

In light of the **resolution 78/227 entitled “Equal Access to Justice for All”** adopted by the General Assembly on 19 December 2023, **UNODC** is pleased to invite you to provide substantive inputs **on challenges, lessons learned, best practices and enabling factors** needed to enhance the functioning of criminal justice systems to ensure equal access to justice for all. As outlined in the resolution, this includes respecting cultural diversity in policy design, addressing the impact of the COVID-19 pandemic on the poor and people in vulnerable situations, and recognizing the primary responsibility of Member States in crime prevention and justice.

The groundbreaking resolution emphasizes the need for effective legal aid, training of criminal justice practitioners to carry out their responsibilities in a non-discriminatory manner and strengthening international cooperation to improve access to justice for people in vulnerable situations, including those in rural areas. In the *A/RES/78/227*, the General Assembly:

- **Notes with concern** that challenges to access to justice in criminal justice systems undermine the rule of law, the achievement of safe and secure societies, and the right to equal treatment before the law,
- **Emphasizes** the right of equal access to justice for all, including people in vulnerable situations, and the importance of awareness-raising concerning legal rights, and in this regard commits to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid,
- **Encourages Member States:**
 - in accordance with their domestic legislation and within their capacity, to ensure equal access to justice and application of the law to all, including by taking effective measures that are informed by relevant data, such as data on age and gender,
 - to collect and use quantitative and qualitative data, disaggregated by relevant factors, to ensure that criminal justice policies and programmes are informed by all available and relevant evidence and data,
 - to explore cross-sectoral, multidisciplinary, multi-stakeholder, holistic and integrated partnerships, strategies and approaches at the national level when developing measures to reduce inequities in the criminal justice system, and to advance equal access to justice and equal treatment before the law for all, including through restorative justice programmes,
 - to promote the use of technology that fosters inclusive and equitable access to justice, including by addressing the challenges that the use of such technologies may pose for people in vulnerable situations,

- in accordance with their domestic law, to promote and implement policies aimed at guaranteeing access to justice for people in vulnerable situations without sufficient means, through timely, effective, adequately resourced and affordable and, whenever possible, free legal aid promoted by the State with the appropriate support of relevant academic institutions,
- **Affirms** the importance that certain members of society, such as children, persons with disabilities, those in vulnerable situations and victims of violence be given additional protection in order to access justice systems,

The inputs gathered will be integrated into a background paper to guide discussions at the upcoming meeting of experts, scheduled for the last quarter of 2024. UNODC/DTA/CPCJS Access to Justice Team is conducting the survey, for any questions, please contact us at unodc-access2justice@un.org.

Inputs for the preparation of the meeting of experts as requested by GA Resolution 78/227

Please provide substantive inputs on the implementation of the **GA resolution "Equal Access to Justice for All" (A/RES/78/227)** which will be integrated into the preparation for the meeting of experts as requested therein. If needed, there is also the possibility to submit any relevant reports or further information by email to unodc-access2justice@un.org. For more information on the resolution 78/227, please visit the following link: <https://digitallibrary.un.org/record/4022161?v=pdf>

5. What are the primary challenges your country faces in ensuring equal access to justice within your criminal justice system? How do these challenges impact groups in vulnerable situation in your society? Please provide a thorough and detailed response (Maximum word count: around 550)

Canada faces a number of primary challenges, including as a result of its geography, which creates difficulties in providing legal and other services in remote communities when needed. Others are systemic, structural and historical, such as actions, practices and legislation that are grounded in colonial systems, and the prevalence of racism that is systemic and structural as well as personal in nature.

Through consultations and engagement, Indigenous people have identified systemic issues with our colonial system, which does not reflect Indigenous knowledge and practices and retraumatizes Indigenous people who come into contact with it, whether as accused, offenders, victims, supports or witnesses.

In 2015/2016, Indigenous people made up 25% of all accused (adults and youth) in criminal courts, while representing only 5% of the Canadian population, which means

they were overrepresented by a factor of five. (see [Indigenous People in Criminal Court in Canada: An Exploration Using the Relative Rate Index \(justice.gc.ca\)](#))

<https://justice.canada.ca/eng/rp-pr/jr/gladue2/introduction.html#:~:text=In%202021%2F2022%2C%20although%20Indigenous,of%20all%20federal%20custodial%20admissions.>

- In 2021-2022, although Indigenous adults represented 5% of the adult Canadian population, they accounted for 33% of all federal custodial admissions.
- Overrepresentation is even more pronounced for Indigenous women, who made up 51% of federal custodial admissions in 2021-2022.
- In the same year, Indigenous youth accounted for 48% of provincial and territorial custodial admissions while representing only 8% of the youth population in Canada.

Black communities also continue to live with the effects of prejudice, discrimination, and hatred, which have their origins in Canada's history of colonialism, slavery and segregation.

- In 2022, police-reported hate crimes motivated by hatred of a race or ethnicity increased by 12%, whereas the percentage of hate crimes specifically targeting the Black community increased by 28% (more than twice as much). These crimes accounted for 43% of all police-reported crimes motivated by hatred of a race or ethnicity.
- The proportion of homicide victims identified as Black increased by 27% between 2020 and 2022. Black people are overrepresented as victims of homicide, accounting for 13% of all homicide victims in 2022, which is three times higher than their representation of 4% of the Canadian population. Black male homicide victims accounted for 15% of all male victims, and Black female homicide victims accounted for 5% of all female victims.
- In 2015/2016, Black people (adults and youth) were twice as likely to be accused in comparison to the general population; Black people accounted for 6% of all accused, while representing only 3% of the Canadian population at the time.
- In 2022/2023, despite representing about 4% of adults in Canada, Black people accounted for 9% of the total offender population in federal corrections.
- According to the 2019 General Social Survey on victimization, 18% of Black people reported having "not very much" or "no" confidence in the police, which is more than double the proportion among the white population (8%).

Criminal Legal Aid

Despite the increase in federal funding in recent years, criminal legal aid services in Canada still face challenges in securing sufficient resources. As a result, there exist a limitation on the range of criminal legal aid services and restrictive legal aid eligibility.

This ultimately impacts the individual's right to access the justice system, in particular, those from vulnerable populations. Without access to legal aid, the number of self-represented accused increases. Among the effects of self-represented individuals on the justice system are an increase in delays; a reduction in the possibility of early resolution; increased interference with the ability of judges and court officers to exercise their roles with impartiality; and increased potential for unjust outcomes.

6. Can you provide examples of initiatives or policies that have been successful in addressing access to justice issues in your country? What key lessons have been learned from these initiatives or policies? Please provide a thorough and detailed response (Maximum word count: around 550)

Impact of Race and Culture Assessment (IRCA) initiative: Canada is providing funding to support the preparation of **pre-sentencing reports known as** Impact of Race and Culture Assessments (IRCAs) as well as the training of IRCA writers. IRCAs are prepared by writers with specialized training. They provide to judges necessary information on the effect of poverty, marginalization, racism and social exclusion on Black and other racialized people and help articulate how systematic racism might inform their experiences with the justice system. IRCAs offer recommendations for alternatives to incarceration. IRCAs are invaluable in helping the justice system decision makers to combat unconscious bias and fully comprehend systematic barriers encountered by black people. IRCAs have had a positive effect on sentencing. IRCAs are adopted in many jurisdictions in Canada and in some places, they have become court mandated for all cases involving black individuals due to its positive use.

Indigenous Justice Program

The Indigenous Justice Program (IJP) is a federally-led grants and contributions program, delivered in partnership with all provinces and territories, aimed at addressing the overrepresentation of Indigenous people in the criminal justice system, whether as victims, accused or offenders. The IJP supports over 211 community-based justice programs in roughly 650 urban, rural, remote and Northern communities, both on- and off-reserve.

Funded programs work to address root causes of crime and deliver programming that reflects the justice values, traditions and culture of their community. Their activities can fall at any point along the justice continuum including: prevention, pre-charge diversion, post-charge diversion, post-sentence and reintegration. In providing alternatives to mainstream justice processes, programs use restorative and traditional Indigenous justice processes that focus on repairing harm and bring together victim, offender and community.

Since 2006, four evaluations of the IJP have consistently shown that Indigenous participants are 43% less likely to re-offend than non-participants after one year and remain 50% less likely to re-offend after five years. A recidivism study from the 2021 evaluation revealed that over 88% of participants had not re-offended two years after completing the program. These findings suggest that community-based justice programs have a significant and lasting positive impact on participants' lives. The success of IJP funded programs can be attributed to their alignment with Indigenous peoples' justice values, worldviews, and traditional practices.

Incorporation of Gender Based Analysis and Gender Mainstreaming Expertise within the Department of Justice

The integration of human rights, gender inclusivity and intersectionality in policymaking is a priority for Canada. Canada strives to apply Gender-based Analysis Plus (GBA Plus), an analytical process that provides a rigorous method for the assessment of systemic inequalities, as well as a means to assess how diverse groups of women, men, and gender diverse people may experience policies, programs and initiatives, and what additional supports or adjustment may be required to all of our policies and programs, including our criminal justice responses. This is commonly referred to as a “people centered approach” to policy development and programming.

At Canada's Department of Justice, for example, all officials, whether working on legal services, litigation, law reform, policy and program development, international agreements or programs, research, communications, evaluation, management or other areas, are required to apply the GBA Plus tool and ensure that their work considers and reflects the diverse needs of different groups of people. The Department has a GBA Plus Unit whose responsibilities include raising awareness and offering tools, information sessions and resources to help Justice officials better understand GBA Plus and how to integrate it into their work.

Increasing Diversity with the Judiciary

Increasing the diversity of those working in our criminal justice system to reflect the community it serves is important. It helps to build public trust and confidence in those coming into contact with the system. The Government of Canada recognizes the importance of judicial diversity and is committed to the goal of achieving a judiciary that reflects the diversity of Canadian society. In 2016, the Government made significant reforms to the superior court judicial appointments process, reworking the application form so that applicants have room to share their experiences and self-identify as Indigenous, 2SLGBTQI+, racialized or living with a disability, if they choose to do so. In addition, the Judicial Advisory Committees that assess applications and make recommendations to the Minister of Justice were reconstituted to better reflect Canada's diversity. Committee members receive training on diversity, unconscious bias, and assessment of merit.

To increase transparency and accountability, the Commissioner for Federal Judicial Affairs collects data on judicial applicants and appointees, including gender and

various diversity characteristics. The Commissioner publishes these data annually on its website. The most recent annual report was released earlier this month and covers the period ending in October 2023.

Creation and Sustained Support for Family Information Liaison Units

Established in 2016, and delivered in collaboration between federal, provincial, territorial government and Indigenous agencies, Family Information Liaison Units (FILUs) ensure that families of Missing and Murdered Indigenous Women and Girls have access to culturally grounded support to help them overcome the systemic, structural and geographic barriers they face when seeking to access information about their loved ones. Within a trauma-informed framework, FILUs ensure families have access to all the available information they are seeking about their loved one, from a wide range of agencies within the criminal justice system, such as police, prosecutors, court services, and medical examiners as well as connections to other community supports to assist them with their grief and loss.

Support for the Indigenous Courtwork Program - The Indigenous Courtwork Program (ICW) supports Indigenous people involved in the criminal justice system to obtain, fair, just, equitable and culturally relevant treatment. Funding is provided to participating provinces on a 50:50 cost-shared basis for the delivery of ICW, Family Courtwork services and Gladue reports, which are pre-sentencing reports containing culturally situated information on which places the Indigenous offender in a broader socio-historical context. Funding for Indigenous Courtwork services in the 3 territories is provided through an Access to Justice Services Agreement (AJAs) which also includes contribution funding for legal aid, and for public legal information and education (PLEI). Findings of the 2023 Evaluation of the Indigenous Courtwork Program noted that Courtworkers have developed and strengthened partnerships between Indigenous communities, community justice systems, and the criminal justice system. Courtworkers are familiar with the culture, language, and history of the communities they serve and this allows them to build trust with their clients and understand the context of their involvement in the justice system. They are also able to leverage their connections to resources and programs in the community to serve clients. Examples of resources and programs that may be available in the community include programs that address intergenerational trauma, healing ceremonies (e.g., smudging), extrajudicial sanctioned programs, restorative justice programs, mediation programs, substance use and mental health programs.

Support for Community Justice Centres – Canada is providing funding to support Community Justice Centre (CJC) pilot projects in British Columbia, Manitoba and Ontario, as well as consultation to expand the CJsCs concept to other provinces and territories. CJsCs bring justice together with health and social services to collectively address the root causes of crime, divert individuals accused of non-violence offences

away from incarceration, and connect them with social supports. Through the integration of culturally appropriate services, CJs can help decrease overrepresentation of Indigenous people and Black people in the criminal justice system and provide solutions to systemic issues.

Bill C-5, *An Act to Amend the Criminal Code and Controlled Drugs and Substances Act* received Royal Assent on November 17, 2022. It repealed mandatory minimum penalties for all offences in the *Controlled Drugs and Substances Act*, and for certain *Criminal Code* offences that have been found to contribute to the overincarceration of Indigenous people, Black persons, and members of marginalized communities. Bill C-5 also increased the availability of conditional sentence orders, allowing judges to impose sentences that are proportionate to the seriousness of the offence committed and the individual circumstances of the offender. Finally, the reforms allow for greater use of early diversion in simple possession of controlled drugs cases, and provides, among other things, that past and future convictions in simple possession of controlled drugs cases must be kept separately from other conviction records after a certain period. The Government of Canada is monitoring the impacts of Bill C-5.

7. What are the best practices currently being implemented in your criminal justice system to enhance access to legal aid and fair trials? How do these best practices improve outcomes for individuals involved in the criminal justice system? Please provide a thorough and detailed response (Maximum word count: around 550)

In 2017, the Government of Canada launched the Federal Gender-Based Violence Strategy, which is a whole-of-federal government approach to addressing gender-based violence, supported by ongoing funding. To support the Strategy, the Government of Canada also announced the National Action Plan to End Gender-Based Violence in 2022. As part of efforts to advance both the Strategy and the National Action Plan, Justice Canada currently provides time-limited funding (ending March 31, 2026) for Independent Legal Advice (ILA) and Independent Legal Representation (ILR) for victims of sexual violence and intimate partner violence (IPV) across Canada. The objective of the funding is to support victims of sexual assault and IPV when engaging with the justice system, and to work towards increasing confidence in the justice system's response to gender-based violence. To date, 25 funded projects have developed and are delivering over 50 new targeted services in all 13 jurisdictions across Canada for victims of sexual violence and IPV, including ILA/ILR as well as justice system navigation, information workshops and trainings, and referral supports.

8. What factors have been crucial in enabling successful reforms or improvements in your criminal justice system? How can these enabling factors be replicated or adapted in other contexts or regions to ensure equal access to justice for all? Please provide a thorough and detailed response (Maximum word count: around 550)

State of the Criminal Justice System: In 2019, the Department of Justice Canada introduced the first performance monitoring framework for Canada's criminal justice system (CJS).¹ The State of the Criminal Justice System (SOCJS) Framework identifies high-level goals (expected outcomes) for Canada's CJS, measured by key national indicators. Results are presented through SOCJS Reports and an online Dashboard.

The Framework includes nine broad expected outcomes for both youth and adult criminal justice systems, measured by 32 youth indicators and 48 adult indicators. Data is presented for the overall population and specific themes, including Indigenous Peoples, Women, and Youth. The Framework includes 11 indicators specific to victims and survivors across nine outcomes. These indicators monitor the CJS's performance regarding victims' and survivors' experiences and rights.

Justice Data Modernization Initiative: The objective of the Justice Data Modernization Initiative (JDMI) is to improve the collection and use of disaggregated data, in view of reducing the overrepresentation of Indigenous, Black and other racialized people in the criminal justice system.

Under the JDMI, Justice Canada is conducting and commissioning quantitative and data science research to help governments and communities assess the potential for programs, policies and legislative changes in the justice and social sectors (such as employment, education, housing, childcare, health care and others) to reduce criminal justice system involvement and overrepresentation. The JDMI is addressing disaggregated data gaps through innovative approaches such as data linkage. For example, under the JDMI, the overrepresentation of Indigenous and Black accused in criminal court processes is being measured by linking Statistics Canada's Integrated Criminal Court Survey (which lacks identity information) with the Census. Other studies under the JDMI are leveraging data linkage to address gaps in disaggregated data, including a project with Statistics Canada to develop a simulation tool that will estimate the potential for different types of social and justice sector interventions to reduce overrepresentation.

Canada's Indigenous Justice Strategy and Black Justice Strategy are each being developed through community-led and government led engagements and consultations. In the spirit of reconciliation, and out of respect for Indigenous rights to self-determination, Justice Canada recognizes that the development of an Indigenous Justice Strategy must be informed by First Nations, Inuit and Métis perspectives and

¹ [Canada's State of the Criminal Justice System](#)

priorities. To ensure that Canada's Black Justice Strategy reflects the diversity of experiences, backgrounds, and regional realities of Black people in Canada, Justice Canada established an external Steering Group comprised of nine experts and leaders from Black communities, and contracted 12 Black-led community-based organizations to conduct engagements and consultations in nine provinces and territories.

Indigenous Justice Program: Projects informed by Gladue Principles - The 2020 Federal Economic Statement provided Justice Canada with \$49.3M over five years and \$9.7M ongoing to support the implementation of *Gladue* Principles in the mainstream justice system as well as Indigenous-led responses to help reduce the overrepresentation of Indigenous Peoples in the criminal justice and correctional systems.

"Gladue Principles" come from a Supreme Court of Canada decision in a case called *R. v. Gladue*, which considered a sentencing principle outlined in paragraph 718.2(e) of the *Criminal Code*. While Gladue Principles come from a sentencing decision, they can be used to inform systemic change at all stages of the criminal justice system.

Funding applicants will be expected to draw from Gladue Principles and the reasons behind the Gladue decision in designing their initiatives. For this purpose, Gladue Principles can be described as:

- the overrepresentation of Indigenous people in the criminal justice system is a serious and complex issue rooted in systemic discrimination and the history of colonialism;
- the unique systemic or background factors which may have played a part in bringing an Indigenous person in contact with the law should be considered in criminal justice decision-making; and
 - the overrepresentation of Indigenous people in the criminal justice system is a serious and complex issue rooted in systemic discrimination and the history of colonialism;
 - the unique systemic or background factors which may have played a part in bringing an Indigenous person in contact with the law should be considered in criminal justice decision-making; and
 - pre- and post-charge diversion, alternative measures and other community-based options should be considered for Indigenous people in conflict with the law, including culturally-appropriate restorative and traditional Indigenous justice processes.

Of the total amount, \$10 million was dedicated to time-limited projects, through the Indigenous justice Program, for projects informed by *Gladue* Principles. The funding supported Indigenous-led community, regional, and national efforts to integrate *Gladue*

Principles into structures, policies, practices and institutions in the criminal justice system to address systemic barriers and the discrimination of Indigenous people. The investment also supported the development of educational resources for justice system professionals, focusing on the root causes of Indigenous overrepresentation in the criminal justice system.

9. Would you like your submission to be shared publicly on the UNODC website?

Yes, I do