



Convention on the Rights of the Child

Distr.: General
10 October 2012

Original: English

Committee on the Rights of the Child Sixty-first session

Summary record of the 1742nd meeting

Held at the Palais des Nations, Geneva, on Thursday, 27 September 2012, at 10 a.m.

Chairperson: Mr. Zermatten

Contents

Consideration of reports of States parties (*continued*)

Third to fourth periodic reports of Canada (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10 a.m.

Consideration of reports of States parties (continued)

Third and fourth periodic reports of Canada (continued) (CRC/C/CAN/3-4; CRC/C/CAN/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Canada took places at the Committee table.*
2. **Ms. Bossé** (Canada), responding to questions raised at the previous meeting, said that the federal Government regularly reviewed all the programmes it was implementing in order to ensure that they remained relevant and were functioning effectively. Where necessary, alternative ways of delivering the desired results were considered. The evaluations, which were overseen by an evaluation and audit committee, informed ministers, their deputies and central agencies about lessons learned and good practice and were followed up with management action plans.
3. **Ms. Harty** (Canada) said that poverty reduction strategies were developed and implemented at the provincial level. The provincial authorities had jurisdiction over that area, and there were significant variations between the economic and social circumstances of each province. At the federal level, the Government's approach to enhancing the well-being of children and families integrated the income-security needs of children from a variety of backgrounds who lived in different family structures. The approach was coordinated with anti-poverty strategies and labour market support available in the provinces and territories and was sustainable because many benefits were covered by legislation, including the Universal Child Care Benefit and the Canada Social Transfer. The federal Government's approach targeted those children who were most in need, while respecting the principles of universality and equality.
4. In 2011 and 2012, the federal Government had provided over 15 billion Canadian dollars (Can\$) to support early childhood development and early learning and childcare through direct spending and tax measures for families with children. Together with the Can\$ 1.2 billion allocated to the provinces and territories through the Canada Social Transfer, that constituted the largest investment by the federal Government in early childhood development and childcare in Canadian history.
5. The tax and transfer system was highly redistributive; two thirds of all benefits went to the families that were most in need, while those in the top quintile of income earners received only 6.5 per cent of benefits. The Government's investments and initiatives had been successful in preventing many children from living in poverty. As indicated in paragraph 104 of her Government's written replies (CRC/C/CAN/Q/3-4/Add.1), the National Child Benefit had prevented an estimated 171,100 children in 78,800 families from living on a low income in 2005. Progress was monitored using several indicators, all of which reflected the country's success in reducing child poverty.
6. While benefits were allocated on the basis of income, ethnicity was also taken into account when assessing the reach of benefits from a socioeconomic perspective. The particular circumstances of vulnerable groups, including ethnic minorities, were taken into consideration when analysing policy issues and developing appropriate programmes. The significant body of government and non-governmental research into the situation of various immigrant groups in the labour market was used by policymakers to address the cultural and linguistic obstacles and the discrimination many immigrants faced on arriving in Canada.
7. In order to address the challenge of childcare costs for low-income families, the Government had introduced the Universal Child Care Plan, which included a monthly

transfer to families with young children and a programme to increase the number of childcare spaces across the country. In addition, the Working Income Tax Benefit supplemented the earnings of low-income working families and helped ensure that families on social assistance were financially better off as a result of working. It had lifted an estimated 110,000 individuals in 47,000 families out of low-income status in 2009. To date, three provinces and one territory had harmonized that benefit with their social programmes while ensuring consistency with national principles. The Government had also launched an initiative to increase Aboriginal participation in the labour market by supporting childcare services for First Nations and Inuit children whose parents were starting a new job or participating in a training programme.

8. The almost 10-per cent increase in after-tax income inequality between 1995 and 2004 had reflected rising incomes among the top 1 per cent of income earners rather than a decline in redistribution through the tax and transfer system. In fact, the tax and transfer system had cushioned the effects of the recent recession. International reports were sometimes inaccurate because they did not encompass the full range of investments made by all Canadian jurisdictions. The Government was working with the relevant organizations to develop an accurate and credible methodology that would improve on previous reports, such as the 2008 report by the Organization for Economic Cooperation and Development (OECD) entitled “Growing Unequal?”, the methodology of which the Government had disputed. One good measure of Canada’s success in reducing poverty and promoting equality for all was social mobility outcomes. The 2010 OECD report entitled “Going for Growth” had found that intergenerational social mobility in a group of countries including Canada was higher than in other OECD member States. It was quite probable that Canadian children would achieve a higher socioeconomic status than their parents, owing in large part to declining poverty rates and educational support at all levels.

9. **Ms. McCarthy** (Canada) said that in order to combat child poverty in Quebec, some Can\$ 1.2 billion were being invested under the 2010–2015 Government Action Plan for Solidarity and Social Inclusion in the form of tax credits paid directly to parents, with additional payments for the families of children with disabilities. The poorest families had access to day-care facilities free of charge and received cash to pay for school equipment at the beginning of every academic year. In 2010, over 52,000 children in Quebec had received such support.

10. **Ms. Harty** (Canada) said that the Government had not ratified the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) primarily because it concerned issues that fell under provincial and territorial jurisdiction. The federal Government had to seek the agreement of the provincial and territorial governments before it could ratify such instruments. The issue had been raised at a meeting of the relevant labour ministries in September 2012, and ratification was currently under consideration. Nevertheless, the main principles enshrined in the Convention were already applied in that all Canadian jurisdictions had legislation in force to protect children from economic exploitation and hazardous work.

11. **Ms. Bossé** (Canada) said that the National Plan of Action for children, *A Canada Fit for Children*, established a number of guiding principles on early childhood development, as explained in the package of documents that had been distributed to Committee members.

12. **Ms. Langlois** (Canada) said that all provinces and territories had maternal child health programmes that included home visits and targeted services for vulnerable children and families. The federal Government supported that work with its Community Action Program for Children and the Canada Prenatal Nutrition Program. Support was also provided for teenage mothers at the provincial level. In Quebec, integrated services in early childhood development targeted families with parents under the age of 20. The maternal child health programmes reached almost 40 per cent of First Nations communities on

reserves, where family home visits were made by trained paraprofessionals, most of whom were members of the community being served.

13. **Ms. Maurás Pérez** (Country Rapporteur) asked how the State party ensured that the action taken under the National Plan of Action for children was coordinated with measures to promote and protect children's rights in all sectors and provinces. The Committee would appreciate additional information on how the Plan was being implemented and, more importantly, how its impact was being assessed. It would be useful to hear whether the Plan would continue to be implemented in the future and whether it would be updated with new objectives established in partnership with children and civil society.

14. **Ms. Bossé** (Canada), replying to a question on mental health and suicide, said that the new mental health strategy covered all areas, from promotion to support for persons suffering from mental illness. Currently, best practices were being promoted throughout the country, and steps were being taken within certain communities to address the root causes of suicide.

15. A framework for action on healthy weight had been developed with the federal, provincial and territorial health authorities. It included 21 initial actions, 2 of which aimed to increase awareness of the positive effects of breastfeeding and encourage food companies to market healthy food to children.

16. **Ms. Hartly** (Canada) said that in 2000 the federal, provincial and territorial governments had agreed to report annually on improvements to and extension of early childhood development programmes and services. Consequently, all levels of government were reporting regularly on the well-being of children throughout the country using a set of 11 indicators; the most recent report had been published in June 2012. The reports drew on information collected in a database that reflected federal, provincial and territorial activities and expenditure on early childhood development, early learning and childcare. Data on early childhood education from 1992 to 2008 were available in the reports of the Childcare Resource and Research Unit. The three jurisdictions had formed a joint working group to examine how to best coordinate activities and data sharing in order to make data publicly available at the national level. The government of Quebec had observer status in that working group, as it had its own process for sharing data with residents of Quebec.

17. **Ms. Fillion** (Canada) said that assault was broadly defined in Canadian criminal law as any non-consensual use of force against another person. Section 43 of the Criminal Code provided a defence for parents, caregivers and teachers who would otherwise be found guilty of assault if they used minor force in correcting children's behaviour, such as restraining a struggling child or administering a mild spank. The Supreme Court had upheld the constitutionality of that provision in 2004. It had set out guidelines on the use of minor corrective force of a transitory and trifling nature that caused little or no pain and did not leave marks on the child. Section 43 of the Criminal Code did not condone or authorize child abuse.

18. Any conduct, corrective or otherwise, that placed a child in need of protection, was subject to State intervention under territorial and provincial child protection legislation. If a child was deemed to require protection, the authorities provided counselling and support for the family. In more serious cases they removed the child from the family home temporarily or permanently, all such decisions being based on the best interests of the child. The Government continued to support parenting education programmes that promoted positive, non-physical disciplinary methods.

19. **Ms. Herczog** (Country Rapporteur) asked whether the State party planned to introduce legislation imposing a total ban on corporal punishment. It would be interesting to learn whether the minor force that was found acceptable for children applied also to adult relationships, and if so, how that related to domestic violence.

20. She asked whether early childhood education was provided free of charge to families who could not afford to pay for it. If so, she would appreciate data on the number of families benefiting from that provision and the total number of hours of preschool education that were provided under that arrangement.

21. **Ms. Fillion** (Canada) said that there were no plans to repeal section 43 of the Criminal Code. The use of force it authorized was justified by the parental duty to protect and educate children and was extremely limited in scope. The Government supported and advocated non-physical methods of discipline and promoted parenting skills in that regard.

22. **Ms. McCarthy** (Canada) said that the plan to prevent domestic violence in Quebec provided for care for victims of domestic violence, both women and children. The services provided to victims of domestic violence had significantly improved after government funding for shelters had doubled, enabling the authorities to extend the services offered to child victims. The 2012–2017 action plan would focus on protecting the safety of victims, including children and young people, and providing treatment for the violent family member.

23. **Ms. Ducros** (Canada) said that the historic Crown-First Nations Gathering held in January 2012 demonstrated that the Government had made Aboriginal issues a priority. However, despite investing Can\$ 1.8 billion in First Nations education in 2010 and 2011, the Government had not managed to close the gap in educational outcomes for Aboriginal children. Several audits and independent studies had provided substantive recommendations on governance, languages and cultures, accountability and funding. The Government was taking those recommendations into account in developing the necessary reforms in First Nations education. A new education information system had been developed which facilitated the process of tracking outcomes and measuring performance. The Government had also undertaken to introduce a First Nations Education Act by 2014 in order to establish the structures and standards needed to support high-quality, accountable education systems on reserves. In 2012, the Government had announced that an additional Can\$ 100 million would be allocated over three years to introduce a new First Nations education system. A further Can\$ 175 million had been allocated over three years for the construction and renovation of schools on reserves.

24. Replying to a question on the overrepresentation of Aboriginal children in care arrangements, she said that several measures had been implemented to improve the delivery of child and family services on reserves. The provinces had reformed their child welfare programmes to take a more preventive approach, and the federal authorities had followed suit through partnership agreements with First Nations and provinces. The Enhanced Prevention Focused Approach created the conditions to allow children to remain with their families through activities such as parenting classes and in-home support. It also gave service providers flexibility to ensure that prevention services were available to at-risk children and families before protection became necessary. The authorities were currently reaching about 70 per cent of First Nations children and families living on reserves nationwide. Early indications showed an increase in the number of families that made use of prevention-focused services, the number of permanent placements of children and the use of kinship care.

25. The Government was aware of the importance of gathering high-quality statistical data to support policy and programme development. The fourth generation of the Aboriginal Peoples Survey, which included questions on early childhood development, was currently in progress, and a Community Well-Being Index had been developed to measure the quality of life of First Nations and Inuit communities relative to other communities. The projections for the Registered Indian population had been updated on the basis of recent data and research. Such projections were an important tool in planning for education, family services, infrastructure, health care and other community services.

26. The impact and relevance of Aboriginal programming was measured on the basis of several sources of data using the principles of results-based management. Since 2007, there had been four audits and two evaluations of the First Nations Child and Family Services Program, two of which had been conducted by the Office of the Auditor General. The findings had been instrumental in making improvements and directing future programmes. In June 2011, the Office of the Auditor General had indicated that Indian and Northern Affairs Canada had satisfactorily addressed the 2008 recommendations that it should determine the full costs of meeting the policy requirements of the First Nations Child and Family Services Program, and periodically review the programme budget.

27. A child-first approach had been adopted in respect of education, health and social programmes in order to ensure that, in the event of a jurisdictional dispute, First Nations children with multiple disabilities would continue to receive services based on the standard of care set by the province. The Government had met with all 10 provinces, most of which had indicated that they had sufficient processes in place to respond to jurisdictional disputes. Since 2008, all cases had been addressed through existing mechanisms and none had reached the level of a declared jurisdictional dispute.

28. In order to amend the provisions of the Indian Act that discriminated against Aboriginal women and children, particularly their right to marry, own property and inherit reserve lands, the Government had introduced the Gender Equity in Indian Registration Act in January 2011. Those amendments ensured that eligible grandchildren of women who had lost their Indian status as a result of marrying non-Indian men were entitled to registration. Some 45,000 individuals were estimated to be newly entitled to registration and would be eligible for the programmes and services available to all registered Indians. In addition, in September 2011, the Government had introduced Bill S-2, the Family Homes on Reserves and Matrimonial Interests or Rights Act, in the House of Commons. The bill sought to provide basic rights and protection to individuals in relationships on reserves, with regard to the family home and other matrimonial interests or rights in the event of a relationship breakdown or on the death of a spouse or common-law partner.

29. Canada had taken significant steps to celebrate Aboriginal cultures and traditions, including through annual events such as National Aboriginal Day and the historic Crown-First Nations Gathering. While the Convention had not been translated into Aboriginal languages, the authorities actively promoted the Convention among Aboriginal populations. In 2011, the promotional package for National Child Day had been translated into Inuktitut.

30. **Ms. Irish** (Canada) said that the Immigration and Refugee Protection Act required that a designated representative should be appointed for any minor in any proceeding of the Immigration and Refugee Board. Usually that representative was the child's parent, but if the child was unaccompanied or the Board had concerns about the suitability of the parent acting as the representative, the Board could appoint an independent representative. The designated representative's role was to act in the child's best interests during Board proceedings and should not be confused with that of a guardian under provincial or territorial law.

31. **Ms. Sandberg** asked why unaccompanied minors were not assigned a legal guardian. She understood that under the Protecting Canada's Immigration System Act, which was expected to enter into force soon, a 16- or 17-year-old child who was a designated foreign national could be detained until the reasons for the detention had been reviewed. Furthermore, according to information received by the Committee, girls and boys were not separated during detention. She asked why that was not done.

32. **Mr. Kotrane** said that, according to paragraph 33 of the concluding observations of the Committee on the Elimination of All Forms of Discrimination against Women on the combined sixth and seventh periodic reports of Canada to that body

(CEDAW/C/CAN/CO/7), adolescent girls in detention were often held in mixed-sex prisons, where they were exposed to violence from male detainees and prison guards. He enquired whether such conditions still prevailed.

33. He asked the delegation to comment on paragraph 175 of the State party's written replies to the list of issues (CRC/C/CAN/Q/Add.1), which stated that following the adoption of Bill C-10 the Minister of Justice of Quebec had agreed to establish 16 as the minimum age for imposing an adult sentence, despite the presumption, inherent in the Convention, that children should be treated differently from adults.

34. **Mr. Gastaud** asked whether there were enough prison facilities to implement the bill's prohibition against detaining adults and children together. Drawing attention to the statistic according to which the average period of detention was 6 days, he asked which age categories it applied to. He wished to know whether there were special courts for children.

35. **Ms. Wijemanne** said that the Committee had been informed that First Nations families accounted for at least 40 per cent of under-5 mortality in Canada. She wished to know whether the health outreach programme for families included a strategy for reaching at-risk families. She also wondered whether, given the high rates of child obesity in Canada, the Government had taken steps to control the marketing of fast food to children. She asked what was being done to curb the excessive use of psychotropic drugs rather than non-medical remedies to treat psychosocial and emotional disorders in children.

36. **Ms. Varmah** said that notwithstanding the State party's commitment to improving health care for all Canadians, the country's relatively high standard of health was not shared by all. Aboriginal children in particular had comparatively high rates of respiratory diseases, obesity and substance abuse. Given the obesity crisis, she wondered what measures had been taken to promote healthy eating and exercise.

37. **Mr. Madi**, noting that children born abroad to Canadian parents who had themselves been born abroad were not automatically eligible for Canadian citizenship, expressed concern that children who did not meet the conditions for Canadian citizenship might become stateless.

38. **Ms. Herczog** asked whether there was legislation in Canada prohibiting corporal punishment in prisons, what alternatives to suspension were available in schools, and whether Africentric schools did not constitute a form of segregation. Turning to the issue of asylum seekers, she observed that approximately 80,000 Roma immigrants who were not considered political refugees were seeking asylum in Canada. She asked how the State party dealt with cases of Roma children who were settled in Canada and would be at high risk of persecution if returned to Hungary.

39. **Ms. Nores de García** said that none of the State party's approaches to measuring poverty levels focused adequately on the African-Canadian or Aboriginal populations. She asked whether there was a comprehensive plan for tackling poverty among those population segments.

The meeting was suspended at 11.20 a.m. and resumed at 11.35 a.m.

40. **Ms. Bossé** (Canada) said that under the National Action Plan for children, provinces defined their own policies and programmes, with the Government providing support. No report currently existed on the status of implementation of the Action Plan.

41. **Ms. Langlois** (Canada), replying to a question about maternal and child health programmes, said that to improve coordination the Canadian Government had adopted a cluster approach to such programmes. The annual budget for the maternal and child health programme cluster totalled Can\$ 172 million, with an additional Can\$ 200 million for the

mental health and addictions cluster. Communities could use those funds to develop programmes tailored to local needs.

42. **Ms. Bossé** (Canada) said that child obesity rates had been stable in Canada since 2004. The Federal-Provincial-Territorial Framework for Action to Promote Healthy Weights focused on promoting healthy environments, early intervention and monitoring of countrywide progress. The Government encouraged food manufacturers to voluntarily adopt responsible marketing approaches; each province could decide whether to adopt a regulatory approach to the issue.

43. **Ms. Irish** (Canada) said that an unaccompanied minor could have both a guardian and a representative for the purposes of asylum-seeking procedures. If a child's welfare was at risk, the provincial authorities were contacted, whether or not the child was accompanied.

44. The detention provisions in the Protecting Canada's Immigration System Act were meant to be applied in specific circumstances, such as human trafficking cases. Children under the age of 16 were exempt from mandatory detention, and the child's best interests would serve as a guiding principle. While 16- and 17-year-old children could be detained, the same guiding principle applied. There were specific situations in which a child could be released from detention, with exceptions to those regulations subject to ministerial discretion.

45. Children born outside Canada to parents also born abroad could obtain permanent resident status if their parents returned to Canada and could subsequently apply for citizenship. If the children were stateless, they could be granted citizenship after residing in Canada for three years.

46. Immigrants from Hungary were indeed Canada's largest group of asylum seekers; they were treated on an equal footing with other claimants, and the consideration of all asylum requests had recently been accelerated.

47. **Ms. Harty** (Canada) agreed that tools used to compare countries, such as the OECD study mentioned earlier, did not necessarily reveal much about income distribution among a country's population. With regard to poverty among African and Aboriginal Canadians, she said that two thirds of all benefits accorded to children in Canada went to low-income families, and as there was a correlation between low income and ethnicity, the two groups in question would receive the most help. Given that the distribution of different population groups varied nationwide, provinces and municipalities could develop programmes targeted to specific needs in their areas of jurisdiction. In addition, some programmes that targeted the general population also had a specific component to address the needs of Aboriginal children.

48. **Ms. Fillion** (Canada) said that under the provisions of the amended Youth Criminal Justice Act, all young offenders were tried in juvenile courts. Under certain circumstances, however, judges could impose adult sentences, as in cases involving serious offences such as murder, manslaughter or aggravated assault. The onus was on the prosecuting counsel to demonstrate that an adult sentence was necessary. Applications for adult sentencing were submitted on a case-by-case basis, and the prosecution simply advised the court if it did not intend to apply for such measures. With regard to the detention of minors, she said that unless a judge had established that it was not in the child's best interest or would jeopardize the child's safety, minors were held in youth custody facilities.

49. **The Chairperson** asked whether repeat offenders over the age of 16 would serve the same sentence as an adult, as the Committee was of the view that children must be dealt with as children. Was it possible, for example, for a child to receive a 20-year sentence for

murder, or were there provisions in place to halve the adult sentences handed down to children, regardless of the gravity of the crime?

50. **Ms. Sandberg** asked whether adult sentences were also handed down to offenders in the 14–16 age group. She asked to what extent Bill C-10 complied with the provisions of the Convention, as requiring a prosecutor to apply for adult sanctions in cases involving minors would constitute a step backwards.

51. **Ms. Fillion** (Canada) said that adult sentences could indeed be handed down to children aged 14 or older. The matter fell within the remit of the territories and provinces, which could decide to raise the age threshold. There were no provisions for a 50-per cent reduction in adult sentences that were handed down to children.

52. Corporal punishment was not condoned in detention facilities, and certain provinces had in fact adopted regulations in that regard, stipulating that force was not to be used against minors in custody, or used only as a last resort. Once again, such issues fell within the jurisdiction of the provinces. With regard to the link between corporal punishment and domestic violence, and the possibility that permitting the use of minor corrective force was tantamount to condoning domestic abuse, she insisted that that was not the case. The Criminal Code listed a number of offences for which an abuser could be prosecuted. Moreover, in cases of domestic violence the provisions of the Criminal Code stipulated that abuse towards a spouse or child constituted an aggravating factor that was to be taken into account during sentencing.

53. **The Chairperson** asked whether boys and girls were detained together.

54. **Ms. McCarthy** (Canada), referring to the situation in Quebec, said that young men and women were detained separately, although certain joint activities, such as shared mealtimes and sports, were organized. The State party had already submitted the relevant figures regarding the other provinces to the Committee Against Torture.

55. **Ms. Golberg** (Canada) said that the State party considered that it had no extraterritorial obligations under the Optional Protocol on the involvement of children in armed conflict. Children's rights were a priority area in Canada's foreign policy and development assistance efforts. In the area of international assistance, Canada had increased its official development assistance as a percentage of gross national product between 2007 and 2011. It had met its commitments to double its global international assistance and its assistance to Africa in particular. Canada planned to continue to lead by example, strengthening its focus on countries where it could make a real impact. The Canadian International Development Agency was the only bilateral donor that tracked investments targeted at children and in recent years had consistently increased its spending in favour of children and youth.

56. Canada was taking action to address climate change on all fronts. Climate change featured in the school curricula of all provinces and territories, and the message was reinforced through the work of municipalities, museums, science centres, environmental foundations and non-governmental organizations.

57. With regard to corporate social responsibility, she said that Canada was of the opinion that the responsibility for protecting and promoting human rights in foreign States in which Canadian multinationals operated lay with the foreign State. With specific reference to the issue of asbestos, she noted that Canada was a party to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and issues relating to asbestos would be best discussed in that context. The Canadian Government nevertheless encouraged and expected all Canadian companies to respect all applicable international laws and standards, operate transparently and work with local communities, including indigenous communities, and to act in a

socially and environmentally responsible manner. At the same time, Canada was under no treaty obligation to provide a domestic civil remedy for corporate conduct occurring outside Canadian territory. Voluntary initiatives, including mechanisms for dispute resolution, provided a more effective approach to the problem.

58. On the question of small arms and light weapons, she said that Canada closely monitored the export of military goods and technologies to countries involved in, or under the threat of, hostilities or those under United Nations sanctions or with a record of human rights violations.

59. With regard to the Optional Protocol on the involvement of children in armed conflict, she said that Canada was committed to playing a key role in pushing for concrete results in addressing that phenomenon, both at the United Nations and on the ground, and in supporting the rehabilitation of child victims, including those forced into committing crimes. The Canadian forces did not deploy persons under the age of 18 in areas where hostilities were taking place; the minimum age for voluntary recruitment was 17 for programmes and 16 for education and training at one of the two Royal Military Colleges, and the consent of a parent or legal guardian was required for applicants under the age of 18. The recruitment of children to serve as child soldiers was a criminal offence under the provisions of the Canadian Criminal Code, and the 2000 Crimes Against Humanity and War Crimes Act had made it an extraterritorial crime. The maximum punishment for all war crimes was life imprisonment. Extraterritorial offences were limited to those defined in the Rome Statute of the International Criminal Court and did not extend to the recruitment of persons aged 16–18, in keeping with international consensus and the State party's legal obligations, as the Optional Protocol did not require the extraterritorial application of criminal law.

60. With regard to the detention by Canadian forces of juveniles in Afghanistan, she pointed out that Canada's combat mission there had ended in July 2011. The primary responsibility for ensuring respect of the rights of detainees transferred to the Afghan authorities rested with the Government of Afghanistan. The Canadian forces had treated all detainees who appeared to be under the age of 18 as juveniles and had followed clear instructions to treat them with particular care. Juveniles had been transferred to an appropriate Afghan authority if they had posed a threat to the Canadian forces, Afghans or their allies. Transfer policies had been consistent with international norms, Afghan legislation and the operating procedures of the North Atlantic Treaty Organization, and juvenile detainees had been held in special facilities designated by Afghan law. The Government of Canada had conducted unannounced post-transfer follow-up visits, including to juvenile detention centres. No complaints had been made during the monitoring missions or in private interviews regarding the treatment of juveniles in Canadian custody.

61. With regard to the specific case of Mr. Khadr, who was to be transferred from the detention facility at Guantanamo Bay to Canada, she said that there was a treaty in place between Canada and the United States of America regarding applications for transfers. Under that treaty the decision rested with the Minister of Public Safety. An application had been received for Mr. Khadr's transfer to Canada, and a decision would be taken in accordance with Canadian law. She was unable to comment further on that specific case.

62. **Ms. Lee** suggested that the State party might consider not actively targeting more vulnerable children or those from Aboriginal communities for voluntary recruitment to the armed forces.

63. **Ms. Golberg** (Canada) said that the Government tried to aim its recruitment measures at a broad range of Canadians, reflecting the social and ethnic make-up of

Canadian society. However, she would transmit the Committee's suggestion to the relevant authorities.

64. **Mr. Kotrane** said that given that Canada was a possible country of origin, transit and destination for a number of the offences defined under the Optional Protocol on the sale of children, child prostitution and child pornography, further information regarding the definition of a child would be welcome. In the periodic report the age of majority was often stipulated as 16, which was a source of concern, given that the age of majority was defined as 18 in both the Convention and the Optional Protocol.

65. He requested clarification as to whether Canadian law defined crimes such as forced child labour and the facilitation of illegal adoptions as the sale of children, and asked what sanctions were imposed in such cases. He also requested further information on the criminal responsibility of legal entities and examples of the relevant legislative provisions. Noting that the State party acknowledged Canadian jurisdiction for offences committed abroad relating to sex tourism, he asked whether that applied to other offences listed under the Optional Protocol on the sale of children, child prostitution and child pornography.

66. **Mr. Koompraphant** asked how the large number of child and victim protection bodies in Canada cooperated and which entity was responsible for the overall coordination of efforts in that area. He also wished to know which entity focused on work relating to the Optional Protocol on the sale of children, child prostitution and child pornography, and how the law enforcement authorities cooperated with the child welfare services and the justice system to synchronize protection activities.

67. He asked what entity was responsible for supporting child victims in legal proceedings, what measures were taken to ensure that the child's voice was heard, and who was responsible for informing the child of the verdict and its implications. He would welcome information on the liability of parents, particularly in cases of neglect, and on any measures in place to support the social integration or, if necessary, repatriation of child victims.

68. **Ms. Sandberg** observed that complaints had been received from civil society organizations alleging that efforts to prevent the sexual exploitation of children were ineffective. She therefore wondered what correlation existed between the positive actions indicated in the State party report and the real situation on the ground, particularly with regard to Aboriginal children. The Committee had also received reports that many convicted sex offenders did not appear on the sex offenders' register. She asked whether that was indeed the case and, if so, what measures the State party was taking in that regard. Lastly, she requested clarification on a matter relating to the administration of juvenile justice: in the State party's written replies, it had indicated that Bill C-10 would improve the situation of minors, yet the Committee had received information that the Bill would in fact require the prosecutor to consider seeking an adult sentence.

69. **Ms. Lee** asked what legislation was applicable to offences specified under the Optional Protocol on the sale of children, child prostitution and child pornography. She also wished to know how active the Canadian tourism industry was in promoting the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

70. With regard to children and armed conflict, she asked the State party to clarify its decision to cease using the designation "child soldiers" for selected countries in which terrorism was an issue.

71. **Ms. Aidoo** commended the State party's efforts to combat sex tourism and its awareness-raising measures but expressed concern regarding the effective implementation of the relevant legislation in force. She asked whether companies and enterprises that promoted sex tourism could be prosecuted, and what measures the State party was taking at

home and in Canadian missions abroad to strengthen the implementation of legislation relating to Canadians abroad. Furthermore, how did the State party work through international cooperation to support the rehabilitation of child victims of sex tourism, as recommended in the Optional Protocol?

72. **Ms. Varmah** requested information on vulnerable children's access to legal services, as reports had indicated difficulties in that field, chiefly on account of a lack of financial resources. Children were not able to initiate civil proceedings without the authorization of legal guardians and, in a number of provinces, those wishing to bring a civil action had no access to free legal advice, which was often offered only to institutions rather than individuals. She asked whether the State party was considering providing free legal aid to children who could otherwise not afford it, whether civil claims could be filed against institutions and individuals, and whether children were able to sue for compensation.

73. **Ms. Wijemanne** drew attention to the statistics provided in the initial report on the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CAN/1) on the number of incidents or cases involving child pornography and requested information on any investigations or judicial action taken in relation to those incidents.

74. **Mr. Pollar** sought information on the status of the Optional Protocol on the sale of children, child prostitution and child pornography, its implementation and extraterritorial application.

75. With regard to the Optional Protocol on the involvement of children in armed conflict, he noted that the Committee had received reports indicating that children did not receive the necessary information before signing recruitment contracts. Any information from the delegation in that connection would be welcome.

The meeting rose at 12.50 p.m.