

Human Rights Council Working Group on the Universal Periodic Review
16th Session, 22 April to 3 May 2013

ADVOCACY/BRIEFING NOTE
ICJ suggested recommendations: Universal Periodic Review of Canada

This advocacy note is brought to the attention of all Permanent Missions to the United Nations Office at Geneva. This note addresses issues set out below, as further explained in the UPR Stakeholder Submission of the International Commission of Jurists (ICJ). The ICJ's full submission, along with an analysis comparing recommendations in that submission with corresponding first cycle recommendations and commitments, can be found online at: <http://www.icj.org/icj-submission-on-the-universal-periodic-review-of-canada/>.

1. Mining companies and human rights

There are credible allegations of incidents of gross human rights abuses against local communities against Canadian mining companies in the countries in where they conduct operations. Anvil Mining Congo, a subsidiary of the Australian/Canadian mining company Anvil Mining, is accused of having provided logistical assistance to the Congolese military in the 2004 killings of more than 70 people near the town of Kilwa in the Democratic Republic of Congo. Three employees of the mining company Anvil Mining Congo were also accused of providing transport for the military personnel involved. Furthermore, employees of Barrick Gold, a Canadian company that is the world's largest gold producer, are accused of allegedly carrying out gang rapes and other abuses at its Porgera mine operating in Papua New Guinea. In a 94-page report entitled *Gold's Costly Dividend: Human Rights Impacts of Papua New Guinea's Porgera Gold Mine*, Human Rights Watch identifies systemic failures that kept Barrick Gold from recognizing the risk of abuses, and from responding to abuse allegations. In a public statement, Barrick Gold called the results of its internal investigation "disturbing" and, in January 2011, announced the termination of several security personnel for involvement in, or failure to report, alleged incidents of sexual violence.

Bill C-300 was defeated in the House of Commons of the Canadian Parliament on 27 October 2010. The Bill had been drafted so as to give the Canadian Government the means of establishing guidelines for Canadian gas, oil and mining companies operating overseas based on established principles of international human rights law. The Government would have had the power, *inter alia*, to investigate credible allegations of companies failing to adhere to the guidelines and to withhold Government assistance where breach of the guidelines was found. The Bill would have gone a long way towards satisfying Canada's requirement for a human rights compatible regulatory framework, articulated for example by the Guiding Principles on Business and Human Rights adopted by the Human Rights Council. No alternative framework has been set up to date.

Suggested recommendations:

- i) Adopt a legislative framework enabling legal accountability of Canadian companies in Canada for human rights and environmental abuses perpetrated or contributed to abroad;
- ii) Adopt effective monitoring mechanisms to monitor Canadian companies or multinational enterprises operating abroad through subsidiaries or joint ventures in order to ensure respect for human rights, and the provision of effective remedies for those whose rights are impaired; and
- iii) Undertake prompt, effective and independent investigations into allegations of human rights abuses by Anvil Mining Congo, a subsidiary of the Australian/Canadian mining company Anvil Mining, and Barrick Gold, a Canadian company.

2. Canadian asbestos exports and human rights

While Canada has made efforts to remove all traces of asbestos from Canadian buildings, it remains one of the world's largest chrysotile asbestos exporters, especially to developing countries. Officials insist that asbestos can be harmless if handled according to proper safety standards. However, the World Health Organisation (WHO) estimates that more than 107,000 people die each year from asbestos-related lung cancer and mesothelioma. Further, safety practices in the developing world are often so inadequate that it is impossible to guarantee secure use of the substance, thereby significantly multiplying the risk of cancer.

Mining operations in central Quebec, the only region of Canada where the material is still extracted, have steadily seen a decrease in size. However, as recent as July 2012, the Government of Quebec approved a \$58 million CAD bank-loan guarantee to keep the Jeffery chrysotile mine running. The active promotion of asbestos production and exportation cannot be harmonised with Canada's human rights obligations.

Suggested recommendations:

- iv) Adopt a legislative framework and policy to ensure a substantial decrease in use of asbestos and in particular in the export of asbestos to developing countries; and
- v) Establish effective monitoring mechanisms to monitor the use of Canadian-sourced asbestos abroad and the safety conditions of workplaces in which Canadian-sourced asbestos is being used.

3. International human rights instruments and mechanisms

Though a party to several of the core human rights treaties, Canada has been uncooperative with regard to several human rights instruments and mechanisms. It yet to become party to the Optional Protocol (OP) to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the OP to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Third OP to the Convention for the Rights of the Child (CRC), the International Convention for the Protection of the Rights of All Migrants Workers and Members of Their Families (ICRMW), and the International Convention for the Protection of All Persons from Enforced Disappearances (CPED). Further, Canada has three pending visit requests by the Special Procedures mechanisms.

Suggested recommendations:

- vi) Become party to: the OP to the ICESCR, the OPCAT, the Third OP to the CRC, the ICRMW and the CPED;
- vii) Provide without delay its sixth periodic report to the Human Rights Committee, its sixth periodic report to the Committee on Economic, Social and Cultural Rights, and its seventh periodic report to the Committee against Torture;
- viii) Accept the requests of the Special Rapporteur on the human rights of migrants, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the sale of children, child prostitution and child pornography to undertake official missions in Canada at the earliest possible opportunity, and extend to them all reasonable cooperation and assistance to facilitate a timely and effective country mission;
- ix) Present to the Council, as soon as possible after adoption of the outcome document for the UPR of Canada, a national plan of action for the implementation of accepted recommendations and voluntary pledges and commitments; and
- x) Present to the Council, two years after adoption of the outcome document, a mid-term progress report on the status of implementation of recommendations and voluntary pledges and commitments.

The ICJ expresses to all Permanent Missions the assurances of its highest consideration.
