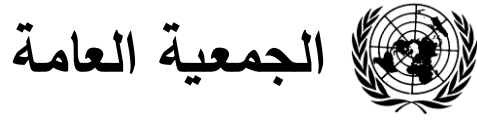


Distr.: General
22 July 2024
Arabic
Original: English



مجلس حقوق الإنسان

الدورة السابعة والخمسون

9 أيلول/سبتمبر - 9 تشرين الأول/أكتوبر 2024

البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

زيارة إلى كندا

تقرير المقرر الخاص المعني بأشكال الرق المعاصرة، بما في ذلك أسبابها وعواقبها،
تومويا أوبوكاتا*

موجز

زار المقرر الخاص المعني بأشكال الرق المعاصرة، بما في ذلك أسبابها وعواقبها، تومويا أوبوكاتا، كندا في الفترة من 23 آب/أغسطس إلى 6 أيلول/سبتمبر 2023. وخلال زيارته، سافر إلى أوتاوا ومونتريال ومونتريال وتورنتو وفانكوفر.

* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعَمَّم باللغة التي قُدِّم بها وبالفرنسية فقط.



الرجاء إعادة الاستعمال

المرفق

تقرير المقرر الخاص المعني بأشكال الرق المعاصرة، بما في ذلك أسبابها وعواقبها، عن زيارته إلى كندا

I. Introduction

1. The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Tomoya Obokata, visited Canada from 23 August to 6 September 2023. He visited Ottawa, Moncton, Montréal, Toronto and Vancouver. The purpose of his visit was to assess the efforts of the Government of Canada to prevent and address contemporary forms of slavery, in order to identify good practices and ongoing challenges. The present report contains constructive recommendations to address the challenges observed during the visit.
2. The Special Rapporteur met with representatives of Global Affairs Canada, departments and agencies of the Federal Government and the provincial governments of British Columbia, New Brunswick, Ontario and Québec and with Canadian Senators, members of the upper house of Parliament. He also met with representatives of the Canadian Human Rights Commission and provincial counterparts; the Canadian Ombudsperson for Responsible Enterprise; the Office of the Correctional Investigator; civil society organizations; workers' organizations; United Nations agencies, including the United Nations Global Compact; Indigenous organizations; and the private sector; as well as with academics, workers and survivors of contemporary forms of slavery.
3. The present report was shared with the Government of Canada before publication. The Special Rapporteur extends his appreciation to the Government for its invitation and constructive dialogue. He is also grateful to other stakeholders who provided valuable information during his visit.

II. Legal and institutional framework

A. International treaties

4. Canada has ratified or acceded to core human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the United Nations Convention against Transnational Organized Crime, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). Canada has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the Optional Protocol to the Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment.
5. Canada is a partner of Alliance 8.7, which aims to promote the effective implementation of Sustainable Development Goal target 8.7, calling upon States to eliminate contemporary forms of slavery by 2030. Canada has ratified 10 out of the 11 fundamental instruments of the International Labour Organization (ILO) and three out of four ILO governance (priority) instruments: it has not ratified the Occupational Safety and Health Convention, 1981 (No. 155), the Labour Inspection (Agriculture) Convention, 1969 (No. 129) or the Domestic Workers Convention, 2011 (No. 189).

6. In the case of *Nevsun Resources Ltd. v. Araya*, before the Supreme Court of Canada, in which the plaintiffs sought damages from a Canadian company operating abroad for offences, including slavery, the Court ruled that customary international law is automatically incorporated into domestic law and that, as such, both the State and private actors could be held liable in Canada for breaches of customary international law even if offences occurred outside of Canada.

B. National legal and policy frameworks

7. Sections 279.01(1) and 279.011(1) of the Criminal Code of Canada prohibit trafficking in persons, with a maximum penalty of life imprisonment. Other offences include receiving a material benefit from trafficking in persons (sect. 279.02(1)) and withholding or destroying identity documents (sect. 279.03(1)). There are aggravated penalties for offences in which the victim is a child. These provisions can be used to prosecute and punish entities or individuals engaging in child labour or forced labour, regardless of whether victims are transported from one location to another.

8. Sections 118(1) through 121 of the Immigration and Refugee Protection Act define offences related to trafficking of persons into Canada and prescribe penalties, with aggravating factors, including the number of persons affected, the level of harm caused to the victims, including exposure to humiliating or degrading treatment, and the amount of illegal profits.

9. The National Strategy to Combat Human Trafficking (2019–2024) establishes a whole-of-government approach across the pillars of prevention, protection, prosecution, partnership and empowerment, encompassing efforts to raise awareness, improve data collection, build the capacity of frontline workers and justice actors and expand support services for victims and survivors. The strategy committed \$75 million Canadian dollars (Can\$) for its implementation, including funding for the Canadian Human Trafficking Hotline, a multilingual, 24/7 resource that provides victims, survivors and support organizations with access to protection and assistance.

10. In 2020, Canada amended its customs tariff to ban the importation of goods produced with forced labour and in 2024 it expanded the import ban to include goods made with child labour, reflecting obligations under the Agreement between Canada, the United States of America and Mexico to work towards the elimination of forced and compulsory labour.

11. In 2022, Canada launched a five-year Responsible Business Conduct Abroad strategy, which improved upon its previous Corporate Social Responsibility strategy (2009) by expanding the scope of companies covered from the extractive sector to all Canadian businesses operating abroad. The Government intends to develop due diligence reporting standards on responsible business conduct, outlining what steps companies should take to identify, prevent and mitigate adverse impacts of their operations, including on human rights.

12. In May 2023, the Parliament of Canada passed the Fighting Against Forced Labour and Child Labour in Supply Chains Act (Supply Chains Act), which entered into force in 2024. Under the act, entities and Government institutions that do business in Canada and meet requirements for size, assets, revenue or regulatory status must report annually to the Ministry of Public Safety on the steps they have taken to prevent or reduce the risk that forced labour or child labour have been used in their supply chains. The Canadian law covers a broader range of companies compared to other jurisdictions with similar legislation and carries a fine of up to Can\$250,000 for failing to report or providing false information. The Government has expressed its intention to introduce more comprehensive legislation to complement the act in 2024.

C. Institutional framework

13. Public Safety Canada oversees the implementation of the National Strategy to Combat Human Trafficking, while other Government departments and agencies contribute, in line with their respective mandates. It is also responsible for administering the Supply Chains Act.

Employment and Social Development Canada overseas labour-related issues and works with the Canada Border Services Agency and other federal departments and agencies to prevent the entry of goods made with forced labour and to address labour exploitation in supply chains.

14. In 2019, Canada established the Office of the Canadian Ombudsperson for Responsible Enterprise, which promotes implementation of international business and human rights standards, advises companies on responsible business conduct, reviews complaints regarding potential human rights abuses by Canadian companies abroad in the garment, mining and oil and gas sectors and offers informal mediation services. It does not have direct enforcement powers but can recommend the withdrawal of trade advocacy by the Government and financial support from companies that fail to act in good faith during review processes.

15. The Ombudsperson complements the National Contact Point for Responsible Business Conduct, which promotes awareness and adoption of the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises on Responsible Business Conduct and hears disputes related to allegations of non-observance of the guidelines by multinational enterprises, including human rights abuses. The National Contact Point, which consists of a committee of eight departments of the Federal Government, is mandated to consult with business and labour unions.

III. Main findings and challenges

A. Human rights due diligence

16. The Special Rapporteur welcomes the efforts of the Government of Canada to prevent contemporary forms of slavery in supply chains, including the revision of the customs tariff and Responsible Business Conduct Abroad strategy, the adoption of the Supply Chains Act and the establishment of the Office of the Canadian Ombudsperson for Responsible Enterprise, measures that have led to tangible successes. To date, the Ombudsperson has reviewed 22 complaints, three of which have reached a conclusion. Two cases were closed without any finding of wrongdoing. In a third case, the Ombudsperson concluded that human rights abuses had taken place and recommended the withdrawal of trade support until the company complied with its recommended remedies. The customs tariff ban has been used to seize one shipment, while a few dozen other shipments have been detained for further inspection.

17. Nonetheless, there is scope to improve supply chain oversight. While the Supply Chains Act promotes transparency to a certain extent, self-reporting and the lack of external monitoring mean that companies can conceal or omit relevant information. Mandatory reporting could become a box-ticking exercise, with no meaningful effort to identify and address problematic practices as the act does not prescribe any penalties for instances of forced or child labour identified through reporting. Companies do not have to prevent, address or remedy abuses or undertake human rights due diligence.

18. The National Contact Point reportedly lacks transparency and effectiveness. It has only processed 29 cases since its creation in 2000, only seven of which have led to the parties reaching full or partial agreement or companies changing their approaches. The National Contact Point has sometimes failed to protect the anonymity of complainants, although the Government noted guidelines for the protection of victims and transparent reporting were updated in September 2022. It is not independent from Government. It cannot ensure access to justice and remedies by victims of forced and child labour, as this is not foreseen for National Contact Points under the OECD guidelines.

19. The Office of the Canadian Ombudsperson for Responsible Enterprise falls short of meeting the standards set out in the Principles on the Protection and Promotion of the Ombudsman Institution (“the Venice Principles”). For example, it lacks independence as it reports to the Minister of Export Promotion, International Trade and Economic Development whereas, in line with the Venice Principles, it should report to Parliament. The restriction of

the Ombudsperson's mandate to the garment, mining and oil and gas sectors appears arbitrary, given the potential for abuses in other sectors. Furthermore, the Ombudsperson cannot: compel businesses to share information; conduct search and seizure; sanction businesses for non-compliance with recommendations; or order remedies.

20. The Special Rapporteur welcomes the commitment of Canada to developing due diligence standards for responsible business conduct, which includes human rights, but regrets that the adoption of these standards will only be voluntary. There are no guidelines for remedy or responsible exit from situations where abuses have occurred. Although Canadian companies can be held accountable in domestic courts for human rights abuses perpetrated abroad, it is not clear whether regulation of these companies is the responsibility of the Federal Government or the provinces and territories.

21. The Special Rapporteur is concerned by the limited application of the forced labour import ban. Thus far, only one shipment has been seized on suspicion of forced labour, and that shipment was later released. Canada cited higher evidentiary standards and insufficient resources to explain why relevant measures have been underutilized in comparison with jurisdictions that systematically intercept many more shipments.

B. Migrant workers

22. Canada has a well-deserved reputation for welcoming immigrants. However, to make this a reality, where all newcomers enjoy decent work and an adequate standard of living, Canada should end labour migration arrangements that foster exploitation by creating dependency situations that tie workers to their employers and give employers control over worker's housing, health care and migration status. The Special Rapporteur retains the view that the Temporary Foreign Worker Program serves as a breeding ground for contemporary forms of slavery, as it institutionalizes asymmetries of power that favour employers and prevent workers from exercising their rights.

23. The Temporary Foreign Worker Program is administered by Employment and Social Development Canada, Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency; in Québec it is administered in partnership with the provincial government. The program has five streams: global talent, permanent residency, high-wage, low-wage and primary agriculture, including the Seasonal Agricultural Worker Program, which differs from other programmes in that it is managed through bilateral agreements between Canada and sending countries. Most temporary foreign workers are engaged in agriculture or related forms of labour.¹ Although this is a federal programme, oversight of working conditions is primarily the responsibility of the provinces and territories, with the exception of a few federally regulated industries. The number of temporary foreign workers entering Canada has increased significantly over time. In 2018, there were 84,004 permit-holders under the Temporary Foreign Worker Program while by 2022, this figure had risen to 135,818.²

24. Under the Temporary Foreign Worker Program, workers' migration status depends on an employer-specific, closed work permit. This arrangement has created a significant power imbalance given that, if workers are fired, they may be deported back to their countries of origin. Employers may have limited incentive to ensure decent working conditions, as workers do not have a meaningful choice of alternatives. Workers are not always aware of their rights, including grievance mechanisms, as some employers reportedly do not provide relevant information. Other issues include language barriers and limited access to the Internet. In reality, most workers are reluctant to raise issues with their employers or to report exploitative working conditions fearing that they may be identified as complainants.

25. The Government does not seem to proactively and effectively inform workers about their rights, apart from publishing information online and providing ad hoc funding to civil

¹ See <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/cimm-nov-07-2023/key-distinctions-imp-tfwp.html>.

² See <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2023.html#pi>.

society organizations for migrant rights education, although it does provide outreach sessions to employers, consulates, migrant worker support organizations and authorities on workers' rights. The Government defers a significant portion of responsibility for informing temporary foreign workers of their rights to employers, despite the obvious conflict of interest.³ Unlike other newcomers, temporary foreign workers cannot benefit from federal settlement services, which would provide information on their rights and facilitate their ability to participate in public life. While the Migrant Worker Support Program laudably aims to inform workers of their rights upon arrival in airports and through community-based services, the onus is on either a civil society organization to identify and inform workers or on workers to seek assistance. Furthermore, employers can act to prevent such contact.

26. All workers should have trade union rights, but barriers exist for migrant workers. They are not always represented by unions, especially in the agricultural and care sectors, where all workers lack federal union rights.⁴ Under the Seasonal Agricultural Workers Program, workers cannot negotiate their working conditions, as their contracts are negotiated between the Government and countries of origin. The Special Rapporteur also met with some workers who had been instantly dismissed for exercising their trade union rights.

27. For many seasonal workers, the fear of losing their jobs and being deported is compounded by debt bondage. Employers argue that closed work permits are necessary to enable them to recuperate the cost of recruiting and transporting workers, which itself creates a de facto situation of debt bondage.⁵ Many workers go into debt to cover the costs associated with participating in the above programmes and rely on their Canadian wages to repay their debts. They may also incur debts to third-party recruiters, including costs that legally should be borne only by the employer. The provinces of Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec and Saskatchewan require recruiters to be licensed and registered, but this is not a federal requirement. Canada has not ratified the ILO Private Employment Agencies Convention, 1998 (No. 181).

28. Given the structural inequities between temporary foreign workers and employers and their insufficient access to justice and remedies, workers experience a wide range of abuses. The Special Rapporteur received reports of underpayment and wage theft, physical, emotional and verbal abuse, excessive work hours, limited breaks, extracontractual work, uncompensated managerial duties, lack of personal protective equipment, including in hazardous conditions, confiscation of documents and arbitrary reductions of working hours. Women reported sexual harassment, exploitation and abuse. Fraud is also an issue, as some workers reported receiving false assurances that their employers had undertaken a labour market impact assessment or applied for permanent residency, only to find out that they had fallen out of status. Complaint mechanisms are difficult for workers to navigate without external assistance, although the Special Rapporteur was encouraged to learn that efforts to increase awareness of such mechanisms had led to a 39.4 per cent increase in the number of complaints received. Confidentiality is not always well-maintained and whistle-blowers face retaliation despite prohibitions against reprisals. In addition, police have reportedly failed to take complaints seriously, claim that they do not have jurisdiction and report workers to immigration authorities rather than investigating their complaints.

29. Temporary foreign workers struggle to access health care in practice. Since 2022, employers have been required to make reasonable efforts to provide temporary foreign workers with access to health-care services if they are injured or become ill. Although workers have access to public health insurance, eligibility periods vary by province and territory. In the interim, employers must provide private health insurance but only for emergency health care. Workers under the Seasonal Agricultural Worker Program are provided with more comprehensive health care upon arrival.

30. Despite new regulations, some employers reportedly prevent workers from seeking health care, encouraging them to take painkillers or home remedies instead. Furthermore,

³ See <https://www.canada.ca/en/employment-social-development/news/2022/09/new-amendments-to-the-immigration-and-refugee-protection-regulations-temporary-foreign-workers.htm>.

⁴ "Act Now: Solutions for temporary and migrant labour in Canada", Report of the Standing Senate Committee on Social Affairs, Science, and Technology, 2024, p. 71.

⁵ Ibid., p. 34.

workers are sometimes denied time-off to seek medical treatments or may even be fired for doing so. Many worksites are in remote areas with limited public infrastructure, and workers must rely on their employers to organize transport, which may prove to be costly as employers are not required to pay for it.⁶ It was reported that some employers do not make required payments for private insurance or pause insurance during periods when workers are not actively employed.

31. Under the low-wage and primary agriculture streams, including the Seasonal Agricultural Worker Program, employers must provide or ensure the availability of housing, although the standards for adequacy differ from those prescribed under the National Housing Strategy Act (2019). In practice, many employers provide housing directly, as there is often a lack of available and affordable local housing, particularly in rural areas. Workers in employer-provided housing reported substandard conditions, including: overcrowding, with situations of 20 to 30 people sharing a single washroom; mixed-gender housing that raised protection concerns for women who had not consented to such arrangements; and a lack of adequate climate control, laundry facilities, food preparation and storage areas.

32. Although workers on closed permits can attempt to change employers in principle, they must pay the application fees for the work permits themselves and they need to find other employers willing to hire them and to invest in costly labour market impact assessments. This is unrealistic for many, as workers may not have the information, time, means or language skills to navigate the process and potential employers may be reluctant to make the necessary investments to hire workers seeking to leave employers who have already made such investments. Workers under the Seasonal Agricultural Worker Program have slightly more mobility as they can apply to transfer employers without obtaining a new work permit.

33. Workers may also apply for an open work permit for vulnerable workers who are victims of abuse, which is typically issued for one year and renewable under limited circumstances, although this does not provide an effective solution. Applying for the permit requires that applicants remain in a precarious situation until they receive a positive decision. While they can technically apply after having left their employers, their employer-specific work permits must remain valid. This is problematic as employers are likely to fire workers for prolonged absence, which can lead to the cancellation of their work permits and few workers have the means to live independently. Workers report that the application process is bureaucratic and difficult to complete without external assistance. Further, they must pass a high evidentiary threshold to receive a positive decision, which is left to the discretion of local officials. Lastly, the permit itself is stigmatizing, as some employers may view holders of such open work permits as troublesome.

34. Effective oversight of workplace conditions, housing and health care is stymied by jurisdictional gaps. While workers enter through federal migration programmes, they are subject to standards for labour, occupational health and safety, health care and housing that are determined by the individual provinces and territories. This poses a range of challenges for workers, who are obliged to use several different federal and provincial mechanisms to report different kinds of abuse.⁷ Workers report that provincial housing, labour boards and occupational health and safety authorities sometimes decline to intervene, erroneously stating that provincial standards do not apply to them.

35. In addition, the labour inspection regime requires improvement. Inspections of workplaces are not systematically undertaken; they are largely complaint-driven, and some abusive workplaces may escape scrutiny. There are also long backlogs, inspections are sometimes held virtually and employers are sometimes assessed as being compliant even without evidence.⁸ The Special Rapporteur was encouraged to learn that the Government has worked to increase inspector training, target higher risk areas, expedite inspections in urgent situations and reduce backlogs. However, even when inspections are carried out in-person, it appears that employers are given advance notice of the inspection in most cases, giving them

⁶ See <https://www.canada.ca/en/employment-social-development/news/2022/09/new-amendments-to-the-immigration-and-refugee-protection-regulations-temporary-foreign-workers.html>.

⁷ "Act Now", 2024, p. 50.

⁸ Office of the Auditor General of Canada, "Health and Safety of Agricultural Temporary Foreign Workers in Canada during the COVID-19 Pandemic", pp. 7 and 27.

time to conceal evidence of non-compliance and send away workers who are more likely to speak up. In this regard, according to information provided by the Government, 69 per cent of inspections were virtual and only 9 per cent were unannounced between 2023 and 2024. In some industries that employ large numbers of temporary foreign workers, effective labour inspections are not possible owing to the nature of the work, in particular in the in-home caregiving and recreational cannabis sectors.

36. The Special Rapporteur was encouraged to find that majority of employers of temporary foreign workers act in good faith, noting that 94 per cent were found compliant during inspections in 2023. He also received information regarding various initiatives to protect the rights of workers implemented by employers and appreciated the efforts of the Government to increase worker protections, such as updated regulations requiring employers to inform workers of their rights and to ensure access to health care. He also appreciated that employers in British Columbia, Manitoba, Saskatchewan and Nova Scotia must be registered with provincial and territorial authorities before hiring temporary foreign workers. However, neither the high compliance of inspected employers nor piecemeal reforms negate the underlying human rights issues created by the current Canadian temporary migration framework.

37. While the Special Rapporteur was pleased to learn that the Government is considering more ambitious reforms, it is crucial that such measures avoid the pitfalls of past reforms and address ongoing problems. The recent policy shift to reduce the number of temporary residents⁹ will not address the challenges faced by those who continue to enter through the same programmes. Shifting from employer-specific to sector-specific work permits is, on its own, unlikely to significantly improve conditions for workers. Temporary migrants under the Seasonal Agricultural Worker Program already have such permits, as well as more secure access to health care and housing and a stronger inspection regime; however, many workers face similar abuses. Since employers within specific sectors often know one another, workers with sectoral permits that attempt to change jobs may not be successful due to stigmatization. The best approach is to give workers the freedom to choose their own employers in any sector.

38. The structural precarity for temporary foreign workers would be mitigated by systematically providing workers with a pathway to permanent residence. This would also reflect the fact that, despite their nominally temporary nature, the demand for labour met by the migration programmes is permanent, as evinced by the growing numbers of people entering Canada through these programmes. Although there are sectoral pilot and regional programmes that provide a pathway to permanent residence, including the Provincial Nominee Program, the Atlantic Immigration Program and the Agri-Food and caregiver pilot programs, most temporary migrants in low-wage and agricultural positions have no access to a reliable pathway to permanent residence. Clear status for all migrant workers would provide them with a secure footing on which to enjoy the full spectrum of their human rights, while continuing to contribute to Canadian society.

39. In addition to temporary foreign workers and workers without migration status, closed work permits, interjurisdictional neglect and the absence of a clear pathway to permanent residence also create vulnerabilities for other migrant workers, including international students, temporary foreign workers under the high-wage and Global Talent streams and workers the International Mobility Program, around one-third of whom have closed work permits.¹⁰

C. Indigenous Peoples

40. The Special Rapporteur is encouraged by efforts of the Government of Canada to re-examine and redress its colonial legacy and advance the rights of Indigenous Peoples, including the domestication of the United Nations Declaration on the Rights of Indigenous

⁹ See <https://www.canada.ca/en/immigration-refugees-citizenship/news/2024/03/speaking-notes-for-the-honourable-marc-miller-minister-of-immigration-refugees-and-citizenship-announcement-related-to-temporary-residents.html>.

¹⁰ "Act Now" 2024, p. 34.

Peoples and the adoption of a federal action plan for its implementation, and the National Inquiry into Missing and Murdered Indigenous Women and Girls. However, the legacies of colonization and entrenched racial discrimination continue to adversely impact the rights of Indigenous Peoples, including First Nations, Métis and Inuit, and heighten their vulnerability to contemporary forms of slavery.

41. Under the colonial framework, Indigenous Peoples lost sovereignty over their lands, resources, families and bodies, all against a backdrop of unrelenting direct, cultural and structural discrimination. This has created intergenerational trauma and normalized violence and external control over the bodies of Indigenous persons, who experience greater rates of homelessness, low educational achievement, unemployment, poverty and poor health than non-Indigenous Canadians.¹¹ These enduring inequalities rooted in colonization and dispossession have left many Indigenous persons without the social and economic resources that would enable them to enjoy an adequate standard of living, leaving them vulnerable to exploitation.

42. An underlying driver of vulnerability to contemporary forms of slavery is the denial of the rights of Indigenous Peoples to fiscal autonomy, under article 4 of the United Nations Declaration on the Rights of Indigenous Peoples, and to sovereignty over public services under article 23 of the Declaration. Most Indigenous Peoples continue to depend on funding provided by the Federal Government rather than on autonomous sources of revenue. Existing self-government agreements are frequently not implemented, while the initiation of new agreements require extensive negotiations.¹²

43. As Indigenous Peoples do not have sufficient revenue to manage public services, such services continue to be provided by the Federal Government. This has led to significant disparities in their quality. The Canadian Human Rights Commission found that the public services provided on First Nations reserves were chronically underfunded and that the Government had refused to pay for essential health services.¹³ First Nations and Inuit Peoples face significant inequalities in access to water.¹⁴ The lower quality of public services reduces the standard of living enjoyed by Indigenous Peoples and creates migratory pressures as many are obliged to leave areas where they are in the majority in order to access essential services. Lower standards of living may push Indigenous persons to accept exploitative work, absent alternative forms of labour, or to face targeting by traffickers while travelling to seek services in unfamiliar areas.¹⁵

44. Historically, the State has exercised significant control over the bodies of Indigenous persons, most infamously through the residential school system, under which over 150,000 First Nations, Métis and Inuit children were taken from their families and sent to Government-funded schools where they experienced horrific abuses. While the system has been recognized as a genocide by the Government, it persists in the disproportionate rates of institutionalization that affect Indigenous children and adults. Indigenous children and youth, who account for roughly 8 per cent of the population in Canada, account for 53.8 per cent of children in foster care and 50 per cent of children in youth custody and detention facilities.¹⁶

45. The over-institutionalization of Indigenous children makes them vulnerable to contemporary forms of slavery. Many interlocutors emphasized that the child welfare system reproduces the negative impacts of residential schools, as the majority of Indigenous children in care are placed with non-Indigenous families.¹⁷ Others are placed in group homes, which may be publicly or privately run and not well-regulated. Some Indigenous children are reportedly subjected to contemporary forms of slavery by their caregivers in the foster care system. For others, entry into the out-of-home care system results in the loss of cultural,

¹¹ A/HRC/54/31/Add.2, para. 21.

¹² Ibid., paras. 51–54.

¹³ Ibid., para. 33.

¹⁴ See <https://www.ohchr.org/sites/default/files/documents/issues/water/statements/2024-04-19-eom-sr-water-canada-en.pdf>.

¹⁵ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*, vol. 1a., p. 499.

¹⁶ A/HRC/54/31/Add.2, para. 31.

¹⁷ Ibid.

social and family ties, an important bulwark against exploitation. However, the Special Rapporteur was made aware of good practices to remedy such problems at the provincial level, including the efforts of the government of British Columbia to restore jurisdiction of child and family services to Indigenous communities and measures in the province of Ontario to license and regulate out-of-home care.

46. Children raised in the foster care system are more likely to have experienced violence, neglect and loneliness and may have fewer close relationships. When children age out of foster care, they may be abruptly forced to live on their own means, with few social or economic resources, leading them to accept exploitative work or relationships. Human traffickers, who are reportedly aware of these dynamics, target homes where children are reaching the age of majority.¹⁸ Some provinces, including Ontario, have introduced programmes to expand access to financial support, education and public services for youth exiting out-of-home care to mitigate such risks.

47. Major extractive projects continue to be implemented on Indigenous lands without the free, prior and informed consent¹⁹ of all affected Indigenous Peoples by the State and private actors, who frequently fail to provide appropriate restitution and compensation.²⁰ Notwithstanding the broader human rights implications of such projects, they create direct vulnerabilities, exposing Indigenous persons to contemporary forms of slavery. Further, resource extraction projects implemented without compensatory measures deprive Indigenous communities of critical sources of revenue, perpetuating the underdevelopment of services in the communities and may further impoverish them as the presence of resource extraction “boom towns” often leads to a rise in the local cost of living. This heightens the risk of labour exploitation. Interlocutors also highlighted instances of sexual exploitation experienced by Indigenous women and girls near mobile resource extraction camps populated by non-Indigenous men with money to spare.²¹

48. The final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls makes clear that the crisis is at least in part attributable to contemporary forms of slavery. The majority of trafficked women and children in Canada are Indigenous.²² Indigenous women, girls and persons of diverse sexual orientation and gender identity are potentially subjected to particularly violent manifestations of contemporary forms of slavery, given the disproportionate level of violence they face: one in four female homicide victims is Indigenous, and 63 per cent of Indigenous women and girls have experienced physical or sexual assault in their lifetimes.²³

49. Entrenched racist stereotypes depict Indigenous women as hypersexualized. While the stereotype motivates traffickers to target them for sexual exploitation it also leads security and justice actors to downplay their complaints of abuse.²⁴ Law enforcement personnel reportedly does not investigate such crimes seriously, but seek instead to criminalize Indigenous individuals seeking their assistance. The deeply intertwined nature of colonialism and the police system in Canada means that Indigenous persons, while being over-policed in their daily lives through constant surveillance, harassment and criminalization, are under-policed when reporting violence, abuse or exploitation. The incarceration rate for Indigenous adults in provincial adult institutions is roughly nine times that of non-Indigenous Canadians,²⁵ which heightens their susceptibility to labour exploitation as they may be targeted by traffickers when re-entering society or struggling to find decent work with a criminal record.

¹⁸ *Reclaiming Power and Place*, vol. 1a., pp. 659–661.

¹⁹ Declaration on the Rights of Indigenous People, art. 32.

²⁰ *Ibid.*, art. 28.

²¹ *Reclaiming Power and Place*, vol. 1a., pp. 584–594.

²² *Ibid.* p. 55.

²³ See <https://www150.statcan.gc.ca/n1/pub/85-002-x/2022001/article/00004-eng.htm>.

²⁴ *Reclaiming Power and Place*, vol. 1a., pp. 385–396.

²⁵ See <https://www150.statcan.gc.ca/n1/pub/85-002-x/2023001/article/00004-eng.htm>.

D. Sex workers

50. Policies and discourse related to preventing and addressing contemporary forms of slavery in Canada inappropriately conflate commercial sexual exploitation and consensual adult sex work, which negatively impacts the rights of sex workers and deflects focus from persons experiencing contemporary forms of slavery. Sexism, racism, migration status and transphobia prevent many people from finding decent work in other domains, and sex work can offer greater remuneration and flexibility in comparison to minimum-wage employment.²⁶

51. Historically, the sale of sexual services in Canada has remained nominally legal, while associated acts have been criminalized, making it difficult to legally engage in sex work. In 2013, in the case of *Canada (Attorney General) v. Bedford*, the Supreme Court of Canada struck down prohibitions on indoor sex work, receiving payment derived from another person's sex work and communicating in public regarding the sale of sexual services. The Court reasoned that such prohibitions violated the rights of sex workers to security of person as such laws obliged them to work in isolated outdoor areas or to travel to their clients' homes and deprived them of their ability to work with colleagues in an inside environment where they could pay for security.

52. In response, the Government introduced the Protection of Communities and Exploited Persons Act (2014), which reintroduced and expanded prohibitions, notably through criminalizing the purchase of sexual services and communicating in public for that purpose and by reinstating restrictions on receiving material benefits derived from another person's sex work and advertising sexual services. Although an individual cannot be prosecuted for advertising or selling their own sexual services, such acts remain illegal. Additionally, the Immigration and Refugee Protection Regulations forbid migrants without permanent residency from working in any context offering "striptease, erotic dance, escort services or erotic massages" on penalty of deportation, which appears arbitrarily discriminatory.²⁷

53. The criminalization of the sex work ecosystem increases the risk that sex workers may be subjected to exploitation and abuse. They cannot effectively screen clients, as the criminalization of the purchase of sexual services means that clients are generally unwilling to provide personal information. Prohibiting public communication means that negotiations may take place in less visible and populated areas or locations favourable to the client, thus reducing the worker's level of control. Further, sex workers cannot reliably work indoors, as they can be legally evicted from residential or commercial spaces. These restrictions reduce sex workers' business to the point where some may have no choice other than to accept undesirable clients or take undue risks.

54. Sex workers lack access to workplace protections and basic services, rendering them more vulnerable to exploitation. Restrictions on deriving material benefit from the sex work of others make it challenging for sex workers in most provinces to work collaboratively or to hire security or administrative support, measures that are associated with higher occupational health and safety.²⁸ Further, they lack secure housing tenure as they can be legally evicted for engaging in sex work from home and experience significant discrimination in health-care settings where they are often refused care, subjected to inappropriate physical contact or face presumptions that any health complaint is linked to sexually transmitted conditions. Sex workers also face challenges accessing financial services owing to denial of service or having their accounts and transactions flagged as suspicious by financial surveillance regimes.

55. Sex workers that do encounter violence, exploitation or abuse on the job struggle to obtain justice. Sex workers informed the Special Rapporteur that they cannot approach labour

²⁶ [Preventing Harm in the Sex Industry: A Review of the Protecting Communities and Exploited Persons Act](#) (2022), Standing Committee on Justice and Human Rights, House of Commons of Canada, pp. 12–15.

²⁷ See [Immigration and Refugee Protection Regulations](#), 183(1)(b.1), 196.1(a), 200(3)(g) (i) and 203(2)(a).

²⁸ [Preventing Harm in the Sex Industry: A Review of the Protecting Communities and Exploited Persons Act](#) (2022), Standing Committee on Justice and Human Rights, House of Commons of Canada, p. 18.

tribunals to report issues such as wage theft, forced labour, dangerous working conditions or abuse and that they struggle to produce evidence as potential witnesses may fear criminalization. Sex workers reported that they cannot safely with engage law enforcement personnel, who routinely surveil and harass them and raid their workplaces under the guise of anti-trafficking operations. Law enforcement personnel reportedly ignore or minimize their complaints of violence or exploitation, focusing on criminalizing sex workers or their clients. Law enforcement actors may also sexually exploit sex workers that attempt to bring complaints before them. Sex workers from communities that are already overpoliced, including Indigenous and racialized sex workers and LGBTQ+ sex workers, face even greater discrimination.

E. Persons deprived of liberty

56. As in most contexts,²⁹ prisoners face greater risks of being subjected to contemporary forms of slavery. While incarcerated, they can access employment and training programmes and access correctional plans that indicate which type of work they could pursue. Although participation is not compulsory, adherence to an assigned correctional plan is taken into consideration when determining eligibility for parole and release, a practice that could be considered to be coercive. For a number of reasons, once released, former prisoners have a higher than average cost of living, a factor that may compel them to accept substandard wages and conditions in the absence of alternatives.³⁰

57. Employment in penitentiary settings is not appropriately remunerated. The maximum pay inmates can receive is Can\$6.90 per day, below the federal minimum wage of Can\$17.30 as of May 2024. Only a small number of prisoners are eligible for maximum pay. Inmate pay is not indexed to inflation and has not been revised since 1981, despite repeated recommendations to do so by the Office of the Correctional Investigator.³¹

58. Employment programmes reportedly do not adequately prepare prisoners for the labour market. The selection of trades offered is not based on conditions in the external labour market. Vocational training often focuses on general soft skills. Inmates may be ill-prepared to support themselves upon release because they experience particular discrimination in terms of access to public services, financial services and employment. Few prisoners have access to transitional housing, given the overall housing crisis confronting Canada. Socioeconomic marginalization may push them to accept exploitative forms of work and many former prisoners consequently end up in precarious types of work, characterized by situations of exploitation or abuse. Given the above challenges, some former prisoners experience homelessness and recidivism. This is particularly true for Indigenous persons, persons of African descent and persons with disabilities, who are disproportionately represented within the correctional system and face additional barriers both while incarcerated and after their release.

F. People of African descent

59. In Canada, the legacy of slavery continues to affect people of African descent, who experience systematic social and economic exclusion and entrenched racism. From an early age, they are more frequently disciplined than their peers and streamed into general or remedial academic programmes rather than advanced programmes, leading to lower levels of educational attainment. They experience greater rates of unemployment, underemployment and poverty, have less access to adequate and affordable housing and experience poorer health and mental health outcomes. The social and economic exclusion of people of African descent is compounded by their underrepresentation in decision-making in public administration, institutions and businesses. In addition, people of African descent in Canada are overrepresented in other high-risk settings identified herein, including the

²⁹ A/HRC/57/46.

³⁰ See <https://oci-bec.gc.ca/en/content/office-correctional-investigator-annual-report-2022-2023#s3>.

³¹ Ibid.

Temporary Foreign Workers Program, the child welfare system³² and the corrections system.³³

60. People of African descent are also overpoliced, subjected to racial profiling, excessive surveillance and a greater proportion of incidents characterized by the excessive use of force, including extrajudicial killings.³⁴ They cannot report abuses for fear of being criminalized, and report that such complaints are not taken seriously. Racial bias impacts the application of human trafficking legislation. A disproportionate number of prosecutions focus on cases where the accused perpetrator is a male of African descent and/or the alleged victim is a white female, obscuring focus on perpetrators from other backgrounds.³⁵

61. People of African descent lack equal protections, including access to justice and remedies. An investigation by the Standing Senate Committee on Human Rights found that the Canadian Human Rights Commission had systematically failed to act on complaints of anti-Black racism brought before it and had discriminated against its own employees of African descent.³⁶ People of African descent are not a distinct group under the Employment Equity Act, but are instead subsumed under the umbrella term “visible minority”, while specific categories exist for women, Indigenous Peoples and people with disabilities.³⁷ Similarly, they are not recognized a specific group under the Constitution of Canada.

G. Persons with disabilities

62. Canada has ratified the Convention on the Rights of Persons with Disabilities, article 27 of which specifies that persons with disabilities have the right to work on an equal basis with others in an open, inclusive and accessible environment and should be protected from contemporary forms of slavery. The Committee on the Rights of Persons with Disabilities has clarified that segregated employment for persons with disabilities is not compatible with the Convention.³⁸ Nonetheless, the Special Rapporteur is concerned that such situations exist in Canada in the form of “sheltered work”, programmes, which employ only persons with disabilities and which do not provide equally remunerated work or the full spectrum of benefits and workplace protections.³⁹

63. The existence of such programmes highlights the interjurisdictional gap between the international human rights commitments made at the federal level and the freedom of provincial and territorial authorities to ignore or implement those obligations as they see fit. Labour law is provincially determined, and at least four provinces provide some forms of exemption to labour standards for sheltered programmes, including exemptions that permit workers to be paid below the minimum wage.⁴⁰ Such exemptions impoverish persons with disabilities and increase their social and economic exclusion, creating vulnerability to exploitation. Sheltered work perpetuates the notion that people with disabilities cannot participate in the general labour market, where they already face significant discrimination;

³² See https://cwrp.ca/sites/default/files/publications/en/interrupted_childhoods_over-representation_of_indigenous_and_black_children_in_ontario_child_welfare_accessible.pdf.

³³ See <https://www.justice.gc.ca/eng/rp-pr/jr/obpccjs-spnsjpc/index.html>.

³⁴ Ibid.

³⁵ Millar, H. and O’Doherty, T., “Racialized, gendered, and sensationalized: An examination of Canadian anti-trafficking laws, their enforcement, and their (re)presentation”, *Canadian Journal of Law and Society*, vol. 35, No. 1 (2020).

³⁶ See https://sencanada.ca/content/sen/committee/441/RIDR/Reports/Report_SS-1_CHRC_e.pdf.

³⁷ See <https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity.html>.

³⁸ CRPD/C/GC/8, paras. 12 and 15.

³⁹ Ibid. para. 14.

⁴⁰ Institute for Research and Development on Inclusion and Society, “Help Wanted: Ending Sheltered Work in Canada”, p. 13.

only 59 per cent of persons with disabilities are employed, compared to 80 per cent of persons without disabilities.⁴¹

64. Although the Convention holds that persons with disabilities should be able to live independently within communities, some persons with disabilities remain institutionalized in Canada.⁴² When exiting institutionalized settings, they are vulnerable to exploitation if not provided sufficient transitional supports. Disability rates exceed 30 per cent in some Indigenous nations which may be linked to the ongoing experience of colonization and intergenerational trauma⁴³ and reportedly, Indigenous women and girls with intellectual disabilities are targeted by traffickers as they are intellectually vulnerable and their disappearances less likely to attract scrutiny from law enforcement.

H. Homelessness

65. The Special Rapporteur has previously elaborated how homelessness is both a cause and a consequence of contemporary forms of slavery.⁴⁴ Canada has taken important steps towards the progressive realization of the right to adequate housing, including through domesticating this right through the 2019 National Housing Strategy Act and the appointment of a Federal Housing Advocate. Nonetheless, Canada continues to face a severe housing crisis; at least 10 per cent of Canadian households live in unsuitable, inadequate or affordable dwellings and cannot afford alternative housing within their community.⁴⁵ The financialization of housing as a commodity, coupled with declining investments in social housing, have fuelled this crisis. Once again, interjurisdictional lacunae stymie the implementation of federal human rights policy, as housing policy is delegated to the provinces and territories, who determine the extent to which each province or territory enables the financialization of housing or invests in social housing, as well as standards for adequate housing.

66. In Canada, homelessness disproportionately affects groups that already face greater vulnerability to contemporary forms of slavery, including Indigenous Peoples, people with disabilities, migrants, refugees, and asylum-seekers, racialized persons and sex workers. Despite the fact that victims of human trafficking are a priority group for access to social housing, they face long wait times in practice. Insufficient transitional and long-term affordable housing also heightens vulnerability for persons exiting institutionalized settings, who may be inclined to accept exploitative forms of work to afford housing.

I. Access to protection, justice, remedy and rehabilitation

67. The Special Rapporteur welcomes the holistic scope of the National Strategy to Combat Human Trafficking. However, he is concerned that in its implementation, criminal justice approaches are deployed which do not equally address all contemporary forms of slavery and marginalize certain populations. Additionally, greater efforts are needed to ensure meaningful remedy and provide wraparound rehabilitation services to victims and survivors without discrimination.

68. Several interlocutors highlighted that anti-trafficking campaigns and law enforcement actions focus disproportionately on commercial sexual exploitation over labour exploitation. Proactive investigations of labour trafficking cases are reportedly less frequent in comparison

⁴¹ See <https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports/act-review-task-force/chapter-3.html#h2.5>.

⁴² See <https://www.chrc-ccdp.gc.ca/en/resources/publications/what-we-learned-housing-people-disabilities>.

⁴³ See <https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports/act-review-task-force/chapter-3.html#h2.5>.

⁴⁴ A/HRC/54/30.

⁴⁵ See <https://housing.chcreport.ca/pdf/federal-housing-advocates-annual-report-2022-2023.pdf>.

with sex trafficking cases and the basis upon which the latter are initiated is questionable, as many target places of consensual adult sex work rather than situations of exploitation.

69. Law enforcement actions against suspected incidents of trafficking often take the form of highly publicized “rescue” operations. However, the apprehension of alleged perpetrators seems to take precedence over protecting victims who do not receive medium or long-term transitional support, including for housing and alternative livelihoods. The situation is worse for migrants without permanent status, who face deportation either because their status in Canada depended on their employer prior to the raid or because they are found to have been engaged in sex work. In some instances, whistle-blowers who exposed instances of labour abuses are themselves deported.

70. Interjurisdictional issues coupled with a lack of awareness by public officials stymie the effective investigation of slavery offences. Trafficking in persons often spans multiple jurisdictions, meaning federal, provincial, territorial and municipal authorities, including diplomatic representation, may be involved. It may be unclear where and under which legal framework offences should be prosecuted. Although the Federal Government has established coordination bodies, including the Human Trafficking Taskforce and the Human Trafficking National Coordination Centre, other jurisdictions are not mandated to coordinate with them, although a trafficking in persons working group brings together federal, provincial and territorial authorities.⁴⁶ Some provinces, including Nova Scotia and Ontario, have specialized prosecutors for trafficking offences, which may help to streamline coordination. However, at the federal level, the post of Special Adviser to Combat Human Trafficking committed to under the strategy has been vacant since 2021.

71. The use of law enforcement as the primary means of addressing contemporary forms of slavery runs contrary to the wishes of most victims and survivors. The Special Rapporteur was informed that only around 7 per cent of callers to the Canadian Human Trafficking Hotline request the aid of law enforcement personnel. Submitting a formal complaint carries multiple risks, including possible reprisal, criminalization by law enforcement, loss of livelihoods, housing, migration status or deportation. Further, interjurisdictional gaps create protection risks; victims may be forced to move between jurisdictions to participate in court proceedings, which may recreate the trauma of being trafficked or oblige some to return to areas where their safety is at risk. Many may be reluctant to engage with law enforcement authorities given the limited prospects of success, as less than half of trafficking reports lead to charges being laid or identified.⁴⁷

72. Judicial processes are lengthy, invasive and retraumatizing. Victims must repeatedly recount their experiences, often in front of the accused perpetrators, and reportedly may be badgered by law enforcement and court personnel for not being sufficiently forthcoming. Law enforcement personnel are reportedly not properly trained in victim-centred, trauma-informed approaches and some have reportedly expressed resistance to receiving such training on the grounds that it would create bias. They are also not sufficiently trained to distinguish between consensual adult sex work and trafficking in persons.

73. While perpetrators of labour and sex trafficking offences should be held accountable, equal weight must be given to the protection and rehabilitation of victims and survivors of trafficking. Survivors of contemporary forms of slavery require significant psychosocial and material support, as they are not only dealing with the traumatic experience of being trafficked and navigating the court process but have also lost their livelihoods, housing, access to basic services and migration status.

74. Although the National Strategy to Combat Human Trafficking mandates the establishment of a national case-management standard to ensure that victims have equal access to requisite services, no such standard exists in practice. Provincial assistance programmes, which vary considerably by jurisdiction, are politicized, fragmented and delivered through a patchwork of civil society organizations and characterized by an absence of long-term, predictable funding and demand-driven, evidence-based approaches. Many frontline organizations are overstretched, underfunded and uncertain of reliable Government

⁴⁶ *Reclaiming Power and Place*, vol. 1a., p. 565.

⁴⁷ See <https://www150.statcan.gc.ca/n1/pub/85-005-x/2023001/article/00002-eng.htm>.

funding. Among the most critical supports needed are transitional housing, mental health services and support for alternative livelihoods.

75. Victims of human trafficking without permanent residency also lack adequate protections. Some receive short-term temporary residence permits specifically for victims of trafficking in persons, which allow them to remain in Canada for 180 days on open work permits. Issuance of the permits is at the discretion of local officials, leading to inconsistencies. Many unsuccessful applicants reported that the reasons for their rejection were not made clear, though reportedly victims of sex trafficking were more likely to receive permits than victims of labour trafficking. These particular temporary residence permits do not imply status; rather than being renewed, new permits must be reissued after 180 days and thus provide no reliable pathway towards permanent residency. After 180 days, a longer-term permit must be issued. Although Immigration, Refugees and Citizenship Canada purports that the issuance of these temporary residence permits does not require that victims cooperate with law enforcement, when issuing longer-term permits, officers are explicitly asked to consider whether the victims are needed by and willing to assist authorities in investigations and criminal proceedings.⁴⁸ Further, some victims reported that law enforcement personnel use false promises of these temporary residence permits to incentivize their participation in criminal proceedings.

76. The Government's focus on criminal justice at the expense of providing wraparound services to rehabilitate and reintegrate survivors minimizes the agency of victims and survivors. While the Special Rapporteur was disappointed to learn that commitments to establish a survivor advisory committee under the National Strategy to Combat Human Trafficking have been tabled, he welcomed the establishment of such bodies in some provinces and territories, including the "human trafficking lived experience round table" in Ontario. Engaging and empowering survivors to inform policy approaches is critical to ensure a human rights-based approach to contemporary forms of slavery.

IV. Conclusions and recommendations

77. **The Special Rapporteur acknowledges the ongoing efforts of Canada to prevent and address contemporary forms of slavery within its territory and abroad and its willingness to critically re-examine the underlying drivers, including its colonial legacy, the adverse effects of the activities of the Canadian private sector on human rights and its treatment of marginalized groups. Nonetheless, Canada risks failing to live up to its reputation as a global champion of human rights if it does not act more decisively to reform laws and policies that enable the exploitation of vulnerable workers and fail to provide adequate remedy and rehabilitation to victims of exploitation and abuse.**

78. **Canada must move from acknowledging the human rights challenges its past and current policies have created and towards meaningful remedial actions, including: promoting human rights due diligence by Canadian companies; reforming migration programmes that are conducive to exploitation; and addressing its colonial legacy and its enduring impacts on Indigenous Peoples, including structural barriers that continue to marginalize persons with disabilities and racialized groups. Approaches to prevent and address contemporary forms of slavery must follow a survivor-centred, human rights-based approach that does not infringe upon the rights of other groups, including sex workers. Support services must be provided on an equitable and predictable basis, with institutionalized funding and without discrimination. Canada must also tackle the root causes of contemporary forms of slavery, including poverty, inequality and discrimination, amplified by the legacy of colonialism and racism, and the housing crisis, in particular the critical shortage of social and transitional housing.**

79. **With due respect for the Canadian constitutional framework, the Special Rapporteur believes that the current arrangements for responsibility-sharing between**

⁴⁸ See <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/considerations-specific-victims-human-trafficking.html>.

the Federal Government and the provincial and territorial governments systematically create situations of interjurisdictional neglect that increase vulnerability to contemporary forms of slavery for certain groups and stymie efforts to protect and assist victims, with particular impacts on Indigenous Peoples, migrants, persons experiencing homelessness and persons with disabilities. The current approach to federalism appears to prevent Canada from effectively fulfilling its human rights treaty obligations. As made clear in the Vienna Convention on the Law of Treaties, a State cannot invoke the provisions of internal laws as justification for its failure to perform a treaty.

80. Canada is deservedly known for its commitment to a diverse and multicultural society, in which Indigenous Peoples, persons with disabilities and people of every gender, race, national origin, profession can coexist without discrimination. To turn this vision into reality, however, every resident of Canada must enjoy the same rights. During his visit, the Special Rapporteur observed that often the people who face intersecting forms of discrimination are most vulnerable to contemporary forms of slavery, including Indigenous Peoples, racialized persons, women and gender-diverse individuals, migrants and persons with disabilities and that Canada must do more to address the systematic, intersecting forms of discrimination those groups continue to face.

81. The Special Rapporteur wishes to reiterate that Canada has a deeply rooted culture of respect for human rights. As a result, many robust mechanisms have been put in place, including the National Inquiry into Missing and Murdered Indigenous Women and Girls, the Standing Senate Committee on Social Affairs, Science and Technology, the Standing Senate Committee on Human Rights, the House of Commons Standing Committee on Citizenship and Immigration, the House of Commons Standing Committee on Justice and Human Rights, the Offices of the Auditor-General, Correctional Investigator and the Federal Housing Advocate and numerous civil society organizations and workers' organizations. Those bodies have assessed the human rights challenges highlighted in the present report and have drawn similar conclusions. However, the Government must implement their recommendations, as well as those submitted in the present report, rather than deferring action by prolonging debate or taking concrete recommendations under indefinite periods of consideration.

Human rights due diligence

82. The Special Rapporteur recommends that the Government of Canada strengthen the mandate and enforcement powers of the Office of the Canadian Ombudsperson for Responsible Enterprise, in line with the Principles on the Protection and Promotion of the Ombudsman Institution, including by:

- (a) Extending its mandate to cover all economic sectors;
- (b) Providing it with powers to compel testimony and evidence and to sanction companies for failure to comply with recommendations;
- (c) Ensuring its full independence from Government, with a reporting line to Parliament instead of a minister;
- (d) Allocating sufficient resources to effectively implement all aspects of its strengthened mandate and monitor compliance;
- (e) Effectively implementing the import ban on goods produced with forced labour and child labour through the customs tariff by strengthening risk analysis and allocating adequate resources to increase inspections;
- (f) Proactively promoting compliance with prohibitions on the use of forced labour or child labour by public suppliers;
- (g) Introducing mandatory human rights due diligence obligations on all Canadian companies, including their supply chains within and outside the country;

- (h) Amending the Supply Chains Act in order to ensure that it is applicable to companies of all sizes, with support to small and medium-sized enterprises to aid compliance;
- (i) Developing guidance for remedy and responsible exit;
- (j) Ensuring the full independence of the National Contact Point from Government.

Migrant workers

83. The Special Rapporteur recommends that the Government of Canada address the situation of migrant workers by:

- (a) Ending the use of closed work permit regimes and allowing all workers the right to choose and change their employers in any sector without restriction or discrimination;
- (b) Ensuring that all migrant workers have a clear pathway to permanent residency from the time of their arrival in the country and are able to benefit from federally funded settlement services and other public services without discrimination;
- (c) Regularizing workers who have lost status, in particular workers who have been victims of contemporary forms of slavery;
- (d) Enforcing international human rights obligations, national human rights standards and provincial and territorial standards regarding labour rights, occupational health and safety, unionization, health care and housing for migrant workers, without discrimination;
- (e) Ending interjurisdictional neglect by mandating or creating a single coordination body with full oversight of migrant workers' rights and conditions and ensuring that all federal, provincial, territorial and municipal actors are regularly engaged and sensitized about their responsibilities;
- (f) Providing equal access to adequate housing without discrimination, in line with the National Housing Strategy Act.

84. Recommends that the Government of Canada ensure that all migrant workers have equitable access to health care from the time of their arrival, without discrimination or interjurisdictional inequities, including by:

- (a) Extending federal health coverage in the waiting period for provincial and territorial coverage, rather than relying on employers to provide private insurance;
- (b) Addressing barriers to health care for migrant workers, including lack of transport and medical interpretation.

85. Recommends that the Government of Canada ensure that all migrant workers are able to effectively report abuses and receive protection, including by:

- (a) Providing necessary information to all migrant workers regarding their rights and entitlements, including access to grievance mechanisms, before and after arrival, in languages they understand;
- (b) Providing language education before and after arrival to all migrant workers;
- (c) Creating a single point of contact for migrant workers to report all types of abuse, including labour, housing and health-care issues;
- (d) Streamlining the process for workers to obtain open work permits for vulnerable workers and make the permits more easily renewable, as an interim measure, pending their transition from closed work permits.

86. The Special Rapporteur recommends that the Government of Canada allocate sufficient resources and strengthen the labour inspection regime by:

- (a) Ensuring that the regime covers all industries, including in-home care, the recreational cannabis sector and all aspects of employers' obligations;
- (b) Utilizing unannounced inspections as a default approach;
- (c) Ensuring that inspections cover all aspects of migrant workers' rights and all employers' obligations, including access to health care, the provision of accurate information and oversight of third-party recruiters;
- (d) Engaging proactively with diplomatic representation of migrants' home countries, workers' organizations and civil society organizations in conducting labour inspections.

87. Recommends that the Government of Canada ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129) and the ILO Domestic Workers Convention, 2011 (No. 189).

Indigenous Peoples

88. The Special Rapporteur recommends that the Government of Canada guarantee the economic, social, cultural, civil and political self-determination of Indigenous Peoples through the full implementation of the United Nations Declaration on the Rights of Indigenous Peoples in law and in practice, including by:

- (a) Ensuring that all provincial and territorial laws and practices conform to its treaty obligations and with the federal commitment to the domestication of the Declaration;
- (b) Granting fiscal sovereignty and self-governance in law and practice for Indigenous Peoples, including First Nations, Métis and Inuit Peoples;
- (c) Expediting the transfer of full control over essential public services, including child and family services, to Indigenous Peoples and, in the interim, strengthening oversight of service delivery;
- (d) Respecting the principle of free, prior and informed consent in law and in practice, including the ability of Indigenous Peoples to benefit from compensation, restitution and revenue-sharing arrangements from extraction and development projects on their lands;
- (e) Involve Indigenous Peoples in all decision-making processes affecting their lives.

89. The Special Rapporteur recommends that the Government of Canada act upon the findings of the National Inquiry into Missing and Murdered Indigenous Women and Girls in a timely manner by effectively implementing the "Calls for Justice" emanating from the inquiry,⁴⁹ with particular emphasis on the following in the context of contemporary forms of slavery:

- (a) Allocation of sufficient financial and other resources to Indigenous communities for permanent, accessible and wraparound public services;⁵⁰
- (b) Self-determination over and equity in policing services for Indigenous Peoples;⁵¹
- (c) Holistic support for the legal process and rehabilitation under a trauma-informed approach;⁵²
- (d) Sovereignty over child welfare systems in order to secure appropriate long-term transitional support for youth ageing out of the foster care system, identify

⁴⁹ See https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf.

⁵⁰ Ibid., 3.4.

⁵¹ Ibid., 5.4, 5.5 and 5.7.

⁵² Ibid., 5.6.

and respond effectively to potential trafficking of children more effectively and provide appropriate long-term care for children who have been exploited.⁵³

Sex work

90. The Special Rapporteur recommends that the Government of Canada:

(a) Mitigate the risks of exploitation and abuse, fully decriminalize consensual adult sex work in law and in practice, including through the repeal of the Protection of Communities and Exploited Persons Act and discriminatory immigration regulations that criminalize sex work by migrants without permanent residence;

(b) End conflation between consensual adult sex work and commercial sexual exploitation in policy and practice, including the misuse of anti-trafficking resources and legislation at the federal as well as at the provincial and territorial levels to target sex workers;

(c) End harassment, surveillance and raids targeting sex workers by law enforcement personnel and strengthen oversight to ensure that law enforcement personnel respond appropriately to complaints of violence, abuse or other issues reported to them by sex workers;

(d) End discrimination with regard to adequate housing, health care and essential services;

(e) Extend labour protections to sex workers, without discrimination, in areas such occupational health and safety, access to grievance mechanisms and unionization.

Persons deprived of liberty

91. The Special Rapporteur recommends that the Government of Canada:

(a) Revise the wage structure for prison labour to reflect current costs of living;

(b) Ensure that education and employment training provided during incarceration are designed to enhance market-based skills and that participation in employment programmes is not coerced;

(c) Provide individually tailored transitional support to all persons exiting institutionalized settings, including detention facilities and group homes for children in care and/or persons with disabilities, in order to promote their reintegration more effectively;

(d) Ratify the Optional Protocol to the Convention against Torture and other Cruel Inhuman, or Degrading Treatment or Punishment to strengthen oversight of detention conditions.

People of African descent

92. The Special Rapporteur recommends that the Government of Canada:

(a) Promote educational models that clarify the role of Canada in the transatlantic slave trade and subsequent segregationist policies;

(b) Address systemic racism against people of African descent through a clear federal anti-racism strategy with a strong oversight mechanism;

(c) Secure equal access to education, decent work, housing and essential services, without discrimination;

(d) Recognize people of African descent as a distinct people in the Canadian Constitution, including the Canadian Charter of Rights and Freedoms, the

⁵³ Ibid., 12.1, 12.2, 12.11, 12.12 and 12.14.

Employment Equity Act and other legal and regulatory frameworks to enhance equal opportunities.

Persons with disabilities

93. **The Special Rapporteur recommends that the Government of Canada:**

(a) **Ensure that provincial and territorial employment standards legislation are in alignment with the international human rights obligations of Canada and protect the rights of persons with disabilities under minimum wage standards and other labour rights;**

(b) **Replace sheltered work programmes with inclusive employment opportunities that respect the agency and rights of persons with disabilities;**

(c) **Address patterns of human trafficking that target persons with disabilities, in particular Indigenous persons.**

Homelessness

94. **The Special Rapporteur recommends that the Government of Canada:**

(a) **Enact a unified approach to ensure the right to adequate housing, in line with international standards for all Canadians, without discrimination, including meaningful efforts to address financialization of housing;**

(b) **Increase public and private sector investment in social housing, in particular transitional housing for persons exiting institutional settings and victims of contemporary forms of slavery.**

Cross-cutting actions to address contemporary forms of slavery

95. **The Special Rapporteur recommends that the Government of Canada ensure that the approaches of law enforcement authorities to address contemporary forms of slavery are victim-centred and human rights-based, including by:**

(a) **Paying equal attention to all contemporary forms of slavery, including labour and sex trafficking offences, and collecting disaggregated data on the types of cases encountered, as well as the profiles of victims and perpetrators;**

(b) **Training law enforcement and justice actors in victim-centred, trauma-informed approaches, identifying all contemporary forms of slavery and distinguishing sex work from commercial sexual exploitation, including the greater engagement of those with lived experience, civil society organizations and other relevant stakeholders;**

(c) **Strengthening cooperation and coordination among all relevant authorities at the federal, provincial, territorial and municipal levels to reduce interjurisdictional neglect of trafficking cases;**

(d) **Securing adequate medium- and long-term plans to protect and rehabilitate victims, ensuring their access to alternative livelihoods, housing and essential services, prior to any raid or rescue operation;**

(e) **Creating police oversight boards that reflect the diversity of Canada, including racialized, Indigenous, migrant and sex worker representation;**

(f) **Ending collusion with immigration enforcement authorities that leads to the deportation of victims, witnesses, sex workers and whistle-blowers.**

96. **Recommends that the Government of Canada strengthen the protection, support and rehabilitation measures for victims, survivors and witnesses before, during and after legal processes by:**

(a) **Ensuring that victims are not retraumatized or exposed to risks as a result of participation in the legal process;**

(b) **Establishing a national case management standard applicable to all provinces and territories so that victims and witnesses are able to access necessary support services without discrimination;**

(c) **Providing predictable long-term funding for support and rehabilitation services, including housing, livelihoods and health care, with equity across jurisdictions, and prioritizing funding to survivor-led organizations;**

(d) **Effectively protecting migrant victims, witness and whistle-blowers by providing them with status and a clear path to permanent residency that is not at any level contingent on collaboration with law enforcement;**

(e) **Providing pathways for long-term or permanent residency for foreign victims and survivors.**

97. **The Special Rapporteur recommends that the Government of Canada strengthen implementation of the National Strategy to Combat Human Trafficking by:**

(a) **Allocating sufficient resources to all aspects of the strategy, rather than pursuing principally law enforcement-driven or prosecution-oriented approaches;**

(b) **Appointing an individual to fill the position of Special Adviser to Combat Human Trafficking to lead cross-jurisdictional coordination, including by creating a network of provincial/territorial counterparts;**

(c) **Creating a federal survivor advisory committee and provincial and territorial counterparts with meaningful control over implementation of the strategy.**
