

STATEMENT
UPR Pre-session on Canada
Geneva, August 31st, 2023
Delivered by: Canadian Human Rights Commission

(Introductory Slide)

- Good morning and thank you for the opportunity to deliver remarks during Canada's pre-session to the Universal Periodic Review.
- Since many are joining from various parts of the world, I would like to begin by acknowledging and honouring the ancestral lands of all the Indigenous peoples whose culture and presence have nurtured and continue to nurture these lands and waterways.
- I'm delivering these remarks to you today on behalf of the Canadian Human Rights Commission, Canada's National Human Rights Institution. The Commission has a broad mandate to promote and protect human rights. In addition to our roles as a complaints-screening body and human rights advocate, we also have specific mandates related to Housing, Accessibility, Employment Equity, and Pay Equity. In all of our work, we monitor Canada's compliance with its international human rights obligations, including by having participated in all cycles of the UPR.
- In carrying out this monitoring role, we engage with Canadian government representatives, including officials from the Department of Canadian Heritage who are responsible for coordinating input into UN reporting processes. It is the practice of that Department to consult human rights institutions and CSOs in these processes by holding ad hoc and periodic consultation sessions and by circulating drafts of relevant national reports for comments.
- The primary focus of our presentation today will be the cross-cutting and intersectional issue of people deprived of their liberty. We will also be touching on a secondary issue, that of the socio-economic equality of people with disabilities in Canada.

(Slide 2 – Issue 1 – People Deprived of their Liberty)

- The situation of people deprived of their liberty across all jurisdictions is a pressing concern for the Commission. This is an issue that extends far beyond prisons, and affects people with disabilities institutionalized in facilities inappropriate for their needs, people in long term care facilities, migrant detainees held in facilities intended for those convicted of crimes, and children – in particular Indigenous and Black children – who are over-represented in the child welfare system.

- These are issues that affect those in some of the most vulnerable circumstances in Canada, and where we see a disproportionate effect on Indigenous peoples, Black and other racialized individuals, people with disabilities and in particular mental health disabilities, individuals identifying as 2SLGBTQQA+, and people experiencing homelessness. Economic and social inequality, inadequate and inconsistent community-based services, discrimination, and systemic racism all exacerbate this disadvantage, with serious impacts on individual health, safety, dignity and human rights.

(Slide 3 – Issue 1 – People Deprived of their Liberty)

- Places of detention in Canada are subject to varying levels of oversight, and many are not subject to any form of ongoing, independent oversight of the sort envisioned by international human rights standards. We are of the view that having consistent, transparent and independent oversight and accountability mechanisms in all places of detention is key to strengthening human rights protections for those deprived of their liberty.
- Canada committed to ratifying OPCAT in 2016. During Canada's last cycle of the UPR, 27 different States recommended to Canada that it ratify the Optional Protocol to the Convention against Torture, a recommendation that Canada accepted in part. However, in 2023, the status of ratification remains unclear.

(Slide 4 – Recommendation 1 – Ratify OPCAT)

- This is why we recommend that Canada ratify the OPCAT without delay and designate an appropriate and sufficiently resourced National Preventive Mechanism to ensure effective implementation. Steps should also be taken to develop a clear and time-bound implementation plan in full collaboration and coordination with governments in all jurisdictions, human rights commissions, existing oversight bodies, civil society, Indigenous governments and organizations, and other rights holders. Doing so would provide stronger and more consistent human rights protections for people deprived of their liberty across Canada.

(Slide 5 – Issue 2 – Social and Economic Equality for People with Disabilities)

- Social and economic rights – the right to an adequate standard of living, the right to adequate housing, the right to healthcare and the right to accessible services – are fundamental human rights and are key components of the right to substantive equality and to living a life of dignity.

- People with disabilities continue to live in situations of social and economic disadvantage at disproportionate rates, subject to negative stereotyping, adverse living conditions, and discrimination. Complaints accepted on the ground of disability continue to make up almost half of all discrimination complaints at the Canadian Human Rights Commission.
- For many, systemic inequality results in inadequate and unequal access to services – for example, they cannot get the health care they need because of where they live, they cannot live in their community because the housing they need is not accessible, and they cannot afford crucial medication because it is not covered by their health care plan.
- While some progress has been made towards recognition in legislation of economic and social rights as human rights, the ability to pursue judicial or other recourse for violations of these rights remains extremely limited.
- During Canada’s last cycle of the UPR, Canada accepted recommendations made to ensure the justiciability of economic, social and cultural rights.

(Slide 6 – Recommendation 2 – Effective Protection of Economic and Social Rights)

- Fundamental to implementation of this commitment is, first, ensuring the adequacy and equity of existing services, and, second, providing avenues of effective recourse when rights cannot be exercised.
- Much more needs to be done to address this issue. We would encourage you to consider including it in your recommendations to Canada during the upcoming review.

(Slide 7)

Thank you for your attention and we welcome your questions.