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Report of the Working Group on the Universal Periodic Review*

Canada

Addendum

**Views on conclusions and/or recommendations, voluntary commitments
and replies presented by the State under review**

* The present document was not edited before being sent to the United Nations translation services.

1. The following sets out Canada's response to the 162 recommendations received during Canada's second Universal Periodic Review (UPR) on April 26, 2013.
2. Federal, provincial and territorial (FPT) governments carefully reviewed the recommendations and collaborated in preparing this response. Civil society and Aboriginal organizations were also invited to provide their views on the recommendations, both in writing and at two meetings held with FPT governments.
3. Canada reports that it accepts 122 recommendations, either in full, in part or in principle. Recommendations that Canada accepts in full or in part are those that FPT governments are already implementing through existing legislative or administrative measures, and are committed to continuing to take steps to achieve. Recommendations that Canada accepts in principle are those where governments are taking steps towards achieving the objectives of the recommendations, but do not accept the specific proposed action. Recommendations are not accepted if they call for specific actions that are not under consideration at this time, whether or not Canada supports the underlying objectives.

International instruments and implementation of international obligations

4. Canada accepts recommendation 9. Canada ratified the Rome Statute in 2000.
5. Canada accepts in principle recommendations 2 and 11 but has no current plan to ratify these conventions.
6. Canada does not accept recommendations:
 - 1, 3, 4, 5, 6, 8, 10, 12, 13, 14, and 15: 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.
 - 16 and 31: Canada is committed to the promotion and implementation of the *Convention on the Rights of the Child* (CRC) and does so through a combination of constitutional protections and FPT legislative and administrative measures, in keeping with its longstanding approach. The Convention itself does not require incorporation of its provisions directly into domestic law.
 - 22: Protection against torture is guaranteed in the Canadian Constitution and the *Criminal Code*. It is not Canada's practice to enact legislation to incorporate an entire international human rights treaty into domestic law.

Follow-up to United Nations (UN) recommendations and cooperation with UN mechanisms

7. Canada accepts recommendations:
 - 28 and 30 and the second part of recommendation 47, in light of the fact Canada does not discriminate against minorities in education.
 - 32, 33 and 34: Canada will continue to cooperate with human rights mechanisms and special procedures.
8. Canada accepts in principle recommendation 29 and the first part of 47 (treaty body recommendations). Governments regularly seek the views of civil society and Aboriginal organizations to inform their analysis of recommendations, and will report publicly on the recommendations in periodic reports to UN treaty bodies.
9. Canada accepts in principle recommendations 35 and 36. Canada's human rights record is examined in accordance with its treaty obligations and the rules and regulations of the relevant treaty bodies. Canada will consider requests by Special Rapporteurs on a case by case basis.

10. Canada does not accept recommendation 27. Governments will continue to address the issues raised during its last UPR, but it is not established practice to adopt an action plan for implementation of accepted recommendations.

Racism, racial and religious discrimination and xenophobia

11. Canada accepts recommendations:

- 38, 40, 41, 42, 50, 51 and 52.

Numerous measures are in place to ensure that systemic racism and discrimination do not become problems in Canada. Canada does not engage in invidious targeting, profiling and harassment of members of ethnic or racial communities. Canada's *Criminal Code* condemns and prohibits all acts of violence, against all persons, and prohibits advocating or promoting genocide, publicly inciting hatred that is likely to lead to a breach of the peace, or willfully promoting hatred against an identifiable group on grounds including race, colour, ethnic origin and religion. Each jurisdiction in Canada also has its own legislation that addresses these issues, including prohibitions against such discrimination except when such discrimination is intended to benefit a minority as in the case of affirmative action.

12. Canada accepts in part recommendations:

- 19, 21, 39 and 49.

Canada will continue to work to ensure that systemic 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 protections already exist across the country.

13. Canada accepts in principle recommendation 37, 43, 44, 45, 46 and 48.

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.

14. Canada does not accept recommendations 17, 18, 20 and the related part of 49, as superfluous and redundant given current legislation.

Minority groups

15. Canada accepts recommendations:

- 53, 54, 55, 56 and 69.

Aboriginal peoples

16. Canada accepts recommendations:

- 59, 62, 63, 65, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78 and 139,

based on existing measures, including the *Gender Equity in Indian Registration Act* and the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, the numerous FPT income, employment, housing, health and education supports, and continued support to Aboriginal peoples (First Nations, Inuit and Métis) and Northerners.

17. Canada accepts in part recommendations:

- 60 (recommendations of the CRC) and 67 (full enjoyment of all human rights).

The recommendations of the CRC are not legally binding, but governments in Canada already give consideration to the same principles.

18. Canada accepts in principle recommendation 64. The Government of Canada will continue to work with Aboriginal, and provincial and territorial (PT) partners towards ensuring that Aboriginal communities have access to services that are comparable to those enjoyed by other Canadians.

19. Canada does not accept recommendations:

- 60 (first part), 61, 66, and part of 67, which relate to the UN *Declaration on the Rights of Indigenous Peoples*, which Canada views as an aspirational, non-binding instrument. Canada will continue to work in partnership with Aboriginal peoples on many of the issues addressed in the Declaration, including in the areas of education, economic development, housing, child and family services, access to safe drinking water, and the extension of human rights protection and matrimonial real property protection to First Nations on reserve.

Women

20. Canada accepts recommendations:

- 26, 79, 80 and 91.

Children

21. Canada accepts recommendations 112, 128 and 129. Canada has implemented prevention, intervention and support measures to protect children from all forms of violence, including child sexual exploitation, and programs and policies exist to encourage the provision of comparable levels of services to all children, including Aboriginal children.

22. Canada accepts in part recommendations:

- 113 (combating pedophilia), 114 (hazardous and unsafe working environments) and 120 (child sexual exploitation).

The *Criminal Code* provides comprehensive protections against all forms of sexual assault and exploitation of children, including pedophilia and child prostitution, and child sexual exploitation is a ground for provincial child welfare intervention. Canada rejects the inference that child prostitution has increased in Canada; however recognizes the increase internationally and has measures in place to prevent human trafficking and child sex tourism. All Canadian jurisdictions have measures in place protecting children from economic exploitation and hazardous work.

23. Canada accepts in principle the first part of recommendation 7, dealing with Canada's reservation to article 37 (c) of the CRC. Recent amendments to the *Youth Criminal Justice Act* provide that youth under 18 will, in all cases, serve their custodial sentence in a youth custody facility. Canada has no current plans to withdraw its reservation.

24. Canada does not accept recommendations:

- 7 (second part), 119, and 120 (first part), which call for the establishment of a federal Children's Ombudsman, the functions of which are already being performed through existing domestic implementation mechanisms.
- 23: The father's name is not removed from birth certificates in cases of children born outside of marriage; rather, PT governments have a range of options in place for recognizing parenthood.
- 115 and 116: No changes to Canada's policy are anticipated.

- 117: See recommendation 120. Although two prostitution-related offences in the *Criminal Code* could apply to child prostitutes, their vulnerability is considered when determining whether to prosecute a particular case.
- 118: The *Criminal Code* criminalizes all child abuse, but provides a limited defence to parents, caregivers and teachers, in cases only where minor corrective force of a transitory or trifling nature is used.

Persons with disabilities

25. Canada accepts recommendations:

- 24, 141, 142, 143, 144 and 145.

Older persons

26. Canada accepts recommendations 24 (as above) and 25.

Immigrants and refugees

27. Canada accepts recommendations:

- 147, 148, 149 and 150.

28. Canada does not accept recommendation 146. Canada's *Immigration and Refugee Protection Act* does not discriminate against individuals on the basis of race, colour, national or ethnic origin. More robust detention provisions for individuals who arrive as part of a designated human smuggling event are necessary to ensure government authorities have sufficient time to perform required identity and background checks, and to determine admissibility in order to protect national security and public safety.

Poverty, homelessness and food security

29. Canada accepts recommendations 126 and 127.

30. Canada accepts in part recommendation 124. While Canada will not adopt a national strategy to combat poverty, strategies and action plans have been adopted by most PTs. The federal government also provides funding for community-based initiatives in all PTs through the Homelessness Partnering Strategy.

31. Canada accepts the first part of recommendation 125 in principle. Canada remains committed to existing FPT policies and programs but does not accept the specific proposal to develop a national plan on food security.

Water and sanitation

32. Canada accepts in principle recommendations 123, 130, 131, 132 and 133. Governments in Canada have various legislative and regulatory measures in place governing drinking water, the treatment of wastewater and sanitation. Further, the recently enacted *Safe Drinking Water for First Nations Act* will enable the Government of Canada to work with First Nations to develop federal regulations to ensure they have access to safe, clean and reliable drinking water, effective treatment of wastewater and the protection of sources of water on their lands.

Education

33. Canada accepts recommendations:

- 72, 134, 135, 136, 137, 138 and 140.

National security, public safety and policing

34. Canada accepts recommendations 153, 157 and 158.
35. Canada accepts in principle recommendations 154, 155, 156 and 161. A number of reviews, studies and provincial inquiries have taken place on the appropriate use of Conducted Energy Weapons, law enforcement officers perform risks assessments on the use of force and mechanisms exist to ensure accountability. Canada considers its system of security certificates to be consistent with its international obligations. Canada does not accept the assertion made in recommendation 161, but notes that robust mechanisms are in place to address complaints with respect to treatment by public safety officials.
36. Canada does not accept recommendations:
- 122: This recommendation falls outside the scope of the UPR. Nevertheless, Canada complies with international treaties to which it is a party with respect to extradition, and continually seeks to strengthen cooperation with its extradition partners, within the confines of its laws.
 - 159 and 160: There is a rigorous system of checks and balances in place to ensure that allegations of wrong-doing by security and corrections officials are thoroughly investigated and appropriately addressed, and remedies are available for upheld complaints.
 - 162: Non-citizens are inadmissible to Canada if they have been, are, or may be engaged in activities of concern to national security. Detention may be sought if the individual poses a danger to public safety or is a flight risk. Detention and conditions of release are subject to regular review by impartial adjudicative bodies.

Violence against women and children

37. 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.
38. Canada accepts in part recommendation 96. Canadian governments have measures in place to ensure that laws against domestic violence are enforced across the country consistently and effectively. Measures include: *Criminal Code* protections against violence against women and children, which apply in all jurisdictions; guidelines and training for police and Crown prosecutors handling domestic violence cases; and FPT mechanisms such as the Continuing Committee of Senior Officials and the FPT Working Group on Family Violence.

39. Canada does not accept recommendations:

- 58, part of 96, 97, 98, 99, 100, 101, 104 and 105.

Canada is strongly committed to taking action with Aboriginal and non-Aboriginal groups to prevent and stop violence against Aboriginal women and girls and there are many FPT legislative and administrative measures in place to address this pressing issue. PT governments have or are creating their own action plans to address violence, including violence against Aboriginal women and girls. There have been a number of inquiries and resulting proposals for improvements over the years. Canada is taking action to implement concrete solutions to prevent and reduce violence and improve community safety. In addition, race-based statistics are not recorded in a systematic manner across Canada's criminal justice system due to operational, methodological, legal and privacy concerns.

Human trafficking

40. Canada accepts recommendations:

- 107 (first part regarding Canada's National Action Plan to Combat Human Trafficking), 108, 109, 110 and 111.

41. Canada accepts in principle the second part of recommendation 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 girls' rights.

Other recommendations

42. Canada accepts in principle recommendation 151 (business and human rights), and will continue its efforts to encourage responsible business conduct by Canadian companies in their operations abroad.

43. Canada does not accept recommendation 121 (Canadians sentenced to death abroad), but will continue to consider whether to seek clemency for Canadians facing death sentences abroad as these cases arise.

44. Canada does not accept recommendation 152 (development assistance), which falls outside the scope of the UPR.