



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

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**Committee against Torture  
Forty-eighth session**

**Summary record of the 1079th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 22 May 2012, at 3 p.m.

*Chairperson:* Mr. Grossman

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** *(continued)*

*Sixth periodic report of Canada* (continued) (CAT/C/CAN/6; CAT/C/CAN/Q/6 and Add.1; HRI/CORE/1/Add.91)

1. *At the invitation of the Chairperson, the delegation of Canada took places at the Committee table.*
2. **Mr. Kessel** (Canada) said that the Canadian Charter of Rights and Freedoms set forth the general constitutional framework for Government action at the federal and provincial levels and in the territories. Any law or measure deemed to be in contravention of the Charter by the courts could be struck down. The courts took into account the international human rights instruments to which Canada was a party when interpreting domestic law, including the Charter.
3. Because of the way in which powers were divided between the federal and provincial governments, some provisions of the Convention, such as the criminalization of torture, universal jurisdiction to prosecute perpetrators of that offence, extradition and immigration, were matters over which the federal government had exclusive jurisdiction. Others, such as policing, prosecution and corrections, fell under both federal and provincial jurisdictions. That system enhanced the protection of human rights and implementation of the Convention by complementing federal law with specific legislation tailored to local conditions.
4. Canada had been involved in the drafting of the Convention and had complied with its provisions even before becoming a party to it. Canada had also worked hard, both bilaterally and through United Nations bodies, to promote the prevention and elimination of torture and other cruel, inhuman or degrading treatment or punishment throughout the world.
5. **Mr. Collinge** (Canada) said that he would deal with issues relating to immigration and the protection of refugees. The non-refoulement obligations set out in article 3 of the Convention had been incorporated into domestic law and, more specifically, into the Immigration and Refugee Protection Act. It was true that, under a 2002 ruling of the Supreme Court, an individual could be returned to a country in which there were serious grounds for believing that he or she would face a risk of being subjected to torture if he or she posed such a serious threat to national security that it outweighed the risk that would be run by the individual in question. That had never actually been done, however.
6. Bill C-31, entitled the Protecting Canada's Immigration System Act, had the dual purpose of combating irregular immigration and protecting migrants in an irregular situation, who were often themselves victims. To that end, the bill provided for heavy penalties, including fines of up to Can\$ 1 million and life imprisonment for persons who helped aliens to enter Canadian territory illegally, and included measures aimed at dissuading persons from engaging the services of such persons. All destination countries for irregular immigration faced the same dilemma: how to ensure protection for refugees while at the same time punishing traffickers and defending the country from criminal activity. Canadian immigration law was designed to reconcile those aims. In that regard, detention should not be seen as a punishment but rather as a security measure that made it possible to screen irregular immigrants in order to identify possible traffickers, criminals or terrorists in their midst who could pose a security threat to the country and its people.
7. Under Bill C-31, the Immigration and Refugee Board of Canada must assess whether detention was justified within 14 days of its commencement and subsequently once

every 6 months. Anyone granted refugee status was released forthwith, and the Minister could decide to release a person if the grounds for his or her detention were deemed to no longer be valid. As far as the conditions of detention were concerned, the bill fully complied with national standards and guaranteed aliens in detention the right to receive visitors, to send and receive mail, to use the telephone, to receive medical care and healthy and religiously appropriate food, to use areas set aside for prayer, and to have access to the services of interpreters, legal counsel and complaint mechanisms.

8. **Mr. MacKinnon** (Canada) said that, in compliance with article 10 of the Convention, law enforcement personnel received ongoing ethics training which covered domestic and international prohibitions on torture and other cruel, inhuman or degrading treatment or punishment. The State party's report (CAT/C/CAN/6) and written replies to the list of issues (CAT/C/CAN/Q/6/Add.1) gave several examples of human rights training recently provided to federal officials and police officers in various districts. From the very outset of their training, members of the Royal Canadian Mounted Police received instruction concerning the provisions of the Criminal Code governing the use of force and article 269.1, which covered the offence of torture. They also learned how to de-escalate tense situations by using communication techniques rather than force, which should only be used to the extent necessary in order to deal appropriately with any given threat. Moreover, studies and surveys were regularly carried out and had become a pivotal element of human rights training for law enforcement officials. Several public inquiries had been conducted at the federal and provincial levels concerning the use of conducted energy weapons (commonly referred to as "Tasers") in the wake of incidents involving their use by the police. Although no moratorium had been imposed, recommendations had been made regarding a number of measures for limiting their use, improving the training provided to police officers on how to handle them and submitting regular reports on their use on the ground.

9. In the case of Mr. Maher Arar, the Canadian Government had accepted all the recommendations made by Justice O'Connor in his report, and their implementation was nearing completion. The measures taken to that end had led to improved interdepartmental cooperation on cases affecting national security, enhanced safeguards with respect to information exchanges with other countries, more robust training activities for the personnel of national security agencies and an increase in resources for Canadian consular services.

10. With regard to the inquiry concerning Mr. Amalki et al., Justice Iacobucci had made no recommendations because he had not had a mandate to do so. Implementation of the recommendations of Justice O'Connor and regular reviews of existing policies had, however, made it possible to address the issues raised by Justice Iacobucci.

11. Several questions had been raised about the transformation agenda which had been launched in the wake of the recommendations made following an independent review of the Correctional Service of Canada and, in particular, about what was meant by "enhancing offender accountability". The idea was to make offenders aware that they were responsible for their acts and to encourage them to behave in a more positive and pro-social fashion. Correctional plans would be put in place for each offender in accordance with the relevant law.

12. Another question had been raised about the measures placed on the transformation agenda for the elimination of drugs in places of detention and the modernization of prison infrastructure. Almost 80 per cent of offenders had drug or alcohol problems when they entered prison, and many had multiple addictions. The presence of illicit drugs undermined security and impeded the reintegration of offenders into society. In 2008, the Minister of Public Safety announced that Can\$ 122 million in funding had been budgeted over a five-year period for a drive to eliminate drugs from federal prisons. The approach of the

Correctional Service of Canada focused on prevention, treatment and interdiction. In order to prevent the entry of illicit drugs into prisons, measures had been taken to improve screening capabilities at both a technical level (radar and infrared detection systems) and in terms of specialized staff (cooperation with security intelligence officers and increases in the number of drug detection dog teams).

13. With regard to prison infrastructure, the Government had recently announced the closure of some facilities, including the maximum-security Kingston Penitentiary, which had been built in 1835. Inmates of those facilities would be transferred to other institutions having the appropriate security level. In March 2012, the federal prisons, which had a total capacity of 15,115 inmates, had a prison population of 14,916. It was true that the number fell just short of capacity, but there was no problem of overcrowding. In any event, there were plans to expand existing facilities.

14. A question had been raised regarding the number of prison deaths recorded in recent years. Between 1999 and 2009, 533 persons had died in detention in federal prisons and 376 in the provinces. The Correctional Service of Canada attached a great deal of importance to the issue and had taken corrective and oversight measures to remedy the situation. It was also working to ensure satisfactory health, safety and hygiene conditions for inmates by making certain that they had access to essential health care, were adequately clothed and fed, and were provided with the basic comforts and items essential for personal cleanliness.

15. Administrative segregation was a preventive measure used to ensure the safety and well-being of inmates, prison staff and the public and to maintain prison security. In 48 per cent of all cases, the duration of administrative segregation did not exceed 30 days; it lasted between 30 and 60 days in 24 per cent of cases and more than 120 days in 13 per cent. The average duration of segregation was considerably longer in cases where it was instituted at the inmate's request. However long segregation lasted, strict procedural safeguards were in place to ensure that it was fair and humane.

16. Inmates received written notice of the reasons for their placement in administrative segregation without delay. From the outset of their segregation, they were apprised of their right to speak to a lawyer, to challenge the measure or to enter a complaint about the conditions in which they were being held. The prison director or the director's deputies inspected the administrative segregation cells daily in order to ensure that the conditions of detention met legal requirements. A segregation review board was required to conduct a hearing within 5 working days of an inmate's confinement and at least once every 30 days thereafter in order to review the measure and to determine whether it continued to be warranted. Inmates with mental disorders were examined before placement in administrative segregation, and the appropriate health-care services were involved where necessary. Within the framework of its mental health strategy, the Correctional Service of Canada was making an effort to ensure that inmates who needed it had access to proper care from the time that they entered prison until the day of their release and to work more closely with health-care professionals. Disciplinary segregation was a sanction that could be lawfully imposed when an inmate was found guilty of a serious disciplinary offence; such segregation could not exceed 30 days.

17. In federal women's prisons, between 75 per cent and 80 per cent of the staff were female. The privacy of inmates was fully respected: male warders on watch duty were always accompanied by female warders; body searches were carried out solely by female staff and no male staff members were present at such times; rapid intervention teams were made up exclusively of female staff. The construction of a new women's detention centre in Manitoba had been completed and the centre was operational.

18. **Ms. McCarthy** (Canada) said that information regarding the steps taken in response to six complaints of physical abuse lodged by prison inmates in Quebec between 2007 and 2011 would be forwarded to the Committee in writing. As to the point raised about the large number of people — about 40,000 — sent to prison in Quebec each year, in addition to inmates serving prison sentences, that figure included some 20,000 persons who were awaiting trial or a verdict, had been sentenced to community service or were being monitored by the courts (persons on probation, persons who had received suspended sentences, persons on parole and persons granted prison leave). In 2010, provincial prisons had a total capacity of 4,800, and the average prison population as such had not exceeded that figure.

19. Several measures had been adopted in line with 2007 legislation on the Quebec prison system to foster the social reintegration of prisoners. As soon as inmates entered prison, their potential for reintegration and the risk of recidivism were systematically assessed with a view to formulating an action plan tailored to the needs and reintegration goals of each prisoner. Under the same law, social reintegration programmes involving educational, vocational and social services had been launched in all prisons. The Government of Quebec was partnering with community associations to promote the social reintegration of prisoners by, in particular, offering housing and employment assistance services along with psychosocial care.

20. With regard to the plans for the expansion, refurbishing and upgrading of prison infrastructure mentioned in paragraph 135 of the periodic report, considerable work had been done in 2009–2010 on the prison in Montreal, where capacity had been increased by 221 places. Space for an extra 324 inmates had been created at the Tanguay women's detention centre, while the Percé detention centre had been completely renovated and now accepted sex offenders. Funding had been approved for the construction of an Innu community centre that would take in members of the Innu community in conflict with the law and provide them with services that were geared to their culture and values, thereby promoting their reintegration into the community. Replying to a question by Ms. Gaer on the percentage of female staff in women's prisons, she said that more than 90 per cent of the staff at the Tanguay detention centre were female.

21. **Mr. MacKinnon** (Canada) said that terrorism posed a serious and persistent threat to national security and that the State party's approach to the problem was to adopt measures proportionate to that threat. The Minister of Public Safety had issued a directive in 2011 on information exchange with foreign agencies which established general guidelines to be followed by the Canadian Security Intelligence Service when it worked with such agencies. The directive stated that the Government of Canada strongly opposed the use of ill-treatment by anyone for any reason, which meant that the Canadian authorities must avoid being complicit in the ill-treatment of people by foreign agencies. Under the directive, the decision-making level for authorization of information-sharing rose in proportion to the level of risk involved. In the most serious cases, the matter must be referred to the director of the Service, who could, at his or her discretion, refer it to the Minister of Public Safety. The directive also established procedural safeguards to ensure that Service officials assessed and averted any potential risks involved in sharing information. They were also provided with means of identifying information likely to have been obtained as a result of ill-treatment and had been instructed that, if they were to conclude that that had been the case, they must make that fact clear if the information was to be disseminated further.

22. The Office of the Inspector General of the Canadian Security Intelligence Service had been closed pending passage of a related bill. In the interim, its key functions had been transferred to the Security Intelligence Review Committee, an independent body that reported directly to Parliament.

23. Police officers were held accountable for their actions by means of three different mechanisms: a civil body that received complaints from individual members of the public; internal police investigative commission; and, at the provincial level, special investigative units or other police units. The conduct of members of the Royal Canadian Mounted Police was overseen by an independent external mechanism, the Commission for Public Complaints against the Royal Canadian Mounted Police.

24. Canada was studying the possibility of signing the Optional Protocol to the Convention. That process could take some time, given the complexity of the matter. Prior consultations between the various levels of government were required in order to address potential coordination problems. Indeed, places of detention were scattered across Canada and run by federal, provincial and local authorities. Some were partly run by aboriginal governments. A number of prison oversight bodies already existed. The Office of the Correctional Investigator served as the Office of the Ombudsman and was authorized to launch investigations on its own initiative or on receipt of a complaint from a prison inmate.

25. **Ms. Sargent** (Canada), referring to the role of international law in the domestic legal system, said that when the courts interpreted domestic laws, they took the international treaties to which Canada was a party into consideration. All government officials must comply with the obligations assumed under those instruments when developing new laws, policies and programmes. As part of the voluntary commitments that it had made at the conclusion of its universal periodic review in 2009, Canada had launched a series of initiatives to raise human rights awareness. In April 2012, the Department of Justice had provided training to Department of Public Safety and law enforcement officials on recent developments relating to the Convention and provisions of domestic and international law relevant to their work.

26. As explained in paragraph 18 of the report and paragraph 7 of the written replies, the use of evidence obtained through torture was prohibited under criminal law, and that prohibition applied both in criminal cases and in the context of security certificate proceedings under the Immigration and Refugee Protection Act.

27. Turning to the protection of children and other vulnerable persons against ill-treatment and the issue of abolishing section 43 of the Criminal Code, she drew attention to the State party's stance as expressed in paragraphs 342 and 343 of its written replies and underlined that in no way was ill-treatment of children condoned under that section. In 2004, the Supreme Court had ruled that the section was consistent with the Convention on the Rights of the Child and that the use of reasonable corrective force by a parent or teacher to discipline a child was to be understood as force that did no harm to the child. The Court had also ruled that "reasonable force" could in no case include cruel, inhuman or degrading treatment.

28. With regard to support measures for victims of human trafficking, detailed explanations were contained in paragraphs 106–117 of the written replies.

29. Canada complied with its obligation under article 7 of the Convention to prosecute or extradite persons alleged to have committed torture through its War Crimes Program. The aim of that programme, which was administered by the Department of Justice, the Royal Canadian Mounted Police, the Canada Border Services Agency, and Citizenship and Immigration Canada, was to prevent the country from becoming a safe haven for perpetrators of war crimes, genocide or crimes against humanity. Under domestic law, the courts had universal jurisdiction over cases of torture, genocide, crimes against humanity and war crimes. Allegations of such crimes were submitted to a review committee composed of senior officials which determined whether Canada had an obligation to extradite or prosecute alleged perpetrators and whether evidence pertaining to such

allegations was corroborated. Where cases were referred for prosecution, federal prosecutors determined whether there was a reasonable prospect of obtaining a conviction in Canada and decided whether or not legal proceedings should be initiated in order to ensure that the alleged perpetrator would not benefit from impunity.

30. Under the War Crimes Program, when a case could not be prosecuted in Canadian criminal courts, measures must be taken by the immigration services. That is what had occurred in the case of Mr. Mugesera, in which Program officials had decided that it would be impossible to obtain the necessary evidence to meet the standard of proof required. After lengthy proceedings, the Federal Court had recently concluded that Mr. Mugesera, who was suspected of having taken part in the Rwandan genocide and whom Rwanda had expressed its willingness to prosecute if he were to return, did not face a substantial risk of torture upon return to his country of nationality. In contrast, investigations by the War Crimes Program had turned up sufficient evidence to prosecute Mr. Munyaneza and Mr. Mungwawere.

31. As of 31 March 2011, 58 cases concerning modern war crimes and 19 cases relating to war crimes committed during the Second World War were pending before the War Crimes Program. Between April 2010 and March 2011, it had received and reviewed 18 allegations of war crimes, crimes against humanity or genocide, 4 of which had been added to the docket.

32. The posting of the names and photographs of persons wanted by the Canada Border Services Agency on its website was designed to assist in the tracking, arrest and expulsion of aliens in an irregular situation who were subject to arrest warrants. Some of those persons had a criminal record. That initiative was a cooperative effort on the part of the Agency and the War Crimes Program to ensure that suspected war criminals were prosecuted.

33. With regard to security certificates issued in line with amendments to the Immigration and Refugee Protection Act passed in 2007, she said that procedural safeguards had been enhanced considerably since the consideration of the State party's previous periodic report in 2005. As stated in the report (paras. 75 et seq.) and written replies (paras. 57 et seq.), the Minister of Citizenship and Immigration and the Minister of Public Safety had rarely made use of the power invested in them by the Act to arrest a person on the grounds that he or she posed a threat to national security or public safety. Only three certificates were currently in place.

34. The special advocates assigned to defend the interests of persons named in security certificates were independent of the Government and courts. They had access to almost all classified information and, as stated in paragraph 81 of the report, could challenge the grounds for the issuance of those certificates on behalf of their clients. Where information relating to such an individual had been obtained by the Canadian Security Intelligence Service, the Government was obligated to pass on all relevant information to the courts.

35. In a recent ruling in the case of Mr. Harkat, the Federal Court of Appeal had concluded that the current security certificate system was constitutional and that the amended Immigration and Refugee Protection Act provided the necessary due process guarantees. However, it had sent the case back for a rehearing of specific issues concerning evidence that had been raised by the special advocates.

36. With regard to the filing of claims for civil redress in cases of torture, as stated in paragraphs 331 et seq. of the written replies, persons who had been tortured in any territory under the State party's jurisdiction by Canadian officials could sue for damages in the civil courts. Victims of violations of the Canadian Charter of Rights and Freedoms, or of international human rights instruments to which Canada was a party, that had been committed by officials of another State and abetted by Canadian officials could also seek

redress before the civil courts, as demonstrated by the recent Supreme Court decision in the case of Mr. Khadr. In the case of acts of torture committed by officials of another State on territory outside Canadian jurisdiction, the Government was of the view that States parties were not obliged by article 14 of the Convention to make redress available through their civil courts to the victims of such acts. In that regard, Canada would read the Committee's forthcoming general comment on article 14, which should clarify the issue, with interest. Canada had a variety of long-standing programmes and initiatives through which victims of torture could receive support without having to turn to the civil courts for redress. Canada had recently renewed its annual contribution of Can\$ 60,000 to the United Nations Voluntary Fund for Victims of Torture and allocated funds to the Canadian Centre for Victims of Torture.

37. **Mr. Kessel** (Canada) said that, with regard to the case of Mr. Omar Khadr, Canadian officials would continue to provide him with consular services as long as he remained in detention in Guantanamo. The Department of Public Safety had received his application for transfer to Canada, which was under consideration.

38. The Government was fully aware that aboriginal women and girls were subjected to a great deal more violence than non-aboriginal women, and it was deeply concerned by the disturbingly high number of disappearances and murders of aboriginal women and girls. In order to combat the problem, it was focusing on preventing violence, providing additional law enforcement tools that would be of help in carrying out successful investigations and prosecutions, enhancing the support provided to victims and to the families of missing or murdered aboriginal women and girls, and working in partnership with the provinces and territories, aboriginal communities and other stakeholders.

39. While welcoming the efforts of the Committee to mainstream a gender perspective in its work, the State party was of the view that the issue of violence against aboriginal women did not fall within the scope of the Convention and that the Committee should leave consideration of the matter to the treaty bodies that dealt with racial and gender discrimination.

40. The Government had recently enhanced its process for consulting civil society and aboriginal organizations with regard both to the preparation of its reports and to the action taken on the Committee's recommendations. In addition, the Continuing Committee of Officials on Human Rights had recently decided to share information with civil society and aboriginal organizations on measures taken by the public authorities in response to recommendations made by the treaty bodies at the midpoint between a review and subsequent periodic report.

41. **Mr. Bruni** (Country Rapporteur) expressed concern about the way in which Canada applied the principle of non-refoulement. The State party had said that it had never deported anyone who was at risk of being tortured, as defined under domestic law. However, it was also bound by international law. Canada had on occasion refused to implement interim measures requested by the Committee. A case in point had been that of Mr. Singh Soji, who had been deported to his country of origin on national security grounds, despite the Committee's request for a stay of deportation because of the risk of torture that he faced. Mr. Singh Soji had been returned to India and had been tortured there. His was but one of several cases cited, for example, in paragraph 14 of the list of issues. Canada was one of only a few countries that did not systematically accede to requests by the Committee for interim measures in cases of deportation.

42. It appeared that prison inmates could be placed in administrative segregation for up to 120 days, but a study on solitary confinement by the Special Rapporteur on the question of torture had concluded that its harmful effects on inmates could become irreversible if

prolonged for more than 15 days. For that reason, it should be limited to a maximum of 15 days.

43. It was understandable that exchanges of information with foreign States might be necessary, but the use of information obtained through torture, which, according to the State party, was done in exceptional cases, was prohibited under article 2 of the Convention.

44. He asked whether any individuals identified by the Canada Border Services Agency as posing a security threat to the State could be prosecuted in Canada or whether they all faced extradition. Noting the State party's confirmation that three security certificate procedures were currently under way, one of which had been pending for more than 10 years, he asked why the procedure was so slow. He would also like to know more about the summaries of classified information that were prepared, given their potential impact on the nature of charges laid against persons who did not have access to their entire file. He wished to know why the Government had justified its opposition to the transfer of Mr. Khadr on the grounds that his return would pose a threat to Canadian citizens, since he would be sent to prison. He also asked whether the authorities had investigated the numerous allegations of ill-treatment made by Mr. Khadr.

45. **Ms. Belmir** (Country Rapporteur) noted that some terms used in the State party's legislation had unexpected consequences in legal and judicial terms. Terminology in criminal law was extremely important, given that people's rights and freedom were at stake. In the case at hand, detainees were denied the status of persons deprived of their liberty and the corresponding safeguards for reasons of national security. She asked whether such persons could appeal before bodies such as the Refugee Protection Division in order to defend themselves against the risk of deportation.

46. Noting that the Canadian Police Research Center was currently conducting a study on the use of conducted energy weapons and that all earlier studies on the subject in Canada had concluded that a suspension of their use was unnecessary, she said that such a suspension would nevertheless be welcome, given continued allegations concerning their misuse, particularly during riot control operations. In any event, such weapons, if used at all, should be employed only in exceptional circumstances.

47. The State party should undertake a review of the implementation of international instruments with a view to ensuring that they did in fact take precedence over domestic law. Canada should set an example in terms of respect for human dignity, especially with regard to detention and deportation.

48. **Mr. Mariño Menéndez** asked whether a Canadian citizen subjected to torture abroad could file a complaint against the State concerned before the Canadian courts or whether State immunity would preclude the prosecution of such cases. He would also like to know whether Canada followed a protocol on diplomatic assurances and whether it was possible to appeal against an extradition order before a Canadian court when diplomatic assurances were inappropriate or inadequate, or when measures to ensure compliance with them were not taken. He also asked whether a Canadian citizen found guilty of an act of terrorism or crimes against humanity could be stripped of his or her nationality. He would like to reiterate that Canada should become a member of the inter-American human rights system.

49. **Ms. Gaer**, noting that 75–80 per cent of warders in federal women's prisons were female, and that the figure was 90 per cent for such prisons in Quebec, asked for an explanation of that difference. She would like to know whether there had been instances of abuse in prisons that had been related to the fact that warders were not of the same sex as inmates and, if so, what penalties had been applied.

50. Turning to the issue of civil redress, she asked for more detailed information on bill C-483, which would amend the State Immunity Act by introducing a number of exemptions. She would also like to know the difference between currently available procedures for obtaining civil redress and the provisions contained in the Justice for Victims of Terrorism Act, which had been passed in March 2012, and to have information on the avenues open to the Kazemi family for obtaining redress in Canada. She asked whether the police thoroughly investigated the disappearance or murder of aboriginals and whether aboriginal women received protection. She would like to know if the State party planned to take a comprehensive approach to stamping out violence against aboriginal women and girls, which was reaching alarming proportions.

51. Turning to the use of force, she asked why the Government had not launched an independent inquiry in the wake of aboriginal demonstrations in Tyendinaga in 2007 and 2008. An answer to that question would make it possible to gauge the attitude of the State party towards such matters.

52. **Ms. Sveaass** said that Canada should, as the Committee had already recommended, place priority on passing legislation compliant with article 3 of the Convention in order to prevent the deportation of anyone facing a risk of torture.

53. As far as the cases of Mr. Almaki, Mr. Abou-Elmaati and Mr. Nureddin were concerned, she considered that they should receive not only redress, but an apology. She asked what was being done to criminalize the perpetration of serious violence targeting women and children, which was not always taken seriously, and what measures had been adopted by Canada in that regard in the areas of prevention, protection, investigation, penalties and redress. Such offences could, because of their seriousness and the fact that they were premeditated, be equated with acts of torture. Training and awareness-raising activities should be organized to enable officials to recognize signs of torture in such cases.

54. **The Chairperson** said that he welcomed the fact that, in the context of the Convention, exceptional circumstances had not been invoked in Canada since 2003. However, the possibility of doing so would remain as long as the relevant provision was not repealed. The State party seemed to be of the view that domestic violence lay outside the remit of the Committee, but articles 1 and 16 of the Convention made it clear that the opposite was true. Violence against women constituted a form of discrimination as set forth in article 1, and in some cases it was tantamount to torture. It was true that other committees dealt with such issues as the rights of the child, the disabled and women, and the Committee was no substitute for them. Efforts were being made to harmonize the work of the treaty bodies but no decisions had yet been taken and, in the meantime, the Committee would continue to operate as before.

55. The State party had said on several occasions that it did not consider requests for interim measures and other decisions of the Committee to be binding. Thus, in the case of Mr. Dadar, the complainant had been deported to the Islamic Republic of Iran in spite of the Committee's conclusion that his deportation would constitute a violation of the Convention. The justification given for the decision to deport him had been that Iran had ratified the International Covenant on Civil and Political Rights and that the complainant should therefore have filed his complaint with the Human Rights Committee. In the case of Mr. Singh Soji, Canada had concluded that India was better placed to consider the case because it was a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, States parties sometimes violated provisions of the Convention; indeed, the treaty bodies had been created for that very reason. He did not understand, therefore, on what legal basis it could be asserted that decisions taken under article 22 of the Convention were simply recommendations rather than binding rulings.

*The meeting was suspended at 5.15 p.m. and resumed at 5.20 p.m.*

56. **Mr. Collinge** (Canada) said that the situation of persons having an irregular immigration status who were held in detention was reviewed after 14 days and then every 6 months. Appeals could be filed against any court decision before the Federal Court of Canada.

57. The Government placed persons who entered Canadian territory illegally in detention in the interests of national security, since their identity was in doubt and it was not known whether or not they should be allowed into the country.

58. With regard to the case of Mr. Singh Soji, he drew the Committee's attention to paragraph 157 of the written replies, in which it was stated that the Government did not share the Committee's view of the risk faced by the complainant on his return to India.

59. His delegation had taken note of the Committee's recommendation that Canada should incorporate the provisions of article 3 of the Convention into its legislation. Citizenship laws provided for the withdrawal of citizenship only when it had been acquired fraudulently. Committing an act of terrorism therefore did not constitute grounds for withdrawing citizenship.

60. **Mr. MacKinnon** (Canada) said that prison administrators used solitary confinement only as a last resort. In 2011–2012, the average duration of solitary confinement had been 32 days, or 52 days when inmates themselves had requested the measure.

61. At the heart of the country's counter-terrorism strategy lay the realization that the threat of terrorism came from abroad and that, in order to safeguard national security, law enforcement agencies and the Canadian Security Intelligence Service must work together with their foreign counterparts, which included pooling key information. The Service had thus established partnership agreements with 280 bodies in 140 countries, all of which had to be approved by the Department of Public Safety, in consultation with the Department of Foreign Affairs. The Service was not supposed to rely on information known to have been obtained through the infliction of ill-treatment, unless it helped to avert a grave threat to public safety, serious material damage or bodily injury, or the loss of human life.

62. In 2007, a working group of ministries responsible for matters relating to the administration of justice had been tasked with finalizing a comprehensive procedure for testing conducted energy weapons (Tasers). The working group had conducted a thorough study on the use of those weapons at the federal, provincial and territorial levels.

63. Mechanisms had been set up in women's prisons to ensure that any allegation of misconduct or sexual harassment by prison warders would lead to the opening of an internal inquiry.

64. The Government took the recommendations contained in the report of the Ipperwash Inquiry very seriously, and the Ministry of Community Safety and Correctional Services and Ministry of Aboriginal Affairs in Ontario were continuing to work with the First Nations to follow up on them. With regard to the demonstrations that had taken place in Tyendinaga, the Ministry of Community Safety and Correctional Services encouraged the police to find a peaceful approach to demonstrations that could cause disturbances and worked to ensure that the Ontario Provincial Police and the First Nations maintained good relations. The Ministry did not interfere with police operations and had no plans to open an inquiry into the conduct of law enforcement officers during the incidents at Tyendinaga.

65. **Ms. Sargent** (Canada) said that Canada was firmly committed to combating violence against women. In order to avoid repeating the exhaustive information already supplied to the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination, the Government had invited the

Committee to refer to the documents submitted to those bodies. It would find therein a description of the measures taken by Canada in an attempt to curb the extreme violence being inflicted on aboriginal women, a great number of whom were missing or had been murdered, especially in British Columbia.

66. It was true that detention under the security certificate procedure could last a long time in some cases, especially when the person concerned filed a complaint with the Supreme Court, as had occurred twice in the case of *Charkaoui v. Canada (Citizenship and Immigration)*. The deprivation of liberty was, however, subject to regular review throughout the period of detention, and the courts ruled regularly on the validity of its extension, which depended on whether or not the person concerned represented a security threat. Special advocates represented the persons named in security certificates in legal proceedings in order to defend their civil liberties. They were the ones who had access to all the classified information on which the issuance of the certificates was based; that arrangement made it possible for the information to remain confidential. Any type of detention, whether administrative, criminal or civil, was carried out in compliance with the Canadian Charter of Rights and Freedoms, which included the right to life, liberty and security.

67. The Canada Border Services Agency had drawn up a list of aliens subject to deportation orders because they had committed certain offences, which were not limited to war crimes. Those persons were returned to their countries of origin upon arrest.

68. Bill C-10, which would amend the State Immunity Act, would enable victims of terrorist acts committed abroad to sue for damages if the State concerned was on the list maintained by Canada of States that supported terrorism. That law applied to all acts of terrorism carried out since 1 January 1985.

69. **Mr. Kessel** (Canada) said that the Government took its international human rights obligations very seriously and recalled that it had always gone to great lengths to ensure that the rights enshrined in the Convention were respected. Although the Committee's views were not binding, the Government had always made every effort, insofar as possible, to comply with them and to grant its requests for interim protection measures. It went without saying that Canada did not deliberately return foreign nationals to a State in which they would face a real risk of torture. Moreover, of the 30 cases in which requests for interim measures had been received by Canada, the Government had proceeded with extraditions in only four, having concluded that there was no real risk of torture in those instances.

70. Mr. Omar Khadr, who was still being held in detention in Guantanamo, was eligible for transfer to a Canadian prison. The Department of Public Safety had been approached with a request to that end by the United States of America and would soon make a ruling in compliance with Canadian law and the relevant international instruments. Canada had maintained regular contact with Mr. Khadr throughout his time in detention. No comment could be made on Mr. Khadr's right to redress because he had filed for damages before the Canadian courts and those proceedings were still under way.

71. **Mr. Bruni** (Country Rapporteur) said that the Committee's requests for interim measures might not be binding, but every time Canada had ignored them and sent a foreign national back to his or her country of origin, they had been tortured, as had occurred in the case of Mr. Singh Soji.

72. **The Chairperson**, speaking as a member of the Committee, remarked that the fact that the Committee did not often conclude that there had been a violation of article 3 by a State party demonstrated that it did not take its decisions lightly, and it had a legitimate expectation that they would be implemented. On what grounds did the State party consider

that it was not bound by the decisions of the Committee? Not all Committee members shared Mr. Bruni's view that requests for interim measures were non-binding.

73. **Ms. Belmir** (Country Rapporteur) said that she would like to know more about how article 15 of the Convention was implemented, since it appeared that some types of information obtained under torture were used by the intelligence services.

74. **Mr. Mariño Menéndez** asked whether a person who was subject to a removal order that was contingent on the provision of diplomatic assurances and who was subsequently tortured could file for redress before the Canadian courts.

75. **Mr. Kessel** (Canada) said that, of the thousands of removal orders carried out during the period under consideration, only four had been contingent on the provision of diplomatic assurances. Such assurances were reviewed by Canadian courts before a person was removed or extradited pursuant thereto. There was no more effective tool than such assurances, given that States did not wish to project a poor image on the international stage by failing to honour them. A person who was subjected to torture in the country to which he or she had been returned after the provision of diplomatic assurances was entitled to apply for redress before the Canadian courts.

76. The Canadian delegation had taken careful note of all the points raised during the consideration of the sixth periodic report and would relay them without fail to the competent authorities. The Committee was invited to refer to a number of documents submitted by the Government to other treaty bodies which contained a great deal of supplementary information that had not been presented to the Committee due to time constraints.

77. **The Chairperson** thanked the delegation for the quality of its replies, which demonstrated the high calibre of its members.

*The meeting rose at 6 p.m.*