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## Introduction

In our increasingly globalized world, our youth are becoming more and more citizens of the world. As such, they need a solid understanding of social justice, human rights, global democracy, and their role in the creation of just societies. This resource, *Understanding International Law—A resource for students and teachers*, aims to provide high school students with the knowledge they need to become effective global citizens and undertake global responsibilities as Canadians. International law has many facets, including human rights and humanitarian law, and is increasingly a defining force in our global world. A basic understanding of international legal principles is vital for youth to be able to understand and respond to pressing issues faced by the world today.

This study guide is intended to be used in concert with the Understanding International Law website<sup>1</sup> in order to help students understand the basic principles and issues of international law, and encourage them to think critically about these issues as they become active global citizens and leaders.

### Introductory activity: Global citizenship discussion

Discussion

- “What is citizenship?”
- “What does it mean to be a citizen?”
- “What are the roles of a citizen?”
- “Do citizens have rights?”

Discuss and define different kinds of citizenship: student, community, city or town, region, province, nation, continent, and global. Consider the rights and responsibilities that are relevant to different kinds of citizenship.

Discuss what it means to be an active citizen—how do you go about becoming an active citizen for the different kinds of citizenship discussed? What factors need to be in place in order to become an active citizen (i.e., peace, opportunities for participation, education, freedom from discrimination, etc.)?

Consider the question What does it mean to be a global citizen? Some definitions of citizenship may be looked at in order to realize the many perspectives that exist when thinking about this issue on a global scale. An effective definition of global citizenship cannot come from a single point of view. Consider how global perspectives might differ in other countries. For example, how might religion, gender, culture, geography and language influence people’s perspectives?

Divide students into groups and have them work toward developing a definition of global citizenship. Reference can be made to the factors required for citizenship. Once each group has agreed upon a definition, their definitions may be presented to the class and the class may decide to adopt one definition, or to embrace the variety of definitions presented.

At this point, the following questions may help extend the discussion:

- What needs to happen in order to make the leap from national citizenship to global citizenship?
- What challenges do people face when they decide to become global citizens?
- Do global citizens have any rights?
- In what ways can young people become engaged as global citizens and take action?

## What is international law?

“State” is a term used in international law to describe a country or nation considered to be an organized political community under one government. International law is a set of rules and customs that governs the relationships between countries, known as states.

Usually when we think about laws, we think about the system of rules and penalties established and enforced by the government. In a democracy, the “rule of law” applies to everyone in society and is intended to strike a balance between individual freedoms and the needs of the society. If a member of society breaks one of these laws, she or he will be punished by the state after due process is followed. On the other hand, if the government of a state takes unfair or illegal action against a citizen or group, the state’s constitution may allow citizens to challenge their governments in local (domestic) courts. If this does not solve the problem, other laws, such as international human rights treaties, will sometimes allow citizens to take their complaints outside their state to international legal bodies.

### The rule of law

The rule of law is a fundamental legal principle that states that the law applies equally to all persons and that no one, neither individual nor government, is above the law. The rule of law means that government officials cannot make up or change the rules without consulting anyone else. It also means that decisions should not be made arbitrarily (without reason or justification).

Every country, or state, has its own set of laws and legal system. The laws of one country will apply to everyone in that country, but generally do not apply outside that country’s borders. These laws are called national or domestic laws. Domestic laws are the laws that affect people in their daily lives—usually divided between civil laws, such as employment laws and highway speed limits, and criminal laws against harmful activities such as murder and trafficking illicit drugs. A country’s constitution is usually the supreme law of the land, which “trumps” other national or local laws if there is a conflict between them. Each country develops its own system of laws, so there are many different systems of domestic law. For example, countries that are members of the Commonwealth, such as Canada, still generally follow British traditions of common law. However, in Canada, the Province of Quebec follows the French legal traditions of civil law and Canada’s national criminal law, set out in the *Criminal Code of Canada*.

## Quick quiz

True or false:

1. A human rights treaty (law) of the United Nations is “domestic” law.
2. Quebec follows the *Criminal Code of Canada*.
3. The rule of law only applies to citizens.

International law picks up where domestic law ends. It governs the way countries interact with one another, and in specific circumstances, also sets how and when an international government, like the United Nations, intervenes in how a government interacts with its citizens or other people within the state. Canada’s relationship with another country, such as Germany, the United States, or Mexico, will be governed by international law through agreements that are bilateral (between two countries) or multilateral (among three or more countries). International law applies across borders, and unlike domestic laws, there is only one system of international law.

Some of the main subjects of international law include:

- human rights: ensuring the fundamental rights of every individual.
- regulating the use of armed force: making universal rules so that countries resolve differences through peaceful means.
- protection of individuals during times of war.
- trade and development.
- the law of the sea.
- environmental issues and climate change: creating universal rules for the preservation of natural resources and protection of the environment.
- transportation: setting safety standards for international travel by air, rail, and sea.
- telecommunications: setting rules for building and maintaining communication systems that cross state borders.

## Quick quiz

True or false:

1. A universal standard applies only to a few states.
2. A multilateral treaty is a legal agreement between two states.

## Who is governed by international law?

### States

Under international law, a state is a country that meets the following criteria. A state has:

- a permanent population.
- control over a defined territory.
- a government.
- the ability to enter into relations with other states.

Countries recognized as states have certain rights and responsibilities defined by international law and custom. They have the right of sovereignty, meaning that the state has exclusive power or jurisdiction over its territory and population. This power

can only be legally interfered with when certain requirements of international law are met. There is also formal equality among states, which means that even if one country is not actually equal to another in terms of military strength, economy, or political stature, it will possess the same basic rights and responsibilities as that state or any other.

States also have the right to be free from intervention in their domestic affairs. This means that other countries should not intervene in the legal or political decisions made by another state; however, this does not mean that states cannot try to influence other states. States have certain responsibilities, which include a duty to fulfil their international obligations in good faith and to respect international human rights.

## **International governance organizations**

International governance organizations are organizations that are set up by a legal agreement (treaty) between two or more states. Depending on what the treaty that created the organization says, international law will apply to international governance organizations and they will have certain rights, duties and powers under the law. For example, the United Nations (UN) is the largest and most comprehensive international governance organization with wide-reaching powers. The UN is a parent body, composed of agencies or organs with specific mandates, such as the UN Security Council. The UN Security Council is the only UN agency able to order the use of military force; none of the other agencies (such as the World Health Organization) are able to do so.

## **Non-governmental organizations (NGOs)**

Non-governmental organizations (NGOs) are organizations set up by individuals or groups, not states. Some examples of large international NGOs that influence international law are Amnesty International, Oxfam, Greenpeace, and the Red Cross. NGOs do not typically have rights, duties, or powers under international law; rather, they advocate for certain outcomes based on their founding values (such as social justice) and act as an intermediary between the state-dominated international legal system and individuals.

## **Individuals and corporations**

In general, individuals, and corporations do not have the ability to enter into legal relations (such as treaties) nor do they have legal rights and responsibilities under international law. For example, unlike states, individuals and corporations cannot appoint ambassadors or declare war. Many of the rules of international law exist for the benefit of individual persons and corporations, but that does not necessarily mean that the rules create rights for those individuals and corporations. For the most part, the rights concerning individuals and corporations do not exist directly under international law; rather, states have an obligation to grant domestic law rights to the individuals or companies concerned.

### Quick quiz

True or false:

1. Corporations can be members of the UN.
2. The Security Council is the only UN organ that can order the use of military force.
3. Non-governmental organizations (NGOs) can be members of the UN.

### Activity: Who is involved in international issues?

Working individually or in groups, have students pick an international issue, and using the Internet, fill in the following chart:

Issue	
Does this issue affect people or countries all over the world? If not, list the regions affected.	
International law/concepts involved	
International governance organizations involved (e.g., the UN)	
International non-governmental organizations involved (e.g., Amnesty International)	
Individuals or corporations involved	
Government agencies involved (e.g., courts, defence, environmental ministries)	
Individuals or organizations raising awareness about this issue (spokesperson, advocacy group)	
Opponents of this issue (who is arguing against this issue?)	

### How is international law created?

Unlike with the domestic laws of individual countries, there is no single international government that creates and enforces international law. Consequently, international law has developed as a result of countries agreeing to act, or refrain from acting, in certain ways toward one another. There are two main ways that international laws are developed: through the adoption of customs and the signing of treaties.

### Customary international law

Usually when we think about customs, we think about the established habits or behaviours of a community that have developed and become accepted as rules. The international community also has certain customs that have developed and been followed over long periods of time. These customs become international customary law after countries repeatedly behave in a particular way because their leaders believe

they are required to do so. Whether or not countries are actually required by a formal law to act that way doesn't matter, so long as countries believe they must act a particular way and continue to do so over a period of time. Customary law is based on what countries actually do, rather than what they have formally agreed to do—as we shall see, this is how customary international law differs from the signing of treaties.

When enough countries engage in a particular behaviour for long enough, that behaviour will become part of customary international law. For example, the law of diplomatic immunity—which protects diplomats from harm or lawsuits when in a foreign country—began as a custom. There are no rules that set out how many countries must participate in the behaviour or for how long. If certain behaviours become a part of customary international law, then they will be legally binding on all countries.

The strength of customary international law is that all countries can be bound to follow it even if they don't expressly agree to follow a particular behaviour. The weaknesses are that it is slow to change because it is based on continued behaviour over time, and often the laws that result from customary behaviour are unclear and imprecise because of the way they developed. Because these laws may be imprecise, disputes between countries over what is actually part of the law may arise.

## Treaties

The term “treaty” refers to a formal agreement between two or more states that sets out their mutual legal rights and obligations.<sup>2</sup> Treaties are often made with regard to peace, the creation of alliances, commerce and trade, and other international relations. Interestingly, formal agreements between First Nations in Canada and the Crown are termed “treaties.” International treaties may establish general rules of law, such as the protection of human rights, or provide for contract-like obligations between countries, such as treaties dealing with international trade.<sup>3</sup> Treaties may be very specific or quite broad, making them versatile for the creation of law.

### Ratification

For a state to be bound by a treaty, the state must ratify, or officially consent to be bound by that treaty. Signing a treaty is not the same thing as ratifying a treaty. Treaties may be bilateral, meaning that an agreement is formed between two countries, or multilateral, meaning that the agreement is between three or more countries. A multilateral treaty may even include most of the countries in the world.

The advantages of treaties are that they can be created quickly and contain a clear explanation of the law being created. Treaties may also influence the behaviour of countries toward one another and end up affecting other types of international law, such as customary international law. A disadvantage of treaties is that they only bind those countries that agree to be part of the treaty.



International treaties go by many names. Some of these include:

- conventions
- pacts
- charters
- acts
- covenants
- statutes
- protocols
- agreements

Although treaties and custom are the main sources for international law, several other sources exist that can be important for lawyers arguing a case on international law. These sources are the decisions of other courts on matters of international law (jurisprudence), the writings of scholars and academics on international law matters, and general legal principles, such as the rule of law.

### Quick quiz

True or false:

1. Ratifying a treaty is the same thing as signing it.
2. Laws created by a treaty apply to all countries even if a country has not expressly agreed to be part of the treaty.
3. Treaties are based on established customs between countries.

## The United Nations

The United Nations (UN) is an international governance organization made up of independent states. It was founded in 1945 after the horrors of World War II—including the genocide of Jews, known as the Holocaust—were better known. The founding countries of the UN shared the hope that a new global government would be more successful than the League of Nations that had been founded following World War I, and would be able to prevent tragedies like genocide from happening again.

The main aims of the UN are set out in its charter:

- promoting human rights
- maintaining international peace
- reducing poverty and injustice.

There are currently 192 member countries, called Member States,<sup>4</sup> in the UN—almost every country in the world. Each Member State has one equal vote, regardless of size or economic status. The UN has facilitated the signing of over 500 multi-national treaties on a broad range of issues including: human rights, international crime, refugees, disarmament, trade and commodities, and the oceans. Governance at the UN is seldom easy; since the UN is made up of sovereign states, it depends on the co-operation of its Member States to accept, fund and carry out its decisions. The process of consensus building is complex and incremental, especially when addressing matters of peacekeeping and international politics, and must take into account national sovereignty as well as competing global needs.



The UN was designed to have six main bodies: General Assembly, Security Council, Economic and Social Council, Trusteeship Council (now largely inoperative), International Court of Justice (which only deals with civil law matters referred to it) and Secretariat. The UN has six official languages: English, French, Russian, Spanish, Arabic, and Chinese. The UN main headquarters are in New York City, but several of the larger UN agencies, such as the World Health Organization and the High Commission for Human Rights, are headquartered in Geneva, Switzerland, but all UN land and buildings are international territory.

## UN Charter

The *United Nations Charter*<sup>5</sup> is the treaty that established the United Nations. It was initially signed on June 26, 1945 at the founding meeting of the UN in San Francisco. The *UN Charter* describes the principles, functions, and structures of the United Nations and is legally binding on all Member States of the UN.

The *UN Charter* sets out the four main purposes of the United Nations, which are to:

- keep peace throughout the world.
- develop friendly relations among nations.
- help nations work together to improve the lives of poor people, to conquer hunger, disease and illiteracy, and to encourage respect for each other's rights and freedoms.
- be a centre for harmonizing the actions of nations to achieve these goals.

The *UN Charter* also sets out the main principles of the UN, which include:

- recognition of the sovereignty of all of its members.
- members settling their international disputes by peaceful means.
- members refraining from using or threatening to use armed force against any other state.

## The UN General Assembly

The General Assembly is where most of the discussion, debate, and decision-making among Member States over the world's most pressing problems take place. Every Member State is entitled to representation and one vote in the General Assembly. The decisions made in the General Assembly drive the work of the UN. Decisions are usually not called for until there is broad agreement among Member States. When a vote has to be called on UN priority matters (such as peace, security, budgetary matters or the admission of new members), a two-thirds majority vote is required. All other matters require a simple majority of more than half the votes cast; however, a vote is not usually called until a substantial majority of Member States has indicated support. Although the decisions of the General Assembly cannot force any state to take particular actions, General Assembly Resolutions are considered to be an indication of world opinion.

## The UN Security Council

The mandate of the Security Council<sup>6</sup> is set out in the *UN Charter*, especially in chapters six and seven. The *UN Charter* gives the Security Council primary

responsibility for the maintenance of international peace and security. The Security Council is the only UN body that can order the use of force to implement its decisions. The Security Council is made up of five permanent members and ten non-permanent members. The permanent members of the Security Council are the United States, China, Russia, France, and the United Kingdom. Non-permanent members are Member States elected to the Security Council and serve two-year terms.<sup>7</sup> The last time Canada was a member of the Security Council was in 1999–2000. Canada lost its bid to be voted in to serve on the Security Council in 2010.<sup>8</sup>

Every member of the Security Council has one vote, but not all the votes are of equal weight. For a proposal before the Security Council to pass, it must receive an affirmative vote from at least nine members. However, if one of the permanent members votes against the proposal, the adoption of that proposal will be prevented. This is called the veto or “great power unanimity” and will prevent the adoption of a proposal even if it has received nine affirmative votes. All Member States are required to carry out a decision of the Security Council.

The Security Council may convene at any time, day or night, whenever it determines there is a threat to international peace. The Council may first try to resolve an issue through peaceful means, such as mediation. If a dispute results in fighting, the Security Council may issue ceasefire directives or send peacekeeping forces to the area to reduce tensions. The Security Council may also order economic sanctions, collective military action, or an arms embargo to prohibit commerce and trade in weaponry with the countries involved in the dispute.

### **Case study: The power of the veto**

In 2009, Russia used its veto to end the UN peacekeeping mission in Georgia. This use of the veto was controversial because of Russia’s involvement in the dispute taking place between Georgia and the South Ossetia and Abkhazia regions. How could other countries try to intervene to maintain peace when Russia, one of the countries involved in the dispute, had the power to veto?<sup>9</sup>

## **International Court of Justice**

The International Court of Justice (ICJ) is the primary judicial body of the United Nations. It is a civil court that deals primarily with disputes between Member States and does not have the jurisdiction to prosecute individuals accused of crimes. Criminal matters are dealt with by the International Criminal Court, which is independent from the UN, and will be discussed in a later section.

The International Court of Justice (ICJ) is located at the Peace Palace in The Hague, Netherlands, and is composed of 15 judges from 15 different countries. The ICJ has two main roles: it settles disputes referred to it by Member States and gives opinions on legal questions referred to it by authorized bodies of the UN. When making a decision, the court will apply international law, including: international treaties

and conventions, international custom, general principles of law, existing judicial decisions, and sometimes the writings of international scholars and academics.

Only Member States are able to submit disputes, called “contentious cases,” to the ICJ for hearing. Furthermore, all parties to the dispute must agree that the ICJ has the power to hear the matter and that they will be bound by the decision of the court. If a party to a dispute believes another party has not lived up to their obligations under a decision of the ICJ, it can appeal to the Security Council, which has the power to decide what measures to take to enforce the judgment.

The General Assembly and Security Council, as well as other authorized UN agencies are permitted to ask the court to provide an advisory opinion on legal questions. These opinions are intended to help resolve complicated legal issues arising within the UN system. Advisory opinions are not legally binding, but they are generally influential and well respected.

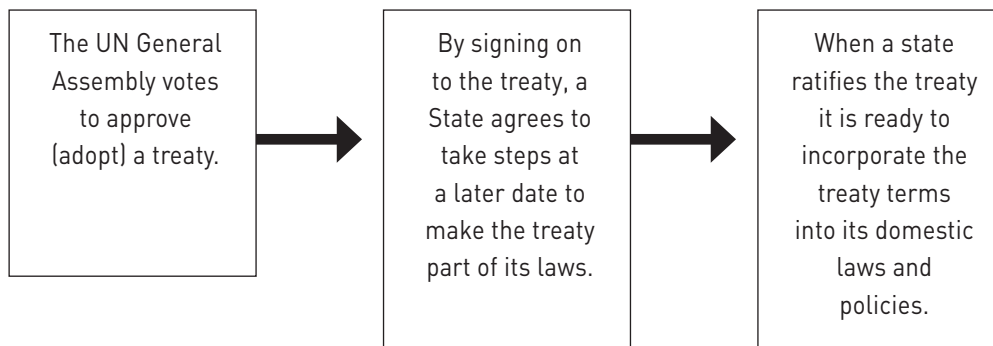
### Quick quiz

True or false:

1. The *UN Charter* is legally binding on all Member States of the UN.
2. The Security Council has the most members of any organization of the UN.
3. The General Assembly can order the use of military force.
4. The International Court of Justice does not have criminal jurisdiction to prosecute individuals.

## UN treaty-making and monitoring

All treaties must be approved by at least a simple majority of the United Nations General Assembly. This means that at least 50% of the 192 Member States must vote in favour of the treaty. Once a treaty has been approved by the General Assembly, Member States are able to sign on to it. For most treaties, a specified number of states must sign on for the treaty to be “activated.” When the required number of signatures is reached, the treaty enters into force. However, the signing of a treaty alone does not make it binding on states. States must also take further steps to ratify the treaty and officially agree to be bound by its terms. Once ratified, states must take steps to implement the treaty into their domestic law. This typically involves making laws and policies that incorporate the terms of the treaty into the domestic laws of the state.



Many non-governmental organizations (NGOs) with international operations—such as Amnesty International, Human Rights Watch, Equality Now, and the Women’s International League for Peace and Freedom (WILPF), which all focus on human rights—monitor how countries are following up on their promises to implement a particular treaty. International NGOs like these issue their independent reports, called alternative, or “shadow” reports, on progress and problems in a country under review, making presentations to the UN body that monitors the treaty as well as to local and international media.

Although the UN does not officially recognize these NGO reports as part of the treaty monitoring system, they have become important sources of “speaking truth to power.” The independent experts who are members of treaty monitoring bodies often consider these shadow reports to be credible sources of information that they might not otherwise have access to.

As a Canadian example, West Coast LEAF monitors BC’s implementation of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

### Quick quiz

True or false:

1. UN treaty-monitoring bodies are made up of NGO representatives.
2. Signing a UN treaty is all that is required to make it legally binding on a Member State.
3. To become international law, all UN treaties must be approved by a majority of the 192 members of the UN General Assembly.

## UN peacekeeping

Of all our dreams today there is none more important—or so hard to realize—than that of peace in the world. May we never lose our faith in it or our resolve to do everything that can be done to convert it one day into reality.

—Lester B. Pearson

One of the major operations of the United Nations Security Council is the establishment of peacekeeping missions<sup>10</sup> in countries facing conflict. Peacekeepers are people employed within the UN system to monitor the implementation of a ceasefire and oversee the resolution of conflict. Peacekeepers may assist in the promotion of human security, disarming opponents, repatriating refugees, strengthening the rule of law, delivering humanitarian relief, and training local police forces. Peacekeepers may also be involved in peacemaking activities, such as helping those involved in a conflict settle their differences peacefully by encouraging negotiation rather than

resorting to the use of arms. Peacekeepers may be soldiers, military observers, or civilian police.<sup>11</sup>

Lester B. Pearson, Canada's 14th prime minister, first proposed the idea of peacekeeping during the Suez Canal crisis in the 1950s and received the Nobel Peace Prize as a result.<sup>12</sup> Since then, peacekeeping has been an important part of Canada's participation in the international community.<sup>13</sup> Canadian peacekeepers have served in Rwanda, the Democratic Republic of the Congo, the Middle East, Haiti, Cambodia, and many other countries, but they have not always been successful—for example, during the genocide in Rwanda in 1994. While much has now been written about the world's failure to stop the genocide, the story of Lieutenant-General Romeo Dallaire, a Canadian peacekeeper who commanded the UN Assistance Mission for Rwanda and attempted to stop the genocide, will be most familiar to Canadians.<sup>14</sup>

### Activity: Current events and international law—media scavenger hunt

This activity is intended to foster an understanding of the importance of international law to international events that we hear about every day and give students concrete examples of how international law influences people's daily lives.

1. Ask students to bring in newspapers. Ask them look through the newspapers to find at least six of the following items in the chart below (*5 mins.—explanation and questions*).
2. Ask students to write a summary of the story or issue in the chart below (*30-60 mins.*)
3. Ask students to reference the law, convention, act, or statute the item which would apply to the issue.
  - Use Wikipedia, Google, or UN.org to find the relevant conventions or acts.
  - Note: students do not have to find the specific rule, just the overall instrument, i.e., United Nations Convention on the Rights of the Child, Geneva conventions, etc.
  - It is fine to relate the article to an international law based on the title, e.g., an article about racism is related to the Convention on the Elimination of all forms of Racial Discrimination (CERD).



Item	Summary	International law instrument
Photo related to a bombing		
The word “terror”		
Article about children or youth		
Article about an international business deal		
Article about environmental protection		
Article about human rights		
Article about war or conflict		
The word “crime” or ‘criminal’		
Article about refugees		
Article about trial or the fairness of a trial		
Article about sentencing or punishment		
Article about a protest		

### Discussion

Ask each student to present on one of the stories she or he found, and to identify the international law that applies to the issue.

### Questions to guide discussion:

1. Was a specific international law referenced for the article you found? Why or Why not?
2. Why might some international laws apply while others might be ignored?
3. How do countries enforce international law in their country, e.g., Canada?
4. Do all countries enforce international law? Why might some choose not to?
5. Why is international law needed? Do you think it helps solve the issue it’s supposed to?

## How is international law enforced?

Another difference between domestic law and international law is the way in which the laws are enforced. Under domestic law, individuals are required to obey the laws enacted by the government. However, in international law, states have much more say as to which laws are going to apply to them. For example, states are free to decide whether or not they wish to agree to an international treaty. If a state does not ratify the treaty, the terms of the treaty do not apply to that country, and it cannot be sanctioned if that state acts contrary to the terms of the treaty. Remember, however, that in the case of customary international law, all states are bound by customary laws regardless of whether they agreed to those laws or not.



But what happens if a state that is signatory to an international treaty violates the laws of that treaty? Under the UN Charter, Member States are required to settle disputes peacefully, but what counts as a peaceful means of dispute resolution? International law provides a variety of ways that disputes may be settled peacefully. The most common method is through negotiation. Negotiation involves the parties to the dispute initiating talks to attempt to come to a resolution that is agreeable enough to all parties that the dispute does not escalate.

Disputes may also be addressed through mediation or conciliation, in which a neutral third party or committee assists the disputing parties to come to a resolution. Another method for dispute resolution is through the international courts. Where a treaty is administered by the United Nations, states that have signed on to that treaty may appeal to the International Court of Justice if they believe another state is not living up to their obligations under the treaty. If the parties to the dispute agree that the court has power to hear the matter, the International Court of Justice can issue a binding decision on the parties involved. Where disputes cannot be settled through peaceful means, the UN Security Council may become involved to attempt to prevent an armed conflict.

### **Case study: Protecting our own citizens**

Review or hand out the case study to students and assign the discussion questions as an individual assignment or as a group discussion.

In 2002, Omar Khadr, a Canadian citizen, was captured by US forces in Afghanistan and transferred to Guantanamo Bay detention camp in Cuba. He was suspected of being involved in terrorist activities and alleged to have killed an American soldier. At the time, Khadr was just 15 years old—still a child under the UN *Convention on the Rights of the Child*.

Since his apprehension in 2002, Khadr has remained in detention in Guantanamo Bay. While detained, the US government failed to treat him according to international law applicable to child soldiers.<sup>15</sup> He was denied contact with his family, subjected to abusive forms of interrogation, and not given access to any form of education or rehabilitation.

Khadr is the only citizen of a Western country to remain in prison in Guantanamo Bay. The United Kingdom, France, Germany, and Australia all successfully applied to have their citizens repatriated, or returned to their country of citizenship. Despite his requests, Canada has refused to intervene on Omar Khadr's behalf and repatriate him to Canada.

Khadr has brought several notable cases against the Canadian government in an attempt to challenge his detention.<sup>16</sup> In 2008, the Supreme Court of Canada<sup>17</sup> ruled that the United States had violated the human rights of Khadr, and that the Canadian government shared the blame for these violations because Canadian officials had participated in an interrogation process that denied him a right to a fair trial. In 2010, the Supreme Court of Canada (SCC)<sup>18</sup> again



recognized serious breaches of international law, international human rights law, and the *Canadian Charter of Rights and Freedoms* in Khadr's case, but fell short of ordering that Khadr be returned to Canada.<sup>19</sup>

In 2010, the US Military Commission finally brought Khadr to trial. He entered a plea bargain that will see him serve 8 more years in detention. In 2011, he applied to come back to Canada to serve the rest of his sentence.

### Discussion or personal reflection questions

- Are you surprised by Canada's failure to repatriate Omar Khadr even though Canada has been aware of the treatment of prisoners at Guantanamo Bay? Why?
- In its 2010 decision, the Supreme Court of Canada ruled that the decision to repatriate Omar Khadr was a decision best made by the federal government because it was within the scope of foreign affairs. Do you agree with the Supreme Court of Canada that the federal government should determine the best course of action, even though it found that Khadr's rights had been infringed? Why?
- Both Canada and the United States have domestic laws that prevent children charged with crimes from being treated as severely as adults. At age 15, should Omar Khadr have been treated different from adults?
- Khadr and his lawyers have alleged that he was a victim of torture while he was detained in US custody. Do you think that, if you were subjected to severe physical or mental suffering, you might confess to something you did not do in order to stop the punishment?
- The Supreme Court of Canada has found that both national and international laws were violated in this case. Who should have the power to decide how to punish state governments for breaking international law? What kinds of punishments do you think would be appropriate in this case?

### Activity: Construct a group timeline

In groups, ask students to identify and report on key events in the Omar Khadr case. Assign each group a time range, i.e., Group 1 researches 2002–04, Group 2 researches 2005–07, etc. Either provide research materials (newspaper and other media articles) or ask students to conduct independent research and evaluate sources.

Ask students to select newspaper articles, photos, or court decisions that represent key events, and create a logical graphic representation of their time period in poster format. Each group can also prepare a brief write-up explaining their poster. Have each group present, in chronological sequence, their posters as a timeline of events arising from Omar Khadr's detention.

### Activity: Children involved in armed conflict—graphic scavenger hunt

Introduce the topic of "Children involved in armed conflict" to the class. Have students research, collect, and contribute media concerning child soldiers and the use of children during war and other armed conflict. Have students post their

contributions on a wall within the classroom or on webpage or online classroom site. Discuss trends and themes in the coverage, including the average of children, the location of conflicts with child soldiers and the responses of international or national governments when called to protect children. Are there other cases in which a minor is prosecuted, rather than protected, because of their involvement in an armed conflict?

Discussion questions:

1. What does the term “sovereignty” mean?
2. What is “formal equality” among states and why is that an important part of international law?
3. In what circumstances do you think it might be better for the international community to create laws by treaty? When do you think it might be better to rely on customary international law?
4. In 2010, Canada lost the election to be a non-permanent member of the UN Security Council. Do you think it is important for Canada to have a voice on the Security Council? How could Canada make a positive difference as a member?
5. Many things have changed in the world since the appointment of the permanent members of the UN Security Council. Do you think it is still appropriate for those five countries to have permanent seats and a veto power on the Security Council?

## International Human Rights Law

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace....”

—Preamble, *The Universal Declaration of Human Rights*

### Universal Declaration of Human Rights

Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he or she lives in; the school or college he or she attends; the factory, farm or office where he or she works.... Unless these rights have meaning there, they have little meaning anywhere.

—Eleanor Roosevelt, co-author,  
*Universal Declaration of Human Rights*,  
Remarks at the United Nations, 27 March 1958

*The Universal Declaration of Human Rights* (UDHR) is the basic international pronouncement of the indivisible, inalienable, and inviolable rights of all human beings. It is a statement of values and principles to which the international community has promised to adhere, even though the UDHR is not by itself a human rights treaty. It is the foundational international vision for human rights and has become the best known and most often-cited human rights instrument in the world.<sup>20</sup>

The UDHR contains 30 articles, or sections, that set out people’s universal rights. Some of the rights are based on our physical needs, such as the right to life, right to shelter, and right to food. Other rights are to protect us, such as the right to be free from torture, inhumane treatment, or punishment. There are other rights which ensure we are able to develop to our full potential, such as the right to education, right to work, and right to participate fully in cultural life.

The rights included in the UDHR are based on values of dignity, justice, respect, and equality. The declaration affirms entitlement to human rights regardless of who you are, where you come from, what language you speak, or what your religious beliefs are.

Under the *Universal Declaration of Human Rights*, human rights are supposed to be:

- universal—they apply to everyone in the world.
- equal—all people are entitled to have the same rights, privileges and status under the law.
- interdependent and indivisible—the rights are dependent on one another and cannot be separated.
- inalienable and inviolable—you cannot give up your rights, even if you want to, and no one should be able to violate or disregard your rights.

The UDHR was proclaimed in a resolution of the United Nations General Assembly on December 10, 1948, out of a strong collective desire to for peace in the aftermath of World War II. A Canadian lawyer, John Peters Humphrey, was the first director of the UN Human Rights Committee, initially chaired by Eleanor Roosevelt, and they both made significant contributions to the early drafting of the declaration.<sup>21</sup> After years of negotiation and many versions, drafters included Humphrey from Canada, Roosevelt from the United States, as well as drafters from France, China, Lebanon, Chile, Australia, the Soviet Union, and the United Kingdom.

The *Universal Declaration of Human Rights* represents a vision of the world as the international community would like it to become and remains relevant to international law more than sixty years after its creation.

## International Bill of Rights

The *Universal Declaration of Human Rights* is a statement of internationally accepted values and principles, but by itself it is not a legally binding document. In order to get passage of the UDHR as quickly as possible, the original package of rights was split up, but it took almost 30 years before the two legally binding covenants, drafted to go along with the declaration, were activated in 1976. These two treaties are the

*International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*. These treaties recognize and define in more detail many of the rights set out in the UDHR. If a government decides to sign and ratify the covenants, this means that they have agreed to uphold the rights and freedoms set out in the covenants in their own country. Altogether the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* make up the *International Bill of Rights*.

### Quick quiz

True or false:

1. The *Universal Declaration of Human Rights* is legally binding on its signatories.
2. The kinds of rights in the *Universal Declaration of Human Rights* include rights for our physical needs, protection, and development.
3. The *International Bill of Rights* is composed of the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*.

## Why do international human rights matter to Canadians?

### Local to global

Human rights belong to every human being and although we may sometimes think that human rights are more important to people in other countries, these rights matter to all of us. There are many examples in Canada of people whose human rights are not being respected. For example, the *International Covenant on Economic, Social, and Cultural Rights* commits Canadian governments to ensuring that everyone has an adequate standard of living, including adequate food, clothing, and shelter; however, 3.5 million Canadians live in poverty. Those most vulnerable to poverty include women, Aboriginal people, recent immigrants, refugees, and people with disabilities. The consistently high rates of poverty of these groups reveal the effects of the various forms of discrimination they face. It is the responsibility of all Canadians to know our rights and work to ensure that they are being upheld for everyone.<sup>22</sup>

The *Universal Declaration of Human Rights* also has importance for Canadian domestic law, as it was influential to those drafting Canada's human rights laws, including the *Canadian Charter of Rights and Freedoms*, and the federal and provincial human rights statutes. These laws echo many of the principles found in the *Universal Declaration of Human Rights* and are important for ensuring that human rights are protected for all Canadians.

People working to reform Canadian law can rely on UN conventions and international commentary to advocate or interpret Canada's obligations here at home. For example, in *CFCYL v. Canada (Attorney General)*, the *Canadian Foundation for Children Youth and the Law* (CFCYL) brought a challenge to the provisions of the *Canadian Criminal Code* that allow a parent or someone in a parental role, such as a teacher to spank (assault) a child for a disciplinary purpose. If charged with assaulting

a child, a parent or someone in a similar role can rely on Section 43 as a defence to the charge. The CFCYL argued that this is a violation of Canada's obligations under the *Convention on the Rights of the Child*. The Supreme Court of Canada did not strike down the section, but did provide guidelines about when spanking or physical discipline is permissible. In developing these criteria, the court considered the convention guidelines and international human rights law and greatly restricted the circumstances in which spanking a child for corrective purposes is permissible.<sup>23</sup>

Understanding human rights laws is also important for Canadians working to help people in other countries have access to rights. For example, the International Women's Rights Project (IWRP) has worked for a decade on issues of women's human rights in Afghanistan. As well, the organization, Canadian Women for Women in Afghanistan, works to help advance educational opportunities for Afghan women and their families and to educate Canadians about human rights in Afghanistan.<sup>24</sup> For many years, the Taliban government prohibited women and girls from attending school, as well as placing other severe limits on their social participation. Despite this, some women and children attended secret schools, but many were too afraid of the brutal consequences if they were caught. Following the fall of the Taliban in 2001, women have slowly begun to gain back their rights; however, the years of strict rule by the Taliban government has meant that there is little infrastructure to assist Afghan women and girls to attend school. Organizations such as Canadian Women for Women in Afghanistan rely on international law when lobbying to help women and children gain access to schools and teachers so that they may enjoy their basic human right to an education.

Discussion questions:

1. Countries are not legally required to follow *Universal Declaration of Human Rights* because it is not a treaty. Why do you think the *Universal Declaration of Human Rights* has remained so important even though countries are not legally obligated to enforce it?
2. What documents make up the *International Bill of Rights*? Why is it important for a country to have signed and ratified all parts of the *International Bill of Rights*?

## Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

The UN General Assembly adopted the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) in 1979, and Canada followed with adoption in 1981—the same year in which the *Canadian Charter of Rights and Freedoms* was being drafted. CEDAW is often described as “the bill of rights for women.” It defines discrimination against women and establishes an agenda for putting an end to sex-based discrimination.

Discrimination against women is defined by CEDAW to mean any distinction, exclusion, or restriction made on the basis of sex that is meant to prevent, or that results in preventing, women from fully enjoying their human rights and fundamental freedoms. Even though much progress has been made in recent decades,

and many women have increased access to education, proper health care, and participation in the workforce, nowhere in the world can women claim to have all the same opportunities and rights as men. On average, women continue to receive less pay than men earn for the same work, and the majority of the world's absolute poor are women. Violence against women, including rape and domestic violence, continues to be significant causes of disability and death for women worldwide. It is often said that the face of poverty is a woman's.

By adopting CEDAW, states commit to:

- incorporate the principle of the equality of men and women into their legal systems, and to get rid of any existing discriminatory laws and replace them with laws that prohibit discrimination against women.
- set up tribunals and public organizations to make sure that women are being protected against discrimination by the government.
- eliminate all acts of discrimination against women by individuals, organizations, or corporations.

The rights protected under CEDAW include the right to vote and to run for election, and rights to education, healthcare, and employment. In addition, CEDAW protects women from discrimination when engaging in any of those activities. For example, CEDAW protects the right of women to enter the workforce and also protects women from being discriminated against in the workplace. States that have ratified CEDAW are legally required to put its provisions into practice. States must also submit reports to the Committee on the Elimination of Discrimination Against Women<sup>25</sup> every few years so that the committee can monitor whether countries are living up to their obligations under CEDAW.

For every report that a state submits to the CEDAW committee, NGOs prepare an alternative, or “shadow”, report for the committee on what the reality is for women in the country, and provide a critique or evaluation of what the government has reported. In Canada, these shadow reports have been submitted by national and provincial NGOs. For example, in 2010, the BC CEDAW group, a coalition of women's NGOs and non-profit organizations in British Columbia, submitted a report to the CEDAW committee discussing the failure of BC to respond to specific recommendations made by the committee as part of Canada's review in 2008. These recommendations were with regard to women's poverty and inadequate social assistance rates, and police and government failure to prevent or investigate violence against Aboriginal women and girls<sup>26</sup> The BC CEDAW group's report can be found here: [www2.ohchr.org/english/bodies/cedaw/docs/ngos/NothingToReport\\_CanadaFU.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/NothingToReport_CanadaFU.pdf)

The IWRP was responsible for writing the first report on the impact of CEDAW in 10 countries.<sup>27</sup> The study gathered information from NGOs in the 10 countries in order to develop better measurements of the implementation of CEDAW human rights guarantees from the perspective of women's rights activists. The First CEDAW Impact Study is available on the IWRP website: [iwrp.org/projects/cedaw/](http://iwrp.org/projects/cedaw/)

In 1999, the UN General Assembly adopted the *Optional Protocol to CEDAW*. An optional protocol to a treaty is a multilateral agreement that governments can ratify

or agree to, that is intended to further a specific purpose of the treaty or assist in the implementation of its provisions. The *Optional Protocol to CEDAW* provides two mechanisms to assist in the promotion of women's human rights. The first is a communications procedure that allows individual women or groups to submit claims of violations of rights under CEDAW.<sup>28</sup> The second is an inquiry procedure that enables the CEDAW committee to initiate inquiries into situations of grave or systemic violations of human rights. These mechanisms put the CEDAW on the same footing as other human rights treaties, such as the *Convention on All Forms of Racial Discrimination*, and the *Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment* (discussed below), that provide for procedures for communication and inquiry. The procedures established under the *Optional Protocol* also provide women with additional tools to encourage governments to respect and protect women's rights through their laws and policies.

### Case study: Inquiry into Ciudad Juárez


To date, only one inquiry into a grave and systematic violation of human rights has been conducted by the CEDAW committee. It dealt with a series of murders, rapes and disappearances of women in the Ciudad Juárez region of Mexico. In 2002, two NGOs, Equality Now and Casa Amiga, made a request to the CEDAW committee for an inquiry into the incidents.

In October 2003, two CEDAW members visited Mexico to meet with authorities from federal, state, and local levels, as well as victims' families, human rights defenders, and NGO workers. Based on these discussions, a report was prepared and adopted by the committee in January 2004 which outlined 16 recommendations for the Mexican government. The recommendations addressed two main areas where action was required by the Mexican government: the first involved the investigation of the crimes, punishment of perpetrators, and support to families; the second addressed violence prevention and promotion of women's human rights. A series of follow-up investigations showed that, while the inquiry did not resolve the vast number of issues that factored into this situation, including social, cultural, and socioeconomic concerns, it did place added international pressure on the government to take action.

### Activity: Individual reflection or class discussion questions

- What impact do you think the inquiry might have had on the families of the victims, the local community, the Mexican government, and NGOs advocating for women's rights?
- What do you think are some advantages and some disadvantages of the CEDAW inquiry procedure?
- With only one inquiry taking place since CEDAW came into force in 2000, it is a human rights mechanism that is underused as a means of defending women's human rights. Why do you think that might be?
- What impact do you think the inquiry procedure has on access to justice for women?



 <b>CEDAW 2011</b> <b>REPORT CARD</b> <small>HOW BC IS MEASURING UP IN WOMEN'S RIGHTS</small>		
SUBJECT	GRADE	TEACHER'S COMMENTS
WOMEN & ACCESS TO JUSTICE	F	<i>Recommendations from a Public Commission have not resulted in adequate funding for legal aid, with disproportionate impacts on women.</i>
SOCIAL ASSISTANCE & POVERTY	D	<i>The minimum wage went up, but remains below the poverty line, further entrenching high rates of poverty in BC.</i>
MISSING & MURDERED ABORIGINAL WOMEN AND GIRLS	D	<i>The Public Inquiry excludes women's, Aboriginal and community groups from the process.</i>
WOMEN & HOUSING	C-	<i>More emergency shelters exist, but long-term solutions to BC's housing crisis have not been forthcoming.</i>
WOMEN AND GIRLS IN PRISON	C+	<i>Women in prison are denied important services, and women of colour continue to be grossly overrepresented in the prison population.</i>
VIOLENCE AGAINST WOMEN AND GIRLS	C+	<i>Government agencies have altered their domestic violence policies, but women's centres and shelters are closing at an alarming rate.</i>
ACCESS TO CHILDCARE	C-	<i>BC's public spending on childcare and pre-school is the lowest in Canada, and the government contributes less now than it did in 2001.</i>
WOMEN & HEALTH CARE	B	<i>British Columbians have access to a decent health care system; however, the needs of adults with developmental disabilities are not being met.</i>

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## Special rapporteur on violence against women

In addition to the committee established under CEDAW, the UN has also appointed a Special Rapporteur on violence against women. The purpose of the Rapporteur is to receive and seek out information on the causes and consequences of violence against women from governments, international organizations, and NGOs, and provide recommendations on how to eliminate violence against women and remedy its consequences. The Rapporteur will appeal to governments for clarification if it is notified of cases of violence against women in that country. These cases may involve one or more women, or may be the result of social conditions in that country that result in

violence against women being condoned or perpetrated. The Rapporteur does not accuse or judge states against which it receives complaints, rather it works with the government to try to prevent, investigate, and punish acts of violence against women and provide compensation for the victims.<sup>29</sup>

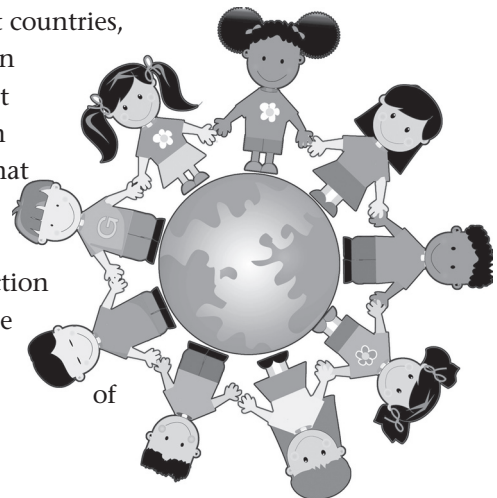
### Quick quiz

True or false:

1. Only states can submit reports to the CEDAW committee.
2. CEDAW is like the *Bill of Rights for Women*.
3. The Special Rapporteur on violence against women judges governments on the basis of complaints it receives.

## Convention on the Rights of the Child (CRC)

The *Convention on the Rights of the Child* recognizes that children under the age of 18 often require special care and protection. In most countries, children under 18 have limited abilities to participate in society (for example, they cannot vote), which makes it difficult for them to protect and advocate for their own rights. The CRC was adopted in 1989 and recognizes that children have a right to a full range of human rights. In addition to the convention are two optional protocols: the first is intended to strengthen the protection of children during armed conflict (and in particular, the protection against the recruitment of child soldiers)<sup>30</sup> and the second is for the prevention of the sale of children, child pornography, and child prostitution.



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The CRC recognizes that children everywhere have the same basic rights to survival, education, protection from harmful influences, abuse and exploitation, full participation in family and social life, freedom of expression, and the right to play, among others. The CRC protects children’s rights by setting standards for healthcare, education, and legal, civil, and social services.

There are four core principles underlying the CRC:

- non-discrimination
- devotion to the best interests of the child
- right to life, survival and development
- respect for the views of the child.

Under the CRC, children are viewed as individuals as well as members of a family and community, who have rights and responsibilities appropriate to their age and stage of development. The aim of the CRC is to protect and advance the rights of children so that they may develop to their full potential, free from hunger, want, neglect or abuse.

### **Case studies: How is the CRC interpreted by Canadian courts?**

#### **Baker v. Canada (Immigration)<sup>31</sup>**

Mavis Baker arrived in Canada as a visitor in 1981. She remained here after her visitor’s visa expired and she supported herself illegally as a live-in caregiver. While in Canada, she had four children, all of whom are Canadian citizens. In 1992, she was ordered to be deported after it was discovered she had overstayed her visa and had been working illegally.

To gain legal residency status in Canada, Ms. Baker was required by the *Immigration and Refugee Protections Act (IRPA)* to complete a lengthy permanent residence application process from outside Canada. In 1993, she applied for an exemption to apply for her permanent residence from within Canada based on humanitarian and compassionate (H&C) grounds. Her health was poor and she provided care and emotional support for her Canadian children. Ms. Baker argued that the refusal of the exemption was unfair. She also argued that the *Convention on the Rights of the Child* required the government to consider the impact on her children and that the principle of the “best interests of the child” required that she be allowed to stay in Canada.

The Supreme Court of Canada ruled in favour of Ms. Baker, and allowed the appeal because there was a violation of the principles of procedural fairness, and because the decision was made in an unreasonable manner.

In *Baker v. Canada*, the courts said “the values and principles of the convention recognize the importance of being attentive to the rights and best interests of children when decisions are made that relate to and affect their future.” However, it did not use the convention as basis for its decision.

### CFCYL v. Canada (Attorney General)<sup>32</sup>

The Canadian Foundation for Children, Youth and the Law (CFCYL) is an organization dedicated to the protection of children's rights. In November 1998, the CFCYL applied to a court asking for a *declaration* that section 43 of the Canadian *Criminal Code* is invalid because it legalizes the use of corporal punishment against children for the purpose of correction. In other words, children are the only group in society that can be legally assaulted as a means of discipline. CFCYL argued that s. 43 was unconstitutional and violated numerous sections of the *Canadian Charter of Rights and Freedoms*, as well as the United Nations *Convention on the Rights of the Child*.

The Supreme Court of Canada found that s.43 was constitutional, upholding the previous decisions of the lower courts. Despite this, the Supreme Court established some legal guidelines and limitations to be used when determining what degree of force would be considered "reasonable under the circumstances." The Supreme Court held that spanking is only acceptable for children between the ages of 2–12, that the use of objects such as belts or hitting in the head is not permissible, and that no child should be hit in anger or out of frustration. The Supreme Court also added that teachers should not be permitted to strike students, but that limited force is allowed in order to restrain students during a violent outburst. The court considered the convention as a guide to interpreting Canadian law, but did not rely on it.

Both of these cases involved three types of law:

- **Statutory law**—The *Criminal Code* of Canada or Immigration and Refugee Protections Act
- **Constitutional**—The *Canadian Charter of Rights and Freedoms*
- **International**—The United Nations *Convention on the Rights of the Child*.

### Case study activity: What's your opinion?

Have students research the following questions and prepare their opinions, and the research that supports it, on each question. If appropriate, conduct an in-class debate on the whether or not Canadian courts should rely on the Convention of the Rights of the Child when making decisions, or whether domestic law is sufficient.

1. In both cases, the court discussed the importance of the Convention on the Rights of the Child, but chose to make its decision on one of the other types of law. Why do you think the court might choose not to apply international human rights law in Canada?
2. Do online research into Canada's compliance with the international human rights law. Who is arguing that Canada should do more? less? What other perspectives or opinions on these issues can you find?
3. If the same result can be achieved, do you think it matters whether the Court relied on an international rights document or a domestic law? Explain.

### Quick quiz:

True or false:

1. The *Convention on the Rights of the Child* applies to children under the age of 18.
2. Not all children have the same rights under the CRC.
3. The right to play is protected by the CRC.

## Disability rights

In 2011, over 650 million people in the world have a disability; they make up approximately 10% of the world's population and are the world's largest minority. The UN Development Program<sup>33</sup> estimates 80% of persons with disabilities live in developing countries. Worldwide trends, including the combination of population growth, population ageing, and medical advances, mean that this number is climbing.

### Convention on the Rights of Persons with Disabilities (CRPD)

The CRPD requires governments to uphold the rights of children and adults with disabilities. The CRPD recognizes that, although other human rights conventions have the potential to promote and protect the rights of people with disabilities, this potential is not being fully realized. For example, the UN Millennium Development Goals,<sup>34</sup> set in 2000, do not mention “disability.” The CRPD does not create new rights. Its purpose is to guarantee that the rights contained in the *Universal Declaration of Human Rights* and other human rights treaties include persons with disabilities, and its main objective is to promote, protect, and ensure the full and equal enjoyment of all human rights and freedoms by all people with disabilities. The CRPD was adopted in December 2006 and came into force in May 2008. Canada was among the first to sign on and ratified the convention in March 2010.

The main principles of the *Convention on the Rights of Persons with Disabilities* are:

- respect for the inherent dignity of every person, the freedom to make their own choices, and to be independent.
- non-discrimination.
- full participation and inclusion in society.
- respect for differences and the acceptance of people with disabilities as part of human diversity.
- equal opportunity.
- accessibility (i.e., having access to transportation, places and information, not refusing access to someone because she or he has a disability).
- equality between women and men.
- respect for the evolving capacity of persons with disabilities and their right to preserve their identity.

Persons with disabilities are recognized as those people with long-term physical, mental, intellectual, or sensory impairments which, in combination with various barriers, may hinder their full and equal participation in society. The CRPD aims to shift attitudes towards seeing people with disabilities as “subjects” who have

rights and are able to claim their rights and make their own decisions based on free and informed consent. Rather than seeing disability as a medical condition, the convention recognizes disability as the interaction between an inaccessible environment and/or negative attitudes and a person's particular condition. During the years of negotiations on the wording of this treaty—the first major human rights treaty of this century—advocates adopted the credo, “Nothing about us without us!”

The CRPD also sets out measures that states are required to take in order to create an environment where people with disabilities are able to enjoy their rights. This could include ensuring access to the physical environment (such as installing ramps to provide access to public buildings), as well as access to information and communications technology (such as providing translation services, or providing closed-captioning on television stations).

In Canada, the legal basis for ensuring equality for all persons, including those with disabilities, is in both the Canadian Charter of Rights and Freedoms and in provincial human rights codes. Section 1 of the charter reads:

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Section 15 of the charter outlines the fundamental principle of equality before and under law and equal protection and benefit of law:

15. (1) Every individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law without discrimination, and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

Additionally, Canadian provinces and territories have adopted individual human rights codes. The charter applies only to government actions and conduct, while human rights codes apply to interactions between individuals, corporations, and institutions, and members of the private sector as well.

Disability rights discussion questions:

- Are you surprised that people living with disabilities are the world's largest minority group? Why or why not?
- Read the two portions of the charter carefully. How do you think these two sections interact? Explain.
- What do you believe is the intention or goal of section 15?
- Do you think that s.15 of the charter has achieved the goals set out in the *Convention on the Rights of Persons with Disabilities* for people living in Canada? Explain, giving specific examples.
- What do you think it means to say that disability is not a medical condition, but rather an interaction between an inaccessible environment and/or negative attitudes and a person's particular condition?

### Activity: Disability rights in international perspective research assignment

Choose a country other than Canada and find out which, if any, of its laws guarantees the rights of persons with disabilities in the way the *Canadian Charter of Rights and Freedoms* seeks to do. Make note of any important differences.

Identify important organizations or advocacy groups in Canada and in their selected country that work on behalf of persons with disabilities. Explain what these groups do and what they feel are the most important successes, strengths and challenges in their work.

Determine whether conditions for persons with disabilities in their selected country are better, worse, or similar to those in Canada, noting similarities and differences, and providing a rationale and examples in support of your response. The UN compliance reports for each country provide a good starting point.

### Activity: Equality rights—The inclusion of disability as a protected ground

Show the segments of OJEN's DVD, "*Equality: The Heart of a Just Society*," with specific focus on the portions featuring speakers Svend Robinson and David Lepofsky.<sup>35</sup>

Individually, or in groups, have students respond to the following questions:

- How do these clips give a picture of how the Charter was developed and drafted?
- How do you think public participation affected the drafting of the Charter?
- Does public participation continue to impact on how the Charter is interpreted and the new variations of equality rights which the Charter grows to protect?
- How do you think the diverse range of groups that spoke before the committee influenced the drafting of the Charter?
- What was unique about the addition of disability rights to the Charter?
- According to Mr. Lepofsky, what were the myths about equality-seeking groups?
- What are some situations you encounter daily that are obstacles for persons with disabilities? How could the government eliminate these obstacles?
- Why are governments slow or reluctant to act to enforce equality for persons with disabilities?
- Should the cost of rights enforcement be a legitimate consideration for courts and government?

#### **Canadian case studies about disability rights**

##### **R v. Latimer (2001)**

Robert Latimer confessed to the second-degree murder of his severely disabled 12-year-old daughter, Tracy. He claimed he had killed her out of compassion and necessity, because her condition caused her constant pain and great suffering. At trial, he was found guilty and sentenced to imprisonment for life with no eligibility for parole for 10 years, the mandatory minimum sentence for second-degree murder, despite the jury indicating that he should only serve one year in jail. The Court of Appeal replaced the sentence with the lower

suggestion from the jury, making him eligible for parole after one year. The Supreme Court of Canada restored the original 10-year sentence, finding that the mandatory minimum applied, regardless of the sympathetic assessment of the situation, and of Mr. Latimer's intent to protect his daughter from further suffering.

#### Eldridge v. B.C (1990)

John and Linda Eldridge are deaf and communicate through sign language. In 1990, the government of BC stopped providing free sign language interpretation in its medical facilities, and the Eldridges brought a case claiming discrimination, because they were no longer able to communicate effectively with their doctors. After a lengthy trial process, the Supreme Court of Canada ruled in their favour. It held that being able to communicate with one's doctor was a basic medical need, and that, as an agency providing a service guaranteed by the government, hospitals are obliged to provide an interpreter so that deaf patients can have the same access to healthcare as hearing patients.

#### Auton v. B.C. (2004)

In Canada, most medically necessary treatments are paid for by government. The family of Connor Auton, who has autism, sought to have the Government of British Columbia pay for an experimental treatment that helps autistic children develop cognitive, social, and communication skills, and is often a part of the education process. When the government refused to pay for the treatment, they claimed violation of Section 15. Although lower courts found in their favour, the Supreme Court of Canada reversed earlier decisions, finding that the government was only responsible for core healthcare.

#### Case study research or discussion questions:

1. How do you feel about the outcome in each case? How did the results in each case protect people with disabilities? Explain your answers.
2. Review the UN *Convention on the Rights of Persons with Disabilities*. Find examples from the above cases in which you feel the convention was and was not followed.
3. In all three cases, Canadian courts followed the equality provisions in the *Canadian Charter of Rights and Freedoms*. Do you believe that, if they had followed the UN Convention instead, the outcomes would have been more favourable? Less? The same?
4. Do you believe that the rights of persons with disabilities are adequately protected by Canadian law? If so, why do you believe Canada has signed on to the UN Convention? If not, would the UN Convention do a better job? What steps could you take to make your views known to policymakers?

#### Activity: Mapping in/accessibility

Students will compare their own neighbourhoods with a neighbourhood in another country to evaluate how accessible they are to persons with certain forms of disabilities.

1. Group students according to either sensory or mobility disability. Have them conduct independent research to learn about some examples of specific forms of disability within these categories and the particular types of challenges faced by persons with these conditions.
2. Ask each group to pick a similar-sized community in another country. Either by hand or with the online resources like Google maps or MapQuest, ask students to create a map of both their own home neighbourhood and their selected international neighbourhood.
3. Ask students to explore their neighbourhood, either in person, or through Google street view and note which parts of it are accessible, are less accessible, or not accessible at all, to persons with mobility or sensory issues.
4. Have students record their findings on their maps, creating a map key that indicates accessible areas, less accessible areas and inaccessible areas.
5. Ask students to reflect on how they would use their neighbourhoods if they were a person with a sensory or mobility disability.
6. Have students can present their maps to one another in small groups or as a class.
7. Discuss the *Convention on the Rights of Persons with Disabilities* and assess each location's compliance with provisions that promote accessibility.

### Quick quiz

True or false:

1. The CRPD creates new rights for persons with disabilities.
2. Mental illness is not considered to be a disability under the CRPD.
3. The credo, "Nothing about us without us" reflects the desire of persons with disabilities to be treated as subjects who are capable of claiming their own rights and making their own decisions.

## Convention on the Elimination of all forms of Racial Discrimination (CERD)

The CERD commits states parties to the elimination of racial discrimination and the promotion of understanding among all races. The UN General Assembly adopted the CERD in 1965. Canada ratified the convention in 1970. Signatories to the CERD agree to change any domestic laws or policies that create or perpetuate racial discrimination as well as outlawing hate speech and criminalizing membership in racist organizations.

The CERD defines racial discrimination as any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin, which has the purpose or effect of impairing the enjoyment of human rights and fundamental freedoms on equal footing with others. This definition does not apply to distinctions, exclusions, restrictions, or preferences made by a state between citizens and non-citizens. Furthermore, the CERD sets out a non-exhaustive list of rights and freedoms in regard to which racial discriminations are prohibited, such as the right to work, the right to join a trade union, or the right to housing.



The CERD also provides for the establishment of the Committee on the Elimination of all forms of Racial Discrimination. As with the other committees established under United Nations conventions, this one monitors the implementation of the CERD, receives regular reports from states parties, and issues recommendations.

The committee also has access to three monitoring procedures under the CERD:

- an early-warning procedure to prevent existing situations from escalating into conflicts and to respond to problems requiring immediate attention, so as to limit the scale and number of serious violations of the convention
- a procedure for the examination of interstate complaints
- a procedure for the examination of complaints from individuals.

Members of the committee on CERD, like many of the other committees established under UN human rights conventions, are people who are independent experts of high moral standing and impartiality. States parties nominate individuals from their country who are then elected by states parties through a secret ballot. There are 18 members on the committee on CERD.

### Quick quiz

True or false:

1. The CERD protects people's right to join racist organizations.
2. Governments are permitted to make rules that distinguish, exclude or restrict people who are not citizens.
3. The Committee on CERD has a process for examining complaints from individuals who experience racism.

### Activity: CERD and domestic law

This activity focuses on how international law applies to domestic law in efforts to combat racism.

1. Split your class into groups of 2–3 people.
2. Assign each group to read the first five articles of the CERD.
3. Assign each group one of the following Canadian laws or governmental organizations. Ask each group to assess the specific relevant Canadian law(s) in their documents or organization that reflect the values and goals of the CERD. (is i. missing from here?)
  - ii. Canadian Centre for Diversity ([www.centrefordiversity.ca](http://www.centrefordiversity.ca))
  - iii. Canadian Charter of Rights and Freedoms (<http://laws.justice.gc.ca/eng/charter/>)
  - iv. Bill C-3 (Gender Equity in the *Indian Act*)
  - v. Criminal Code of Canada (<http://laws-lois.justice.gc.ca/eng/acts/C-46/>)
  - S. 296 Blasphemous Libel
  - S. 297 Defamatory Libel
  - S. 318 Hate Propaganda
4. Ask each group to present what connections they found between their document and the CERD to the class.



### Class discussion or individual reflection activity

1. Did you find that the law(s) or organization(s) you analyzed were meeting the expectations of the CERD? Why or why not?
2. Do you think the law or organization has a positive effect towards eliminating racism? Is it effective? If not, how should it be changed?
3. What might be the barriers or challenges you think the Canadian government faces when adopting the values of the CERD into Canadian law?
4. Do you think the CERD and legal reform are enough to eliminate racism? What other forms of social change do you see helping the elimination of racism?
5. Give some reasons why Canada would not adopt all the suggestions of the CERD.
6. Give some legal or social reasons for why Canada should adopt all suggestions of the CERD.
7. Can you think of any current laws or acts that violate the CERD, (i.e., *Indian Act*)?
8. How do you think Canada could do a better job to prevent racism in society?

## United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

The United Nations *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT)<sup>36</sup> calls for the complete prohibition of torture worldwide and provides for the creation of the Committee Against Torture to monitor the implementation of the Convention by states parties (countries that are a party to the treaty). The CAT was adopted by the General Assembly in 1984 and Canada ratified the Convention in 1987.

Article 1 of the CAT defines torture as the intentional infliction of severe mental or physical pain or suffering by or with the consent of state authorities for the purpose of obtaining a confession, punishing, intimidating or coercing a person, or for any reason based on any kind of discrimination.

Under the CAT, states parties commit to:

- prohibiting and punishing all acts of torture through appropriate laws and penalties in their domestic criminal law.
- fully integrating educational information about the prohibition of torture into the training of law enforcement, military, and medical personnel, public officials, and any others who may be involved in the custody, interrogation, or treatment of any individual who may be arrested, detained, or imprisoned.
- make guarantees for timely and impartial investigations into allegations of torture by competent authorities.
- take measures to protect witnesses against torture or threats of torture.
- take measures to allow victims of torture to seek justice, including fair compensation and rehabilitation.

In addition, the CAT requires that states parties do not expel or return an individual to another state where that individual may be tortured. Furthermore, torture must be

defined as an “extraditable” offence, meaning that an alleged torturer may be expelled from a country to face consequences elsewhere.

The Committee Against Torture<sup>37</sup> monitors the implementation of the CAT through periodic reports from states parties. The committee will issue recommendations to states parties to provide suggestions about how individual states can improve their efforts to fully implement the CAT. The Committee can also consider complaints from individuals who claim to be victims of torture in violation of the treaty, but only if the country in question agrees that the Committee has the authority to receive and examine such a complaint.

### Quick quiz

True or false:

1. State authorities cannot commit acts of torture.
2. The CAT prohibits states from expelling or sending people to countries where they could be tortured.

### Discussion questions:

- Do you agree that it is a crime to kill a soldier in the heat of battle during a war?
- Terrorist organizations are difficult to hold accountable for their actions because they are nebulous organizations and are often illegal in themselves. How should countries deal with terrorist organizations and the threat of terrorism?
- Review the information on Omar Khadr from page XXX. Both Canada and the United States maintain that an individual is innocent until proven guilty. Reflect upon Khadr’s case, and decide whether you think this principle was followed. If not, was this justified? Explain.

### Activity: Defining torture

- Have students review the definition of torture and discuss it as a class. Take time to ensure they understand the importance of state authorities being named, and inform them that both the US and Canada are signatories to the convention.
- Break students into groups of 3–5. Distribute or display the list of allegations of abuse suffered by Khadr while in US custody found on the following page. Assign each group a number of specific allegations, and have them discuss whether they think each incidence qualifies as “torture.”
- Discuss the fact that, in 2010, the judge in Khadr’s military trial ruled that Khadr was not tortured while he was detained.<sup>38</sup>

### **Allegations of abuse suffered by Omar Khadr at Guantanamo Bay<sup>39</sup>**

- not being informed of his rights
- short shackled—wrists and ankles tied together and the cuffs bolted to the floor
- his hands tied above a door frame for hours
- had cold water thrown on him
- had a bag placed over his head and was threatened with military dogs
- forced to carry five-gallon pails of water to aggravate his shoulder wound

- kept in solitary confinement for a month at “refrigerator” temperatures (referred to in Secretary of Defense Rumsfeld’s memorandum as “manipulation of the environment”)
- forced to perform painful exercises while short shackled
- threatened with forced nakedness
- forced to urinate on himself while in stress positions
- detained illegally and illegally held incommunicado, except for the November 2004 visit from a lawyer
- kept in solitary confinement
- forced into stress positions for periods of hours, e.g., was forced to lie on his stomach with hands and feet cuffed together behind his back
- forced to provide involuntary statements
- forced to sit, during interrogations, on an extremely cold floor
- had his body dragged back and forth, while short shackled, through urine and pine oil in order to clean the floor with his body
- repeatedly lifted and dropped while short shackled as a punishment for “poor performance”
- threatened with rape/sexual violence
- refused the opportunity to say prayers
- held in a cell that is “freezing cold” 24 hours a day that Omar claimed caused him shortness of breath and the sensation of not being able to get enough oxygen
- exposed to continuous electric light in his cell
- he has found partially dissolved tablets and/or powder at the bottom of a glass given to him by his captors. He says the pills produce various effects such as sleepiness, dizziness, alertness
- being denied adequate medical treatment
- left bound in uncomfortable stress positions until he soiled himself.

#### Activity: Class debate

1. Working in pairs, have students brainstorm and record ideas associated with the term “terrorism.” As a large group, summarize these to generate a class definition of the term. Then have students return to their pairs and conduct Internet research to test the class definition against formal definitions, recording the main differences.
2. Screen the film *You Don’t Like the Truth: 4 Days Inside Guantánamo*. Have students write a response paragraph assessing the case for and against Khadr’s detention and interrogation.
3. Divide students into two debating teams. Have groups prepare and debate the question: “Is the use of torture permissible to prevent terrorism?”

#### Activity: Human rights treaties

The *Universal Declaration of Human Rights* has inspired more than 80 treaties for the protection of human rights. This activity will give students an opportunity to explore these treaties in more detail.

This activity may be done individually or in small groups. Assign students the name of a convention from the list available on the ILEHS website. Ask students to research

the following questions online using the ILEHS website as a starting point. Students should report their findings to the class.

1. What is the name of your treaty?
2. What year did your treaty come into force?
3. What kind of rights or whose rights does the treaty protect (i.e., women, children, refugees, religious rights, cultural rights)?
4. List three specific rights or freedoms guaranteed by your treaty.
5. Is there a committee or commission that oversees your treaty (a treaty monitoring body)? What are its responsibilities?
6. Research how your treaty has been used in international law. Have any international organizations used your treaty to advocate for the rights of certain individuals?

Encourage students to discuss their findings, highlighting both the number of treaties that exist to protect human rights and the kinds of rights protected by these treaties.

## Do international human rights treaties work?

Even though many treaties exist for the protection of human rights, violations of these rights still take place every day and work is needed to ensure states enact and enforce appropriate laws for the protection of human rights. The United Nations supports many different bodies that oversee the implementation of treaties by undertaking reports and providing recommendations to signatory states. Intergovernmental and non-governmental organizations are also involved on many levels to help ensure human rights are protected and raise awareness when they are not. These organizations may facilitate public awareness campaigns to encourage political pressure on countries that do not respect human rights. These organizations may also help bring court cases before domestic and international courts to bring violators to justice and make human rights laws stronger.

The more we know about international law and the obligations of states under international treaties, the better able we are to use international law as a tool to encourage governments to incorporate and enforce human rights in their domestic laws.<sup>40</sup> As Canadians, we have an opportunity— and an obligation—to educate ourselves about the options available under international law and to use these tools in our struggle for equality and peace worldwide.

### Indigenous peoples

The term “indigenous peoples” refers to ethnic groups who are native to a land or region and share a distinct cultural identity based on their spiritual traditions, histories, and philosophies. Indigenous peoples often share common experiences, such as a history of colonization, displacement and resettlement, loss of culture, impoverishment, criminalization and discrimination.<sup>42</sup>

### United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a statement of principles aimed at eliminating human rights violations against the

world's 370 million indigenous peoples. Like the Universal Declaration of Human Rights, UNDRIP is not legally binding on the countries that have signed it. Rather, it reflects the aspirations of the countries that have signed it and provides guidance as to how to make the world a better place for indigenous peoples.<sup>43</sup>

UNDRIP was adopted by the UN General Assembly on September 13, 2007. It received 144 affirmative votes, with 11 Member States abstaining from voting, and four negative votes. The negative votes belonged to Canada, the United States, Australia, and New Zealand. Canada stated at the time that the UNDRIP was incompatible with the constitution and legal framework of Canada. However, Canada eventually adopted the UNDRIP on November 13, 2010, stating that it will interpret the principles in a manner consistent with the Canadian legal framework.<sup>44</sup>

Some of the key protections endorsed by UNDRIP include rights of indigenous peoples to:

- enjoy all human rights under international law and to be free from any kind of discrimination.
- practice and revitalize their cultural traditions and customs.
- not be subjected to forced assimilation or destruction of their culture.
- not be forcibly removed or relocated from their lands.

States must consult and co-operate with indigenous peoples and obtain their free, prior, and informed consent before adopting and implementing laws or administrative measures that may affect them.

Even though the UNDRIP is not legally binding on states, it is still very important for indigenous peoples and all global citizens. The United Nations is composed of different countries, but what happens if the government of your country does not speak for (or does not listen to) your people? Consider, for example, the First Nations of Canada who are trying to get the Canadian government to recognize and respect their rights. Canada is represented at the UN, but what about the First Nations communities who are not? The UNDRIP recognizes the rights of indigenous groups who are not represented at the UN in order to ensure that they are not discriminated against and to compel governments to remedy past injustices against indigenous peoples to greatest degree possible.

### Quick quiz

True or false:

1. The UNDRIP is legally binding on signatory states.
2. Canada voted in favour of the adoption of the UNDRIP.
3. The UNDRIP protects the rights of indigenous peoples to practise and revitalize their cultural traditions and customs

## Use of international law by indigenous peoples in Canada

A number of indigenous groups in Canada have used international law to claim protection of their rights under several treaties of the United Nations as well as the Organization of American States.<sup>45</sup>

## Human rights claims to the United Nations

Under the *International Covenant on Civil and Political Rights* (ICCPR), which is part of the *International Bill of Rights*, claims by Canadian indigenous groups have relied on Article 27, which states:

*In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.*

In 1977, Sandra Lovelace filed a complaint with the UN human rights committee, which heard complaints based on the ICCPR, claiming that the *Indian Act*<sup>46</sup> was discriminatory on the ground of sex, contrary to the ICCPR. Ms. Lovelace was born and registered as a Maliseet Indian, but lost her rights and status as an Indian<sup>47</sup> under the *Indian Act* when she married a non-Indian man. Under the same laws, men who married a non-Indian woman did not lose their status. The committee determined that the *Indian Act* violated Ms. Lovelace's rights under the ICCPR because it denied her the right to freely enjoy her culture. As a result of the ruling by the human rights committee, Canada changed the *Indian Act* in 1985 to allow women to keep their status when marrying and to allow women to regain their status if it had been lost as a result of the provisions in the *Indian Act*.<sup>48</sup>

Unfortunately, the amendments made as a result of the Lovelace case did not completely remedy issues of gender discrimination under the *Indian Act*. In fact, the result of the changes to the *Indian Act* was merely to postpone the effect of the discrimination for a couple of generations, because now women who married non-Indians and their children were granted status, but the women's grandchildren were not. In contrast, the grandchildren of Indian men who married non-Indian women were entitled to have Indian status.

In 1985, Sharon McIvor launched a court challenge after she was denied Indian status for herself and her children under the new provisions in the act. Both of McIvor's grandmothers were status Indians, but her grandfathers were not. After 17 years, McIvor's case finally reached the British Columbia Supreme Court (BCSC) in 2006.<sup>49</sup> The BCSC agreed with McIvor that the *Indian Act* contravened the *Canadian Charter of Rights and Freedoms* as well as international conventions on human rights, women's rights and children's rights. The court ordered that the offending section (section 6) of the *Indian Act* to be of no force and effect, meaning that it was essentially void and not legally enforceable.

However, the federal government appealed the decision to the British Columbia Court of Appeal (BCCA), which ruled that although section 6 of the *Indian Act* was discriminatory, the majority of this discrimination was justified.<sup>50</sup> In response to the ruling of the BCCA, Parliament has proposed changes to the *Indian Act* in Bill C-3; however, the proposed changes fail to fully address the sex discrimination embedded in the *Indian Act*.



In 2009, McIvor appealed the BCCA decision to the Supreme Court of Canada, but her appeal was denied. In 2010, McIvor applied to take her case to the United Nations Human Rights Committee. She has stated: “Many people in Canada, Aboriginal and non-Aboriginal, recognize that this long-standing discrimination against Aboriginal women and their descendants is wrong and should end. Before me, Mary Two-Axe Early, Jeanette Corbière Lavell, Yvonne Bedard, and Sandra Lovelace all fought to end sex discrimination against Aboriginal women in the status registration provisions in the *Indian Act*. I will continue, with the same determination they had, until Aboriginal women enjoy equality.” She presented her case to the Committee in 2011.<sup>51</sup>

## Organization of American states

Currently, the Hul’qumi’num Treaty Group (HTG), a coalition of six First Nations whose traditional territories are on Vancouver Island, have appealed to the Inter American Commission on Human Rights<sup>52</sup> for recognition of the ongoing violations by Canada to Aboriginal rights to property, culture, religion, and equality under the law. In particular, the HTG are seeking assistance in protecting forestlands that have been the subject of ongoing and unresolved treaty negotiations. In 2007, the Inter American Commission ruled that Canada’s land claims process did not meet international standards for justice, but has not yet ruled on the specific case of the HTG. In May 2011, the HTG asked the Inter American Commission to call for the provincial and federal governments to suspend logging activities, property sales, and development leases on the disputed lands until the case is resolved.

## Extractive industries and indigenous peoples

The term “extractive industries” is used to describe companies engaged in oil, gas, mining, forestry, and other projects that have significant environmental impacts. Because many indigenous cultures have very strong ties to the land and environment, the effect of extractive industries on the way of life of indigenous peoples can be devastating. So the question is, how can international law be used as a tool to ensure that extractive industries do not destroy the traditional way of life for indigenous peoples or the natural environment that we all depend on?

Although the UNDRIP is not binding, it is expected to be influential when it comes to the relationships between corporations and indigenous peoples. It provides another tool for indigenous peoples to use to push for their rights. UNDRIP sets out the responsibility of governments to gain free, prior and informed consent from indigenous peoples for development projects. Even though the UNDRIP is aimed at governments, it will have a direct impact on corporations as well, especially if governments incorporate the principles of UNDRIP into their domestic laws.

## The Lubicon Cree

On April 29, 2011, the Rainbow pipeline that runs through Northern Alberta ruptured, releasing 4.5 million litres of oil into the environment. It was the largest oil spill in Alberta since 1975. The traditional territory of the Lubicon Cree was part



of the area affected by the spill. The Province of Alberta has said that the spill was contained, and that there would be no threat to public health, but the school had to be closed following the spill because the teachers, students, and community members became sick.<sup>53</sup>



Comstock/Thinkstock

The Lubicon Cree have never signed a treaty to give their land to the Canadian government, nor have they ever given permission to the Canadian government to use their land for oil exploration. Despite this, since the 1970s, the Canadian government has leased approximately 70 percent of the Lubicon Cree's traditional territory to

oil companies for oil and gas development. As a result, the Lubicon people can no longer maintain their traditional economy and way of life and have been thrust into poverty.<sup>54</sup>

For decades, the Lubicon Cree have been involved in disputes with the Canadian government over land claims. Their main complaints are that oil and gas development on or near their traditional territory threatens their way of life, their culture, and the health of their community. In 1990, the United Nations Human Rights Committee ruled that Canada was in violation of Article 27 of the ICCPR for failing to protect the Lubicon land rights from the impact of oil and gas extraction.<sup>55</sup> Since then, the Canadian government has been censured by various UN human rights agencies on multiple occasions.<sup>56</sup> In 2010, the UN Special Rapporteur on the Rights of Indigenous Peoples submitted a report to the UN Human Rights Council stating that there should be no further development on Lubicon land unless the Lubicon people give their consent.<sup>57</sup>

## Canadian domestic law

In Canada, the principle that governments and corporations must consult with indigenous peoples has already been adopted into our domestic laws. In the court case known as *Haida Nation v. British Columbia (Minister of Forests)*<sup>58</sup> the court determined that when the provincial or federal governments consider taking action that may adversely affect aboriginal rights or land title, they have a duty to consult with First Nations and accommodate their interests.

### Quick quiz

True or false:

1. The changes made following the *Lovelace* case removed all gender discrimination from the *Indian Act*.
2. The Lubicon Cree have signed a treaty with the Canadian government that establishes their legal rights.
3. As a result of the *Haida* case, Canadian domestic law requires the federal and provincial governments to consult with First Nations and accommodate their interests.



### Activity: Indigenous communities and extractive industries

This activity is intended to encourage students to think about the impact that extractive industries (such as mining, forestry and oil and gas exploration) have on indigenous communities who rely on the land for their traditional way of life. It should take place prior to discussing materials on extractive industries and indigenous peoples.

Divide the class into three groups:

- One group represents the government of the country.
- One group represents a mining corporation.
- One group represents an indigenous community.

The mining company runs a mining operation on the traditional lands of the indigenous community that has been authorized and subsidized by the government. The mining activities are contaminating the river upstream from the town where the indigenous community is and destroying the forest where the people of the indigenous community would traditionally hunt for food. Ask each group to consider the following:

#### **The government:**

The government has the responsibility to maintain jobs at the mining site and to protect the economy, but it also has a responsibility to protect the environment, as well as to ensure that the human rights of the indigenous community are not violated. The government has to choose where its priorities lie.

Are they going to give tax credits and subsidies to the mining corporation so that it can expand and contribute to the country's economy? Or are they going to protect the traditional lands of the indigenous community?

What do you think the government's priorities should be? Why should they prioritize in this way? How does this affect the government's responsibility to the economy, the environment and the protection of human rights?

#### **The mining corporation:**

The goal of the mining corporation is to continue and expand their mining activities at this particular mining site. They have obligations to their shareholders to run a successful business and make a profit. The indigenous community is appealing to the mining corporation to stop expansion on their land. There are no laws that require the corporation to consult with or get permission from the indigenous community.

Do you think the mining corporation should have any responsibility to the indigenous community? Why?

#### **The indigenous community:**

The indigenous community has not signed a treaty with the government giving over rights to their land. The land of the indigenous community has been taken from them without compensation, and the community feels their human rights are

being violated as a result of the mining activities on their land. The community is concerned that their traditional way of life is being destroyed and that the health of their people is being threatened by the contamination of the river.

What can the indigenous community do to appeal for help? What rights documents can they use to defend their rights? What rights are protected in these documents?

Have each group present their question and the answers they have come up with.

Discuss corporate social responsibility using the following questions:

- Do you think corporations should have a responsibility to indigenous communities when they buy or use land that is or once was the traditional territory of an indigenous community?
- Many governments provide subsidies to extractive industries (such as mining, forestry, and oil and gas). Governments have legal obligations to indigenous peoples, such as the duty to consult and obtain consent. Do you think that corporations receiving subsidies should share these legal obligations? How do you think international law could enforce this?
- What happens if a country decides not to include the rights contained in UNDRIP into their domestic laws? Should corporations have a responsibility to consult with and receive consent from indigenous peoples regardless of whether they are required to by law? How do you think the international community could enforce this?

Discussion questions:

1. What concerns might the indigenous peoples of Canada have about Canada's statement that it will interpret the UNDRIP in accordance with the Canadian legal framework?
2. Why has Article 27 of the *International Covenant on Civil and Political Rights* been important for Canada's indigenous peoples?
3. Do you think it is right for the Canadian government to have allowed oil and gas development on the Lubicon Cree's traditional territory? Do you think the oil and gas companies, as well as the government, should be held responsible for the harm to the Lubicon Cree?
4. Why do you think Canada is so slow to recognize the harm to the Lubicon people, despite repeated judgments from UN human rights agencies?
5. How does the treatment of the Lubicon Cree fit with the judgment in the *Haida* case?

## International Environmental Law

International Environmental Law is a complex body of treaties, conventions, statutes, regulations and common law that works to reduce the impact of human activity on the natural environment. In general, there are two aspects to International Environmental Law: legal standards intended to govern the behaviour of states and international regulation that creates international bodies and organizations. Since international environmental law is mainly made up of treaties, the laws and

principles of those agreements have tended to shape the way states have developed their own domestic environmental laws. One of the main principles of international environmental law comes out of a conference held in Stockholm in the 1970s.<sup>59</sup> Under this principle, known as Principle 21, states have the right to use their own resources according to their own environmental policies, but with that right comes the responsibility to ensure that what they do in their own country does not negatively impact the environment of other states, or those areas beyond state borders, sometimes known as the “global commons.” The global commons include the high seas or “international waters”, deep-sea beds, certain areas of the Antarctic, the atmosphere, and outer space.

Another important principle is the requirement for states to take care to safeguard natural resources—including the air, water, land, plant life, animals, and natural ecosystems—through careful planning and management and the sustainable use of these resources.

Some of the issues addressed by international environmental law include:

- reducing greenhouse gas emissions that cause climate change.
- protecting endangered species.
- controlling acid rain.
- protecting the ozone layer.

## **Customary international law and international waters**

Throughout the world, there are many bodies of fresh water that border or flow through more than one country. These are known as “international watercourses” or “transboundary waters” and include rivers, lakes, and streams that are shared by two or more countries. For example, the Mekong River in Southeast Asia flows through China’s Yunnan Province, Myanmar, Laos, Thailand, Cambodia, and Vietnam. In North America, the Columbia River flows from the Rocky Mountains in British Columbia into the United States. Both the Mekong River and the Columbia River are governed by treaties that specify how the water can be used; however, there are many other international watercourses for which there are no treaties. These watercourses are governed by customary international law which provides rules about how states are allowed to use the water. For example, a state is required to provide “prior and timely notification” to other states that share the watercourse if they are going to change the way they use the water. This means that if one state wants to build a dam that will affect the amount of water that flows into another state, it must notify and consult with the other state before it starts construction of the dam, and provide enough time for the other country to make preparations for the change. States must also take measures to make sure that their use of the water does not cause significant harm to other states that share the water. This is important for international environmental law because it means that states must be careful not to pollute a shared river or lake, so as to cause damage to the land or people in another state (for example, the contamination in one country of a river that flows into another country).

## Intergovernmental organizations and NGOs

Intergovernmental organizations and NGOs are influential in the development and implementation of international environmental law. These bodies work to foster co-operation between states and facilitate discussions and research on environmental issues. For example, environmental NGOs such as Friends of the Earth, Greenpeace and the World Wildlife Fund participate in research, and initiate public awareness campaigns to draw attention to specific issues. These bodies also sometimes bring or assist in bringing cases to court in order to influence international environmental policies.

In addition, the *Rio Conventions*, consisting of the *Convention on Biological Diversity*, the *United Nations Convention to Combat Desertification* and the *United Nations Framework Convention on Climate Change*, represent a commitment to co-operation and partnership with other conventions, organizations, and initiatives to meet goals for sustainable development.<sup>60</sup> The three conventions are strongly linked to one another, addressing independent environmental issues—conservation of biological diversity, desertification (the process through which an area becomes a desert, often caused by drought), and climate change—within the same ecosystems.

## The Kyoto Protocol

The *Kyoto Protocol*<sup>61</sup> is an international treaty for the reduction of global greenhouse gas emissions. Greenhouse gases include carbon dioxide, methane, and nitrous dioxide which all contribute to global warming and climate change. Greenhouse gases are thought to be responsible for the increased frequency of extreme weather conditions such as flooding and droughts, alpine and polar melting, and shifts in ocean currents.

The *Kyoto Protocol* was adopted in Kyoto, Japan in 1997, and came into force in 2005. The treaty is the first of its kind to set quantifiable and binding targets for the reduction of greenhouse gas emissions. Specifically, states parties have agreed to reduce their overall emissions by 5% below those recorded in 1990. These reductions are to take place between 2008 and 2012.

Because developed countries are primarily responsible for the current levels of greenhouse gas emissions, the *Protocol* puts a heavier burden on developed nations to reduce their emissions. The treaty requires countries to reduce emissions mainly through national measures, such as the creation of laws and policies for emission reduction, but it also contains some additional ways for countries to meet their targets. For example, emissions trading allows countries that have not used up their allowed emissions units (the amount of greenhouse gases that a given country is permitted to emit) to trade those units to countries that are over their allotted amounts.

Canada ratified the *Kyoto Protocol* in 2002; however, since 2006, it has been widely acknowledged that Canada has failed to achieve its commitments under the Protocol,

and that Canada's greenhouse gas emissions have in fact increased, largely due to developments in the Tar Sands in Alberta.<sup>62</sup> In June 2011, Canada announced that it would not sign onto an extension of the Kyoto Protocol.

### Quick quiz

True or False:

1. International environmental law is a single law.
2. States, or individual countries, can do whatever they want with their natural resources.
3. Canada has agreed to sign on to the extension of the *Kyoto Protocol*.

### Case study: The Northwest Passage

The Northwest Passage is a sea route through the Arctic Ocean and along the northern coast of North America that connects the Atlantic and Pacific Oceans. For centuries, explorers sought to find a possible trade route through the Northwest Passage, but the Arctic sea ice prevented regular marine shipping for most of the year. In fact, many explorers lost their lives in an attempt to find a passage through the ice.



The Northwest Passage has been the subject of controversy in international law because of a dispute over who has sovereignty over the waterway. Canada claims that the Northwest Passage is part of its internal waters. Under the United Nations *Convention on the Law of the Sea*, a country is free to set laws and regulate the use of its internal waters. Foreign vessels have no right to pass within the internal waters of another country. The United States and Europe, on the other hand, claim that the waters of the Northwest Passage are international waters, meaning that anyone is free to navigate or pass through those waters.

As a result of climate change, the levels of sea ice have been drastically reduced, and in 2007, it was reported that the Northwest Passage was free of sea ice for the first time in recorded history.<sup>63</sup> Although the levels of sea ice fluctuate every year, it is speculated that, by the end of the twenty-first century, there might be no sea ice at all in the summer, making the Northwest Passage attractive as a major shipping route. As a result, the question of who “owns” the Northwest Passage takes on increasing significance. If the Passage is considered to be international waters, then any country in the world could use it as a shipping route. The benefits to having a clear path

through the Passage include reducing shipping routes between Europe and East Asia by approximately 4000 km, thereby saving time, fuel, and transit costs. Oil produced in Alaska could be transported more quickly and vast mineral deposits in the Canadian north would become much easier and more economical to develop.

However, there is also the possibility for significant environmental impacts. Beside the fact that the melting polar ice is seriously threatening Arctic animal habitats, such as that of the polar bear, the opening up of the Northwest Passage as an international shipping route would increase the risk of oil spills from ships and Arctic drilling. The environmental impacts of the Exxon Valdez oil spill in 1989 off the coast of Alaska are still being felt today, more than 20 years later<sup>64</sup> and environmentalists are concerned that the Arctic environment could be put at even further risk should the Northwest Passage become a major shipping route.

Discussion questions:

1. Why is Principle 21 important for countries with transboundary resources such as rivers or lakes that are shared between two countries?
2. Why is it important to establish who has sovereignty over the Northwest Passage?

## Shifting conflict patterns

### Use of armed force

Although there have been rules governing the rights of states to make war for centuries, the modern laws prohibiting the use of armed force are inextricably linked to the development of the United Nations, and in particular, the Security Council, through chapters six and seven of the *UN Charter*. Generally, the *UN Charter* states that members of the UN must refrain from the threat or use of force against any other state. The *UN Charter* further requires Member States to settle international disputes by peaceful means. The right to make war used to be considered one of the fundamental rights of sovereign states, so the modern laws prohibiting the use of force, except in special circumstances, have been controversial.

There are two exceptions to the prohibition of the use of force in the *UN Charter*:

1. Member States may engage in military action that has been taken or authorized by the Security Council for the purposes of maintaining or restoring international peace and security. This is called the “collective security mechanism.”
2. States have the right to use armed force in self-defense. However, there are some limits to this right, and some debate as to when a state is actually acting in self-defense. Typically the right of self-defense only extends until the Security Council has addressed the situation through the collective security mechanism.

The rule against the use of force, and its exceptions, only govern whether and when a state may resort to armed force. There are different rules that apply once a state has begun using armed force against others—known as humanitarian laws or the laws of war.



## Humanitarian law

Humanitarian law defines the conduct and obligations of nations engaged in warfare, both in terms of how states act toward one another, and how they act in relation to civilians, or those not involved in the fighting. It is also known as the “laws of war.” The rules and principles of humanitarian law were designed to save lives and alleviate suffering during armed conflict and are contained mainly in the *Geneva Conventions* and the *Hague Conventions*,<sup>65</sup> as well as in subsequent treaties, case law, and customary law.

### The Geneva Conventions

The *Geneva Conventions* are a series of treaties that have been signed onto by most countries in the world.<sup>66</sup> The purpose of the *Geneva Conventions* is to provide protection for individuals who are *hors de combat*, meaning those who are outside the fight (civilians and wounded soldiers, for example) and to restrict the methods of warfare, such as military tactics and weaponry.<sup>67</sup> The first *Geneva Convention* was signed in 1864 and established rules to protect soldiers who had been wounded and could no longer participate in the fighting. Subsequent conventions have provided protections for medical personnel, hospital ships, civilians who spontaneously take up arms to repel an invasion, prisoners of war, and civilians. Rules also exist for the protection of cultural objects and places of worship and to prohibit the recruitment of child soldiers.

### International War Tribunals—former Yugoslavia and Rwanda

Since World War II, the UN has established two tribunals to deal with serious breaches of humanitarian law in the former Yugoslavia and Rwanda. The International Tribunal for the Former Yugoslavia was the first war crimes tribunal established (in 1993) by the UN Security Council in response to mass atrocities taking place in Croatia and Bosnia and Herzegovina during the 1990s. There were reports of thousands of civilians being killed, wounded, and tortured in detention camps and hundreds of thousands more expelled from their homes. The tribunal charged over 160 people, including heads of state, prime ministers, and high ranking military and police leaders from various parties to the conflicts in Yugoslavia.

The UN Security Council established the International Criminal Tribunal for Rwanda in 1994 to prosecute persons responsible for genocide and other serious crimes committed in Rwanda during a conflict between the Tutsi and Hutu peoples. Similar to the Tribunal for the former Yugoslavia, the Tribunal for Rwanda brings high-ranking officials to account for the massive violations of human rights in Africa. Through its judgments and the enforcement of prison sentences, the Tribunal aims to provide an example to be followed in other parts of the world where these kinds of crimes have been committed.

### Case Study: Podujevo massacre, Kosovo

Vlastimir Djordjevic was the deputy minister of the interior for Serbia and was responsible for all units of the Serbian police force. In March 1999, Djordjevic ordered a paramilitary group called the Skorpions to be incorporated into the anti-terrorist



unit of the Serbian police force and deployed into Kosovo. The Skorpions were a well-known paramilitary group that had previously participated in massacres that targeted ethnic minorities in Serbia, including the massacre of over 8,000 men and boys in Srebrenica, Bosnia.

On March 28, 1999, the new men were driven by bus to the town of Podujevo, Kosovo. Within hours of arriving, members of the Skorpions lined a group of local women and children against a wall and opened fire on them. Sixteen Kosovo Albanian civilians, all women and children, were killed. Five of the children survived the massacre but sustained multiple serious gunshot wounds.

Djordjevic was charged and tried for his responsibility for this massacre, along with a number of other actions, by the International Criminal Tribunal for the former Yugoslavia (ICTY). Two of the children who survived the massacre, a member of the Skorpions, and several senior police officials testified against him. Two leaders of the police unit testified in support of Djordjevic, stating that the Skorpion members acted without official authority and were not following orders.

#### Discussion questions:

- Who should be prosecuted for the massacre? Should Vlastimir Djordjevic be held responsible for these killings? Why or why not?
- Who should prosecute this crime? Should it be dealt with by the Serbian government? Or by an international tribunal like the ICTY, as part of its mandate to prosecute war crimes committed during the conflicts in the Balkans in the 1990s?
- Should the person ultimately responsible for the police force and the Skorpions be held criminally responsible for failing to properly discipline and punish the perpetrators for their actions?

Additional facts: Several weeks after the massacre, Djordjevic re-deployed 108 members of the original group of 128 men to Kosovo, where they participated in further operations in ethnic Albanian villages. All of the men who had committed the killings were redeployed, except for one. Djordjevic was charged by the ICTY with both failing to take the necessary and reasonable measures to prevent the killings in Podujevo, and failing to take the necessary and reasonable measures to *punish* the perpetrators.

- Can Djordjevic's actions in incorporating and deploying the Skorpions be seen as evidence of an intent to contribute to the ethnic cleansing of Kosovo? What evidence would you look for to argue that this was his intention?

## The International Criminal Court

The International Criminal Court (ICC) is the first permanent, treaty-based international criminal court established to bring to justice the perpetrators of the most serious war crimes. The ICC is established under the *Rome Statute*, a treaty that came into force in 2002 and has been signed onto by 114 countries.<sup>68</sup>

Unlike the Tribunals for Rwanda and the former Yugoslavia, which were established by the UN Security Council and only prosecute crimes committed during specific conflicts, the ICC is a permanent court of criminal jurisdiction that is independent from the UN. The ICC only tries cases that have not been investigated or prosecuted by a national judicial system, unless those proceedings are deemed not to be genuine (for example, a trial is held for the purpose of shielding a person from criminal responsibility) and only tries persons accused of the most serious crimes, including genocide, war crimes and crimes against humanity.

### Activity: The International Criminal Court

This activity focuses on the establishment of the most recent international tribunal, the International Criminal Court. The purpose of this activity is to weigh the arguments given by supporters of the Court, such as Canada, against the arguments made by countries such as Iran, Iraq, Israel, Russia, and the United States who oppose it. Students will then write a persuasive “editorial” about the necessity of the International Criminal Court based on their own perspective.

1. Review the concept of international law by referring to the work of Louise Arbour, the former Chief Prosecutor of the International Criminal Court for the former Yugoslavia and Justice of the Supreme Court of Canada, and currently the United Nations High Commissioner for Human Rights, or refer to the work of other international legal figures.
2. Ask students why some international law proponents began to argue for a permanent international tribunal. (Students will likely note the inadequacy of temporary tribunals or tribunals devoted to a specific situation. They will likely argue that these tribunals were not objective, but were dictated by the “winners” or the most powerful.)
3. Provide students with a brief overview of the development of the International Criminal Court and the role played by Canada. (Canada is not only a signatory and ratifier of the 1998 founding Rome Treaty, but an important member of the Preparatory Commission which did the legal “legwork” that led to the establishment of the International Criminal Court in July, 2002. Philippe Kirsch, a Canadian, is also the first President of the International Criminal Court.)
4. Provide students with examples of countries that have signed and ratified the Rome Treaty and of those that have not. Remind students that ratification of, and not merely the signing of, the Treaty is necessary for the Court to apply to a particular country. Examine and discuss with students the differing perspectives on the desirability/workability of such a Court.
5. Have students write an “editorial” in which both sides of the argument are presented and in which students argue, ultimately, for or against the Court based on their own perspective.

### Quick quiz:

True or false:

1. Humanitarian law is also known as the “laws of war.”
2. A person who is *hors de combat* is someone who is part of the fighting.

3. The International Tribunals for Rwanda and the former Yugoslavia can prosecute cases for criminal acts during any world conflict.
4. The International Criminal Court is part of the United Nations.

## United Nations Security Council Resolutions 1325 and 1820

### United Nations Security Council Resolution 1325

In 2000, the UN Security Council enacted *Resolution 1325* that requires Member States to engage women in all aspects of their conflict resolution and peace processes. The resolution is important for its acknowledgement of the importance of women's experiences of conflict to establishing and maintaining peace and security. The provisions of the resolution call for an increase in women's involvement at all levels of decision-making in international and national institutions that work toward peace and security. It also calls for women's involvement in developing responses to women's needs for justice following armed conflicts, the protection of women and girls from sexual violence, and ensuring that crimes against humanity affecting women are punished.



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The resolution is very important for peace-building because it acknowledges that conflict affects women and girls differently than it does men and boys. For instance, during times of war, women may be forced to flee areas of conflict with as many members of their family as they can, and have been estimated to make up 75% of refugees and people displaced by war. These women become responsible for taking care of their families; however, in many countries, women are not given the training and skills to get jobs that will allow them to adequately provide for their families. Women and girls are also increasingly the targets of sexual violence during conflict and in refugee camps.

*Resolution 1325* recognizes the important role that women play in the prevention of armed conflicts, and provides the opportunity for women to take on an equal role in developing strategies to maintain peace and security and rebuild in the aftermath of conflict.<sup>69</sup>

### Security Council Resolution 1820—Rape as a Weapon of War

On June 19, 2008, the UN Security Council unanimously adopted *Resolution 1820*, which demanded “an immediate and complete halt to acts of sexual violence against civilians in conflict zones.” *Resolution 1820* recognizes that acts of sexual violence are often used as a war tactic in conflict zones, and stresses that such specific violence

exacerbates conflicts and impedes peace processes. Many stakeholders are identified in the resolution, including states that are not in conflict, such as Canada, to consider measures that encourage states in conflict to protect civilians, persecute perpetrators, and develop policies, activities, and advocacy tools promoting the protection of women from violence in armed conflict.

In a statement to the Security Council on the day *Resolution 1820* was adopted, the representative of The Netherlands to the United Nations made four key points:

1. First, we need to target men. Gender equality and women’s empowerment cannot be achieved without the involvement of men.
2. Secondly, acts of sexual violence should not go unpunished....Fighting impunity is also one of the key elements of the resolution on all forms of violence against women that The Netherlands and France presented in the General Assembly.
3. Thirdly, acts of violence against women are often committed by soldiers—the very people who are supposed to provide protection. ... We believe that all peacekeeping troops and police contingents should be given comprehensive gender training before deployment. ...Additionally, the United Nations should make an extra effort to appoint more women in senior leadership positions in peacekeeping missions. ...The United Nations should also vigorously implement its zero tolerance policy.  
...
4. Finally, women are not just victims. It cannot be repeated often enough that women and women’s organizations have to be included in peace and reconciliation processes. They also need to be involved in justice and reparation programs, including post-rape care.

#### Activity: Research Assignment—When governments use rape as weapon

Ask students to research Stephen Lewis’ campaign against Robert Mugabe and the efforts to prosecute Mugabe for the systemic use of rape as a weapon. Stephen Lewis’ report *Electing to Rape*, is available at: [www.aidsfreeworld.org/Publications-Multimedia/Reports/Electing-to-Rape.aspx](http://www.aidsfreeworld.org/Publications-Multimedia/Reports/Electing-to-Rape.aspx)

Have students identify the obstacles to international sanctions in this situation (lack of political will, evidentiary issues, risk to victims) and discuss strategies to overcome these challenges. Refer to the aspects of the report that address these issues.

#### Activity: Personal experiences of women during armed conflict

During the Rwandan civil conflict and genocide of Hutus by Tutsis, rape was used as a weapon of both war and genocide. Many women had children as a result of repeated rape during the conflict. These children, and their mothers are shunned by both the Hutu and Tutsi community. Discuss how sexualized violence is used to erode national or ethnic identity and divide families and communities. Refer to the book “The Men Who Killed Me” for first person accounts from women who survived the conflict.<sup>70</sup> Have students visit the website [www.menwhokilledme.com/](http://www.menwhokilledme.com/) and research ongoing efforts to assist survivors of sexual violence in Rwanda.

### Quick quiz:

True or false:

1. Sexual violence is a crime of war.
2. Women don't have anything important to contribute to peace-building.
3. *Resolution 1325* is about the International Criminal Court.

### Case Study: Libya and the Responsibility to Protect (R2P)

The *Responsibility to Protect (R2P)* is a new international human rights standard aimed at preventing and stopping genocide, war crimes, ethnic cleansing and crimes against humanity (collectively known as “mass atrocities”). The standard was adopted at the United Nations World Reform Summit in 2005. There are three principles underlying R2P:

1. States have the primary obligation to protect their populations from mass atrocities.
2. The international community should encourage and help states to exercise this obligation.
3. The international community has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help protect populations. If a state fails in its responsibility to protect its population, the international community must be prepared to take stronger measures, including the collective use of force authorized by the Security Council.

In early 2011, the government of Libya allegedly committed war crimes and crimes against humanity in response to peaceful civilian protests. Muammar Gaddafi, Libya's political leader, called on his supporters to attack the protesters and “cleanse Libya house by house.” Beginning in mid-February, the international community started adopting a range of peaceful and coercive measures in response to Gaddafi's growing threats against the people of Libya. These measures included asset freezes, travel bans, arms embargos, and a referral to the International Criminal Court. Within weeks, Gaddafi expressed a clear intent to continue committing massive human rights violations by announcing through the media that his forces would show “no mercy” to rebels, and would search every house that night. His comments indicated an imminent intention to massacre the city's population.

On March 17, 2011 the UN Security Council put the R2P principle into action, declaring a no-fly zone and ceasefire in *Resolution 1973*. This was the first time that the Security Council had ever authorized military action against a non-co-operative state in order to protect the population, explicitly applying the R2P doctrine.

Critics of the UN Security Council's intervention in Libya question why R2P-based military action was taken in Libya, but not in other countries where there are also conflicts that threaten the civilian population, such as Cote d'Ivoire (Ivory Coast), Syria, or Yemen. The international community is working to ensure that appropriate measures under R2P are taken when warranted, so that the R2P doctrine is not abused by countries claiming to protect a population while actually seeking political gain.

## Engendering the R2P

Even prior to adoption of the R2P principle by the UN General Assembly in 2005, researchers from the University of Victoria International Women’s Rights Project (IWRP) were among the first to advocate at the UN for “engendering” the R2P by incorporating gender equality principles drawn mostly from Security Council Resolution 1325 (passed in 2000). The IWRP is no longer alone in arguing that, for the R2P doctrine to be effective in protecting all human beings, the UN must not be “gender blind,” meaning that those implementing R2P cannot ignore the differing needs and capacities of men and women in times of conflict and post-conflict reconstruction. For example, UN representatives must take into account the reality that when violence erupts, it is vital that women’s particular needs are not hidden by a policy that states that everyone is the same. Such a policy fails to recognize that women, because they are generally poorer and socially marginalized, require more or different assistance than men.

The IWRP researchers pointed out how deeply held values and attitudes reinforce systemic barriers for women, such as low social status, fewer or no property rights and lack of access to basic services in health and education, as well as how social constructions of gender inequality create these barriers. IWRP argued that, if the UN allows the R2P doctrine to be “gender blind,” it will likely contribute to reinforcing gender-based human rights violations that make the difference between life and death.<sup>71</sup>

### Discussion questions:

1. Describe what is meant by the “collective security mechanism.”
2. What does it mean when someone is *hors de combat*? Why should they be protected?
3. What are some advantages of the International Criminal Court over the Tribunals for Rwanda and the former Yugoslavia?
4. Why do you think the R2P principle is an important development in international policy? Why wouldn’t the international community want to use R2P as a justification for military intervention in all circumstances where a population might be at risk?



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## Culminating activities

These three culminating activities rely on the information included in the preceding sections and ask students to integrate their new knowledge and use advocacy and communications skills:

Model United Nations

Mock International Criminal Court Trial (child soldiers fact pattern)

Action Plan on Child Labour



### Activity: Model United Nations

In this activity, students will conduct a model United Nations General Assembly session in which they will co-operate to solve major world problems.

Begin with a discussion of world issues currently in the news. Students may wish to draw on the issues that came out of the Current Events & International Law Activity. Select an issue to address in the model UN session, such as the issue of child soldiers. Assign students to represent various UN Member States by allowing them to form groups or by assigning groups. Students may choose which Member State<sup>72</sup> they wish to represent or these may also be assigned according to the chosen issue.

Students will develop a profile of the nation they represent, conducting research either online or in print. The profile should include the following information: geographic location, physical features, climate, a description of the political system, form of government, demographic information, economic system and statistics, issues of domestic concern, regional or local conflicts, membership in major alliances and organizations, and global issues that may have a direct impact on that nation. Encourage students to look up online records of debates in the Security Council and the UN General Assembly and to use portions of text from the accrual speeches by ambassadors on the chosen topic.

Based on the information in the profile,, students can draft resolutions to present at the model UN session. Their resolutions should relate to how the individual nations think the global issue selected by the class should be addressed. Students must keep in mind that each nation has its own national interests, obligations to other nations with whom they've signed treaties and obligations as members of the United Nations.

Students may choose who they wish to elect as a moderator or “Secretary General” for the model UN. This can be another student or the teacher. It is recommended that the teacher act as “UN Control” throughout the session and assist students with whatever issues arise and keep the session running smoothly. The teacher may also wish to review the basic rules of order with students and determine an appropriate procedure for the presentation and discussion of resolutions.

### Activity: Mock International Criminal Court Trial

Have students select roles as lawyers, judges, and witnesses and argue a trial before the International Criminal Court.

Visit OJEN's website<sup>73</sup> to download the following components of the mock trial (available at no cost in English and French):

Scenario: Child Soldiers—International Criminal Court Mock Trial

International Criminal Court: Role Preparation Package

International Criminal Court: Justice Sector Volunteer package

Contact a lawyer with international law experience to speak to students or to help coach them in their roles (optional).



*Former Child soldiers in eastern Democratic Republic of the Congo*

L. Rose/Public Domain



Conduct a mock trial with students acting out all of the roles in the trial. Invite a students to watch trial in the roles of press reporter, UN staff member or observer and report on the progress of the trial.

Refer to OJEN's *Making the Case: Toolkit for Mock Hearings* for ideas on how to involved up to 35 students in a mock trial, as well as assessment and evaluation ideas.<sup>74</sup>

### Activity: Action plan on child labour

Develop an action plan to address specific concerns about child labourers. These activities are designed to prepare students for a visit by a legal or other expert (e.g., Amnesty International, Human Rights Watch, Free the Children) on the subject of international law and human rights.

1. Ask students to consider the following questions: Why are children's rights important? What rights do grade 10 students have? Do you consider yourselves to be children? How would your rights be different without legal safeguards?
2. Introduce the topic of child labour: One of the major problems afflicting children worldwide is child labour. This will be the focus of the students' group research investigations. Teachers should indicate that the International Labor Organization, a UN agency, estimates that 250 million children between the ages of 5 and 14 are working in developing countries. Half of these children work full time. If the number of "hidden" or unreported child workers and street children were added to this figure, it is estimated that the number of children working as child labourers would climb to well over half a billion. Discuss the meaning of "child labour." Although working children may be different ages in one or another geographic location, the main principle is that they are young people working full or part time

for long hours for little or no pay at jobs that are often dangerous, unhealthy, and are not in their best interest.

Conduct a brainstorming exercise on the types (and sources) of child labour that exist, indicating that these topics will form the basis of their research. Types that will emerge include: street kids, sex workers, child soldiers, agricultural workers (both for the family and for commercial purposes), factory workers, migrant workers, minority group workers, work that involves girls in particular (and the special problems girls face in developing countries), bonded labour, and the role of globalization in generating child labour. Child labour in developed countries could form a distinct topic or could be blended into one or more of the others.

Divide students into groups of two or three and have them choose one of these topics for their research and presentation, which should include three main parts to each topic and that students must provide:

1. evidence of the existence/prevalence of the type of child labour they are investigating.
2. a clear description of what life is actually like for the children doing this type of labour.
3. one or two practical “doable” suggestions for improving or doing away with this type of labour.

Follow up and development of action plan

Review as a class the recommendations for action contained in the presentations. Develop a class consensus on what practical “doable” action the class should take. This may take the form of letter writing to a government official, a human rights organization, or an individual human rights promoter. It might also involve forming or participating in an existing human rights group to monitor on-going developments in the area of child labour.

Invite a representative from a human rights or international law organization to come and speak to the class. Teachers might try contacting someone for Amnesty International, Human Rights Watch, or another organization that focuses on the problems of child labour.

## Conclusion: Global citizenship revisited

Revisit the original discussion on global citizenship based after having learned about international law:

- Have opinions on what it means to be a global citizen changed?
- Are there things you would like to add to the definition(s)?
- Do you feel that these definitions reflect the variety of global perspectives?

International law is mainly driven by the relationships between states, but relies on the participation of individuals to have an impact on international policies. There are many organizations working to fight for human rights, environmental protection and peace. Some of these organizations were started by youth, and encourage other youth to help work toward achieving human security and the freedom from fear and want.<sup>75</sup>

As our world becomes increasingly globalized, it is more important than ever for everyone to know and understand the international legal principles underlying today's most pressing international issues and realize their value as tools for change. Armed with the more information about International Law, citizens, youth and adults alike, can take action in the fight for peace, equality, social justice and human security on a worldwide scale.



## Appendix I — Quick Quiz answer key

- What is International Law? (1) False (2) True (3) False  
 What is International Law II (1) False (2) False  
 Who is Governed by International Law? (1) False (2) True (3) False  
 How is International Law Created? (1) False (2) False (3) False  
 The United Nations (1) True (2) False (3) False (4) True  
 UN Monitoring (1) False (2) False (3) True  
 Universal Declaration on Human Rights (1) False (2) True (3) True  
 CEDAW (1) False (2) True (3) False  
 CRC (1) True (2) False (3) True  
 CRPD (1) False (2) False (3) True  
 CERD (1) False (2) True (3) True  
 CAT (1) False (2) True  
 UNDRIP (1) False (2) False (3) True  
 Extractive industries and Indigenous People (1) False (2) False (3) True  
 Kyoto Protocol (1) False (2) False (3) False  
 Humanitarian Law (1) True (2) False (3) False (4) False  
 Rape as a Weapon of War (1) True (2) False (3) False

## Appendix II - Glossary

**Article**—A section of a treaty, contract or statute.

**Bilateral treaty**—A treaty agreement made between two countries.

**Ceasefire**—A temporary stoppage of a war in which each side agrees with the other to suspend aggressive actions.

**Civil law**—The body of law that deals with disputes between private parties, such as individuals and corporations. Civil law also refers to the legal system in Quebec.

**Climate change**—Small but steady changes in average temperatures around the world.

**Common law**—A system of law that originated in England and is based on past court decisions.

**Commonwealth**—An association of countries that were formerly colonies of the British Empire.

**Constitution**—The supreme law of a state that sets out how the state will be organized, the powers and authority of the government and the basic principles of society. The constitution will usually “trump” other national or local laws if there is a conflict between them.

**Covenants and Conventions**—Both terms refer to binding agreements, or treaties, made under international law.

**Crimes against humanity**—A legal term defined in the Rome Statute<sup>76</sup> as widespread or systematic offences that constitute a serious attack on human dignity or grave humiliation or degradation of one or more human beings.

**Criminal law**—The body of law that declares acts to be crimes and prescribes punishments for those crimes.

**Custom**—Law that becomes binding on states although it is not written, but rather adhered to out of custom. Customary international law is created when countries repeatedly behave a certain way because they believe they are legally required to do so. It is one of the main sources of international law.

**Declaration**—A document stating agreed upon standards, but is not legally binding.

**Democracy**—A system of government in which people freely choose who will govern them through elections. It also refers to the principles and ideals of such a government, such as freedom of speech and the rule of law.

**Discrimination**—The unjust or prejudicial treatment of different categories of people, especially on the grounds of race or gender.

**Domestic law**—The internal or national laws and legal system of a country, including laws made at the state, provincial, regional or local level. Domestic law is also referred to as “national law.”

**Due process**—The principle that the government must respect all legal rights that are owed to a person according to the law. For example, one of the rights protected under the doctrine of due process is the right to an impartial judge.

**Ethnic cleansing**—The elimination of an unwanted ethnic group or groups from a society, by genocide or forced relocation.

**Extractive Industries**—A term that describes industries or companies engaged in activities that have significant environmental impacts, such as oil, gas, mining and forestry.

**Formal equality**—To treat all people the same, regardless of their gender, race, religion or other circumstances or to treat all states the same, regardless of their economic, political or other status.

**Genocide**—The mass killing of human beings, especially a targeted group, such as people of a particular ethnicity, race, religion or nationality.

**Globalization**—The process by which regions and countries of the world are becoming interconnected.

**Global Warming**—The gradual increase in the temperature of the earth’s atmosphere, believed to be caused by increased levels of greenhouse gasses such as carbon dioxide, methane and nitrous dioxide.

**Humanitarian law**—Defines the conduct and obligations of nations engaged in warfare, both in terms of how states act toward one another and how they act in relation to civilians and those not involved in the fighting. It is also known as the “laws of war.”

**Human rights**—The rights possessed by all persons, by virtue of their common humanity, to live a life of freedom and dignity. Human rights are universal, inalienable and indivisible. The idea of human rights as inalienable means that it is impossible for anyone to give up their human rights, even if he or she wanted to, since every person is granted those rights by virtue of being human. It also means

that no person or group of persons can deprive another individual of her or his human rights. The indivisibility of human rights means that none of the rights considered to be fundamental human rights are more important than any other; they are inter-related.

**Human Security**—An emerging way of thinking about security (the state of being free from danger or threat) that places human beings—rather than states—as the focal point of security considerations. Human security has been described as the freedom from fear and want.<sup>77</sup>

**International governance organizations**—Organizations that are set up by a legal agreement or treaty between two or more states to attempt to solve problems that affect multiple states and designate regulations intended for a global scale.

**International law**—A set of rules and customs that govern the relationships between countries, known as states.

**Jurisdiction**—The power or authority to do something, such as make laws.

**Legally binding**—Means that certain actions are now either required or prohibited by an agreement and violating the terms of the agreement can have legal repercussions enforceable by law.

**Mandate**—A direction or authorization to act in a particular way on an issue. In the context of the UN and other international organizations, it refers to the document that describes how a particular role is to be fulfilled.

**Mass atrocities**—A legal term that includes acts that are considered to be crimes against humanity, war crimes and ethnic cleansing.

**Member State**—A state that is a member of the United Nations.

**Multilateral treaty**—A treaty agreement made between three or more countries.

**Negotiation**—Discussion intended to produce a compromise or mutually acceptable agreement.

**Non-governmental organization (NGO)**—Organizations set up by individuals or groups that advocate for social justice and act as an intermediary between state-dominated international legal systems and individuals. NGOs work to influence government policies at national and international levels.

**Optional Protocol**—An optional protocol to a treaty is a multilateral agreement that governments can ratify or agree to, intended to further a specific purpose of the treaty or assist in the implementation of its provisions.

**Party to a treaty**—A country that has signed onto and ratified a treaty and agrees to be legally bound by its terms.

**Peacebuilding**—The process and activities involved in resolving violent conflict and establishing a sustainable peace.

**Peacekeeping**—An activity that aims to prevent further conflict between parties. Peacekeepers are usually deployed to monitor the implementation of a ceasefire and oversee the resolution of conflict.



**Peacemaking**—Peaceful efforts to stop a conflict or prevent its spread by bringing hostile parties to an agreement. These efforts usually involve the use of diplomatic techniques, such as negotiation.

**Ratification**—The process by which a state officially consents to being legally bound by a treaty.

**Repatriation**—To return someone to their country of citizenship.

**Resolution**—The formal decision of an organization.

**Responsibility to Protect (R2P)**—The international human rights standard aimed at preventing and stopping mass atrocities. R2P empowers the international community to intervene when a country fails to protect its population from serious harm.

**Right**—A moral or legal entitlement to have or do something.

**Rule of Law**—A fundamental legal principle that states that the law applies equally to all persons and that no one, neither an individual nor a government, is above the law.

**UN Security Council Resolution**—A formal expression of an opinion or intention adopted by the UN Security Council. For example, UN Security Council Resolution 1325 provides for the increased participation of women at all levels of decision-making in matters of peace and security.

**Social justice**—Refers to the idea of creating a society that is based on principles of equality, democracy and solidarity; that understands and values human rights and recognizes the dignity of every human being.

**Sovereignty**—The exclusive power and jurisdiction of a state to govern its territory.

**State**—A country or nation considered an organized political community under one government.

**States party**—A country that is a party to a treaty.

**Treaty**—An agreement between states that sets out their mutual legal rights and obligations. Treaties are one of the main sources of international law.

**Tribunal**—A specialized court set up to hear specific kinds of disputes. For example, the International Tribunal for the former Yugoslavia only hears cases related to the mass atrocities taking place in the former Yugoslavia in the 1990s.

**United Nations Charter**—The treaty that establishes the United Nations and describes its principles, purposes and structure.

**Veto**—The power of the permanent members of the UN Security Council to prevent the adoption of a draft Security Council resolution regardless of whether the draft has received the required number of affirmative votes. It is also called the “great power unanimity.”

**War crimes**—Serious violations of humanitarian law during times of war. War crimes may include the willful killing, torture or inhuman treatment of persons or the unjustified destruction of property.

### Appendix III - List of Acronyms:

BCCA	British Columbia Court of Appeal
BCSC	British Columbia Supreme Court
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	The Convention on the Rights of Persons with Disabilities
HTG	Hul'qumi'num Treaty Group
ICC	International Criminal Court
ICCPR	International Convention on Civil and Political Rights
ICJ	International Court of Justice
IWRP	International Women's Rights Project
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
R2P	Responsibility to Protect doctrine
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
WILPF	The Women's International League for Peace and Freedom

## Acknowledgements

We hope that this study guide has inspired your class to take action on global citizenship and international human rights!

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- <sup>1</sup> Available on either the International Women’s Rights Project Website ([www.iwrp.org](http://www.iwrp.org)) or the Ontario Justice Education Network Website ([www.ojen.ca/www.roej.ca](http://www.ojen.ca/www.roej.ca))
- <sup>2</sup> Because treaties can only be made between states, the term ‘treaty’ is not used in domestic law. Consider the fact that agreements between Canada (then Britain) and First Nations were called Treaties, indicating an agreement between states..
- <sup>3</sup> For example, Canada is party to a treaty called *The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty*. As the title of the treaty suggests, it provides for the total abolition of the death penalty, but allows states parties to retain the death penalty during times of war if they specifically indicate their intention to do so (known as a “reservation”) at the time they ratify the treaty. Interestingly, the United States is not a party to this treaty—too many states still have the death penalty. For more information on this treaty and other treaties for the abolition of the death penalty, go to: [www.amnesty.org/en/death-penalty/ratification-of-international-treaties](http://www.amnesty.org/en/death-penalty/ratification-of-international-treaties)
- <sup>4</sup> [www.un.org/en/members/#text](http://www.un.org/en/members/#text)
- <sup>5</sup> [www.un.org/en/documents/charter/index.shtml](http://www.un.org/en/documents/charter/index.shtml)
- <sup>6</sup> [www.un.org/Docs/sc/](http://www.un.org/Docs/sc/)
- <sup>7</sup> [www.un.org/sc/members.asp](http://www.un.org/sc/members.asp)
- <sup>8</sup> [www.theglobeandmail.com/news/politics/canada-abandons-un-bid-in-embarrassing-turn-for-harper/article1753222/](http://www.theglobeandmail.com/news/politics/canada-abandons-un-bid-in-embarrassing-turn-for-harper/article1753222/)
- <sup>9</sup> For more information see: [www.huffingtonpost.com/2009/06/16/russia-ends-uns-georgia-m\\_n\\_216106.html](http://www.huffingtonpost.com/2009/06/16/russia-ends-uns-georgia-m_n_216106.html)

- <sup>10</sup> [www.un.org/en/peacekeeping/](http://www.un.org/en/peacekeeping/)
- <sup>11</sup> [www.unac.org/peacekeeping/en/un-peacekeeping/](http://www.unac.org/peacekeeping/en/un-peacekeeping/)
- <sup>12</sup> [www.suezcrisis.ca/](http://www.suezcrisis.ca/)
- <sup>13</sup> [www.cbc.ca/news/background/cdnmilitary/peacekeeping.html](http://www.cbc.ca/news/background/cdnmilitary/peacekeeping.html)
- <sup>14</sup> In 2007, a Canadian feature film was released, based on Dallaire's book *Shake Hands with the Devil*: [www.youtube.com/watch?v=CaHAXnOGj9k](http://www.youtube.com/watch?v=CaHAXnOGj9k). Dallaire was appointed to the Canadian Senate in 2005, and is a leader in working toward the elimination of child soldiers, among his many accomplishments as a champion of human rights: [www.romeodallaire.com/index.html](http://www.romeodallaire.com/index.html)
- <sup>15</sup> [www.hrw.org/en/reports/2007/06/01/omar-khadr-case](http://www.hrw.org/en/reports/2007/06/01/omar-khadr-case)
- <sup>16</sup> [www.law.utoronto.ca/faculty\\_content.asp?itemPath=1/3/4/0/0&contentId=1617](http://www.law.utoronto.ca/faculty_content.asp?itemPath=1/3/4/0/0&contentId=1617)
- <sup>17</sup> [www.canlii.org/en/ca/scc/doc/2008/2008scc28/2008scc28.html](http://www.canlii.org/en/ca/scc/doc/2008/2008scc28/2008scc28.html)
- <sup>18</sup> [www.canlii.org/en/ca/scc/doc/2010/2010scc3/2010scc3.html](http://www.canlii.org/en/ca/scc/doc/2010/2010scc3/2010scc3.html)
- <sup>19</sup> [www.law.ualberta.ca/centres/ccs/issues/Khadr\\_Supreme\\_Court\\_Decision.php](http://www.law.ualberta.ca/centres/ccs/issues/Khadr_Supreme_Court_Decision.php)
- <sup>20</sup> [www.humanrights.com/#/what-are-human-rights](http://www.humanrights.com/#/what-are-human-rights)
- <sup>21</sup> [www.youtube.com/watch?v=\\_azaiJRpP6I&feature=channel\\_video\\_title](http://www.youtube.com/watch?v=_azaiJRpP6I&feature=channel_video_title)
- <sup>22</sup> [www.makepovertyhistory.ca/learn/issues/end-poverty-in-canada](http://www.makepovertyhistory.ca/learn/issues/end-poverty-in-canada)
- <sup>23</sup> *CFCYL v. Canada (A.G.)*, [2004] 1 SCR 76
- <sup>24</sup> [www.cw4wafghan.ca/what-we-do/-educators/educators-resource-kit](http://www.cw4wafghan.ca/what-we-do/-educators/educators-resource-kit)
- <sup>25</sup> [www.un.org/womenwatch/daw/cedaw/committee.htm](http://www.un.org/womenwatch/daw/cedaw/committee.htm)
- <sup>26</sup> [www.fafia-afai.org/en/publications/no-action-no-progress-fafias-report-canadas-progress-implementing-priority-recommendations-made-cedaw-committee-200](http://www.fafia-afai.org/en/publications/no-action-no-progress-fafias-report-canadas-progress-implementing-priority-recommendations-made-cedaw-committee-200)
- <sup>27</sup> The countries included in the report were: Canada, Germany, Japan, Nepal, Netherlands, Panama, South Africa, South Korea, Turkey and Ukraine.
- <sup>28</sup> [www.fafia-afai.org/en/story/optional-protocol-cedaw-and-its-applicability-%E2%80%9C-ground%E2%80%9D](http://www.fafia-afai.org/en/story/optional-protocol-cedaw-and-its-applicability-%E2%80%9C-ground%E2%80%9D)
- <sup>29</sup> The first person elected Special Rapporteur on Violence Against Women was Ms. Radhika Coomaraswamy from Sri Lanka who served from 1994-2003, followed by Dr. Yakin Erturk from Turkey who served from 2003-2009. The current Special Rapporteur is Ms. Rashida Manjoo of South Africa.
- <sup>30</sup> [www.unicef.org/publications/files/option\\_protocol\\_conflict.pdf](http://www.unicef.org/publications/files/option_protocol_conflict.pdf)
- <sup>31</sup> *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817
- <sup>32</sup> *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)*, [2004] 1 SCR 76
- <sup>33</sup> [www.beta.undp.org/undp/en/home.html](http://www.beta.undp.org/undp/en/home.html)
- <sup>34</sup> [www.un.org/millenniumgoals/](http://www.un.org/millenniumgoals/)
- <sup>35</sup> This resource is available for free at [www.ojen.ca/](http://www.ojen.ca/) [www.roej.ca/](http://www.roej.ca/). It includes this activity, as well as other clips, lesson plans and a full-length case study dealing with the Supreme Court of Canada's landmark decision regarding government funding of medical treatment for autism.
- <sup>36</sup> [www2.ohchr.org/english/law/cat.htm](http://www2.ohchr.org/english/law/cat.htm)
- <sup>37</sup> [www2.ohchr.org/english/bodies/cat/](http://www2.ohchr.org/english/bodies/cat/)
- <sup>38</sup> [www.cbc.ca/news/world/story/2010/08/20/khadr-torture020.html](http://www.cbc.ca/news/world/story/2010/08/20/khadr-torture020.html)
- <sup>39</sup> [www.lrwc.org/documents/Omar.Ahmed.%20Khadr.Fact.Summary.June.1.08.pdf](http://www.lrwc.org/documents/Omar.Ahmed.%20Khadr.Fact.Summary.June.1.08.pdf)
- <sup>40</sup> For examples of Canadians using international law to push for their rights please see the Use of International Law by Indigenous People in Canada section of this Guide.

- 41 In Canada, indigenous peoples are often referred to as Aboriginal peoples and include First Nations, Inuit and Métis peoples.
- 42 [www.un.org/esa/socdev/unpfii/en/multimedia.html](http://www.un.org/esa/socdev/unpfii/en/multimedia.html)
- 43 [www.un.org/esa/socdev/unpfii/index.html](http://www.un.org/esa/socdev/unpfii/index.html)
- 44 [www.ainc-inac.gc.ca/ap/ia/dcl/stmt-eng.asp](http://www.ainc-inac.gc.ca/ap/ia/dcl/stmt-eng.asp)
- 45 [www.oas.org/en/default.asp](http://www.oas.org/en/default.asp)
- 46 [laws-lois.justice.gc.ca/eng/acts/I-5/](http://laws-lois.justice.gc.ca/eng/acts/I-5/)
- 47 In Canadian law, the term “Indian” is used to denote someone who has rights and status under the Indian Act.
- 48 [www.youtube.com/watch?v=NJeeT8IHPik](http://www.youtube.com/watch?v=NJeeT8IHPik)
- 49 [www.canlii.org/en/bc/bcsc/doc/2007/2007bcsc827/2007bcsc827.html](http://www.canlii.org/en/bc/bcsc/doc/2007/2007bcsc827/2007bcsc827.html)
- 50 [www.canlii.org/en/bc/bcca/doc/2009/2009bcca153/2009bcca153.html](http://www.canlii.org/en/bc/bcca/doc/2009/2009bcca153/2009bcca153.html)
- 51 [www.fafia-afai.org/en/news/2011/sharon-mcivor-petitions-un-human-rights-committee](http://www.fafia-afai.org/en/news/2011/sharon-mcivor-petitions-un-human-rights-committee)
- 52 [www.oas.org/en/about/commission\\_human\\_rights.asp](http://www.oas.org/en/about/commission_human_rights.asp)
- 53 [www.greenpeace.org/canada/en/Multimedia/Videos/Oil-On-Lubicon-Land-A-Photo-Essay/](http://www.greenpeace.org/canada/en/Multimedia/Videos/Oil-On-Lubicon-Land-A-Photo-Essay/)
- 54 [www.amnesty.ca/lubicon/](http://www.amnesty.ca/lubicon/)
- 55 [www1.umn.edu/humanrts/undocs/session45/167-1984.htm](http://www1.umn.edu/humanrts/undocs/session45/167-1984.htm)
- 56 The UN Human Rights Committee again condemned the treatment of the Lubicon Cree by the Canadian Government in 2006 and 2007. The UN Committee on Economic, Social and Cultural Rights raised concerns in 2006 and the UN Special Rapporteur on the Right to Adequate Housing and the UN Committee on Elimination of Racial Discrimination raised concerns in 2008.
- 57 [www.facebook.com/note.php?note\\_id=168305013184855](http://www.facebook.com/note.php?note_id=168305013184855). For the full report, please see: <http://unsr.jamesanaya.org/PDFs/Communications%20report-FINAL.pdf>
- 58 [www.canlii.org/en/bc/bcca/doc/2002/2002bcca147/2002bcca147.html](http://www.canlii.org/en/bc/bcca/doc/2002/2002bcca147/2002bcca147.html)
- 59 [www.unep.org/Documents.Multilingual/Default.asp?documentid=97&articleid=1503](http://www.unep.org/Documents.Multilingual/Default.asp?documentid=97&articleid=1503)
- 60 [www.cbd.int/rio/](http://www.cbd.int/rio/)
- 61 <http://unfccc.int/resource/docs/convkp/kpeng.html>
- 62 [www.greenpeace.org/canada/en/campaigns/tarsands/](http://www.greenpeace.org/canada/en/campaigns/tarsands/)
- 63 [www.youtube.com/watch?v=fKHxjWi7s](http://www.youtube.com/watch?v=fKHxjWi7s)
- 64 [www.youtube.com/watch?v=MbjC9SMKCIE](http://www.youtube.com/watch?v=MbjC9SMKCIE)
- 65 [www.icrc.org/ihl.nsf/intro/195?OpenDocument](http://www.icrc.org/ihl.nsf/intro/195?OpenDocument)
- 66 [www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp](http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp)
- 67 [www.youtube.com/icrcfilms#p/u/0/l2zLOi8egz8](http://www.youtube.com/icrcfilms#p/u/0/l2zLOi8egz8)
- 68 <http://untreaty.un.org/cod/icc/statute/romefra.htm>
- 69 [http://www.youtube.com/watch?v=P\\_jQXq-wS3Q&feature=list\\_related&playnext=1&list=SPADCA721A3AB3DA2F](http://www.youtube.com/watch?v=P_jQXq-wS3Q&feature=list_related&playnext=1&list=SPADCA721A3AB3DA2F)
- 70 The Men Who Killed Me, Anne-Marie deBrouwer, Sandra Ka Hun Chu and Samer Muscati, 2009, Douglas and McIntyre, [www.menwhokilledme.com/](http://www.menwhokilledme.com/)
- 71 For detailed discussion on the R2P see the IWRP website at [www.iwrp.org](http://www.iwrp.org).
- 72 <http://www.un.org/en/members/#text>
- 73 [www.ojen.ca](http://www.ojen.ca) / [www.roej.ca](http://www.roej.ca)
- 74 Making the Case is available for free download at [www.ojen.ca](http://www.ojen.ca) or in French at [www.roej.ca](http://www.roej.ca)
- 75 [www.youtube.com/watch?v=-RiUHRCK0yw](http://www.youtube.com/watch?v=-RiUHRCK0yw)
- 76 <http://untreaty.un.org/cod/icc/statute/romefra.htm>
- 77 [http://www.unidir.org/html/en/human\\_security.html](http://www.unidir.org/html/en/human_security.html)

## Appendix IV — Resources

### Resource Partners:

British Columbia Teachers' Federation [www.bctf.ca](http://www.bctf.ca)  
 Centre for Global Studies [www.globalcentres.org/](http://www.globalcentres.org/)  
 International Women's Rights Project Website [www.iwrp.org](http://www.iwrp.org)  
 Law Foundation of British Columbia [www.lawfoundationbc.org/](http://www.lawfoundationbc.org/)  
 Ontario Justice Education Network [www.ojen.ca/www.roej.ca](http://www.ojen.ca/www.roej.ca)

### International Law Resources and Organizations

Aboriginal Affairs and Northern Development [www.ainc-inac.gc.ca](http://www.ainc-inac.gc.ca)  
 Amnesty International [www.amnesty.org/](http://www.amnesty.org/)  
 Canadian Federal Statues Online <http://laws-lois.justice.gc.ca>  
 Canadian Women for Women in Afghanistan [www.cw4wafghan.ca/what-we-do/-educators/educators-resource-kit](http://www.cw4wafghan.ca/what-we-do/-educators/educators-resource-kit)  
 CanLii [www.canlii.org/](http://www.canlii.org/)  
 Convention on Biological Diversity [www.cbd.int](http://www.cbd.int)  
 Equality Now [www.equalitynow.org/](http://www.equalitynow.org/)  
 Feminist Alliance for International Action [www.fafia-afai.org](http://www.fafia-afai.org)  
 Greenpeace International [www.greenpeace.org](http://www.greenpeace.org)  
 High Commission for Human Rights [www.ohchr.org](http://www.ohchr.org)  
 Hul'qumi'num Treaty Group [www.hulquminum.bc.ca/news](http://www.hulquminum.bc.ca/news)  
 Human Rights Watch [www.hrw.org/](http://www.hrw.org/)  
 International Committee of the Red Cross [www.icrc.org](http://www.icrc.org)  
 International Court of Justice [www.icj-cij.org/homepage/index.php](http://www.icj-cij.org/homepage/index.php)  
 International Criminal Court [www.icc-cpi.int/](http://www.icc-cpi.int/)  
 International Criminal Tribunal for the former Yugoslavia [www.icty.org/](http://www.icty.org/)  
 LEAF Canada – [www.leaf.ca](http://www.leaf.ca)  
 Lester Pearson and Suez Crisis [www.suezcrisis.ca](http://www.suezcrisis.ca)  
 Make Poverty History [www.makepovertyhistory.ca/](http://www.makepovertyhistory.ca/)  
 Organization of American States [www.oas.org/en/default.asp](http://www.oas.org/en/default.asp)  
 Oxfam Canada [www.oxfam.ca/](http://www.oxfam.ca/)  
 Provincial Human Rights Commissions or Tribunals  
 Prince Edward Island: [www.gov.pe.ca/caag/human/index.asp](http://www.gov.pe.ca/caag/human/index.asp)  
 Nova Scotia: [www.gov.ns.ca/just/hr.htm](http://www.gov.ns.ca/just/hr.htm)  
 New Brunswick: [www.gov.nb.ca/ael/rights/index.htm](http://www.gov.nb.ca/ael/rights/index.htm)  
 Ontario: [www.ohrc.on.ca](http://www.ohrc.on.ca)  
 Manitoba: [www.gov.mb.ca/hrc](http://www.gov.mb.ca/hrc)  
 Saskatchewan: [www.gov.sk.ca/shrc/](http://www.gov.sk.ca/shrc/)  
 Alberta: [www.gov.ab.ca/~mcd/citizen/hr/hr.htm](http://www.gov.ab.ca/~mcd/citizen/hr/hr.htm)  
 British Columbia: [www.bchrc.gov.bc.ca](http://www.bchrc.gov.bc.ca)  
 Romeo Dallaire [www.romeodallaire.com/index.html](http://www.romeodallaire.com/index.html)  
 The Canadian Red Cross [www.redcross.ca/](http://www.redcross.ca/)  
 The Men Who Killed Me [www.menwhokilledme.com/](http://www.menwhokilledme.com/)  
 UN Association of Canada [www.unac.org](http://www.unac.org)

UN Convention to Combat Desertification [www.unccd.int](http://www.unccd.int)  
UN Development Program [www.undp.org/](http://www.undp.org/)  
UN Environment Programme [www.unep.org/](http://www.unep.org/)  
UN Framework on Climate Change [www.unfccc.int/](http://www.unfccc.int/)  
UN Peacekeeping [www.unac.org/peacekeeping/en/un-peacekeeping](http://www.unac.org/peacekeeping/en/un-peacekeeping)  
UN Treaty Collection <http://untreaty.un.org/>  
UNICEF [www.unicef.org/crc/](http://www.unicef.org/crc/)  
United for Human Rights [www.humanrights.com](http://www.humanrights.com)  
United Nations [www.un.org](http://www.un.org)  
West Coast LEAF [www.westcoastleaf.org/](http://www.westcoastleaf.org/)  
Women's international league for peace and Freedom [www.wilpf.org](http://www.wilpf.org)  
World Health Organization [www.who.int](http://www.who.int)