



## SUMMARY OF ACAT CANADA AND FIACAT'S ALTERNATIVE REPORT FOR THE UPR OF CANADA<sup>1</sup>

### OPCAT RATIFICATION

Several recommendations were addressed to Canada pertaining to the ratification of the Optional Protocol to the Convention Against Torture (OPCAT) and to the implementation of a national preventive mechanism (NPM) during the last UPR. Canada had accepted these recommendations and renewed its 2006 promises to ratify the OPCAT in a speech made in 2017. However, the protocol has not yet been ratified, no NPM has been implemented and the existing control mechanisms are not harmonized, do not offer the same level of protection between provinces and can only address recommendations. The government of Canada argues that this delay is caused by the negotiations that are necessary between the federal and provincial authorities and by the difficulty to find a common ground. ACAT Canada and FIACAT believe that the Canadian federal system cannot be used as a justification to the lack of implementation of its international commitments.

#### *Recommendation:*

- *Ratify as soon as possible, in accordance with its past commitments, the Optional Protocol the Convention Against Torture and establish a National Preventive Mechanism in accordance with the provisions of this protocol.*

### PLACES OF DEPRIVATION OF LIBERTY

In Canada, prison management responsibility is shared between federal and provincial authorities. Federal establishments host detainees sentenced to 2 years of imprisonment or more whereas provincial establishments host detainees in preventive detention or sentenced to less than 2 years of imprisonment. Therefore, provinces are responsible for the vast majority of detainees.

As a consequence of this share of responsibility, we note many disparities between provinces and with the federal level on detention conditions, training of prison staff and the management of crisis. Therefore, there is no uniformity in Canada on this topic.

#### ***Detention conditions***

In 2016, prison establishments in Canada hosted 14 615 detainees, causing prison overcrowding in some of them (in Quebec, occupancy rate varied between 90% and 113%). This prison overcrowding causes the transfer of many detainees (sometimes repeatedly) which is very detrimental to the detainee (psychological consequences, distance from the family, lack of medical follow up and of rehabilitation measures ...).

Furthermore, some prison establishments at the federal and provincial level are alarmingly old and unsanitary and lack financial resources to provide for the detainees. For example, a former federal prison establishment, Leclerc (Laval), was closed in 2012 due to its state of degradation but reopened in 2014

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<sup>1</sup> For the full report (only in French): <http://acatcanada.org/wp-content/uploads/2017/11/Rapport-EPU-ACAT-Canada-FIACAT-final.pdf>

as a provincial prison even though no renovation had been carried out to solve the issues that initially led to its closing.

*Recommendation:*

- *Strengthen public policies aiming at improving material detention conditions, reducing prison overcrowding and providing for the fundamental needs of persons deprived of their liberty in conformity with the Standard minimum rules for the treatment of prisoners.*

### ***Use of preventive and punitive isolation***

Isolation techniques consist of the solitary confinement of a detainee with the purpose of preventing the occurrence of an event threatening the security of the establishment (preventive isolation) or of punishing a reprehensible behaviour (punitive isolation). This measure is broadly used in Canada and often in a dubious manner<sup>2</sup>. Almost half of the prison population of federal establishments had been submitted to such measure in 2015. This data is even more important at the provincial level.

ACAT Canada and FIACAT welcome the Bill C-56<sup>3</sup> aiming at strengthening the rules on isolation. However, this Bill is unsatisfactory on several aspects: 1) it only applies to the federal level, provinces are still free to legislate as they wish, 2) preventive isolation is limited to 15 days (whereas there was not limit previously) but punitive isolation is limited to 30 days in contradiction with international standards.

Preventive and punitive isolation, as well as pharmaceutical means of restraint, are also being used in youth centres<sup>4</sup> in an abusive manner.

*Recommendation:*

- *Establish uniform rules for all places of deprivation of liberty on the use of isolation in conformity with international standards and forbid such measure against vulnerable people.*

### ***Excessive use of force***

The use of constraint material and the use of force has considerably raised over the last years (1600 cases between 2011 and 2012 against 3148 cases between 2015 and 2016) and the Office of the Correctional Investigator noted that control and review mechanisms of such incidents were not adequate. He also denounced the lack of training of the penitentiary staff.

*Recommendation:*

- *Ensure that all allegations of ill-treatment and excessive use of force by state agents are independently and impartially investigated and that the authors of such acts are being prosecuted; also ensure that State agents receive an adequate training on the proportionate use of force.*

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<sup>2</sup> See for example the case of Adam Capay, held in preventive isolation for 23 hours per day for 5 consecutive years.

<sup>3</sup> Still in the process of adoption.

<sup>4</sup> They host orphans, abused children and young offenders. The children are placed in different unit according to the threat they pose. Young offenders are being held in specific closed unit where their liberty is considerably limited.