Committee is also concerned about reports that individuals under the security certificate mechanism may be subject to deportations when due process guarantees are limited. In such cases, judicial review may take place in secret and the special advocates appointed to assist individuals cannot independently and properly seek evidence on behalf of their clients, because the Court can be requested to withhold information and evidence by the Minister of Public Safety and Emergency Preparedness or the Minister of Citizenship and Immigration under Bill C-51. The Committee is further concerned that Bill C-60 may prevent certain individuals from applying for protection on the basis of crimes committed, thus posing a risk of refoulement (arts. 2, 9 and 13).

The State party should consider amending subsection 115 (2) of the Immigration and Refugee Protection Act to fully comply with the principle of non-refoulement. The State party should also ensure that the application of the security certificate is not detrimental to the rights protected under the Covenant, does not result in unlawful deportations, and should allow special advocates to seek all evidence that may be necessary to represent their clients. The State party should reconsider Bill C-60 to ensure that all individuals in need of protection may apply to have their requests appropriately examined.

Indigenous lands and titles

16. While noting explanations provided by the State party, the Committee is concerned about reports of the potential extinguishment of indigenous land rights and titles. It is concerned that land disputes between indigenous peoples and the State party which have gone on for years impose a heavy financial burden in litigation on the former. The Committee is also concerned about information that indigenous peoples are not always consulted, to ensure that they may exercise their right to free, prior and informed consent to projects and initiatives concerning them, including legislation, despite favourable rulings of the Supreme Court (arts. 2 and 27).

The State party should consult indigenous people to (a) seek their free, prior and informed consent whenever legislation and actions impact on their lands and rights; and (b) resolve land and resources disputes with indigenous peoples and find ways and means to establish their titles over their lands with respect to their treaty rights.

Situation of indigenous peoples
19. While noting measures taken by the State party, the Committee remains concerned about (a) the risk of disappearance of indigenous languages; (b) some indigenous people lacking access to basic needs; (c) child welfare services which are not sufficiently funded; and (d) the fact that appropriate redress is not yet being provided to all students who attended the Indian Residential Schools (arts. 2 and 27).

The State party should, in consultation with indigenous people, (a) implement and reinforce its existing programmes and policies to supply basic needs to indigenous peoples; (b) reinforce its policies aimed at promoting the preservation of the languages of indigenous peoples; (c) provide family and childcare services on reserves with sufficient funding; and (d) fully implement the recommendations of the Truth and Reconciliation Commission with regard to the Indian Residential Schools.

20. The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of its sixth periodic report and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and to the general public. The State party should ensure that the report and the present concluding observations are translated into official languages and the minority languages of the State party.

21. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations made by the Committee in paragraphs 9 (murdered and missing indigenous women and girls), 12 (immigration detention, asylum-seekers and non-refoulement) and 16 (indigenous lands and titles) above.

22. The Committee requests the State party to submit its next periodic report by 24 July 2020 and to include specific, up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee requests the State party, in the preparation of the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

Committee on Economic, Social and Cultural Rights

Concluding Observations, (23 March 2016), E/C.12/CAN/CO/6

Non-discrimination
17. The Committee is concerned that social condition is not included among the prohibited grounds of discrimination in the Canadian Human Rights Act (art. 2).

18. **The Committee recommends that the State party include social condition among the prohibited grounds of discrimination in the Canadian Human Rights Act, and in the provincial human rights acts, as necessary. The Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

Indigenous peoples
19. The Committee is concerned, in spite of the pledge made by the State party to address the situation of indigenous peoples, about the persisting socioeconomic disparities between indigenous and non-indigenous peoples, and by disparities in relation to poverty prevalence and access to basic rights, including housing, education and health-care services. The

Committee is also concerned about the decrease in the already insufficient funding allocated to indigenous peoples living both on and off reserves, a situation which is further exacerbated by the jurisdictional disputes between federal and provincial governments on funding to indigenous peoples (art. 2 (2)).

20. **The Committee recommends that the State party, in consultation with indigenous peoples:**

(a) **Implement and strengthen its existing programmes and policies to improve the enjoyment of Covenant rights by indigenous peoples;**
(b) **Increase federal and provincial funding to indigenous peoples commensurate to their needs, and work out solutions to ensure coordinated and accountable implementation of indigenous peoples' rights by all jurisdictions;**
(c) **Implement the recommendations put forward by the Special Rapporteur on the rights of indigenous peoples following his mission to Canada in 2013 (see A/HRC/27/52/Add.2);**
(d) **Promote and apply the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples;**
(e) **Consider ratifying the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

Violence against women

33. The Committee is concerned about the persistence of violence against women in the State party, which is particularly prevalent among indigenous women and girls and further exacerbated by the economic insecurity of women. The Committee is also concerned that, in some cases, owing to the inadequacy and insufficient number of shelters, combined with women's inability to afford housing and the inadequate social assistance, women victims of violence are unable to escape violent situations (arts. 10 and 11).

34. **The Committee recommends that the State party address violence against women and girls in a holistic manner. Inter alia, the State party is encouraged to study the link between poverty, ethnic origin and vulnerability to violence and take effective measures aimed at preventing and eradicating violence against women and girls. The Committee also recommends that the State party step up its efforts to protect victims of violence, including by ensuring the availability of a sufficient number of adequate shelters for victims of violence, as well as long-term housing solutions and adequate social assistance.**

Right to housing

39. The Committee is concerned about the persistence of a housing crisis in the State party. It is particularly concerned at: (a) the absence of a national housing strategy; (b) the insufficient funding for housing; (c) the inadequate housing subsidy within the social assistance benefit; (d) the shortage of social housing units; and (e) increased evictions related to rental arrears (art. 11).

40. **The Committee urges the State party to develop and effectively implement a human-rights based national strategy on housing and ensure that all provincial and territorial housing strategies are aligned with the national strategy. In the light of its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions, the Committee recommends that the State party:**

(a) **Progressively increase federal and provincial resources allocated to housing and reinforce the housing subsidy within the social assistance benefit so as to be commensurate with living costs;**
(b) **Take effective measures to substantially increase the availability of social and affordable housing units;**

(c) **Regulate rental arrangements with a view to ensuring that tenants enjoy the right to affordable and decent housing and are not vulnerable to forced evictions or homelessness;**
(d) **Ensure that its legislation on forced evictions is compatible with international norms, particularly with respect to its obligation to ensure that no persons find themselves homeless or victims of other human rights violations due to evictions, and that compensation or alternative accommodation is provided to victims.**

Climate change and environmental protection
53. The Committee is concerned that climate change is negatively affecting the enjoyment of Covenant rights by indigenous peoples. The Committee is also concerned that regulations governing environmental protection have been weakened in recent years, notably by the enactment of the Budget Bill C-38 (2012) and in the context of extractive industries (art. 12).

54. **The Committee recommends that the State party address the impact of climate change on indigenous peoples more effectively while fully engaging indigenous peoples in related policy and programme design and implementation. The Committee also recommends that the State party ensure that the use of non-conventional fossil energies is preceded by consultation with affected communities and impact assessment processes. It also recommends that the State party pursue alternative and renewable energy production. The Committee recommends that the State party further strengthen its legislation and regulations, in accordance with its international human rights obligations, and ensure that environmental impact assessments are regularly carried out in the context of extractive industry activities.**

Committee of the Elimination of Discrimination against Women

Concluding Observations, (25 November 2016), CEDAW/C/CAN/CO/8-9

Visibility of the Convention, the Optional Protocol thereto and the Committee's general recommendations
8. The Committee remains concerned that the provisions of the Convention, the Optional Protocol thereto and the Committee's general recommendations are not sufficiently known in the State party, including by women themselves. The Committee is further concerned that the Convention may not be directly invoked before the national courts.

9. **The Committee recommends that the State party:**
(a) **Develop a sustainable strategy, including by allocating adequate financial resources, to disseminate the Convention, the Optional Protocol thereto and the Committee's general recommendations among all stakeholders, including women's organizations;**
(b) **Enhance efforts to raise awareness among women about their rights under the Convention and corresponding remedies, targeting in particular women belonging to disadvantaged groups, including indigenous (First Nations, Inuit and Métis), Afro-Canadian, migrant, asylum-seeking and refugee women and women with disabilities;**
(c) **Take the legislative measures necessary to give full effect, in its legal order, to the rights enshrined in the Convention and promote the justiciability of such rights;**
(d) **Promote capacity-building programmes for judges, prosecutors and lawyers on the Convention, the Optional Protocol thereto, the Committee's general recommendations and its views on individual communications and inquiry findings, to enable them to invoke the foregoing before the national courts and interpret national legislation accordingly.**

Trafficking and exploitation of prostitution

32. The Committee welcomes the adoption of the National Action Plan to Combat Human Trafficking (2012-2016), the allocation of Can$ 25 million to support projects addressing trafficking in persons at the federal, provincial and territorial levels, and the Supreme Court's judgment in Canada (AG) v. Bedford, which led to the adoption of the Protection of Communities and Exploited Persons Act. It is, however, concerned about:

(a) The low rates of prosecution and conviction in cases of trafficking in women and girls;
(b) The lack of adequate mechanisms to identify and refer victims of trafficking in need of protection, in particular unaccompanied children, who are often considered to be offenders and irregular migrants rather than victims, and the lack of sufficient data on victims of trafficking;
(c) The lack of information regarding the development and adoption of a second national action plan, given that the first plan recently expired;
(d) The lack of systematically organized rehabilitation and reintegration measures, including access to counselling, medical treatment, psychological support and redress, including compensation, for victims of trafficking, in particular for indigenous women and migrant women, who are not automatically entitled to temporary residence permits unless they cooperate with the police and judicial authorities;
(e) Reports that indigenous women and girls in foster care and in the child welfare system are particularly vulnerable to sex trafficking;
(f) The insufficient efforts to prevent trafficking and the exploitation of women and girls in prostitution and to address its root causes;
(g) The potentially increased risk to the security and health of women in prostitution, in particular indigenous women, brought about by the criminalization of prostitution under certain circumstances as provided for in the new legislation.

33. **The Committee recommends that the State party:**

(a) **Investigate, prosecute and adequately punish all cases of trafficking in persons, especially women and girls;**
(b) **Strengthen measures to identify and provide support to women at risk of trafficking, in particular unaccompanied children;**
(c) **Improve access to data on victims of trafficking, disaggregated by sex and age;**
(d) **Expeditiously assess the impact of the National Action Plan to Combat Human Trafficking (2012-2016) and adopt a new plan for the period 2017-2021;**
(e) **Provide victims of trafficking with adequate access to health care and counselling, strengthen the human, technical and financial resources made available to social work centres and provide targeted training for social workers dealing with victims of trafficking;**
(f) **Ensure that all victims of trafficking, irrespective of their ethnic, national or social background, obtain effective protection and redress, including rehabilitation and compensation;**
(g) **Address the root causes of trafficking and the exploitation of women and girls in prostitution by adopting and implementing adequately resourced programmes and other appropriate measures to create educational and employment opportunities for women at risk of being trafficked or of entering into prostitution, or already engaged in prostitution and wishing to leave it, in particular among members of indigenous communities;**
(h) **Fully decriminalize women engaged in prostitution and assess the impacts of the Protection of Communities and Exploited Persons Act, notably on the health and security of women in prostitution.**

III. Special Procedures Mandate Holders

Report of the Special Rapporteur on the right to food

Addendum: Mission to Canada (24 December 2012) A/HRC/22/50/Add.1

22. As concentration increased in the farming sector, it has become heavily reliant on temporary foreign farm workers: approximately 30,000 migrant farm workers come to Canada annually under the federal Temporary Foreign Worker Programs. These workers are in an extremely precarious position as the restrictions attached to their employer-specific permit and the permanent fear of being removed from Canada following a contract breach makes it impossible in practice for them to contest working conditions. Unlike other classes of temporary foreign workers, migrant farm workers, though they may have been working in Canada annually for years or even decades, are denied pathways to permanent residency or immigration. Services targeted to other newcomers, such as new immigrants and refugees, are generally not available to migrant farm workers, and despite migrant workers' contribution to the Canadian economy, they face a number of obstacles to access health care and social protection schemes. While they are eligible for health care in Canada, this coverage does not extend to their countries of origin once they are repatriated: in practice therefore, workers with serious illnesses or injuries are often left without any income, care or support, even after working and contributing to taxes in Canada for years. Although in principle they have access to employment insurance, the requirement under the Employment Insurance Act that claimants must be available for work in Canada in order to be eligible for benefits makes it virtually impossible for Mexican or Caribbean workers under the Seasonal Agricultural Workers Program (SAWP) to receive regular unemployment benefits. In short, a marginalized category has been created essentially in order to compensate for the increased concentration in the farming sector and for the failure to ensure that farming remains attractive to Canadians.

IX.Conclusions and recommendations

[…]

(c) Set the minimum wage as a living wage, as required under the International Covenant on Economic, Social and Cultural Rights and consistent with ILO Conventions No. 99 (1951) and No. 131 (1970), particularly as regards the requirement that the minimum wage should be fixed taking into consideration, inter alia, "the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;"

(d) Accord status to those Aboriginal peoples unrecognized as such under the Indian Act in order to enable all Aboriginal peoples to have access to land and water rights to which they are entitled; encourage the federal, provincial and territorial governments to meet, in good faith, with indigenous groups to discuss arrangements to ensure access to land, natural resources, Nutrition North Canada and the right to food, among others; accept the request of the Special Rapporteur on the rights of indigenous peoples to undertake an official country visit;

[…]

Report of the Special Rapporteur on the rights of indigenous peoples

Addendum: The situation of indigenous peoples in Canada (4 July 2014) A/HRC/27/52/Add.2

3. Missing women and girls

89. Bearing in mind the important steps already taken to inquire into the disturbing phenomenon of missing and murdered aboriginal women and girls and to develop measures to address this problem, the federal Government should undertake a comprehensive, nationwide inquiry into the issue of missing and murdered aboriginal women and girls, organized in consultation with indigenous peoples.