



Droits et Démocratie
Rights & Democracy

Centre international des droits de la personne et du développement démocratique
International Centre for Human Rights and Democratic Development

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Rights & Democracy (International Center for Human Rights and Democratic Development) is an independent Canadian institution created by Act of Parliament in 1988. It has an international mandate to promote, advocate and defend the democratic and human rights set out in the International Bill of Human Rights. In cooperation with civil society and governments in Canada and abroad, Rights & Democracy initiates and supports programmes to strengthen laws and democratic institutions, principally in developing countries.

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Workshop 1: Civil & Political Rights, including freedom of expression, the death penalty, and torture

Canada deserves praise for organizing the successful visit of the Working Group on Arbitrary Detention in June 2005, and for acceding to the 2nd Optional Protocol on the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in November 2005.

However, one main problem with respect to civil and political rights – and something recognized in the Working Group’s visit to Canada last June – is that security legislation has too often resulted in the abrogation of said rights. This is linked directly to questions of arbitrary detention, punishment, and torture.

On this subject: the universality of human rights is our conviction. Non-derogation from human rights is the norm.

Rights & Democracy recommends to the Government of Canada to:

- Ratify the Option Protocol to the Convention Against Torture, which calls for the creation of a sub-committee for the prevention of torture.
- Call on states to ensure that security legislation takes note of their international obligations relating to human rights treaties, in particular the International Covenant on Civil and Political Rights and the Convention Against Torture.
- Call on states to allow unfettered visits of the Special Rapporteur on Torture. Most recently, he refused to visit Guantanamo Bay as too many conditions were placed on his visit.

Workshop 2: Economic, Social & Cultural Rights

1. The Human Right to Food

In a world that has more than enough food to feed itself, it is an outrage that 842 million people suffer from hunger and malnutrition. Every five seconds a child under the age of five dies of hunger or hunger-related disease. Women often suffer disproportionate levels of hunger while also assuming the central role with regards to the food security of households and the nutrition of children. As the economies of the world integrate, the ability of States to meet their domestic obligations related to the right to food is inextricably linked to international trade and to international cooperation. Therefore, while domestic obligations of States are the basis for human rights protection, “extra-territorial obligations” are now emerging as a key issue for consideration in relation to the human right to food. The UN Special Rapporteur, whose mandate ends this year, has conducted several country missions – most recently to India and Guatemala – in order to more fully understand the causes of hunger and to recommend policies and programs to address them. In addition, the UN Food & Agriculture Organization (FAO) is conducting pilot studies based on its *Voluntary Guidelines for the Progressive Realization of the Right to Adequate Food*, adopted in 2004.

Rights & Democracy recommends to the Government of Canada to:

- Reconsider its 2001 decision to end co-sponsorship of the annual resolution on the human right to food, recognizing that hunger is an egregious violation of human rights, and should work with other supportive governments to actively promote broad support for the resolution;
- Ensure that the resolution addresses the extra-territorial obligations of States and promotes appropriate rules for agricultural trade and policies aimed at reducing dependency on food aid;
- Ensure that explicit attention to ending discrimination against women is included in this or other relevant UNCHR resolutions, as an important means of protecting and fulfilling the right to food;
- Urge renewal of the mandate of Special Rapporteur on the Right to Adequate Food and contribute financial support to the FAO for pilot studies aimed at assisting national governments to meet their human right to food obligations.

Workshop 2: Economic, Social & Cultural Rights

2. Optional Protocol to the International Covenant on Economic, Social & Cultural Rights (ICESCR)

The UN World Conference on Human Rights affirmed, in 1993, the indivisibility, interdependence and interrelatedness of all human rights and recommended that the UN Committee on Economic, Social & Cultural Rights prepare a draft text for an Optional Protocol (OP) to the ICESCR. The OP would provide a complaint mechanism for violations under the Covenant. In 1997, the Committee submitted its draft text to the UN Commission on Human Rights for consideration. In 2003, the Commission created an open-ended working group to “consider options regarding the elaboration of an optional protocol to the ICESCR” (2004/29), but the working group mandate concludes this year with no attention yet given to revision and adoption of the draft text prepared by the Committee in 1997. This is therefore a determinative year for the OP. It is imperative that economic, social, and cultural rights be accorded full and equal recognition within the United Nations human rights mechanisms.

Rights & Democracy recommends to the Government of Canada to:

- Recall that the OP is by nature “optional” and does not place any additional obligations on Governments, should encourage and support efforts to elaborate an optional protocol for the ICESCR based on the draft text submitted by the Committee to the Commission in 1997;
- Ensure that the OP contains, at the minimum, a communications procedure and an inquiry procedure;
- Ensure that the procedures established under the OP be available to victims of violations to any substantive right enshrined in the ICESCR.

Workshop 11: Corporate Social Responsibility

There is a growing consensus internationally that the human rights regime has not kept up with the pace of globalization and it has become urgent to correct the balance. Private actors – multinational corporations – are more important than they have ever been in terms of net capital flows to developing countries. While most countries need and welcome foreign investment, there is as pressing need to ensure that such investment serves rather than undermines the cause of human rights. As recognized in the report of the Standing Committee on Foreign Affairs and International Trade in June 2005, Canada should be putting in place mechanisms to ensure that Canadian corporations – specifically mining companies – do not violate human rights when they invest abroad. The international human rights framework provides valuable guidance on the types of regulations that are required to govern foreign investment and there are many options available both at the national and multilateral level.

The nomination of the Special Representative to the UN Secretary General (SRSG) on Human Rights and Business was a major accomplishment of the 61st Commission on Human Rights and we are counting on the work of John Ruggie to help develop an international consensus and implementation means to enhance corporate compliance with human rights norms.

Rights & Democracy recommends to the Government of Canada to:

- Support further work on human rights impact assessments as a condition of public support to foreign direct investment (move beyond voluntarism);
- Support financially and politically the regional consultations of the SRSG and ensure that the views of affected communities are adequately represented in such consultations;
- Maximize the value of the upcoming Canadian consultations on mining and Corporate Social Responsibility (CSR) by relating them to the multilateral processes on human rights and business already underway.

Workshop 13: Human Rights in Afghanistan

High levels of insecurity continue to present the most persistent threat to the realization of human rights in Afghanistan. Insecurity in the country is both structural and incidental, and is preventing true democratization and the consolidation of peace. A lack of professionalism and respect for international standards of human rights among security sector personnel, the judiciary and civil servants contributes to an environment characterized by impunity and the absence of the rule of law. This situation is particularly detrimental to women, who have little access to the justice system or to support services for victims of human rights violations. Further, the violence perpetrated by Taliban insurgents, including acts of violence against those engaged in girls' education, is undermining Afghans' right to education and keeping the population in a state of constant fear. Finally, if Afghanistan's fledgling justice system is to hold any legitimacy, seeking accountability for past human rights violations and crimes against humanity in the last 26 years of conflict must be a priority of the Afghan government and the international community.

Rights & Democracy recommends to the Government of Canada to:

- Affirm support for all recommendations in the Afghan Independent Human Rights Commission's report "A Call for Justice" and to make resources available to realize the implementation of the report's recommendations in full;
- Commit to long-term support of women's human rights in Afghanistan, as a priority area of Canada's assistance programme to Afghanistan;
- Make a long-term commitment to security provision in Southern Afghanistan and to continue to take a leadership role at NATO, calling for a sustained presence in Afghanistan with a peacekeeping and peacebuilding mandate.

Item 20: Human Rights in Zimbabwe

The United Nations sent its Special envoy to Zimbabwe last year. This was after the Government of Zimbabwe had embarked on forced demolitions of houses in urban areas, the support base of the opposition. This operation was dubbed 'operation clean up filth'. Over two million people affected and about 700 000 families displaced. It resulted in the denial of basic rights such as the right to education, food, health and exacerbated the HIV-AIDS crisis in the country. More recently, the Zimbabwean government introduced the Constitutional Amendment No 17, which targets critics of the government with the confiscation of their passports. Several human rights defenders have been, and are still being detained. The democratic deficit in Zimbabwe is not to be seen in isolation: it affects the entire region. For example there are about 3 million Zimbabweans refugees and exiles in South Africa and approximately a million in Botswana. This has serious implications for stability and security in the region, let alone the humanitarian and human rights cost involved in such displacement. The meltdown in Zimbabwe will also affect investor confidence in the region.

Rights & Democracy recommends to the Government of Canada to:

- Condemn the restrictive human rights climate currently in Zimbabwe;
- Express serious concern about the continued enactment of repressive legislation that prevent the exercise of freedom of association, expression, the press, movement and other basic freedoms, such as the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA), the Broadcasting Act, the amendments to the Constitution, in particular Constitutional Amendment Number 17;
- Urge the government of Zimbabwe to immediately cease all ongoing forced evictions and illegal farm occupations and to allow unfettered and impartial humanitarian access to affected families, as well as to immediately hold to account individuals or groups that have orchestrated unlawful evictions and/or have committed human rights abuses including torture, in line with the recommendations of the United Nations Special Envoy on Human Settlement Issues in Zimbabwe;
- Call upon the Government of Zimbabwe to establish independent electoral institutions and to respect the rule of law, the principle of separation of powers, and to stop its violations of human rights, in particular the freedom of assembly, association, expression, the press as well as the right not to be tortured or subjected to inhuman and degrading treatment or punishment.

Item 21: Human Rights in China

This year, the Chinese government raised concerns among workers, peasants, Falun Gong members and followers of other religions, HIV/AIDS activists, human rights advocates, and Tibetan and Uighur activists and petitioners. Among the rights and freedoms violated were freedom of opinion and expression, freedom of thought, freedom of conscience and religion, freedom of peaceful assembly and association, freedom of movement, the right not to be arbitrarily deprived of property, the right to a fair and public hearing by an independent and impartial tribunal, the right to just and favourable conditions of work, the right to form trade unions, the right to medical care, and the right to freely participate in the cultural life of the community.

According to the Xinhua press agency, there were 87,000 demonstrations in China in 2005. Some of these demonstrations were violently repressed. It is our view that this social unrest is linked to human rights violations. China amended its constitution in March 2004 to include the phrase, "The State shall protect and respect human rights." China must now give force to this amendment in its laws and practices. As stated by Louise Arbour, the High Commissioner for Human Rights, during her recent visit to China, we expect to see progress that is more than modest in the years to come.

Moreover, Rights & Democracy believes that last December's visit of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment is a step in the right direction. However, we deplore various attempts made to obstruct the Rapporteur's work in the country.

Rights & Democracy recommends to the Government of Canada to:

- Sponsor a resolution on human rights exhorting China to fully respect its human rights obligations;
- Encourage China to ratify the *International Covenant on Civil and Political Rights*;
- Encourage China to withdraw its reservation to Article 8 of the *International Covenant on Economic, Social, and Cultural Rights*;
- Name China in the "Canadian Statement under Item 9 - Question of the violation of human rights and fundamental freedoms in any part of the world";
- Call for the liberation of all political prisoners, particularly those appearing on the list produced by the Coalition;
- Encourage the government of China to facilitate visits by the other special rapporteurs, in particular the Special Rapporteur on Freedom of Religion or Belief, the Special Rapporteur on the Right to the Highest Attainable Standard of Health, and the Special Rapporteur on Adequate Housing.

Workshop 23: Human Rights in Côte d'Ivoire

After the violent events that shook Côte d'Ivoire once again last January, it is important to denounce to the UN Commission on Human Rights the impunity reigning in this country and its grave consequences for human rights. Rights & Democracy therefore asks the Government of Canada to present a resolution on the status of human rights in Côte d'Ivoire at the next session of the Commission.

Rights & Democracy has observed, both directly and through the intermediary of its local partners, the extent to which insecurity has grown in the space of a few months in Côte d'Ivoire. In Abidjan itself, roadblocks are increasingly numerous. They are erected by militias or other armed forces with the primary aim of racketeering. The situation plainly constitutes harassment of populations already suffering the severe economic effects of the crisis. Despite all the efforts of the international community and the advent of a transitional government, the situation is not improving.

Rights & Democracy recommends to the Government of Canada to:

- Call on all actors in the Côte d'Ivoire crisis to give their support to the implementation of UN Resolution 1633 and to cooperate with the Prime Minister, the International Working Group, the Mediation Group, the Special Representative of the Secretary-General, and the High Representative for Elections;
- Condemn all forms of abuse of authority and intimidation waged against the population by armed groups throughout the country, and call on the responsible authorities to put an end to them;
- Call on the transitional government to follow through on all recommendations contained in the report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression submitted to the UN Commission on Human Rights at its 61st session (E/CN.4/2005/64/Add.2);
- Call on the transitional government to follow up on all recommendations contained in the report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance submitted to the UN Commission on Human Rights at its 61st session (E/CN.4/2005/18/Add.3);
- Exhort the UN Security Council to apply targeted sanctions to persons obstructing the implementation of the peace process, as provided in Resolution 1572 (2004).

Workshop 24: Human Rights in Colombia

Despite favourable constitutional provisions enshrining the rights of indigenous peoples, the situation of human rights violations exacerbated by the internal armed conflict is leading certain indigenous peoples to the brink of extinction and humanitarian crisis. Although they have proclaimed their active neutrality and their commitment to peace, their situation remains worrisome as a result of extreme violence, systematic human rights violations, militarization of communities, incursions of armed groups onto their land, forced population movements, and selective execution perpetrated by members of all armed groups against the indigenous authorities. The national organization representing Colombia's indigenous people reports that 1,600 indigenous people were assassinated in the last 20 years, 60% of them since 2000. The Office of the High Commissioner for Refugees states that in 2006, more than 19,000 indigenous people had to flee the consequences of war, breaking their close ties with the land on which their cultural identity is based.

Rights & Democracy recommends to the Government of Canada to:

- Alert the international community to the specific, alarming human rights status of Colombian indigenous peoples;
- Urge the government of Colombia to fulfill its responsibility to make special efforts to guarantee the safety of indigenous peoples, to protect the lives of indigenous individuals, and to take effective measures to save these peoples from extinction, in view of its constitutional and international obligations.
- Support the implementation of the recommendations contained in the report of the Mission to Colombia by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People (E/CN.4/2005/88/Add.2) and, without delay, the recommendation to apply to the new UN genocide prevention mechanism (Special Advisor to the UN Secretary-General on Genocide Prevention) for review of the case of the endangered indigenous peoples of the Amazon and preparation of an emergency programme of aid for these communities (par. 115).
- Remind the Government of Colombia of its obligations to guarantee, and compel all parties to the conflict to respect, the indigenous peoples' right to self-determination, and urge it to take appropriate protective measures for the indigenous peoples pursuant to the provisions of the Colombian constitution and Colombia's international obligations.

Human Rights in Haiti

The human rights situation in Haiti did not improve under the transitional government of Gerard Latortue, and in some areas, deteriorated. Arbitrary arrests and detention, political violence, kidnappings and human rights violations perpetrated by both illegal armed groups and members of the Haitian National Police made an already serious situation worse.

Neither the Haitian government nor MINUSTAH, the U.N. stabilization mission in Haiti, were effective in responding to these violations. Haiti's justice system is non-functional, suffering from corruption, politicization, and a lack of resources and training. As a result, accountability for past abuses is seldom sought and rarely achieved. Despite benefiting from international aid, the national police force is ineffective in preventing or investigating crime, and is responsible for arbitrary arrests, beatings, torture and excessive and indiscriminate use of force against demonstrators. While some improvements were made in recent months since Mario Andresol became police chief, much remains to be done.

MINUSTAH has struggled to fulfil their mandate of re-establishing order and security in the country as well as moving towards disarmament. While it has succeeded in containing some armed groups, it is accused of both failing to protect civilians in danger, and causing unnecessary civilian casualties by using excessive force in combating armed gangs in the slums of Port-au-Prince. Journalists and human rights defenders who bring these violations to light and seek redress for the victims are often harassed, threatened and sometimes killed.

Rights & Democracy recommends to the Government of Canada to:

- Urge the government of Haiti to combat impunity by ensuring that all allegations of violations of human rights are investigated promptly, independently and impartially and, as appropriate, prosecuted through the criminal justice system, in accordance with international standards of justice, fairness and due process of law;
- Urge the government of Haiti to take urgent steps to ensure the independence and effectiveness of the judiciary;
- Urge the government of Haiti to begin a national dialogue with all political parties and civil society organizations to restore stability, safeguard the transition to democracy, and protect and promote human rights;
- Urge the government of Haiti to request long term support for the professionalization, training, and capacity building of the Haitian National Police force, and to take the necessary measures to ensure that police officers are properly vetted for involvement in past human rights abuses;
- Call for the establishment of an Office of the High Commissioner for Human Rights in Haiti to: a) monitor the human rights situation, including investigation and verification nationwide by international human rights officers, b) work with government institutions and civil society organizations to strengthen their capacity to promote and protect human rights, and c) to develop policies and programmes for the promotion and protection of human rights;
- Call for the renewal of the mandate of the special representative of the Secretary General for Haiti for a period of at least one year.

