

*Submission to the UN Special Rapporteur
on contemporary forms of slavery
as affecting currently and formerly incarcerated people*

*Submitted by the office of
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For too many in Canada, patterns of exploitation experienced in federal prisons and post-release reflect and amplify systemic conditions of inequality, marginalization and exploitation that led to individuals being criminalized and imprisoned, highlighting the need for:

1. opportunities for prisoners to live and work in community during their sentences,
2. criminal record reform, and
3. implementation of a national guaranteed livable income.

Background: Exploitation Resulting in Criminalization and Imprisonment

Mass criminalization and incarceration of those most marginalized and impoverished, particularly Indigenous women, has occurred against a backdrop of systemic inequality, marginalization, and financial and sexual exploitation. Indigenous Peoples account for less than 5% of Canada’s population but one third of people in federal prisons, and half of women in federal prisons.¹

Indigenous women tend to be criminalized in three general contexts: offences against an abuser, offences coerced by an abuser, and poverty-related offences related to motherhood and obtaining the necessities of life.² As expressed by the National Inquiry into Missing and Murdered Indigenous Women and Girls, “*The Canadian justice system criminalizes acts that are a direct result of survival for many Indigenous women.*”³ Exploitation in prison and post-release must be understood as an extension of these inequalities and injustices.

¹ Office of the Correctional Investigator, *Ten Years since Spirit Matters: A Roadmap for the Reform of Indigenous Corrections in Canada* at 5 <https://oci-bec.gc.ca/sites/default/files/2023-10/Spirit%20Matters%20EN%20%C6%20Web.pdf>.

² Charlotte Baigent, “Why Gladue Needs an Intersectional Lens: The Silencing of Sex in Indigenous Women’s Sentencing Decisions,” (2020) 32:1 *Canadian Journal of Women and the Law*, at 19-23.

³ *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* at 637, https://www.mmiwg-ffada.ca/wpcontent/uploads/2019/06/Final_Report_Vol_1a-1.pdf.

Exploitation during Imprisonment and Need for Opportunities to Live and Work in Community

Despite having access to significant resources,⁴ Canada’s prison system does not provide adequate employment opportunities within prison, or opportunities to live and work in community that can serve as alternatives to exploitive working conditions within prisons and allow people to build community connections and employment experience that support successful community integration. Federal prison wages are exploitatively low, contrary to Canada’s legal obligations. Federal prisoners currently receive at most \$6.90 per day for their work.⁵

Notably, this maximum rate of pay has not increased or been indexed to inflation since it was first established in 1981 and is increasingly difficult to access—most people receive even less.⁶ By comparison, today, the federal minimum wage amounts to about \$138.40 per day.⁷ In addition, under the previous conservative government, CSC was permitted to deduct 30% of prisoner income for room and board or for reimbursement of the costs of work-related clothing.⁸ As the 2021 *Report on the Human Rights of Federally-Sentenced Persons* (“RIDR Report”) of the Standing Senate Committee on Human Rights also highlighted, a further 8% of gross income is deducted for telephone access, and additional fees are dedicated to television and cable services.⁹

Canada's federal prison ombud, the Office of the Correctional Investigator (OCI), calls CSC’s so-called pay “exploitative, demeaning and degrading.”¹⁰ The OCI further notes that current wages and deductions violate both Canada’s legal obligations under its *Corrections and Conditional Release Act*, which require “living and working conditions that are safe, healthful and free of practices that undermine a person’s sense of personal dignity,” and the provisions of the United Nations Standard Minimum Rules for the

⁴ Standing Senate Committee on Human Rights [RIDR], Evidence, 18 March 2024 (Dr. Ivan Zinger, Correctional Investigator of Canada) <https://sencanada.ca/en/Content/Sen/Committee/441/RIDR/49EV-56638-E>.

⁵ Government of Canada, “History and Overview of CORCAN” <https://www.canada.ca/en/correctional-service/programs/corcan/history-overview-corcan.html>.

⁶ Office of the Correctional Investigator, *2022-2023 Annual Report of the Office of the Correctional Investigator at 2* <https://oci-bec.gc.ca/en/content/backgrounder-2022-2023-annual-report-office-correctional-investigator>. [OCI 2022-2023 Report]

⁷ Government of Canada, “Current and Forthcoming General Minimum Wage Rates in Canada” <https://srv116.services.gc.ca/dimt-wid/sm-mw/rpt1.aspx>.

⁸ *Corrections and Conditional Release Act*, S.C 1992, c. 20, s. 78(2)(b).

⁹ Standing Senate Committee on Human Rights, *Report on the Human Rights of Federally-Sentenced Persons*, at 85 https://sencanada.ca/content/sen/committee/432/RIDR/reports/2021-06-16_FederallySentenced_e.pdf [RIDR Report].

¹⁰ [OCI 2022-2023 Report] Supra note 6 at 2.

Treatment of Prisoners requiring prison work to be “useful, non-afflictive in nature and remunerated equitably.”¹¹

Economic exploitation in the form of inadequate pay not only perpetuates a cycle of poverty and financial vulnerability but also raises legal and ethical questions about fair compensation for labour. Accordingly, the RIDR Report recommended that if prisoners are to have the tools to successfully integrate and support their families upon release from prison, the maximum salaries for work performed in federal penitentiaries need to increase while deductions must decrease.¹²

In addition to fundamental concerns about exploitive wages, most job opportunities available inside prisons are too often inaccessible or inadequate. Within CSC’s CORCAN vocational training program, fewer and fewer jobs are available, leaving many wanting to work but without access to these opportunities.¹³ CORCAN is a special operating agency within CSC that is described as being designed to facilitate community integration by increasing employability. It claims to offer training and professional certifications in various trades, such as cooking, carpentry, welding, and heavy machinery.¹⁴ For women in particular, an audit by Canada’s Auditor General found that fewer than 5% of federally sentenced women were able to access CORCAN jobs and jobs available to women are too often “gendered, stereotyped” and inadequate preparation for the job market.¹⁵

While it is mandatory for federally sentenced persons with less than a grade 12 education to engage in educational programming, there are notable limitations in accessing vocational and post-secondary options, particularly since on-site post-secondary education courses were eliminated in 1992. The OCI assesses that Canada is falling behind other industrialized nations by failing to equip people with the necessary skills, training, and learning opportunities required for their successful integration into the community.¹⁶ For example, only 13-20% of federal prisoners had access to programming,¹⁷ despite the

¹¹ “Statement from the Correctional Investigator of Canada In Recognition of the Official Visit to Canada of the United Nations Special Rapporteur on Contemporary Forms of Slavery (August 23 to September 6, 2023)” <https://oci-bec.gc.ca/en/content/statement-correctional-investigator-canada-recognition-official-visit-canada-united-nations>.

¹² [RIDR Report] Supra note 9 at 86.

¹³ [RIDR Report] Supra note 9 at 196.

¹⁴ [RIDR Report] Supra note 9 at 195.

¹⁵ [RIDR Report] Supra note 9 at 86.

¹⁶ Office of the Correctional Investigator, *2019-20 Annual Report of the Correctional Investigator of Canada Tabled in Parliament - Report Shines Light on Sexual Coercion and Violence behind Bars*. <https://oci-bec.gc.ca/en/content/2019-20-annual-report-correctional-investigator-canada-tabled-parliament-report-shines>.

¹⁷ RIDR, Evidence, 18 March 2024, (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator) <https://sencanada.ca/en/Content/Sen/Committee/441/RIDR/56638-E>.

fact that participation in correctional education programs reduces recidivism rates by approximately 20-30%, while involvement in post-secondary education can decrease recidivism by 45-75%.¹⁸

Barriers to programs include the lack of internet access, the high cost of education, and inadequate compensation for work performed in prison. As a result, incarcerated individuals face both economic disadvantages and educational barriers that hinder their successful integration into society. Addressing these challenges requires ensuring equitable access to educational resources, addressing financial barriers, and improving the overall support systems for incarcerated individuals seeking education and training opportunities.

Crucially, supporting access to the community can provide meaningful alternatives to exploitive work conditions and inadequate training and education in prisons. Canada's correctional legislation provides for temporary absences including work releases, as well as allowing people to be transferred out of prison to serve their sentences in the care and custody of Indigenous communities.

As the OCI has highlighted, these types of community-based options remain significantly underfunded and underused by CSC despite having the potential to save costs and support successful community integration, and despite Canada's correctional system being one of the most well-resourced in the world.¹⁹ Supporting people, particularly Indigenous Peoples and others subjected to mass incarceration, through opportunities to work, attend school and training, and live in community during their sentences would allow them to build the skills, knowledge and work experience—but also the community connections and networks of support—that can help ensure meaningful and successful integration into the community.

Exploitation on Release from Prison and the Need for Automated Criminal Record Expiry

Securing employment after release from prison is directly correlated with successful community integration²⁰ and can be vital to preventing further marginalization, victimization, criminalization, and experiences of exploitation. On top of inadequate work and educational opportunities and programing during incarceration discussed above, a criminal record all too often creates additional hurdles for those trying to enter the workforce upon release.

¹⁸ [RIDR Report] Supra note 9 at 85.

¹⁹ RIDR, Evidence, 18 March 2024 (Dr. Ivan Zinger, Correctional Investigator of Canada) <https://sencanada.ca/en/Content/Sen/Committee/441/RIDR/49EV-56638-E>.

²⁰ Public Safety Canada, *Economic Outcomes of Canadian Federal Offenders* at 4, <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2021-r002/2021-r002-en.pdf> [*Economic Outcomes*].

Post-prison employment rates are only 50-75% and average wages are estimated at \$14,000 per year, less than half the average for other Canadians.²¹ Attempts to negotiate poverty too often push people into situations of exploitation, including many women feeling forced into stripping and other facets of the sex work industry because they have limited access to other viable employment opportunities.²²

Criminal records are a significant reason why stable employment is difficult to obtain. Criminal record checks are required for most job and volunteer applications, adoption applications, applications for secondary education, rental applications, and many other important activities,²³ creating both financial and social barriers to reintegration. To share just one example, despite having a Master's degree in psychology as well as 10 years of social work experience, a woman was unable to find work in her field after sending out over 100 resumes and having dozens of interviews.²⁴

A record suspension under the *Criminal Records Act*²⁵ provides a measure of legal protection against discrimination. However, the process for applying for a criminal record suspension in Canada is often inaccessible. In 2020-21, although more than 4 million Canadians had criminal records, the Parole Board of Canada received fewer than 10,000 applications for record suspensions.²⁶ Reasons for such a low number of applications include the prohibitive, hidden fees associated with mounting an application and the complicated application process.²⁷

Automated expiry of criminal records could play a key role in reducing exploitation post-release from prison. The RIDR report recommended eliminating the requirement to apply for relief from a criminal record, so as to increase availability of the service²⁸ and the federal government continues to explore implementation of application-free automated record expiry,²⁹ with Canada's youth criminal legal system

²¹ [*Economic Outcomes*] Ibid.

²² Standing Senate Committee on Legal and Constitutional Affairs [LCJC], Evidence, 1 June 2023 (Rachel Fayter, PhD Candidate, as an individual) <https://sencanada.ca/en/Content/Sen/Committee/441/LCJC/61EV-56264-E>.

²³ [RIDR Report] Supra note 9 at 272.

²⁴ LCJC, Evidence, 1 June 2023 (Rachel Fayter, PhD Candidate, as an individual) <https://sencanada.ca/en/Content/Sen/Committee/441/LCJC/61EV-56264-E>.

²⁵ *Criminal Records Act*, R.S.C., 1985, c. C-47.

²⁶ LCJC, Evidence, 9 February 2023 (Benjamin Roebuck, Federal Ombudsperson for Victims of Crime, Office of the Federal Ombudsperson for Victims of Crime) <https://sencanada.ca/en/Content/Sen/Committee/441/LCJC/43EV-56001-E>.

²⁷ LCJC, Evidence, 20 September 2023 (Anita Desai, Executive Director, St. Leonard's Society of Canada) <https://sencanada.ca/en/Content/Sen/Committee/441/LCJC/67EV-56319-E>.

²⁸ [RIDR Report] Supra note 9 at Recommendation 69.

²⁹ Public Safety Canada, *Targeted Stakeholder Engagement on the Automated Sequestering of Criminal Records* (29 November 2022) <https://www.canada.ca/en/services/policing/parole/engagement-criminal-records.html>.

having long operated on this basis. Bill C-5, passed in 2022, created an obligation on the government to implement automated expiry of drug possession records by November 2024. Bill S-212, a private member's bill currently being debated in the Senate of Canada, would, if passed, take the next step by implementing a full system of automated expiry of criminal records.

Overarching Recommendation: Guaranteed Livable Income

Those most likely to be criminalized in Canada too often face economic hurdles and exploitation before, during and after going to prison. Guaranteed livable income (GLI) could not only support individuals as they work to successfully integrate into society after being released from prison but also prevent people from being exploited and criminalized due to actions, they took to attempt to navigate economic need.

A guaranteed livable income program would consist of cash transfers that, unlike current provincial and territorial social assistance programs, would be sufficient to live on and afford necessities, and accessible by anyone in need. The goals of such programs would include allowing people to break out of daily struggles to make ends meet and provide people with the economic stability and certainty they need to get a foothold and begin planning their way forward out of poverty. Bills C-223 and S-233, two private member's initiatives, would if passed, require the Canadian government to develop a framework for implementing guaranteed livable income.

Especially where criminal records inhibit access to the workforce, GLI can provide individuals with the economic security needed to obtain an education or to support themselves while they look for adequate employment, as well as providing more meaningful alternatives and options to leave situations of exploitation. GLI could also address the systemic inequalities and discrimination faced by formerly incarcerated individuals in accessing housing services. GLI would help address the hurdles that institutionalized racism and the legacies of colonialism have created in Canadian society.

The RIDR Report recommended GLI to help address the root causes of the overrepresentation of Indigenous and Black persons in the federal correctional system.³⁰ The National Inquiry into Missing and Murdered Indigenous Women and Girls found, that a “reliable and consistent livable income” is necessary to address socio-economic and safety needs for Indigenous women and girls. Call for Justice

³⁰ [RIDR Report] Supra note 9 at 14.

4.5 of the report recommended a national GLI.³¹ Clearly, where historically marginalized communities face disproportionate levels of economic insecurity and exploitation, GLI can provide a more equitable distribution of resources, affording all community members with the means to participate in society.

A guaranteed livable income could be a vital tool in supporting formerly incarcerated individuals in their journey toward successful community integration and economic stability. It could not only address immediate financial needs but also contribute to broader goals of reducing recidivism and promoting social, health and economic equity, as well as human dignity. Ultimately, GLI could help facilitate community integration, while also working to prevent labour and sexual exploitation that is exacerbated by financial insecurity, racism, and other forms of discrimination.

Additional Information:

[Injustices and Miscarriages of Justice Experienced by 12 Indigenous Women Report](#)

Report of the Senate Standing Committee on Human Rights on the [Human Rights of Federally Sentenced Persons in Canada](#)

[Bill S-212](#): An Act to amend the Criminal Records Act, to make consequential amendments to other Acts and to repeal a regulation

- [Second Reading Speech](#)

[Bill S-233](#): An Act to develop a national framework for a guaranteed livable basic income

- [Second Reading Speech](#)
- [Fact Sheets & News Release](#)
- [Why a Guaranteed Livable Income: Our Perspective](#)

³¹ Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, vol 1 at 614. https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf.