

QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON CANADA^[1]

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases, we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted, while **recommendations** are in bold and underlined. References in the National Report are *in Italics*.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women –as well as other women's issues- are referred to in the Guide on Women's Issues

Issue	National Report	Compilation	Summary
HIV/AIDS			Cuts in government funds; Abandon of especial measures to protect drug users; High rates in prisons. Vulnerability of sex workers due to criminalization (44)
Sexual Orientation and Gender Identity	Criminalization of incitement to hatred, hate speech (98).		Legal recognition of LGBTT rights. Same sex marriages (72). Discrimination in health and asylum policies (29).
Trafficking/sexual exploitation	Findings related to sexual exploitation	Effective measures. Citizens can be prosecuted for child sexual abuse or	Law allows enforcement action

of children	of children (95)	using a child prostitute abroad (55)	against victims (26)

HIV/AIDS

The Canadian HIV/AIDS Legal Network (AIDSLAW) said that in 2007, the Government had cut funding for HIV/AIDS program by almost 15 percent, with further cuts in 2008. It also says the National Anti-Drug Strategy eliminates needle exchanges, methadone clinics and supervised injection facilities, of particular importance in protecting the health of people who use illegal drugs. HIV prevalence in prisons is at least 10 times, that reported in the population as a whole. It said sex workers are vulnerable to potential exposure to HIV because certain provisions of the Criminal Code make illegal virtually every activity related to prostitution (Para 44, Summary)

Sexual Orientation and Gender Identity

Under the Criminal Code of Canada, it is a crime to advocate or promote genocide, to incite hatred in a public place likely to lead to a breach of the peace, and to willfully promote hatred when directed against groups distinguished by race, colour, religion or ethnic origin. In 2004, these offences were extended to apply to groups distinguished by sexual orientation. As well, hate motivation in the commission of any offence, is an aggravating factor for sentencing purposes. Hate speech is also dealt with in the Canadian Human Rights Act and in some provincial human rights Acts (Para 98, NR)

Canadian Human Rights Commission (CHRC) said Canada is a leader in legal recognition of the rights of gays and lesbians. The Supreme Court of Canada has ruled that the right to equality found in the Charter extends to sexual orientation. Canada was one of only six States to legally recognize same sex marriages as of September 2008 (Para 72, Summary). Egale Canada said that some health and asylum policies continue to discriminate against LGBT (lesbian, gay, bisexual and transgender/transsexual) people (Para 29, Summary).

Trafficking/sexual exploitation/violence against children

Investigations conducted by Canadian law enforcement support these findings; TIP cases encountered by Canadian law enforcement involve children who are trafficked for the purpose of sexual exploitation (Para 95, NR)

In 2007, an ILO Committee of Experts noted amendments to the Criminal Code in 2005, creating three indictable offences, also welcomed by CEDAW, prohibiting trafficking in persons, providing more effective prohibitions against child trafficking. In 2005, an ILO Committee of Experts noted that under the Criminal Code, Canadian citizens or permanent residents who sexually abuse children or use child prostitutes whilst traveling, can be prosecuted for sexual offences (Para 55, Compilation). Amnesty International (AI) noted that provisions in Canadian law criminalize trafficking and provide for the possibility of immigration enforcement action against both traffickers and victims of trafficking. Guidelines adopted by the Government in May 2006 have proved inadequate (Para 26, Summary)

Suggested question/recommendation

- Recommend that Canada reviews its legislation to allow for a more effective HIV/AIDS prevention and assistance to some vulnerable groups, particularly sex workers

[1] These Guides were produced by the Sexual Rights Initiative, a coalition of organizations based in Africa, Asia, Eastern Europe, Latin America and North America whose mandate is to advance women's issues broadly and sexual rights issues in the Human Rights Council. For questions, comments, suggestions please contact Alejandra Sardá-Chandiramani at alejandra@mulabi.org