



General Assembly

Distr.: General
11 March 2024

English only

Human Rights Council

Fifty-fifth session

26 February–5 April 2024

Agenda item 6

Universal periodic review

Written statement* submitted by Institute of Sustainable Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 February 2024]

* Issued as received, in the language of submission only.



Detention of Immigrant Children in Canada

The deprivation of liberty of people and families seeking safety and asylum is a serious problem for international society and constitutes a fundamental violation of human rights. The impact of detention on mental, physical and emotional health has been widely researched and consistently shows that people, especially children, who have previously experienced traumatic events are particularly vulnerable to violations of the right to physical and mental health.

Despite its reputation as a refugee-friendly and multicultural country, Canada detains thousands of people each year for immigration-related reasons, including asylum seekers, children and people with disabilities. To make matters worse, the law places no limit on the length of detention and the uncertainty creates trauma, fear and a sense of powerlessness. Some have been imprisoned for years with no end in sight. Many are held in provincial prisons alongside people detained on charges or convictions, and sometimes they are held in solitary confinement. People with disabilities are discriminated against throughout the detention process.

Figures show that the number of immigration detainees in Canada has increased every year between 2016 and 2020. More than 32,000 people were detained during this period. Between 2019 and 2020, 8,825 people were detained, including 136 children, 73 of whom were under the age of six (1).

In many cases, the children were separated from their detained parents. This is a violation of international law and contrary to the best interests of the child. The detention of children is strictly prohibited under international law, as it can never be in the best interests of the child. According to the Working Group on Arbitrary Detention, “Children should not be separated from their parents and/or guardians. Although Canadian immigration legislation and policy reflects a commitment to limit the detention of children and their families, this is not fully realised in practise (2).

Section 60 of Canada’s Immigration and Refugee Protection Act (IRPA) states that a child should only be detained as a last resort and with their best interests in mind. Therefore, Canada’s treatment of children in the context of immigration detention continues to violate human rights standards, including the rights enshrined in the Convention on the Rights of the Child.

Between April 2019 and March 2020, Canada detained 8,825 people between the ages of 15 and 83, including 1,932 in provincial detention centres. During the same period, a further 136 children were “housed” in detention centres to prevent them from being separated from their imprisoned parents, including 73 children under the age of 6. Human Rights Watch and Amnesty International have found that Canada has detained more than 300 immigration detainees for longer than one year since 2016.

Recommendations

As a human rights organisation and advocate for children's rights, we believe that Canada should immediately end the practise of detaining children in immigration detention. Detainees include asylum seekers, refugees, Canadian citizens and non-citizens. The ages of the children range from newborns and toddlers to pre-teens and teenagers, some of whom are unaccompanied. In most cases, the children are detained with their parents or adult siblings, who are detained solely for immigration law reasons. Although many of these children are detained as “guests” to avoid separation from their detained parents, they are in fact “detained guests” who have no right to a review of their detention and whose interests are not adequately considered in the review of their parents' detention. In order for Canada to fulfil its legal obligations under the International Convention on the Rights of the Child and the Canadian Charter of Rights and Freedoms, the practise of detaining children in immigration detention must be abolished.

We call on the Government of Canada to immediately end immigration detention for unaccompanied minors, children and families to prevent significant harm to children. Children should not be detained or separated from their parents if their parents are detained.

Community-based alternatives to immigration detention should be implemented immediately to protect the best interests of children and their right to liberty and family life. It is time for Canada to fulfil its moral and legal obligations. Abolish immigration detention. Under no circumstances should any person be treated in a punitive manner for immigration-related reasons, including placement in solitary confinement or in facilities used for law enforcement, such as prisons, police stations or prison-like facilities.

We also urge the Human Rights Council to

- undertake a comprehensive review of Canada's current immigration detention centre policies and practises to ensure that they are consistent with international legal standards;
- Ensure full transparency in the investigation and review and make the process and results available to the public;
- At the same time, take immediate action to enact legislative and policy changes to ensure that children in Canada are no longer detained for migration-related reasons.

1.<https://theconversation.com/immigration-detention-continues-in-canada-despite-the-end-of-provincial-agreements-207481>

2.<https://www.hrw.org/news/2021/06/17/canada-abuse-discrimination-immigration-detention>