

OSCE/ODIHR Submission of Information about an OSCE Participating State under Consideration in the Universal Periodic Review Process

Participating State: Canada

UPR Working Group Session and Date of Review: 44th Session, October-November 2023

Background

1. Canada has been a participating State (pS) in the former Conference for Security and Co-operation in Europe (CSCE) and the present Organization for Security and Co-operation in Europe (OSCE) since 1973, and has thus undertaken and recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE Documents.¹
2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE pSs, including Canada, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti.
3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Canada and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in Canada.

Election-related activities

4. ODIHR has observed 3 elections in Canada, most recently the 2021 early federal election.

Early federal election, 20 September 2021

5. Following an invitation from the Canadian authorities to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 20 September 2021 local elections, based on the findings of a Needs Assessment Mission, and in accordance with its mandate, ODIHR deployed an Election Expert Team (EET). The EET has presented its [final report](#).²
6. The ODIHR EET final report³ concluded that “[t]he Canada Elections Act (CEA) is comprehensive and provides a sound basis for conducting democratic elections. Amendments to the CEA made in 2018, several of which reflect previous ODIHR recommendations and repealed certain changes introduced in 2014, further improved the legal framework for elections [...] The election administration, which enjoys a high level of independence, organized the election impartially and transparently and made

¹ OSCE ODIHR, *Compendium of OSCE Human Dimension Commitments: Volume 1, Thematic Compilation (third edition)*, and *Volume 2, Chronological Compilation (third edition)*, 2011; OSCE *Astana Commemorative Declaration: Toward a Security Community*, 3 December 2010.

² Early Federal Elections Canada - Final Report, 10 February 2022

³ ODIHR Election Expert Team, [Final Report](#), 10 February 2022 – Early Federal Election 20 September 2021

noteworthy efforts to ensure the inclusivity and accessibility of the process [...] The CEA does not explicitly guarantee citizen or international observation of elections, challenging OSCE commitments, although it does allow the CEO to authorise observers to be present at a polling station on election day [...] ODIHR EET interlocutors did not raise concerns related to the accuracy of the voter lists and of the voter registration process, but noted a lower rate of inclusion among indigenous groups [...] While the continued elaboration of the legislation on online campaigning is positive, concerns were raised regarding lack of transparency on the algorithms used by online platforms, especially related to micro-targeted advertising.”

7. ODIHR, within its mandate, offered 11 recommendations, including the following 4 priority recommendations:
 - Provide for the effective implementation of OSCE commitments, the law should be revised to guarantee the access of citizen and international observers to all stages of the electoral process.
 - The legislature could consider adopting temporary special measures to promote an increased representation of women in parliament.
 - Harmonize disclosure requirements among different types of media, the legislature could consider establishing a single repository and a standard format for advertisement registries.
 - The legislature could consider defining issue advertising separately from political advertising and providing clear guidance on determining whether an issue is clearly associated with a party or candidate.

Tolerance and non-discrimination issues

8. OSCE pSs have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments.⁴ In this context, ODIHR produces an annual report on hate crime⁵ to highlight the prevalence of hate crimes and good practices that pSs and civil society have adopted to tackle them. ODIHR also helps pSs design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of pSs’ criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.
9. In respect of the 2021 Hate Crime Report⁶ and ODIHR’s key observations.⁷ ODIHR recognizes Canada's efforts to improve its hate crime recording and data collection methodology to enable the further disaggregation of data, as well as the regular submission of information on police records to ODIHR. However, based on the available

⁴ OSCE pSs have committed to strongly condemn racial and ethnic hatred, xenophobia, discrimination, anti-Semitism and intolerance against Muslims, Christians and other religions, and have committed to address these phenomena in all their forms (Copenhagen Document, 1990). Since 2003, the OSCE pSs have established a normative framework of OSCE Ministerial Council (MC) decisions to reflect their commitments to address these phenomena: MC Decisions 4/03, 12/04, 10/05, 13/06, 10/07 and 9/09. Additionally, a number of OSCE human dimension commitments recognize the vital importance of pSs’ realization of their binding human rights obligations under international treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

⁵ <http://hatecrime.osce.org>.

⁶ [Canada | HCRW \(osce.org\)](https://www.osce.org/canada/hate-crime-report)

⁷ Findings on the information available to ODIHR on hate crimes in a particular pS in relation to OSCE commitments are presented as Key Observations. There are, in total, 13 Key Observations linked to OSCE pSs’ commitments in the area of addressing hate crime. This methodology has been in place since the 2020 Hate Crime Report.

information, it observes that Canada has not reported hate crime data recorded by prosecution and judiciary to ODIHR. In addition, ODIHR observes that Canada would benefit from ensuring that hate crimes are addressed in a comprehensive manner, including by introducing a co-ordination mechanism.

10. With regard to support for hate crime victims ODIHR observes that Canada has a specialized support system for victims of hate crime. Support to crime victims in Canada, including hate crime victims, is mostly organized at the level of provinces and territories, which have their own victim-related legislation. Victims of crime are defined in federal law, including the Canadian Criminal Code and the Victims Bill of Rights, which provide the basis for victim support⁸.
11. ODIHR's 2020 publication "OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic"⁹ reported that, as the coronavirus is widely considered to have spread from China to other countries, intolerance and discrimination was significantly directed towards people of, or perceived to be of, Asian descent in the early phase of the pandemic, including some cases in Canada of threats, physical attacks and serious bodily harm. In Canada, various types of property connected to or associated with East Asia were attacked, targeting cultural institutions, businesses and restaurants. Through association, members of Japanese, Korean, Singaporean and Vietnamese communities were also physically assaulted, and their businesses and property vandalised.
12. Organized hate groups whose activities consistently display hostility towards protected groups, in particular, appeared to exploit the public emergency by spreading intolerant discourse and conspiracy theories, assigning blame to different minority communities, often at the same time, including in Canada. For instance, Jewish communities were targeted by anti-Semitic conspiracy theories, scapegoating related to Covid-19, and various other expressions of anti-Semitism, including hate crime, including in Canada. In Canada, as Jewish communities turned to online Holocaust memorial commemorations, online religious services when synagogues closed down, or online classes and other events, these were aggressively disrupted in various ways, including through displays of Nazi symbolism and anti-Semitic slurs.
13. ODIHR also reported that emergency measures introduced by authorities across the OSCE region to contain the spread of the pandemic appeared to frequently affect minority communities in a disproportionate manner. In Canada, "random checks" and profiling that police conducted in the streets, in the context of ensuring lockdown, sometimes appeared to disproportionately affect racialized minority groups. Concerns were also raised around "carding", racial and social profiling in the context of police checks on potential violations of lockdown regulations, leading to mass collection of data about marginalized people.
14. In the area of addressing intolerance and discrimination in the context of the pandemic, some pSs recognized the need for special support to minority communities by announcing new health-care support for, inter alia, indigenous communities amid the pandemic, including in Canada.

⁸ <https://hatecrime.osce.org/national-frameworks-canada#victimSupport>

⁹ Organization for Security and Co-operation in Europe, *OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic*, Warsaw, 17 July 2020

15. ODIHR's recommendations to Canada on this basis of this publication include:

- Condemn any form of discrimination and hate crime and abstain from any statement or action that exacerbates vulnerabilities.
- Respond swiftly to hate crimes, including those motivated by gender or sex, to record and investigate them so that the perpetrators can be brought to justice and adequate penalties imposed. Support victims as they report their experiences, and ensure the availability of all necessary psychological, social and legal support for victims, including through close co-operation with civil society. Relevant authorities should also publicly condemn any such acts and ensure that perpetrators are brought to justice.
- Consider, where states have not done so, providing the possibility to report hate crimes online and allowing third-party reporting to police by civil society groups and equality bodies.
- Assess and improve relevant mechanisms for hate crime recording and data collection, including gender disaggregated data and assess the existing current victim support systems.
- Ensure that the consequences of the current pandemic, including the economic crisis, do not affect states' capacities to provide support to victims of hate including through appropriate funding to non-state actors and civil society organizations.
- Build law enforcement and justice sector capacities to recognize and effectively investigate hate crimes and to ensure that specialized training, focused on hate crime victims and their needs, is provided for officials and civil society organizations within the victim support structures
- Enact policies, through inter-agency co-operation, to address hate crimes in a comprehensive manner.
- In collaboration with civil society, celebrate and harness the strength of diversity within the country, including through awareness-raising programmes, as a means of overcoming current and forthcoming social and economic challenges of the pandemic.

16. Positive governmental practices from Canada in addressing anti-Asian racism were also noted by the OSCE. According to the office of the OSCE High Commissioner on National Minorities (HCNM), in May 2021, during Asian Heritage Month, the Government published information on how to address anti-Asian racism, including a list of recommendations such as learning about Pan-Asian diversity, challenging stereotypes, showing solidarity with the Asian community in Canada, being an ally, actively support the victims of anti-Asian racism, etc. The HCNM emphasized the recognition by Canadian authorities that anti-Asian racism is a daily reality for many Asian communities in Canada. They also provided good practices from the Elementary School Teachers Federation in Ontario, which collaborated with a team of educators of Asian descent and developed training materials on "Addressing Anti-Asian Racism Research for Educators" and a webinar series on addressing anti-Asian racism in schools and communities.¹⁰

¹⁰ Organization for Security and Co-operation in Europe, "[Addressing Anti-Asian Racism and Xenophobia: Challenges and Opportunities](#)", 25 January 2022, p. 12.