



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE
Thirty-fourth session
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**List of issues to be considered during the examination
of the fourth and fifth periodic reports of CANADA
(CAT/C/55/Add.8 and CAT/C/81/Add.3)**

Article 2

1. Please provide further information on the outcome of the discussions with the Canadian Red Cross on the establishment of a formal, structured monitoring programme for the facilities of the Ministry of Citizenship and Immigration.

Article 3

2. Please comment on the compatibility of the Immigration and Refugee Protection Act (IRPA) with article 3 of the Convention, given that it allows for the removal of foreign nationals after the removal risk is “balanced” against the risk to Canadian society.

3. Please inform the Committee if certain countries are nominally designated as “safe country of origin” (fifth report, para. 17) and, if so, please provide the Committee with information on the decision and review procedure with respect to the countries so designated. Please also provide further information, if available, on the incorporation of article 3 into domestic legislation.

4. Please provide the Committee with statistics, if possible, related to cases of non-refoulement based on article 3 of the Convention. Please also provide information on cases where “exceptional circumstances”, in which deportation to face torture was considered justified, were invoked, as noted in paragraph 34 of the fifth report. Please also provide the Committee with information on the number of persons considered “ineligible” for a hearing by the Refugee Protection Division on grounds of security, as noted in paragraph 16 of the fifth report. Please explain how this can be reconciled with article 2, paragraph 2, of the Convention.

5. Please describe the measures that have been taken to remedy the deficiencies in the system for assessing fitness for expulsion determined by the Human Rights Committee in *Ahani v. Canada* (communication No. 1051/2002, Views adopted on 29 March 2004) to be in breach of article 13 (expulsion of an alien) in conjunction with article 7 (prohibition of torture) of the International Covenant on Civil and Political Rights.

Article 11

6. With respect to the situation of women offenders, the Committee notes that the Correctional Service Canada (CSC) has taken decisive action on all recommendations in the Arbour Report that are within its jurisdiction. Please indicate which recommendations of this report are not within the jurisdiction of the CSC. Please provide information on any follow-up to the report on federally sentenced women issued in January 2004 by the Canadian Human Rights Commission (fifth report, para. 41).

Articles 12 and 13

7. Please provide information on the number of criminal and disciplinary proceedings instituted and sanctions imposed since the examination of the previous report, in addition to data on the number of complaints of torture or torture-related conduct filed against law enforcement personnel provided in the fifth periodic report.

8. Following the final report on the APEC conference inquiry, have any additional steps been taken, other than policy changes, to hold accountable those responsible (fifth report, para. 73)?

9. Please provide information on any time limitations that may exist for the admissibility of complaints related to torture or other cruel, inhuman or degrading treatment or punishment.

Article 14

10. In addition to the information contained in paragraph 85 of the fifth report referring to victims of torture that occurred prior to arrival in Canada, please provide information on redress, compensation or rehabilitation provided to victims of torture that has occurred in Canada, or to their families, since the examination of the last periodic report.

Article 16

11. Please provide updated information on the number of imprisoned persons and the occupancy rate of the accommodation capacities for the period from 2002 to 2004.

12. Please provide information on the findings of the detailed independent evaluation on the Enhanced Segregation Review process noted in paragraph 189 of the fourth report.

13. As the fifth periodic report contains information (para. 61) for the CSC pertaining to “harassment” complaints, could you please provide a definition of harassment?

Other

14. Please indicate whether Canada envisages ratifying the Optional Protocol to the Convention against Torture. If so, has Canada taken steps to set up or designate a national mechanism that would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment?

15. Please indicate whether there is legislation in your country aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or cruel, inhuman or degrading treatment. If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.

16. Please indicate if, and how, the provisions of the new Anti-Terrorism Act have affected human rights safeguards in law and practice. The Committee notes the stipulation in paragraph 12 of the fifth report that the Act contains rigorous safeguards to uphold the rights and freedoms of those affected by it. In particular, the Committee would invite data on the number of judicial arrest warrants issued as a preventive measure. Please clarify, in this respect, how “reasonable grounds”, “grounds to suspect” and “exigent circumstances”, noted in paragraph 9 of the report, are defined in practice. Please provide additional information on the time lapse (in practice) before persons arrested in such a way are brought before a judge. Please also provide the Committee with information on “specific requirements imposed” and the number of suspects who have agreed, or refused to agree to such orders (para. 9).

17. Please list for the Committee those court cases where constitutional arguments against provisions of the Anti-Terrorism Act 2001 have been advanced, and what the outcomes of those proceedings were.

18. Please indicate whether the review of the Anti-Terrorism Act legislation, expected to commence in late 2004, is under way, as requested by Parliament, and please elaborate on the implementation of the so-called “sunset” requirement (fifth report, para. 12).
