

Senate



Sénat

CANADA

CANADA AND THE UNITED NATIONS HUMAN RIGHTS COUNCIL: Charting a new course

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**Standing Senate Committee
on Human Rights**

June 2010

Ce rapport est aussi disponible en français

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(Committee Business – Senate – Reports)

40th Parliament – 3rd Session

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MEMBERS

The Honourable Janis G. Johnson, Chair of the Committee
The Honourable Mobina S. B. Jaffer, Deputy Chair of the Committee

The Honourable Senators:

Raynell Andreychuk
George Baker, P.C.
Patrick Brazeau
Vim Kochhar
Grant Mitchell
Nancy Ruth
Rod A. A. Zimmer

Ex-officio members of the committee:

The Honourable Marjory LeBreton, P.C., (or Gérald Comeau) and James Cowan (or Claudette Tardif).

In addition, the Honourable Senators Campbell, Carstairs, P.C., Cowan, Dallaire, Di Nino, Fraser, Goldstein, Jaffer, Kinsella, Kochhar, Lovelace Nicholas, Martin, McCoy, Munson, Neufeld, Oliver, Pépin, Peterson, Poy, Ringuette, Stratton were members of the committee or participated from time to time during this study.

Library of Parliament Research Staff:

Julian Walker, analyst.

Clerk of the Committee:

Adam Thompson

ORDER OF REFERENCE

Extract of the *Journals of the Senate*, Tuesday, March 23, 2010:

The Honourable Senator Johnson moved, seconded by the Honourable Senator Andreychuk:

That the Standing Senate Committee on Human Rights be authorized to examine and monitor issues relating to human rights and, inter alia, to review the machinery of government dealing with Canada's international and national human rights obligations;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the First session of the Thirty-seventh Parliament be referred to the committee; and

That the committee submit its final report to the Senate no later than June 30, 2010.

The question being put on the motion, it was adopted.

Gary W. O'Brien
Clerk of the Senate

This order of reference is similar to the committee's order of reference in previous sessions.

CHAPTER ONE: INTRODUCTION

When the reform of the United Nations Commission on Human Rights was announced in 2005 and work subsequently began on the creation of the United Nations Human Rights Council (UNHRC, or the “Council”), the Standing Senate Committee on Human Rights (the “committee”) recognized that this historic event would fundamentally change the United Nations (UN) human rights system and the way in which international human rights issues are handled.

In accordance with its mandate to study issues relating to human rights, and, *inter alia*, to review the machinery of government dealing with Canada’s international and national human rights obligations, the committee has since been engaged in a long term study of the development of the new Council and Canada’s role not only as a member of the UN but also as a member of the Council from 2006 to 2009. The committee wanted to observe how the new Council would affect the manner in which Canada implements its human rights obligations, and to examine its performance on the Council itself. In the course of doing so, the committee paid close attention to the ongoing evolution of the Council’s primary review mechanism for UN Member States (“States”) and their human rights records, the Universal Periodic Review (UPR). Over the course of successive parliamentary sessions, the committee has held meetings to discuss these issues with government officials, members of the Canadian mission to the Council, human rights advocacy groups, Aboriginal peoples’ organizations, various countries’ ambassadors to the UN, and officials from the Office of the UN High Commissioner for Human Rights (OHCHR), among others.

With Canada’s first UPR review completed, the Government of Canada and Canadian civil society now have a greater appreciation of the process and procedures of the UPR, as well as an understanding of the resultant successes and challenges. The examination of Canada’s human rights record by participating stakeholders in Canada, by experts co-ordinated through the UN, and by some sixty-nine UN Member States has produced useful information, generated much discussion, and given Canada many recommendations on how to improve its handling of human rights issues.

CANADA AND THE UNITED NATIONS HUMAN RIGHTS COUNCIL: Charting a New Course

Recently, Canada has completed its term as a member of the UNHRC and has not sought re-election to the Council. Canada is now in a position to provide constructive commentary on how the system may be improved and how challenges may be overcome. Additionally, as a neutral observer, Canada can work to assist with issues and negotiations between current members of the Council without being seen to be seeking votes to support its own position on the Council.

Canadians now have an opportunity to examine Canada's performance over the course of its term on the Council. This committee believes that there is much that should make Canadians proud. For example, Canada was active in pushing for a strong UPR. In Council matters, Canada stood firmly by its principles, despite often being isolated for doing so. Canada has asked relevant questions and made strong recommendations during the UPR reviews of other Member States. Furthermore, the Government of Canada presented a frank and thorough presentation of its handling of human rights matters in this country during its UPR review. Having said this, Canada's performance during the UPR process has also raised concerns.

Though the committee heard testimony during its study that Canada's reputation as a champion of international human rights remains strong, it also heard testimony and reviewed commentary made by participants in Canada's UPR indicating that this reputation is slipping. Also, Canada often found itself in an isolated position on the Council, on occasion being the sole member opposed to a particular resolution. The committee became aware of concerns that Canada is no longer fulfilling a "bridge-builder" role between UN Member States with diverging views, as it once was able to do. It is also noted that Canada received strong criticism during the review from some of its traditional allies over its handling of issues affecting Aboriginal peoples and the homeless. Canada's international reputation could weaken unless Canada quickly demonstrates that it can improve its human rights record on such issues and unless it can demonstrate an ability to achieve results in promoting its own position on human rights issues in international fora.

If Canada is to make progress in the implementation of its human rights obligations before it is reviewed again in the next round of the UPR (expected for 2013), the upcoming years are crucial. The success of the Council depends very much on the success of the UPR; the success

of the UPR depends very much on whether states like Canada can demonstrate that the review process works and that they have accordingly improved their compliance with international human rights treaty obligations. If Canada fails to demonstrate that it takes the UPR seriously and that real improvements can result from the recommendations received during its own review, then it will miss an important opportunity to inspire other countries with fewer resources to put real effort into the UPR process. As a democratic nation with a strong human rights infrastructure, Canada must demonstrate leadership in this area in both process and results.

After its review, Canada is now expected to take further action on the recommendations made by other UN Member States that it has accepted from its UPR and to commence preparations for its next review. The committee believes that the Government of Canada must begin with broad, meaningful and timely consultation that not only includes relevant stakeholders, civil society groups, Aboriginal peoples' organizations, and parliamentarians, but also includes Canadians in the broadest context.

The focus of this report is to analyse and comment on broader issues pertaining to the institution building of the UNHRC and Canada's ability to meet its international human rights obligations. Its purpose is, in part, to emphasize the urgency for the Government of Canada to establish a clear, effective, inclusive and transparent process for its next UPR. To this end, the committee is providing its comments and recommendations on the processes used by the Government of Canada in preparing for and responding to its first UPR, in handling the ratification and implementation of international human rights treaties more generally, and in consulting with Canadians on human rights matters. The committee is equally concerned about encouraging Canada's effective work as a member of the UN in the promotion of human rights, and comments and recommendations in this report are made to further this purpose as well.

The committee has chosen at this time not to engage in a critique of the substantive issues that were raised during Council sessions or the UPR process, of the Canadian delegation's submissions to the UPR, or of the specific recommendations made for Canada by stakeholders and UN Member States. This should not, however, be interpreted to mean that the issues and

concerns raised during the UPR process do not warrant careful and timely attention and in-depth parliamentary review.

The work of the committee will not, however, stop with the issuance of this report. We will continue to monitor the actions taken by the Government of Canada in meeting its international and domestic human rights obligations and in responding to our recommendations. We will also continue to monitor all progress at the UNHRC, as well as the Government of Canada's efforts in contributing to the advancement of international human rights through the UPR process.

This report is divided into five chapters and includes a number of appendices. The appendices contain a listing of witnesses who appeared before the committee, previous committee recommendations, an organizational chart used in the Government of Canada's preparations for the UPR, and our May 2009 interim report regarding Canada's preparations for the UPR. Appendices are also included that review recent UNHRC activities and resolutions, as well as that summarize the substance of Canada's submissions to the UPR and those made concerning Canada by stakeholders, independent experts, the OHCHR, and other UN Member States.

SUMMARY OF RECOMMENDATIONS

CANADA'S FUTURE ROLE

RECOMMENDATION #1 (See page 27)

The committee recommends that the Government of Canada continue to assess whether the United Nations Human Rights Council is fulfilling its purpose and goals as a primary body within the United Nations system for the promotion and protection of international human rights and whether the Council is a strategically effective mechanism for Canada to utilize in furthering its own human rights initiatives.

RECOMMENDATION #2 (See page 27)

The committee recommends that the Government of Canada establish and promote effective processes and procedures that may serve as meaningful precedents for how states may report on their human rights record before the United Nations Human Rights Council and during the Universal Periodic Review.

PROVIDING INTERNATIONAL ASSISTANCE

RECOMMENDATION #3 (See page 28)

The committee recommends that the Government of Canada develop a plan to offer information and or assistance gained from Canada's experience during the Universal Periodic Review process to other UN Member States for their own future review preparations, as well as to civil society organisations in these States to enhance their ability to participate in the review process.

RECOMMENDATION #4 (See page 28)

The committee recommends that the Government of Canada establish an internship fund for students from developing countries. This fund should seek to promote international relations and diplomacy training with an eye to building

awareness and future capacity for States' engagements with the United Nations Human Rights Council and the Universal Periodic Review process.

BLOC POLITICS AT THE UNHRC

RECOMMENDATION #5 (See page 32)

The committee recommends that the Government of Canada develop new strategies for stronger human rights promotion at the UN Human Rights Council by:

- Working to enhance its leadership role in international human rights matters, increasing its role as a bridge builder between members of the UN Human Rights Council, and moving beyond its traditional allies to foster alliances with countries around the world;**
- Utilizing the international and regional organizations to which Canada belongs to promote Canada's perspectives on human rights matters; and**
- Fostering parliamentary diplomacy by calling on parliamentarians to promote Canada's positions on human rights in the course of their work with parliamentary associations and other international fora.**

RECOMMENDATION #6 (See page 33)

The committee continues to support the Government of Canada's decision to withdraw from the Durban review process, and recommends that the Government of Canada remain open to re-joining the process only if significant changes demonstrate that participants are focussing on objective, balanced and appropriate measures for the promotion and protection of human rights.

A CANADIAN AMBASSADOR FOR HUMAN RIGHTS

RECOMMENDATION #7 (See page 34)

The committee once again recommends that the Government of Canada create an office of the Canadian Ambassador for Human Rights. The office would be based in Canada and work in consultation with relevant federal departments. The role of the Ambassador would be to work to promote human rights internationally on Canada's behalf, coordinate Canada's negotiations on human rights issues in a consistent manner across all international forums, and promote the domestic implementation of international human rights treaty obligations. The ambassador should serve as Canada's permanent representative to the United Nations Human Rights Council.

SPECIAL PROCEDURES

RECOMMENDATION #8 (See page 35)

The committee once again recommends that the Government of Canada actively promote that the selection of candidates for United Nations Human Rights Council mandate holder positions be based on competence as the primary criterion for nomination, while also emphasizing the need for women to be appointed, the promotion of Canadian experts as nominees, and the development of a roster of experts from around the world.

THE UNIVERSAL PERIODIC REVIEW

RECOMMENDATION #9 (See page 40)

The committee recommends that the Government of Canada encourage the United Nations Human Rights Council to evaluate and report on the first full round of the Universal Periodic Review in order to determine whether further measures must be adopted for the achievement of its objectives.

RECOMMENDATION #10 (See page 40)

The committee recommends that the Government of Canada develop and promote mechanisms that can be adopted by the United Nations Human Rights Council to ensure that stakeholders in every country, whether institutions, non-government organisations, or individuals, are encouraged to participate fully in the Universal Periodic Review and are protected from negative consequences when doing so.

CANADA'S REVIEW OF OTHER STATES

RECOMMENDATION #11 (See page 41)

The committee once again recommends that the Government of Canada should develop a proactive policy with respect to its involvement on future Universal Periodic Review evaluating committees (troikas). This policy should include the appointment of an independent human rights expert as Canada's representative on any future troikas, and promote early and transparent consultations between troika members and the State under review.

CANADA'S RECENT REVIEW

RECOMMENDATION #12 (See page 44)

The committee once again recommends that the Government of Canada table in Parliament its submissions and responses to the Universal Periodic Review of the United Nations Human Rights Council, along with any of the Council's reports regarding Canada's review.

ISSUES RAISED DURING CANADA'S REVIEW

RECOMMENDATION #13 (See page 47)

The committee once again recommends that the Government of Canada immediately table in Parliament an action plan outlining how it intends to

implement the recommendations it has accepted from its Universal Periodic Review.

RECOMMENDATION #14 (See page 47)

The committee recommends that the Government of Canada take immediate steps to endorse the United Nations Declaration on the Rights of Indigenous Peoples in a manner that is fully consistent with the Constitution of Canada and Canadian laws.

THE CONSULTATION PROCESS – CIVIL SOCIETY

RECOMMENDATION #15 (See page 51)

The committee once again recommends that the Government of Canada immediately develop procedures in preparation for its next Universal Periodic Review and that a plan detailing these procedures be made available to the public. This plan should outline a process that will ensure open and transparent, timely and substantive engagement with civil society, Aboriginal peoples' organizations, parliamentarians, and the Canadian public with respect to Canada's human rights obligations.

THE CONSULTATION PROCESS – ENGAGEMENT WITH PARLIAMENTARIANS

RECOMMENDATION #16 (See page 53)

The committee once again recommends that the Government of Canada table in Parliament a plan for its preparation for and participation in its next Universal Periodic Review in order that this plan may then be referred to this committee.

THE CONSULTATION PROCESS – ENGAGEMENT WITH THE CANADIAN PUBLIC

RECOMMENDATION #17 (See page 56)

The committee once again recommends that the Government of Canada ensure that its operations in relation to its human rights treaty obligations are more

transparent and open to public scrutiny. To this end, the committee further recommends:

- That the Government of Canada create a central public database that is fully accessible to all Canadians through the Internet. This database should inform Canadians about the status of Canada's ascension to or ratification of international treaties; any public consultations that will be held in this respect; and any programs designed to meet Canada's human rights treaty obligations; and
- That the Government of Canada ensure that the international human rights instruments to which Canada is a party, as well as any information pertaining to reports and complaint mechanisms, be consolidated and made easily accessible to all Canadians via the Internet, and that Canadians be made aware of how to access this information.

THE MACHINERY OF GOVERNMENT IN CANADA

RECOMMENDATION #18 (See page 61)

The committee once again recommends that the federal, provincial and territorial ministers responsible for human rights meet immediately to engage in effective consultations, to ensure the implementation of Canada's international human rights obligations, and to review the mandate and procedures of the Continuing Committee of Officials on Human Rights with a view to achieving better coordination, cooperation and accountability among Canada's federal, provincial and territorial ministers responsible for human rights. This review process should be open and transparent, include consultations with civil society and parliamentarians, and ultimately produce a report to the Government on Canada setting out its recommendations.

RECOMMENDATION #19 (See page 62)

The committee once again recommends that, in anticipation of the reform of the Continuing Committee of Officials on Human Rights, responsibility for its

operations be transferred immediately from the Department of Canadian Heritage to the Department of Justice.

THE IMPLEMENTATION OF TREATIES IN CANADA

RECOMMENDATION #20 (See page 66)

The committee once again recommends that the Government of Canada develop a new policy framework for the signature, ratification and implementation of Canada's international human rights obligations, including:

- Notice to Parliament, the provinces and territories at the commencement of international human rights treaty negotiations, with an undertaking to begin consultations with Parliament, all levels of government, and stakeholders;
- Regular reporting on the progress of international treaty negotiations to Parliament, the provinces and territories, and the public;
- Production of a national impact study to be made available to all involved in the consultations;
- Ongoing dialogue between those involved in the consultation process with the federal government;
- Tabling of a "Declaration of intent to comply" in Parliament signalling the executive branch's intent to proceed towards signature of the international instrument;
- Tabling of the international instrument in Parliament once it has been ratified by the Executive, accompanied by an implementation plan including legal and financial implications, and a timetable for implementation; and
- Providing Parliament with reasonable timeframes to respond to tabled documents before the signing of any treaty.

RECOMMENDATION #21 (See page 66)

The committee once again recommends that the Government of Canada certify that all new federal legislation passed is in compliance with Canada's international human rights obligations.

CHAPTER TWO: THE UNITED NATIONS HUMAN RIGHTS COUNCIL AND THE UNIVERSAL PERIODIC REVIEW: BACKGROUND INFORMATION

A. The United Nations Commission on Human Rights

When the UN system was put into place in the aftermath of the Second World War, the UN Commission on Human Rights (“the Commission”) was established by the Economic and Social Council in accordance with the UN Charter. Its purpose was to set international human rights standards and to review human rights issues around the world. It served a very important function in the promotion of human rights. Over the course of its history,¹ the Commission’s work has contributed to the development of many landmark international instruments, such as the Universal Declaration of Human Rights and such treaties as the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social, and Cultural Rights*.²

The Commission’s role has evolved over time. The Commission began receiving complaints about human rights violations in 1967. Though many complaints initially dealt with issues of colonialism and racism, by 1979, the Commission began to use its mandate more broadly. The Commission could respond to human rights violations in a number of ways. It could engage a state in a confidential review process initiated by a complaint mechanism established under the Commission’s Procedure 1503.³ Under this process, the Commission would complete its initial review and meet with representatives of the state in question. At that point, the Commission could choose to appoint an independent expert to monitor the situation.

¹ For a more detailed examination of the history of the United Nations Commission on Human Rights and of the development of the United Nations Human Rights Council see: Standing Senate Committee on Human Rights, *Canada and the United Nations Human Rights Council: At the Crossroads*, May 2007, <http://www.parl.gc.ca/39/1/parlbus/commbus/senate/Com-e/huma-e/rep-e/rep12may07-e.pdf> at Chapter 2.

² These treaties are together frequently referred to as the International Bill of Rights.

³ United Nations High Commissioner for Human Rights, “Procedure for dealing with communications relating to violations of human rights and fundamental freedoms, Resolution 1503(XLVIII) of the Economic and Social Council,” 1693rd plenary meeting, 27 May 1970, <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/9fb315fdda618e28802567d000550d12?Opendocument>

The Commission scrutinized human rights situations under this procedure in 84 states between 1972 and 2003.⁴ Also, the Commission has taken a broader public consideration of these situations under Procedure 1235, which often lead to the appointment of a rapporteur, working group, or other expert to investigate the matter further, or to the adoption of a resolution.⁵ These rapporteurs and working groups investigated, monitored, and analysed many human rights violations in particular thematic areas or in specific countries. Collectively referred to as “Special Procedures”, they formed an important part of the Commission’s overall work. By 2006, there were over 40 active mandates. A Sub-Commission on the Promotion and Protection of Human Rights,⁶ was also created to conduct research on human rights, to monitor human rights situations, and, more generally, to help guide the Commission in its work. It comprised 26 independent experts elected by the Commission for four-year renewable terms.

The Commission on Human Rights played an important historical role in the development of international human rights and the core values of the United Nations. For 60 years, it was the international forum where human rights issues and violations were reviewed and discussed. Its resolutions helped to draw public attention where it was most needed and, in many cases, it was able to effect positive policy changes by UN Member States.⁷

Despite its achievements, by 2005 many observers and participants felt that the entrenched politicization of the Commission had rendered it largely ineffective and were questioning its credibility. The membership of the Commission was said to have become increasingly preoccupied with political agendas rather than human rights issues. The fact that members were increasingly drawn from States with poor human rights records of their own allowed many States to manoeuvre to avoid any scrutiny by the Commission, or work to assist other States in avoiding

⁴ Office of the UN High Commissioner for Human Rights, “States Examined under the 1503 Procedure by the Commission on Human Rights (as up to 2003),”

<http://web.archive.org/web/20080619000157/http://www.unhchr.ch/html/menu2/8/stat1.htm>.

⁵ Economic and Social Council Resolution 1235 (XLII), 42 U.N., ESCOR Supp. (No. 1) at 17, U.N. Doc. E/4393 (1967),

<http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=1173990EW0E28.5323&menu=search&aspect=power&np=50&ipp=20&spp=20&profile=bib&ri=54&source=%7E%21horizon&index=.UD&term=E%2F4393&aspect=power&x=13&y=13#focus>.

⁶ This committee was named the Sub-Commission on Prevention of Discrimination and Protection of Minorities between 1947 and 1999.

⁷ Again, for a more detailed review of the history of the UN human rights system, see *At the Crossroad*, *supra* note 1 at Chapter 2.

such scrutiny. In 2003, Libya held the chair of the Commission, and in 2005, Cuba, China, Sudan and Zimbabwe were all members. Ultimately, the Commission was no longer able to engage in effective discussions or to approach country situations with the same appearance of objectivity as it had previously. Human rights violations were examined only selectively, often chosen or not chosen according to the political agendas of members.

In response to these criticisms, Kofi Annan, then Secretary-General of the United Nations, announced a plan to replace the Commission with a body that could ensure that more objective scrutiny of the human rights records of states would be performed in a less politicized environment.⁸ While the proposal met with some resistance from some Member States, ultimately, on 15 March 2006, the UN General Assembly voted to create the UN Human Rights Council.⁹ Out of 174 votes, only the United States, Israel, the Marshall Islands, and Palau voted against the resolution, with Belarus, Iran, and Venezuela abstaining from voting.

B. The New Council

The new United Nations Human Rights Council met for the first time on 19 June 2006. Based in Geneva, the Council¹⁰ is an inter-governmental body comprised of 47 UN Member States. Its main purpose is to address situations of human rights violations throughout the world and to make recommendations regarding these violations to the UN General Assembly or to Member States. It is intended to serve as the UN's primary forum for cooperation on human rights issues and to help Member States meet their human rights obligations through dialogue, capacity building, and technical assistance. It can pass general resolutions and also country-specific resolutions to target specific, more immediate violations. The Council may also make recommendations to the General Assembly for the further development of international law in

⁸ Kofi Annan, *In Larger Freedom: Towards Development, Security, and Human Rights for All*, A/59/2005, 21 March 2005.

⁹ United Nations General Assembly, Resolution 60/251 - Human Rights Council, A/RES/60/251, 3 April 2006. Included as Appendix A in *At the Crossroads* and available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf.

¹⁰ See United Nations Human Rights Council's website at <http://www2.ohchr.org/english/bodies/hrcouncil/>.

human rights. To fulfil its roles, it works closely with other UN organizations, such as the OHCHR and the UN Special Procedures mandate holders.¹¹

In contrast to the Commission, the Council is a standing body and a subsidiary organ of the UN General Assembly, rather than of the Economic and Social Council, which grants it a more authoritative position within the UN and is intended to bring human rights issues to a level of importance comparable to security and development issues.¹² The Council is to be reviewed five years after coming into existence, after which time its place in the UN may be reconsidered.¹³

Forty-seven members are elected to the Council for staggered terms of one, two, or three years. Members are no longer eligible for re-election after serving two consecutive terms. Thirteen members are to be from African states, thirteen from Asian states, six from Eastern European states, eight from Latin American states and the Caribbean, and seven from Western European and other countries, such as Canada and the United States. The Eastern European and Asian blocs now have two more members than they had on the Commission, while the African and Latin American blocs have five fewer members, and Western European and other states have three fewer members. The UN General Assembly may, on a two-thirds majority vote, suspend the membership rights of any member that commits gross and systemic violations of human rights.

The Council must meet regularly and hold at least three main sessions throughout the year for a total of at least ten weeks. Special sessions may be convened at the request of a member with support from one-third of the Council. This latter power allows the Council to respond quickly to any urgent human rights matters that arise between main sessions.

¹¹ Special procedures are created to address human rights situations in particular countries or to examine broader thematic issues. Their mandate is held either by an individual (called “Special Rapporteur,” “Special Representative of the Secretary-General,” “Representative of the Secretary-General” or “Independent Expert”) or by a working group usually composed of Member States. The mandates of the special procedures are established and defined by the particular UN resolution creating them. Examples include: the Special Rapporteur on the sale of children, child prostitution and child pornography, the Working Group on Enforced or Involuntary Disappearances, or the Independent Expert on the situation of human rights in Somalia. For more information, see: <http://www2.ohchr.org/english/bodies/chr/special/index.htm>.

¹² For more information on this topic see: Allison Goody and Marcus Pistor, *Reform of the United Nations*, Library of Parliament PRB 05-84E, 24 February 2006.

¹³ Article 16, United Nations General Assembly, Resolution 60/251 - Human Rights Council, *supra* note 9.

The new Council was initially charged with reviewing the mandates, mechanisms, functions and responsibilities of the Commission on Human Rights in order to create improved procedures suitable to its new roles. One of its first tasks was to create the new Universal Periodic Review, which is explained further below. The Sub-Commission on the Promotion and Protection of Human Rights was also replaced with the Human Rights Council Advisory Committee, which is composed of 18 experts and functions as the Council's think-tank,¹⁴ providing the council with advice on thematic human rights issues. The mandates of the Special Procedures continue to be set by the UNHRC much as they had been before, though a new code of conduct¹⁵ was adopted in June 2007 to address work practices and procedures as part of a review undertaken by a special working group created to help establish the Council.

C. The Universal Periodic Review

i. A new review mechanism

On 18 June 2007, the UNHRC adopted the UPR procedures, as set out in Resolution 60/251,¹⁶ to assess the human rights situations in all 192 UN Member States. An *Institution-building Package*¹⁷ was created pursuant to this resolution to guide the Council in its future work and to set out the UPR procedures to be followed. Canada was a leading proponent of the UPR throughout the UNHRC's development as an institution, viewing the UPR as a vehicle through which all UN Member States' human rights records could be reviewed on a regular basis in a fair and impartial manner.¹⁸

ii. UPR Sessions

The subject of each UPR is a state's human rights practices and its adherence to its human rights obligations. The UPR review process allows UN Member States to make comments and recommendations concerning the human rights record of the state under review during an

¹⁴ For more information, see the Human Rights Council Advisory Committee's webpage at:

<http://www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee.htm>.

¹⁵ United Nations Human Rights Council, *Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council*, 5/2, http://www2.ohchr.org/english/bodies/chr/special/docs/CodeofConduct_EN.pdf.

¹⁶ United Nations General Assembly, Resolution 60/251 - Human Rights Council, *supra* note 9.

¹⁷ United Nations Human Rights Council, *Institution-building of the United Nations Human Rights Council*, Resolution 5/1, 18 June 2006, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BackgroundDocuments.aspx>.

¹⁸ John Sims, Deputy Minister, Department of Justice Canada, and Alex Neve, Secretary General, Amnesty International Canada, *infra* note 33.

interactive session in Geneva. In addition to using information gathered on their own initiative, states participating in a UPR session are entitled to rely on submissions provided by non-governmental organizations (NGOs) and national human rights institutions (NHRIs), who are referred to as “stakeholders,” as well as information and reports collected by the OHCHR from independent human rights experts and groups, Special Procedures mandate holders, human rights treaty bodies, and other UN entities.

Individual UN Member States began undergoing UPRs in April 2008. Every state is reviewed by other states once every four years, resulting in 48 states being reviewed per year during one of three two-week sessions. The first cycle of reviews should be completed therefore in 2012.

Each review is headed by a lead group of three Member States (referred to as a “troika”), though all UNHRC Member States and observer states are entitled to participate in the review. A troika member’s responsibilities are, briefly, to facilitate the reviews of selected countries for the Council, as well as to engage in more in-depth research and in dialogue with these countries in preparation for their reviews. Canada participated as a troika member for a number of reviews during the first five UPR sessions.¹⁹

As indicated above, prior to a UPR session, a number of reports are made publicly available for review by Member States to assist them in preparing commentary and recommendations during the review itself. One such report is a 20-page document prepared by the country under review outlining its assessment of its own human rights record. In the case of the Government of Canada’s first country report to the UNHRC, it set out the steps it has taken to protect and promote human rights in Canada, the accomplishments achieved, as well as challenges faced, along with the various initiatives Canada currently has in place to improve human rights.²⁰

¹⁹ Selected excerpts from the UNHRC Working Group on the UPR’s reports in which Canada was a troika member are included as Appendix H.

²⁰ *National Report submitted in accordance with paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1- Canada, A/HRC/WG.6/4/CAN/1, 5 January 2009, <http://www.pch.gc.ca/pgm/pdp-hrp/inter/upr-eng.cfm>.*

The UPR process is conducted in Geneva by all 47 members of the UNHRC, although the troika facilitates the review and other UN observer states are entitled to participate. Following all UPR reviews, a draft report is issued summarizing the interactive dialogue that occurred during the review. This report lists the recommendations and conclusions made by the Member States who participated. The reviewed state then has until the next plenary session of the UNHRC to provide a 5-page response to the draft report. At the time of the response, stakeholders are given 20 minutes to address the UNHRC, and other Member States are also given 20 minutes to provide further commentary. The adoption of the final report is then voted on by the UNHRC.

iii. The Role of Stakeholders and the Office of the High Commissioner for Human Rights

The UPR process permits the voluntary participation of relevant stakeholders in each state's review. UN resolution 5/1 of 18 June 2007 provides that the UPR should "ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions," and their participation is "encouraged throughout all relevant steps of the process."²¹ UN resolution 5/1 defines stakeholders as including, *inter alia*, non-governmental organizations (NGOs), human rights defenders, academic institutions and research institutes, regional organizations, as well as national human rights institutions (e.g. the Canadian Human Rights Commission in the case of Canada).

UNHRC resolution 5/1 further provides that States are encouraged to prepare the information they submit "through a broad consultation process at the national level with all relevant stakeholders" (at paragraph 15 (a)). Stakeholders are also invited to make written submissions to the UPR process through the OHCHR (at paragraph 15 (c)). These submissions are compiled into a ten-page document containing summaries of information received from treaty bodies, the human rights special procedures mandate holders, and relevant stakeholders, including NGOs and NHRIs. These stakeholders may attend the UPR review itself (at paragraph 18 (c)) and

²¹ Annex to resolution 5/1, Institution-building of the United Nations Human Rights Council, Resolution 5/1, *supra* note 17, at para. 3(m).

make general comments before the final adoption of the outcome at a plenary session (at paragraphs 29 and 31), but may not take active part in the interactive dialogue.²²

The OHCHR also submits its own reports for the UPR. It prepares and makes public a separate 10-page report that is compiled for a UPR session containing summaries of the information pertaining to the human rights record of the state under review that was submitted by UN treaty bodies, UN human rights Special Procedures mandate holders, and other experts within the UN system.

²² Office of the High Commissioner for Human Rights, *Information and guidelines for relevant stakeholders on the Universal Periodic Review Mechanism [as of July 2008]*, <http://www.ohchr.org/EN/HRBodies/UPR/Documents/TechnicalGuideEN.pdf>; see also “NGO Participation”, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx>.

CHAPTER THREE: THE COMMITTEE'S PREVIOUS REPORTS

This committee has issued several reports pertaining to Canada's role at the UNHRC, Canada's implementation procedures for international human rights treaties, and the mechanisms and procedures by which Canadian governments observe their national and international human rights obligations. Following its inception in 2001, the committee issued its first report, entitled *Promises to Keep: Implementing Canada's Human Right Obligations*.²³ In this report, the committee conducted a comprehensive examination of the machinery of government concerning human rights in Canada and the implementation of Canada's human rights obligations. The report also served to chart the course for the nascent committee's future studies of international human rights issues. In 2007, the committee produced a report on Canada's implementation of the UN Convention on the Rights of the Child titled *Children: The Silenced Citizens, Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*.²⁴ Included in this report was a broad critique of Canada's current treaty ratification and implementation processes. As shall be discussed below, many of the recommendations made in these reports continue to be relevant today.

The committee's first report to specifically focus on the UNHRC was tabled in May 2007 and entitled *Canada and the United Nations Human Rights Council: At the Crossroads*.²⁵ This preliminary study examined how the newly formed UNHRC had progressed as an institution since its formation in 2006. The committee reviewed the new UPR procedures that were then being developed by the Intersessional Open-ended Intergovernmental Working Group that was formed by the UNHRC for the task.²⁶ We also examined how and whether Canada was meeting its international human rights treaty obligations.²⁷ Many of the recommendations included in

²³ Report of the Standing Senate Committee on Human Rights, *Promises to Keep: Implementing Canada's Human Right Obligations*, December 2001, <http://www.parl.gc.ca/37/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02dec01-e.htm>.

²⁴ Report of the Standing Senate Committee on Human Rights, *Children: The Silenced Citizens, Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, April 2007, <http://www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep10apr07-e.htm>.

²⁵ *At the Crossroads*, *supra* note 1.

²⁶ *Ibid.* at 33 – 36.

²⁷ *Ibid.* at 5-18.

this report concern how Canada could establish a strong and meaningful presence in relation to the Council as it underwent its institution-building process.²⁸

The committee was deeply concerned at this time that the bloc politics that had hampered the work of the former UN Commission on Human Rights in the global advancement of human rights would continue to adversely affect the work of the new Council. The committee, like many of the government representatives and non-governmental organizations it heard from, hoped that the UPR would overcome any such political manoeuvring by means of a truly universal review mechanism that would examine the human rights records of all states in an open, transparent and accountable manner. Whereas human rights issues had previously been selectively reviewed by the UN Commission on Human Rights, often according to the political agendas of those countries dominating its proceedings, the purpose of the UPR is to ensure that *all* countries' human rights records are reviewed by the UNHRC. This means that human rights violations that for political reasons may have never been dealt with by the Commission, may now be subject to greater scrutiny by the Council.

In June 2008, the committee released a follow-up report, entitled *Canada and the United Nations Human Rights Council: A Time for Serious Re-Evaluation*.²⁹ In preparation for this report, the committee met with government officials and human rights advocacy groups in Ottawa, as well as officials at the Canadian mission in Geneva, a number of country ambassadors to the UN, a number of international advocacy organizations, and officials from the Office of the UN High Commissioner for Human Rights (including the High Commissioner, Canadian Louise Arbour). The report included an analysis of the progress made in developing the new UNHRC, and made recommendations to the Government of Canada as to how it could best maximize its position on the Council as well as work towards the establishment and maintenance of a strong UPR system.³⁰

²⁸ These recommendations are reproduced in Appendix C.

²⁹ Report of the Standing Senate Committee on Human Rights, *Canada and the United Nations Human Rights Council: A Time for Serious Re-Evaluation*, June 2008, <http://www.parl.gc.ca/39/2/parlbus/commbus/senate/com-e/huma-e/rep-e/rep13jun08-e.pdf>.

³⁰ These recommendations are reproduced in Appendix D.

Although the committee acknowledged, in its 2008 report, that progress had been made by the Council in terms of putting into place the institutional and procedural mechanisms necessary to review the human rights records of UN Member States, it remained concerned that the deep politicization of the Council membership would continue to pose challenges and interfere with the full advancement of human rights promotion and protection in the international sphere. Voting patterns consistently revealed that Canada was often in an isolated position on the Council, or that bloc voting was driving the Council's agenda. The committee urged Canada to play a strong role in minimizing this politicization and to work towards changing the political dynamics on the Council. In this report, the committee urged the government to take these actions seriously. We concluded that the Government of Canada, and other concerned parties, were at a critical juncture in terms of the development of an institution that could operate as a positive mechanism for the promotion and implementation of human rights; we believe this challenging and critical time continues today.

At the time, as Canada's first UPR review before the Council was approaching, the committee also made inquiries to the Government of Canada concerning its preparations. Government representatives outlined plans to co-ordinate efforts among the various departments with responsibilities for human rights matters, particularly those with reporting obligations for UN treaties, and also signalled its intent to consult with civil society.

In May 2009, the committee issued a brief report entitled *Canada's Universal Periodic Review Before the United Nations Human Rights Council*.³¹ This report is included in full as Appendix B. It was prepared after Canada had both completed its first interactive UPR session at the UNHRC in Geneva and received the UNHRC working group's draft report on the review in February 2009. This report, however, preceded Canada's formal response to the UNHRC in June 2009 and the UNHRC's vote to adopt the report.

Again, we note that there was much in Canada's submissions to the UPR and in its effort to prepare its submissions that are praiseworthy, both in terms of the work that went into the UPR

³¹ Report of the Standing Senate Committee on Human Rights, *Canada's Universal Periodic Review Before the United Nations Human Right Council*, May 2009, <http://www.parl.gc.ca/40/2/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02may09-e.htm>.

process, and also in terms of Canada's many achievements in the area of human rights generally. Canada's submissions were very thorough in scope, a feat that required the coordinated efforts of various government officials and departments at the federal, provincial and territorial levels. Furthermore, all the preparatory work was, of necessity, completed under extremely tight timelines.

This being said, the committee issued its May 2009 report to highlight the urgent need for further improvements in the manner in which the Government of Canada is managing its international human rights obligations, in particular, with regards to the UPR process. The committee found that the processes and procedures used for Canada's first UPR, both at the UNHRC and at the domestic levels, were ad hoc and lacking in clarity and transparency. It therefore called on the Government of Canada to immediately develop procedures in preparation for its next UPR and to make these procedures available to the public in the form of a plan either before or at the same time as its response to the UPR. The committee further recommended that this plan should outline a process that would ensure open and transparent, timely and substantive engagement with civil society, Aboriginal peoples' organizations, parliamentarians, and the Canadian public with respect to Canada's human rights obligations. At the time of writing this report, no such plan has yet been made publicly available.

CHAPTER FOUR: THE COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

A. Canada's Future Role

In 2008, we reported that “nearly all witnesses appearing before the committee expressed disappointment mixed with cautious hope about the future” of the UNHRC.³² This sense of promise tempered by concern as expressed by witnesses continues today. Given that Canada has left the Council, its influence is now necessarily restricted to that of an observer. We believe, however, that Canada still has an important role to play as a constructive commentator on the work of the Council and through its comments can seek to influence current and future members as appropriate.

Since the creation of the United Nations and the drafting of the Universal Declaration of Human Rights, Canada has been considered a champion of human rights and a leader in the promotion and protection of these fundamental values. During the course of hearing from witnesses prior to preparing this report, the committee heard that, according to some, there is a perception internationally that Canada's reputation in this arena is slipping. The committee urges the government to take heed of these comments, and to take steps in the years ahead, to ensure that Canada lives up to the international reputation it has worked so hard to build over the years. The UPR is an opportunity for Canada to establish meaningful precedents for how States can report on their own human rights records. Canada needs to continue to push for change, both on the Council and at home.

Over the past several years, this committee has heard from witnesses as to how Canada could best handle the political challenges of the Council and we have provided recommendations to the Government of Canada in this respect. Given that Canada is no longer a member of the Council, the challenges are currently different. Canada's departure provides, as Wilton Littlechild, Regional Chief (Treaties 6, 7, 8), Assembly of First Nations, noted, “an opportunity to suggest to the council how to improve it, to make it better for everyone.”³³ The committee continues to

³² *A Time for Serious Re-Evaluation*, *supra* note 29 at 1.

³³ All quotations from witnesses contained in this report are taken from oral testimonies during the committee as set out in Appendix A, unless otherwise stated.

hope that Canada will set an example as a standard bearer of human rights and advocate for positive dialogue amongst members of the UNHRC, regardless that it is not presently a member of the Council.

The Council retains the capacity to become a diplomatic human rights vehicle and an effective forum for human rights.³⁴ The Council's elevated status within the UN, its new procedures, and, in particular, the UPR may be used effectively by those Member States that are committed to its progress. It will take some real, committed efforts by nations who understand its political workings and who believe in its principles to achieve such a goal. As one of those nations, Canada can be an informed commentator, a conscientious bridge builder, a developer of consensus, and a champion of human rights.

There is no reason that Canada's commitment to the UNHRC can't be as strong, or stronger, as an observer as it was as a member. There are many issues that remain to be studied as the Council continues to evolve, such as: the competency and effectiveness of the OHCHR in the UPR process, whether the current-level of involvement of civil society in the UPR process is helping to achieve its goals, whether a greater involvement from the public at large is necessary to improve the UPR process, whether the Council is being used to further political agendas as opposed to universal human rights standards, and whether transparency can be monitored and promoted effectively within the UNHRC. Canada has the ability to investigate and propose solutions to these issues. Producing a publicly available report on Canada's experience as a Council member and on the progress being made at the Council would be very beneficial to furthering its development. Furthermore, given that the UN General Assembly is expected to review the status of the UNHRC within five years of its inception, in accordance with Resolution 60/251, Canada has an opportunity to contribute to important discussions at the UN that will further determine the form and substance of the Council.³⁵ Canada can bring about change at the UNHRC; though to do so effectively, it will need to demonstrate its commitment to the Council and be a strong voice for human rights at the UN.

³⁴ *At the Crossroads*, *supra* note 1 at 42.

³⁵ *Institution-building of the United Nations Human Rights Council*, *supra* note 17.

RECOMMENDATION #1

The committee recommends that the Government of Canada continue to assess whether the United Nations Human Rights Council is fulfilling its purpose and goals as a primary body within the United Nations system for the promotion and protection of international human rights and whether the Council is a strategically effective mechanism for Canada to utilize in furthering its own human rights initiatives.

RECOMMENDATION #2

The committee recommends that the Government of Canada establish and promote effective processes and procedures that may serve as meaningful precedents for how states may report on their human rights record before the United Nations Human Rights Council and during the Universal Periodic Review.

B. Providing International Assistance

Being free from its obligations and constraints as a Council member, Canada can devote more energy to assisting other Member States and stakeholders with technical assistance; for example, Canada can contribute expert advice for the preparation of country reports to the UPR. Witnesses noted that in certain countries, there is a lack of knowledge about the UPR, its purposes, and how to participate fully in the process. The late Rémy Beaugard, then President of Rights and Democracy, identified a “lack of awareness of the existence and functioning of [the new UPR] mechanism by key stakeholders”. He identified this as an area where Canada can provide specific assistance through technical support and by promoting the UPR in developing countries: “We can contribute to the capacity of states, including through the creation and strengthening of national human rights institutions to follow up on recommendations and implement policies and programs that give effect to international human rights at the national level.”

In a similar vein, Eduardo Gonzalez, Deputy Director - Americas, International Centre for Transitional Justice, noted that “some countries do not present full information during their

government presentations. There are some countries where civil society organizations simply do not even know that the UPR exists or are not aware that they can participate in it. Sometimes they know about it and want to participate but may be in such a position that they cannot do so.”

Rémy Beaugard also suggested that Canada could provide assistance “through our partners, through CIDA, human rights and governance programming and through continued support to Canadian NGOs operating in the field.” He noted that Canada could contribute to existing UN trust funds³⁶ that support developing countries in their participation with the UPR, and should promote the creation of an additional trust fund to “support the participation of civil society and other stakeholders in the UPR process.”

This committee has previously urged the Government of Canada to assist other Member States and civil society groups who could benefit from our experiences and our resources in order to improve their ability to participate in the UPR process.³⁷ We encourage the Government of Canada to prioritize the contributions that Canadians can make to promote the UPR globally.

RECOMMENDATION #3

The committee recommends that the Government of Canada develop a plan to offer information and or assistance gained from Canada’s experience during the Universal Periodic Review process to other UN Member States for their own future review preparations, as well as to civil society organisations in these States to enhance their ability to participate in the review process.

RECOMMENDATION #4

The committee recommends that the Government of Canada establish an internship fund for students from developing countries. This fund should seek to promote international relations and diplomacy training with an eye to building

³⁶ United Nations Human Rights Council, *Establishment of funds for the universal periodic review mechanism of the Human Rights Council*, Resolution 6/17, 28 September 2007, http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_17.pdf.

³⁷ *A Time for Serious Re-Evaluation*, *supra* note 29.

awareness and future capacity for States' engagements with the United Nations Human Rights Council and the Universal Periodic Review process.

C. Bloc politics at the United Nations Human Rights Council

Regrettably, the politicization that frustrated the work of the former Commission still exists at the Council. Though the creation of the UNHRC brought in a new institution with new procedures and new infrastructure, its potential to achieve a radical shift in the manner in which human rights is dealt with at the UN was inherently limited from the start. Although the forum and some of the rules have changed, the changing membership structure did not in fact significantly alter the membership itself: the game and the players have essentially remained the same.

From a review of its first twelve sessions, it can be seen that the Council has been largely beset by many of the same politicization problems that frustrated the work of the Commission. Further difficulties have been created by the election of a number of countries with “questionable human rights records”³⁸ to the Council. Thus there is now a strong potential on the Council for political issues to overtake the need for a cohesive and committed approach to the promotion of human rights issues.

The committee has continued to hear from witnesses with concerns about the negative effects that bloc politics are having. Their comments and our examination of recent voting patterns have revealed that the Council continues to be proxy for larger geo-strategic conflicts, such as the Israeli-Palestinian conflict or policy disagreements between developed and developing nations. The committee has previously reported on how bloc politics can have a detrimental effect on the work at the Council.³⁹ Larger international political problems that are not being resolved elsewhere are dominating the agenda at the expense of objective human rights considerations.

³⁸ Payam Akhavan, Associate Professor, Faculty of Law, McGill University, testimony before the committee, 29 January 2007, as quoted in *At the Crossroad*, *supra* note 1 at 21.

³⁹ See *At the Crossroads*, *supra* note 1 at p 29-35 and *A Time for Serious Re-Evaluation*, *supra* note 29 at 28.

The political tension between various Member States, and between groupings of Member States, pervades much of the operations.⁴⁰

A political dynamic emerged quite early in the life of the Council where Canada and its traditional European allies were regularly found to be voting together in opposition to members of such groups as the Organisation of the Islamic Conference, the Group of Arab States, and the Non-Aligned Movement, in particular with regards to the human rights situation in Palestine and other Occupied Arab Territories. Witnesses before the committee discussed how these organisations are able to co-operate together, or perhaps follow states that tend to lead these organisations, in order that they may present a consistent voice at the Council. They have thereby managed to work across the regional groupings that determine the geographic representation of seats on the Council. The European Union, by contrast, can take much longer to find consensus amongst its own members.⁴¹ Where a common view between Canada and European Union Member States does not appear to have been possible in the case of certain resolutions pertaining to Israel, Canada has on a number of occasions been the sole dissenter, stating that the resolutions did not present a balanced assessment of the human rights situation in the region.⁴²

A review of recent voting patterns reveals that the patterns observed by the committee in previous reports have continued. It does not therefore appear that Canada was able to effect significant change on this aspect of the political dynamics of the Council while it was a member. One exception appears to have been Canada's involvement in the efforts to have a special session devoted to the human rights crisis in Darfur, Sudan.⁴³ After three special sessions devoted to conflict in the Middle East, this special session allowed for a resolution to send a

⁴⁰ In the committee's previous reports concerning the Council, we set out in detail the events that transpired, activities undertaken, and votes cast in the preceding sessions: see *At the Crossroads*, *supra* note 1 at Chapter 3 and *A Time for Serious Re-Evaluation*, *supra* note 29 at Chapter 2. In this report, the committee has continued this review where it left off up to the point of Canada's departure from the Council. This information is contained in Appendix F.

⁴¹ *Ibid.*

⁴² *EOVs and EOPs for Tenth Regular Session*, *infra* note 136. See Appendix F for more details.

⁴³ Government of Canada, Permanent Mission to the UN, "Press Review for March 13, 2007 - Sudan", 13 March 2007, http://geo.international.gc.ca/world/site/includes/print.asp?lang=en&print=1&url=%2Fcanada_un%2Fottawa%2Fcanada_un%2Funupdate-en.asp&id=9042.

much-needed mission to report on the situation in Darfur and it also created a break from the trend of using the Council for political ends in the Middle East.

While the European Union has appeared to be attempting to build a broader consensus with Council members on some issues, this is a time-consuming challenge that Canada has engaged in to a lesser extent. As a result, Canada often found itself in an isolated position on the Council and unable to advance its own agenda.⁴⁴ Canada's position with regards to Israeli-Palestinian issues has further left it marginalized and, according to some witnesses, exacerbated the bloc politics already at play; this in turn has affected Canada's ability to build relationships on the Council and to influence on other matters.⁴⁵

To respond to this dynamic, the committee has previously recommended that rather than being outmanoeuvred by such politics, Canada needs to focus on dealing with countries with which it has not traditionally allied, and form cross-regional alliances.⁴⁶ The committee emphasized that the Canadian government needed to enhance its credibility and leadership on the Council. In speaking with Canadian diplomats, the committee heard that Canada is doing its best to "leap into the breach", to work with moderates and to find co-sponsors across regions in order to find broader acceptance for resolutions. It has sought to "break down that instinct to vote as a bloc"⁴⁷ by reaching out on an issue by issue basis to find common views with members of other regional groupings.

Canada has had a reputation as bridge builder. Now that it is not a voting member of the Council, Canada may be in a better position to work diplomatically to promote its human rights agenda and to build consensus through its many international activities, its foreign embassies, and other fora, such as the Francophonie, the Commonwealth, the Organization of American States, Asia-Pacific Economic Cooperation, or the Inter-Parliamentary Union.

⁴⁴ *A Time for Serious Re-Evaluation*, supra note 29 at 29.

⁴⁵ *A Time for Serious Re-Evaluation*, supra note 29 at 35.

⁴⁶ *At the Crossroads*, supra note 1 at 50.

⁴⁷ Adele Dion, testimony before the committee, as quoted in *A Time for Serious Re-Evaluation*, supra note 29 at 30.

While the committee continues to see room for Canada to improve its diplomatic efforts to find common ground with other states, there have been occasions where the committee has supported Canada's principled stance. Canada chose not to participate in the 2009 United Nations World Conference Against Racism held in Geneva (also known as the Durban Review Conference), seeing that it "degenerated into open and divisive expressions of intolerance and anti-Semitism that undermined the principles of the United Nations and the very goals the conference sought to achieve."⁴⁸ The committee supports Canada's decision to withdraw from the Durban review process until such a time that significant changes reveal that a more objective and balanced approach to the promotion of human rights in Israeli and Palestinian relations is being achieved.⁴⁹

The committee continues to believe that adopting honest opinions and firm principles can be positive for Canada and the rights we seek to promote; but this stance must be approached with a practical sense of how to use the Council as a vehicle to advocate for human rights. Canada should not become known as a state that is never willing to negotiate.⁵⁰

RECOMMENDATION #5

The committee recommends that the Government of Canada develop new strategies for stronger human rights promotion at the UN Human Rights Council by:

- **Working to enhance its leadership role in international human rights matters, increasing its role as a bridge builder between members of the UN Human Rights Council, and moving beyond its traditional allies to foster alliances with countries around the world;**
- **Utilizing the international and regional organizations to which Canada belongs to promote Canada's perspectives on human rights matters; and**

⁴⁸ Department of Foreign Affairs and International Trade, News Release: 23 January 2008, No. 16, <http://www.international.gc.ca/media/aff/news-communiqués/2008/385786.aspx?lang=en>.

⁴⁹ See also *A Time for Serious Re-Evaluation*, *supra* note 29 at 33 – 37.

⁵⁰ *Ibid.* at 36.

- **Fostering parliamentary diplomacy by calling on parliamentarians to promote Canada’s positions on human rights in the course of their work with parliamentary associations and other international fora.**

RECOMMENDATION #6

The committee continues to support the Government of Canada’s decision to withdraw from the Durban review process, and recommends that the Government of Canada remain open to re-joining the process only if significant changes demonstrate that participants are focussing on objective, balanced and appropriate measures for the promotion and protection of human rights.

D. A Canadian Ambassador for Human Rights

The committee has previously recommended that a Canadian ambassador for human rights be created to ensure Canada has the capacity to see such diplomatic efforts through to fruition and to raise Canada’s profile as a promoter of human rights.⁵¹ Denmark, France, the Netherlands, Norway, Spain, and Sweden, among others, already have human rights ambassadors. Human rights ambassador in these countries have taken on roles of integrating human rights into foreign affairs and international development policy, conducting missions or accompanying ministerial delegations, representing a Member State at the UNHRC, and/or working with society at large to promote human rights policy and acquire new ideas.⁵²

The committee explained how such an ambassador in Canada would have an important role to play as part of Canada’s membership on the UNHRC. The Government of Canada, however, has responded that “the functions and responsibilities of the proposed ambassador are currently met by a series of existing arrangements designed to ensure close and consistent coordination across all relevant federal departments in the formulation of Canada’s international human rights

⁵¹ *At the Crossroads*, supra note 1 at p 51-52, and *A Time for Serious Re-Evaluation*, supra note 29, at 39.

⁵² See for example: Ministry of Foreign Affairs, “Dutch Human Rights Policy” http://www.minbuza.nl/en/Key_Topics/Human_Rights/Dutch_Human_Rights_Policy/The_human_rights_ambassador ; The Danish Institute for Human Rights, “Human Rights Ambassador highlights Common Approach”, <http://www.humanrights.dk/news/human+rights+ambassador+highlights+common+approach> .

policies.”⁵³ The committee considers this statement to mean that the Government is not at this time considering this recommendation any further.

As we have mentioned throughout this report, although Canada has completed its term as a member of the Council, it can continue to play an important diplomatic role by dialoguing with current members. An ambassador could assist with these diplomatic efforts, enhancing Canada’s ability to advocate for human rights internationally. Furthermore, having a human rights ambassador could assist with human rights promotion and protection domestically by bringing human rights issues to the attention of the Canadian public and by promoting the implementation of Canada’s international human rights commitments and obligations.

RECOMMENDATION #7

The committee once again recommends that the Government of Canada create an office of the Canadian Ambassador for Human Rights. The office would be based in Canada and work in consultation with relevant federal departments. The role of the Ambassador would be to work to promote human rights internationally on Canada’s behalf, coordinate Canada’s negotiations on human rights issues in a consistent manner across all international forums, and promote the domestic implementation of international human rights treaty obligations. The ambassador should serve as Canada’s permanent representative to the United Nations Human Rights Council.

E. Special Procedures

The committee believes the Special Procedures mandates⁵⁴ form an important part of the UN rights system. They are able to engage in independent studies and to investigate and probe into delicate political matters that states may be reluctant to tackle. Not surprising, given the sensitive nature of these mandates, UNHRC discussions thereon can be very contentious and politicized. In *At the Crossroads*, the committee engaged in a review of the Special Procedures

⁵³ *Government response to the Interim Report of the Senate Standing Committee on Human Rights – “Canada and the United Nations Human Rights Council: At the Crossroads”*, available at: http://www.dfait-maeci.gc.ca/rights-droits/assets/pdfs/govt_response-eng.pdf.

⁵⁴ See note 12 for a description of UN Special Procedures.

and the various procedural and substantive issues affecting their mandates.⁵⁵ While the Council has since come to some agreement on how the Special Procedures should operate, there always remains the risk that mandates will be challenged by members of the Council, who have in the past sought to limit or even eliminate them. The committee has commended Canada in the past for opposing such efforts.⁵⁶

While the effectiveness of the Special Procedures depends very much on the clarity of the mandate, the quality of the mandate holders is also important. In the past, witnesses had noted that the Canadian government had frequently, though not always taken, a neutral perspective regarding nominees and did not show support for qualified female or for Canadian candidates. This is of particular concern where there have been a very low number of female nominees for mandate holder positions.⁵⁷

The committee recommended in *A Time for Serious Re-Evaluation* that the Government of Canada engage in the Special Procedures process more actively by underscoring competence as the primary criterion for the nomination of candidates, emphasizing the need for gender balance, promoting the nomination of Canadian experts, and encouraging the development of a roster of experts from around the world.⁵⁸ The committee continues to believe that Special Procedures mandates need to be well-drafted to ensure their independence, their accountability, and their ultimate effectiveness. The Government of Canada should be actively monitoring the work of the UNHRC in this area and supporting those members of the Council who are advocating for qualified candidates for Special Procedures work, especially if they are women or Canadians.⁵⁹

RECOMMENDATION #8

The committee once again recommends that the Government of Canada actively promote that the selection of candidates for United Nations Human Rights Council mandate holder positions be based on competence as the primary criterion for nomination, while also emphasizing the need for women to be appointed, the

⁵⁵ *At the Crossroads*, *supra* note 1 at p 36 – 39.

⁵⁶ *A Time for Serious Re-Evaluation*, *supra* note 29 at 38.

⁵⁷ *A Time for Serious Re-Evaluation*, *supra* note 29 at 27.

⁵⁸ *Ibid.* *supra* note 29 at 26 – 27.

⁵⁹ *Ibid.*, *supra* note 29 at 28.

promotion of Canadian experts as nominees, and the development of a roster of experts from around the world.

F. The Universal Periodic Review

As the UNHRC was being developed, the committee urged the Government of Canada to work towards ensuring that its procedural mechanisms, in particular, those pertaining to the UPR, became powerful, credible and effective.⁶⁰ The Council's success as a viable forum for international human rights depends on the strength of such mechanisms. From its inception, the UPR mechanism was intended to bring an end to the often too selective focus on particular issues that were dictated by larger geopolitical concerns and alliances. Issues would now be reviewed universally, and each country would be required to stand up to the scrutiny of the international community and to an increasingly globalized civil society. Early on, the committee expressed a hope articulated by Louise Arbour, former UN High Commissioner for Human Rights, that the UPR would bring "a sense of fairness and universal treatment" to the UNHRC.⁶¹ In *A Time for Serious Re-evaluation*, the committee noted with optimism her additional comments that she had seen some success early on in the UPR process as UN Member States were submitting reports to UN treaty bodies, ratifying treaties, and implementing domestic initiatives in advance of their UPR reviews. It was also noted that the UPR seemed to be stimulating national debates on human rights and consultations with NGOs.⁶²

The committee previously reported that expectations for the UPR were high among our witnesses, who saw the potential in the UPR to stimulate national-level debates. The consultation process envisioned by the UPR could result in more information being made readily available regarding countries' adherence to their own human rights obligations. At the same time, witnesses urged caution in proceeding with the UPR as there was no guaranteed success and many were keenly aware that the politicisation of the UNHRC could pose further problems.

⁶⁰ *Ibid.* at 47 - 48.

⁶¹ *A Time for Serious Re-Evaluation*, *supra* note 29 at 22.

⁶² *A Time for Serious Re-Evaluation*, *supra* note 29 at 23.

The first UPR cycle is scheduled to be completed in 2011,⁶³ at which time every member of the United Nations will have been reviewed. The UPR has initiated a process of having the human rights records of these Member States' exposed to greater scrutiny at both domestic and international levels. Although the UPR's overall effectiveness is still being assessed by commentators, organizations and UN Member States, lessons can be learned from these first reviews. These lessons will help not only in terms of the development of the UNHRC as a strong international human rights institution, but they will also hopefully ensure greater commitment to the implementation and promotion of human rights in Canada.

The committee heard from witnesses that some reviews have gone very well, some have been far from perfect, while most have fallen somewhere in the middle. For some states that have previously been reluctant to discuss their human rights records in an international forum, the fact that the review was able to take place at all was certainly a move in the right direction. John Sims, Deputy Minister, Department of Justice Canada, however, expressed concern that some states are clearly not undertaking "thorough" reviews, such as that conducted in Canada, but rather are "manipulating the procedures in an attempt to avoid any real scrutiny." He did add, however, that he has seen "encouraging signs" in terms of some states opening themselves up to the UPR process and answering difficult questions in a transparent manner.

Alex Neve, Secretary General, Amnesty International Canada, noted that at this stage "we must be careful not to rush to judgment" on the UPR process, though he offered that: "There have been some positive impacts already. Many countries that have never had any meaningful process of dialogue with NGOs in their country about human rights have begun to do so.... However, we cannot yet point to a cascade of positive human rights changes that can be attributed to the UPR; it is still too early." He further provided examples of UPR reviews that he thought had gone well, such as the United Kingdom and Colombia, "the latter certainly a country with serious human rights challenges", and of "woeful disappointments" such as Tunisia, Algeria and Cuba, which were "politicized reviews with a sycophantic chorus of states projecting to the world that everything is absolutely fine in those countries."

⁶³ Office of the High Commissioner for Human Rights, "Calendar of reviews for 1st cycle", <http://www.ohchr.org/EN/HRBodies/UPR/Documents/uprlist.pdf>.

The challenges of the UNHRC's overall functioning, as discussed above, are thus manifest in the UPR process: bloc politics have come into play and some states appear to be attempting to manipulate the current procedures to avoid any real scrutiny of their human rights records. Despite these challenges, the committee, like many of the witnesses it heard from, remains optimistic about the possibilities and potential that the UPR process holds. The UPR has provided for much discussion in all types of circles and fora, whether international or domestic, in the media or in academia, government or civil society. These discussions are important in emerging democracies, in countries with poor human rights records, and also in those countries that see themselves as the torch-bearers for advancing human rights. The UPR has already made much information public relating to the human rights records of Member States – or at least exposed where information is lacking. As certain witnesses emphasized to the committee: the more information is accessible, the harder it will be for states to paint a rosy picture to cover up the reality on the ground.⁶⁴

The committee agrees with many of the NGOs it had heard from that for the UPR to be effective, it has to be a mechanism within the Council that provides a venue for discussion and debate. The committee continues to believe that the UPR should not be simply founded upon the reports produced by the States under review themselves, nor solely upon a peer review process, but should involve input from experts, both within and outside the UN system, NGOs, grassroots and local organisations, other relevant stakeholders and the public at large – in particular, from the citizens of the country being reviewed.

Rémy Beauregard recommended that Canada should contribute to the evaluation of the UNHRC and the UPR by, for example, promoting “the inclusion of mandatory UPR progress reports and accountability mechanisms within the council to measure progress according to specific timetables of States under review, as well as [by] promot[ing] the development of a

⁶⁴ Louise Arbour testimony; Ibrahim Salama, Director, Treaties and Council Branch on Universal Periodic Review, Office of the UN High Commissioner on Human Rights, testimony before the committee, 26 March 2008; Jean-Paul Hubert, Interim President, Rights and Democracy, testimony before the committee, 11 February 2008; Lloyd Lipsett, Senior Assistant to the President, Rights and Democracy, testimony before the committee, 11 February 2008; Peter Splinter, Representative to the UN in Geneva, Amnesty International, testimony before the committee, 25 March 2008, as noted in *A Time for Serious Re-Evaluation*, supra note 29 at p 23.

protection mechanism for stakeholders participating in the UPR process.” Of course, the committee is aware that human rights activists are often the targets of persecution by some governments. To truly promote the UPR, the Council must find a means of promoting the involvement of stakeholders in all States by ensuring that protection is afforded to them. Some witnesses discussed the fact that human rights defenders have sometimes been threatened, attacked or killed for their efforts to contribute to the international scrutiny of their country’s human rights record.⁶⁵

Canada can also continue to encourage that the Council review certain procedural matters of the UPR. Witnesses complained that the current first-come-first-served approach for States seeking to comment at a UPR session prevented some States from participating in reviews if they were too late to get on the list. Eduardo Gonzalez, Deputy Director, Americas, International Centre for Transitional Justice, noted that this can also result in some States mobilizing bloc politics and getting other delegations they are friendly with to “stack the floor”, thereby avoiding a comprehensive and critical review. The committee believes that a fairer system should be developed that allows for full participation by all interested States and for a greater diversity of views to be expressed.

In summary, the UPR process is not perfect, but it has begun and it has potential. If countries, such as Canada, push to use this new mechanism to its fullest, then this potential may turn into some real positive results. This will require setting a high standard for honest and thorough reporting by Member States of their domestic human rights record, diligent and progressive reviews of these States by other Member States, and an increased capacity for the participation of civil society. It will also require the further development of mechanisms that ensure that the goals of the UPR may be realized, such as progress reports and programs to protect human rights activists.

As stated by Rémy M. Beauregard: “the UPR process is not an end in itself but rather an important tool for ensuring that human rights obligations be implemented at the national level.”

⁶⁵ For example: Rémy M. Beauregard, President, Rights and Democracy, and Wilton Littlechild, AFN Regional Chief (Treaties 6, 7, 8), Assembly of First Nations, testimonies before the committee.

The next few years will be the true test of whether this tool has been effectively used to advance human rights.

RECOMMENDATION #9

The committee recommends that the Government of Canada encourage the United Nations Human Rights Council to evaluate and report on the first full round of the Universal Periodic Review in order to determine whether further measures must be adopted for the achievement of its objectives.

RECOMMENDATION #10

The committee recommends that the Government of Canada develop and promote mechanisms that can be adopted by the United Nations Human Rights Council to ensure that stakeholders in every country, whether institutions, non-government organisations, or individuals, are encouraged to participate fully in the Universal Periodic Review and are protected from negative consequences when doing so.

G. Canada's Review of Other States

As outlined in Chapter Two, Canada also participated in the UPR process as a troika member for the UPRs of a number of other countries. In *A Time for Serious Re-Evaluation*, we noted that Canada's work on the troikas was an opportunity to establish best practices amongst UNHRC members. The committee continues to believe that, regardless of whether it is a member of the Council or not, Canada should be proactive in its approach to reviewing other States, to pose challenging and informed questions to States being reviewed, and to employ the best expertise and research in preparing for these reviews. If it does take on a troika role in the future, Canada should demonstrate how a troika member can engage with civil society in the Member State being reviewed and encourage its participation in the UPR process.

The committee had previously recommended that an independent human rights expert should act as Canada's representative in its work as a troika member.⁶⁶ Given Canada's departure from the Council, it will not be performing this troika work. The committee still believes that such an

⁶⁶ *A Time for Serious Re-Evaluation*, *supra* note 29 at 26.

expert could facilitate consultations between troika members and a state under review if or when Canada returns as a member of the Council. Such an expert could also add greater value to Canada's participation in all reviews of other countries (regardless of whether Canada is a troika member). The independence of such an expert could help to ensure that reviews remain focussed on human rights issues and do not become entangled in the politicized environment of the Council. The expert could advise on which UPRs Canada should seek to contribute observations and questions. The committee also re-iterates its previous recommendation that Canada should promote early and transparent consultations between troika members and the state under review.⁶⁷

RECOMMENDATION #11

The committee once again recommends that the Government of Canada should develop a proactive policy with respect to its involvement on future Universal Periodic Review evaluating committees (troikas). This policy should include the appointment of an independent human rights expert as Canada's representative on any future troikas, and promote early and transparent consultations between troika members and the State under review.

H. Canada's Recent Review

As noted by several witnesses who appeared before the committee, Canada was a leading proponent of the UPR from its inception, viewing the mechanism as promoting and enabling a consistent, fair and impartial review of all UN Member States' human rights records.⁶⁸ Canada submitted its written report dated 5 January 2009 in anticipation of its UPR session. When Canada's formal review under the UPR took place on 3 February 2009 in Geneva, the UNHRC working group on UPR examined Canada's human rights record during a three-hour session. Sixty-nine Member States requested an opportunity to speak during Canada's session, although there was only time for forty-five of them to comment and offer recommendations to Canada.

⁶⁷ *Ibid.*

⁶⁸ John Sims, Deputy Minister, Department of Justice Canada and Alex Neve, Secretary General, Amnesty International Canada, testimonies before the committee.

The troika that facilitated Canada's UPR review was comprised of the United Kingdom, Azerbaijan and Bangladesh.

The written UPR draft report for Canada's review was released on 5 February 2009.⁶⁹ Canada submitted a five-page written response to the UNHRC working group's draft report on 8 June 2009.⁷⁰ In this response, the Government of Canada accepted and rejected some of the many recommendations made by Member States as to how Canada should be meeting its international human rights obligations.⁷¹ At a session the following day in Geneva, Canada, stakeholders, and other Member States were permitted to make additional final statements to form part of the review.⁷² After the Council then adopted its report on Canada, this concluded the UPR process for Canada until its next UPR, anticipated for 2013.

In *A Time for Serious Re-Evaluation*, the committee had cautioned the Government of Canada that its 2009 UPR was quickly approaching. Despite some minimal preparation by federal officials noted by the committee at the time, no concrete process appeared to have been put in place to adequately prepare Canada for this review. The committee added that it was time to "bring Canada's federal, provincial and territorial ministers responsible for human rights together to establish clear guidelines and practices for the not-so-distant future."⁷³ The committee also recommended that the Government of Canada immediately develop procedures for its involvement in the UPR process. It further recommended that the report received from the

⁶⁹ Human Rights Council, Working Group on the Universal Periodic Review, *Draft Report of the Working Group on the Universal Periodic Review - Canada*, A/HRC/WG.6/4/L.3, 5 February 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_L3_Canada.pdf. The final version of the report was released in October 2009: Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review - Canada*, A/HRC/11/17, 5 October 2009, http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/11/17&referer=/english/

⁷⁰ *National Report submitted in accordance with paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 - Canada*, *supra* note 20.

⁷¹ Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review - Canada, Addendum*, A/HRC/11/17/Add.1, 8 June 2009, http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/11/17/Add.1&referer=/english/.

⁷² United Nations Human Rights Council, *Archived Video, Fourth Universal Periodic Review*, <http://www.un.org/webcast/unhrc/archive.asp?go=090205#amadopt> ; see also Canadian Heritage, *Canada's Universal Periodic Review*, <http://www.pch.gc.ca/pgm/pdp-hrp/inter/upr-eng.cfm> .

⁷³ *A Time for Serious Re-Evaluation*, *supra* note 29 at 25.

UPR process be tabled in Parliament, accompanied by details of actions that the government intended to take to address these recommendations by way of follow-up.⁷⁴

The federal government officials who appeared before the committee after Canada had undergone its first UPR session, spoke with pride about Canada's handling of the process. John Sims felt that Canada's approach to the UPR has served as a model, or "best practice", for other States who will be coming up for review and indicated that "a number of states commended Canada's presentation for its candour and thoroughness." Diane Fulford, Assistant Deputy Minister, Citizenship and Heritage, Canadian Heritage, considered the UPR to have already helped provide a "global view" of what is being done across Canada with regards to the different UN treaties involving human rights issues, as well as to have revealed "the work that is required to coordinate different levels of government in different levels of jurisdiction."

The committee recognizes that the UPR procedures are new and that all governments, both in Canada and abroad, are learning how to prepare not only for their own reviews, but also how to make the best possible contributions to the reviews of other states. Despite confusion surrounding the rescheduling of Canada's UPR session and the federal and Quebec elections in 2008 in terms of organizing comprehensive consultations with civil society in a timely manner, the Canadian delegation was able to put together a very thorough submission to the UPR, one which covered Canada's current institutional framework for human rights, the challenges facing the government in the promotion and protection of human rights in Canada, and the programs developed in response to these challenges. The committee is impressed with the amount of coordination required to bring this all together.

That being said, much work remains if Canada is to be adequately prepared for its next UPR review in four years time. Perhaps the most important way for Canada to improve its performance at the next UPR is to have a better track record on the domestic implementation of its international human rights treaty obligations. Of course, this is easier said than done, and an analysis of the many avenues and mechanisms at Canada's disposal to improve human rights in Canada is beyond the scope of this report. However, there are certain practical and immediate

⁷⁴ *Ibid.* at 26.

steps that the Government of Canada can take towards improving its performance at its anticipated review in 2013. To begin, Canada needs a publically announced plan that outlines its preparation procedures for its next UPR and that presents a process that will ensure open and transparent, timely and substantive engagement with civil society, Aboriginal peoples' organizations, parliamentarians, and the Canadian public (as we discuss further in subsection I of this chapter).

RECOMMENDATION #12

The committee once again recommends that the Government of Canada table in Parliament its submissions and responses to the Universal Periodic Review of the United Nations Human Rights Council, along with any of the Council's reports regarding Canada's review.

I. Issues raised during Canada's review

In discussing Canada's UPR, John Sims stated that: "Many of the issues raised by other countries were anticipated and pertain to challenges acknowledged in our opening statement and during our responses to questions.... A great deal of what we heard was fair [but this] does not mean we necessarily agree with every word that was said." Throughout Canada's review, comments were made that commended Canada's efforts in addressing human rights issues, while others were quite critical.⁷⁵ Mr. Sims explained the importance of recognizing that some countries had a better understanding of Canada's situation than others,⁷⁶ who perhaps either did not understand Canada's federal system or did not appreciate Canada's decision to address some human rights issues through programs rather than through legislation. He also added that not all recommendations from Member States are necessarily "given equal weight", while others are given more serious consideration.⁷⁷ Mr. Sims' comments appear to mean that Canada is apt to pay more attention to the comments made by countries we traditionally have good relations with, who understand Canada's political system, and who have good human rights records; conversely,

⁷⁵ *National Report submitted in accordance with paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 - Canada, supra* note 20.

⁷⁶ Mr. Sims noted the United Kingdom, France and Denmark as examples.

⁷⁷ States Mr. Sims mentioned were: "Switzerland, Austria, Italy, Norway, Australia, the United Kingdom, Mexico, the Netherlands, India, Finland, Belgium, France, [and] Argentina...."

comments that are critical of Canada's human rights record but that come from countries with generally poor human rights records, or who do not demonstrate an understanding of Canada's political system, have less influence.

Canada's participation in the UPR process was not limited to being a country under review. Canada has also been able to comment during the UPR of other Member States. Diane Fulford, Assistant Deputy Minister, Citizenship and Heritage, Canadian Heritage, added that the UPR process allows Canada to make comments on other countries in return: "It is *quid pro quo*, right? These countries do get to hold the mirror up to us but our day is there, too, where we get to hold the mirror up to them."

Although, as noted above, we did not wish to engage in a substantive analysis of the issues raised during Canada's UPR, we found it important to review what issues were raised and how these reflected on Canada's reputation.⁷⁸ During our hearings, witnesses provided considerable testimony regarding the issues and recommendations that formed the basis of their submissions and reports to the UPR. There was a broad range of issues raised,⁷⁹ for example: proposed reforms to the *Canadian Human Rights Act*,⁸⁰ social inequities in services provided to Aboriginal children,⁸¹ and the legal duties Canadian governments have to consult with Aboriginal peoples.⁸²

Several NGO representatives who appeared before the committee shared a common view that was articulated by one witness as Canada's "failure to meet minimum standards"⁸³ and

⁷⁸ See Appendix G for a review of Canada's participation in the UPR.

⁷⁹ All documents pertaining to Canada's review are available at: Office of the High Commissioner for Human Rights, "Universal Periodic Review – Canada" <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/CASession4.aspx>

⁸⁰ For example, Alex Neve stated that: "We certainly have been supporters more broadly of the need to amend the *Canadian Human Rights Act* to ensure that there is full protection for indigenous peoples and certainly for indigenous women, and we will continue to be so."

⁸¹ For example, Kathy Vandergrift commented on discrepancies in amounts given per child in the welfare system for Aboriginal children, which are lower than those given to non-Aboriginal children.

⁸² For example, in discussing his views on the Government of Canada's consultations in preparation for the UPR, Wilton Littlechild stated that: "It is not simply a duty for public consultation but a legal duty to consult, and that did not happen. That is one of the complaints. Of course, we are still working on the definition of 'consultation.' That is why I suggested in our presentation earlier that when Canada is developing its Crown's duty to consult, in our view, it must incorporate the international norms and standards."

⁸³ Kathy Vandergrift, testimony before the committee.

implement human rights treaties (as discussed further in the following sections). These witnesses were concerned that Canada's international reputation as a supporter of human rights is slipping and that its UPR emphasized this fact. Bruce Porter, the Executive Director of Social Rights Advocacy Centre, expressed support for comments made by the UN Human Rights Committee that Canada, a country with a cold climate and the resources to deal with it, should be taking positive measures to address homelessness, and that not to do so "is a violation of the right to life." He added: "It is a moving experience to hear your country being held to account against reasonable standards and to hear the shock expressed when they look at Canada's resources and the data about growing social and economic inequality and homelessness in the midst of the greatest economic growth, until the last year."

Nancy Baroni, Program Director, Canadian Feminist Alliance for International Action, also added to the concern raised by some witnesses about Canada's reputation by noting that: "United Nations treaty bodies have expressed consistent concerns about Canada's failure to uphold women's human rights. Canada has, for the most part, ignored these concerns." In particular, she noted that the UN Committee on the Elimination of Discrimination Against Women⁸⁴ called upon Canada in 2008 to report back on the issues of missing and murdered Aboriginal women and the inadequacy of social assistance across Canada. She was concerned that she had not been able to find evidence that the Government of Canada is "even preparing" a response. As shall be discussed further below, that such information is difficult for Canada's NGO community to obtain is of concern for the committee.

Throughout Canada's UPR and the committee's hearings, much emphasis was placed on issues facing Aboriginal peoples in Canada. In fact, the majority of the comments and recommendations made by States during the UPR session pertained to the situation of indigenous peoples. Beverly Jacobs, President of the Native Women's Association of Canada, explained that this confirmed what her organisation "has been saying for a very long time and what is apparent to many Canadians about the serious nature of human rights concerns facing indigenous peoples, and particularly indigenous women in Canada, that require concrete changes to policies

⁸⁴ Committee on the Elimination of Discrimination Against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women: Canada*, CEDAW/C/CAN/CO/7, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CAN-CO-7.pdf> at 7.

and practices in Canada.” She added that: “The recommendations put forth by States at the recent review in February are instructive of what needs to occur to help restore Canada's image as a human rights champion. It calls on Canada to ensure that its engagement with the UPR is demonstrative of an inclusive, transparent and accountable process.” Wilton Littlechild added that it is “unfortunate” for Aboriginal peoples’ organizations that they “have had to go outside to international mechanisms” to have their treaty relationships honoured. There was also much discussion, both during committee hearings and during the UPR process pertaining to the fact that Canada had not signed the United Nations Declaration on the Rights of Indigenous Peoples.⁸⁵ Although Canada did not accept the recommendation it received during its UPR that it sign the Declaration,⁸⁶ in the Speech from the Throne delivered on 3 March 2010, the Government of Canada stated its intention to “take steps to endorse this aspirational document in a manner fully consistent with Canada’s Constitution and laws.” The committee urges the Government of Canada to follow through with this intention.⁸⁷

RECOMMENDATION #13

The committee once again recommends that the Government of Canada immediately table in Parliament an action plan outlining how it intends to implement the recommendations it has accepted from its Universal Periodic Review.

RECOMMENDATION #14

The committee recommends that the Government of Canada take immediate steps to endorse the United Nations Declaration on the Rights of Indigenous Peoples in a manner that is fully consistent with the Constitution of Canada and Canadian laws.

⁸⁵ Romeo Saganash , Beverly Jacobs, Jennifer Preston, and Wilton Littlechild testimonies before the committee.

⁸⁶ *Report of the Working Group on the Universal Periodic Review - Canada, Addendum, supra* note 71.

⁸⁷ The Government of Canada, Speech from the Throne, 3 March 2010, <http://www.speech.gc.ca/eng/media.asp?id=1388> . ,

J. The Consultation Process – Civil Society⁸⁸

In *At the Crossroads*, the committee welcomed a “big improvement” in the new UNHRC, and that was the role to be played by civil society.⁸⁹ Engagement and consultation with civil society forms an essential part of UPR procedures: there is an expectation that non-governmental organisations and national human rights institutions will have an opportunity to contribute to the process through engaging with governments and through written and oral submissions made for the UPR itself. Engagement with civil society is not simply a requirement of the UPR,⁹⁰ the professionalism and effectiveness with which non-governmental organisations are consulted can reflect upon the integrity of the entire UPR process.

After hearing from governmental and non-governmental representatives, it has become apparent to the committee that Canada’s procedures and processes for preparing for the UPR are indicative of an insufficiently developed plan for ensuring that Canada meets all of its human rights obligations. Canada needs a plan that lives up to the expectations of Canadians, who the committee believes see Canada’s role as that of a world-wide champion of human rights in theory and in practice. This plan should establish how the Government of Canada intends to engage with civil society, Aboriginal peoples’ organizations, and the Canadian public.

The committee heard a considerable amount of testimony respecting the Government of Canada’s consultation with civil society throughout the UPR process. Many NGO representatives made it clear that they were not content with the manner in which the Government handled its responsibilities to engage with relevant stakeholders. They expressed frustration with the timing of the consultations and their inability to have meaningful dialogue with government officials. For example, Rémy Beauregard spoke about the importance of involving key organizations and institutions in the preparations for the UPR: “The absence of key stakeholders, such as parliamentarians, bar associations, the judiciary and local human rights

⁸⁸ The committee uses this term “civil society” to be inclusive of non-governmental organizations, charities, trade unions, social movements, business association, and other advocacy, religious, community or social groups who are independent from government.

⁸⁹ *At the Crossroads*, *supra* note 1 at 39.

⁹⁰ As noted in Chapter Two, UNHRC resolution 5/1 provides that the UPR should “ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions,” and their participation is “encouraged throughout all relevant steps of the process.”

NGOs in the preparation, review and follow-up process diminishes the quality of the process and the viability of genuine follow-up.” He also added a recommendation that was echoed by Alex Neve that the capacity of Canada’s federal human rights commission to assist in the UPR preparation process should be further developed.

Government officials, for their part, expressed to the committee their commitment to developing the ongoing processes of the UPR and dialoguing with stakeholders. John Sims told the committee that he was “aware that several civil society groups were not satisfied with these sessions given their nature and late timing as a result of two elections.” Diane Fulford added that civil society groups “wanted to be consulted ahead of the drafting of Canada's report.... That is what we had originally planned, but the realities of both the federal and Quebec elections during this period meant that sessions had to be postponed.” She later stated that given that the UPR is a new process, and that the release of the UNHRC’s final report on Canada is “only the beginning of the process, not the end,” that she would be “very interested to learn what mechanisms Aboriginal peoples’ organizations feel need to be put in place over the course of the four years the UPR runs.”⁹¹

Several NGO and Aboriginal peoples’ organizations representatives told the committee that they were “frustrated” by the Government of Canada’s approach to consulting with civil society.”⁹² For instance, Beverley Jacobs, President, Native Women's Association of Canada stated that: “We felt that these meetings were very poorly organized by Canadian Heritage in terms of timing, there was insufficient notice given to participants and the inclusion of an Aboriginal-specific session was cancelled very late.” She also underscored that: “The engagement with civil society indigenous peoples is supposed to be a central part of the UPR process.” Akim Ade Larcher, Director of Policy and Research, EGALE Canada, felt that there were clearly “serious problems with the way civil society organizations were engaged.” He explained how the government did not take steps to inform EGALE Canada properly of the

⁹¹ To place this in context, she was discussing consultation with Aboriginal organizations. Therefore this comment was not necessarily intended to exclude other NGOs.

⁹² Ellen Gabriel, President, Quebec Native Women, also used the word “frustration” to describe her reaction to the meeting she attended: “This [was] not an engagement session; it is not even a consultation. They were just gathering information.” Jennifer Preston, Programme Coordinator, Aboriginal Affairs, Canadian Friends Service Committee (Quakers), also felt that there was “no engagement” at the meeting she attend, and that “Canada does need to have a different approach with civil society.”

possibility for consultation. He felt that there was a “lack of trust with civil society members” and a “lack of communication.” Another problem he noted was the lack of funding for civil society organizations to participate in the UPR review process, which left smaller organizations out. He recommended that: “Moving forward, we need to ensure in the post-review process that engagement is improved and made more transparent with civil society organizations, not only in consultation meetings, but also in the decision-making process.”

Leilani Farha, Executive Director, Centre for Equality Rights in Accommodation, described the “serious problems in launching a meaningful consultation with NGOs in the lead-up to the UPR,” and concluded that there was “not a very strong sense of commitment to engaging civil society”, “there was no constructive discussion”, and the meetings that did take place were not actual “consultations” as they “in no way [informed] the Government of Canada's reporting to the UN Human Rights Council.” It was her view that the federal government representatives and the few provincial representatives who attended the meetings were not senior enough to do more than play a listening and note-taking role. She also pointed out that Canada’s “failure to consult with NGOs was critiqued in the UPR by a number of states, including the United Kingdom, Netherlands, Portugal, Norway, Denmark, Hungary, Ecuador and Mexico.” Kathy Vandergrift, the Chair, Canadian Coalition for the Rights of Children, noted that in her review of all the documentation from NGOs and the government during the consultation process and the UPR review process, she could “not find one change that had been made as a result of the consultations, and therefore found it “hard to take the promise of more talk seriously.”

Witnesses offered recommendations for improving the nature of the Government of Canada’s engagement with non-governmental organizations. Alex Neve’s hope for civil society engagement in preparation for Canada’s future UPRs is to see “timely, open, accessible and meaningful dialogue,” that will not be “just a monologue,” and that will allow organizations to have access to the results of such dialogue. Leilani Farha recommended that the government could, in future, “facilitate meetings between NGOs and senior level bureaucrats, as well as people on the parliamentary side, at the provincial and territorial level as well as federally”, since she has found accessing these people to be difficult.

Some of the witnesses described what they thought is meant by a consultation process. Jennifer Preston, Programme Coordinator, Aboriginal Affairs, Canadian Friends Service Committee (Quakers), and Wilton Littlechild raised the issue of the Government's legal obligation to consult Aboriginal peoples,⁹³ specifically as being relevant to the matter of the Government's engagement with civil society. He noted that Canada and Aboriginal peoples are still working on the definition of "consultation" and urged that "when Canada is developing its Crown's duty to consult, in our view, it must incorporate the international norms and standards." Beverly Jacobs described "consultation" as being "when indigenous women feel that their voices are heard, or when any of our voices are heard, that results in not only being heard, but [in] a process that allows those voices to be implemented in action..." Ellen Gabriel, President, Quebec Native Women, described consultation as a "dialogue" that includes "informing the other party what your position is" and providing answers to questions.

The government's lack of preparedness in fulfilling the requirements and expectations of the UPR process co-exists with a general lack of transparency in Canada's treaty ratification and implementation process. The committee has heard from witnesses who described their frustration in obtaining status reports or timelines from the Government of Canada regarding treaty ratification, and reported seeing a lack of results, or measurement benchmarks, once steps had been taken to implement these instruments.

In the upcoming years, the committee will be monitoring the Government of Canada's preparation for its next UPR and looking for a consultation process that reflects a greater commitment to engaging Canadians in how Canada handles human rights matters.

RECOMMENDATION #15

The committee once again recommends that the Government of Canada immediately develop procedures in preparation for its next Universal Periodic Review and that a plan detailing these procedures be made available to the public. This plan should outline a process that will ensure open and transparent, timely

⁹³ The duty that the Government of Canada has to consult with Aboriginal peoples regarding matters of Aboriginal rights or titles is discussed in the Supreme Court of Canada decisions: *Haida v. British Columbia*, [2004] 3 S.C.R. 511 and *Taku River Tlingit First Nation v. British Columbia*, [2004] 3 S.C.R. 550.

and substantive engagement with civil society, Aboriginal peoples’ organizations, parliamentarians, and the Canadian public with respect to Canada’s human rights obligations.

K. The Consultation Process – Engagement with Parliamentarians

Unlike many Western democracies, there is no constitutional requirement in Canada for Parliament or provincial legislatures to be involved in the treaty process that ultimately imposes new international legal obligations on this country. While debate and discussion may happen on an ad hoc basis, there are no formal requirements or procedures in place that would guarantee that this take place. There is also no parliamentary or public process for reviewing, debating or following-up on the observations, findings or recommendations made by international treaty bodies. This committee has in the past advocated for change in this regard.

As we explained in more detail in *Promises to Keep* and other reports, that these matters are kept out of Parliament represents a democratic deficit.⁹⁴ Parliament is an important forum for public debate and governmental accountability. There is not room in this report to review the role Parliament should play in the international treaty negotiation and implementation process, but for the purposes of this report, the committee wishes to underscore that all UNHRC matters should routinely be considered as part of parliamentary business. Canada’s submissions to the UPR should be tabled in Parliament and debated, as should Canada’s plans for preparing for each subsequent UPR review. Ongoing dialogue in Parliament about international human rights treaty obligations would allow parliamentarians to better incorporate these matters into their work with international parliamentary associations as well as into debates over public policy and the scrutiny of legislation that concerns human rights.

When asked about the Government of Canada’s commitment to engaging with parliamentarians, Diane Fulford stated that the Government’s “primary responsibility” has been to work with Parliament and all levels of government in the preparation of the UPR response. The committee therefore looks forward to engaging further with the Government concerning the preparation for the next UPR.

⁹⁴ *Promises to Keep*, *supra* note 23 at 17.

As stated above, under subsection H of this chapter, the committee recommends that the Government of Canada table all of Canada's submissions to the Universal Periodic Review process in Parliament.

RECOMMENDATION #16

The committee once again recommends that the Government of Canada table in Parliament a plan for its preparation for and participation in its next Universal Periodic Review in order that this plan may then be referred to this committee.

L. The Consultation Process – Engagement with the Canadian Public

When John Sims appeared before the committee, the issue was raised about how the Government of Canada might make more information publicly available concerning the process of treaty implementation and the obligations and rights that Canadians have, which could be done by taking advantage of the Internet or other new technologies.⁹⁵ Mr. Sims acknowledged that, as noted earlier, some of the recommendations made during the UPR were about how Canada handles its obligations under international instruments. He added that he thought the follow-up work for the Government of Canada would be to “look at gaps, look at deficiencies, [and] look at the suggestions of people who are observing how Canada manages its international instruments compared with other states that perhaps do it better.” Lyn Elliot Sherwood, Executive Director, Heritage Group, Canadian Heritage, explained that currently: “For treaties that are still under review by Canada, generally, there is not a public posting of information because the review process is within either the federal or the provincial and territorial governments in an analysis that has yet to go forward for approval by ministers. By and large, unless Canada has formally tabled its reservations about a treaty instrument, which it does in the treaty process, that may not be broadly publicized.”

⁹⁵ In *Promises to Keep*, the committee made the following recommendation in Chapter IV (F): “The committee recommends that the Government of Canada ensure that the international human rights instruments to which Canada is a party, as well as information on any complaint mechanisms, be consolidated and made easily accessible to Canadians via the Internet, and that Canadians be made aware of how to access this information.” The committee believes that the Government of Canada should use new technology, particularly the Internet, so Canadians can learn about the process of treaty implementation: not simply the content of the national government's response to treaty bodies, but also the timing and progress of procedures. The committee urged at that time starting to use the new technology as a way of reaching more people and having them understand the obligations, responsibilities and rights that people have.

The difficulties experienced by civil society in obtaining information about Canada's implementation of human rights treaties, and in particular about the UPR process, are disconcerting. The NGOs we spoke with have an active interest in these matters and have some resources to devote to the observation of or participation in the UPR. If they cannot succeed in getting the Government of Canada to engage with them, the Canadian public will consequently be less informed about human rights matters. By the same token, if debate is absent from Parliament because Parliamentarians do not have information to debate, then this also leads to a less-informed public.

The committee believes that the UPR should be a process that the citizens of each country can inform themselves about, and which will allow citizen participation, if its citizens so wish. In summary, information for the UPR consultation process should be easy to find and to understand and should be designed to encourage participation.

Currently, the Government of Canada has not yet tapped into the full potential of new technology to engage with the public, as other countries are doing.⁹⁶ There is a notable deficiency in the type of information currently accessible from the Canadian Heritage website, or from other government websites, concerning the UPR and Canada's involvement at the UNHRC. Presently, there is only basic information on the UPR and Canada's role at the UNHRC, and links are provided to the UN website pages containing official documents. The Government of Canada should be visibly posting all information pertaining to the UPR in accessible formats, including all of Canada's submissions pertaining not only to its own review, but also to its participation in the review of other countries. For instance, when Canada contributed to the review of countries such as China or Indonesia, Canadians should have access to these and be told what informed Canada's contributions. More broadly, Canada should be using the Internet as a means for public outreach and to ensure that Canadians know about their rights and how to access them. It is also worthy of note in this context that some UNHRC documents are only initially available in English, and as such, the Government of Canada should consider ensuring that reports from the UNHRC that pertain to Canada's UPR are made available in both official languages in a timely manner.

⁹⁶ *Infra* note 98.

As already discussed in *Promises to Keep*,⁹⁷ the committee would like to see a central public database that is accessible through the Internet and that will inform Canadians about the ratification process for treaties and the status of Canada's ascension to any treaty. Canadians should be able to find out about the negotiations that are taking place that could result in Canada acceding to another treaty. This central database could also provide information on programs designed to meet Canada's treaty obligations and on which government departments are reviewing those matters affected by any new initiative. Such an Internet-based project could not only state where and when public consultations will be held, but could be used to conduct on-line consultations with the Canadian public at large. Such use of the Internet is already well underway in many other countries.⁹⁸

Ultimately, the goal of making such information more readily accessible is that this will promote dialogue among stakeholders and prompt greater efforts by the Government of Canada to implement Canada's human rights treaty obligations. This would help civil society organisations track how Canada is faring in the treaty implementation process and measure the success of human rights initiatives.

Certain witnesses also emphasized the importance of greater public awareness and participation in the human rights treaty process. Alex Neve expressed the view that "the discussions about how to move forward with human rights advice from the UN should be accessible to all Canadians and should benefit from high level political support and involvement that facilitates prompt and accountable decision-making among governments in the country."

⁹⁷ *Promises to Keep*, *supra* note 23 at Chapter IV (f).

⁹⁸ Around the world and in Canada, governments and civil society groups have been working to improve ways in which citizens can participate through web-based technologies in the policy-shaping and legislative processes, such as through public consultations on the Internet. For further information, see for example: DirectGov, "List of online consultations websites", United Kingdom, http://www.direct.gov.uk/en/Governmentcitizensandrights/UKgovernment/PublicConsultations/DG_17046 ; Chief Secretary to the Treasury, "Putting the Frontline First: Smarter Government", The Stationary Office, December 2009, United Kingdom, <http://www.hmg.gov.uk/media/52788/smarter-government-final.pdf> ; Department of Finance and Deregulation, The Australian Government Information Management Office "Engage: Getting on with Government 2.0 – Report of the Government 2.0 Taskforce", Australia, <http://www.finance.gov.au/publications/gov20taskforcereport/doc/Government20TaskforceReport.pdf> ; Department of the Prime Minister and Cabinet, "PM&C Online forums", <http://forums.pmc.gov.au/>, Australia, ; and European Commission, Europe's Information Society Thematic Portal "eGovernment", http://ec.europa.eu/information_society/activities/egovernment/index_en.htm <http://www.finance.gov.au/publications/gov20taskforcereport/doc/Government20TaskforceReport.pdf> .

Nancy Baroni recalled the UN CEDAW committee's recommendation for Canada to ensure "accountability and the transparent, coherent and consistent implementation of the convention throughout its territory in which all levels of government can participate."⁹⁹

RECOMMENDATION #17

The committee once again recommends that the Government of Canada ensure that its operations in relation to its human rights treaty obligations are more transparent and open to public scrutiny. To this end, the committee further recommends:

- **That the Government of Canada create a central public database that is fully accessible to all Canadians through the Internet. This database should inform Canadians about the status of Canada's ascension to or ratification of international treaties; any public consultations that will be held in this respect; and any programs designed to meet Canada's human rights treaty obligations; and**
- **That the Government of Canada ensure that the international human rights instruments to which Canada is a party, as well as any information pertaining to reports and complaint mechanisms, be consolidated and made easily accessible to all Canadians via the Internet, and that Canadians be made aware of how to access this information.**

M. The Machinery of Government in Canada

The preparations for Canada's UPR were a considerable undertaking by all those involved, whether they worked with the Canadian or with foreign governments, with the UN, or with civil society. The UPR process has revealed much about how the machinery of government operates with respect to the implementation of Canada's international human rights obligations. John Sims explained how he was "struck" in his preparations for the UPR "by the breadth and complexity of the issues" involved, adding that these issues touch on the "whole spectrum of

⁹⁹ *Concluding observations of the Committee on the Elimination of Discrimination against Women: Canada*, *supra* note 84 at 3.

human rights” and required “multi-faceted responses from a variety of departments at the federal, provincial and territorial levels, as well as by civil society.”¹⁰⁰

Diane Fulford presented a chart that set out the co-ordination among the various government departments (this chart is attached to the report as Appendix E). The chart shows the roles played by different government departments in preparing for the UPR, and indicates which departments are responsible for particular groupings of human rights themes and issues. Canadian Heritage, the Department of Justice Canada and the Department of Foreign Affairs and International Trade are the three core departments that have the responsibility of integrating the information provided by other federal departments, civil society and Aboriginal peoples’ organizations, and the provincial and territorial governments. The coordination between different levels of government is done through the Continuing Committee of Officials on Human Rights (CCHR), as discussed below. An interdepartmental committee was also created specifically for the UPR process, and, according to Ms. Fulford, continues to meet on a regular basis. The draft response to the UPR is ultimately approved by Cabinet, with the PCO acting as the co-ordinating body and secretariat to Cabinet.

Despite such efforts to co-ordinate among government departments, the result has not benefited Canada’s non-government organisations who are seeking information about how Canada is tackling its human rights obligations. For instance, Akim Ade Larcher, Director of Policy and Research, EGALE Canada, gave an account of his attempts to consult with government departments, stating that doing so was like “a hot potato”, meaning one branch of government would send him to another, only to have the other send him back to the first. He expressed his frustration in not being able to get in contact with the right people in government, leaving him with the feeling that perhaps certain issues were not being sufficiently attended to by the Government of Canada. “There is a disconnect,” he explained. “There is an opaque situation within our Foreign Affairs and international reputation that needs to be fixed.”

¹⁰⁰ John Sims mentioned the Canadian delegation included officials from: Indian and Northern Affairs Canada, Citizenship and Immigration Canada, Foreign Affairs and International Trade Canada, Justice Canada, Human Resources and Social Development Canada, and Canadian Heritage, as well as officials representing the provinces of Quebec and Saskatchewan.

In previous reports, the committee has recommended that the human rights machinery in government must be made more comprehensible, transparent and open to all Canadians. Canada's experience with its first UPR has demonstrated that this recommendation continues to be an important and pressing one.

The committee is aware of concerns raised by stakeholders and other UN Member States during Canada's review regarding the unique challenges Canadian federalism poses for the domestic implementation of international treaties. While the federal government has the power to enter international treaties, the subject matter of a treaty may fall under provincial jurisdiction. Civil society organizations frequently raise concerns that federalism can hinder the process of implementing international human rights standards. Alex Neve explained that: "Recommendations come back to Canada and typically disappear into the labyrinth of federalism. The overwhelming bulk is not implemented. More frustrating, it has typically proven next to impossible to determine the status of recommendations, which level or department within government is looking at it, if at all, and whether the government does or does not have any plans to move forward with it."

The committee heard from witnesses who stressed the need to come up with ways in which the provincial and federal governments can work together on treaty implementation, and advocated for better coordination and agreements to move forward on international human rights responsibilities.¹⁰¹ The committee believes that federalism should be one of Canada's assets, not one of its problems. The UPR process is an opportunity for Canada's different levels of government to cooperate together, to share best practices, and to use their jurisdictional focus to promote human rights in all the many aspects in which they arise in Canadian society.

The committee recommends that the Government of Canada take a leadership role in coordinating the provinces in the implementation of international treaties. As Bruce Porter noted, "International human rights and the UPR provide a new opportunity for the federal

¹⁰¹ Mr. Porter and Ms. Vandergrift both used the analogy of Jordan's Principle, which calls for the provision of necessary health care to be prioritized where jurisdictional disputes may arise between federal and provincial governments when dealing with children who live on First Nations reserves. An explanation of this principle may also be found at: Indian and Northern Affairs Canada, "Backgrounder – Implementation of Jordan's Principle in Saskatchewan", <http://www.ainc-inac.gc.ca/ai/mr/nr/s-d2009/bk000000451-eng.asp>.

government to say we are not taking over the jurisdiction here, but we will exercise some leadership in order to fulfil our international responsibilities.” Nancy Baroni noted that the federal government can ensure that a national mechanism is in place that will assist people in having their rights recognized. The committee believes that such a mechanism could be produced through the reform or replacement of the Continuing Committee of Officials on Human Rights (the CCHR).

This committee first called for the reform of the CCHR in its 2001 report, *Promises to Keep*.¹⁰² Such reform would go a long way to improving how Canada’s machinery of government handles its human rights obligations and how it prepares for the next UPR.

Since it first met in 1976, the CCHR has continued to be the main forum for federal, provincial and territorial governments to meet on human rights matters. Its mandate is to maintain federal-provincial-territorial consultation and coordination on human rights issues, including the implementation of international human rights treaties. Comprised of official representatives from Canadian jurisdictions, it assists with the cooperation among the various Canadian federal, provincial and territorial ministries to prepare the UPR report and response. Coordination within the federal government is the responsibility of the Department of Canadian Heritage, represented by the Director General of the Multiculturalism and Human Rights Branch and supported by the Human Rights Program. Officials at other co-ordinating federal, provincial and territorial committees also serve as key contact points for the CCHR. Through the CCHR, the provinces and territories helped to shape Canada's submissions for the UPR.

Some of the witnesses we heard from expressed their concerns regarding the role played by the CCHR and stressed that it needs to be reformed. For example, Kathy Vandergrift explained

¹⁰² In *Promises to Keep*, *supra* note 23 at p 23-24 (Chapter I, C, 2, (b), iii) the committee reviewed the limitations of the CCHR: It “meets behind closed doors and does not have any policy or decision-making authority.... None of the governments is held accountable for its human rights performance, and there is no public scrutiny or input. ... there is certainly no mechanism for pressuring either level of government to live up to its commitments. ... The Continuing Committee offers no opportunity for any public debate or follow-up to the observations, findings, and recommendations of the treaty bodies – nor was such a role ever intended for it.... The real issue and problem is not, however, that the Continuing Committee of Officials on Human Rights is not providing a public forum for domestic accountability and scrutiny of Canada’s implementation of its international human rights commitments. This is not its job. The real problem for Canada is that no other official body or institution of government is performing this function either.”

her view that the CCHR meets “infrequently in secret,” and “refuses to tell anyone what it has done and refuses to meet with people affected by its decisions”, adding that the CCHR is a “contradiction of the very essence of human rights and good government.” She explained that some groups have sought information under the *Access to Information Act*¹⁰³ regarding the proceedings of the committee, but were unable to get any useful information. Alex Neve expressed concern that the CCHR remains the main government body for co-ordinating and ensuring implementation of Canada’s international human rights obligations, describing it as: “comprised of mid-level officials who generally have no decision-making authority with respect to what may often be complex and politically charged issues.” He also echoed Kathy Vandergrift’s concerns about the “secrecy” surrounding CCHR meetings and the difficulty in obtaining public access to its agenda. He complained that “a number of issues simply languish within that committee because no one has the political authority to call the question and have it move forward.”

The committee believes that the CCHR is not the appropriate forum to produce effective inter-government dialogue that can create co-ordinated initiatives for the implementation of international human rights treaty obligations. A new institution is needed that will be less secretive and more open to public scrutiny. Such an institution requires greater involvement from government leaders with real decision-making powers and the ability to effect change. In the meantime, the committee has recommended that responsibility for the CCHR be transferred from Canadian Heritage to the Department of Justice to ensure that international human rights obligations are put on par with the Department of Justice’s obligation to review all legislation for compliance with the *Canadian Charter of Rights and Freedoms*.¹⁰⁴ Such a move should, however, not result in additional barriers being imposed through solicitor-client privilege with Department of Justice lawyers in their dealings with other departments that could prevent Canadians from obtaining appropriate access to information concerning the CCHR and its activities.

¹⁰³ *Access to Information Act*, R.S.C., 1985, c. A-1.

¹⁰⁴ *Children: the Silenced Citizens*, *supra* note 24 at Chapter 18.

The committee believes that Canada needs an institution that can dialogue with and involve Canadians who are affected by its decisions, particularly with relevant civil society organisations. In response to questions about whether the CCHR could be open to receiving input from NGOs and Aboriginal peoples' organisations, John Sims explained that the CCHR would not be an appropriate forum for stakeholders to have an opportunity to make their views known.¹⁰⁵ The CCHR is primarily concerned with inter-government co-ordination in Canada on human rights. John Sims explained that the CCHR works well to meet the purposes it was designed for, but "may need to be re-examined in light of the various recommendations made on how to effectively implement our international obligations and to consult with civil society."

Within the CCHR's mandate is the responsibility to prepare federal-provincial ministerial conferences on human rights and facilitate follow-up to these conferences. There has not been a proper ministerial level meeting in Canada focused on human rights since 1988.¹⁰⁶ Most witnesses this committee has heard from have, in some way or other, expressed a desire to see Canada develop a better approach to co-ordinating its human rights obligations. A meeting of federal, provincial and territorial ministers responsible for human rights to review the UPR recommendations and adopt a shared implementation plan would be a first step forward in this direction. Subsequent steps would need to focus on plans on how to better manage future coordinated efforts among various levels of government, and how to engage in consultations with the Canadian public, civil society, Aboriginal peoples' organizations, and parliamentary committees. Further to this, the Government should also take a stronger leadership and co-ordinating role to assist in dialoguing with provincial and territorial governments to share best practices in advancing human rights.

RECOMMENDATION #18

The committee once again recommends that the federal, provincial and territorial ministers responsible for human rights meet immediately to engage in effective consultations, to ensure the implementation of Canada's international human

¹⁰⁵ Alex Neve, for instance, expressed concern that civil society groups are not given access to the CCHR discussions.

¹⁰⁶ Federal-Provincial-Territorial Conference on Human Rights (26-27 September 1988: Toronto, Ontario).

rights obligations, and to review the mandate and procedures of the Continuing Committee of Officials on Human Rights with a view to achieving better coordination, cooperation and accountability among Canada's federal, provincial and territorial ministers responsible for human rights. This review process should be open and transparent, include consultations with civil society and parliamentarians, and ultimately produce a report to the Government on Canada setting out its recommendations.

RECOMMENDATION #19

The committee once again recommends that, in anticipation of the reform of the Continuing Committee of Officials on Human Rights, responsibility for its operations be transferred immediately from the Department of Canadian Heritage to the Department of Justice.

N. The Implementation of Treaties in Canada

As the committee has emphasized in successive reports,¹⁰⁷ Canada needs to reform its approach to the adoption and implementation of international human rights treaties. In *Children: the Silenced Citizens*, the committee's examination of Canada's implementation of the *Convention on the Rights of the Child* demonstrated that Canada has been unable to achieve the Convention's objectives and to live up to the expectations created upon signature and ratification. Canada's mechanisms for negotiating, ratifying and incorporating such treaties are inefficient and ineffective. The current treaty implementation system is not modern, transparent, or democratic and its processes are poorly understood by the public. This is affecting Canada's efforts to implement all human rights treaties, which became the subject of commentary by NGOs and other states during Canada's UPR.

Canada has a strong responsibility to implement its own human rights obligations at home in order to maintain its international reputation in having a strong human rights record. And, of

¹⁰⁷ *Children: the Silenced Citizens*, *supra* note 24 at Chapter 18; *At the Crossroads*, *supra* note 1 at 53.

course, the advancement of human rights in Canada is, in and of itself, a noble pursuit that matters to Canadians.

The committee's *Children: the Silenced Citizens* report included a detailed analysis of Canada's ratification and incorporation of international human rights treaties and proposed a new framework that would engage civil society, Parliament, and the Canadian public from the early stages of the treaty negotiation process, through to post-implementation reporting to the treaty body. The proposal called for enhanced levels of accountability and set out steps to be taken to turn Canada's international human rights obligations into meaningful law, policy, and practice. These recommended steps included that the Government of Canada:

- **Provide notice to Parliament, the provinces and territories at the commencement of international human rights treaty negotiations, with an undertaking to begin consultations with Parliament, all levels of government, and stakeholders;**
- **Report regularly on the progress of international treaty negotiations to Parliament, the provinces and territories, and the public;**
- **Make national impact studies on the proposed treaty publically available;**
- **Table a "Declaration of intent to comply" in Parliament signalling the executive branch's intent to proceed towards signature of the international instrument;**
- **Table the international instrument in Parliament once it has been ratified by the Executive, accompanied by an implementation plan including legal and financial implications, and a timetable for implementation;**
- **Table all of Canada's reports and submissions to the UPR or UN treaty bodies' in Parliament;**
- **Provide Parliament with reasonable timeframes to respond to tabled documents before the signing of any treaty;**
- **Engage in a transparent and inclusive consultation process; and**
- **As a follow up to any treaty ratification, the Government of Canada should also certify that all new federal legislation passed is in compliance with Canada's international human rights obligations in the same manner that all legislation must**

be certified by government departments to be in compliance with the *Canadian Charter of Rights and Freedoms*.

The committee heard from several NGO representatives who lamented the lack of progress being made by the Government of Canada in implementing its human rights treaty obligations. For instance, Kathy Vandergrift stated a commonly heard view that Canada needs to “significantly improve how it is implementing international human rights treaties.” Nancy Baroni explained that editing reports on new CEDAW recommendations is an “easy” job for her organization “because nothing is really happening”; in other words, in her view, the Government is not taking action, so there is little new information for her to update. In considering Canada’s past record in implementing its human rights obligations, Alex Neve asked: “If many of these recommendations have been put before Canada before, some repeatedly, what has stood in the way of implementation and how do we ensure a better approach to implementation this time?”

The lack of information available to Canadians with regards to the machinery of government and how it handles human rights matters includes the insufficiency of information relevant to the status of treaty ratification and steps taken by the government to implement treaty obligations. This information should be made more readily available in a comprehensible and accessible manner. Canadians need to be informed about treaty processes and, where appropriate, should be consulted by the appropriate government departments concerning the development, ratification and implementation of treaties. Again, as per our recommendations above, making effective use of new Internet technologies could greatly enhance public engagement. Greater accountability will hopefully follow from greater transparency.

The committee recognizes that there is also a need to develop better mechanisms that can measure how Canada is succeeding in implementing its human rights obligations, thereby prompting action. Information provided to the committee by the Department of Justice Canada¹⁰⁸ outlined mechanisms that “contribute to the understanding of how Canadians are faring in areas related to human rights” and that help “measure the success” of the government’s efforts, either as prepared by the Government or other organizations. Most government surveys

¹⁰⁸ Letter on behalf of John Sims from Elizabeth Eid, Director General and Senior General Counsel, Human Rights Law Section, Public Law Sector, Department of Justice Canada dated 7 May 2009.

are conducted by Statistics Canada.¹⁰⁹ Many NGOs did not feel that these mechanisms were advancing the implementation of human rights treaties; rather, they see in Canada an inability to act on the recommendations made by international treaty bodies and the UPR. In reference to the UN Human Rights Committee's critical comments on how Canada is treating the homelessness issue, Bruce Porter concluded that: "We have to have mechanisms that prompt governments to action after a human rights finding of that magnitude, and these have to exist domestically. We cannot rely on a five-year process, going to treaty monitoring bodies or the Universal Periodic Review process to remedy these problems."

One solution to help with such deficiencies was proposed by Kathy Vandergrift, who urged that Canada's reports to the UN should be based on "outcomes for people"¹¹⁰ and a "continuous improvement model" for monitoring and implementation of human rights obligations: "The current reports catalogue government programs, but they tell little about the situation of people they are supposed to help.... The value of the rights-based outcome reports is you find out whether people actually benefited from it because sometimes we are spending money and it is not necessarily benefiting the outcome." Instead of "defensive" periodic reports, she would rather see a continuous "sharing of information and a discussion of strategies" that would allow for earlier responses to issues and more preventive approaches being adopted. Bruce Porter also advocated for "measurable goals and timetables" to which the government may be held accountable.

The committee believes that gauging the outcomes of government programs to determine their success is certainly beneficial. The natural first step remains to ensure that the relevant

¹⁰⁹ Examples provided were the Aboriginal Peoples Survey (which looks at social and economic conditions of Canada's Aboriginal populations), the Survey of Labour and Income Dynamics (which examines the economic well-being of Canadians with a particular emphasis on the impact of economic shifts on individuals and families), the General Social Survey and the Uniform Crime Report Survey (which provide data on violence against women and family violence). Examples provided of non-governmental surveys included the Quality of Life Reporting System, prepared by the Federation of Canada Municipalities (which reports on the quality of life of citizens), the Canadian index of Well-Being, prepared by the Atkinson Foundation (which measures the health, standard of living, education, etc. of citizens), and Vital Signs survey prepared by the Community Foundations (which also examines quality of life).

¹¹⁰ Kathy Vandergrift noted Saskatchewan, New Brunswick and British Columbia as provinces where children's advocates had prepared outcome-based reports had been helped promote improvements.

information regarding such programs is assembled and made publicly available for subsequent analysis to occur.

RECOMMENDATION #20

The committee once again recommends that the Government of Canada develop a new policy framework for the signature, ratification and implementation of Canada's international human rights obligations, including:

- **Notice to Parliament, the provinces and territories at the commencement of international human rights treaty negotiations, with an undertaking to begin consultations with Parliament, all levels of government, and stakeholders;**
- **Regular reporting on the progress of international treaty negotiations to Parliament, the provinces and territories, and the public;**
- **Production of a national impact study to be made available to all involved in the consultations;**
- **Ongoing dialogue between those involved in the consultation process with the federal government;**
- **Tabling of a "Declaration of intent to comply" in Parliament signalling the executive branch's intent to proceed towards signature of the international instrument;**
- **Tabling of the international instrument in Parliament once it has been ratified by the Executive, accompanied by an implementation plan including legal and financial implications, and a timetable for implementation; and**
- **Providing Parliament with reasonable timeframes to respond to tabled documents before the signing of any treaty.**

RECOMMENDATION #21

The committee once again that recommends that the Government of Canada certify that all new federal legislation passed is in compliance with Canada's international human rights obligations.

CHAPTER FIVE: CONCLUSION

Canada's departure from the United Nations Human Rights Council presents an opportunity for Canada to speak from experience about the overall progress made in the early years of the Council and to work towards its betterment. The committee remains optimistic about the potential of the UNHRC and, in particular, of the UPR mechanism. For this potential to be fully realized, however, countries like Canada must remain committed to creating a forum that can make more objective reporting on human rights issues around the world.

As the UPR is in many ways a litmus test for the future success of the UNHRC as a forum for open, transparent and fair reviews of the human rights records of UN Member States, this is also an opportunity to review how the UPR has affected the institution-building process of the UNHRC. The committee believes that by demonstrating leadership in the UPR process, particularly by improving the level of engagement with civil society, Aboriginal peoples' organizations and also with parliamentarians, Canada will not only maintain its international reputation as a promoter of human rights, but also will advance the standards of the UPR process for all states. Reliable human rights processes and solid human rights foundations are essential to the guarantees of our human rights system.

The Government of Canada will also need to demonstrate its commitment to human rights in Canada by developing a public plan as to how it will implement its treaty obligations, how it will engage with Canadians on human rights matters, and how it will be better prepared for its next UPR in 2013. In previous reports,¹¹¹ the committee has concluded that both Parliament and civil society needed to be assured of greater participation in the international human rights treaty ratification process; we added that by striving to ensure better transparency, scrutiny and consultation, the government will be seen as increasingly accountable and compliant with international law, and Canada's international treaty obligations will gain legitimacy. Further, we recommended that Parliament be given a place at the table during the Government of Canada's consultation process with respect to treaty implementation, and that the government should

¹¹¹ See for example: *Children: The Silenced Citizens*, *supra* note 24 at Chapter 18.

extend a specific invitation to parliamentarians with expertise in the particular issue under discussion to participate in this process.

The spirit of the UPR should be to engage society as a whole in the advancement of human rights. To this end, the Government of Canada should be providing more publicly available information to the Canadian public at large. Canadians should be provided with opportunities to engage with the UPR material and to comment if they wish. Canadians not only expect governmental promotion and protection of their human rights, to that end they also expect and deserve an open and transparent human rights system to access those rights.

The committee agrees with statements made by John Sims that Canada must engage in a review of where the gaps in implementation are and determine how we can do better. The process that the Government of Canada followed in preparing for its 2009 review was not good enough. A lot of work still needs to be done to demonstrate improvements for Canada's next UPR review. Canada needs a comprehensive plan to prepare for the next UPR, including a process for engaging not only with civil society, but also with the Canadian public. The committee has therefore strongly recommended that the Government of Canada develop and make publicly available a plan as to how it intends to act on the UPR recommendations it has accepted.¹¹²

Ultimately, the goal of all the recommendations in this report is to see human rights progressing in Canada. Canada has received many recommendations from stakeholders, international experts, and other Member States. The Government of Canada has already determined that there are many recommendations it accepts. This is an excellent first step.

¹¹² Canada's response to the Working Group's draft report for Canada is described in Chapter Two above.

**APPENDIX A:
WITNESSES HEARD FROM DURING THE COURSE OF THIS STUDY**

Monday, February 12, 2007

Faculty of Law, McGill University:

Payam Akhavan, Associate Professor.

Centre for International Governance Innovation (CIGI):

Paul Heinbecker, Distinguished Fellow, International Relations.

Monday, February 26, 2007

Amnesty International Canada:

Alex Neve, Secretary General.

Action Canada for Population and Development (ACPD):

Sandeep Prasad, Human Rights Advisor.

University of Western Ontario:

Elizabeth Riddell-Dixon, Professor, Department of Political Science.

Norman Paterson School of International Affairs:

Christopher Kenneth Penny, Assistant Professor of International Law.

Foreign Affairs and International Trade Canada:

Adèle Dion, Director General, Human Security and Human Rights Bureau;

Robert Sinclair, Deputy Director, Human Rights.

Wednesday, March 7, 2007

Office of the High Commissioner for Human Rights:

Louise Arbour, High Commissioner for Human Rights;

Eric Tistounet;

Alessio Bruni.

Monday, April 23, 2007

University of Montreal:

Isabelle Duplessis, Associate Professor, Faculty of Law.

Rights and Democracy:

Jean-Louis Roy, President;
Lloyd Lipsett, Senior Assistant to the President.

Monday, February 11, 2008

Foreign Affairs and International Trade Canada:

Adèle Dion, Director General, Human Security and Human Rights Bureau;
Robert Sinclair, Deputy Director, Human Rights Section, Human Rights, Gender, Equality,
Health and Population Division.

Amnesty International Canada:

Alex Neve, Secretary General.

Rights and Democracy:

Jean-Paul Hubert, Interim President;
Lloyd Lipsett, Senior Assistant to the President.

Monday, February 25, 2008

Freedom House:

Paula Schriefer, Director of Advocacy (by videoconference).

Tuesday March 25, 2008 (Fact Finding Mission to Geneva)

Canadian Permanent Mission to the United Nations:

Marius Grinius, Ambassador and Permanent Representative to the Office of the United
Nations;
Terry Cormier, Minister and Deputy Permanent Representative;
John von Kaufmann, Counsellor (Human Rights).

International Commission of Jurists:

Lukas Machon.

Human Rights Watch:

Olaf Henricson-Bell.

Amnesty International:

Peter Splinter.

Quaker United Nations Office:

Rachel Brett.

Action Canada for Population and Development:

Sandeep Prasad.

Arc International:

John Fisher.

Rights and Democracy:

Cynthia Gervais.

United Nations Human Rights Council:

Ambassador Warren Tichenor, United States of America;

Ambassador Nicholas Thorne, United Kingdom;

Ambassador Li Baodong, Peoples Republic of China;

Ambassador Sérgio de Abreu e Lima Florêncio, Brazil;

Ambassador Andrej Logar, Slovenia (Chair of European Union);

Ambassador Doru Romulus Costea, Romania (Chair of Human Rights Council).

Wednesday March 26, 2008 (Fact Finding Mission to Geneva)

Office of the High Commissioner for Human Rights:

Jane Connors, Senior Human Rights Officer, Treaties and Council Branch on Treaty Bodies;

Ibrahim Salama, Director, Treaties and Council Branch on Universal Periodic Review;

Louise Arbour, High Commissioner for Human Rights.

Monday, March 30, 2009

Department of Justice Canada:

John Sims, Deputy Minister.

Canadian Heritage:

Diane Fulford, Assistant Deputy Minister, Citizenship and Heritage;

Lyn Elliot Sherwood, Executive Director, Heritage.

Amnesty International Canada:

Alex Neve, Secretary General.

Rights and Democracy:

Rémy M. Beaugard, President;
France-Isabelle Langlois, Assistant Director, Programs.

Centre for Equality Rights in Accommodation:

Leilani Farha, Executive Director.

Monday, April 20, 2009

Canadian Coalition for the Rights of Children:

Kathy Vandergrift, Chair.

Council of Canadians with Disabilities:

Steve Estey, Chair, International Development Committee.

Social Rights Advocacy Centre:

Bruce Porter, Executive Director.

Canadian Feminist Alliance for International Action (FAFIA):

Nancy Baroni, Program Director.

Monday, April 27, 2009

Grand Council of the Crees (Eeyou Istchee):

Romeo Saganash, Director, Quebec Relations and International Affairs;
Paul Joffe, Legal Counsel.

Native Women's Association of Canada:

Beverley Jacobs, President.

Quebec Native Women:

Ellen Gabriel, President.

Canadian Friends Service Committee (Quakers):

Jennifer Preston, Programme Coordinator, Aboriginal Affairs.

Monday, May 11, 2009

Assembly of First Nations:

Wilton Littlechild, AFN Regional Chief (Treaties 6, 7, 8);

Gina Cosentino, Senior Advisor, Government Relations and International Affairs, National Chief's Office.

Monday, June 8, 2009

EGALE Canada:

Akim Ade Larcher, Director of Policy and Research.

International Centre for Transitional Justice:

Eduardo Gonzalez, Deputy Director, Americas.

**APPENDIX B:
PREVIOUS COMMITTEE REPORT**

REPORT OF THE COMMITTEE

Thursday, May 28, 2009

The Standing Senate Committee on Human Rights has the honour to table its

SECOND REPORT

Your committee, which was authorized by the Senate on Wednesday, March 4, 2009, to examine and monitor issues relating to human rights and, *inter alia*, to review the machinery of government dealing with Canada's international and national human rights obligations, now tables an interim report concerning Canada's Universal Periodic Review before the United Nations Human Rights Council.

Respectfully submitted,

RAYNELL ANDREYCHUK
Chair

CANADA'S UNIVERSAL PERIODIC REVIEW BEFORE THE UNITED NATIONS HUMAN
RIGHTS COUNCIL

Standing Senate Committee on Human Rights

SECOND REPORT

Chair

The Honourable Raynell Andreychuk

Deputy Chair

The Honourable Mobina S. B. Jaffer

May 2009

In May 2001, the Standing Senate Committee on Human Rights ("the committee") received a mandate to examine issues relating to human rights, and, *inter alia*, to review the machinery of government dealing with Canada's international and national human rights

obligations. The committee has continued, pursuant to this mandate, to examine these issues through successive Parliamentary sessions and has continuously engaged in discussions with government officials, human rights advocacy groups, members of the Canadian mission to the United Nations Human Rights Council (the “UNHRC”), various countries’ ambassadors to the United Nations (“UN”), and officials from the Office of the UN High Commissioner for Human Rights, among others. The committee has been particularly interested in the development of the UNHRC and its primary review mechanism for UN Member States: the Universal Periodic Review (the “UPR”).

In the committee’s first substantive report, *Promises to Keep: Implementing Canada’s Human Rights Obligations*,^[1] we examined the predecessor to the UNHRC, the United Nations Commission on Human Rights, and made recommendations with regards to Canada’s participation in the work of the Commission, the implementation procedures Canada should adopt for international human rights treaties, and the measures Canada should take domestically to ensure that Canadian governments observe their national and international human rights obligations. When the United Nations Commission on Human Rights was replaced by the United Nations Human Rights Council in 2006, the committee took the opportunity to study this new institution and the international machinery, processes and procedures that were being developed for it. The committee’s May 2007 report entitled *Canada and the United Nations Human Rights Council: At the Crossroads*^[2] constituted a preliminary study of the newly created UNHRC and related issues. In June 2008, the committee released a follow-up report, entitled *Canada and the United Nations Human Rights Council: A Time for Serious Re-Evaluation*.^[3] This report provided, among other things, an analysis of how the institution building process at the UNHRC had progressed since the Council’s first session, and made recommendations to the Government of Canada on steps it should take to maximize its position on the Council and work towards the establishment and maintenance of a strong UPR system.

The UNHRC and the UPR were created by UN Resolution 60/251, dated 3 April 2006.^[4] To guide the Council in its future work, the principles, objectives and certain criteria of the UPR process were further developed in the UNHRC Resolution 5/1, *Institution-building of the United*

Nations Human Rights Council, ^[5] dated 18 June 2007. While these instruments established that the UPR would be the main mechanism used by the Council to review states' human rights records, and while guidelines established for the UPR process specified that the human rights records of all Member States would be reviewed through this mechanism once every four years, the full practices and procedures that the Council would use to conduct UPRs and that Member States would use to prepare for them had not yet been fully developed. When the committee's first report on the UNHRC in 2007 was tabled in Parliament, the UNHRC had yet to fully establish a schedule for reviews and timeframes for reporting requirements. Although it was known by the time the committee tabled its second report on the UNHRC in 2008 that Canada would face its own UPR in 2009, precise details had yet to be worked out regarding the practices and procedures Canada would follow in preparing for its UPR or in responding to the feedback it would receive from other countries following the preliminary results of its review.

Canada underwent its first UPR before the UNHRC on 3 February 2009, and the UNHRC working group on the UPR released its draft report outlining the preliminary results of Canada's review on 5 February 2009. The committee is currently in the process of receiving evidence and feedback, both from government departments involved with Canada's review and representatives from civil society who participated in the review process. The committee intends to report comprehensively on Canada's approach to its first UPR, as well as other matters related to the UNHRC, at a future date.

The committee is aware that Canada was given a limited period of time to prepare for its review, and that some consultation took place with civil society both before Canada's UPR on 3 February 2009, and following Canada's receipt of the UNHRC working group's draft report on 5 February 2009. We also recognize that Canada's response to the working group's draft report is limited to five pages and must be provided by 2 June 2009. It therefore has become apparent to the committee that the processes and procedures used for Canada's first UPR, both at the UNHRC and at the domestic levels, lacked clarity and transparency. As Canada will be reviewed again within four years (as all countries will be), an upfront and clear indication in this respect would assist in providing clarity where there is now confusion for those who are required

to or who wish to participate in Canada's next UPR. We therefore recommend that the Government of Canada's plan for the next UPR be publicly announced before or at the time of filing its formal response to the UNHRC on 2 June 2009.

As stated previously, the committee is presently in the process of receiving information and evidence regarding the UPR and other issues pertaining to the UNHRC, and will continue to monitor the UNHRC and Canada's role in the promotion and protection of human rights as per this committee's aforementioned mandate. While we are not yet in a position to fully comment on the substantive issues raised with respect to the UPR process at this time, we have chosen to make recommendations on the importance of, and immediate need for a clear, effective and transparent plan for Canada's next UPR from the Government of Canada. This plan could establish broad and meaningful consultation and engagement with relevant stakeholders, parliamentarians and the Canadian public during the time period leading up to the next UPR. The committee believes that reliable human rights processes and solid human rights foundations are essential to the guarantees of our human rights system.

RECOMMENDATIONS:

1. The committee recommends that the Government of Canada immediately develop procedures in preparation for its next Universal Periodic Review and that a plan detailing these procedures be made available to the public either before or at the same time as its response to the Universal Periodic Review on 2 June 2009. This plan should outline a process that will ensure open and transparent, timely and substantive engagement with civil society, Aboriginal peoples' organizations, parliamentarians, and the Canadian public with respect to Canada's human rights obligations.
2. The committee recommends that the Government of Canada table in Parliament its submissions and responses to the Universal Periodic Review of the United Nations Human Rights Council, as well as any of the Council's reports regarding Canada's review.

^[1] Standing Senate Committee on Human Rights, *Promises to Keep: Implementing Canada's Human Rights Obligations*, December 2001, available at:
<http://www.parl.gc.ca/37/1/parlbus/commbus/senate/Com-e/huma-e/rep-e/rep02dec01-e.htm>.

^[2] Standing Senate Committee on Human Rights, *Canada and the United Nations Human Rights Council: At the Crossroads*, May 2007, available at:
<http://www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep12may07-e.pdf>.

^[3] Standing Senate Committee on Human Rights, *Canada and the United Nations Human Rights Council: A Time for Serious Re-Evaluation*, available at:
<http://www.parl.gc.ca/39/2/parlbus/commbus/senate/com-e/huma-e/rep-e/rep13jun08-e.pdf>.

^[4] United Nations, *Resolution 60/251, Human Rights Council*, 3 April 2006, available at:
http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf.

^[5] United Nations Human Rights Council, *Resolution 5/1, Institution-building of the United Nations Human Rights Council*, 18 June 2007, available at:
<http://www1.umn.edu/humanrts/iwraw/Inst-building-UN.pdf>.

**APPENDIX C:
EXCERPTED RECOMMENDATIONS FROM PREVIOUS COMMITTEE REPORT:
CANADA AND THE UNITED NATIONS HUMAN RIGHTS COUNCIL:
AT THE CROSSROADS¹¹³**

1. Implementing the Council's Rules, Mechanisms and Procedures

RECOMMENDATION 1

The committee recommends that the Government of Canada focus its attention upon, and direct its resources towards, working intensively with the six working groups currently in negotiations to establish the rules, mechanisms, and procedure of the UN Human Rights Council.

In terms of the Special Procedures, the Government of Canada should emphasize the need for:

- The independence and expertise of mandate holders to be maintained;
- Timely and adequate state cooperation with mandate holders, including assured and open;
- Strengthening of the urgent appeals tool by which Special Procedures can communicate with governments on behalf of individual victims of human rights violations; and
- Protection gaps to be addressed to ensure that all human rights issues are covered within the Special Procedures system.

In terms of the Universal Periodic Review, the Government of Canada should emphasize the need for:

- The UPR to be held as frequently as possible;

¹¹³ *At the Crossroads, supra* note 1.

- The review to be undertaken by a mechanism within the Council so that the full Council's already limited time is not taken up by this process; and
- The UPR to be part of a comprehensive and continuous process, accompanied by advance preparation, interactive dialogue, meaningful outcomes, and careful attention to follow-up and implementation. This process needs to be transparent (with respect to the information used in the review, dialogue, and the outcome and follow-up), and should be backed by strong human rights expertise to focus the review on essential human rights issues in any given country.

RECOMMENDATION 2

The committee recommends that, during the working group negotiations, the Government of Canada vigorously press for effective follow-up and implementation of Human Rights Council, Universal Periodic Review, and Special Procedures recommendations.

RECOMMENDATION 3

The committee recommends that the Government of Canada press the Human Rights Council to establish an accountability mechanism to ensure that fact-finding missions created by the Council receive full support from Council members, both in terms of fulfillment of mission mandates and in terms of follow-up to mission recommendations.

2. Unified Human Rights Treaty Body

RECOMMENDATION 4

The committee recommends that the Government of Canada remain active in negotiations to improve the efficiency and effectiveness the human rights treaty body system, without supporting the proposal for a unified treaty body system at this time.

3. Canadian Foreign Policy

RECOMMENDATION 5

The committee recommends that the Government of Canada work to enhance its effectiveness and leadership on the UN Human Rights Council by increasing its role as a bridge-builder, and moving beyond its traditional allies to foster alliances with countries around the world.

4. A Canadian Ambassador for Human Rights

RECOMMENDATION 6

The committee recommends that the Government of Canada put into place a Canadian ambassador for human rights, based in Canada, to work in coordination with relevant federal departments. The ambassador should be Canada's permanent representative on the Human Rights Council and participate as necessary in other international negotiations on human rights issues.

**APPENDIX D:
EXCERPTED RECOMMENDATIONS FROM PREVIOUS COMMITTEE REPORT:
CANADA AND THE UNITED NATIONS HUMAN RIGHTS COUNCIL:
A TIME FOR SERIOUS RE-EVALUATION¹¹⁴**

A. The Universal Periodic Review

RECOMMENDATION 1

The committee recommends that the Government of Canada immediately develop procedures for its involvement in the Universal Periodic Review process:

a) Canada's federal, provincial and territorial ministers responsible for human rights should meet immediately to agree upon a process to prepare Canada for its 2009 UPR review. This process should be open and transparent, and include consultations with civil society and parliamentarians. The Ministers of Heritage and Foreign Affairs should then appear before the Standing Senate Committee on Human Rights to outline decisions made and steps taken with respect to Canada's preparations.

b) Canada should file the report received from the UPR process in Parliament, accompanied by details of actions that the government intends to take to address these recommendations by way of follow-up.

RECOMMENDATION 2

The committee recommends that the Government of Canada develop a proactive policy with respect to its involvement on future UPR evaluating committees (troikas). This policy should include the appointment of an independent human rights expert as Canada's representative on the troika, and promote early and transparent consultations between troika members and the state under review.

¹¹⁴ *A Time for Serious Re-Evaluation, supra* note 29.

B. Special Procedures

RECOMMENDATION 3

The committee recommends that the Government of Canada actively engage in the selection of candidates for mandate holder positions by underscoring competence as the primary criterion for nomination, emphasizing the need for gender balance, promoting the nomination of Canadian experts, and encouraging the development of a roster of experts from around the world.

C. Bloc Politics

RECOMMENDATION 4

The committee recommends that the Government of Canada develop new strategies for working towards strong human rights promotion at the UN Human Rights Council by:

- Utilizing the international and regional organizations to which Canada belongs to build consensus and support for individual resolutions and the broader work of the Human Rights Council;
- Fostering parliamentary diplomacy by calling on parliamentarians and, in particular, the speakers of the House of Commons and Senate, to promote Canada's positions at the Human Rights Council in the course of their work with parliamentary associations and other forums; and
- Encouraging development of a policy that would see the various regional Human Rights Council member groupings propose more states for nomination than seats available at the Council.

RECOMMENDATION 5

The committee recommends that the Government of Canada fund internships for students from the developing world to provide them with international relations and diplomacy training.

D. Canada's Isolated Position

RECOMMENDATION 6

The committee supports the Government of Canada's decision to withdraw from the Durban review process, and recommends that the Government of Canada remain open to re-joining the process only if significant changes demonstrate that participants are focussing on objective, balanced and appropriate measures for the promotion of human rights.

E. Global Impressions

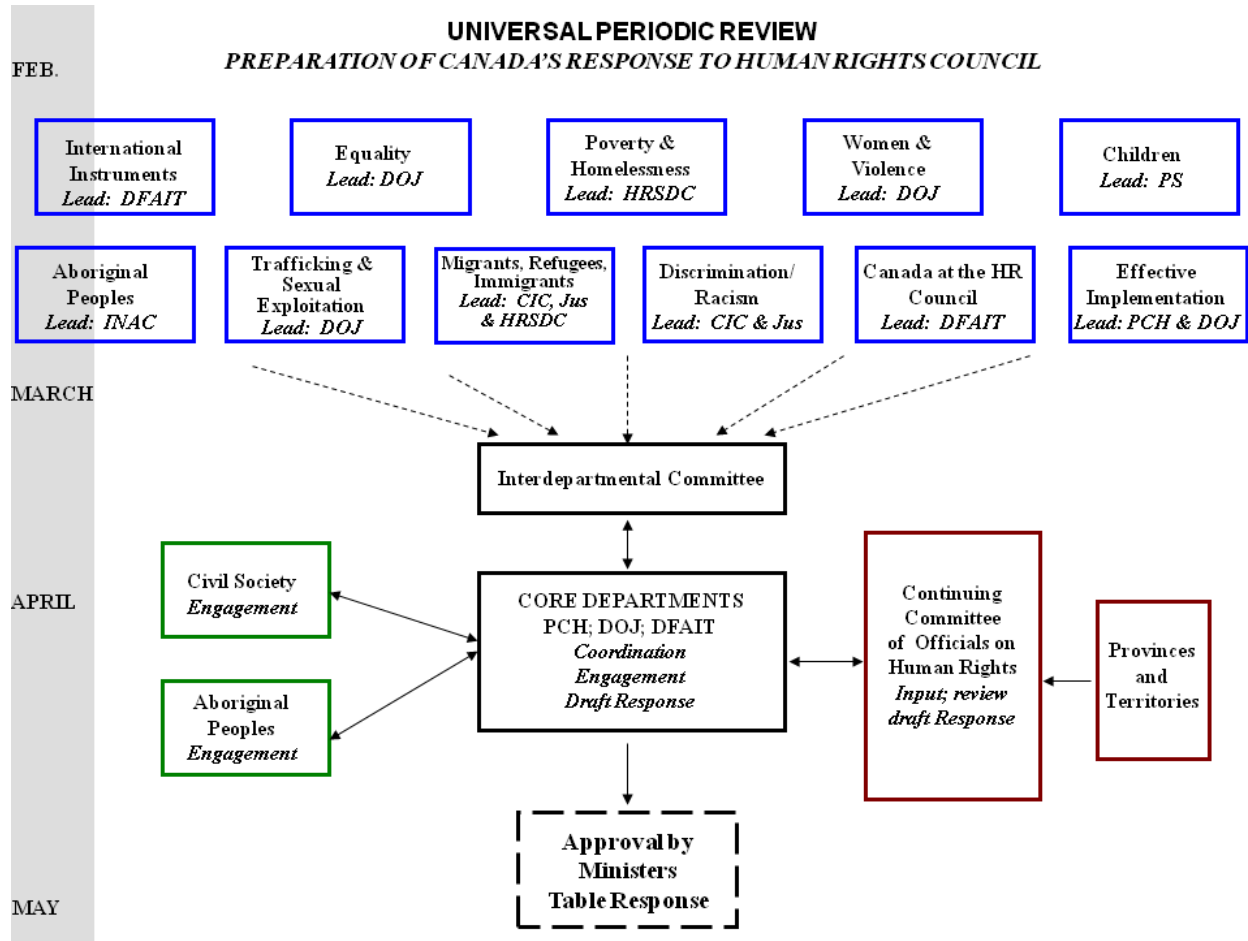
RECOMMENDATION 7

The committee recommends that the Government of Canada put into place a Canadian ambassador for human rights, based in Canada, to work in coordination with relevant federal departments. The ambassador should be Canada's permanent representative to the Human Rights Council and coordinate Canada's negotiations on human rights issues in a consistent manner across all international forums.

RECOMMENDATION 8

Bearing in mind growing unease – as well as academic and other criticism – suggesting that Human Rights Council Members are using the Council to further political agendas as opposed to universal human rights standards, the committee recommends that the Government of Canada assess progress made at the Council.

**APPENDIX E:
CHART PROVIDED FROM THE GOVERNMENT OF CANADA¹¹⁵**



¹¹⁵ As described in Chapter 4 (L) of this report.

APPENDIX F: A YEAR IN THE LIFE OF THE HUMAN RIGHTS COUNCIL

In the chapters entitled “A year in the life of the Human Rights Council” in *At the Crossroads* and *A Time for Serious Re-Evaluation*,¹¹⁶ the committee conducted a review of events, resolutions and other actions taken by the Council in order to effectively analyze the evolution of the UNHRC. This report picks up where the committee left off, and examines the Council’s activity from the conclusion of the seventh session of the Council through to Canada’s departure from the Council after the eleventh session. During this time, the Council has increased its number of resolutions; having completed the primary institution-building work, such as establishing the UPR procedures, the Council has been able to turn more of its attention to international human rights topics. Of course, the UPR program has also commenced since our last report and Canada has had its first review. The committee has therefore also found it useful to follow this section with a summary of the UPR as well as the substance of Canada’s submissions and those concerning Canada from stakeholders, independent experts, the OHCHR, and other states.

In the summaries that follow, only selected key points are included in order to demonstrate the contents of resolutions and the nature of Council activities.

1. Eighth Session¹¹⁷

The eighth session of the Human Rights Council was held between the 2nd and 18th of June 2008. During this session, the Council adopted numerous resolutions on consensus, including:

- **Conference facilities and financial support for the Human Rights Council** – maintains the need for adequate funding for the sustained functioning of the committee; and expresses concern over the delays in submission and translation of documents needed for council work.
- **The right to education** – reaffirms the right of all peoples to education; and, calls for increased efforts to ensure that good quality education is accessible for all. The

¹¹⁶ *At the Crossroads*, supra note 1 at Chapter 3; *A Time for Serious Re-Evaluation*, supra note 29 at Chapter 2.

¹¹⁷ Human Rights Council, *Report of the Human Rights Council on its Eighth Session*, A/HRC/8/52, 1 September 2008, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A.HRC.8.52.doc>.

resolution extended the mandate of the Special Rapporteur on the right to education for three years and advocates for greater global cooperation on this issue.

- **Torture and other cruel, inhumane or degrading treatments or punishments** – condemns all forms of cruel, inhumane or degrading punishments; and, calls upon governments to implement prohibitions on such actions. The resolution extended the mandate of the Special Rapporteur on this issue for another three years and committed the Council to studying and examining complaints on incidents of torture.
- **Human rights and extreme poverty** – affirms that the only way people can achieve freedom from fear and want is with full access to their economic, social, cultural, civil and political rights. The resolution supported the Millennium Development Goals and expresses a need for more attention and progress on these targets and extended the mandate of the independent expert on poverty for three years.
- **Elimination of discrimination against persons affected by leprosy and their family members** – affirms the basic rights of persons with leprosy and their families and urges states to eliminate discrimination against this segment of people.
- **Situation of human rights in Myanmar** – expresses concern over the transparency and democratic status of the government and calls for cooperation from the state to accept the efforts and needs of the Special Rapporteur, as well as for relief workers attempting to help with community reconstruction after the disaster of Cyclone Nargis. The resolution condemned the systemic abuses of human rights and freedoms that are occurring within Myanmar and calls upon the government to implement the international human rights treaties it has signed, to uphold the Universal Declaration of Human Rights and to show a greater commitment to the rights of women and children.
- **Optional Protocol to the International Covenant on Economic, Social and Cultural Rights** – adopts the Optional Protocol and recommends that the General Assembly do the same. Establishes an individual complaints mechanism for those whose rights have been violated under the Covenant and have exhausted all domestic remedies. Empowers the Committee on Economic, Social and Cultural Rights to deal with these complaints.

During this eighth session, a number of resolutions were also passed with divisions that continued the patterns of bloc voting seen previously, including the following:

- **Promotion of a democratic and equitable order** – reaffirms the right of everyone to a social and international order which respects the Universal Declaration of Human Rights; promotes the need for transparency in institutions and particularly in the flow of information to and from developing nations; supports the need for equitable access to benefits from the international distribution of wealth. This resolution was adopted by a 33 to 13 vote with one abstention. Canada voted against this resolution.¹¹⁸
- **Promotion of the right of peoples to peace** – emphasises the right of all peoples to live in peace and the need for global efforts and cooperation to allow for such a reality; reminds nations to refrain from the threat of or use of force against the territorial integrity or political independence of any other state; advocates non-intervention in any matters which were of a domestic concern; identifies the ever-increasing gap between developed and developing nations as a potential source of conflict; requests that the High Commissioner for Human Rights host a workshop on the right of peoples to peace. Adopted with a vote of 32 to 13, with 2 abstentions. Canada voted against this resolution.¹¹⁹

Further to its work on resolutions, the United Nations Human Rights Council also extended the mandates of several Special Rapporteurs, including those for extrajudicial summary or arbitrary executions, independence of judges and lawyers, human rights and transnational

¹¹⁸ *In favour:* Angola, Azerbaijan, Bangladesh, Bolivia, Brazil, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Guatemala, India, Indonesia, Jordan, Madagascar, Malaysia, Mali, Mauritius, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Romania, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Ghana, Mexico.

¹¹⁹ *In favour:* Angola, Azerbaijan, Bangladesh, Bolivia, Brazil, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Guatemala, Indonesia, Jordan, Madagascar, Malaysia, Mali, Mauritius, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Romania, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: India, Mexico.

corporations and other business enterprises, and human rights of migrants as well as trafficking in persons, especially women and children.

During this session, the United National Human Rights Council completed and adopted reports for 32 universal periodic reviews.¹²⁰

2. Eighth Special Session¹²¹

The eighth special session of the Human Rights Council was held over a period of two days (28 November 2008 and 1 December 1). It was convened to address the situation of human rights in the east of the Democratic Republic of the Congo. A resolution on this topic was adopted with consensus. It addressed concerns held by the committee over human rights abuses in North Kivu due to hostilities. It called for the immediate end to all of these abuses, particularly against women and children, and for the facilitation of access by humanitarian groups to the area.

3. Ninth Session¹²²

The ninth session of the Human Rights Council was held between the 8th and 24th of September 2008. During this session, the Council adopted numerous resolutions on consensus, including:

- **The right to development** – Commits to continuing efforts at meeting the Millennium Development goals and renews the mandate of the Working Group on the right to development in order to support this goal.

¹²⁰ Bahrain, Ecuador, Tunisia, Morocco, Finland, Indonesia, the United Kingdom of Great Britain and Northern Ireland, India, Brazil, the Philippines, Algeria, Poland, the Netherlands, South Africa, Czech Republic, Argentina, Gabon, Ghana, Guatemala, Peru, Benin, Switzerland, the Republic of Korea, Pakistan, Zambia, Japan, the Ukraine, Sri Lanka, France, Tonga, Romania and Mali.

¹²¹ Human Rights Council, *Report of the Human Rights Council on its Eighth Special Session*, A/HRC/S-8/2, 16 January 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/8/index.htm>.

¹²² Human Rights Council, *Report of the Human Rights Council on its Ninth Session*, A/HRC/9/28, 2 December 2008, <http://www2.ohchr.org/english/bodies/hrcouncil/9session/>

- **Human rights of migrants** - Strongly condemns all forms of discrimination against migrants and urges states to eliminate such realities in all aspects of their legislation and policy, particularly in reference to the most vulnerable populations.
- **Follow-up to the seventh special session of the Human Rights Council on the negative impact of the worsening of the world food crisis on the realization of the right to food for all** – Reaffirms all previous work on the issue adopted previously with resolution S-7/1 of 22 May 2008;¹²³ and, urges states to address the food crisis and to make it a priority in both domestic and international development at the policy and legislation levels.
- **Human rights and indigenous peoples** – Requests that the expert mechanism on the rights of indigenous peoples, one of the Council’s Special Procedures,¹²⁴ prepare a list of proposals for the Council, as well as a review of lessons learned and challenges being faced in the field of education for indigenous peoples.
- **Effective implementation of international human rights instruments** – Urges states to sign onto and ratify international human rights instruments, as well as to adhere to their monitoring mechanisms. Also, advocates greater cooperation with international organisations.
- **Protection of the human rights of civilians in armed conflict** – Stresses the need for all states to respect human rights even in conflict situations and sets up an expert consultation to review this problem.
- **Human rights and transitional justice** – Stresses that the full range of human rights must be supported in transitional justice, as well as the recognition of the needs of vulnerable groups. Further emphasises the importance of restoring justice and rule of law to conflict or post-conflict areas.

¹²³ Human Rights Council, *Report of the Human Rights Council on its Seventh Special Session (Resolution S-7/1: The negative impact of the worsening of the world food crisis on the realization of the right to food for all)*, A/HRC/S-7/2, 17 July 2008, http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/S-7/2&referer=/english/.

¹²⁴ Office of the United Nations High Commissioner for Human Rights, *Expert Mechanism on the Rights of Indigenous Peoples*, <http://www2.ohchr.org/english/issues/indigenous/ExpertMechanism/index.htm> .

- **Right to the Truth** – Recognizes the right to truth held by those who have suffered from grave human rights violations and urges states to implement mechanisms to make sure the right to truth can be attained.
- **Human rights voluntary goals** – Urges states to adopt several voluntary human rights goals including universal ratification of international human rights treaties and instruments, strengthening of national institutions to protect human rights, increased cooperation with international human rights bodies and international collaboration in order to address global human rights issues.
- **Advisory services and technical assistance for Cambodia** – Supports the efforts Cambodia has been making to address its human rights issues, but urges the state to continue and for the international community to lend assistance.
- **Advisory services and technical assistance for Liberia** – Supports the efforts Liberia has been making to address its human rights issues, both in the past and present, but urges the state to continue on this path and for the international community to lend assistance to these efforts.
- **Situation of human rights in Sudan** – Urges the state of Sudan to respond to the gross human rights violations happening within its borders in places such as Darfur and extends the mission of the Special Rapporteur in the area, encouraging cooperation with this office from Sudan.
- **Advisory services and technical assistance for Burundi** - Supports the efforts of Burundi to address its human rights issues, both in the past and present, but urges the state to continue on this path and for the international community to lend assistance to these efforts.

During this ninth session, a number of resolutions were also passed with dissent, including the following:

- **Human rights and international solidarity** – Urges increased international cooperation with the understanding that the costs of global challenges must be distributed fairly and

that those who benefit the least must be helped by those who benefit the most. This resolution was adopted with a vote of 33 to 13 with Canada against its passage.¹²⁵

- **Human rights and unilateral coercive measures** – Urges all states to neither adopt nor implement unilateral coercive measures which contravene international law and the Charter of the United Nations, particularly when these actions inhibit the development of human rights and the expression of self-determination. This resolution was adopted with a vote of 33 to 11, with 2 abstentions and Canada voting against its passage.¹²⁶
- **Follow-up to resolution S-3/1: human rights violations emanating from Israeli military incursions in the Occupied Palestinian Territory and the Shelling of Beit-Hanoun** – Welcomes the report of the fact-finding mission sent to Beit-Hanoun in 2006; requests the immediate implementation of its recommendations; regrets Israel's non-cooperation; and, urges Israel to adhere to its international human rights obligations. This resolution was adopted with a vote of 32 to 9, with 5 abstentions.¹²⁷ Canada voted against its passage.

Further to their work on resolutions, the United Nations Human Rights Council also extended the mandates of the Special Rapporteur responsible for the adverse effects of the movement and dumping of toxic waste and dangerous products and wastes on the enjoyment of human rights as well as that of the Working Group of Experts on People of African Descent. The Council also

¹²⁵ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

¹²⁶ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Canada, France, Germany, Italy, Japan, Netherlands, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Bosnia and Herzegovina, Republic of Korea.

¹²⁷ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Canada, France, Germany, Italy, Japan, Netherlands, Slovakia, Slovenia, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Bosnia and Herzegovina, Cameroon, Republic of Korea, Switzerland, Ukraine.

voted to support the Draft United Nations guidelines for the appropriate use and conditions of alternative care for children. Furthermore, the Council adopted three decisions on missing persons, the commemorative session on the occasion of the sixtieth anniversary of the Universal Declaration of Human Rights, and the strengthening of the Human Rights Council.

4. Ninth Special Session¹²⁸

The ninth special session of the United Nations Human Rights Council was held on the 9th and 12th of January 2009 and was convened in reference to human rights violations faced by Palestinians in the occupied Gaza Strip in light of Israeli military attacks. The resolution called for recognition of the importance of self-determination and the rejection of violence as a remedy for conflict. The resolution condemned the actions of Israel and called for the immediate cessation of attacks and the withdrawal of military troops. Furthermore, it called for an end to Israeli occupation of all post-1967 acquired territory and for the creation of an independent Palestinian state. Finally, the resolution required the dispatch of an independent fact-finding mission to investigate all human rights abuses in the area.

The resolution was adopted with a vote of 33 to 1, with 13 abstentions.¹²⁹ Canada was the sole dissenter. According to the Government of Canada's delegation to the Council, the text of the resolution failed "to clearly recognise that rocket fire on Israel led to the... crisis," it used "unnecessary and unhelpful inflammatory language,"¹³⁰ and "the appropriate place for discussions on this issue is the Security Council"¹³¹.

¹²⁸ Human Rights Council, *Report of the Human Rights Council on its Ninth Special Session*, A/HRC/S-9/2, 27 February 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/docs/A-HRC-S-9-2.doc>.

¹²⁹ *In favour*: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia
Against: Canada

Abstaining: Bosnia and Herzegovina, Cameroon, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland
¹³⁰ Foreign Affairs and International Trade Canada, *HRC Ninth Special Session (January 9-12, 2009)*, 20 July 2009, http://www.international.gc.ca/name-anmo/un-onu/special_sessions_extraordinaire/hrc-cdh_2009_01.aspx?lang=eng.

¹³¹ *Ibid.*

5. Tenth Special Session¹³²

The tenth special session of the United Nations Human Rights Council was held over a period of two days on the 20th and 23rd of February 2009. A resolution was passed on the impact of the global economic and financial crises on the universal realisation and effective enjoyment of human rights. It recognised the potentially negative effects the global recession would have on the enjoyment of human rights around the world, particularly in developing nations. It further called for developed states to protect the most vulnerable persons in a non-discriminatory manner, including by refraining from imposing protectionist measures and maintaining international development aid. The resolution was adopted with a vote of 31 to 0, with 14 abstentions.¹³³ Canada abstained from voting.

6. Tenth Session¹³⁴

The tenth session of the United Nations Human Rights Council was held between the 2nd and 27th of March 2009. During this session, the Council adopted many resolutions on consensus including the following:

- **Question of the realization in all countries of economic, social and cultural rights (follow-up to Human Rights Council resolution 4/1)** – calls upon all states to implement resolution 4/1¹³⁵ in order to improve the realisation of economic, social, and cultural rights; and, encourages all international organisations to adhere to its goals.

¹³² Human Rights Council, *Report of the Human Rights Council on its Tenth Special Session*, A/HRC/S-10/2, 30 March 2009, http://www2.ohchr.org/english/bodies/hrcouncil/docs/10special_session/A-HRC-S-10-2.pdf.

¹³³ *In favour*: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay

Abstaining: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Mexico, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland

¹³⁴ Human Rights Council, *Report of the Human Rights Council on its Tenth Session*, A/HRC/10/29, 9 November 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A-HRC-10-29.pdf>.

¹³⁵ Human Rights Council, *Report of the Human Rights Council on its Fourth Session (Resolution 4/1: Question of the realization in all countries of economic, social and cultural rights)*, A/HRC/4/123, 12 June 2007, http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/4/123.

- **Human rights in the administration of justice, in particular juvenile justice** – reaffirms the importance of acknowledging human rights standards in the administration of justice, particularly for minors; urges states to reassess domestic legislation to reflect these values; emphasises the particular need for this in developing nations or post-conflict areas; urges states to integrate the needs of children into their justice systems; and, stresses the importance of considering the special needs of detained women.
- **World Programme for Human Rights Education** – reasserts previous resolution supports global human rights education; and, reminds Member States that reports on its first phase were coming due.
- **Human rights and climate change** – commits to holding a panel on climate change and human rights during the eleventh session.
- **Enhancement of international cooperation in the field of human rights** - reaffirms the collective responsibility states have for promoting human rights globally; and, encourages the participation of non-governmental groups for this.
- **Human Rights of Persons with Disabilities: National Frameworks for the Promotion and Protection of the Human Rights of Persons with Disabilities** – encourages states to sign, ratify, and implement the Convention on the Rights of Persons with Disabilities.
- **Draft United Nations guidelines for the appropriate use and conditions of alternative care for children** – commits to undertaking further study on this subject during the eleventh session.
- **Arbitrary detention** – urges all states to ensure that their laws and practices conform with international standards on the subject of arbitrary detention, particularly focusing on the right to a swift trial and fair pre-trial detention.
- **Enforced or involuntary disappearances** – urges states to sign, ratify and implement the Convention on the Protection of all Persons from Enforced Disappearances.
- **The right to food** – expresses concern over the state of food distribution globally as affected by conflict and disaster situations; reaffirms that access to food is a basic human right; and, that efforts must be taken by the international community to prevent the millions of food-deficiency related deaths every year.

- **Human rights and arbitrary deprivation of nationality** – reaffirms the right to nationality; calls upon states to attempt to eliminate situations in which a person would become stateless; and, urges states to sign the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons.
- **Implementation of the Convention on the Rights of the Child and the Optional Protocols thereto** – calls upon states to fully implement the Convention and its Optional Protocols, making sure to include children’s voices in the process.
- **Protection of human rights and fundamental freedoms while countering terrorism** - calls upon the international community to combat terrorism while protecting human rights.
- **Right of the Palestinian people to self-determination** – reaffirms the basic right of the Palestinian people to self-determination; and, supports idea of a two-state solution. In a position statement on the issue, the Government of Canada’s delegation declared that while it supported the Palestinian right to self-determination and the creation of a separate state for these stateless peoples, “Canada [was] nonetheless disappointed to see this resolution appear again in the Council [as it contributed] neither to efforts towards a peaceful settlement of the conflict, nor to an improvement of the situation in the ground”, therefore the state decided to disassociate from the consensus.¹³⁶
- **Forensic genetics and human rights** – advocates the use of forensic genetics to help identify victims of human rights violations and help with bringing perpetrators to justice.
- **Situation of human rights in Myanmar** – condemns the systemic violations of human rights within Myanmar; and, urges the government to release political prisoners and stop all politically motivated detainments.
- **United Nations Declaration on Human Rights Education and Training** – anticipates a draft of the Declaration during the 13th session.
- **From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance** – takes note of the work done by the Working Group of Experts of African Descent on the diaspora of African peoples; and,

¹³⁶ Foreign Affairs and International Trade Canada, *EOVs and EOPs for Tenth Regular Session*, 20 July 2009, http://www.international.gc.ca/name-anmo/un-onu/regular_sessions_ordinaires/hrc-cdh_2009_03.aspx?lang=eng.

welcomes implementation of the Durban Declaration and Programme of Action by the intergovernmental Working Group.

- **Assistance to Somalia in the field of human rights** – expresses concerns over the continued human rights violations taking place within Somalia; calls on the international community to help support legitimate Somali institutions; and, commends the African Union for supporting the reconstruction of Somali peace and security.

During this tenth session, a number of resolutions were also passed with dissent, including the following:

- **Composition of the staff of the Office of the United Nations High Commissioner for Human Rights** – expresses concern over the fact that the staff of the UN High Commission for Human Rights was geographically unbalanced. This resolution was adopted with a vote of 33 to 12, with 2 abstentions.¹³⁷ Canada did not support this resolution.
- **The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination** – encourages all states to become signatories to the Convention against the Recruitment, Use, Financing and Training of Mercenaries; and, strengthening the mandate of the working group assigned this issue. This resolution was adopted with a vote of 32 to 12, with 3 abstentions.¹³⁸ Canada did not support this resolution.
- **Situation of human rights in the Democratic People's Republic of Korea** – expresses concern over the systemic human rights violations in the Democratic People's Republic of Korea and its refusal to work with the Special Rapporteur on this issue; urges the state to ensure humanitarian efforts can reach its citizens; and, encourages it to participate in the

¹³⁷ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Chile, Republic of Korea.

¹³⁸ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Chile, Mexico, Switzerland.

UPR process. This resolution was adopted with a vote of 26 to 6, with 15 abstentions.¹³⁹ Canada voted in favour of this resolution.

- **Human rights in the occupied Syrian Golan** – reaffirms that the implementation of Israeli law in the Syrian Golan was an illegal act according to the Charter of the United Nations, since it involved the acquisition of territory by force; and expresses concern for the increasing human rights violations in this area, including barriers to national identity and the closure of the borders to relatives from Syria. This resolution was adopted with a vote of 33-1, with 13 abstentions.¹⁴⁰ Canada was the sole dissenter. Canada’s reasons for voting against the resolution were based on the fact that even though the country did not support Israeli occupation, there were “serious concerns that the resolution [did] not provide a balanced assessment of the human rights situation in the region and [did] not contribute to a peaceful and fair solution to the conflict”.¹⁴¹
- **Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan** - recognizes that the occupation of Palestinian territories is an illegal action on behalf of Israel and threatens the creation of an independent Palestinian state; expresses concern over the continued expansion of Israeli housing into traditionally Palestinian areas; and, urges the parties involved to make the peace process a priority. This resolution was adopted with a vote of 46 to 1, with no abstentions.¹⁴² Canada was the sole

¹³⁹ *In favour:* Argentina, Bahrain, Bosnia and Herzegovina, Burkina Faso, Cameroon, Canada, Chile, France, Germany, Ghana, Italy, Japan, Jordan, Madagascar, Mauritius, Mexico, Netherlands, Republic of Korea, Saudi Arabia, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia;

Against: China, Cuba, Egypt, Indonesia, Nigeria, Russian Federation;

Abstaining: Angola, Azerbaijan, Bangladesh, Bolivia, Brazil, Djibouti, Gabon, India, Malaysia, Nicaragua, Pakistan, Philippines, Qatar, Senegal, South Africa.

¹⁴⁰ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Canada;

Abstaining: Bosnia and Herzegovina, Cameroon, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

¹⁴¹ *EOVs and EOPs for Tenth Regular Session, supra* note 136.

¹⁴² *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, France, Gabon, Germany, Ghana, India, Indonesia, Italy, Japan, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Netherlands, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Slovakia, Slovenia,

dissenter. In its explanatory position statement, Canada once again stated that while the Israeli occupation was not legal in terms of international law, the resolution did not “present an accurate and balanced assessment of the human rights situation and it [did] not refer to Palestinian obligations... [nor] contribute to the search for a peaceful and fair solution to the conflict”.¹⁴³

- **Human rights violations emanating from the Israeli military attacks and operations in the Occupied Palestinian Territory** – calls for an end to the occupation of all Palestinian land taken since 1967; condemns all military attacks, whether they be against Palestinians or Israelis; and, calls for the release of Palestinian prisoners and detainees, the halt of construction around the Al-Aqsa mosque and the opening of borders and check points. This resolution was passed with a vote of 35 to 4, with 8 abstentions.¹⁴⁴ Canada did not support this resolution. Canada’s position statement on this issue once again brought up concerns over the bias it deemed inherent in this resolution, believing that it “[did] not present an accurate representation of the situation”.¹⁴⁵
- **Follow-up to Council resolution S-9/1 on the grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip** - demands that Israel cooperate with independent fact-finding missions and abide by its international obligations. This resolution was adopted with a vote of 33 to 1, with 13 abstentions.¹⁴⁶ Canada was the sole dissenter and once again

South Africa, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia;
Against: Canada.

¹⁴³ *EOVs and EOPs for Tenth Regular Session, supra* note 136.

¹⁴⁴ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Switzerland, Uruguay, Zambia;
Against: Canada, Germany, Italy, Netherlands;

Abstaining: Cameroon, France, Japan, Republic of Korea, Slovakia, Slovenia, Ukraine, United Kingdom of Great Britain and Northern Ireland.

¹⁴⁵ *EOVs and EOPs for Tenth Regular Session, supra* note 136.

¹⁴⁶ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;
Against: Canada;

Abstaining: Bosnia and Herzegovina, Cameroon, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

brought up concerns over the failure “to clearly establish the responsibilities and obligations of all sides involved in the conflict.”¹⁴⁷

- **Combating defamation of religions** – expresses concern over intolerance towards certain religions, particularly Islam since 11 September 2001 and the potential violence and instability that could arise over such occurrences; urges all states to take measures to prevent this type of discrimination. This resolution was adopted by a vote of 23 to 11, with 13 abstentions.¹⁴⁸ Canada did not support this resolution.
- **Torture and other cruel, inhuman or degrading treatment or punishment: the role and responsibility of medical and other health personnel** - condemns all forms of torture and urges states to address this issue; and, urges states to sign onto the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This resolution was adopted by a vote of 34 to 0, with 13 abstentions.¹⁴⁹ Canada supported this resolution.
- **Discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights** – condemns all forms of religious intolerance and stresses that human rights apply equally to all, regardless of religion; urges states to protect their citizens from such intolerance; and, stresses the need for more dialogue about this issue to lead to a more tolerant world. The resolution was adopted with a vote of 22 to 1, with 24 abstentions.¹⁵⁰ Canada supported its passage.

¹⁴⁷ *EOVs and EOPs for Tenth Regular Session, supra* note 136.

¹⁴⁸ *In favour:* Angola, Azerbaijan, Bahrain, Bangladesh, Bolivia, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa;
Against: Canada, Chile, France, Germany, Italy, Netherlands, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;
Abstaining: Argentina, Bosnia and Herzegovina, Brazil, Burkina Faso, Ghana, India, Japan, Madagascar, Mauritius, Mexico, Republic of Korea, Uruguay, Zambia.

¹⁴⁹ *In Favour:* Angola, Argentina, Azerbaijan, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Cameroon, Canada, Chile, Cuba, France, Gabon, Germany, Indonesia, Italy, Japan, Madagascar, Mauritius, Mexico, Netherlands, Nicaragua, Nigeria, Philippines, Republic of Korea, Russian Federation, Slovakia, Slovenia, South Africa, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia;
Abstaining: Bahrain, Bangladesh, China, Djibouti, Egypt, Ghana, India, Jordan, Malaysia, Pakistan, Qatar, Saudi Arabia, Senegal.

¹⁵⁰ *In Favour:* Angola, Argentina, Brazil, Canada, Chile, France, Germany, India, Italy, Japan, Mauritius, Mexico, Netherlands, Nicaragua, Republic of Korea, Russian Federation, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay;
Against: South Africa;
Abstaining: Azerbaijan, Bahrain, Bangladesh, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cameroon,

- **Elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination** – endorses the road map created by the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards which has the mandate of implementing further standards to the Convention on the Elimination of All Forms of Racial Discrimination. This resolution was adopted with a vote of 34 to 13.¹⁵¹ Canada did not support the resolution.
- **Situation of human rights in the Democratic Republic of the Congo and the strengthening of technical cooperation and consultative services** – commends the Democratic Republic of the Congo on cooperating with UN officials and encourages the state to continue to ratify and implement UN conventions on human rights, as well as to establish a national commission for human rights; and, calls on the international community to provide additional aid to the country in order to support its human rights endeavours. This resolution was adopted by a recorded vote of 33 to 1, with 14 abstentions.¹⁵² Canada abstained from voting.

Further to their work on resolutions, the Council also invoked a special procedure to create the position of an independent expert in the field of cultural rights. They also discussed the Social Forum, underlining its importance in coordinating efforts on social cohesion. The council also outlined a potential list of items to focus on during the next Forum meeting in 2009.

China, Cuba, Djibouti, Egypt, Gabon, Ghana, Indonesia, Jordan, Madagascar, Malaysia, Nigeria, Pakistan, Philippines, Qatar, Saudi Arabia, Senegal, Zambia.

¹⁵¹ *In Favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

¹⁵² *In Favour:* Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Abstaining: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Nicaragua, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

During this session, the United National Human Rights Council completed and adopted the reports for 16 universal periodic reviews.¹⁵³

7. Eleventh Special Session¹⁵⁴

The eleventh special session of the United Nations Human Rights Council was held over two concurrent days: 26th and 27th of May 2009. A resolution was passed concerning assistance to Sri Lanka in the promotion and protection of human rights. The resolution commended the Sri Lankan government's efforts in dealing with its internally displaced persons and human rights violations in the wake of the Liberation Tigers of Tamil Eelam hostilities. It also upheld the right of a state to deal with internal issues without outside interference and encouraged Sri Lanka to facilitate internal humanitarian efforts. Finally, it urged the international community to assist Sri Lanka in its development and reconstruction by way of financial aid. The resolution was adopted with a vote of 29 to 12, with 6 abstentions.¹⁵⁵ Canada voted against the resolution.

8. Eleventh Session¹⁵⁶

The eleventh session of the United Nations Human Rights Council was held between the 2nd and 18th of June 2009. During this session, the Council adopted many resolutions on consensus including the following:

- **Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child to provide a communications procedure** – establishes a working group to study the possibility of implementing an optional protocol for a communications procedure for the Convention.

¹⁵³ Botswana, the Bahamas, Burundi, Luxembourg, Barbados, Montenegro, the United Arab Emirates, Liechtenstein, Serbia, Turkmenistan, Burkina Faso, Israel, Cape Verde, Colombia, Uzbekistan and Tuvalu.

¹⁵⁴ Human Rights Council, *Report of the Human Rights Council on its Eleventh Special Session*, A/HRC/S-11/2, 26 June 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11specialsession/A-HRC-S-11-2-E.doc>.

¹⁵⁵ *In favour*: Angola, Azerbaijan, Bahrain, Bangladesh, Bolivia (Plurinational State of), Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, Chile, France, Germany, Italy, Mexico, Netherlands, Slovakia, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Argentina, Gabon, Japan, Mauritius, Republic of Korea, Ukraine.

¹⁵⁶ Human Rights Council, *Report of the Human Rights Council on its Eleventh Session*, A/HRC/11/37, 16 October 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.37.pdf>.

- **Accelerating efforts to eliminate all forms of violence against women** – strongly condemns all violence against women, be it physical, sexual or psychological; urges states and communities to find ways to prevent and put an end to such occurrences, as well as to help victims of gender-based violence; urges states not only to reform domestic legislation, but to work with NGO groups, maintain enhanced data collection on this topic, and to sign on to UN security council resolutions 1325 and 1820.
- **Trafficking in persons, especially women and children** – recognises the extensive human rights violations trafficking causes and the need to support, protect and provide redress to victims; urges governments to strike at the root causes of the issue and to strengthen legislation to criminalize the perpetrators, not the victims; and suggests that states implement a national coordinating mechanism for tracking and sharing information about trafficking between governmental agencies and civil society.
- **The right to education: follow-up to Human Rights Council resolution 8/4** – calls upon all states to adopt resolution 8/4¹⁵⁷ which would support the idea of a right to education for all, particularly for those in detention within the justice system.
- **Guidelines for the Alternative Care of Children** – submits a proposed guideline on alternative care situations for children separated from their family for the consideration of the General Assembly for adoption on the 20th anniversary of the Convention on the Rights of the Child.
- **Preventable maternal mortality and morbidity and human rights** – recognizes the unacceptable levels of preventable maternal mortality in the world today and urges all states to start addressing this issue, as per commitments to the Millennium Development goals.
- **The human rights of migrants in detention centres** – emphasises the importance of paying heed to the needs of migrants in detention centres and commits to hosting a panel discussion on the topic during its twelfth session.

¹⁵⁷ Human Rights Council, *Report of the Human Rights Council on its Eighth Session (Resolution 8/4: The right to education)*, A/HRC/8/52, 1 September 2008, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A.HRC.8.52.doc>

- **System of Special Procedures** – expresses appreciation for the contributions of special procedures and emphasises the need for those in these positions to uphold their mandates and for states to cooperate with them
- **Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action** – extends the mandate of the Intergovernmental Working Group for three years.

During this eleventh session, a number of resolutions were also passed with dissent, including the following:

- **Promotion of the right of peoples to peace** - reaffirms that all peoples have a right to peace and that all states have a responsibility to help provide this; stresses the danger that the ever-widening gap between developed and developing nations will have on peace, security and the development of human rights; emphasises the importance of solving all disputes peacefully and as soon as possible. This resolution was adopted with a vote of 32 to 13, with 1 abstention.¹⁵⁸ Canada did not support the resolution.
- **The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights** – expresses concern about the rising levels of debt being taken on by developing nations around the world and that greater aid must be given to help states escape from these debt loads in order to concentrate on their own development; advocates new arrangements of debt management, including total forgiveness for the least well off nations; and, urges developed nations to commit to greater financial aid and compassion. This resolution was adopted with a vote of 31 to 13, with 2 abstentions.¹⁵⁹ Canada did not support this resolution.

¹⁵⁸ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bolivia (Plurinational State of), Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: India.

¹⁵⁹ *In favour:* Angola, Argentina, Azerbaijan, Bahrain, Bolivia (Plurinational State of), Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South

- **Situation of human rights in Sudan** – acknowledges the progress being made towards the realisation of comprehensive human rights in Sudan on behalf of the Government of National Unity, but stresses on the need for this trend to continue as well as the need for the government to support and protect all of its citizens. Commends the state for the implementation of human rights monitors, but also creates a mandate for a UN independent expert to assess the status of human rights in Sudan - Darfur in particular - for a period of one year. This resolution was adopted with a vote of 20 to 18, with nine abstentions.¹⁶⁰ Canada supported this resolution.

During this session, the United National Human Rights Council completed and adopted the reports for 16 universal periodic reviews.¹⁶¹

Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Chile, Mexico.

¹⁶⁰ *In favour:* Argentina, Bosnia and Herzegovina, Brazil, Canada, Chile, France, Germany, Italy, Japan, Mauritius, Mexico, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia;

Against: Azerbaijan, Bahrain, Bangladesh, Cameroon, China, Cuba, Djibouti, Egypt, Indonesia, Jordan, Malaysia, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, South Africa;

Abstaining: Angola, Bolivia (Plurinational State of), Burkina Faso, Gabon, Ghana, India, Madagascar, Nicaragua, Senegal.

¹⁶¹ Germany, Djibouti, Canada, Bangladesh, Russian Federation, Cameroon, Cuba, Saudi Arabia, Senegal, China, Azerbaijan, Nigeria, Mexico, Mauritius, Jordan and Malaysia.

**APPENDIX G:
CANADA'S PARTICIPATION IN THE UNIVERSAL PERIODIC REVIEW PROCESS**

A. Canada's UPR: procedures and process

As noted above in chapters Two and Four, Canada's written submissions for its review were dated 5 January 2009. Canada's formal UPR review then occurred in Geneva on 3 February 2009. Due to time constraints, only forty-five of the sixty-nine Member States who requested an opportunity to speak during Canada's session were able to comment and offer recommendations to Canada. The troika that facilitated Canada's UPR review was comprised of the United Kingdom, Azerbaijan and Bangladesh.

The Council's written UPR draft report for Canada's review was released on 5 February 2009.¹⁶² Canada submitted its five-page written response to the UNHRC working group's draft report on 8 June 2009¹⁶³ and was given 20 minutes to comment on the outcomes of the review at a UNHRC session the following day.¹⁶⁴ Stakeholders and other states who wanted to make additional comments were able to do so in two additional twenty-minute time slots. The UNHRC adopted Canada's report at this same session. Canada will undergo a new UPR in another four years time.

B. Canada's Initial Submissions to the UPR

Canada's first submission to the UNHRC for the UPR, entitled *National Report submitted in accordance with paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1*, sets out Canada's institutional framework for promoting and protecting human rights.¹⁶⁵ The document outlined the human rights protections provided by the Canadian Constitution, in particular the *Canadian Charter of Rights and Freedoms*, and reviewed the role of the judiciary and of human rights commissions and tribunals in promoting human rights in this country. It

¹⁶² *Draft Report of the Working Group on the Universal Periodic Review - Canada*, *supra* note 69.

¹⁶³ *National Report submitted in accordance with paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 - Canada*, *supra* note 20.

¹⁶⁴ United Nations Human Rights Council, *Archived Video, Fourth Universal Periodic Review*, *supra* note 72; Canadian Heritage, *Canada's Universal Periodic Review*, *supra* note 72.

¹⁶⁵ *National Report submitted in accordance with paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 - Canada*, *supra* note 20.

also provided an update on the efforts Canada was making to meet its international human rights obligations. It focused on a few key topics in particular: health care, education, housing, labour market issues, social benefits, access to justice, correctional services, national security, refugee protection, and issues concerning Aboriginal peoples.

John Sims, Deputy Minister, Department of Justice Canada, appeared on behalf of Canada for the UPR and presented the report.¹⁶⁶ He noted that “Canada had a long tradition of promotion and protection of freedom, democracy, human rights, and the rule of law both at home and abroad.” He advised the Council that prior to the preparation of the national report, and as discussed below, engagement sessions were held across Canada with a wide range of representatives from Aboriginal peoples’ organisations and NGOs.

The 20-person delegation from Canada consisted of representatives from the Department of Justice Canada; the Department of Indian Affairs and Northern Development; the Department of Human Resources and Skills Development; the Department of Foreign Affairs; the Department of Canadian Heritage; the Office of the Attorney General in the Province of Saskatchewan; le Ministère des Relations Internationales, Province du Québec; le Mission du Canada à Beijing; and the Permanent Mission of Canada to the United Nations Office at Geneva.¹⁶⁷

Canada’s written and oral submissions highlighted a number of achievements and challenges, including:¹⁶⁸

- With regards to poverty reduction, Canada accepted that it still has much to do, but the number of persons living with low income has declined over the past decade;
- With regards to housing and homelessness, a number of programs and funding initiatives geared towards increasing affordable, liveable housing were discussed;
- With regards to human rights and the fight against terrorism, the submission stated that the laws of Canada contain safeguards for the protection of the rights of terrorist suspects and

¹⁶⁶ United Nations Human Rights Council, *Archived Video, Fourth Universal Periodic Review*, *supra* note 72.

¹⁶⁷ See the summary of Canada’s UPR session at: Office of the High Commissioner for Human Rights, “Human Rights Council – Universal Periodic Review, 3 February 2009”, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights3February2009am.aspx> .

¹⁶⁸ *National Report submitted in accordance with paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 - Canada*, *supra* note 20.

that Canada was making progress on enhancing procedural due process rights in hearings in which highly sensitive information formed part of the Government's case;

- With regards to immigrants, the submission highlighted Canada's efforts to integrate them into Canadian society, to ensure that foreign workers' rights are protected, and to combat human trafficking; and
- Among other "achievements," Canada's submissions highlighted:
 - Canada's efforts to advance women's equality and to address violence against women;
 - the high rate of women in political positions in Canada;
 - Canada's open policy in welcoming immigrants;
 - Canada's financial contributions to international human rights and humanitarian organizations; and
 - Canada's efforts to address discrimination against visible minorities and persons with disabilities.

C. Issues specifically concerning Aboriginal peoples

Canada's submissions to the UPR also addressed issues specifically concerning Aboriginal peoples. The Government of Canada accepted that inequalities exist in Canadian society between Aboriginal people and other Canadians, such as: Aboriginal people in Canada are statistically more likely to be recipients of social assistance, to be unemployed, to be incarcerated, to live in poverty, to face increased health risks and to commit suicide. The Government of Canada expressed its commitment to addressing these issues through a policy agenda focused on: economic development; education; citizen empowerment and protection of the vulnerable; resolution of land claims and reconciliation; governance and self-government.¹⁶⁹

The presentation also included the following main points regarding issues concerning Aboriginal peoples:

- Canada has established programs for children and families, for example the First Nations Child and Family Services Program, which delivers culturally appropriate child welfare services to First Nations families and children on reserves;

¹⁶⁹ *Ibid.*

- Violence against Aboriginal women is of significant concern and Canada is working with Aboriginal women and organizations on family violence prevention programmes. For example, the Government supports the Sisters in Spirit initiative undertaken by the Native Women's Association of Canada to better understand and define the problem of missing and murdered Aboriginal women;
- Reconciliation work between Aboriginal peoples and the rest of Canadian society is ongoing. Recent reconciliation efforts with Indian Residential School survivors include the Indian Residential Schools Settlement Agreement that has provided compensation to former students and created a truth and reconciliation commission;
- Canada is seeking to reconcile the rights of Aboriginal peoples over traditional lands with the sovereignty of the Government and to balance the rights and interests of Aboriginal and non-Aboriginal Canadians in a manner consistent with the Constitution. There have been recent developments pertaining to treaty rights, self-government and land claims. The Government of Canada has initiated a plan to expedite the process for the resolution of specific claims, committed an additional \$250 million a year for settlements, and created a tribunal of impartial judges to decide claims when negotiations fail;
- Recent amendments to the *Canadian Human Rights Act* allow issues of discrimination arising under the *Indian Act* to be addressed under this legislative scheme; and
- Though the Canadian government was unable to support the *Declaration on the Rights of Indigenous Peoples* (as it has determined that the *Declaration* lacks clear guidance in several areas and fails to address Canada's key concerns in areas such as land, resources and self-government), Canada remains committed to fulfilling its existing human rights obligations with regards to Aboriginal peoples.

D. Stakeholders and Canada's UPR

As discussed above, the UPR guidelines anticipate that states will engage with relevant stakeholders as part of the UPR process. Canadian Heritage has the responsibility for ensuring that civil society and Aboriginal peoples' organizations are involved in Canada's UPR

process.¹⁷⁰ Prior to Canada's review in Geneva, the department met with approximately 150 organizations during five engagement sessions, which were held in Ottawa and across the country. The government of Quebec also held its own session. The Canadian delegation to the UNHRC also met with representatives of civil society groups in Geneva. As part of its preparations for its response to the UNHRC working group's draft report, the Government of Canada held two additional face-to-face sessions with primarily national organizations in Ottawa on 21 and 22 April 2009: one session was for civil society generally, and one specifically for Aboriginal peoples' organizations. Canadian Heritage also set up mechanisms on its Internet site for web-based submissions to be made by stakeholders. These two sessions, as well as the web-based consultations, were designed to focus on the recommendations, and were to mirror the thematic approach being used in government discussions on the topics raised during the UPR.

As discussed in Chapter Four, Diane Fulford, Assistant Deputy Minister, Canadian Heritage, acknowledged before the committee that some organizations were not pleased with the manner in which the consultations were held, and explained that the consultation process was postponed due to the federal and Quebec elections. It had been the intention of Canadian Heritage to hold consultations prior to completing Canada's written submissions; instead, consultations were held after the submissions were made in January of 2009.

E. Stakeholders' submissions

Approximately 50 official submissions were submitted by stakeholders for Canada's UPR, prior to the 5 February 2009 review.¹⁷¹ A full list of these stakeholders is included as Appendix I. Selected examples of some of the stakeholder submissions include:

- Amnesty International's submission raised concerns about Canada's "failure to ratify or support some international human rights instruments, approach to implementing international

¹⁷⁰ Diane Fulford, Assistant Deputy Minister, Canadian Heritage, and Lyn Elliot Sherwood, Executive Director, Canadian Heritage, Heritage Group, testimonies before the committee 30 March 2009.

¹⁷¹ Office of the High Commissioner for Human Rights, *Universal Periodic Review – Canada – Reference Documents, Contributions for the Summary of Stakeholder's information*, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRCAStakeholdersInfoS4.aspx> ; and, United Nations Human Rights Council, Working Group on the Universal Periodic Review, Fourth session, Geneva, 2-13 February 2009, "Summary prepared by the office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1," A/HRC/WG.6/4/CAN/3, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_CAN_3_E.PDF .

human rights obligations and failure consistently to provide disaggregated data about human rights protection.” It expressed concern about “protection of the rights of Indigenous peoples, and of refugees and migrants” and about counter-terrorism measures, the administration of justice, and protection of economic, social and cultural rights.”¹⁷² It also made a number of recommendations for Canadian governments.

- The International Centre for Transitional Justice raised concerns and recommendations pertaining to the Indian Residential Schools Truth and Reconciliation Commission and how to make it a successful part of Canada’s commitment to promoting Aboriginal peoples’ rights.¹⁷³
- PEN Canada, an organization that advocates on behalf of writers regarding freedom of expression issues, drew attention to the anti-hate message provisions of the *Canadian Human Rights Act* and situations where commissions have “taken it upon themselves to act as arbiters and potential constrainers of freedom of expression.”¹⁷⁴
- The Canadian Human Rights Commission’s submission was broad and covered a number of the previously mentioned issues of common interest. It concluded that: “Canada can be proud of the progress made in implementing its international human rights obligations, but much remains to be done before it can claim to have fully reached, in real terms, the ideal of equality expressed in those obligations, given the social inequalities still found in Canadian society.”¹⁷⁵

¹⁷² Amnesty International, “Canada: Amnesty International Submission to the UN Universal Periodic Review: Fourth session of the UPR Working Group of the Human Rights Council, February 2009,” http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/AI_CAN_UPR_S4_2009_AmnestyInternational.pdf.

¹⁷³ International Center for Transitional Justice, “Submission to the Universal Periodic Review Of the UN Human Rights Council, Fourth Session: February 2-13, 2009,” September 8, 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/ICTJ_CAN_UPR_S4_2009_InternationalCenterforTransitionalJustice_ENG.pdf.

¹⁷⁴ PEN Canada, “Submission to the Fourth Session of the Universal Periodic Review Working Group United Nations Human Rights Council, 2-13 February 2009, UPR—Canada”, September 8, 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/PEN_CAN_UPR_S4_2009_PENCanada.pdf.

¹⁷⁵ Canadian Human Rights Commission, “Social Equality in Canada: A Submission from the Canadian Human Rights Commission to the United Nations Human Rights Council as part of the Universal Periodic Review (UPR) of Canada’s Human Rights Obligations,” September 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/CHRC_CAN_UPR_S4_2009_CanadianHumanRightsCommission_ENG_NHRI.pdf.

Many of the participating NGOs expressed concerns about the status of Aboriginal persons and highlighted issues of discrimination against them in relation to income, employment, education, health, as well as their overrepresentation in prisons and in suicide and poverty statistics.¹⁷⁶ Several participants also focused on Canada's position on the *Declaration on the Rights of Indigenous Peoples*, and called on the Government to change its stance and sign the Declaration.¹⁷⁷ Other organizations also discussed particular disadvantages facing Aboriginal women, such as the prevalence of domestic violence.¹⁷⁸

Among the recommendations made by Aboriginal peoples' organisations were:

- that Canada endorse and fully implement the *United Nations Declaration on the Rights of Indigenous Peoples* and that the UNHRC “Reprimand Canada on its failure to uphold the rule of law and the honour of the Crown in its duty to consult and accommodate, and its violations of the provisions in the *Declaration* regarding territory and natural resources and the right of free, prior and informed consent;”¹⁷⁹ and
- that adequate funding should be allocated to ensure full implementation of the Kelowna Accord, the *Indian Act* be changed to empower Aboriginal women to identify the eligibility of their children for status, and the federal government should address and resolve outstanding human rights issues for Aboriginal women through active consultation with Aboriginal women.¹⁸⁰

¹⁷⁶ These included: First Nations Summit, KAIROS, Land Claims Agreement Coalition, Lubicon Lake Indian Nation, Amnesty International, Athabasca Chipewyan First Nation, joint submission by the International Indian Treaty Council, Assemblée des Premières Nations du Québec et du Labrador, and the Indigenous Network on Economies and Trade. See: “Summary prepared by the office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution,” *supra* note 171.

¹⁷⁷ These included: the Canadian Human Rights Commission, Franciscans International, and a joint submission by the International Indian Treaty Council, Amnesty International and the Ligue des Droits et Libertés.

¹⁷⁸ These included: The Feminist Alliance for International Action, Native Women's Association of Canada, and Amnesty International. See: *Universal Periodic Review – Canada – Reference Documents, Contributions for the Summary of Stakeholder's information supra* note 171.

¹⁷⁹ The Assembly of First Nations, “Submission to the United Nations Human Rights Council, Universal Periodic Review of Canada's Human Rights Obligations,” September 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/AFN_CAN_UPR_S4_2009_AssemblyofFirstNations.pdf

¹⁸⁰ The Native Women's Association of Canada, “Submission of the Native Women's Association of Canada regarding the Universal Periodic Review of Canada by the Human Rights Council,” 8 September 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/NWAC_CAN_UPR_S4_2009_NativeWomensAssociationofCanada.pdf.

F. Recommendations and Questions raised by UN Member States

During the UPR session, the UNHRC Member States raised issues and concerns pertaining to a number of subjects, many of which had previously been acknowledged in Canada's submissions.¹⁸¹ Of the 45 states that spoke during Canada's three-hour UPR session, over half raised concerns about issues facing Aboriginal peoples in Canada, making this the issue that received the most attention during Canada's UPR, both by participants in the process and by the media.¹⁸² Some states made recommendations for Canada, while others asked questions regarding the measures Canada was taking to address the issues raised in its review. Canada was further criticised by such countries as Cuba, Pakistan, Azerbaijan, Turkey, Iran, Egypt and Saudi Arabia on a wide range of issues, including racism, xenophobia, discrimination against ethnic minorities, poverty and homelessness, and deportation of asylum seekers to countries where they might be tortured: a fact highlighted in numerous media reports, given the fact that these countries do not have strong human rights records of their own.

Selected key recommendations made for Canada included:

- to strengthen enforcement of legislation and programmes concerning the prohibition of commercial sexual exploitation of children;
- to monitor closely the situation of victims of human trafficking, women migrant workers and women prisoners;
- to submit to scrutiny the regulations governing the use of "Taser" weapons;
- to accede or ratify a number international human rights instruments;
- to undertake legal and policy reforms to protect the rights of refugees and migrants; and
- to establish an effective and inclusive process to follow up on UPR recommendations.

A few new subjects not anticipated in Canada's submissions and raised by other Member States included:

- whether Canada was reconsidering its decision to withdraw from the Durban Review Conference 2009;
- steps taken to implement recommendations made by the Special Rapporteur on racism;

¹⁸¹ *Draft Report of the Working Group on the Universal Periodic Review – Canada, supra* note 69; and "Human Rights Council – Universal Periodic Review, 3 February 2009" *supra* note 167.

¹⁸² *Draft Report of the Working Group on the Universal Periodic Review – Canada, supra* note 69.

- measures to improve the situation of Canadians of African descent in terms of access to education and problems with poverty; and
- measures taken to ensure that Canada’s combat forces in Afghanistan complied with their human rights obligations.

With respect to Aboriginal peoples in Canada, issues identified by participants included: settling territorial claims, addressing inequalities, tackling domestic violence, and Canada’s position of not signing the *Declaration of the Rights of Indigenous Peoples*. More specifically, selected comments included:¹⁸³

- The United Kingdom recommended that Canada give its “highest priority” to addressing “fundamental inequalities” between Aboriginal and non-Aboriginal people, including through “resolution of land claims and reconciliation of governance and self-government”;¹⁸⁴
- Austria, Mexico, Norway and Denmark, among others, called on Canada to reconsider its opposition to the *Declaration on the Rights of Indigenous Peoples*;
- Austria, Argentina and Switzerland noted concerns regarding the settlement of land claims by Aboriginal peoples and Canada’s ability to improve or accelerate the settlement of such claims;
- The Netherlands recommended that Canada strengthen and enlarge current programmes on housing, education and employment for Aboriginal peoples;
- Indonesia recommended that Canada improve the welfare of Aboriginal children;
- Jordan recommended that Canada implement, as appropriate, the recommendations of human rights treaty bodies on indigenous peoples;
- Cuba recommended that Canada guarantee Aboriginal peoples the full enjoyment of their rights, including economic, social and cultural rights, so that their standard of living was similar to that of the rest of the citizens in Canada;
- Iran recommended that Canada establish immediate means of redress and protection of the rights of ethno-minorities, in particular, Aboriginal peoples;

¹⁸³ *Draft Report of the Working Group on the Universal Periodic Review – Canada, supra* note 69.

¹⁸⁴ *Ibid.* at 7.

- Switzerland recommended reinforcing efforts to settle territorial claims by Aboriginal peoples and improve the mechanisms of conflict resolution;
- Vietnam, India and others asked about measures already taken to address the disadvantages faced by Aboriginal peoples and the discriminatory effects of the *Indian Act*; and
- The Philippines asked about the impact of mining on Aboriginal peoples' lands.

G. Submissions by the Office of the High Commissioner for Human Rights

As noted above, the UN Office of the High Commissioner for Human Rights provides its own report to the UPR process and compiles the observations and recommendations of experts in various fields, including the Human Rights Committee (a United Nations body of 18 experts that meets to review compliance with the International Covenant on Civil and Political Rights).¹⁸⁵ With regards to Canada, the summary report¹⁸⁶ referenced many concerns about issues facing Aboriginal peoples. Other observations included the Committee on the Elimination of All Forms of Discrimination against Women's concern that "Aboriginal and ethnic minority women suffer from multiple discrimination in employment, housing, education and health care, with high rates of poverty, lack of access to clean water and low school completion rates," and the UN Special Rapporteur on Adequate Housing's remark that for a highly developed, wealthy country, "Canada's poverty figures were striking." One of the Human Rights Committee concerns pertained to the breadth of the definition of terrorism under the *Anti-Terrorism Act*.

The OHCHR summary report for Canada¹⁸⁷ addressed specific concerns facing Aboriginal peoples, including the following:

- The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) is concerned that Aboriginal women (as well as ethnic minority women)

¹⁸⁵ Office of the High Commissioner for Human Rights, "Human Rights Committee," <http://www2.ohchr.org/english/bodies/hrc/>.

¹⁸⁶ Human Rights Council, Working Group on the Universal Periodic Review, "Compilation prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 – Canada," 17 December 2008, A/HRC/WG.6/4/CAN/2, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_CAN_2_E.PDF.

¹⁸⁷ *Ibid.*

suffer from multiple forms of discrimination in employment, housing, education and health care, with high rates of poverty, lack of access to clean water and low school completion rates.¹⁸⁸

- CEDAW, the Committee on the Elimination of Racial Discrimination (CERD), the Committee on Economic, Social and Cultural Rights (CESCR) and the Special Rapporteur on indigenous people urged legislative solutions to address the discriminatory effects of the *Indian Act* on the transmission of Indian status to children, the rights to marry, own and inherit property (under Matrimonial Real Property regulations) and on economic, social and cultural rights for Aboriginal women and children.
- CERD and the UN Human Rights Committee were concerned about serious acts of violence against Aboriginal women. CEDAW urged Canada to examine its failure to investigate cases of missing and murdered Aboriginal women.
- The Working Group on Arbitrary Detention and CERD made recommendations to address the over-representation of Aboriginal persons in prisons, such as increasing Aboriginal participation in law enforcement and the justice system and sensitizing law enforcers.
- CESCR and CERD were concerned about the levels of poverty in Canada that affect Aboriginal peoples and the Special Rapporteur on adequate housing witnessed some Aboriginal communities living without access to adequate drinking water and sanitation.
- CERD was concerned about the lack of process in land claim resolution, and urged Canada to engage in negotiations based on recognition and reconciliation and to conduct periodic reviews of treaties concluded with First Nations.
- The Special Rapporteur on indigenous people remarked that efforts to reduce the socio-economic gap between indigenous and non-indigenous peoples have been thwarted by the Government of Canada's failure to honour the Kelowna Accord (a series of agreements between the Government of Canada, certain ministers and leaders from of the provinces and territories, and the leaders of several Aboriginal peoples' organizations in Canada concerning issues affecting Aboriginal peoples).

¹⁸⁸ *Ibid.*

- The Special Rapporteur on adequate housing commented on the negative impact of oil extraction and other industrial activities, which it stated are leading to the loss of lands and destruction of livelihoods and traditional practices.
- The UN Human Rights Committee and CESCR recommended increasing efforts to protect and promote Aboriginal languages and cultures.

H. Canada's response

On 8 June 2009, Canada submitted its five-page written response to the UNHRC working group's draft report and appeared before the Council on the following day to provide its presentation regarding the outcome of the UPR session. The report noted that the Government of Canada had considered all sixty-eight recommendations it received. Furthermore, it stated that the Government had met with civil society and Aboriginal peoples' organizations and its response was also informed by the views expressed by these groups throughout the UPR process.¹⁸⁹

Canada either accepted or accepted-in-part the majority of the recommendations made to it during the UPR. It rejected outright fourteen of the recommendations it received, another fifteen recommendations were either partially rejected or partially accepted, with the remaining thirty-nine being largely acceptable. Some recommendations were rejected on the basis that they touched on provincial matters, such as Recommendation 17, where the Russian Federation called upon Canada to develop a national strategy to eliminate poverty. Others were rejected in relation to the ratification of or unconditional adherence to a number of international instruments, in some cases simply because Canada said it was not presently considering becoming a party; these instruments included: the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Recommendation #1); International Labour Organization Convention 169 (#6); the *American Convention on Human Rights* (#8); the *Convention on the Rights of the Child* (#9); and the United Nations Declaration on the Rights of Indigenous Peoples (#52). Canada also refused to recognize the justiciability and equality of social, economic and cultural rights, in accordance with the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, since Canada does not accept that all aspects of these rights are amenable to

¹⁸⁹ *Report of the Working Group on the Universal Periodic Review - Canada, Addendum, supra* note 71.

judicial review or that its international human rights treaty obligations require it to protect rights only through legislation (#10).

Canada accepted such recommendations as a call to “establish an effective and inclusive process to follow-up on the universal periodic review recommendations” that would actively involve civil society (#63). It accepted the recommendation to ratify the *Optional Protocol to the Convention Against Torture* (#2) and the *International Convention on the Rights of Persons with Disabilities* (#3). It accepted to submit to scrutiny the regulations governing the use of TASER weapons (#32). It also accepted a number of recommendations pertaining to issues concerning Aboriginal peoples, such as: addressing inequalities between Aboriginal and non-Aboriginal communities (#19), improving the healthcare and general welfare of indigenous children (#46), reinforcing efforts to settle land claims (56), ensuring that all consultation and consent duties are respected (#55). Several recommendations pertaining to refugees, immigrants and migrant workers were also accepted in part (#18, 31, 57, 58, 59, and 60), along with a recommendation that there may be opportunities for improving established processes. Canada also accepted a number of recommendations pertaining to violence against women and children (#27, 33, 34, and 35); to racism and discrimination (#22, 25, 28, 23, and 24); and to trafficking and sexual exploitation (#39 and 40).

At the UNHRC session in June 2009, where the UPR report for Canada was adopted, a number of organizations and states made comments at the session prior to the adoption of the report, including the Canadian Human Rights Commission.¹⁹⁰ Among the statements made at this session were:

- The need to amend anti-terrorism laws (Algeria, Cuba, Russian Federation);
- The need to combat racism, particularly against First Nations (Cuba, Iran);
- Appreciation was shown for accepting recommendations with regards to violence against women and children (Sweden);

¹⁹⁰ Comments were made by the following states: Algeria, Cuba, Russian Federation, Iran, Sweden, United States and Chad, and the Canadian Human Rights Commission. Representatives of the following non-governmental organizations also spoke: Charitable Institute for Protection of Social Victims, Organization for Defending Victims of Violence, Iranian Elite Research Center, Indian Council of South America, Rencontre africaine pour la défense des droits de l'Homme, and International Organization of Indigenous Resource Development. See: Office of the High Commissioner for Human Rights, “Human Rights Council Adopts Outcomes of Universal Periodic Review Process on Germany, Djibouti and Canada,” 9 June 2009, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9098&LangID=E>.

- Commendation for acknowledging the concerns of civil society groups regarding the engagement process (United States);
- Regrets that Canada has not attended or supported the Durban Review Conference (Algeria);
- And, various concerns were raised about issues concerning Aboriginal peoples (Russian Federation, Iran).

Upon completion of this session, the UNHRC adopted the decision on the outcome on the UPR of Canada, thereby making the Working Group's draft report the official UPR document for Canada.

I. Canada as a Troika member

Canada also participated as a Troika member during the first five UPR sessions. Namely and in order, these were for the reviews of Indonesia, Romania, Luxemburg, China, and Viet Nam.¹⁹¹ Canada's responsibilities were to facilitate the reviews of these countries for the Council, as well as to engage in dialogue with these countries in preparation for their reviews. As a Troika member, Canada's commentary, questions and recommendations for these states was more in-depth than in its reviews of other states.¹⁹² Selected excerpts from the country reports of which Canada was a troika member are included as Appendix H.

¹⁹¹ Office of the High Commissioner for Human Rights, 'Universal Periodic Review', <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>.

¹⁹² Information containing Canada's contributions to UPRs as a troika member may be found in the following reports from the Human Rights Council website: 'Report of the Working Group on the Universal Periodic Review - Vietnam,' A/HRC/12/11, 17 September 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_12_11_Viet_Nam_en.pdf; 'Report of the Working Group on the Universal Periodic Review - Luxemburg', A/HRC/10/72, 8 January 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A_HRC_10_72_Luxembourg_E.pdf; 'Report of the Working Group on the Universal Periodic Review - China,' A/HRC/11/25, 3 March 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CN/A_HRC_11_25_CHN_E.pdf; 'Report of the Working Group on the Universal Periodic Review - Indonesia,' A/HRC/8/23, 14 May 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/ID/A_HRC_8_23_Indonesia_E.pdf; and, 'Report of the Working Group on the Universal Periodic Review - Romania,' A/HRC/8/49, 3 June 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/RO/A_HRC_8_49_Romania_E.pdf.

**APPENDIX H:
EXCERPTS CONTAINING CANADA’S CONTRIBUTIONS TO
THE UPR REVIEWS AS A TROIKA MEMBER**

Canada made both written and oral submissions to the UPRs of several other countries as a troika member. The following passages are taken from the country reports of the Working Group on the Universal Periodic review that summarize Canada’s commentary.

1. Vietnam¹⁹³

“Canada applauded the positive impact that Viet Nam’s economic gains have had on human rights, and welcomed improvements in the areas of equality between men and women, education and religious freedom, including for ethnic minority groups. Canada recommended measures which would contribute to freedom of expression, in particular that Viet Nam (a) increase the independence of media from the State, including by allowing privately-run media; (b) bring its press laws into compliance with article 19 of ICCPR; (c) adopt a whistleblower law so that those who identify corruption are protected from prosecution or harassment; and (d) adopt access-to-information legislation. Canada noted that laws are sometimes applied to restrict the freedom of association. It recommended that Viet Nam (e) reduce the use of security laws that limit public discussion about multi-party democracy or criticism of the Government, including by bringing security and propaganda laws into compliance with ICCPR; (f) reduce the length of prison sentences for non-violent crimes; (g) register all individuals detained under security laws, and make this information publicly available; (h) provide people detained under security or propaganda laws with fundamental legal safeguards, including representation by legal counsel of their choice throughout the proceedings and a public trial; (i) issue a standing invitation to all special procedures of the Human Rights Council.”

¹⁹³ Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review – Vietnam*, A/HRC/12/11, 17 September 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_12_11_Viet_Nam_en.pdf at para. 35.

2. Luxembourg¹⁹⁴

“Canada, as part of the troika, commended the proactive approach taken by Luxembourg to the international scene, which reflects its commitment to the respect for human rights. Canada welcomed its efforts to combat racism and xenophobia, including the recent adoption of a law making discrimination and racism aggravating circumstances. Canada noted that, despite such efforts, certain behaviours persist in Luxembourg and recommended that it provide improved training for officials on human rights, including racial discrimination and xenophobia issues.

While recognizing the State’s efforts to provide adequate protection to refugees seeking asylum, Canada expressed its concerns, in line with the Committee against Torture, at its policy of detention of asylum-seekers. Canada recommended that Luxembourg bring its policy into line with conclusion 7 (e) of the conclusions on international protection for refugees, which recommends that expulsion measures should not include detention unless for national security reasons or public order. Canada took note of the concerns raised by the Committee on the Rights of the Child and the Committee against Torture concerning human trafficking, and encouraged Luxembourg to continue efforts to combat it. Canada recommended implementing all relevant provisions of the protocol to prevent, repress and punish those who are guilty of human trafficking, especially trafficking in women and children. Canada also expressed its disappointment at certain terminology, which tends to exclude women and children. It recommended that Luxembourg adopt terminologies in French, as in the case of the two other official languages, which truly reflect common values related to equality between men, women and children.”

¹⁹⁴ Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review – Luxembourg*, A/HRC/10/72, 8 January 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A_HRC_10_72_Luxembourg_E.pdf at para. 34.

3. China¹⁹⁵

“Canada welcomed the measures taken to reduce immediate death sentences, reserving them for “exceptionally grave” crimes and reinstating Supreme People’s Court authority to review death sentences. Canada expressed deep concern about reports of arbitrary detention of ethnic minorities members, including Tibetans, Uighurs and Mongols as well as religious believers, including Falun Gong practitioners, without information about their charges, their location and wellbeing. Canada recommended that China: (a) accelerate legislative and judicial reforms, particularly on death penalty and administrative detention, to be in compliance with the ICCPR; (b) reduce the number of crimes carrying the death penalty and (c) regularly publish detailed statistics on death penalty use; (d) abolish all forms of administrative detention, including “Re-Education Through Labour”; (e) eliminate abuse of psychiatric committal; (f) provide those held on State-security charges with all fundamental legal safeguards, including access to counsel, public trial and sentencing, and eligibility for sentence reduction and parole; (g) take immediate measures to implement the recommendations of November 2008 of the Committee against Torture, particularly on the inadmissibility in court of statements made under torture and the non-refoulement of refugees from the Democratic People’s Republic of Korea; and (h) respond positively to outstanding requests made by several United Nations Special Procedures, including the Special Rapporteur on freedom of religion or belief, to visit China, and facilitate an early visit by the High Commissioner for Human Rights.”

4. Indonesia¹⁹⁶

“Canada noted some of the positive steps taken, including Indonesia’s commitment to ratify this year key human rights instruments such as the Rome Statute for the International Criminal Court. Canada also noted that as is the case of all countries, additional efforts are needed to improve the human rights situation in Indonesia, especially in regions where recent

¹⁹⁵ Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review – China*, A/HRC/11/25, 3 March 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CN/A_HRC_11_25_CHN_E.pdf at para. 28.

¹⁹⁶ Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review – Indonesia*, A/HRC/8/23, 14 May 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/ID/A_HRC_8_23_Indonesia_E.pdf at para. 46.

or ongoing political tensions are manifest, such as Papua. It requested information on how Indonesia will ensure that labelling of individuals as separatists in these areas is not used to suppress legitimate democratic activity by civil society, including peaceful public protests and criticism. Canada referred to the need to raise awareness of the role of human rights defenders and of the responsibility of the security forces to protect them. In this regard, it recommended that Indonesia provide additional human rights training to security forces and encouraged it to take concrete steps to improve respect for the rule of law and to punish those responsible for abuses and violations. Canada also recommended that additional specific measures be taken to ensure that the rights of those belonging to minority groups are protected, including from abuses committed by non-State actors. It also enquired about the measures Indonesia plans to take to ensure that perpetrators of such abuses are brought to justice and on avenues of redress available to victims. While noting that Canada has provided concrete support to Indonesia's efforts to reform governance through decentralization, it asked what measures Indonesia plans to take to ensure that local authorities do not contravene national and international human rights law. Canada also noted that, as a troika member, they would like to underline the very constructive dialogue it had had with Indonesia in the context of the review."

5. Romania¹⁹⁷

"Canada noting that Romania's accession to the EU was accompanied by benchmarks to monitor progress in the fight against corruption and that it had intensified its efforts, asked what additional steps were being taken in this regard. It recommended that Romania develop a coherent countrywide anti-corruption strategy and monitor its implementation. It recommended that Romania strengthen the capacity of the judiciary at all levels and accelerate legal reforms, especially in the field of judicial treatment of high-level corruption as per the objective stated in the European Commission report of 27 June 2007 under the Cooperation and Verification Mechanism. It noted that Roma remain the most vulnerable ethnic minority and recommended that Romania take additional measures to fight

¹⁹⁷ Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review –Romania*, A/HRC/8/49, 3 June 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/RO/A_HRC_8_49_Romania_E.pdf at para. 21.

discrimination against minorities, including the Roma population, homosexuals and persons living with HIV/AIDS. It also recommended that Romania take additional measures to combat human trafficking, including the provision of training for police in dealing with victims of human trafficking and sexual abuse, and the implementation of a system of witness protection in cases of trafficking. Noting that the pace of resolving property restitution cases stemming from the Communist era was slow it asked what legal reforms were planned to accelerate this process and recommended that Romania accelerate the property restitution process.”

**APPENDIX I:
STAKEHOLDERS WHO MADE SUBMISSIONS FOR CANADA’S UPR**

In addition to the Canadian Human Rights Commission, the following stakeholders made submissions for the UPR:¹⁹⁸

- ACAT Canada & Fédération Internationale de l’Action des Chrétiens pour l’Abolition de la Torture
- Athabasca Chipewyan First Nation
- Action Canada for Population and Development
- Assembly of First Nations
- Amnesty International
- Assemblée des Premières Nations du Québec et du Labrador
- Canadian HIVAIDS Legal Network
- Council of Canadian with Disabilities
- Charter Committee on Poverty Issues
- Canadian Coalition for Peace and Justice
- Canadian Coalition for the Rights of Children
- Canadian Centre for Victims of Torture
- Canadian for Choice
- Commonwealth Human Rights Initiative
- Citizens for Public Justice
- Conscience and Peace Tax International
- Center for Research Action on Race Relations
- Canada Research Chair in International Migration Law
- Disability Rights Promotion International Canada
- Egale Canada

¹⁹⁸ *Universal Periodic Review – Canada – Reference Documents, Contributions for the Summary of Stakeholder’s information, supra note 171.*

- Canadian Feminist Alliance for International Action
- Franciscans International
- First Nations Summit – et al.
- International Civil Liberties Monitoring Group Coalition (Joint submission)
- International Center for Transitional Justice
- Independent Living Canada
- Indigenous Network on Economies and Trade
- International Presentation Association
- Justice for Mohamed Harkat
- Social Rights Advocacy Centre – et al. (Joint submission)
- International Organization of Indigenous Resource Development – et al. (Joint submission)
- Women’s Housing Equality Network
- Grand Council of the Crees Eeyou Istchee – et al.
- Confederacy of Treaty 6 First Nations & the International Indian Treaty Council (Joint submission)
- British Columbia Universal Periodic Review Coalition
- KAIROS
- Land Claims Agreements Coalition
- Ligue des Droits et Libertés
- Lubicon Lake Indian Nation
- Lawyers Rights Watch Canada
- Mouvement d’Éducation Populaire et d’Action Communautaire du Québec
- National Union of Public and General Employees
- Native Women’s Association of Canada
- PEN Canada
- Pivot Legal Society
- Right On Canada

- Reporters Without Borders
- Wellesley Institute
- The Cape Mudge Band Council