



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the eighth periodic report of Canada*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations,¹ the Committee requested the State party to provide information on the follow-up to the Committee’s recommendations on diplomatic assurances, adequate redress for the torture and ill-treatment of Canadians detained abroad, security certificates and involuntary sterilization of indigenous women (paras. 29, 39, 47 (c) and 51 (a)). Noting that replies concerning the information sought by the Committee were provided on 21 February 2020² and with reference to the letter dated 12 August 2020 from the Committee’s Rapporteur for follow-up to concluding observations, the Committee considers that the recommendations included in paragraphs 29, 39, 47 (c) and 51 (a) of the previous concluding observations have not yet been implemented.

Article 2³

2. With reference to the Committee’s previous concluding observations,⁴ please provide information on any new measures taken by the State party during the reporting period to ensure that all persons who are arrested or detained are afforded, by law and in practice, all fundamental legal safeguards against torture from the very outset of their deprivation of liberty. Please indicate the measures taken to monitor compliance by law enforcement officials with the fundamental legal safeguards. Please provide information on any disciplinary measures taken since the consideration of the State party’s previous periodic report against law enforcement officials who did not immediately allow persons deprived of their liberty to benefit from those safeguards.

* Adopted by the Committee at its 72nd session (8 November–3 December 2021).

¹ [CAT/C/CAN/CO/7](#), para. 54.

² See [CAT/C/CAN/FCO/7](#).

³ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

⁴ [CAT/C/CAN/CO/7](#), paras. 10–11.



3. Bearing in mind the Committee's previous concluding observations,⁵ please provide information on the measures taken by the State party to combat all forms of violence against women, particularly with regard to cases involving the actions or omissions of State authorities or other entities that engage the State party's international responsibility under the Convention.⁶ Please also provide updated information on the protection and support services available to victims of gender-based violence related to the actions or omissions of State authorities. Please include statistical data on the number of complaints of gender-based violence and the investigations, prosecutions, convictions and sentences resulting from those complaints since the consideration of the State party's previous periodic report. Please clarify whether the State party has put in place a mechanism for the independent review of gender-based violence cases, especially those against indigenous women and girls, in which there are allegations of inadequate or partial police investigations.⁷ Please provide information on the measures taken to ensure the full and effective implementation of the Calls for Justice included in the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Please also provide information on the measures that the State party has taken to strengthen its efforts to combat harmful traditional practices, in particular female genital mutilation/cutting. Furthermore, please provide up-to-date information on the measures taken to strengthen training programmes on the prosecution of gender-based violence for law enforcement officers and justice officials.

4. Please provide information, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions and sentences recorded in cases of trafficking in persons since the consideration of the State party's previous report. Please also provide information on the provision of redress to victims of trafficking during the reporting period, including data on the number of persons who benefited from protection and support measures for victims.⁸

Article 3

5. Further to the Committee's previous concluding observations,⁹ please provide information on the measures that have been taken to revise domestic legislation on refugees and asylum seekers to fulfil all the obligations under article 3 of the Convention. In this regard, please describe the measures taken during the period under review to ensure that, in practice, no person is returned to a country where that person would be in danger of torture.¹⁰ Please indicate how the State party ensures effective access to the refugee status determination procedure, especially since the beginning of the coronavirus disease (COVID-19) pandemic. Please provide detailed information on the measures taken to amend subsection 115 (2) of the Immigration and Refugee Protection Act to ensure that this provision fully complies with the principle of non-refoulement. In the light of the Committee's previous concluding observations,¹¹ please clarify the current status and applicability of the Agreement between the Government of Canada and the Government of the United States of America for cooperation in the examination of refugee status claims from nationals of third countries (the Safe Third Country Agreement). Please indicate whether the State party has undertaken a comprehensive assessment of the impact of the Safe Third Country Agreement on potential asylum seekers. Please also indicate what measures have been taken to prevent instances of refoulement under the Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States) and its extensions.

6. Please indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision, including through a judicial procedure. If so, please also indicate whether such an appeal has a suspensive effect. Please provide detailed information on the measures taken to identify

⁵ Ibid., paras. 48–49.

⁶ See [A/HRC/41/42/Add.1](#).

⁷ Ibid., paras. 80–84.

⁸ Ibid., paras. 54–56.

⁹ [CAT/C/CAN/CO/7](#), paras. 24–25.

¹⁰ [A/HRC/41/42/Add.1](#), para. 91.

¹¹ [CAT/C/CAN/CO/7](#), paras. 32–33.

vulnerable persons seeking asylum in the State party, including victims of torture or ill-treatment, trauma or trafficking, and to ensure that their specific needs are taken into consideration and addressed in a timely manner, including by providing access to medical services.¹² Please explain how the State party guarantee access to free legal assistance and interpretation services during the asylum procedure.

7. Please provide information on the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please provide updated information on the type of appeal mechanisms that exist, and on any appeals that have been made and their outcome. Please include information, disaggregated by sex, age and country of origin or receiving country, on the number of persons who have been returned, extradited or expelled since the consideration of the State party's previous report. Please provide details of the grounds on which they were sent back, including the list of countries to which individuals were returned. Please also indicate whether the State party has put in place mechanisms to monitor the situation of vulnerable individuals and groups in receiving countries after their deportation.

8. Taking note of the Committee's previous concluding observations¹³ and the State party's follow-up replies,¹⁴ please indicate the number of returns, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof. Please provide information on any instances in which the State party has offered such diplomatic assurances or guarantees, and the measures that have been taken in such cases with regard to subsequent monitoring.

Articles 5–9

9. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please describe the legislative and administrative measures taken by the State party to ensure that the Convention may be invoked as a legal basis for extradition in respect of the offences referred to in article 4 of the Convention when it receives an extradition request from a State with which it has no extradition agreement or treaty. Please indicate what measures have been adopted by the State to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). Please clarify what treaties or agreements on mutual legal and judicial assistance the State party has entered into, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

10. With reference to the Committee's previous concluding observations,¹⁵ please provide updated information on educational programmes developed by the State party to ensure that all public officials, in particular law enforcement officials, military personnel, prison staff and medical personnel employed in prisons, are fully aware of the provisions of the Convention and the absolute prohibition of torture, and know that breaches will not be tolerated and will be investigated and that any offenders will be prosecuted. Please also provide details of the training programmes for police officers and other law enforcement officials on non-coercive investigation techniques. Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if so, please provide information on the methodology. Please also indicate the measures taken to give effect to the provisions of article 10 (2) of the Convention. Lastly, please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical

¹² A/HRC/41/34/Add.2, paras. 85–87.

¹³ CAT/C/CAN/CO/7, paras. 28–29.

¹⁴ CAT/C/CAN/FCO/7, para. 3.

¹⁵ CAT/C/CAN/CO/7, paras. 52–53.

personnel dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including whether they contain specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Article 11

11. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or arrangements for custody, in particular those that may have been introduced or updated since the consideration of the State party's previous periodic report. Please indicate the frequency with which they are reviewed. Please also provide information on the measures taken to monitor and prevent ethnic profiling and ethnically motivated abuse by law enforcement officials.

12. Taking note of the Committee's previous concluding observations,¹⁶ please describe the measures taken to reduce prison overcrowding and improve the material conditions in all places of detention, including any measures to increase the use of alternatives to imprisonment both before and after trial. Please indicate measures that have been taken to address concerns about inadequate infrastructure, poor conditions of hygiene and insufficient prison personnel. Please also provide information on concrete measures taken by the State party to address concerns about deficiencies in access to appropriate health care, including mental health care, in places of detention, especially in the case of incarcerated women.¹⁷ Please indicate the measures taken to combat the spread of infectious diseases and implement programmes for drug treatment and harm reduction in prison.

13. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please comment on information before the Committee indicating that serious concerns persist regarding overrepresentation of indigenous peoples and other minority groups in the prisons.¹⁸ Please also comment on reports that indigenous and black prisoners are more likely to be classified as maximum security risks. Please provide information on the State party's efforts to meet the specific needs of women and minors in detention. Please also indicate whether protocols are in place to meet the requirements of other groups of prisoners with particular needs, such as persons with disabilities,¹⁹ older persons and lesbian, gay, bisexual, transgender and intersex persons.

14. In the light of the Committee's previous concluding observations,²⁰ please indicate whether the State party has taken measures to bring its legislation and practice on solitary confinement into line with international standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Please inform the Committee about the measures taken to address concerns regarding the new Structured Intervention Units regime and other forms of isolation and segregation of inmates. Please include data on the use of solitary confinement and other isolation or segregation regimes during the period under review and indicate their duration.²¹ Please also indicate whether there are protocols in place to ensure that search and admittance procedures in prisons are not degrading to inmates or visitors. Furthermore, please clarify the policy regarding the application of means of restraint to persons deprived of their liberty.

15. With regard to the Committee's previous concluding observations,²² please provide information on the concrete measures taken by the State party to implement the recommendations included in the final report of the Office of the Correctional Investigator concerning the death of Matthew Ryan Hines, as well as the recommendations of the coroner's inquest jury looking into the cause of death of Michael Ryan. Please also provide

¹⁶ *Ibid.*, paras. 12–13.

¹⁷ [A/HRC/41/34/Add.2](#), para. 89, and [A/HRC/41/42/Add.1](#), para. 66.

¹⁸ [A/HRC/41/42/Add.1](#), paras. 67, 70 and 87.

¹⁹ [A/HRC/43/41/Add.2](#), paras. 83–84 and 102.

²⁰ [CAT/C/CAN/CO/7](#), paras. 14–15.

²¹ [A/HRC/41/42/Add.1](#), para. 64.

²² [CAT/C/CAN/CO/7](#), paras. 18–19.

statistical data regarding deaths in custody during the period under review, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased person and the cause of death. Please include information on the results of the investigations into those deaths and on the measures taken to prevent similar cases occurring in the future.²³ Please indicate whether relatives received compensation in these cases. Please also provide information about the frequency of inter-prisoner violence, including any cases involving negligence on the part of law enforcement personnel, the number of complaints made in this regard and their outcome.

16. With reference to the Committee's previous concluding observations,²⁴ please provide data on visits to places of detention, including immigration detention facilities and psychiatric institutions, carried out by the Office of the Correctional Investigator, the Canadian Human Rights Commission and other existing monitoring bodies during the period under review and on the measures taken by the State party in response to the recommendations made by these entities. Please indicate whether independent monitors, including non-governmental organizations, have unhindered access to all places of detention without prior notice, and the ability to speak with detainees in private. Please also clarify the status of the accession process to the Optional Protocol to the Convention.²⁵

17. With regard to the Committee's previous concluding observations,²⁶ please indicate the measures taken by the State party during the reporting period to ensure that the detention of asylum seekers and migrants is used only as a last resort, where necessary and for as short a period as possible, and to further implement alternatives to detention in practice. Please also indicate whether the State party has taken steps to review its legislation with a view to repealing provisions in the Immigration and Refugee Protection Act requiring mandatory detention of any non-citizens designated as "irregular arrivals". Please provide information on measures taken to introduce a limit on the duration of immigration detention, to prevent cases of de facto indefinite detention²⁷ and to ensure that children and families with children are not detained solely because of their immigration status. Please indicate the measures taken to guarantee judicial review or other meaningful and effective avenues to challenge the legality of administrative immigration detention, including of all children held in the detention facilities of the Canada Border Services Agency. Please provide information on the State party's efforts to improve the material conditions and health-care services in all immigration centres. Please also indicate whether the State party has ended the practice of detaining irregular migrants and asylum seekers in provincial correctional centres. Please provide information on steps taken to establish an independent oversight mechanism of the Canada Border Services Agency to review complaints from individuals held in immigration detention. Lastly, please provide statistical data, disaggregated by sex, age and country of origin, on the number of asylum seekers and migrants in detention awaiting administrative deportation in the State party.

18. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with intellectual or psychosocial disabilities, including care homes.²⁸ Please indicate what the situation is with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of outpatient treatment programmes.²⁹

19. Bearing in mind the Committee's previous concluding observations,³⁰ please indicate what steps have been taken to launch a transparent and impartial investigation into the actions of Canadian officials relating to the transfer of hundreds of Afghan detainees to the Afghan National Defence and Security Forces during the State party's decade-long military mission in Afghanistan. Please provide information on steps taken by the State party to adopt a policy

²³ A/HRC/41/42/Add.1, para. 65.

²⁴ CAT/C/CAN/CO/7, paras. 20–21, 34 and 35 (i).

²⁵ A/HRC/43/41/Add.2, para. 79, and A/HRC/41/42/Add.1, para. 63.

²⁶ CAT/C/CAN/CO/7, paras. 34–35.

²⁷ A/HRC/41/42/Add.1, para. 89.

²⁸ A/HRC/43/41/Add.2, paras. 77–79 and 101.

²⁹ Ibid., paras. 60–67 and 98, and A/HRC/41/34/Add.1, paras. 50–51.

³⁰ CAT/C/CAN/CO/7, paras. 30–31.

for military operations that clearly prohibits prisoner transfers to another country when there are substantial grounds for believing that the individuals to be transferred would be in danger of being subjected to torture, and that diplomatic assurances and monitoring arrangements will not be relied upon to justify transfers when such substantial risks of torture exist.

20. Please provide information on the concrete measures taken by the State party to address concerns about the situation of Canadian nationals detained and allegedly mistreated in the north-eastern Syrian Arab Republic. Please comment on information before the Committee indicating that these detainees are guarded by the region's main militia, the Syrian Democratic Forces, which is backed by the international coalition to counter Da'esh led by the United States of America and of which Canada is a member.

Articles 12–13

21. Further to the Committee's previous concluding observations,³¹ please provide updated statistical data, disaggregated by the sex, age and ethnicity or nationality of the victims, on complaints of acts of torture and ill-treatment, including sexual violence, and excessive use of force recorded by the State authorities during the reporting period. Please include information on investigations, disciplinary and criminal proceedings and convictions and on the criminal or disciplinary sanctions applied. Please provide examples of relevant cases and judicial decisions. Please also provide information on the measures taken to establish an independent and effective mechanism for addressing complaints of torture and ill-treatment in all places of deprivation of liberty. Please indicate the steps taken to set up an independent inquiry into the handling of incidents during land-related protests at Tyendinaga by the Ontario Provincial Police in April 2008.³² Please also indicate the measures taken by the State party to investigate all suspicious deaths and allegations of torture and sexual violence against children hosted in residential schools.³³

Article 14

22. Taking note of the Committee's previous concluding observations,³⁴ please provide information on redress and compensation measures, including the means of rehabilitation, ordered by the courts or other State bodies and actually provided to the victims of torture or their families since the consideration of State party's previous periodic report. Please include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including the treatment of trauma and other forms of rehabilitation, provided to victims of torture and ill-treatment and on the material, human and budgetary resources allocated for their effective functioning.

23. With reference to the Committee's previous concluding observations³⁵ and noting the State party's follow-up replies,³⁶ please provide updated information on the measures taken by the State party to ensure accountability in the cases of Ahmad Abou-Elmaati, Abdullah Almalki, Muayyed Nureddin and Omar Khadr. Please provide detailed information on the measures taken to ensure that Abousfian Abdelrazik receives redress for the alleged complicity of Canadian officials in the torture and other serious human rights violations he experienced in the Sudan.

24. With regard to the Committee's previous concluding observations,³⁷ please indicate the measures taken by the State party to amend the State Immunity Act with the aim of

³¹ *Ibid.*, paras. 16–17 and 22–23.

³² [CAT/C/CAN/CO/6](#), para. 22.

³³ Office of the United Nations High Commissioner for Human Rights, "United Nations experts call on Canada, Holy See to investigate mass grave at indigenous school", 4 June 2021.

³⁴ [CAT/C/CAN/CO/7](#), paras. 36–37.

³⁵ *Ibid.*, paras. 38–39.

³⁶ [CAT/C/CAN/FCO/7](#), paras. 4–6; see also letter dated 12 August 2020 from the Rapporteur for follow-up to concluding observations.

³⁷ [CAT/C/CAN/CO/7](#), paras. 40–41.

ensuring that all victims of torture and ill-treatment are able to access remedies and obtain redress, in accordance with the provisions of the Convention.

Article 15

25. In the light of the Committee's previous concluding observations,³⁸ please provide information on the concrete measures taken to ensure respect in practice of the principle of the inadmissibility of evidence obtained through torture or ill-treatment. Please include detailed information on the measures taken to repeal, revoke or amend any directive, order or regulation allowing law enforcement agencies to use information that is known or believed to have been obtained through torture or ill-treatment by a third country. Please also provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment. With reference to the Committee's previous concluding observations³⁹ and noting the State party's follow-up replies,⁴⁰ please provide information on the steps taken to review the use of security certificates and to ensure the prohibition of the use of information obtained by torture.

Article 16

26. Taking note of the Committee's previous concluding observations⁴¹ and the State party's replies,⁴² please provide updated information on the steps taken to launch a formal investigation into the forced or coerced sterilization of indigenous women in Canada, to establish policies and accountability mechanisms, and to meet with survivors to discuss options for redress and justice.⁴³

27. Please indicate the measures taken by the State party to guarantee respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non-urgent medical or surgical procedures intended to decide the sex of the child. Please indicate the number of intersex children who have undergone sex assignment surgery during the reporting period.

28. Please comment on reports that the introduction of a federal legislative ban on so-called conversion therapies may not go far enough to prevent and provide full compensation to those who have been subjected to these practices.

Other issues

29. Further to the Committee's previous concluding observations,⁴⁴ please provide updated information on the measures taken by the State party to respond to the threat of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that counter-terrorism measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to counter-terrorism measures; and whether there have been complaints of the non-observance of international standards and, if so, what the outcome was.

30. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other

³⁸ Ibid., paras. 42–43.

³⁹ Ibid., paras. 46–47.

⁴⁰ CAT/C/CAN/FCO/7, paras. 7–11; see also letter dated 12 August 2020 from the Rapporteur for follow-up to concluding observations.

⁴¹ CAT/C/CAN/CO/7, paras. 50–51.

⁴² CAT/C/CAN/FCO/7, paras. 12–39; see also letter dated 12 August 2020 from the Rapporteur for follow-up to concluding observations.

⁴³ A/HRC/41/34/Add.2, paras. 83–84, and A/HRC/41/42/Add.1, paras. 59–61.

⁴⁴ CAT/C/CAN/CO/7, paras. 42–47.

exceptional circumstances, please provide information on any steps taken by the State party during the COVID-19 pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as homes for the elderly, hospitals or institutions for persons with intellectual or psychosocial disabilities.

General information on other measures and developments relating to the implementation of the Convention in the State party

31. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State party's previous periodic report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
