

Canada



Easier Said
than Done

1. Background

1.1. Context

Canada has a federal system of government. The federation comprises ten provinces, which are jurisdictions that derive their power and authority from the Constitution Act, 1867, and three northern territories which derive their power directly from the Federal Government in Ottawa. Canada has been governed by a Conservative Party-led minority government since 2006.

In the past, Canada was active in its attempts to promote human rights and democracy. Domestically, the country legislated progressive reforms to better accommodate its French-speaking minority and has been a major donor internationally, financing a range of human rights activities. However, Canada has lost some of its international prestige as a protector of human rights globally and is not without its internal human rights issues. Despite a recent history of relatively progressive legislation, the Canadian indigenous community remains seriously disadvantaged. Issues relating to migration and asylum also persist. More recently, Canada has been part of a group of countries using questionable methods in the conduct of the global War on Terror. Because Canada decided not to seek re-election to the Council when its initial three-year term expired in June 2009, this country section only covers Canada's activities in the Council till June 2009. However, the section on "Human Rights During the Reporting Period" is current up to May 2010, as are the sections on "UN Treaties" and "UN Reporting History".

1.2 UN Treaties

Canada is a party to the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) and its two Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of Persons with Disabilities.

Canada is not a party to the Convention on the Protection of the Rights of All Migrants Workers (CMW), the Convention for the Protection of All Persons from Enforced Disappearance (CED), the Optional Protocol to ICESCR, the Optional Protocol to the Convention on the Rights of Persons with Disabilities or the Optional Protocol to CAT.

1.3 UN Reporting History

Canada has completed most of its reporting requirements due under international treaties.

The country has completed almost all its rounds of reporting under CAT, but has not yet submitted the report for 2008. Under ICERD, Canada has completed each of the 18 reports, but the 2009 report is overdue. It has completed all its reporting requirements under CCPR, CESCRC, CEDAW, CRC and its two Optional Protocols till the end of the reporting period.

Canada has also extended an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 2 June 2008, Canada commended the independence and impartiality of the High Commissioner and also the increased presence of the Office of the High Commissioner for Human Rights “in the field”.

During informal consultations on the draft resolution on the Optional Protocol to the International Convention on Economic, Social and Civil Rights on 2 June 2008, Canada suggested that the text of the optional protocol should not be renegotiated as it represented a “delicate compromise” following five years of careful negotiation, and any attempt to “reopen” the text at this stage would endanger the adoption of the draft optional protocol.

On 3 June 2008, Canada reiterated the importance of the Guiding Principles on Internal Displacement. Canada also echoed Switzerland in: 1) stating that the strengthening of peace and the rights of internally displaced persons (IDPs) were interdependent and 2) asking the Special Rapporteur on IDPs about the types of mechanisms that could be used in order to better involve IDPs in peace processes.

On 3 June 2008, Canada expressed support for the report and recommendations of the Special Rapporteur for extrajudicial killings on his mission to the Philippines, and encouraged the Philippines to implement the recommendations.

On 4 June 2008, Canada expressed support for the mandate of the Special Rapporteur on torture and emphasised the need for countries to accept country visits by the Special Rapporteur.

On 6 June 2008, during the discussion on human rights situations that require the Council’s attention, Canada raised specific human rights concerns in relation to Myanmar, DRC, Sri Lanka, Sudan, Belarus and DPRK.

During a general debate on UPR on 13 June 2008, Canada pointed out that the Universal Periodic Review needed time to reach its potential, and that “each country would have to undergo two reviews before an assessment could be made”. Canada commended the participation of civil society and NGOs in the UPR process and made some suggestions on improving the modalities of the process. During the General Comments by NGOs, Canada defended the statement of an NGO as being in order after it was challenged by other States on procedural grounds. The NGO had noted that during certain UPR sessions, allies of the country being reviewed made positive comments about the State under review as a method of “filibustering” and avoiding negative comments. The challenge against the statement was from States which believed that country-specific comments should not be tabled during the general debate.

During an informal consultation on 13 June 2008, Canada supported the inclusion of war crimes within the mandate of the Special Rapporteur on extrajudicial killings.

On 16 June 2008, Canada highlighted that it had apologised to indigenous communities affected by segregationist education policies.

On 17 June 2008, Canada, in response to the presentation of the Independent Expert on the Situation of Human Rights in Haiti, noted positive developments but highlighted that the human rights situation in the country was still a serious concern.

On 17 June 2008, Canada objected to attempts to soften the wording of a draft resolution aimed at the human rights situation in Myanmar.

On 18 June 2008, Canada voted against a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote, on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Canada voted against a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote, on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

On 18 June 2008, Canada joined the consensus on the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which provides for an individual communication procedure under ICESCR. However, Canada indicated that it may not be able to become a state party to the optional protocol as it would have preferred an “a la carte” approach whereby not all the rights in the Covenant or levels of obligation were included in the Optional Protocol. In response to comments by Pakistan on the importance of the right to self-determination, Canada was of the view that self-determination could not be invoked to trigger a complaint under a future complaints mechanism.

Ninth Session of the UN Human Rights Council

On 8 September 2008, Canada supported a statement made on behalf of the EU that the OHCHR should continue to be an independent institution.

On 9 September 2008, Canada expressed interest in the proposal of the Special Representative of the Secretary-General for Children and Armed Conflict to use the UPR to discuss the issue and monitor implementation of the recommendations of the Committee of the Rights of the Child.

On 10 September 2008, Canada highlighted the importance of international cooperation to tackle the global food crisis and its impact on women and girls. It also referred to the fact that it had increased international aid contributions in response to the crisis.

On 10 September 2008, Canada expressed interest in thematic work envisaged by the Special Rapporteur on human rights of indigenous peoples. The work included a focus on the views of indigenous women as they related to indigenous languages, trans-national corporations, and recognition of legal systems.

On 10 September 2008, Canada opposed the inclusion of wording within the report of the Special Rapporteur on the right to food instructing the Council to consider “non-commercial speculation on the futures markets of primary agricultural commodities” and “the feasibility of establishing a global reinsurance fund”. Canada viewed this as exceeding the mandate and preferred more general wording.

On 15 September 2008, Canada noted positive developments in Cambodia but maintained that concerns remain.

On 16 September 2008, Canada expressed concerns about the human rights situations in Sudan, Zimbabwe, Sri Lanka and Iran while noting some positive developments in Belarus.

On 16 September 2008, in informal consultations on a resolution on human rights and voluntary goals, Canada regretted the inclusion of two new voluntary goals; one on bringing an end to unilateral coercive measures and the other on increasing resources for development assistance.

On 17 September 2008, during an informal discussion on a draft resolution on the follow-up to the Seventh Special Session on the impact of the world food crisis on the right to food, Canada supported the deletion of paragraphs on increasing agricultural and humanitarian assistance. It preferred to replace the paragraphs with relevant ones from an original resolution passed at the Seventh Special Session on the right to food.

On 18 September 2008, during informal consultations on the draft resolution on the protection of human rights of civilians in armed conflict, Canada stated that it could not endorse the inclusion of a paragraph calling on States involved in armed conflicts to facilitate the work of any future mechanisms that the Council may establish in response to human rights violations in armed conflict.

On 19 September 2008, during an informal consultation on the draft resolution for the protection of civilians in armed conflict, Canada sought to insert the word “applicable” before the words “human rights law” in several places. Canada again stated its opposition to the inclusion of the paragraph on cooperation with future Council mechanisms.

On 19 September 2008, during an informal consultation on the draft resolution on advisory services and technical assistance for Cambodia, Canada requested the reinsertion of a paragraph expressing concern regarding continuing human rights violations.

On 22 September 2008, Canada endorsed the draft resolution on the situation on human rights in Sudan sponsored by the EU and supported the extension of the mandate by another year.

On 24 September 2008, Canada expressed concerns regarding a draft resolution on the extension of the mandate of the Special Rapporteur on toxic waste, although it did not block the consensus on the resolution. Canada was concerned about the potential for confusion over the existence and scope of a right to safe drinking water and sanitation, which it did not feel existed.

On 24 September 2008, Canada qualified its support for a resolution on international development by stating that it was inappropriate to renew the mandates of the Working Group on the right to development and the high-level task force on the implementation of the right to development, while its work was ongoing. Canada viewed the creation of a legally binding standard on the right to development as only one option among many others.

On 24 September 2008, Canada joined the consensus on a resolution on the human rights of migrants, but stressed that the global forum on migration should remain independent of the UN system.

On 24 September 2008, Canada joined the consensus on a resolution on the follow-up to the Seventh Special Session on the world food crisis but criticised the resolution for failing to place the primary responsibility on States and failing to refer to the responsibility of States to provide free and unhindered access to humanitarian aid.

On 24 September 2008, Canada voted against a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote, on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Canada voted against a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. The resolution also condemned the use of unilateral coercive measures to assert political or economic pressures, especially against developing countries. Canada reiterated its consistent opposition to the resolution, as it did not distinguish between measures such as economic sanctions, which were acceptable, and extraterritorial coercive measures, which were not.

On 24 September 2008, Canada voted against a resolution on the follow-up to Resolution S-3/1 on the assault on Beit Hanoun, which it viewed as unbalanced. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israeli non-cooperation. Canada called the draft resolution “fundamentally flawed and one-sided”.

On 24 September 2008, during the Interactive Dialogue with the Special Rapporteur on Sudan, Canada expressed concern regarding the lack of progress in the human rights situation.

On 24 September 2008, Canada presented a draft resolution on the effective implementation of human rights instruments which was adopted without a vote.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Canada voted against a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Canada abstained from voting on a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making. While explaining its stand before the vote, Canada stated that the resolution did not highlight the fact that States have primary responsibility for protecting and promoting the human rights of the individuals within their jurisdiction.

Tenth Session of the UN Human Rights Council

On 9 March 2009, the Special Rapporteur on the right to housing presented her mission report on Canada. The report commended Canada's historically successful public housing policy but made several criticisms. Canada expressed disagreement with the report which it felt misunderstood the federal system and failed to acknowledge the efforts it made to establish effective policies.

On 12 March 2009, Canada expressed agreement with the Special Rapporteur on human rights defenders that the work of human rights defenders should be recognised and promoted in the UPR.

On 13 March 2009, Canada welcomed the General Principles on Internal Displacement, suggested their incorporation in domestic and international instruments and encouraged the African Union to adopt the Draft Convention for the Protection and Assistance of Internally Displaced Persons.

On 16 March 2009, Canada thanked the Special Rapporteur on DPRK for his report and expressed support for the mandate.

On 17 March 2009, Canada expressed support for the creation of a special procedure on human rights in DRC.

On 17 March 2009, in an Interactive Dialogue on the Report of the Special Rapporteur on Myanmar, Canada highlighted areas of concern in relation to the human rights situation.

On 20 March 2009, Canada expressed concern over what it saw as "objectionable and unacceptable" treatment meted out to Israel during the adoption of its UPR report.

On 26 March 2009, Canada voted against a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.¹²⁷

On 26 March 2009, Canada voted against a resolution on human rights in the occupied Syrian Golan which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel. Canada explained that it considered the resolution unbalanced and that it would not contribute to a solution to the problems in the region.

On 26 March 2009, Canada voted against a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT. Canada explained that while it viewed Israeli settlements as contrary to international law, it felt the resolution was not balanced.

On 26 March 2009, Canada voted against a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, Canada dissociated itself from the consensus on a resolution on the right of the Palestinian people to self-determination. Canada explained that while it recognised the right, it felt that the resolution did not contribute towards a peaceful solution or improve the situation.

On 26 March 2009, Canada voted against a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that the previous Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community. Canada expressed deep concern regarding the situation but asserted that the responsibilities for the conflict had not been established. As such, Canada held, that that the resolution was unbalanced.

On 26 March 2009, Canada voted against a resolution on combating defamation of religions. Canada explained that defamation was beyond the scope of the Council as only individuals have human rights and that the concept posed a risk to freedom of expression.¹²⁸

On 26 March 2009, Canada voted in favour of a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, Canada voted against a resolution calling for better geographic representation and gender balance in the staff of the OHCHR.

On 27 March 2009, Canada voted against a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Canada voted in favour of a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, Canada voted in favour of a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

On 27 March 2009, Canada voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Canada voted in favour of including a paragraph in the resolution which took note of the report of the Special Rapporteur on Torture. On 10 March 2009, the Special Rapporteur on torture presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights. Canada stated that taking note of the report in no way constituted an endorsement and expressed disappointment that the resolution was being put to a vote.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the draft tabled by the African Group was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to it, reflecting serious concerns. Canada voted against the original resolution drafted by the African Group and voted in favour of the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 26 May 2009, Canada expressed concerns about the human rights situation in Sri Lanka.

On 27 May 2009, Canada voted against a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and Canada voted against it. Canada called the human rights situation in Sri Lanka "troubling" and expressed serious concerns about the country's conduct during its conflict with the Liberation Tigers of Tamil Eelam.

Eleventh Session of the UN Human Rights Council

On 2 June 2009, Canada reiterated support for the development of measures to encourage corporate social responsibility.

On 3 June 2009, in response to the debate following the report by the Special Rapporteur on freedom of expression, Canada observed that Special Rapporteurs were free to address any issue within their mandate. States were free to agree or disagree with the views expressed in the reports but the independence of the Special Procedures was vital to their effectiveness and should be respected.

On 3 June 2009, Canada expressed concern about the intimidation of, and retaliation against, people cooperating with Special Procedure mandate holders.

On 3 June 2009, Canada commended the Special Rapporteur on violence against women for her work.

On 5 June 2009, during the debate on the update of the High Commissioner of Human Rights, Canada expressed concern about conflict in Somalia. It acknowledged the continuing human rights challenges faced by Colombia, and welcomed its standing invitation to Special Procedure mandate holders. Canada urged Nepal to extend the High Commissioner's mandate in its country.

On 9 June 2009, Canada raised the issue of human rights abuses in Iran, including the execution of juveniles, and the human rights situation in Zimbabwe as situations that required the Council's attention.

On 9 June 2009, Canada expressed concern that the Expert Mechanism on the rights of indigenous peoples was moving forward with topics and an agenda that the Council had not approved. The Expert Mechanism was expected to discuss the implementation of the Declaration on the Rights of Indigenous Peoples at its next session. Canada felt that the Council should have the opportunity to consider and approve this agenda.

On 12 June 2009, a discussion on the functions and modalities for future panel discussions was held following opposition by some States to holding a thematic panel discussion on the protection of civilians in armed conflicts. During the discussion, Canada emphasised the need to create alternative fora for substantive dialogue, rather than just on modalities, and the Canadian Ambassador suggested that discussions should be informal, with delegates representing their own views, rather than those of their governments.

On 16 June 2009, Canada expressed concerns for the human rights situation in Sudan and stated that it supported the extension of the mandate for the Special Rapporteur.

On 17 June 2009, Canada voted against a resolution on the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues in the draft could be more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relations between States, not relations between States and their citizens.

On 17 June 2009, Canada voted against a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 17 June 2009, Canada participated in the interactive dialogue with the Special Rapporteur on Haiti, referring to the progress made in the country, the remaining challenges, and Canada's actions to improve the human rights situation in Haiti.

On 17 June 2009, Canada introduced a draft resolution to accelerate efforts to eliminate all forms of violence against women, which was adopted without a vote, after oral amendments.

On 18 June 2009, Canada dissociated itself from a resolution on the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action. Canada explained its disassociation on what it considered to be politicised references aimed at the conflict in the Middle East.

On 18 June 2009, Egypt, on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the Sudanese government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft, but with proposed amendments providing for the mandate of an Independent Expert. Canada voted in favour of these amendments, and when they were accepted, it voted in favour of the entire amended text.

On 18 June 2009, Canada disassociated itself from the consensus on a resolution aimed ostensibly at enhancing the system of Special Procedures. Canada said that the draft weakened the independence of mandate holders. It referred selectively to the Code of Conduct for Special Procedures and made no reference to States' obligations to cooperate in good faith with mandate holders.

2. Pledge

2.1 Election to the Council

Canada was one of nine contestants for the seven seats reserved for the Western European and Other States Group in 2006. Canada won a seat with 130 votes, the lowest vote tally in this group. Portugal and Greece were both unsuccessful in securing a seat.

Canada decided not to seek re-election at the Human Rights Council when its three-year term ended in 2009.

2.2 Pledge Made

In its pre-election pledge in 2006, Canada stated that promotion and protection of human rights was part of its domestic and foreign policies. It stressed that it played a leadership role in the implementation of key human rights norms in areas that concern indigenous people, violence against women and the mass exodus of refugees and migrants. Canada added that by May 2006, it would have no reports pending before the relevant treaty bodies, and that it would submit its future reports in time. Canada also pledged to "consider" signing or ratifying the Optional Protocol to CAT and "other human rights instruments". It committed itself to implementing human rights in the domestic sphere, including issues concerning indigenous people and racism. Finally, Canada stated that gender equality is promoted and protected in the country through the Canadian Charter of Rights and Freedoms.

3. Compliance

3.1 Human Rights During the Reporting Period

Canada's reputation as a world leader in the protection and promotion of human rights was under pressure during the reporting period. Domestically, the Canadian government was accused of breaching firmly established democratic norms. In late 2008, the government announced controversial measures in its annual budget, one of which would have cut funding to opposition parties. The three opposition parties formed a coalition to oust the ruling, minority Conservative Party from power. The Prime Minister, Stephen Harper, requested the Governor General of Canada, who is the Queen of England's representative and the country's ceremonial head of state,

to prorogue parliament, and she complied. The prorogation was highly controversial, as was the opposition's decision to form a coalition to assume power from the minority government.¹²⁹ The prorogation period allowed the government and opposition parties to negotiate and compromise on the controversial budget measures and status quo was maintained when Parliament reconvened some months later.

Parliament was again prorogued for over two months in late December 2009. Though former prime ministers did use prorogation as a means to shut down Parliament, this usually happened at the end of a legislative session when most of the legislative work was complete. In this instance in 2009, 36 bills were pending before Parliament and when it re-convened, each bill had to be resubmitted, whether or not it had been debated earlier or passed multiple readings.

A committee looking into the allegation that from 2006 to 2007 the Canadian Army in Afghanistan consistently turned suspected Taliban insurgents over to Afghan security services, where they faced a high risks of torture, was also closed as a result of the prorogation. The allegation which led to the formation of the committee was made in public hearings during May 2009 by a senior Canadian diplomat. He claimed that Afghan security services were known to beat and whip prisoners with power cables and used electricity. He further noted that till April 2007, there was no monitoring system to ascertain the treatment of prisoners.¹³⁰ Opposition parties alleged that the Prime Minister prorogued Parliament in an effort to muzzle the committee which was posing difficult questions on the issue to government officials.¹³¹ Analysis from *The Economist* newspaper in London offered harsh criticism of Stephen Harper's conduct after the prorogation: "He bars most ministers from talking to the media; he has axed some independent watchdogs; he has binned campaign promises to make government more open and accountable. Now he is subjecting Parliament to prime-ministerial whim."¹³²

The government was also accused of interfering in the management of Rights and Democracy, an institution accountable to Parliament that promotes human rights and democracy globally. The appointment of new board members by the government in late 2009, created a major divide within the board, regarding the allocation of funds by Rights and Democracy to NGOs in the Middle East which tracked human rights abuses in the OPT, including those perpetrated by the Israeli military. Dozens of human rights organisations from around the world wrote an open letter denouncing the actions of the new government-appointed board members and alleging that the Prime Minister was trying to gag legitimate criticism of Israel. Warren Allmand, a former Liberal Party cabinet minister who is also a former President of Rights and Democracy, reportedly accused the government of "a deliberate attempt...to dampen and control public dissent and accountability."¹³³ The turmoil around Rights and Democracy was linked by Warren Allmand to an assertion by a cabinet member that KAIROS, a multi-denominational aid group, had its funding cut by the Canadian government because of what he alleged were anti-Israel positions.¹³⁴

Women's rights groups faced funding cuts by the government during the reporting period, a fact that was noted by the Committee on the Elimination of Discrimination against Women. A funding programme run by the government's Status of Women Committee developed new guidelines for NGOs which stipulated that funding for domestic advocacy, lobbying or research would no longer be granted. The resulting lack of funds forced several NGOs to shut down or severely restrict their work.¹³⁵ A report published in February 2010 by an alliance of feminist and labour activists noted that Canada's ranking in the World Economic Forum's Gender-Gap Index

had dropped from the fourteenth position in 2006 to the twenty-fifth in 2009. This was partially due to a widening wage gap between men and women.¹³⁶

The high profile case of Omar Khadr, a Canadian citizen detained in Guantanamo Bay, continued to represent a major blot on Canada's human rights record. Mr Khadr was arrested when he was fifteen years old, but continued to be treated as an adult offender till the end of the reporting period.¹³⁷ Canada, which had ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, consistently failed to intervene in his case. Beyond being the youngest detainee at Guantanamo Bay, Khadr was the only citizen from a Western nation imprisoned there.¹³⁸ In January 2010, the Supreme Court of Canada ruled that it could not order the Canadian government to request Khadr's repatriation. It did however add that by sending Canadian agents to interview Mr. Khadr in 2004, and by sharing certain information with the US, Canada had breached its human rights obligations.¹³⁹

In January 2009, the UN Special Rapporteur on torture reported that there was strong evidence that Canada had helped secure the arrest and extraordinary rendition of terror suspects by the United States to secret detention centres.¹⁴⁰ In October 2008, an independent inquiry launched by the Canadian government concluded that Canadian officials contributed indirectly to the detention and torture of three Canadian citizens in Syria.¹⁴¹ On 5 May 2010, it was reported that a senior official of the Canadian Security Intelligence Service suggested to a parliamentary committee that the average Canadian would accept the use of intelligence obtained from torture if it saved Canadian lives.¹⁴²

Canada's failure to ensure the human rights of its citizens abroad was also demonstrated in relation to the death penalty. Canada has abolished the death penalty and, in the past, sought clemency for its citizens who were sentenced to death while abroad. However, during the first half of the reporting period, the government practised a policy of not seeking clemency for Canadian citizens who were deemed to have been provided a fair trial in a democratic country and sentenced to death. The issue came to prominence in the case of Ronald Smith, a Canadian citizen on death row in the United States.¹⁴³ In March 2009, a Federal Court ruled that the government was required to resume efforts to obtain clemency, a ruling that the Department of Foreign Affairs stated it would not contest.¹⁴⁴

Some Canadian police forces came under criticism during the reporting period. Throughout the period, police services across Canada regularly used "tasers" or stun guns to subdue violent or unpredictable suspects without resorting to live ammunition. Though the use of tasers is intended to be non-lethal and without lasting effect, an Amnesty International report alleged that six people were killed in Canada in 2008 after being shot with tasers.¹⁴⁵ A March 2009 report found that in 2008, police used tasers 376 times in 329 incidents. Targets included a 15 year old, a 71 year old person, and 112 people described as emotionally disturbed. Police in one incident threatened a 12 year old person with a taser.¹⁴⁶ Concern was raised in the UN Human Rights Council about the use of tasers when Canada came up for review under the Universal Periodic Review in February 2009.¹⁴⁷ In August 2008, two human rights groups announced that they would no longer refer complaints against the Vancouver police to the Office of the Police Complaints Commissioner (OPCC). Reasons cited for the boycott were a lack of confidence in the complaints procedure which allowed the police to investigate themselves. OPCC involvement was only

initiated in cases of obvious bias.¹⁴⁸ In January 2009, the Royal Canadian Mounted Police (RCMP) was advised by the Commission for Public Complaints Against the RCMP to improve its handling of complaints.¹⁴⁹

Canada voted against the 2007 UN Declaration on the Rights of Indigenous Peoples and has since asserted that the declaration could therefore not be used as a benchmark to measure Canada's human rights compliance. On 3 March 2010, the government made a public commitment to take steps to endorse the declaration.¹⁵⁰

Discrepancies between the quality of life of indigenous and non-indigenous citizens continued. In February 2010, it was reported that six of Canada's ten poorest postal codes in 2006 were First Nations (indigenous) communities.¹⁵¹ Indigenous children were more likely to be moved from their parents, with one in ten ending up in foster care as opposed to one in 200 non-indigenous children. This was particularly controversial in light of accusations that child welfare agencies serving First Nations reserves received 22 per cent less funding than provincial agencies. A case was filed before the Canadian Human Rights Tribunal to determine whether this constituted discrimination.¹⁵² Citizens from indigenous backgrounds were also disproportionately represented within prisons. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008.¹⁵³ The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal prison population.¹⁵⁴ Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes.¹⁵⁵ Beyond high levels of incarceration, indigenous women are subject to excess violence.¹⁵⁶ Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women.¹⁵⁷ However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies.¹⁵⁸ In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.¹⁵⁹

Canada has struggled to reconcile indigenous people's land rights with corporate development. The Lubicon Cree, an indigenous group in Alberta, has never signed a treaty with the government and therefore has no reserve lands. Intermittent dialogue over 60 years failed to reach a resolution, with negotiations breaking down in 2003. As far back as 1990, the UN Human Rights Committee ruled that the Canadian government had violated the rights of the Lubicon Cree, resulting in an assurance by the government that it would reach a negotiated settlement. Since then, various UN committees have expressed concern about the situation and urged the government to resolve it. Despite this, no resolution was reached till the end of the reporting period and the government continued to hand out licences for oil and gas extraction in areas traditionally claimed by the Lubicon Cree.¹⁶⁰

Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the Games were awarded to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver.¹⁶¹ The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole.¹⁶² In March 2009, the Special Rapporteur on the right to housing presented the Council with the findings of his mission report to Canada. It

highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous people and a need to expand public housing.¹⁶³ In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population.¹⁶⁴ Indigenous groups were divided over whether the Games were a positive or negative development. Much of the Games took place on what many First Nations groups consider to be stolen First Nations land and there were also concerns about the negative environmental impact on the land.¹⁶⁵

3.2 Compliance with the Pledge

In its pre-election pledge Canada claimed that promotion and protection of human rights was a part of its foreign and domestic policy. The government's prorogation of Parliament, allegedly to stifle discussion on Canadian complicity in the torture of detainees, is exemplary of the dubiousness of this claim. Three additional examples provide evidence that human rights considerations did not always factor into Canadian foreign policy: 1) the government's continued reluctance to intervene in the cases of Omar Khadr and Ronald Smith (before the Federal Court judgement on Smith's case); 2) allegations by the Special Rapporteur on torture that Canadian officials helped secure the arrest and extraordinary rendition of terror suspects by the United States to secret detention centres; 3) alleged government interference in the operations of Rights and Democracy, an institution accountable to Parliament, promoting human rights and democracy globally.

Government funding cuts to women's rights groups operating in Canada contradicted its pledge to promote and protect human rights domestically and its assertion that the government and civil society engage "in a spirit of cooperation and dialogue". Furthermore, Canada's steady decline in the World Economic Forum's Gender-Gap Index suggests that the Canadian Charter of Rights and Freedom was not being fully used to ensure gender equality.

Though Canada did state its intention during the reporting period to endorse the UN Declaration on the Rights of Indigenous People, its pledge regarding its leadership role in this regard did not result in measurable improvement. Indigenous people continued to be severely disadvantaged compared to the rest of the Canadian population. Violence against indigenous women, high rates of incarceration of indigenous men and women, disputes over land claims and high-levels of homelessness and poverty continued to plague Canada's indigenous communities.

Canada's performance in the Council sessions generally fulfilled its commitments to ensure that the Council's work had a direct, concrete and positive impact on the promotion and protection of the rights of people around the world. Canada supported international scrutiny of Myanmar and repeatedly expressed concerns about, and voted for, resolutions which were critical of human rights situations in various countries such as Sudan, DRC, DPRK and Sri Lanka. Only on resolutions concerning Israel and the OPT, did Canada vote against international scrutiny. On several occasions it was the only State on the entire Council to vote against resolutions which criticised Israel for human rights violations.

Canada generally worked positively to strengthen and support UNHRC mechanisms, such as the Special Procedures, but on one occasion it attempted to limit the activities of the Expert Mechanism on the Rights of Indigenous Peoples, which Canada felt was moving towards an agenda that the Council had not approved. On another occasion, Canada expressed concern about the extension of the mandate of the Special Rapporteur on

toxic waste, because it believed that the right to safe drinking water and sanitation – rights central to that mandate – did not exist.

Canada voted predictably with allied voting blocs on controversial thematic resolutions. It voted against resolutions on the promotion of a democratic and equitable international order, international solidarity and human rights, the right of people to peace, unilateral coercive measures, the global economic and financial crisis, foreign debt, defamation of religions and the elaboration of complementary standards to ICERD. Canada voted in favour of a resolution on discrimination based on religion or belief.

Canada's pledge to submit its future treaty body reports on time was not realised. Neither its 2008 report to CAT nor its 2009 report to ICERD was submitted by the end of the reporting period. A report to CESCR became overdue just after the reporting period. Canada's pledge to consider signing the Optional Protocol to CAT was not realised during the reporting period, and its pledge to consider signing or ratifying other human rights instruments was only partially fulfilled. Canada did ratify the Convention on the Rights of Persons with Disabilities in March 2010, but had yet to ratify the Convention on the Protection of the Rights of Migrant Workers, Convention for the Protection of all Persons from Enforced Disappearances and the Optional Protocols to CESCR and CPD.

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