

Appendix A - Notes

1. For more information on the Commission, see its *2007 Annual Report* at http://www.chrc-ccdp.ca/publications/ar_2007_ra/toc_tdm-en.asp?lang_update=1.
2. Context and methodology: This submission was written before the Commission had an opportunity to review Canada's report. It is based on the assumption that the latter report will cover several issues, including an overview of Canada, its international obligations, its federal structure, and its human rights legislation and institutions. It also assumes that Canada's report will present an overview of the status of human rights in Canada, and will highlight achievements in this area, a task that cannot be achieved by the present document, given the five-page limit.

Accordingly, this document outlines some of those achievements, but mainly brings existing gaps to the attention of the Human Rights Council, in a spirit of constructive engagement, so that the Council may benefit from a different perspective, given its other sources of information. Those gaps affect some groups in particular, which are dealt with in the submission. Other groups could also have been considered, and Canada's voluntary commitments to the Human Rights Council and to treaty bodies could have been reviewed, but space is lacking to do so.

The focus of this submission is the Commission's legislative mandate, which covers only some of the rights guaranteed by the Universal Declaration. The Commission expects that the contribution of NGOs will adequately assess how other rights guaranteed by the Universal Declaration and other international instruments are implemented.

The structure of the text, composed of four sections, titled A to D, is the one recommended by the Human Rights Council, and paragraphs are numbered as requested by the Office of the High Commissioner for Human Rights.

The UPR must normally cover the four preceding years. In some cases, earlier data is presented, as they are the latest data available, and there is no reason to believe that the situation referred to has markedly changed.

3. See, *inter alia*, *Promises to keep: Implementing Canada's human rights obligations*, Report of the Standing Senate Committee on Human Rights, December 2001, <http://www.parl.gc.ca/37/1/parlbus/commbus/senate/Com-e/huma-e/rep-e/rep02dec01-e.htm>

4. Canadian Human Rights Commission, *2003 Annual Report - Looking Ahead*, http://www.chrc-ccdp.ca/publications/annual_report_2003_rapport_annuel/Page10-en.asp?lang_update=1
5. The terms "Aboriginal peoples" refer to Indian, Inuit and Métis peoples, as noted in Canada's Constitution. Those legally referred to as "Indian" call themselves First Nations. There are over 630 First Nations communities in Canada.
6. The eleven prohibited grounds of discrimination under the *Canadian Human Rights Act* are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for an offence for which a pardon has been granted.
7. The report noted that over the past 20 years, the Commission had found that the complaint-based, reactive model of redress provided by the *Canadian Human Rights Act* had serious limitations. The report called for an amendment to the federal legislation that would require employers to take proactive measures to achieve pay equity, such as developing a systematic action plan that would be monitored by the State. That recommendation was also made in 2004 by the Pay Equity Task Force that was appointed by the federal government to review the issue.

Source: Canadian Human Rights Commission, *Time for Action – Special Report to Parliament on Pay Equity*, February 2001, http://www.chrc-ccdp.ca/publications/special_report-en.asp?lang_update=1

8. See http://cmte.parl.gc.ca/Content/HOC/committee/391/fewo/govresponse/rp2335230/391_FEWO_Rpt04_GR/391_FEWO_Rpt04_GR-e.pdf
9. For example, mandatory requirement may be allowed when associated with a pension plan. For further details on those circumstances, see section 15 of the *Canadian Human Rights Act* at http://laws.justice.gc.ca/en/showdoc/cs/H-6/bo-ga:l_I-gb:s_5/en?noCookie
10. Egan v. Canada, <http://scc.lexum.umontreal.ca/en/1995/1995rcs2-513/1995rcs2-513.html>
11. Canadian society is evolving and the human rights landscape has changed fundamentally since the Commission was created 30 years ago. Racial minorities will constitute a fifth of Canada's population by 2016, up from only 4.7% in 1981. The Canadian population is aging and family structures are changing. Important rights are increasingly conflicting, for example, freedom of expression and freedom of religion. Issues are becoming more complex: for example, the accepted definition of disability now includes mental illness and environmental sensitivities.

12. Statistics Canada, *Community highlights for Canada*, published in 2008, using 2006 Census data, <http://www12.statcan.ca/english/census06/data/profiles/aboriginal/Details/Page.cfm?Lang=E&Geo1=PR&Code1=01&Geo2=PR&Code2=01&Data=Count&SearchText=canada&SearchType=Begins&SearchPR=01&B1=All&Custom=>

The Assembly of First Nations provided the following observations on data from Statistics Canada on Aboriginal peoples: “the methodology and data used by Statistics Canada has been contested by the Assembly of First Nations (AFN) as being unreliable and misleading. Statistics Canada has included among their First Nations figures (and total figures for Aboriginal peoples) over 130,000 "non-status Indians". This is a group of Canadians who self-identify as Indians, with no verification or validation by any external body, no definition for the term and no role in the Constitution. While the AFN supports the fact that some people who have legitimate claim to being First Nations were excluded by the Indian Act, there is no way of knowing if the Census has captured those individuals. At the same time, the Census missed 200,000 First Nations people according to the government-maintained Indian Registry at Indian and Northern Affairs Canada, in part due to 22 First Nations communities that did not participate in the Census, and approximately 166 communities that had a non-participation rate of more than 25%.”

Source: Comments provided by the Assembly of First Nations to the Commission, August 14, 2008

13. For a comprehensive overview of the gaps in the fulfilment of human rights of Aboriginal peoples in Canada, see : *Closing the Implementation Gap - Indigenous Peoples and Human Rights in Canada*, 2006, <http://www.nwac-hq.org/en/documents/closingtheimplementationgap.pdf>
14. For instance, in 2001, the unemployment rate among Aboriginal peoples 15 years and older was nearly three times higher than for non-Aboriginal peoples, and in 2000, the average individual income among Registered Indians was \$16,935 as compared to \$29,769 for the Canadian population as a whole.

Source:

Indian Affairs and Northern Development, *Comparison of Socio-economic Conditions, 1996 and 2001 - Registered Indians, Registered Indians living on reserve and the total population of Canada*, 2005, http://www.ainc-inac.gc.ca/pr/sts/csc/index_e.html

15. For example, in 2001, the high school completion rate for Registered Indians was 48.6% as compared to 68.7% for the total Canadian population.

Source : *Comparison of Socio-economic Conditions, 1996 and 2001*, op. cit.

16. For example, life expectancy for Registered Indian men was 70.4 years in 2001 as compared to 77.0 years for the total Canadian male population. For Registered Indian women, life expectancy was 75.5 years in 2001 as compared to 82.1 years for Canadian women in general. The Crude Tuberculosis Incidence Rate – an illness often associated with poverty and poor living conditions – for Registered Indians was 3.4%, more than five times the rate for the total Canadian population (0.6%).
Source : *Comparison of Socio-economic Conditions, 1996 and 2001*, op. cit.
17. *The Well-Being of Canada's Young Children: Government of Canada Report 2002*, November 2002, <http://www.unionsociale.gc.ca/ecd/2002/b-4.htm>
18. Edward Ng, *Disability among Canada's Aboriginal Peoples in 1991*, in Statistics Canada, *Health Reports*, Summer 1996, Vol. 8, No. 1, <http://www.statcan.ca/english/studies/82-003/archive/1996/hrar1996008001s0a02.pdf>
19. National Aboriginal Health Organization, *Drinking Water Safety In Aboriginal Communities In Canada – Brief*, May 21, 2002, http://www.naho.ca/english/publications/ReB_water_safety.pdf
20. Canadian Council on Social Development, *Children and Youth Crime Prevention Through Social Development*, undated, http://www.ccsd.ca/cpsd/ccsd/c_ab.htm<http://www2.ohchr.org/english/bodies/ceerd/docs/ngos/NARCC-new.pdf>
21. The Correctional Investigator found that the Correctional Service of Canada routinely classifies First Nations, Métis and Inuit inmates as higher security risks than non-Aboriginal inmates; Aboriginal offenders are released later in their sentences than other inmates; and they are more likely to have their conditional release revoked for technical reasons than other offenders. He also found that Aboriginal inmates often do not receive timely access to rehabilitation programs and services that would help them return to their communities.

Source:

Office of the Correctional Investigator of Canada, *Systemic Discrimination Against Aboriginal Inmates in Canada's Prisons*, October 16, 2006, http://www.oci-bec.gc.ca/newsroom/releases/20061016_e.asp

22. The concept of low income is similar to but somewhat different from poverty. See: Ivan P. Fellegi, Chief Statistician of Canada, *On poverty and low income*, September 1997, <http://www.statcan.ca/english/research/13F0027XIE/13F0027XIE1999001.htm>

23. In 1997, the proportion of persons with disabilities living with a low income was nearly twice the rate of those without disabilities.

Source: Social Development Canada, Benefits and Services for Persons with Disabilities, *In Unison 2000: Persons with Disabilities in Canada*, March 2001, http://www.unionsociale.gc.ca/In_Unison2000/iu04100e.html

That can partly be attributed to the fact that, still in 1997, the proportion of persons with disabilities of working age, but who were unemployed or inactive (35%), was over two times that of persons without disabilities (14%).

Source: Human Resources and Social Development Canada, *Advancing the Inclusion of People with Disabilities 2006*, updated on May 30, 2008, http://www.hrsdc.gc.ca/en/disability_issues/reports/fdr/2006/page05.shtml

24. Social Development Canada, Benefits and Services for Persons with Disabilities, *Supports and Services for Adults and Children Aged 5 - 14 with Disabilities in Canada: An analysis of data on needs and gaps*, December 3, 2004, <http://socialunion.gc.ca/pwd/summary.html>

25. Pay Equity Task Force, *Pay Equity: A New Approach to a Fundamental Right, Final Report*, 2004, <http://www.justice.gc.ca/eng/payeq-eqsal/6005.html>

26. As illustrated by the following average income figures for 2001 :

All Canadian men:	\$36,865
Men from a racial minority:	\$28,929
Men with disabilities:	\$26,890
Aboriginal men:	\$21,958
All Canadian women:	\$22,885
Women from a racial minority:	\$20,043
Women with disabilities:	\$17,230
Aboriginal women:	\$16,519

Source:

Canadian Research Institute for the Advancement of Women , *New Federal Policies Affecting Women's Equality: Reality Check*, 2006, <http://www.criaw-icref.ca/factSheets/Fact%20sheet%202006/New%20Federal%20Policies%20affecting%20Women's%20Equality%20-%20Reality%20Check.pdf>

27. Statistics Canada, *Violence Against Women: Statistical Trends*, in *The Daily*, October 2, 2006, <http://www.statcan.ca/Daily/English/061002/d061002a.htm>

28. Native Women's Association of Canada, *Sisters in Spirit Initiative Literature Review*, March 2008, http://www.nwac-hq.org/en/documents/SISLiteratureReview_March2008_Final.pdf
29. In Canada, the expression “visible minority” is generally used to refer to this segment of the population, in particular in the *Employment Equity Act*, but owing to the observations addressed in the past by the United Nations Committee on the Elimination of Racial Discrimination, the current document refers to “racial minorities”. See:
[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/3278670d0ea97704c125730600385a7a/\\$FILE/G0742169.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/3278670d0ea97704c125730600385a7a/$FILE/G0742169.pdf), paragraph 13
30. Statistics Canada, *Canada's Ethnocultural Mosaic, 2006 Census: Highlights*, 2008,
<http://www12.statcan.ca/english/census06/analysis/ethnicorigin/highlights.cfm>
31. In 2001, the average unemployment rate in Canada was 6.7%, and nearly double that figure (12.6%) for racial minorities. In 1996, this group had an average before-tax income of \$19,227, compared to \$25,069 for the rest of Canadians – a 23% difference. Also in 1996, the average percentage of Canadians with low income was 21%, rising to 38% for racial minorities, 70% of whom were immigrants.

Source: National Anti-Racism Council of Canada, *Racial Discrimination in Canada*, Submissions to the Committee on the Elimination of All Forms of Racial Discrimination on the Occasion of the Review of Canada's Seventeenth and Eighteenth Reports on the United Nations under the International Convention on the Elimination of All Forms of Racial Discrimination, February 2007,
<http://www2.ohchr.org/english/bodies/cerd/docs/ngos/NARCC-new.pdf>

32. In 2001, 6.1 % of all federal public servants had self-identified as being from a racial minority group; the target is 10.4% of employees, based on their availability in the labour market. Furthermore, their rate of hiring has fallen below their availability in the labour market in the past few years, leaving little hope of improvement in the coming years.

Sources:

Canadian Human Rights Commission, *Employment Equity Act 2001*, p. 12,
http://www.chrc-ccdp.ca/publications/2001_ee/page12-fr.asp
http://www.chrc-ccdp.ca/publications/2001_ee/page12-en.asp

Canadian Human Rights Commission, *2007 Annual Report - Portrait of the Four Designated Groups in the Canadian Workplace*, p. 5, http://www.chrc-ccdp.ca/publications/ar_2007_ra/page5-en.asp

33. The *Employment Equity Act* requires federally-regulated employers to strive to ensure a fair representation within their workforce of this segment of the population, as well as of women, Aboriginal peoples and persons with disabilities.
34. See, *inter alia*:

Bernie M. Farber, *The Internet and Hate Promotion: The 21st-Century Dilemma*, in *Canadian Issues*, Spring 2006, http://www.chrc-ccdp.ca/pdf/HateOnInternet_bil.pdf

Canadian Arab Federation (CAF) & Canadian Council on American Islamic Relations (CAIR-CAN), *Brief on the Review of the Anti-terrorism Act*, Justice, Human Rights, Public Safety and Emergency Preparedness Subcommittee on Public Safety and National Security, September 2005, <http://www.caircan.ca/downloads/CCC-RAA.pdf>
35. Statistics Canada, *Earnings and Incomes of Canadians Over the Past Quarter Century, 2006 Census*, published in 2008, <http://www12.statcan.ca/english/census06/analysis/income/pdf/97-563-XIE2006001.pdf>
36. Committee on the Rights of the Child, *Consideration of reports submitted by States Parties under article 44 of the Convention – Concluding observations: Canada*, CRC/C/15/Add.215, 27 October 2003, <http://daccessdds.un.org/doc/UNDOC/GEN/G03/446/48/PDF/G0344648.pdf?OpenElement>
37. Canadian Coalition for the Rights of Children, *Canada and the Rights of Children – 2003 Review of Canada’s Record*, undated, <http://www.rightsofchildren.ca/pdf/overview.pdf>
38. See, *inter alia*: Ontario Human Rights Commission, *Paying The Price: The Human Cost Of Racial Profiling*, December 9, 2003, <http://www.ohrc.on.ca/en/resources/news/NewsRelease.2006-05-17.8048765200>

Appendix 2 - Improving the UPR process

The Canadian Human Rights Commission believes that the creation of the UPR represents major progress for the United Nations, and is grateful for the role given to National Human Rights Institutions as part of that process. It puts forward the following three proposals for improvement:

- A. Revise the timetable for presenting submissions so that National Institutions and NGOs may review and comment on State reports well before preparing their own submissions.
- B. Allow National Institutions and NGOs to participate in the interactive dialogue of the Working Group.
- C. Give the five-page submissions from National Institutions directly to Council members, instead of summarizing them with NGO submissions, in accordance with the distinct status and participative right afforded by Human Rights Council resolution 5/1.