Please accept the following comments regarding Canada's progress with respect to the recommendations accepted by Canada at its first Universal Periodic Review.

**1. Civil Society Participation: Accepted Recommendations**

*Include participation of civil society in mechanisms and procedures that are in place for national follow up to recommendations of treaty bodies and publication of the concluding recommendations of treaty bodies (Czech Republic)*

*Widely publish the outcome of this universal periodic review and to make regular and inclusive consultation with civil society an integral part of the follow-up to the universal periodic review and also of the preparation of the next national report to the universal periodic review (Czech Republic)*

*Civil society be actively involved in the further universal periodic review process of Canada, in a thorough and timely manner. (Denmark)*

*Establish a mechanism that will meet regularly with the effective participation of civil society organizations and indigenous peoples, and have national reach to implement all Canada's international obligations and facilitate the acceptance of pending commitments (Mexico)*

*Establish an effective and inclusive process to follow-up on the universal periodic review recommendations (Norway)*

*Civil society be actively involved in the further universal periodic review process of Canada, in a meaningful and participatory manner. (Philippines)*

**Canada’s Response:**

*a. De-funding of Civil Society, Research, and Watchdog Groups*

Since Canada’s UPR in 2009, the federal government has been systematically de-funding or reducing funding to civil society groups. An unofficial count by a Canadian coalition whose mandate is to defend democracy, free speech and transparency in Canada, cites 13 organizations/watchdogs whose staff had been fired, forced out, publicly maligned, or who have resigned in protest against the current federal government.[1] In addition, the federal government has cut or reduced funding to 74 Civil Society groups and research bodies who play critical roles in promoting and monitoring human rights and environmental justice in Canada.[2]

*b. Spying on Indigenous Leaders and Human Rights Defenders*

It has recently come to light that the Government of Canada is spying on Indigenous leaders and human rights defenders. For example, the government has been gathering
intelligence and spying on a well respected Indigenous children’s rights advocate[3] and the Assembly of First Nations.[4] In fact Indigenous organizations have been the subject of multiple and ongoing surveillance operations by the Canadian Government.[5]

There are other recent examples of Canada’s extensive efforts to spy on civil society groups and activists since 2009. Media reports detail the extent to which all levels of Government in Canada worked to monitor activists and organizations in the year preceding, during, and even following the 2010 Olympics in Vancouver British Columbia, the G20 Meetings in Toronto, Ontario, and the G8 Meetings in Huntsville, Ontario.[6]

2. Response to Violence against Aboriginal Women and Girls: Accepted Recommendations

Adopt further measures to ensure: accountability of the police for their proper, sensitive and effective conduct in cases of violence against women, and better protection of in particular aboriginal women against all violence, including through addressing their low socio-economic status and discrimination against them, better accessibility of alternative-protected housing for victims of domestic violence (Czech Republic)

Criminalise domestic violence and adequately investigate and sanctioning those responsible for the death and disappearance of indigenous women (Mexico)

Take the necessary measures to end violence against women including domestic violence and against aboriginal women, and implement CEDAW and the Human Rights Committee recommendations in this context (Syria)

Take further measures to ensure effective implementation of CEDAW at the federal, provincial and territorial levels, giving particular attention to the Aboriginal women and girls (Turkey)

Canada’s Response:

Canada has failed to implement the above recommendations generated from its first Universal Periodic Review and has furthermore failed to comply with recommendations made by the CEDAW committee pursuant to their concluding observations at the 42nd session of the Committee on the Elimination of Discrimination against Women (CEDAW), held in October 2008 (CEDAW/C/CAN/CO/7).

Since Canada's review in 2008, the CEDAW committee has taken extraordinary measures to ensure that Canada is following their recommendations with respect to violence against Indigenous women and girls. The Committee asked Canada to report back within a year, and since the one year report back, has followed up with 2 letters (August, 2010 and February 2011) asking for further reports on actions to address missing and murdered Aboriginal women and girls.[7] It is clear that the CEDAW Committee remains concerned about Canada's actions on violence against Indigenous women and girls and awaits follow up from Canada by February 2012.
In a report recently submitted to a UN Expert Group meeting on gender-motivated killings of women, Canadian human and Indigenous rights experts Shelagh Day and Sharon McIvor came to the following conclusions:

Despite years of lobbying by many diverse non-governmental organizations, the Government of Canada, along with the provincial and territorial governments, have still not put in place a comprehensive and effective national action plan for addressing the root causes and consequences of the violence against Aboriginal women and girls. Nor is there a comprehensive plan for improving and co-ordinating the capacity of the police, and the justice system, to protect Aboriginal women and girls, or to respond adequately to the violence when it occurs. The Government of Canada has not publicly acknowledged that there are grave and systematic violations of the human rights of Aboriginal women and girls occurring in Canada, nor has it acknowledged publicly its obligation to exercise due diligence to prevent, investigate and remedy the violence and to ensure that the rights of Aboriginal women and girls to life, to equal protection and benefit of the law, and to equality in social and economic conditions are fully realized.[8]

3. Juvenile Prisoners: Accepted Recommendations

Alter detention and prison facilities as well as standards of treatment for juveniles so that they are gender sensitive and ensure effective protection of detainees' and prisoners' person (Czech Republic)

Children in Canadian youth prison facilities face multiple and sustained threats to their safety and dignity. Juvenile prisons are under provincial jurisdiction with no comprehensive federal policy or oversight infrastructure to monitor compliance with international human rights standards for children in prison. There are examples nationwide which highlight Canada’s failures to implement the recommendations made during the last UPR.

Strip Searching[9]

Strip searching is routinely used on girls and boys in youth prisons throughout the country. In 2010, Ontario advocates documented complaints in one youth facility that included reports of routine and “excessive” strip searches, lockdowns (solitary confinement), denial of access to washrooms, excessive force, denial of access to medical attention and denial of access to advocates.[10]

British Columbia policy also mandates routine strip searching, and girls have reported that they are strip searched during unit transfers, when placed in separate confinement and after visits from family and friends.

Solitary Confinement

In October 2011, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called for a global prohibition on the use of solitary confinement (in any form and for any length of time) for juveniles in prison. He based
this recommendation upon his assessment that solitary confinement is "...a harsh measure which is contrary to rehabilitation," particularly because of the "...severe mental pain or suffering solitary confinement may cause..."[11]

In Canada, the use of solitary confinement is common practice in youth prisons. It is often referred to in policy as "separate confinement,"[12] or couched in softer language, such as "therapeutic quiet" time.[13]

For example, The British Columbia Youth Custody Regulation (137/2005) states that youth may be held for up to 72 hours in solitary confinement, but leaves open the possibility for indefinite, longer term confinement for unspecified "medical or other reasons" with approval from the provincial director. The Youth Custody Services policy manual further notes that consecutive orders can be made "...in the most unusual and extreme circumstances (ie. imminent safety risk)..."[14] The policy manual states that consecutive orders can be applied when a separate incident occurs while the youth is in solitary confinement.[15]

In another example, Ontario provincial policy also mandates the use of separate confinement as an accepted practice for youth. For reference example, see S. 127 of the Child and Family Services Act R.S.O. 1990, C.11.

Co-ed Incarceration

In 2008 the CEDAW committee strongly asserted that 'The Committee further urges the State party to ensure that girls are not held in mixed-sex youth prisons or detention centres.'[16]

In Canada, girls are still imprisoned in youth custody centres with male youth. Co-ed incarceration, particularly when girls make up only 20% of the prison population, is a violation of girls’ rights to equality and sets them up to experience sexual harassment, abuse and discrimination within the prison. Girls are also routinely transferred and held in court and police jails with male adults and youth, where they are subjected to harassment and intimidation.

Cross-Gender Staffing

In Canada, there is no federal policy prohibiting cross-gender staffing in youth prisons. Some jurisdictions have taken steps to stop this practice, including British Columbia and Alberta. However, even those jurisdictions that have made efforts are not in full compliance, citing availability of staff as justification for exemption.

Crime Omnibus Bill

A broader and very pressing concern with respect to juvenile justice in Canada is the newly proposed federal amendment to the existing Youth Criminal Justice Act [S.C. 2002, c. 1]. The YCJA is the only piece of federal legislation governing the separate youth criminal justice system in Canada. The new amendments, proposed as part of a larger "Crime Omnibus Bill", threaten to direct Canada down a dangerous path towards more incarceration and criminalization of Canada’s girls and youth. Of particular
concern is the likelihood that the proposed amendments would make it easier to detain youth in pre-trial detention and sentence them to prison.[17]

The impact of the Omnibus Crime Bill will potentially scale back any gains made by the previous government that resulted in steadily decreasing rates of youth incarceration and will likely exacerbate the existing, and disturbingly high rates of youth imprisoned in pre-trial custody. The impact will also have specific racial and gendered impacts, particularly for Aboriginal girls in Canada. Currently, the overrepresentation of Aboriginal females is higher than aboriginal male youth, as they represent 34% of girls in remand, 44% of girls in sentenced custody and their over-representation in custody is actually increasing, despite the fact that Canada is experiencing a period of declining youth imprisonment. Where Aboriginal girls represented 37% of the girl prison population in 2005, they now represent 44%.[18]

Concluding Remarks

In summary, the current Canadian government is demonstrating a pattern of hostility towards civil society groups and is actively engaged in a campaign to roll back the human rights advancements made during the past two decades. In many cases, the government appears to justify these actions that undermine Canadian democracy and quality of life using the context of global economic turmoil and social/political instability to usher in a draconian and anti-democratic policy framework of economic austerity and national security.
Endnotes

[1] "Organizations that have been de-funded by the Harper Government."  www.Rabble.ca see:  http://www.womensequality.ca/ffundingcuts;  http://rabble.ca/babble/national-news/organizations-have-been-defunded-harper-government


[4] The Assembly of First Nations (AFN) is the national representative organization of the First Nations in Canada. There are over 630 First Nation communities in Canada. The AFN Secretariat, is designed to present the views of the various First Nations through their leaders in areas such as: Aboriginal and Treaty Rights, Economic Development, Education, Languages and Literacy, Health, Housing, Social Development, Justice, Taxation, Land Claims, Environment, and a whole array of issues that are of common concern which arise from time to time.  See:  http://www.afn.ca/index.php/en/about-afn/description-of-the-afn


[9] According to British Columbia youth justice policy, a strip search means: “visual inspection by an authorized person of a nude person that includes: a visual inspection of the following: i) the person undressing completely; ii) the open mouth, hands or arms of the person; iii) the soles of the feet and the inside of the ears of the person; iv) the person running his or her fingers through his or her hair; v) the person bending over, and b) the person otherwise enabling the authorized person to perform the visual inspection.”  This definition of strip searches is consistent with other Canadian policy that we have reviewed.


