

End of Mission Statement

6 September 2023

Tomoya Obokata

**Special Rapporteur on contemporary forms of slavery,
including its causes and consequences**

Introduction

The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Tomoya Obokata, has been on an official visit to Canada from 23 August to 6 September 2023. In addition to Ottawa, he visited Moncton, Toronto, Montréal and Vancouver.

He wishes to thank the Government of Canada for extending its invitation and full cooperation. The purpose of this visit was to assess Canada's efforts to prevent and address contemporary forms of slavery, including forced labour, child labour, domestic servitude, debt bondage, and sexual exploitation within its territory and abroad, in order to identify good practices and ongoing challenges, and present constructive recommendations to address the challenges he observed.

During the course of his visit, the Special Rapporteur met with representatives from various departments of the Government of Canada and the Governments of Ontario, Québec, British Columbia and New Brunswick, federal ombudspersons, national and provincial human rights commissions, members of Parliament, UNHCR and the UN Global Compact Network, business associations, trade unions, civil society organisations, academics, and Canadian and migrant workers from a broad range of sectors including agriculture, caregiving, meat and seafood processing, and sex work.

International Commitments

On the global stage, Canada has ratified the majority of core international human rights instruments and fundamental conventions of the International Labour Organization aimed at preventing forced labour, child labour, and labour exploitation and securing workers' rights, and participates in global fora addressing contemporary forms of slavery. It is a partner of Alliance 8.7, which aims to promote effective implementation of Target 8.7, Sustainable Development Goal 8, calling upon States to eliminate contemporary forms of slavery by 2030.

However, there are several important treaties yet to be ratified, most notably the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as international labour standards related to the protection of migrant workers. The Special Rapporteur recommends the expeditious ratification and implementation of these instruments in order to address violations of workers' fundamental rights which he observed during his visit.

Business and human rights

The Special Rapporteur acknowledges that Canada is increasing its efforts to encourage Canadian businesses to protect the human rights of workers in Canada and overseas. In May 2023, the Parliament of Canada passed the Fighting Against Forced Labour and Child Labour in Supply Chains Act (Bill S-211), due to take effect in 2024. It imposes an obligation on certain Canadian companies or companies that do business in Canada to disclose policies or measures to address child or forced labour in their supply chains with a view to enhance transparency. It is worth noting that the Canadian act covers a broader range of companies compared to other jurisdictions, with a fine of up to CAD 250,000 for failing to report or providing false information.

In 2019, Canada established the Office of the Canadian Ombudsperson for Responsible Enterprise (CORE), which is mandated to promote implementation of international standards related to business and human rights, advise companies on responsible business conduct, review potential human rights abuses in the operations of Canadian companies abroad in the garment, mining, and oil and gas sectors, and recommend remedies. The CORE has to date conducted a study of child labour in the supply chains of Canadian garment companies and begun reviewing 15 complaints, with initial assessment reports on these complaints released beginning in June 2023. CORE complements the existing National Contact Point for Responsible Business Conduct (NCP), a committee of eight Government departments which facilitates the implementation of the OECD Guidelines for Multinational Enterprises through awareness-raising and mediation/conciliation.

The Government of Canada has recently adopted a Responsible Business Conduct Strategy (2022-2027) for Canadian companies operating abroad, updated the Code of Conduct for Procurement to prevent procurement of goods and services involving forced labour or labour exploitation, and implemented an import ban on goods produced with forced labour as part of its obligations under the Canada-US-Mexico Agreement. These policies have led to some successes in terms of addressing contemporary forms of slavery. The revised Responsible Business Conduct strategy applies to all economic sectors, while its predecessor only covered mining. Public procurement contracts contain provisions that allow the cancellation of the contract if forced labour is identified, and this has already been invoked in at least one instance in 2022 in relation to Supermax Healthcare after the Malaysian company was found to be using forced labour. The Government also expressed its commitment to a policy of constructive dialogue with companies and suppliers to find ways to expand understanding of policies to prevent forced and child labour, mediate and resolve disputes or violations, and remedy harms before taking punitive steps.

While the Special Rapporteur acknowledges these important developments, he retains some concerns over Canada's current approach to human rights due diligence for Canadian companies. The annual reporting required under Bill S-211 can promote transparency to some extent; however, there is a risk of this becoming a box ticking exercise where companies simply submit the same statement every year, as has been reported in other jurisdictions. Self-reporting and the lack of a monitoring mechanism mean that companies could conceal or omit relevant information to protect their reputation and profits. In addition, Bill S-211 does not require Canadian businesses to implement human rights due diligence, nor implement measures to prevent, address, and remedy abuses once identified. Some interlocutors fear that Bill-211 may do more harm than good as it creates the appearance of strengthening human rights due diligence among Canadian companies without having this result in practice, and may lead to complacency in terms of introducing and implementing more robust human rights diligence, such as for example the measures outlined in Bill C-262, the Corporate Responsibility to Protect Human Rights Act.

In relation to the import ban, Canada so far has intercepted only one shipment, which was later released upon appeal. Issues like a high evidential requirement and lack of resources have been raised as obstacles, and the Special Rapporteur urges the Government to rectify these as soon as possible as he

is concerned by the reports that a large amount of goods potentially produced as a result of forced labour enter into Canada unchecked. Further, although public procurement policies to end relationships with suppliers using forced labour were applied in the instance of Supermax, some interlocutors noted this was only after widespread media coverage of the issue and action by the United States.

The Special Rapporteur raised these concerns with the Government of Canada, which replied that it was currently considering a draft legislation on due diligence which aims to complement Bill S-211, though the Government would not specify whether the scope of this due diligence included human rights considerations. The Special Rapporteur regards that the imposition of mandatory human rights due diligence, with a sufficient penalty regime for non-compliance, is the way forward, and urges the Government to consider this seriously and expeditiously. In the interim, clear guidance on the reporting required under Bill S-211 and a mechanism for monitoring and oversight should be established.

As to the NCP, interlocutors have expressed concerns over lack of transparency, effectiveness, protection of victims, and positive results particularly in relation to dispute resolutions, although the Government noted that the mechanism updated its guidelines for the protection of victims and transparent reporting online in September 2022. Government agencies representing the NCP informed the Special Rapporteur that the NCP has only processed 25 cases since its creation in 2000, and only six of these have led to the parties reaching full or partial agreement, calling into question its effectiveness in promoting responsible business conduct. However, the Government maintains that even when agreement is not reached the process can promote mutual understanding. It is not an independent entity, as it is housed within the Federal Government, and is not designed to ensure access to justice and remedies by victims of forced and child labour, as this role is not envisaged for NCPs under OECD Guidelines.

Some stakeholders raised concerns regarding the effectiveness of CORE also, as the first initial assessment reports of complaints brought before the Ombud were not issued until nearly 4 years after the mechanism's creation. CORE's mandate covers only a limited number of sectors and the Special Rapporteur is of the view that other sectors where labour exploitation is rife, like agriculture, fishery, manufacturing and construction, should be included in CORE's mandate. Further, the Ombudsperson should have the statutory powers to compel witnesses and documents ensure that companies cooperate, with clear consequences for non-compliance. CORE's independence should also be ensured. In order for these changes to happen, the Special Rapporteur recommends the Government strengthen CORE's mandate and independence and provide the office with sufficient additional human and financial resources.

Groups affected by contemporary forms of slavery within Canada

Migrant Workers

To begin with, the Special Rapporteur is disturbed by the fact that certain categories of migrant workers are made vulnerable to contemporary forms of slavery in Canada by the policies that regulate their immigration status, employment, and housing in Canada, and he is particularly concerned that this workforce is disproportionately racialized, attesting to deep-rooted racism and xenophobia entrenched in Canada's immigration system. In particular, he takes a view that the agricultural and low-wage streams of the Temporary Foreign Workers Programme (TFWP) constitute a breeding ground for contemporary forms of slavery, and he is perturbed by reports that the share of workers entering Canada through this programme is sharply on the rise. The Government of Canada has been made aware of the potential for abuse and exploitation and the lack of effective oversight of temporary foreign worker programmes on multiple instances over the past decade, including through reports from the Auditor-General and relevant Parliamentary Committees.

Workers that enter Canada through these programmes receive closed work permits, meaning that they cannot change employers and may face deportation upon termination of their employment. This is

disputed by the Government of Canada, which maintains that temporary foreign workers may quit their jobs and remain in Canada legally until the expiration of their visas; however, this is not a feasible option for most as they are prohibited from working until they can find a new employer to undertake a labour market impact assessment on their behalf, a process that in and of itself takes many months. They would also not be able to access most social services for persons without employment given their temporary status. This creates a dependency relationship between employers and employees, making the latter vulnerable to exploitation and abuse, who many feel unable to report for fear of losing their migration status and/or employment, in spite of policies introduced in September 2022 to protect workers from reprisals. It is equally important to recognise the existence of debt bondage among many migrants as they may pay large amounts of money to recruitment brokers in their countries of origin, despite the fact that policies to address this were also introduced in 2022. The rights of migrant workers are further curtailed by the governance gap between the Federal jurisdiction that governs their entry into Canada and the Provincial and Territorial jurisdictions that regulate working conditions in 90 per cent of jobs.

The inability of workers to signal abuses is compounded by the fact that many workers reside in employer-provided accommodation, which is explicitly required of employers under some TFWP, and may as such face homelessness if they lose their employment. Even where workers are not required to reside in employer-provided housing, they have limited affordable alternatives, as many employers are based in remote locations and there is an overall shortage of affordable housing in Canada.

Newcomers who enter Canada outside of TFWP experience similar precarity. International students who work in excess of the permitted 20 hours per week, asylum-seekers awaiting their work permits, undocumented migrant workers, and those that have lost status are vulnerable to many of the same abusive practices, as they may not report abuses for fear of deportation. Employers who are aware of their status may exploit them under threat of denouncing them to immigration authorities.

The Special Rapporteur acknowledges that some Provincial/Territorial Governments, including in British Columbia, Manitoba, Ontario, and Saskatchewan, have taken steps to enhance the rights of workers and prevent labour exploitation through specific legislative/regulatory frameworks. The Federal Government also introduced new requirements in September 2022 mandating that temporary foreign workers be provided with information on their rights in one of Canada's official languages, prohibiting reprisals against workers that raise complaints, and prohibiting excessive recruitment fees and holding employers accountable for these fees. Workers that enter Canada through the Seasonal Agricultural Worker Programme, which is governed by a bilateral agreement between Canada and workers' countries of origin, have comparatively more protections, as their consulate is empowered to conduct inspections and move workers out of abusive situations. The Government also introduced a Migrant Worker Support Programme in 2021 to educate employers on their rights and support them to exercise these rights.

In spite of these protections in principle, the Special Rapporteur received first-hand information from a large number of stakeholders, notably migrant workers themselves, pointing to the appalling working and living conditions in reality. They include excessive working hours, being obliged to perform extra-contractual tasks, physically dangerous tasks, low wages, no overtime pay, being denied access to healthcare and/or transport to medical facilities, limited access to social services including services for newcomers, and language courses, as well as sexual harassment, intimidation, and violence at the hands of their employers and their family. Those in employer-provided housing reported overcrowded and unsanitary living conditions, lack of privacy, lack of gender-sensitive housing arrangements, and arbitrary restrictions on energy use.

These conditions can be prevented with effective labour and health and safety inspections but the Special Rapporteur was informed that such inspections conducted by the Federal and Provincial/Territorial Inspectorate are grossly ineffective. They reportedly do not occur regularly, and

when they do, may be conducted remotely via telephone and submission of photos, or, when in-person, with advance notice given to employers in most cases so that they can make necessary preparations on the day of inspection. In this regard, workers are told to clean the workplace and their accommodations, and those assessed to be troublesome or who are out of status are sent away. The Special Rapporteur also heard that labour inspectors collude with immigration authorities to target undocumented migrants for arrest and deportation.

As to victims' access to justice and remedies, while the Federal and Provincial/Territorial Governments in principle to provide complaint mechanisms, most migrant workers are unaware of their existence, and even if they are familiar, are afraid to report instances of labour law violations due to the fear of unemployment and deportation, along with other obstacles such as language barriers and limited access to the Internet. There are reports that anonymity is not always observed by the authorities, who may intentionally or unintentionally expose workers' identity in the course of investigations. It is also expensive and time consuming to sue employers for remedies.

While migrant workers in situations of exploitation and abuse can apply for an Open Work Permit for Vulnerable Workers, this is not an effective solution due to the fact that the worker must remain with the abusive employer or survive in Canada without the ability to work legally or access most social services until the open work permit application is granted, the high evidentiary standard required in practice to receive a positive decision in spite of a legal threshold of "reasonable grounds", and language barriers and lack of ability to navigate the legal process to obtain a permit without external assistance. Even once the permit is received, it is of limited duration and not renewable, and stigmatizing for many in practice as future employers may view holders of the permit as "troublemakers". In practice, therefore, access to justice and remedies is severely limited for most workers.

It is a fact that temporary foreign workers make vital contributions to Canada's national economy and possess valuable skills for which there is consistent demand, and yet paths for long-term or permanent residency is extremely limited or non-existent for most workers working in agriculture and other low-skills sectors. The Special Rapporteur regards this to be discriminatory, particularly in view of the racialized groups to which most temporary foreign workers belong and recommend that paths to long-term or permanent residency be open to all migrant workers.

Indigenous Peoples

The Special Rapporteur is deeply concerned by the fact that Indigenous Peoples, including First Nations, Métis, and Inuit, are victimised or at a higher risk of being victimised in contemporary forms of slavery in Canada. The legacies of colonialism, a lack of meaningful self-determination and fiscal sovereignty, criminalization, poverty, inequality, and systemic racism combine to curtail the opportunities for decent work for Indigenous individuals and normalize violence and discrimination perpetrated against them, leaving them highly susceptible to contemporary forms of slavery.

The final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls makes clear that this crisis is at least in part attributable to contemporary forms of slavery, including trafficking and sexual exploitation, which many Indigenous women and girls encounter when seeking services or moving in search of employment and opportunities. Many interlocutors highlighted the particular of sexual assault and exploitation faced by Indigenous women and girls in the vicinity of mobile resource extraction camps, or "man camps", populated by moneyed non-Indigenous men and often located in remote areas. The degree of control over them by traffickers or exploiters is such that some instances may amount to sexual slavery, which is the most severe forms of sexual exploitation.

In addition, Indigenous children are disproportionately represented in the out-of-home care system in Canada where they may be subject to sexual, labour and criminal exploitation, either by their foster families or by traffickers who prey on group homes or target those transitioning out of care who may not have the resources to live independently. It has been pointed out by Indigenous interlocutors that

this is a repeat of residential schools, the existence of which has been regarded as one of the gravest violations of the rights of Indigenous children in the country. Support provided to children in various care arrangements are said to be often culturally insensitive, which is clearly against the Jordan's Principle and increases their vulnerability to exploitation.

Despite the serious nature and extent of exploitation and abuse experienced by indigenous peoples, the Special Rapporteur is deeply saddened to hear from a large number of interlocutors that the law enforcement and other public authorities do not investigate these crimes seriously and proactively, and often seek to criminalize Indigenous individuals and Peoples seeking their assistance. They are often over-policed in their daily lives, and subject to constant surveillance, harassment and law enforcement actions, yet under-policed when reporting instances of abuse or exploitation. Indigenous Peoples are also disproportionately represented in the carceral system, which leaves them susceptible to labour exploitation when exiting institutional settings due to lack of alternatives, as they may be targeted by traffickers when re-entering society or may struggle to find decent work with a criminal record. The authorities also do not appear to provide individually tailored, culturally appropriate protection and assistance to victims and survivors, which is essential for recovery and reintegration into their community.

All of these factors increase the vulnerability of Indigenous Peoples to contemporary forms of slavery. The Special Rapporteur believes that the essential first step to break this vicious cycle of exploitation and abuse is full economic/financial, social and cultural and political self-determination of Indigenous peoples in Canada, and the fulfilment of the Calls for Justice stemming from the National Inquiry into Missing and Murdered Indigenous Women and Girls related to preventing and addressing contemporary forms of slavery.

People of African Descent

People of African descent experience social and economic exclusion that puts them at risk of contemporary forms of slavery. The Special Rapporteur spoke to members of the Black community in Canada, who explained how the legacy of slavery in the form of deeply ingrained structural racism continues to affect them today, leading to their poverty and inequality. They experience systemic discrimination with regard to access to quality education, health and social services, adequate and affordable housing and decent work, and in obtaining permanent residency. Their representation in the out-of-home care system and correctional facilities is also high, and people of African descent are more likely to be in the situation of homelessness. These factors put them at a high risk of contemporary forms of slavery, and the Special Rapporteur has been informed that people of African descent are indeed experiencing sexual, labour and criminal exploitation in Canada, including through temporary foreign worker programmes.

The Special Rapporteur recognises that important efforts are being made to eradicate racism in Canada. In Ontario, for example, an Anti-Racism Strategic Plan was adopted with a budget of CAD 135 million which has been used to empower minority communities in the areas of education, economic opportunities and sensitivity training for law enforcement and public authorities. However, variations in the actions against racism are recognised at the Provincial/Territorial level in Canada. People of African descent are not sufficiently consulted or included in decision-making processes affecting their lives. The essential first step as recommended by people of African descent is to recognise them as a distinct people in the Canadian Constitution and other frameworks so that past wrongs can start to be addressed and the affected community can begin to enjoy equal access to education, social and health services and decent work. Temporary special measures to enhance their access to education and employment, with effective monitoring and compliance mechanisms in place, should also be implemented.

Persons with Disabilities

The Special Rapporteur is concerned by the exploitation of persons with intellectual disabilities in Canada. In so-called “sheltered workshops,” which exist across Canada, persons with intellectual disabilities are asked to produce certain goods and services for private businesses, but are reportedly paid less than minimum wage and exempt from certain labour standards. Such treatment is allowed as an exemption for persons with disabilities under the Provincial/Territorial employment standard legislation. The Special Rapporteur regards this to be highly discriminatory and degrading as these workshops are not designed to enhance skills for persons with intellectual disabilities and promote their successful economic integration and employment as rights-holders, and research suggests that most people working in these workshops would prefer alternatives. Therefore, sheltered workshops should be completely replaced. The Special Rapporteur in this regard was informed of an initiative such as “Ready, Willing and Able” which works collaboratively with employers to provide decent work with all work related rights guaranteed, and similar arrangements should be implemented across Canada.

Formerly incarcerated individuals

The Special Rapporteur considers that more should be done to promote the social and economic integration of formerly incarcerated individuals and prevent their exploitation. Many interlocutors highlighted that those leaving institutional settings are at greatest risk of exploitation as they may lack the necessary skills, resources, and knowledge to live independently. He acknowledges that tailored individual correctional plans are created at the Federal and Provincial/Territorial levels and correctional facilities provide a variety of educational and vocational programmes. However, these opportunities are reportedly not always available in practice in many cases and are not tailored to the needs of the labour market.

Once they are released, formerly incarcerated individuals continue to experience discrimination which prevents them from accessing affordable and adequate housing, public services, financial services as well as decent work. Many therefore end up with precarious jobs which are rife with exploitation or abuse, eventually experience homelessness, and may return to criminal activity in the absence of alternatives. Intersectional discrimination must also be emphasised as Indigenous Peoples and people of African descent are said to be overrepresented in correctional facilities in Canada. There is therefore an urgent need to enhance the support system afforded to formerly incarcerated individuals.

Persons experiencing homelessness

Despite various efforts of the Federal and Provincial/Territorial Governments, homelessness continues to be prevalent in Canada. This seems to stem from a chronic shortage of affordable housing in the country. The Special Rapporteur heard of “commodification” of housing where investments concentrate on private housing for wealthy individuals, but similar investments are non-existent for social housing. As a result, waiting time for social housing is very long and many end up experiencing homelessness or insecure temporary housing. In the end, the Housing First approach not implemented effectively. In terms of employment, while the Special Rapporteur acknowledges that some initiatives do exist, like the community-based “Reaching Home” initiative of the Federal Government, most end up in precarious jobs in the informal economy. He is therefore concerned that the current situation is increasing the vulnerability of persons experiencing homelessness to contemporary forms of slavery.

Evaluating Canada’s responses to contemporary forms of slavery

Certain contemporary forms of slavery are regulated through the Federal Criminal Code which applies to all Provinces and Territories in Canada. Section 279.01(1) prohibits trafficking in persons and section 279.011 prohibits trafficking in children under the age of 18. Other trafficking-specific offences prohibit receiving a material benefit from trafficking in persons (section 279.02) and withholding or destroying identity documents, regardless of whether they are valid or forged. The Special Rapporteur was

informed that these provisions can be used to prosecute and punish all forms of labour and sexual exploitation including child and forced labour, regardless of whether victims are transported from one location to another.

Canada's ongoing actions against human trafficking are based on the National Strategy to Combat Human Trafficking (2019-2024) which aims to provide a whole-of-government approach to tackle this crime by delivering programmes across the key pillars of Partnerships, Prevention, Protection, Prosecution and Empowerment. The budget of \$57.22 million was set aside for the implementation of this Strategy in areas including, among others, nation-wide awareness raising, data collection enhancement of public services and victim support. A notable achievement is the establishment of the Canadian Human Trafficking Hotline which is run by a civil society organisation. It offers referral services in over 200 languages, including 20 Indigenous ones. This hotline is not only utilised by actual or potential victims of trafficking but also by civil society organisations and members of the general public. Between 2019 and 2022, over 12,700 calls have been received.

However, the National Strategy does not commit to review or revise Government policies which directly facilitate forced labour, including the agricultural and low-wage streams of the Temporary Foreign Worker Programme and sheltered workshops for persons with disabilities. The Special Rapporteur was also informed that plans for a survivor advisory table to inform federal anti-trafficking policies and initiatives have not yet been implemented, which is a missed opportunity to represent their voices.

In relation to law enforcement, the Special Rapporteur learned that many law enforcement authorities at the Federal, Provincial/Territorial, and Municipal levels are increasingly promoting intelligence-led law enforcement. One example is a closer cooperation between the Financial Transactions and Reports Analysis Centre (FINTRAC) which serves as Canada's Financial Intelligence Unit at the Federal level, and police forces across Canada where intelligence-led financial analysis on money laundering connected to contemporary forms of slavery is conducted with a view to facilitating financial investigations alongside criminal investigations.

Despite these developments to combat contemporary forms of slavery, the Special Rapporteur is concerned that the rate of prosecution and punishment of contemporary forms of slavery is quite low in Canada. A strong emphasis is placed on trafficking for sexual exploitation, and this suggests that the number of victims and incidents as a whole is likely to be much higher when labour exploitation and other forms of contemporary slavery such as child or forced marriage are taken into consideration. Additionally, the Special Rapporteur was informed that the cases which are prosecuted tend to be disproportionately racialized, as they focus on instances where the alleged perpetrator is of African descent and the alleged victim is not.

Law enforcement and prosecutors are overly dependent on victim and witness testimonies to move cases forward in the absence of alternatives yet offer little incentive for victims to report. Many survivors and stakeholders reported a lack of culturally-sensitive and trauma-informed personnel and human rights-based approaches applied at all levels of the police and judiciary, which limits their willingness to cooperate. Many understandably do not wish to re-live their ordeals by taking part in criminal investigations and proceedings which are reportedly lengthy, not to mention the fact that many also fear reprisals by exploiters or traffickers as well as stigmatisation from their own communities. The lack of financial/legal assistance to take part in criminal investigations/proceedings also seems to play a part, as does the fact that many survivors expressed a desire for restorative rather than retributive justice, which is not a core element of the mainstream justice system in Canada

The lack of awareness among the law enforcement authorities, including the judiciary, on contemporary forms of slavery is another area of improvement. While the Special Rapporteur was encouraged to learn that there are special prosecutors for human trafficking in Provinces such as Ontario, and that the survivors assist training of law enforcement and public officials in Quebec, he is concerned that

sentencing does not often reflect the gravity of offences charged, and that the offenders are often charged with other offences which may be prioritised over contemporary forms of slavery. Plea bargaining is also said to play a part in discounting these practices.

The Special Rapporteur is seriously concerned that anti-trafficking rhetoric and implementation of anti-trafficking efforts have had a negative impact on the human rights of sex workers who are not trafficked or exploited in Canada due to a conflation between sex trafficking and sex work that stakeholders report is sometimes intentional. He met with a large number of academic experts, civil society organisations and sex workers themselves in various parts of Canada, all of whom raised serious concerns over targeted surveillance and harassment by law enforcement, denial of essential services including as a result of public funding shifting towards anti-trafficking organizations that oppose sex work, and a lack of investigation and response in instances where sex workers have been subject to violence or exploitation.

Their situation was made worse by the Protection of Communities and Exploited Persons Act which has criminalised the purchase of sexual services. This has put sex workers in a more vulnerable position to abuse and exploitation as it has made it difficult to check the identities of their clients more effectively, as opposed to a situation in which both parties would have borne equal risk. While the law is often referred to as having “decriminalized” the sale of one’s own sexual services as intended by the Supreme Court of Canada in *Canada vs Bedford*, this remains illegal, though a non-prosecutable offense. This means sex workers can still face other forms of discrimination on the basis of being engaged in an illegal activity, including when attempting to access housing, financial services and social services including healthcare. Additionally, sex workers operate within a criminalized environment that makes reporting any violence and abuse challenging as they could risk exposing their clients or co-workers. The situation is compounded for migrant sex workers without permanent residency, as there are discriminatory provisions in immigration law that specifically forbid migrants from engaging in sex work and they face deportation if caught doing so.

Victim identification & protection

The Special Rapporteur acknowledges that the Federal and Provincial/Territorial Governments have been intensifying their efforts to coordinate with civil society and other organisations for victim identification and protection. Once identified as a potential victim of human trafficking, foreign nationals may be granted a renewable temporary residence permit under the Immigration and Refugee Protection Act. This allows them to stay in Canada for 180 days with an open work permit. They also have access to healthcare and related benefits. The Federal Government informed the Special Rapporteur that a path to long term or permanent residency is available to trafficked victims.

While these measures are good in theory, there is much scope to enhance victim protection and support by the Federal and Provincial/Territorial Governments. To begin with, recognition as a victim of trafficking is left at the discretion of public officials who may lack objectivity, resulting in inconsistencies in how such permits are issued, a concern raised by a number of interlocutors. Their decisions can be challenged through judicial review but this is a very lengthy and costly exercise and most victims are not able to pursue this without financial support. In addition, the Special Rapporteur is concerned by the fact that the renewal of the visa reportedly is dependent upon victims cooperating with law enforcement. Many victims are reclassified as witnesses, in which case their permits depend on law enforcement attesting to their participation in a criminal investigation. Many stakeholders also stated that a path to long-term or permanent residency is rare in practice, and that access to justice and remedies for the victims is limited. Compensation is rarely granted as victims do not often stay in Canada until the completion of criminal proceedings.

It is unclear how the National Strategy intends to support survivors to re-establish themselves and find alternative livelihoods aside from short-term project-based funds funnelled through community-based

organizations, which are not a predictable or sustainable mechanism, and many frontline organisations are overstretched, underfunded, and uncertain as to whether Government funding could be relied upon. They also reported this funding is disproportionately channelled to faith-based and anti-sex work organizations for victims of sex trafficking, which effectively excludes broad communities of survivors.

Even where victims access support from public authorities, it has been reported that there is lack of understanding about the needs of the victims, with the result that individually tailored, gender and culture sensitive, and trauma-informed support is commonly not provided. This highlights the need to include victims and survivors as active participants in establishing appropriate support mechanisms. The Special Rapporteur also wishes to highlight that the level of support is different depending on where victims are located, as it is left to the political will of the Provincial/Territorial Government in question. He regards it as important that the same level of assistance is provided in all Provinces and Territories, and therefore urge the respective Governments to promote a unified approach to victim protection.

Conclusions

While acknowledging Canada's ongoing efforts to prevent and address contemporary forms of slavery within its territory and abroad, the Special Rapporteur considers that much more needs to be done, and that Canada's commitment to preventing and addressing contemporary forms of slavery should be commensurate with its means as a G7 country and its reputation as a global leader in the promotion and protection of human rights. This includes measures to promote effective human rights due diligence in the activities of Canadian companies, reforming migration programmes that serve as a breeding ground for contemporary forms of slavery and ending racialized discrimination in migration policies, addressing its colonial legacy and the enduring impacts on Indigenous Peoples, and addressing the structural barriers that continue to marginalize persons with disabilities, racialized groups, and persons experiencing homelessness.. Legal interventions to prevent and address contemporary forms of slavery and hold perpetrators accountable must follow a victim and survivor-centred, human rights-based approach and fully respect the needs and perspectives of survivors and not infringe upon the rights of other persons, including sex workers. Support services for survivors of forced labour, child labour, sexual exploitation, and other exploitative practices must be provided on an equitable and predictable basis with institutionalized funding.

The root causes of contemporary forms of slavery such as poverty, inequality and discrimination, which have been amplified by the legacy of colonialism and racism, must be tackled more seriously if Canada is to establish and maintain a truly inclusive society. Closer coordination and unified approaches across all jurisdictions of Canada are also needed in a number of areas affecting the wellbeing of victims or those at risk of contemporary forms of slavery. In so doing, it is essential that the affected individuals and communities are fully including in all decision-making processes affecting their lives.

Key Recommendations

Business and human rights

- Allocate sufficient resources to implement import ban and Bill S-211;
- Provide clear guidance to all stakeholders with regard to the implementation of Bill S-211;
- Expand the remit of the Canadian Ombudsperson for Responsible Enterprise to include all sectors and give her relevant powers to compel companies to provide evidence and cooperate. Also secure the full independence of the Office from the Government
- Strengthen the regime of import ban with sufficient resources allocated for inspections.
- Strengthen human rights due diligence with serious consideration given to mandatory due diligence;
- Give financial and other support or incentives to small and medium enterprises to implement human rights due diligence effectively;

Human rights of migrants

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 and other important treaties;
- Modify the Temporary Foreign Workers Program to enable workers to choose employers freely without any restriction and discrimination;
- Apply Provincial/Territorial employment standard legislation fully to those under the Temporary Foreign Workers Program without any exemptions or exceptions, including trade union rights;
- Strengthen labour and housing inspections. Allocate sufficient human and other resources for this purpose, and work collaboratively with civil society organisations and trade unions;
- Guarantee access to healthcare for all migrant workers without any discrimination;
- Make the application for open work permit for vulnerable workers easier and simpler;
- Create pathways to long-term or permanent residency for all migrant workers without any discrimination;
- Enhance coordination among Federal and Provincial/Territorial Governments and non-governmental organisations in providing support and assistance to victims;
- Regularise the immigration status of undocumented migrant workers who have been victimised in contemporary forms of slavery;
- Provide stronger oversight over employment recruiters and immigration consultants;
- Tackle the root causes of abuse and exploitation among migrant workers, particularly racism and xenophobia;
- Promote a unified approach to protecting the rights of migrant workers across Canada through more proactive coordination and communication among the Federal and Provincial/Territorial Governments;
- Ensure that employers who engage in labour exploitation are held accountable with appropriate punishments;
- Include migrant workers in all decision making affecting their wellbeing;
- Regulate all TFWP, including those outside SAWP, through bilateral agreements with sending countries and permit consular oversight and protection of workers

Human rights of Indigenous Peoples

- Redouble their efforts in eliminating the structural causes contributing to contemporary forms of slavery among Indigenous Peoples, including racism, poverty, and inequality;
- Increase civilian control over police forces and ensure sufficient representation of Indigenous Peoples in policing boards across Canada;
- Ensure representation of Indigenous Peoples in all public offices, particularly at leadership level;
- Guarantee full economic, social, political, cultural self-determination of indigenous peoples;
- Implement the Calls for Justice under the National Inquiry into Missing and Murdered Indigenous Women and Girls, particularly those related to preventing and addressing contemporary forms of slavery

Other affected populations

- Recognise the existence of systemic racism affecting people of African descent, and develop and implement clear anti-racism strategy with strong compliance mechanism;
- Recognise people of African descent as distinct people in the Canadian Constitution and other legal/regulatory frameworks with a view to enhancing equal opportunities;
- Include people of African descent in all decision making affecting their lives;

- Implement temporary special measures to enhance access to, among others, education and employment, with clear monitoring and compliance mechanisms in place. Allocate sufficient funding for this purpose;
- Replace sheltered workshops for persons with intellectual disabilities with equal employment opportunities which fully respect and protect their rights;
- Modify employment standards legislation so as not to exempt persons with disabilities from its application.

Actions against contemporary forms of slavery

- Strengthen efforts in promoting intelligence-led law enforcement in order to mitigate heavy reliance on testimonies provided by victims;
- Provide sufficient awareness raising and training on contemporary forms of slavery to law enforcement officials and members of the judiciary;
- Strengthen cooperation and coordination among public and law enforcement authorities at municipal, Provincial/Territorial and Federal levels;
- Strengthen victim identification and protection for victims of contemporary forms of slavery. Allocate sufficient funding for this purpose, particularly for civil society organisations and other service providers without discrimination;
- Ensure that support and assistance, including residency permits, are not conditional upon cooperation with law enforcement authorities;
- Secure access to healthcare and social services, justice and remedies to all victims of contemporary forms of slavery without discrimination;
- Promote a unified approach to protection and support measures across Canada through more proactive coordination and communication among the Federal and Provincial/Territorial Governments;
- Establish an independent Office of Anti-Slavery Commissioner at Federal and Provincial/Territorial levels;
- Enhance the national awareness-raising campaigns to educate the general public about contemporary forms of slavery;
- Stop the conflation between sex trafficking and sex work in order not to stigmatise sex workers who are not trafficked;
- Fully decriminalise sex work in law and practice, and eliminate discriminatory policies that prevent migrants from engaging in sex work
- Develop and implement individually tailored, gender and culture sensitive, trauma-informed support measures to all victims of contemporary forms of slavery. Include them in all decision making processes for this purpose;
- Collect disaggregated data on contemporary forms of slavery, with particular emphasis on vulnerable populations.

Homelessness

- Address the shortage of affordable and adequate housing by working closely with private developers, investors and landlords. Increase investments in social housing;
- Guarantee access to adequate and affordable housing for all without discrimination of any kind;
- Provide social housing which are gender and culture sensitive and meets the needs of diverse populations;