

UN Human Rights Committee criticizes Harper government

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| AUGUST 4, 2015



On July 20, 2015 the United Nations Human Rights Committee, in its seven-page [Concluding Observations Report](#), adopted a number of critical observations of Canada's human right practices, treatment of Indigenous people and criticized Harper's policies on immigration and treatment of refugees. The Report was termed "A wake up call" on Canada's human rights performance.

The Committee composed of 17 International Experts conducted the first review of Canada's human rights record in nearly a decade. The committee heard representations from the Canadian government and also from Canadian non-governmental organizations like Amnesty International and the International Human Rights Program at the University of Toronto Faculty of Law. They had to review thousands of pages of documentation.

Overall, the Harper Conservative government was subjected to severe criticism over its short comings.

The UN Committee acknowledged the following positive aspects of Canada's human rights record:

- (a) Adoption of the Human Rights Act of the Province of Newfoundland and Labrador, in 2010;
- (b) Adoption of the Domestic Relations Act in the Prince Edward Island that legalizes same-sex marriage, in 2008;
- (c) Changes in Ontario's human rights system that allows direct complaints to the Human Rights Tribunal of Ontario.

... The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities, on 11 March 2010.

The UN Committee also criticized Canada's mining companies and corporations in their human rights practices while operating abroad.

The UN Committee also expressed concern over "persisting inequalities between women and men." They noted:

- a) the high level of the pay gap, which is more pronounced in some provinces such as Alberta and Nova Scotia and disproportionately affects low-income women, in particular minority and indigenous women;

- b) the fact that the legislation relating to equal pay differs at federal, provincial and territorial levels and for the public and private sectors, and does not exist in some provinces;
- c) the underrepresentation of women in leadership positions in the public and private sectors and;
- d) the failure to enforce or ensure employment equality in the private sector across the country. It further regrets that the State party has not yet adopted regulations to implement the Public Sector Equitable Compensation Act (art. 3).

The UN Committee also indicated that they were "concerned about the continued high prevalence of domestic violence in [Canada], in particular violence against women and girls, that mostly affects Indigenous and minority women."

Specifically they voiced their concerns over the following:

- a) the low number of cases reported to the police by victims;
- b) the insufficiency of shelters, support services and other protective measures for victims that reportedly prevent them from leaving their violent partner and;
- c) a failure to effectively investigate, prosecute, convict, and punish perpetrators with appropriate penalties. The Committee is further concerned about the lack of statistical data on domestic violence including on investigations, prosecutions, convictions, sanctions and reparation (arts. 3, 6, 7).

The issue of murdered and missing Indigenous women and girls in Canada was also highlighted. The Committee made the following observation:

That Indigenous women and girls are disproportionately affected by life-threatening forms of violence, homicides and disappearances. Notably, the Committee is concerned about the State party's reported failure to provide adequate and effective responses to this issue across the territory of the State party. While noting that the Government of British Columbia has published a report on the Missing Women Commission of Inquiry and adopted legislation related to missing persons, and the Government of the State party is implementing the Action Plan to Address Family Violence and Violent Crimes Against Aboriginal Women and Girls, the Committee is concerned about the lack of information on measures taken to investigate, prosecute, and punish those responsible (arts. 3, 6).

The issue of counter-terrorism in Canada was also the subject of examination. The Committee focused on Bill C-51 amendments to the Canadian Security Intelligence Act. The Committee acknowledged the need to address "terrorism."

Their concerns were stated as follows:

- a) Bill C-51 amendments to the Canadian Security Intelligence Act confers a broad mandate and powers on the Canadian Security Intelligence Service (CSIS) to act domestically and abroad, thus potentially resulting in mass surveillance and targeting

activities that are protected under the Covenant without sufficient and clear legal safeguards;

b) Bill C-51 creates under the Security of Canada Information Sharing Act, an increased sharing of information among federal government agencies on the basis of a very broad definition of activities that undermine the security of Canada which does not fully ensure that inaccurate or irrelevant information is shared;

c) Bill C-51 codifies a no-fly list programme without a clear procedure to inform the person concerned on its status, allowing a judicial review that may be conducted in secret, and to which the system of special advocates does apply. The Committee is also concerned about the lack of adequate and effective oversight mechanisms to review activities of security and intelligence agencies and the lack of resources and power of existing mechanisms to monitor such activities (arts. 2, 14, 17, 19, 20, 21, 22).

The UN Human Rights Committee also directed their attention to the issue of "Excessive use of force during protests and police accountability." They specifically criticized the following:

The Committee is concerned about reports of the excessive use of force by law enforcement officers during mass arrests in the context of protests at federal and provincial levels, with particular reference to indigenous land-related protests, G20 protests in 2010 as well as student protests in Quebec in 2012. The Committee is also concerned about reports that complaints are not always promptly investigated and the lenient nature of sanctions imposed. While noting efforts by the State party to establish oversight and accountability mechanisms to investigate serious incidents involving the police at the federal, provincial and territorial levels, the Committee is concerned about reports of the lack of effectiveness of such mechanisms. The Committee regrets the lack of statistical data on all complaints, investigations, prosecutions, convictions and sanctions imposed on police officers at all levels (art. 7).

The report also addressed concerns over the treatment of migrants and refugees. Of special concern was the mandatory detention of refugee claimants and illegal migrants who were considered "irregular arrivals" on administrative grounds. The Committee also expressed concern over the fact that refugees might be returned to a country where they faced a risk of being tortured. T

he panel of experts made the following criticisms:

The Committee is concerned that individuals who enter onto the territory of the State party irregularly may be detained for an unlimited period of time and that under Section 20.1 (1) of the Immigration and Refugee Protection Act ("IRPA"), any migrant and asylum-seeker designated as an "irregular arrival" would be subject to mandatory detention, or until the asylum-seeker's status is established, and would not enjoy the same rights as those who arrive "regularly." The Committee is also concerned that individuals who are nationals of Designated Country of Origin are denied an appeal hearing against a rejected refugee claim before the Refugee Appeal Division and are only allowed judicial review before the Federal Court, thus increasing a risk that those individuals may be subjected to refoulement [returned to a place where they faced a risk of being tortured]. The Committee is further concerned about the 2012 cuts to the Interim Federal Health Program which has resulted in many irregular migrants losing access to essential health care services (arts. 2, 7, 9, 13).

The Federal Court of Canada, in a [decision released on July 23, 2015](#) (Y.Z and the Canadian Association of Refugee Lawyers IMM-3700-13 and IMM-5940-14), also expressed its concerns about the different treatment of refugees based on their country of origin.

The Court ruled that the Designated Country of Origin [DCO] provisions to be a violation of the equality provisions of the Charter of Rights and Freedoms. The Federal Court also held that the Harper's government anti-refugee rhetoric turned what might be considered a policy choice into "cruel and unusual punishment."

Last July 2014 the Federal Court of Canada also ruled that the Harper government's policy of denying refugee claimants basic health care ([Interim Federal Health as being contrary to the Charter of Rights and Freedoms](#)).

The UN Committee also expressed its concerns over prison conditions in Canada.

The Panel of Experts also addressed the Harper government's policies restricting freedom of expression, peaceful assembly and association. The targeting of charitable groups who had policy disagreements with the Conservative government with the threat of their losing their charitable status was specially addressed.

To quote the report:

While noting explanations provided by the State party, the Committee is concerned about reports of increased repression of mass protests in the State party, such as those which occurred in the G.20 Summit in 2010, in Quebec in 2012, and the disproportionate number of arrests of participants. The Committee is also concerned by the level of apprehension within a broad sector of civil society about the State party's current policies in the areas of political, social and human rights advocacy. The Committee is further concerned at the ambit of section 149.1 of the Income Tax Act relating to donations to non-governmental organizations registered as charities whose activities are considered as political activities when they relate to the promotion of human rights (arts.19, 21, 22.)

The UN Committee Report also extensively address the treatment of Indigenous land and titles, the discrimination against Indigenous women and the over representation of indigenous people in the criminal justice system and the lack of access to justice for indigenous peoples.

The report made the following statement on the overall situation of indigenous people in Canada.

While noting measures taken by the State party, the Committee remains concerned about: a) the risk of disappearance of indigenous languages;

b) some indigenous people lacking access to basic needs;

c) child welfare services which are not sufficiently funded;

d) the fact that appropriate redress not yet being provided to all students who attended the Indian Residential Schools (arts. 2, 27).

The UN Human Rights Committee Report is what can best be called, "A wake-up, call" on Canada's

less than exemplary record on human rights and in particular its treatment of refugees and Indigenous people.

It is clear that the Harper government has serious deficiencies in how it handles human rights in Canada and their heavy handed treatment of those that do not share their political viewpoints.

Canada can, and should, do much better in addressing these human rights concerns.

It remains to be seen how the Harper Conservatives will respond to the UN Committee's concerns and also how the Canadian electorate will respond in the coming Federal Election in the Fall of 2015.

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