

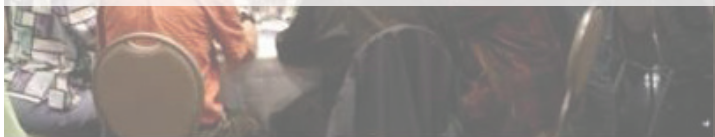


Content Advisory Committee Final Report to the Canadian Museum for Human Rights May 25, 2010



Human rights are not found in dusty legal libraries, but in the hearts and minds of human beings.

Kofi Annan, Secretary-General of the UN, at the Fourth Annual Benefit Dinner for the Facing History and Ourselves Programme, New York, October 14, 1997



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Foreword

When the late Izzy Asper came up with the idea some seven years ago of a human rights museum, to be located in Winnipeg, he said at that time that we Canadians have a habit of being satisfied with mediocrity. He went on to say that if we ever want to make this museum a reality, we have to reach for the stars.

When we reach for the stars, there are risks to be taken. In doing so, we must have faith and trust in each other. In so many places across Canada, many Canadians who participated in the Museum's first story-gathering tour demonstrated that trust by sharing with us their thoughts, their concerns, their hopes, and their expectations. And those expectations are huge. There is a shared desire amongst so many—both individually and collectively—that the museum become a critical beacon of hope that indeed will help make the world a better place for all. We are honoured by the trust that they placed in us by sharing their stories and hopes so openly.

Many Canadians told us that human rights are universal, indivisible, and not static, that human rights are about a set of values and principles that are ever-

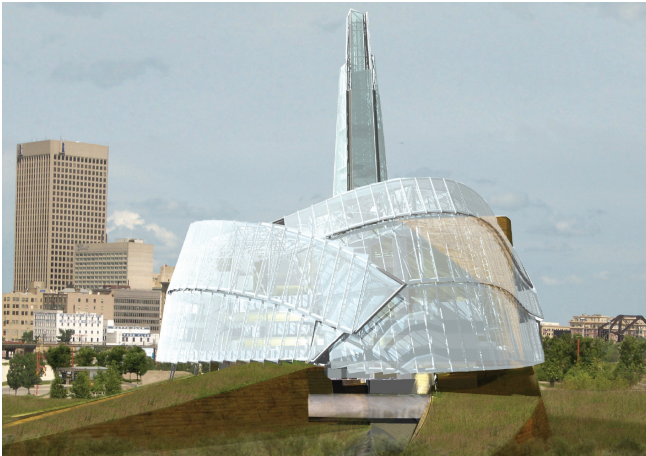
evolving, that they require advocacy and society's ongoing engagement, which will hopefully lead to action and transformation.

On behalf of the members of the Canadian Museum for Human Rights Content Advisory Committee (CHMR CAC), I wish to express our deepest and sincerest thanks and appreciation to the Board of Trustees of the Museum, to the many Canadians who shared their innermost thoughts with us, to CMHR staff, Appelbaum & Associates, and Lord Cultural Resources for their valued assistance, without which our assigned task would never have been fully realized.

We hope that in reaching for the stars together our efforts will indeed make the world a better place for all. Wherever we were, what we heard expressed was the hope for betterment of the human condition. When we listen to each other, we will find a way of moving forward together. Human beings have been searching for human rights harmony, and for respect and dignity, and we hope that what we as a committee have done will move us towards realizing those goals.

*Yude M. Henteleff, C.M., Q.C., LL.D. (Hon.)
Chair, CMHR Content Advisory Committee*

Introduction: Building a New National Museum



It is May 2010. The Canadian Museum for Human Rights (CMHR), the first national museum to be located outside of Ottawa,¹ is moving briskly toward its projected opening in 2013. As the warmer-than-usual spring temperatures bring smiles to faces across Winnipeg, the new Museum is beginning to take shape at the Forks—a historical Aboriginal² meeting place where the Assiniboine and the Red Rivers come together. Construction boards introducing this mass of cranes and concrete show an image of a spectacular building. Architect Antoine Predock has imagined a giant iceberg-like edifice, rising high above the Winnipeg skyline, promising the city, the country, and beyond a place to enhance our understanding of human rights, to promote respect for others, and to encourage reflection and dialogue. The glass structure looks open, light, and visionary—an extraordinary building of exceptional complexity. It is a space like no other to support a mission that is like no other—a national museum for human rights.

In the development of an entirely new museum, it is easy to focus on the building, which is a tangible indicator of the reality of the project and its day-by-day progress towards opening day. Yet as spectacular as it promises to be, the Museum's building is a manifestation of something even more important—its mission and content. From the beginning, the Canadian Human Rights Museum was envisaged as an “idea museum”—that is, its content would be derived from ideas. Artifacts, archival materials, and works of art would be displayed in support of ideas and stories, not collected as an end in and of itself. This new national museum would tell the stories of human rights in Canada and the world—exploring the past, with an eye to current and future issues, challenges, and viewpoints.³

Content development in a museum is a complex process, almost always unseen by the public. It consists of mining all the available resources—research and scholarship, collections, archives, film and video, art—and shaping them into an experience that a visitor will find memorable and powerful. Relatively few people witness the slow and painstaking gathering of information and perspectives, and the subsequent choices for prioritization, inclusion, and exclusion involved in such an exercise. But content lies at the heart of a museum: it is the foundation and the framework upon which the whole meaning-making, story-telling experience is based. It produces the broad ideas and detailed examples that are given to the exhibition designer to turn into something magical.

For an idea museum on the subject of human rights, the process of gathering content would be about collecting ideas and stories on the subject of human rights, not from a single perspective, but from many. Using broad consultation to collect rich, varied, and complex experiences was identified as being at the core of the Museum by the Ministerial Advisory Committee, which led to the establishment of the Museum as a national institution in 2008. The conclusion of this report, which looks at the crucial importance of story-gathering, echoed the work of two previous advisory committees, which were established to advise the Friends of the Museum.

Asking the public to contribute their stories and ideas was not only a sure way to provide the Museum with a wealth of stories, it was also an important act for an organization that is premised on inclusion: to practise what it preached and to reach out to begin a conversation with people across the vast and diverse country of Canada. By introducing a range of people to the Museum, the engagement process was expected to play a role in building public confidence in the Museum's work, and in developing relationships with organizations and individuals across Canada who are passionate about the promotion of human rights. So, as one of its first projects as a national museum, and three years before it was scheduled to open its doors, the Museum leadership⁴ set out to design a process that would involve members of the public in its content development.

The challenge for the public engagement process was, firstly, to ensure that it was inviting, accessible, and wide-ranging. Second, there had to be an assurance that the stories and ideas that people contributed would be heard by people who could take a deep and broad look at it all, and advise the Museum on how to put those ideas into perspective. The Ministerial Advisory Committee's March 2008 report recommended that a Content Advisory Committee, described as "an independent group of human rights scholars, specialists and leaders," be appointed "to elicit relevant information from individuals, organizations and groups."⁵ In January 2009, a Content Advisory Committee was convened to lead the Canadian Museum for Human Rights' first public engagement process as an official national museum.

The current Content Advisory Committee is an expert panel comprising 17 human rights scholars and acknowledged experts from across Canada.⁶ Many of its members had been part of a previous Human Rights Advisory Committee established in 2005 by the Friends of the Canadian Museum for Human Rights to provide guidance during the planning process of the Museum, or part of its successor, the Friends Content Advisory Committee.⁷ The members of the current Content Advisory Committee were chosen for their work in the human rights field and for their range of interests. Each member brought a unique perspective to the discussion. Our Chair, Yude Henteleff, and our Vice-Chair, Constance Backhouse, provided leadership. We thank them for their wisdom, vision, and long-term support for this important project.

Our public meetings were never meant to be the sole source of content for the Museum. There are a number of tasks that are involved when a museum develops content. Content must be gathered from archival sources nationally and internationally; from books, journals, papers, and presentations; from films and videos; from thousands of taped oral history interviews with human rights victims throughout Canada and the world; from news accounts in newspapers, film, television, radio, and the web; and many other sources. These tasks are now the responsibility of Museum staff, and throughout the process they have been assisted by Lord Cultural Resources. It is this multi-layered research task of collecting content—a task that is always an ongoing process in a museum—that then informs both the exhibit master plan and, later, the actual design of the inaugural exhibits. It is also the basis of the museum’s archives, research centre, public programs, school resources, and

website, all of which are mechanisms through which the Canadian Museum for Human Rights will both speak to and with people of the world. The Museum staff, with the assistance of their consultants, shared information openly with the Content Advisory Committee, and this sharing of information made our job more efficient. The finite task of our Committee with respect to the Museum was to listen to Canadians in a public engagement process and offer our expert advice on what we heard.

Our role in assisting the Museum to develop content is remarkable. In a break from museum convention—where the authority tends to be firmly in the hands of museum “experts,” to the exclusion of all others—there was a space created for knowledge contributions from the public as well as from the Content Advisory Committee. It is this unique aspect of the Museum’s content development plan that necessitates our sharing the details about our cross-country public engagement tour. Our belief is that many museums would benefit from making transparent their decision-making processes about both content gathering and the subsequent decisions taken in the process of exhibition creation. Sharing the specifics of our process is the task we undertake in Chapter 1.

Our mandate proved to be a challenging one. We would not have been able to meet this challenge without the patience and talents of Museum staff, especially Angela Cassie, Lindsay Weedon and Lise Harris. The consultants—Lord Cultural Resources and Ralph Appelbaum and Associates—provided essential support, coordination, and insights. In particular, we thank Ngaire Blankenberg, Mary Beth Byrne, and Gail Lord.

1.

Story-Gathering Across Canada

The foundation of being a human cannot be hatred; it has to be the truth.

Arthur Tachdijiam,
Armenian National Committee of Canada,
Western Region, Executive Director,
Vancouver

The reason I am speaking in schools is because the next generation should know what happened. They should not let this happen, but it may come again. For your children, for your grandchildren, they don't know yet. You have to wake them up.

Philip Reitman,
Holocaust survivor,
Halifax

I'm really grateful to this country. But this country has to play a role, to educate people, and make sure... Human rights do not only have to be in Canada. Human rights have to be all over the world – because we all belong to the human race.

Marta Hernandez,
Sister of woman who 'disappeared' in Guatemala in the 1980s

Firstly, we, as the Content Advisory Committee, are grateful for the trust with their personal stories that so many people offered to us. We are grateful to all the people and organizations who took the time to come and share with us their struggles and successes, their thoughts and ideas. What better way to proceed than to begin to build this unique national museum on what was in the hearts and minds of Canadians with regard to the content of human rights!

This Museum faces the challenge of being the first human rights museum in the world; it is also a museum that is of a different character. Most museums focus on artifacts and the past. This idea Museum focuses on the future and on action. The success of the Museum depends on balancing two different disciplines and professions—that of museology and that of human rights. To be met, this is a challenge that must be expressly stated and reflected on regularly.

We started this process when the Museum as an institution was just beginning to be formed. There were few staff people on board, and, consequently, few resources. However, as we proceeded with hosting the public engagement sessions, the Museum continued to hire the staff necessary for this project. In February 2009, when we began, there were four staff members; in April 2010, there were 37. By opening day, it is expected that there will be between 140 and 180 full- and part-time staff. As we worked to fulfill our Committee's mandate, we have also observed the Museum reaching out to meet its responsibilities.

Our Role

Our role as members of the Content Advisory Committee was, firstly, to guide the staff and the consultant team to key people within the human rights community who should be invited to speak with us, and to provide suggestions as to what we should ask them about. Secondly, we were there to be able to make sense of everything we heard with respect to broader debates and issues in human rights.

Before the story-gathering process began, Content Advisory Committee members, who represent many of the regions of the country, were asked to share their human rights contacts. We drew from our networks and knowledge to create a list of people to contact. This list was supplemented by other research and news of our list-making spread by word of mouth. Many people were already watching the Museum's website for updates. Once the story-gathering began, the members of the Content Advisory Committee were asked to listen not only with our ears, but with the wisdom of our experience—urging the Museum staff to find out more in areas we knew lent themselves to greater depth; presenting alternative perspectives to the same event we heard from a single “teller”; and listening empathetically but critically to the hundreds of viewpoints and stories that were so generously offered to us. We were there to help the Museum prevent any “unintentional misadventure,”⁸ as our colleague Laurie Beachell put it, but also, through this early process of story-gathering, to stimulate a desire to engage with the Museum now and into the future.

Our Process

The Content Advisory committee came together over a few snowy days in Winnipeg in February 2009. The discussion was animated, as the group worked on creating a process that would ensure that as many ideas and perspectives as possible were shared with us in the public engagement process, and as many conversations as possible were started with organizations, groups, and individuals.

The group decided that we would hold public meetings in all of the major cities across Canada, one in each province and territory. The rationale was simple: cities comprise a wide but concentrated range of people with diverse identities and interests, and are home base to large numbers of the organizations we wished to contact. Where it was felt that cities in a province differed significantly, the story-gathering team would visit more than one. Nineteen cities were identified at this first meeting: Saskatoon, Iqaluit, Ottawa, St. John's, Halifax, Whitehorse, Yellowknife, Edmonton, Calgary, Toronto (city centre and Scarborough), Thunder Bay, Vancouver, Quebec City, Chicoutimi, Montreal, Winnipeg, Brandon, Charlottetown and Moncton.

We recognized that it would be impractical for all 17 of us to be at every meeting. We were also concerned that those who came to speak about their ideas and stories of human rights might feel intimidated by this very large group of listeners. It was decided that at least three of us would be at each city's meeting, together with representatives from the Museum, Lord Cultural Resources, and Ralph Appelbaum and Associates. At the majority of our public engagement sessions, a member of the Museum's Board of Trustees joined the

panels. Despite this careful planning, sometimes it seemed there were still a lot of listeners in the room when presentations were being made.

A range of scheduling challenges faced us. One of the main challenges was ensuring that our hearing panels were appropriately representative, including people from the region, men and women, and people with different backgrounds. We also wanted to reach out to as many people as possible, while making sure that the discussions weren't frustratingly superficial, and that there would be opportunities for follow-up. We decided that two kinds of sessions would be held at each location—bilateral meetings and roundtables.

The bilateral meetings, which were held during the one or two days of meetings in each city, were by invitation only, and were 30-minute meetings with members of the Content Advisory Committee. We invited people from whom we felt would be critical to hear in order fully to understand human rights in Canada. Many of these were well known and acknowledged experts in the human rights field. A video room was set up next to the site of the bilateral meetings in each city. People who had a more personal story to tell, or who were not able to conclude their presentations during their bilateral sessions, were invited for a video interview by the staff of Lord Cultural Resources for an additional 30 to 45 minutes.

Well-advertised open meetings were also held.⁹ These meetings were convened during the evening at a public venue identified as an accessible site, like a public library, a community hall, or a hotel conference room. Each evening meeting began with a welcome and the showing

of a short video. After that, discussion took place at roundtables, each seating a group of eight or so people, with a facilitator posing a series of questions about the stories people wanted to see in the Museum and inviting general discussion. At the end of the hour-and-a-half-long discussion, the facilitators reported back to the whole meeting with a short summary of the conversations that had taken place at the roundtables. We chose the roundtable format for these public meetings to give each person a more generous opportunity to speak than would have been the case in a standard public meeting. We also hoped that the experience of speaking to one another around a small table would give participants the chance to share experiences and perspectives in a way that would promote deeper discussion.

Finally, things were in place, the schedule wrestled into something grueling but manageable, the first venues were booked, and the press releases were drafted. On May 27, 2009, the story-gathering tour across Canada began in Saskatoon. Every week or two, with a break over summer and in December, the team visited a new city, until February 2010.

Our Approach

Human rights is a complex term, and readers will see our exploration of that term in Chapter 2. There, we point out that, in its simplest form, the definition of human rights is based on respect for the dignity of each human being. Respect and dignity are central to all definitions of human rights. Similarly, equality is a defining attribute of human rights. We were fortunate to have available to us, even before our discussions, a fundamental understanding of substantive equality that had already been developed in Canadian scholarship

and jurisprudence. Canada's leadership in developing the idea of substantive equality is widely acknowledged. This understanding helped us to clarify what the term human rights meant to us. The Supreme Court of Canada has, since its first decision on section 15 of the Charter,¹⁰ clearly indicated that formal equality—that is treating everyone the same—is not sufficient to address the many and diverse inequalities that people in Canada face. As courts and scholars have noted over the last three decades, treating individuals who are differently situated in the same manner can in fact imbed or produce inequality.¹¹ Consistent with the approach adopted by courts and tribunals dealing with human rights issues including human rights tribunals under the Quebec Charter, the Supreme Court has endorsed a substantive equality approach to ground this country's *Charter of Rights and Freedoms*.¹²

Substantive equality is particularly concerned with the ways in which members of disadvantaged groups have been negatively labelled as well as the way that structural barriers in a society or institution preclude these groups' full participation. An approach to human rights that is grounded in the theory of substantive equality requires that lawmakers, officials, and other decision-makers take into account the patterns of disadvantage and exclusion that exist in our society and its institutions. Substantive equality is achieved when all people are included in such a way that equality rights are meaningful for all members of society.

Guided by our collective commitment to substantive equality, we sought not only to ensure that we heard the stories, ideas, and perspectives of a wide variety of groups and people, but that

we also were able to step back and reflect on the patterns of disadvantage and exclusion that frame these stories, and then advise the Museum accordingly.

Our Questions

We had considerable debate about what questions we should ask participants at the bilateral and roundtable sessions. We wanted the questions to be broad enough to invite participants to tell us what was important but focused enough to provide information that would be of practical use to the Museum. Initially, we thought there should be different questions for those we spoke to in bilateral meetings and those we spoke to during the roundtables. We wanted to make sure that we were able to reach a certain depth in our encounters—particularly in the bilaterals—and thus our first set of questions was quite layered and complex. In the end, however, we decided to go with the following four simple questions—for all people—and allow each person who spoke to us to take the conversation in the direction he or she saw fit:

1. What stories do you think need to be in the Canadian Museum for Human Rights? What would you be disappointed about if it were missing from the Canadian Museum for Human Rights?
2. Are there specific events that you or your group see as a human rights success or failure?
3. What do you see as our human rights challenges of the future?

4. Do you have suggestions for who we should interview for personal stories? Objects or images that are iconic of particular human rights stories and that trigger a particular emotional response? Specific “things” we should feature in the Museum, such as objects, documents, photographs, film and video, diaries, journals, memoirs, music, art, etc? Do you know where we can find these?

The people we met responded in different ways. Some people prepared their answers fully before the meeting. The point that was always made to presenters was that, as a museum for human rights, the Museum would be a place of ideas and, as well, of continued dialogue so as to help build a new generation of informed and committed human rights champions.

Who We Met

Going into this process, we were fully aware that asking people to give up their time and to offer us their stories and ideas, while we promised nothing tangible in return, would be something of a “hard sell.” We tried to set up a process that was efficient and that would give some kind of satisfaction to the people we heard. A psychologist we consulted with, after much soul searching amongst us about what would happen if we were not able to resolve some of the more personal human rights issues put before us, assured us that just listening was often of value enough, particularly with people whose disempowerment stemmed from not feeling heard. We committed to listening as intently as we were able, and to ensuring that each person we spoke to, regardless of whether each one of us agreed or disagreed with his or her views, was treated with

dignity and respect.

We managed to hear from a wonderful diversity of people in Canada from coast to coast to coast. There were 357 bilateral meetings involving 472 people. The Committee met with 1,222 people in discussion. We were struck by both the similarities and differences between people, and the dynamic mix of identities that are found all across the country. We recognized too that people are complex, and that their experiences often touch on more than one aspect of human rights; identities, issues, and themes can rarely be neatly placed in a single box. It is too much to list in the body of this report all of the people we met with; rather, we will offer illustrations of the kinds of people we heard from.

Civil Society and Social Justice Advocacy Groups

It was no surprise that the majority of people we heard from represented “civil society” organizations. Those organizations were the most represented on our contact lists, and most of them were organizations whose work included advocacy on behalf of people whose human rights were vulnerable.

Within this broad category a wonderful variety of themes and issues were represented— the rights of the disabled; women; lesbian, gay, bisexual, and transgendered people; children and youth; poor people; workers; the environment; immigrants and refugees; and others. Each organization we spoke to brought a different issue into focus, often by virtue of where it was situated geographically. Many of these discussions revolved around issues of past treatment and present repercussions, such as the internment of Japanese-Canadians, the Chinese head tax, slavery in Canada, or present-day violations, such

as the ongoing exploitation of foreign workers or discrimination against refugees.

Human Rights Commissions

We spoke to almost every Human Rights Commission in the country. Representatives of these bodies, which receive and attempt to resolve complaints under their jurisdiction's human rights legislation, advised us of emerging human rights issues, and shared their experience in trying to develop solutions.

Educators

We sought the perspectives of both scholars and teachers—scholars, because of the degree of analysis we felt they would be able to share with us with respect to human rights, and teachers because of their daily experiences in the classroom with the young people upon which the Museum hopes to have the most impact. The academics often pointed us to key sources that the Museum staff could follow up on. The teachers (including some who teach at college and universities) spoke about the kinds of teaching tools and resources they valued, and the way they taught the issue of human rights.

Arts and Culture

At times, our long and often exhausting days were brightened by people who chose to speak to us about the arts, through the arts. There were those who showed us examples of visual art, videos of dance, and who sang to us, reminding us of the enduring power of art in all its forms to speak a language of human rights that could transcend barriers and cultures.

We also heard a rich mix of organizations' perspectives and individual stories. Among these groups, we heard particularly from Indigenous

Peoples, who were unanimous (as were many non-Indigenous people) that the relationship between Canada and Aboriginal Peoples is a critical and ongoing chapter in the Canadian human rights story. We also heard from many, many people whose lives were irrevocably marked by the Holocaust—both as an atrocity that they, their family, or their community survived, or as the impetus to their involvement in human rights campaigns. And we heard from Francophones, both in Quebec and across Canada, who emphasized Canada's reality as a country with two official languages, two legal systems, and multiple, very different approaches to human rights.

We noted how often people's lived experiences informed their choice of career and how many people's careers were a result of their personal passion and their commitment to human rights. Many people came determined to tell their experiences, despite the obvious pain they incurred by reliving these sometimes-recent memories. They spoke from their hearts about the exclusion they had faced or the barriers they had encountered in their communities. They spoke of the hurts and harm caused from discrimination and they also spoke clearly about their ideas for building a better world. Others, particularly in the roundtables, had no personal story of their own, nor were they affiliated with any particular organization. They showed up because they were interested in human rights and the work of the Museum. They wanted to listen and to hear from people to whom they rarely spoke about their perspectives of the world. Many of the people who presented to us and shared their ideas simply wanted to make a difference.

People often stayed to talk to each other after the evening had wrapped up and we had left. Many wrote to us afterwards to say that they were so grateful to have had the opportunity to speak with someone whose experience and perspective was different from theirs. It was these unplanned and impromptu connections made at the roundtables that made a lasting impact on each of us, and all who participated, and we hope the Museum continues to provide mechanisms for people to speak to each other.

As anticipated, the meetings we held led to referrals to more sources, more people we should be speaking to. We started a conversation with many organizations that we felt would be valuable ongoing partners for the Museum. The more people we spoke to, the more we recognized that this was only the beginning—there was still so much to speak about, and so much for the Museum to seek out, in terms of knowledge that had already been collected.

Some Barriers to Participation

We heard from so many Canadians, so many ideas, stories and perspectives that were diverse and complex. But we didn't hear everything. These meetings were never meant to be a statistical or scientific sample of contacts, but rather a broad, timely, representation of individuals and organizations who were interested in both human rights and the Canadian Museum for Human Rights. We do acknowledge that there were many Canadian personal perspectives and historical experiences that were not represented and our collective commitment to substantive

equality makes it important to point out some of the gaps.

Logistics

We know, firstly, that the logistics of the meetings didn't suit everyone. The meetings took place at a specific time in a specific place. We know that certain people would not have been available on that date due to work, family, or prior commitments. We know that the locations we chose—for the most part in urban settings—were sometimes difficult to attend because of geography, health/mobility issues, or other constraints. People who lived in rural or remote areas were sometimes connected to the meeting by phone, but on the whole, we did not speak to many who lived far away from where we were.

Systemic barriers

We acknowledge as well that there were some systemic barriers to participation. Certain organizations, because of their internal structure and staffing, would not have had time to properly prepare a brief for their presentation, and would have been uncomfortable with anything less. In addition, we recognize that there are certain circumstances that preclude participation from a very important constituency of the museum. People who are poor, homeless, sick, or otherwise disadvantaged rarely have the choice to come out to public meetings, and ours was no exception.

Format

We recognize as well that the format we came up with—the bilateral meetings and the roundtables—was not the best way to reach out to some key people we are eager to learn

from—i.e., children and youth. As a Museum that is focused so intently on reaching youth—and that has been developed out of a youth program—this remains an important issue. It is something that the staff is working on, and we recognize that the development of a more welcoming strategy for engaging children and youth is absolutely essential to the success of the Museum.

The Past

We were also acutely conscious of the people we didn't hear from because they did not survive to tell their own story. Genocide—the most drastic human rights violation—often succeeds in stamping out witnesses and survivors. Gross violations of human rights that happened in the past are too often buried, and without memory or records passed down through the generations they can get forgotten or ignored. We were grateful for those who survived and who could and did speak on behalf of those who could not.

On the whole, those who came to speak to us did so because they were looking to make a contribution to the Museum's mandate to promote human rights—and we were constantly amazed at the sense of excitement, pride and struggle that so many people expressed. The Content Advisory Committee recognizes the importance of continuing to engage the Canadian public in this effort, especially those who are not always invited to participate in public policy matters. The struggle for many to tell their story reminded us that it is imperative that the Museum be a welcoming place for all: a place that is a safe, accessible, and open

and where people can share their experiences in an atmosphere of trust and respect.

Our Report

At our June 2009 meeting we began to have discussions about the shape of our final report. People trusted us with an overwhelming amount of information. We worried from the beginning that we would not be able to do justice to the trust that people had placed in us. In an effort to accommodate our concerns about our ability to speak respectfully about all that we had heard, we decided that, in addition to preparing a written report, we would (on the expertise of one of the members of our committee—filmmaker Sylvia Hamilton) make a video that would bring life to the full scope of what was shared with both our hearts and our minds. This short video captures the power and the strength of people's stories and ideas. This way, members of the public can see a small portion of what we saw and hear a small portion of what we heard. By using the arts in this way, we were able to achieve a greater sense of respect for all that was shared with us. We hope that the solution we found is also one that the Museum will see as key to doing justice to the rich terrain we call human rights. The arts speak to us more powerfully than words can often manage.

In Chapter 3, we reflect on the stories we heard in the course of our conversations with Canadians. Again, we are very grateful to those who came to speak to us, and whose ideas and experiences were so instrumental to our thinking.

Recommendations: Chapter 1

1. The Museum should continue to engage Canadians on the development of its content through regional, national, or local meetings. The contacts developed through the CAC public engagement sessions in 2009/10 form a significant base for continuing to involve Canadians in the Museum, although steps should be taken to include those who may not yet have had the opportunity to be heard.
2. The Museum should engage expertise in accessibility and universal design to ensure that all consultations, as well as all programs, exhibits, the website, and the building itself, are fully accessible to persons with disabilities.
3. The Museum should appoint a small Expert Advisory Committee of people knowledgeable in human rights to advise it on the human rights dimension of all of its content.
4. The Museum should ensure the ongoing in-house education of Museum staff in all aspects of human rights theory, practice, education, and history, as well as emerging issues. This could be done through the creation of a Learning Centre, to which the Museum would seek to attract visiting scholars, practitioners, and defenders of human rights. Permanent staff with expertise in human rights would be actively involved in shaping the Centre's program. As well as being a continuing source of in-service education and development for Museum staff, the Centre could operate programs for other general or specific audiences.
5. The Museum should develop national and regional relationships with Canadian universities, colleges, researchers, and organizations such as private foundations, community-based research and commemoration projects, and the Truth and Reconciliation Commission, as well as territorial, provincial and federal human rights commissions. In building these relationships, the people and institutions in Quebec as well as those of Aboriginal Peoples must be fully included.
6. The Museum should ensure that its staff and management are representative of the diversity of the people we encountered across Canada.
7. Developing a welcoming strategy for children and youth is absolutely essential to the success of the Museum.
8. The success of the Museum will depend on balancing the contributions of two quite different professions: museology and human rights. Meeting this challenge requires that it be expressly stated and reflected on regularly.

2.

Values and Principles: Reflections on the Museum's Statutory Mandate

The purpose of the Canadian Museum of Human Rights is to explore the subject of human rights with a special but not exclusive reference to Canada, in order to enhance the public's understanding of human rights, to promote respect for others and to encourage reflection and dialogue.

Museums Act, s. 15.2

As we travelled across the country in small groups, and then joined up again in Winnipeg to share our impressions and experiences, we thought about the mandate that the Museum had been given in the *Museums Act*. We were aware that some of the most ambitious and potentially difficult areas of that mandate were only sketched out in the statute. Two in particular demanded our attention: the term “human rights” itself, and “Canada.” The lack of definition in the legislation was an opportunity, but also a challenge: how could we give meaning and texture to those terms in order fully to realize the Museum's promise? In a series of in-person discussions, e-mails, and conference calls, working from draft texts and reflecting on what people were saying about the Museum's mandate, we developed several statements of principles and values and recommendations.

The Museums Act

In 2008, the Canadian Museum for Human Rights was designated a national museum in an unprecedented unanimous show of support from all of Canada's major political parties. Accordingly, the *Museums Act* was amended to set out, in a new s. 15.2,¹³ the purpose of CMHR: to explore the subject of human rights with a special but not exclusive reference to Canada, in order to enhance the public's understanding of human rights, to promote respect for others and to encourage reflection and dialogue.

Two sections of the *Museums Act*, S.C. 1990, c. 3, provide particular guidance about the overall role of national museums. Section 3 of the *Act* contains a declaration that:

The heritage of Canada and all its peoples is an important part of the world heritage and must be preserved for present and future generations.

It continues, stating that each museum established by the *Act*

(a) plays an essential role, individually and together with other museums and like institutions, in preserving and promoting the heritage of Canada and all its peoples throughout Canada and abroad and in contributing to the collective memory and sense of identity of Canadians; and

(b) is a source of inspiration, research, learning and entertainment that belongs to all Canadians and provides in both official languages, a service that is essential to Canadian culture and available to all.

We consider it important that the Museum is to be “for” human rights, and that it is mandated to enhance the public’s understanding of human rights, promote respect for others, and encourage reflection and dialogue. The statutory mandate identifies the Museum as a source of inspiration, and recognizes the role of research, learning and entertainment in its activities. These characteristics were echoed and reinforced by much that we heard from those who came to the bilateral sessions and the roundtables. What follows will, we hope, begin the process of reflection that will continue to inform the Museum’s efforts to fulfill those roles.

Human Rights

In striving for a working understanding of the term “human rights” and all it encompasses, the Museum can draw not only from formal instruments that identify and protect human rights at all levels, but also from scholarly and popular articulations of human rights and the moral, legal, historical, and philosophical bases for them. It was emphasized during the public engagement

sessions that the Museum should take a broad view of human rights, not confining itself only to those rights that had been defined and acknowledged in formal legal instruments at the international or the local level. It is only by looking at the whole of a nation’s policies, practices, and laws—as well as its culture—that we can assess the extent to which it respects and promotes human rights.

In this report, and in our recommendations to the Museum, we try to reflect that good advice to take the broad view. However, the human rights culture of the last half of the 20th century has been strongly influenced by post-Holocaust developments at the United Nations, and so we begin our observations about human rights with a brief outline of the crucial understandings contributed by international human rights law, in particular the *Universal Declaration of Human Rights*.

The Foundations of Modern International Human Rights Discourse

In the international human rights discourse of the second half of the twentieth century, inspired by the *Universal Declaration of Human Rights*, all human beings are seen as having inherent dignity and worth by reason simply of our common humanity. This premise arises directly out of the genocide of six million Jews and millions of others during the Holocaust.

The Holocaust caused an international recognition of the concept of our common humanity—the notion that the human species is one. This recognition, which is sometimes referred to as

the “humanity revolution,” arose not just from revulsion at what happened to the Jews and other targets for annihilation, but also from the realization that having no concept of our common human dignity hurt all of humanity. As long as any group of people is deemed to be less than human, then we all face threats to our humanity that one day, any day, may come to pass.

The second recital of *The Universal Declaration of Human Rights*, adopted by the General Assembly of the United Nations on December 10, 1948, explains why this grand moral proclamation “as to what should be done”¹⁴ was born. Central to the modern vision of international human rights, it proclaims that:

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Debates in the Third Committee of the United Nations about the text of this recital reveal that the delegates chose to use the term “disregard” instead of “ignorance,” in order to convey the message that human rights are fundamental moral birthrights of our common humanity; they are knowable by everyone.¹⁵ René Cassin, the French delegate, pointed out that “disregard” fit much better with “méconnaissance,” meaning “intentional ignorance.”¹⁶ The linkage in the second recital of “disregard” to the phrase “contempt for human rights” with the great wrong of the Holocaust, described as “barbarous acts which have outraged the conscience of mankind,” set the foundation for the *Universal Declaration*.¹⁷ The horrors of the Nazi death camps had been

brought to the attention of the Allies long before the war ended, and they had made respect for universal human rights a central goal of the peace negotiations, as well as of the work given to the Human Rights Commission that was to draw up the *Universal Declaration*.¹⁸

By affirming that all its rights belong to everyone, everywhere, the *Universal Declaration* aimed to put an end to the idea that a nation’s treatment of its own citizens or subjects was immune from outside scrutiny.¹⁹ Nazi propaganda beginning in July of 1938, had made much of the fact that the international community had failed to reach a consensus at the Evian Conference²⁰ about the thousands of Jewish refugees from Germany seeking countries to receive them. On December 9, 1948, in a speech on the introduction of the draft *Declaration* to the General Assembly of the United Nations, René Cassin harshly rebuked the Soviets for their criticism of the *Declaration* as an incursion on national sovereignty. He reminded them that in 1933, Hitler’s representatives had used the same argument in the League of Nations to justify their actions against their own countrymen.²¹

The second recital of the *Declaration* states that the foundation of the *Universal Declaration* is “four freedoms”: “*freedom of speech and belief and freedom from fear and want.*”²² Finally, the second recital says that these “*are the highest aspiration of the common people.*” Cassin described the *Declaration* as the “*first document about moral value adopted by an assembly of the human community.*”²³ Indeed, it has been said of the *Declaration* that human rights make up a moral compass for “the common people” to navigate forward towards what should be done.

Eleanor Roosevelt, the Chair of the Drafting Committee, urged that the *Universal Declaration* have “a clear, brief text, which could be readily understood by the ordinary man and woman” because it “*was not intended for philosophers and jurists but for the ordinary people.*”²⁴ To underscore this idea, Emile Saint-Lot, the Haitian delegate and Rapporteur of the Third Committee suggested that “the International Bill of Rights” (the working title of the document being debated) should not be seen as just an agreement among nation states. Rather, he proposed that the Third Committee resolve to affirm “*the universal character of the Declaration of Human Rights.*”²⁵ This led René Cassin to propose that the title of the document be changed to read *Universal Declaration of Human Rights*.²⁶ He noted that the *Declaration* was not an international or intergovernmental document, but one addressed to all humanity and founded on a unified conception of the human being. Ever since, the human rights movement has looked to *the Universal Declaration* for inspiration in the struggle for justice. For example, Nelson Mandela has written movingly about the impact of its adoption in South Africa, where apartheid was formally introduced in the same year: “for all the opponents of this pernicious regime, the simple and noble words of the *Universal Declaration* were a sudden ray of hope in one of our darkest moments. During the many years that followed, this document... served as a shining beacon and an inspiration to many millions of South Africans.”²⁷

Before the *Universal Declaration of Human Rights*, individuals were recognised as *objects* but not *subjects* of international law. States were the sole legal actors capable of invoking the rights and violating the rules of international

law, and they did so with respect to other states. Individuals had no rights or claims against states at all, and international law did not apply to private individuals, only governments.

The reaction to the Holocaust, and the *Universal Declaration of Human Rights*, changed that. A whole sequence of international human rights treaties and instruments was developed, national constitutions and domestic laws rooted in the *Universal Declaration of Human Rights* that imposed duties on individuals, not just states, and granted rights to individuals, not just states. A non-governmental human rights movement grew out of the acceptance of human rights standards by states, with local, regional, and international human rights organizations striving to make governments accountable for keeping the promises they made in the *Universal Declaration*.

Because of the Cold War, it took 28 years for the principles of *the Universal Declaration* to emerge in the form of two binding treaties, called covenants. One of the Declaration’s vital four freedoms—freedom from want—was the major issue between East and West. The Eisenhower administration took a dim view of economic and social rights, and the United States strongly qualified the nature of its commitment to the universal human rights movement.²⁸ In the end, the only way forward was for there to be two separate treaties: *The Covenant on Civil and Political Rights* and *The Covenant on Social, Economic and Cultural Rights*.

There are now nine core international human rights treaties. They cover a wide range of subjects which reach far beyond the protection against discrimination typically found in human

rights codes enacted in Canada. Each treaty has a committee of experts to monitor its implementation by the states that are parties to it. Some of the treaties are supplemented by optional protocols that deal with specific concerns.²⁹ Experience under these international human rights instruments is mixed; the level of formal adherence all too often outstrips the actual implementation of the provisions, even in a state like Canada, which prides itself on its human rights reputation. Nonetheless, the new recognition of persons as human rights holders—even if those rights are poorly enforced and barely respected—has invigorated individual and collective struggles. As former UN High Commissioner for Human Rights Mary Robinson said of the *Universal Declaration of Human Rights*, it has given ordinary people “a vocabulary of complaint and inspiration.”³⁰

Vigilance, courage, determined action, and an imagination for what is “right” are required to secure the promise of human rights instruments, and extend full human rights to all of us.

The Human Rights Imagination

The process of articulating human rights and pressing for their recognition, protection, and fulfillment is a continuing one, rooted in human experience and the ceaseless human quest for dignity, safety, community, and freedom. Achieving formal recognition of particular human rights, in an international instrument, or in domestic law, is just one aspect of the never-ending struggle to realize our human rights.

Fundamental to the realization of human rights is the human rights imagination. Whether or

not there is legal protection in place, a person, a group of persons, or a people will decide that the treatment they receive offends their basic humanity, and will rise up against it. Such struggles can involve the most basic requisites of life itself: for water, clean air, food, shelter, and safe and essential medical treatment. Often these struggles have a geopolitical dimension: the struggle for land, or self-determination. Civil rights and the rule of law may be implicated: the campaigns against torture; for elimination of hate and violence; for recognition of full citizenship; for the right to a nationality, a name, and a family; or for fair wages and safe working conditions.

However significant the protections for human rights now embedded in law or in international instruments and practice are, it will be important for the Museum to keep in mind the broader domain of human rights, and not confine its mandate to human rights that have already been recognized and embedded. The Museum will need to cultivate its own human rights imagination, in order to fully to appreciate the hope and the yearning of people everywhere for recognition of their full humanity.

The struggle to claim and defend their human rights by those who are marginalized, despised, and persecuted is one of the most stirring and hopeful of all human stories. The successes—and the failures—of such struggles, and the causes of both, have much to tell us. They propel us to ask important questions: Why are some things recognized as human rights and others are not? Why do some rights achieve formal recognition, but are never actually put into place and enforced?

Developing a sophisticated understanding of the whole spectrum of human rights claims, and of the processes by which human rights campaigns are fought and rights defended, will enable the Museum to act more confidently when dealing with difficult questions at the margins. Such questions arise in the political life of a society, and of the world, and have surfaced in our public engagement sessions: Is someone a human rights activist, or a terrorist? Does this or that cause qualify as a “genuine” human rights campaign, or is it actually inimical to human rights? To what extent do ends expressed in human rights terms justify means that may themselves violate human rights? How does one navigate a clash of interests when each side is making human rights claims that may have some plausibility? What is the appropriate response when one human right is in conflict with another? The deeper and broader the Museum’s knowledge of human rights philosophy and practice, the more able it will be to navigate these difficult questions and contribute to public understanding and respectful discussion.

Situating the Museum within Human Rights Debates

The Universal Declaration of Human Rights articulates “a common standard of achievement for all peoples and all nations.”³¹ It commits all nations to strive, by progressive measures, to secure the universal and effective recognition and observance of the rights and freedoms within it.³² The 1993 *Vienna Declaration and Program of Action* reaffirmed that all human rights are universal, indivisible, interdependent, and

interrelated. The *Vienna Declaration* provides that the international community must treat human rights globally in a fair and equal manner, on the same footing, with the same emphasis.

“Human rights” is highly contested terrain. Some reject the idea of human rights as Eurocentric, as a product of the Enlightenment, and thus incompatible with other laws and values, particularly those not grounded in Western individualism. Such critics challenge claims that human rights are universal, or based on universal values. Even within the Western tradition, some human rights claims of individuals may be seen as inimical to important collective or community identities. This critique of human rights is not only a phenomenon of global discussion and debate. It is also a feature of Canada’s pluralistic society. It will not be possible to immunize the Museum’s content decisions from this type of controversy. In our discussions so far, however, there has been some interest in identifying the irreducible core of human rights, so as to facilitate cross-cultural communication and the finding of common ground, without descending into a morass of cultural relativism.

For the CAC, human rights principles and practice derive from a profound respect for human dignity and our common humanity; common ground is possible between diverse philosophical and cultural traditions that honour these values. We believe that the Museum’s mandate to promote respect for others and encourage reflection and dialogue necessarily entails efforts to find that common ground, and engage the public to do so as well.

Museum Independence

In dealing with all of these difficult issues of meaning and application, it is essential that the Museum retain its independence. This involves a commitment by the Museum not to be “captured” —or be seen to be captured—by one particular “side” of a human rights debate. It also involves being independent from government dictation and influence. In both cases, the Museum must not only achieve and safeguard this independence—it must develop the confidence of the public that it is doing so.

The Museum’s independence from government is confirmed by s. 27 of the *Museums Act*, which states that:

27. (1) No directive shall be given to a museum under section 89 or subsection 114(3) of the *Financial Administration Act* with respect to cultural activities, including
- (a) the acquisition, disposal, conservation or use of any museum material relevant to its activities;
 - (b) its activities and programs for the public, including exhibitions, displays and publications; and
 - (c) research with respect to the matters referred to in paragraphs (a) and (b).

The Museum can best maintain its independence by nurturing the capacity to listen fairly to all sides, and the knowledge and judgment required to make its own decisions.

Indeed, it will be critical for the Museum to devote itself to acquiring, critiquing, and constantly renewing its knowledge and understanding of the history, philosophy, principles, and practice of human rights in Canada and around the world.

It must employ high standards of research and scholarship and link with other individuals and institutions in this effort. The Museum must strive to develop a capacity to analyze human rights issues that enables it to deal with complex or troublesome human rights issues. To be a true ideas Museum, and able to stand independently, the Canadian Museum for Human Rights must also be a knowledge museum.

Canada

According to the *Museums Act*, the Canadian Museum for Human Rights, like the other national museums, belongs to all Canadians, “preserves and promotes the heritage of Canada and all its peoples,” and contributes to Canadians’ collective memory and sense of identity. Its mandate on human rights has a special but not exclusive reference to Canada.

Some of the implications of this mandate can be readily grasped. Human rights stories that take place within the borders of Canada, and the Canadian dimension of a story happening elsewhere, are clearly within the scope of such a mandate. It is not difficult to see how this part of the mandate will guide discussions and choices of content. However, the Museum’s Canadian focus also prompts more thoroughgoing reflection on the nature, experience, and values of Canada; how that contemplation might influence content discussions and choices may be less readily apparent. We are therefore called upon to seek a deeper understanding of this aspect, too, of the Museum’s statutory mandate.

A good starting point for this discussion is to look at Canada’s Constitution. Within it, we find the

grammar and vocabulary of rights discourse, but we also find the architecture of a constitutional order that itself has implications for human rights.

The Constitution of Canada

Like many others, Canada's Constitution protects individual rights. Historically, the Constitution has also contained a small class of guarantees for group rights, such as minority languages and minority religions. The *Constitution Act, 1867*, provided guarantees for minority languages (English or French) and for minority religions (Catholic and Protestant). As other provinces joined Confederation, these guarantees were extended,³³ making them available to members of protected minority religions and languages in various parts of Canada. Canada's Constitution also has particular provisions for collective rights.

We derive from the Constitution a large part of our understanding of who the "peoples"³⁴ of Canada are, and what the relationship of those peoples is to the Canadian state. Canada's Constitution gives certain groups a place in the very structure of the state, a kind of constitutional standing that differentiates them from other aggregations of individuals who share common characteristics and experience. Both Indigenous Peoples and Quebec receive this particular constitutional recognition.

Indigenous Peoples

The Constitution creates distinctive constitutional space for Indigenous Peoples. Because of s. 25 of the *Canadian Charter* and s. 35 of the *Constitution Act, 1982*, the Treaties between the Crown and Aboriginal Peoples have the status of constitutional instruments, as do other guarantees of Indigenous rights, such as the *Royal Proclamation of 1763*.

Although Indigenous law is protected by s. 35 of the *Constitution Act, 1982*, and has been recognized as part of Canadian law, Canada does not have a policy of polyjuralism that recognizes Indigenous law and harmonizes Canadian law with it. By contrast, the governments of Canada and Quebec have bijural systems; Quebec's incorporates both civil and common law, and Canada harmonizes its laws with the civil law of Quebec.

The incomplete realization of an appropriate relationship between Indigenous and Canadian law is one of the ways in which the structural features of the Constitution can be seen as more promise than reality. Indigenous rights under Treaties, and rights to land and to self-determination, remain unfulfilled. Instead, many Indigenous Peoples have been subject since Confederation to the totalized control, and segregation, imposed under the *Indian Act*, which is still in effect today. They grapple with colonialism, which manifests itself in many ways. The relationship between Indigenous Peoples and the land, which is fundamental to Indigenous law, value systems, and well being, has been under assault for over 200 years, and remains so today.

As constitutional actors in their own right, Indigenous Peoples may justly require that the Museum do more than view them through an anthropological or cultural lens. Indigenous Peoples' relationship to Canada amounts to much more than making an historical "contribution." Indigenous Peoples have a contemporary reality and identity, protected by the Constitution, not just a historical one. Both the historical and the contemporary laws of Indigenous Peoples must

be recognized as integral to the Museum.

Its long disregard for the rights of Indigenous Peoples has deprived Canada of the contributions that Indigenous law and knowledge might have made to the development of our understanding of human rights in this country. While we give weight to the constitutional bargain underlying the confederation of the provinces, we have never implemented in our policies, jurisprudence, or governance the constitutional bargain underlying Canada's major treaties with Indigenous Peoples. Had that bargain been fulfilled, it would have enriched our understandings of human rights and human dignity.

Similarly, Indigenous Peoples governed by the Indian Act were excluded from the protection of the *Canadian Human Rights Act*, from its passage in 1977 until 2008,³⁵ thus depriving the administration of that Act from the understandings and approaches that would have been contributed by Indigenous law and knowledge.

As will be discussed in more detail in Chapter 4, Indigenous law does not focus on human rights as we understand them in the Western tradition. This fact was brought home to us at the CAC bilateral sessions. In Iqaluit, for example, we learned that the Inuktitut language translates "human rights" into "the right to be who you are—'Pijunnautit'." Chief Lisa Shaver (Penelakut) told us in Vancouver that, to her, the term "right" is foreign: "*To me it is our way of life for 5,000 years that we have been accustomed to.*"

The loss to us of the intellectual and legal knowledge of Indigenous Peoples has

impoverished our discussion and debate about the goals of human rights and how to realize them. How this huge vacuum will now be dealt with is a question of importance for the Museum.

The Museum should identify as a priority the development of a relationship of trust with Indigenous Peoples so as to bring about their full engagement in exploring the meaning and experience of human rights in Canada, and should welcome with respect Indigenous Peoples' law, understandings of human dignity, and other knowledge that will further the realization of the human dignity of all people in Canada.

Quebec

Quebec is the geopolitical base for many, but not all, Canadians of French origin, who comprise one of the nation's founding peoples. Francophones in New Brunswick, Manitoba, Ontario, Saskatchewan, Alberta, and other provinces and territories enjoy the protection of language and education rights under both the Constitution and the Canadian Charter. However, the *Quebec Act* of 1774 guaranteed retention in Quebec of the civil law inherited from France, which continues to be applied in all non-criminal matters within that province—a fundamental guarantee over and above the language and education rights possessed by reason of the Constitution. Canada's policy of bijuralism recognizes the civil law of Quebec and harmonizes federal law with it.

Quebec's approach to human rights is largely derived from the *Quebec Charter of Human Rights and Freedoms (Charte des Droits et Libertés de la Personne)*³⁶ and the rules and principles of civil law. The *Déclaration des droits de l'homme et du citoyen de 1789*, one of the fundamental

documents of the French Revolution, has a special resonance in Quebec, in particular through its founding principle: “the natural, inalienable and sacred rights of man” (preamble); its statement that “men are born free and remain free and equal in rights” (Article 1); and the principles of “the society” it outlines as the basis of a new legitimacy: “the source of all sovereignty resides essentially in the nation” (Article 3). This principle of “society” establishing the concept of “nation”—i.e., of collective interest—and the French Republican model, are at the very roots of the prevailing vision of contemporary Quebec.

The Quebec Charter of *Human Rights and Freedoms* was adopted by the National Assembly on June 27, 1975, and came into force on June 28, 1976—seven years before the Canadian Charter. Like the human rights legislation in other jurisdictions, it is quasi-constitutional in nature, taking precedence over other legislation.³⁷ The Quebec Charter reflects the role of Quebec as a frontrunner in the protection of human rights in Canada. It was, for example, the first jurisdiction in the world to include protection of sexual orientation.³⁸

In addition to the Quebec Charter, the *Charter of the French Language* (1977),³⁹ more commonly known as *Bill 101*, identifies the French language as a collective right and the basis of Quebec identity. The *Charter of the French Language* has become a part of the prevailing social consensus, reflecting the view that this collective value is the basis of Quebec identity.⁴⁰

Quebec mounted a forceful opposition to the *Canadian Charter of Rights and Freedoms*,

arising primarily from the *Charter's* recognition of the policy of multiculturalism,⁴¹ which many people in Quebec felt would diminish their identity as a founding nation. While the *Charter* was eventually ratified throughout Canada, it has never been ratified by the Quebec government. Many in Quebec feel that the imposition of the *Canadian Charter* on Quebec, and the subsequent failure of the Meech Lake Accord, with its recognition of Quebec as a distinct society, have placed a heavy burden on Quebec that threatens its identity as a precarious minority in Canada and in North America, with no guarantee of long-term survival.

On February 8, 2007, Premier Jean Charest solemnly declared Quebec's fundamental values, namely equality between men and women, the pre-eminence of the French language, and the separation of the state and religion.⁴² These values are embodied in legislation and social measures put forward in Quebec and represent the distinctive values and tools by which the Quebec people have articulated their identity.

In recent years, considerable tension has arisen in Quebec between these values, notably the equality between men and women and the separation of state and religion, and the significant rise of individual requests seeking accommodation based on religious grounds. This kind of tension is not confined to Quebec; other jurisdictions, too, have witnessed conflicts between freedom-of-religion claims and the equality of women, the safety of children, and even public safety. The debate is, perhaps, more sharply focused in Quebec than elsewhere, because of the widespread concern in Quebec over protecting the secular character of the society and the sharing of

these core public values by all citizens.

A Federal System

The provisions of the Constitution and the historical record of the constitutional compromises necessary to establish and sustain Confederation recognizes the diversity of the nation by establishing a federal state in which law-making power is distributed between the federal government, provinces, and territories, as well as the First Nations. Recently, governance and law-making powers have also been extended to the polities created by modern land claims agreements with Indigenous Peoples.

Federalism has consequences for human rights. The pre-Confederation history of the provinces and territories, including the different dates at which they joined Confederation, reflect a diversity of experiences represented in the varying legislation, policies, and circumstances of each one. Such a diversity of perspectives continues to the present day. The territories, in particular, have only achieved a degree of responsible government relatively recently, after being administered by the federal government for many decades. Many participants at the bilateral sessions in the territories attested to the deleterious effect on human rights of the long period without responsible government.

The varied political traditions of the provinces and territories of Canada are reflected in differing approaches to the realization of human rights in all their dimensions. For example, some governments have demonstrated a considerable willingness to implement social and economic rights, and have contributed to the national

realization of such rights as well. One of the clearest examples is Saskatchewan's contribution to the creation of Canada's government-funded health insurance system. In the 1960s, human rights activists secured national standards to ensure a minimum level of social and economic rights across Canada, but these were, for the most part, abandoned by the cost-cutting minimalist governments of the last quarter of the 20th century. While few provinces have a strong record on social and economic rights, such as social services and assistance, provision of access to justice, and educational supports for children and youth with different learning needs, the absence of national standards means that the situation is much worse in some places than in others. The diversity of the federal system can also make it difficult to locate responsibility for the implementation of a Convention signed by the government of Canada, or for following up on the observations of international treaty bodies requiring action on human rights.

The Chief Justice of Canada has described Canada's tradition as one of evolutionary democracy, moving in uneven steps toward the goal of universal suffrage and more effective representation.⁴³ Some of these steps have been uneven indeed; the electoral franchise was withheld from many on the basis of race well into the middle of the 20th century, and full civil and political rights remain out of reach for many even today. However, the advent of the *Universal Declaration of Human Rights* after the Holocaust had a positive effect on Canada's domestic human rights policies, accelerating the passage of anti-discrimination legislation, which had begun to emerge in some provinces before World War II. Nationally, the *Canadian Bill of Rights*, including

civil and political rights, was passed in 1960,⁴⁴ which is applicable in the federal sphere, and the Canadian Human Rights Act was enacted in 1977. The *Constitution Act, 1982*, includes an entrenched *Charter of Rights*, guaranteeing the equality of women and men, and is interpreted in light of Canada's historical protection of individual and group rights, and the multicultural heritage of Canadians.

Human Rights Culture

Within the architecture of the Constitution has grown a human rights culture, stronger at some times than at others. The Supreme Court has recognized as one of the four underlying constitutional principles the protection of minorities and Indigenous Peoples.⁴⁵ The flourishing of Canada's human rights culture is an essential element of nurturing and preserving human rights. Promoting this flourishing requires not only a moral or philosophical commitment to human rights, but engagement in practical steps that will develop, secure, preserve, and defend human rights. The Canadian Museum for Human Rights should promote and celebrate that culture, but should not hesitate to acknowledge where Canada's respect for human rights—or commitment to the continued development and application of human rights—has faltered, and to learn from these experiences.

Although the presence of constitutional and quasi-constitutional guarantees of civil and political rights, and against discrimination, has brought considerable reliance on litigation as a way of promoting human rights, litigation is highly dependent for its success on the existence of deep commitment to the spirit and hope of human

rights. Without such hope, people will not feel empowered to challenge injustice, or the denial of their human rights. Without a broadly based commitment to human rights, society will be indifferent or non-responsive to challenges when they do come forward. And when the society as a whole manifests indifference to human rights, it is more difficult to hold the courts, and the state, accountable, even under written guarantees of rights.

The Museum has an important role to play in affirming, and nurturing, the human rights culture of Canada. Already, it has started building relationships with some of the enduring mainstays of that culture: the trade union movement, community associations, Indigenous and Francophone cultural institutions, rights defenders, and the passionate individuals who came to the CAC meetings. The Museum can keep the flame of human rights alight, through its own work, and by means of its links throughout Canada and the world.

Recommendations: Chapter 2

Human Rights

1. The Museum should devote itself to acquiring, critiquing, and constantly renewing its knowledge and understanding of the history, philosophy, principles, and practice of human rights in Canada and around the world, using high standards of research and scholarship, and linking with other individuals and institutions in this effort. In doing so, it will seek a deep understanding of particular

human rights stories. It will strive to develop a capacity to analyze human rights issues that allows it to deal with sophisticated and troublesome situations. It will also take a broad and inclusive view of the human rights project, which encompasses aspirations and struggles for human rights and the processes and instruments through which these aspirations are realized and made accessible in substance as well as in form. It will embrace *“the universality of human rights that are our birthright as human beings”*.⁴⁶

2. The Museum should cultivate its own human rights imagination, in order to fully to appreciate the hope and the yearning of people everywhere for recognition of their full humanity.
3. The Museum should maintain regular communication with the public by means that are broadly accessible in language, approach, and format. It should not wait until a crisis has arisen in order to share its understanding and analysis of human rights issues.
4. Underlying all of the work of the Museum should be a commitment to growing Canada’s human rights culture, which requires not only a moral and philosophical commitment to human rights but engagement in practical steps that will develop, secure, preserve, and defend human rights. The Museum celebrates and promotes that culture but does not hesitate to acknowledge where Canada’s respect for human rights—or commitment to the continued development and application of human rights—has faltered, and to learn from these experiences. The Museum can keep the flame of human rights alight, through

its own work and by means of its links with organizations throughout Canada and around the world.

5. Human rights principles and practice derive from a profound respect for human dignity and our common humanity; common ground is possible between diverse philosophical and cultural traditions that honour these values. The Museum’s mandate to promote respect for others and encourage reflection and dialogue necessarily entails efforts to find that common ground, and engage the public to do so as well.
6. It is essential that the Museum retain its independence. This involves a commitment by the Museum not to be “captured”—or be seen to be captured—by a particular “side” of a human rights debate. It also involves being independent from government dictate and influence. In both cases, the Museum must not only achieve and safeguard this independence: it must develop the confidence of the public that it is doing so. The Museum can best maintain its independence by nurturing the capacity to listen fairly to all sides and by developing the knowledge and judgment necessary to make its own decisions.

Canada

7. Integral to any account of human rights from the Canadian perspective is the understanding that Canada is a federal state, that its constitutional order provides an established place to Quebec and to First Peoples, that the Constitution has recognized, since Confederation, both individual and group rights, and that the modern Constitution is based on the equality of women and men. It

is important to acknowledge the unfinished business of the Constitution with respect to both Quebec and Indigenous Peoples.

8. As constitutional actors in their own right, Indigenous Peoples may justly require that the Museum do more than simply view them through an anthropological or cultural lens. Indigenous Peoples' relationship to Canada amounts to much more than making a historical "contribution." Indigenous Peoples have a contemporary reality and identity, protected by the Constitution, not just a historical one. Both the historical and contemporary realities of Indigenous Peoples have much to contribute to the Museum. Indigenous Peoples' legal systems and knowledge will make important contributions to the human rights culture of Canada, a benefit so far precluded by the long, formal exclusion of Indigenous Peoples from human rights legislation, and thus from human rights discourse.
9. The Museum should identify as a priority the development of a relationship of trust with Indigenous Peoples so as to bring about their full engagement in exploring the meaning and experience of human rights in Canada, and should welcome with respect Indigenous Peoples' law, understandings of human dignity, and other knowledge that will further the realization of human dignity in all of Canada.
10. In order to represent fairly the constitutional place of Quebec and of Indigenous Peoples, the Museum may want to find ways of reflecting in its own organization, and programming, the architecture of the Constitution. This means adopting a structure that will ensure that persons from Indigenous Peoples and Quebec, with knowledge and expertise, are available within the Museum to contribute to all aspects of exhibit development, communication, and programming, including at senior levels.
11. Any consideration of human rights instruments within Canada must respect the enactments and policies of Quebec, reflecting as they do both a distinctive legal tradition and a distinctive course of social and cultural development. Quebec's perspective on the legal and constitutional order of Canada needs to be fully understood, represented, and respected in all Museum activities.

3.

What We Heard

It's not enough to have a place that collects the horrific things that we as human beings do to one another. We need to also create a space that grows from the learning of those experience; that finds the gifts of the sacrifices of the people that have endured those things with honour and with respect.

*Asna Adhami,
Journalist, poet, and filmmaker,
Halifax*

I want to get across: you think it won't happen to you, but it can. You don't know when things are going to change. We did say, "never again," but it continues to happen. Your life can change within a second.

*Natalee Mangat,
Canadian Sikh Coalition,
Vancouver*

Thousands of people came to the bilateral meetings and the roundtables to tell us their stories and share with us their hopes for the Museum, their advice, and their understanding of human rights. What follows is a sketch of the amazing body of knowledge we have acquired during the past year and a half, which will continue to inform the Museum's work well into the future.⁴⁷ In this chapter, we develop some of the themes that have emerged from what we heard, survey human rights stories that people told at the meetings, and include people's suggestions—ranging from the inspirational to the highly practical— about how the Museum should do its work.

The brief overview below, and references elsewhere in this report to what people have told us, cannot possibly do justice to all that we have heard. Fortunately, this report is not the only record of our meetings across Canada. The transcripts, notes, and recordings of our conversations will be held in the Museum's archives so that the ideas, information, and suggestions shared with us will remain available to Museum staff and researchers. In addition, we are confident that the Museum will have many more opportunities to learn; individuals and organizations repeatedly spoke to us of their desire to establish continuing relationships or partnerships with the Museum.

Learning is Crucial

We begin this chapter with a lesson we learned at one of our early sessions about the very concept that animated the CAC's approach to its year of travelling across Canada. First, in May 2009, right at the beginning of this story-gathering tour, we were invited to attend a

meeting with the Saskatchewan First Nations Women's Commission, a part of the Federation of Saskatchewan Indian Nations, which comprises the female band chiefs in Saskatchewan. At this meeting, the chiefs made it very clear that they believed our job was a difficult one. They pointed out that Indigenous Peoples do not have good feelings about museums in general—many sacred objects have been trapped in museums for years, items that many of the First Nations would like to see returned. Simply put, there is no trust between museums and First Peoples; their trust must be earned for this project to be successful. And simply showing up with a willingness to listen did not necessarily ensure that trust. Secondly, the chiefs raised their concern about the use of the term “stories,” which means something particular to Indigenous Peoples. As Dana Soonias (Cree), CEO of the Wanuskewin Heritage Park would explain further at our Saskatoon meetings, our choice of terms such as stories can be interpreted in different ways, especially when it comes to First Nations People:

There are ceremonial stories and there are non-ceremonial stories. There are different contexts around those words so when you are looking at actually developing exhibits, you have to be very specific, and you also have to be very culturally sensitive to what those actually say. Elders may say, “We’re not going to share some of these stories with you for obvious reasons, some of them are ceremonial and those are handed down and not written, shown publicly as in filming and so on... just that in itself you have to be very aware of terminology, concepts and ideas.

In Indigenous cultures there are stories that contain an individual's or community's life lessons; there are stories that are a rendering

of Indigenous Peoples' histories; some stories are just told for fun and to make people laugh, because laughter is healing; and there are other kinds of stories. Thus, “stories” was not the best word to describe our process of collecting ideas from people across the country, and, in a way, it was one of the worst. For the women Chiefs in Saskatchewan, the combination of the word ‘museum’ with the word ‘story’ was not a positive association, giving them the impression that our process was a colonial one of, again, robbing them of their history.

There would be more times during this process when we would stop and ask ourselves if in fact we had gotten it right, but this meeting with the female chiefs taught us an early and crucial lesson. The experience is an excellent reminder that the Museum can make no assumptions and take nothing for granted as it traces its course towards its official opening in 2013 and beyond. Even good ideas such as story-gathering have dimensions to them that can threaten prospects for dialogue and understanding. An institutional practice of self-reflection and great care in the building of relationships that bring the Museum knowledge will be essential companions on the journey ahead.

Canada in the World

We heard many insights into the relationship between Canadian human rights stories and the broader world. This connection is an important one. Alex Neve, Secretary-General of Amnesty International (Canada), reminded us that local experience is informed by international issues, and responses to international issues flow from domestic concerns. He saw a role for the Museum

in helping people to see these connections: “*Help them look at the world and see similar patterns at home; or talk about their own backyard and extrapolate to the wider world.*”

Many of those speaking at the bilaterals and the roundtables celebrated the leadership role that Canada’s John Humphrey had played in the drafting of the United Nations Universal Declaration of Human Rights. Indeed, Canada’s leadership role in drafting other international human rights instruments, such as the Land Mines Treaty and the UN Declaration on the Rights of Indigenous Peoples, was a source of pride to many. Pearl Eliadis of Montreal pointed out the way Canada’s domestic innovations in human rights enforcement have contributed to its world leadership role:

Canadian human rights commissions have played a fundamental role in pushing the envelope in human rights in this country in a way that has served as a model for the rest of the world. South Africa, Tajikistan, Rwanda, Uganda, Kenya, Mauritania—I can name off 25 countries, where people like me and my colleagues have worked internationally to develop a model that is accessible, particularly to those who are vulnerable and poor; that has a global vision of human rights, regardless of ethnicity, creed, race and so on and so forth. This model I would argue, notwithstanding the critics, has been extremely successful.

*Pearl Eliadis,
Human rights lawyer,
Montreal*

The strength of Canada’s legal system has also contributed to our effectiveness internationally. We were told of Canada’s role in the establishment of the International Criminal Court, and were

reminded that Canadian-trained officials are sought after for international human rights tribunals and courts because of their ability to work in more than one legal system and more than one language. Pascal Paradis of *Avocats sans frontières Québec* illustrated his point about how Canada’s strong and independent justice system can vindicate human rights internationally by making reference to the recent decision of Judge André Denis of the *Cour Supérieure de Québec* convicting Désiré Munyaneza for his role in the Rwandan genocide.

At the same time, however, we heard sadness, anger, and frustration expressed over how Canada was not doing enough to follow up on its international initiatives: we have not signed the UN Declaration on the Rights of Indigenous Peoples, and our efforts to put in place the concrete protections embodied in the Declaration on the Rights of the Child and other landmark guarantees, by and large, did not get good marks from those who spoke to us.

Other Canadian activities abroad attracted concern and criticism. Some people identified as problematic activities in other countries of Canadian entities supported by tax-deductible donations at home. Both domestic watchdog organizations and individuals pointed out that Canadian resource corporations are often among the despoilers of the environment, or of the rights of Indigenous Peoples, in other countries. They called for Canada to develop domestic measures that would force these Canadian corporations to adhere more closely to international and national standards of human rights protection:

We live in an ever-shrinking world where we expect big companies to be more responsible when they invest in

a community in a foreign country to ensure the impact of their investment, does that encourage human rights violations? Does it discourage them? When we do a technology transfer like high technology, what are the uses for which this technology will be used? I think that, as Canadians, we need to ask companies to be more responsible and to link our investments to human rights.

*Dicki Chhoyong,
Family came to Canada as the first refugees from Tibet,
Montreal*

The meetings highlighted the significance of the refugee and immigrant experience for appreciating Canada's relationship to the world. The record is a mixed one. We were told about Canada's assistance to those fleeing genocide, such as the Armenian children who were welcomed to Georgetown, Ontario. On the other hand, Canada's indifference to those fleeing Nazi Germany during World War II is a sorrowful part of the Holocaust story, as is Canada's disappointing record in prosecuting Nazi war criminals.

The tales of two ships exemplified Canada's exclusionary policies. In 1914, the *Komagata Maru*, which was carrying immigrants from the Punjab, sat in Vancouver harbour for two months before being forced to depart for Calcutta, its passengers denied landing because of alleged violations of Canada's restrictive immigration policy for those coming from Asia. In 1939, the S.S. *St. Louis*, carrying almost 1,000 refugees from Nazi Germany, was refused landing in Canada, its final port of call in a desperate journey along the eastern seaboard of the Americas. The ship was forced to return to Europe, and many of its passengers perished in the Holocaust.

Canada's history of refugee reception highlights the inconsistencies in its own domestic policies. Canada has constitutional guarantees of freedom of religion, and protection against discrimination on the basis of religion or creed. It has played its part in offering safety to those persecuted for their religious beliefs. We heard from people who had fled to Canada to escape persecution on the grounds of religion in their countries of origin. Tehseen Daniel told us in Toronto: "*Here we have freedom. There is no tension that somebody will come and kill us. Here we can attend church freely. Canada is our country.*" And yet Canada has its own record of persecution of religious minorities.

Other complexities of the refugee story were also drawn to our attention. Louise Simbandumwe, who came with her family as a refugee from Burundi, put it this way: "*There are two pieces to it: the incredible generosity of the people who sponsored us to come here, but that existed alongside the deep-seated racism we encountered.*" Many new Canadians felt frustrated that Canada didn't or was slow to recognize their skills and qualifications from other countries.

In order to be part of the system here, it's like a long walk. Lots of professionals come to Canada but it takes a long time to practise what we know, it takes years, there are a lot of obstacles....If you have no way to make a living, there is a lack of freedom.

*Siddig Musa Bolad,
Landed immigrant/political refugee from Sudan,
Yellowknife*

People coming to Canada on temporary programs may be denied basic civil and human rights once here. Temporary agricultural workers, for example,

lack full access to health care and to the right to organize for improvement in their working conditions. Those coming to Canada through the live-in caregiver program, primarily women from Third World countries, face additional hurdles to the achievement of permanent residency status, and are vulnerable to economic and sexual abuse because of their temporary status and the requirement that they live in their employers' homes.

An important right is the right to unionize, to have representation, but that's a decision that has to come from the workers. The general sense here is that they are afraid because they might lose their right to come to Canada.

*Gustavo Mejicanos,
Coordinator, Agricultural Workers Alliance,
Manitoba*

The live-in caregiver program is the biggest human rights violation that we in the Filipino community face....The basic tenet of the program is anti-woman and racist. Our goal is to scrap the program.

*Ted Alcuatas
Editor and publisher, Silangan, Philippine News & Views,
Vancouver*

Sharalyn Jordan, a volunteer with the Rainbow Refugee Committee of Vancouver, told us that there are over 80 countries in the world that criminalize sexual orientation or gender identity; in five of them, the death penalty may be imposed. Canada is a signatory to the Geneva Convention, which promises asylum to those facing discrimination based on sexual orientation, but that commitment is often frustrated by the administration of Canada's refugee determination

laws. The CAC heard about how determined organizing can produce change. With the help of the Court Challenges Program, Chris Morrissey of Vancouver filed a court challenge in 1992 to the exclusion of same-sex partners from the family class under Canada's immigration law.⁴⁸ The case and intensive work by LEGIT (the Lesbian and Gay Immigration Task Force), which Morrissey founded in 1991, resulted in official recognition of same-sex partners as part of the family class in 2002.

The experience of Canada's war veterans gave us another perspective. Aboriginal veterans served willingly in both world wars, although they were not allowed to vote in Canada. They spoke of being excluded from benefits open to other veterans; we learned of one veteran who had been stripped of Indian status altogether in a forcible "enfranchisement," a bitter reward that occurred after World War I, when Canada feared that returning veterans, used to being treated as equals on the battlefield, would mobilize their people to seek equality at home.

At several meetings we were told about the horrific experience of Canadian soldiers who were prisoners of war after the capture of Hong Kong in World War II, and their struggle to secure recognition at home for what they had suffered:

We found that the Canadian government wanted to sweep us under the rug and forget about us because we should not have been sent to Hong Kong in the first place. Now, Churchill knew what we were going into, he knew that if Japan had declared war, we would have one of two alternatives: be killed in action or be taken as prisoners of war. Two hundred and ninety were killed in action and the rest of us became POWs.

*George Peterson,
Hong Kong veteran,
Toronto*

“War brides”—women who married Canadian soldiers serving overseas in World War II and came to Canada with their children—were among the many thousands of people who discovered with alarm that they had not actually received the Canadian citizenship promised to them. These women, and their children, were indeed, “lost Canadians,” because of anomalies in Canadian citizenship law affecting those born abroad of non-Canadian parents who married Canadians. The problem was solved only after years of activism, and was deeply unsettling to this wartime generation:

What is citizenship? It's your identity, it's who you are. What was the first thing Hitler did in power? He took away citizenship.

*Don Chapman,
Lost Canadians,
Winnipeg*

Other Canadians had harrowing wartime experiences at home, targets of the extraordinary powers conferred by the War Measures Act. Canadians of Ukrainian origin were interned in World War I, as were Italian-Canadians in World War II:

My father was wrongfully arrested and imprisoned. He was considered to be a member of an improper organization called the Sons of Italy. If you look at my dad and others, their lives were altered by this humiliating experience. The prime minister described it as disgraceful in 1990...but since then, there hasn't been a formal apology. Some say, "Forget about it, it's in the past," but the effects were felt in the Italian community for many generations to come."

*Joseph Colangelo,
Canadian Italian Advocates Association (CIAO),
Toronto*

In World War II, Canadians of Japanese origin were uprooted from their homes, farms, and businesses and relocated to internment camps or to other provinces; their property was confiscated without compensation and their citizenship was threatened. This community, too, experienced complex intergenerational effects. Art Miki of Winnipeg, one of the leaders of the redress campaign for Japanese-Canadians interned during World War II, describes the complicated process of vindication involved in the campaign and its success.:

Older people felt they'd done something wrong. They told younger people not to react, don't protest, etc. If you do you're not a good citizen.... When the younger generation of Japanese-Canadians started protesting, it was their own community that put them down....After the apology from the government, people came up to me and said they finally felt like Canadians, like they've been accepted. It was a burden they had carried all this time. The settlement was important for our community. It told them that they weren't the problem, it was the government.

Arthur (Art) Miki,
Former President,
National Association of Japanese Canadians,
Winnipeg

Dr. Walter Epp of Thunder Bay gave us yet another perspective on the wartime experience. As Mennonites, many of his family were conscientious objectors in World War II, and spent time in "alternate service" camps in B.C. rather than going to war. They lost the franchise, as did other conscientious objectors to the war, such as the Doukhobours, and had to campaign to regain it.

We heard from many immigrants to Canada about human rights violations and conflicts in their homelands, which continue to affect them here. Some of these conflicts are historical, but memories of them are long, the wounds from them remain open, and discord about the historical record continues. Others are more recent, even current. Those in Canada have family and friends at home who are still at risk, and themselves experience deep trauma from what they have undergone.

It's very personal, it's very vital. It's an issue that is yet to be resolved, so it's very important to me.

Dicki Chhoyong,
Family came to Canada as the first refugees from Tibet,
Montreal

The controversy over many of these conflicts, both historical and current, has come to Canada along with these individuals and communities. Some who spoke to us urged that the Museum should take sides in these debates, adding its authority to one side or another to authenticate a particular position or validate a particular "truth." Most people, however, took a less partisan approach. They advocated that the Museum should make every effort to get the facts clear, and to do its homework about the events in question. Then, rather than validating one side or another of these contested stories, the Museum could look at what lies beneath, and explore what it can do to bridge over conflicts and promote understanding. In this, our participants were not so much asking that the Museum mediate old or current conflicts, but that it conduct its public education programs and design its exhibits so as to add to the global store of understanding and acceptance, and promote respect for human rights.

Tell the Whole Story

Success and failure. Pride and shame. In the accounts of human rights at home in Canada, as well as abroad in the world, we heard these contrasting themes again and again. We heard, too, about the discrepancy between creating rulings on paper and delivering real change to people's lives. Disabled rights activist Marcia Carroll told us in Charlottetown about

the aftermath of the celebrated victory in the human rights complaint brought by the Council of Canadians with Disabilities against Via Rail for failure to accommodate passengers with a disability.⁴⁹

The [VIA Rail] ruling was wonderful, but there's a huge gap between the theoretical and what happens on the ground. We had a board member who was travelling to Ottawa to meet with the Minister of Transport, and his chair wouldn't fit on the train. He had to be lifted and carried, which removes your dignity. That was nine months after the ruling was passed.

Marcia Carroll,
Executive Director,
Prince Edward Island Council of People with Disabilities,
Charlottetown

Some noted that Canada has one of the most highly developed systems of human rights codes and commissions in the world, yet others warned that human rights codes and commissions suffer from government underfunding or are under attack from those who decry hate-speech restrictions.

Overwhelmingly, those who spoke to us urged that the Museum should not attempt to sugarcoat Canada's human rights record. Tell the bad with the good, we were advised, for we can learn from where we have erred. As one roundtable participant in Whitehorse advised, "*the Museum should not be a hall of shame or a monument to heroism, but a place where regular people tell other people what their more perfect world would look like*".

Ron Caza, the Franco-Ontarian lawyer for the Ottawa francophone community in its successful litigation to prevent the closing of Hôpital Montfort,

reminded us in Ottawa that in the human rights struggle, failures are just as important as successes, for they show us that we must keep going. This, he said, is one of the reasons the Museum is important -- to show people that respect for human rights is not automatic, you have to inspire people to fight for it.

Take the Long View: The Example of Quebec

We have to understand that the Canadian Charter poses problems for the protection of the collective interests of Quebec. In this context, if the Museum celebrates the Canadian Charter without distinction, it will not be celebrated in Quebec.

This leads me to almost an exhortation to you which is to not restrict yourself, to not restrict your Museum to the individual dimension of rights to a unidimensional idea of rights. I think that, in my opinion, it would be appropriate that the individual, classic dimension of rights be completed by a great insistence on the collective dimension of human rights.

Professor Henri Brun,
Constitutional law expert and former dean,
Faculty of Law, Université Laval,
Quebec City

Claudine Oulette emphasized at the Quebec bilateral meeting how essential it is to take the long view of Quebec's 400 years of history. Elements of this history—particularly the Conquest—are sensitive, but cannot be excluded. The long struggle for the survival of Quebec language and culture has proceeded through many phases, and has met with resistance along the way. At Confederation, Quebec claimed rights

to practise its religion, a minority religion at the time; at a later stage of the evolution of Quebec society, it was liberation from that same religion that became important, and today Quebec is, officially, a secular society. Others pointed out that it is only within the context of this long view, which discloses both Quebec's own struggle to protect its culture and also its record of progress on human rights matters, that current issues with respect to accommodation can be properly understood.

Quebec has been a leader in the protection of human rights. It was the first jurisdiction in the world to have included in its *Charte des Droits* (in 1976) protection against discrimination on the basis of sexual orientation. Quebec's philosophy of social solidarity is based on the principle that the disadvantaged cannot be left to fend for themselves. It was emphasized that discovering the true picture of human rights protection in Quebec, and indeed other jurisdictions in Canada, requires that we look at more than human rights legislation. Many human rights are realized in legislation and policies dealing, for example, with health care, education, employment rights (such as parental leave), and social programs such as child care and income support.

The Honourable René Dussault argued that the protection and promotion of language rights in Quebec illustrates the importance of looking at collective rights. The recent judgment of the Supreme Court of Canada in the *Nguyen case*⁵⁰ was welcomed by the *The Globe and Mail* but criticized by even the federalist press in Quebec. This unusually wide difference of opinion shows that what could represent justice for the majority in Canada (Anglophones) does not necessarily

mean the same thing for the Francophone minority.

Dussault made the telling point that, to be vindicated, individual rights often require a realization of collective rights. Professor Henri Brun cited the differences between the Supreme Court of Canada and the Court of Appeal of Quebec in the interpretation of guarantees of religious rights, and warned that the Canadian Charter poses a problem vis-à-vis the protection of Quebec's collective interests. Others addressed the collective/individual question from a different perspective: the rights of an individual who does not share the characteristics or aspirations of the collective will not necessarily be vindicated only by giving pre-eminence to the rights of the collective. Thus, how do we find a satisfactory balance?

Taking the long view of Quebec history gives us a context within which to reflect upon the collective/individual rights question, which would be missing if the Museum's focus were only upon current events there. Justice Dussault pointed out that the same is true of the collective/individual question as it relates to Indigenous Peoples. Overall, it was the people in Quebec who offered the most profound insights into what must surely be one of the most complex issues in contemporary human rights law and practice.

Take the Long View: Other Lessons of History

Taking the long view would require an account of the history of African-Canadians that includes Canada's role in the Atlantic slave trade and slavery in colonial Canada as well as the more positive story of Canada's role as a refugee-

receiving terminus of the Underground Railway from the United States. The contributions of African-Canadians to the founding and development of Canada are also brought to light by taking the long view. We were told that much of this history is now hidden, except to those who make a particular study of it, and should be much more generally accessible. The historical record documents the segregation of African-Canadians: segregated schools for African-Canadian children until well into the 20th century; the occupational segregation of African-Canadian people into certain jobs, like railway sleeping car porters; and stories such as that of Viola Desmond, who was recently pardoned and apologized to for being put into jail for refusing to move from the whites-only section of a Halifax movie theatre in 1946.

The long view is an antidote to invisibility for many groups. For example, some spoke of the lack of recognition for how long the Sikhs have been in Canada, and the barriers which have been put in the way of their immigration, exemplified by the Komagata Maru incident described above. Others told how the history of the workers from China, who were brought here to build the railroads and who were subsequently barred from this country once their work had been completed by the head tax and Chinese Exclusion Act, is often forgotten. Canada imposed the head tax for the first time in 1885, and did not acknowledge its wrongfulness until 2006. Canadians of Chinese and Indian ethnicity were denied the vote until the middle of the 20th century. Many people at our meetings urged the Museum to look not only at the contemporary experience of discrimination and adaptation of these communities, which contain many recent immigrants, but also at the entirety of their long struggle for dignity and full citizenship in

Canada.

With respect to almost any dimension of the human rights story in Canada, taking the long view will illuminate the tenacity and endurance of those at the receiving end of rights violations and how change can be secured. Taking the long view involves seeing not only discrimination and oppression, but also revival. The story of the Acadians, spanning more than 300 years, is, to be sure, a chronicle of heartbreaking exile. It is also the account of a vigorous contemporary community using modern advocacy techniques to re-establish itself and protect its cultural and language rights. The Honourable Michel Bastarache spoke of the pressures of assimilation that caused Acadians to anglicize their names to secure employment, and of the economic privations with which they had to contend. He told us of mobilization to preserve education and services in French in the Atlantic provinces. Éric Doucet of Moncton lauded official languages laws as the element of Canadian policy that has helped Acadians the most, and spoke of the organization and determination of the contemporary Acadian community:

...the Acadian people must continue to advance, to grow in French, to promote their music, their arts, their traditions, and make sure that these things don't get lost in the global multimedia world we now live in and that will continue to globalize even more.

Éric Mathieu Doucet,
Executive Director,
Société Nationale de l'Acadie,
Moncton

Indigenous Peoples in Canada

No other story called forth more frequent exhortations to take the long view than that of the Indigenous Peoples in Canada. People across Canada, both Indigenous and non-Indigenous, emphasized the gravity and significance of their stories, and the need to tell them thoroughly, deeply, and with understanding. In this context, the long view includes developing an appreciation of the variety of Indigenous identities and experiences before and after contact, and of the distinctive world views of Indigenous peoples.

There is little understanding of our distinctiveness. We continue to feel that we are just this little add-on. Inuit do not want to be lost in this pan-Aboriginal label.

Madeleine Redfern (Inuit),
Executive Director,
Qikiqtani Truth Commission,
Vancouver

Hollywood was coming out with at least one every week. You couldn't go to a cinema anywhere in North America without seeing an Indian in a cowboy movie....And every Indian in a cowboy movie made us look stupid, and, at the end, we became invisible. And the nations of the country, whether in the U.S. or here, were unknown. There was one new tribe and it was the Hollywood tribe. And they told stories that were false or they romanticized us.

Alanis Obomsawin (Abenaki),
Filmmaker,
Montreal

As far as we are concerned we have different names, different nations have different names. And that has never been really respected. White people have to have a name that fits all.

Alanis Obomsawin (Abenaki),
Filmmaker,
Montreal

People advocated that the Museum should see the experience of Indigenous Peoples at and after contact within the framework of colonialism, which places that experience not only in a historical frame, but also in a global context that remains as relevant today as it was a hundred or more years ago. Colonialism is associated not only with the experience of Indigenous Peoples in Canada and other countries, but with the experience of those in the African diaspora, with the historic disadvantage of Francophones inside and outside of Quebec, and with the experience of immigrants from Asia. They left us with a strong impression that the Museum needs to come to grips with colonialism in order to fully understand the human rights issues of today.

The oppression of Indigenous Peoples in Canada is the result of over two centuries of official policy. The CAC was reminded of the slaughter of the Beothuk in Newfoundland, and the bounty placed on Mi'kmaq scalps by Governor Cornwallis in Nova Scotia to hasten their extermination. Speakers directed the CAC's attention to the Indian Act, with its discrimination against women and its assimilationist objectives, identifying it as the sole piece of race-based legislation remaining in the western world. They noted that the apartheid government of South Africa had based its pass system on the one established under the Indian Act, which controlled reserve residents' access to opportunities and markets off-reserve. The Indian Act provided the legislative framework for residential schools. Many people testified about the terrible losses to families when children

were taken away and put in the schools, and the harmful legacy of the schools: loss of language, culture, and traditional belief systems; an inability to show affection or to parent properly; the harm to second and subsequent generations; a distrust of police because of the role played by the RCMP in taking children to the schools; and the destructive physical and sexual abuse suffered by the children.

Inuit children were placed in residential schools even though they did not come under the governance of the Indian Act. Cindy Blackstock (Gitxan) reminded us that the taking of children did not stop with the closing of the residential schools: during the 1960s, when provincial child welfare law became applicable to First Nations, children were seized from their families and adopted out to white families all over Canada and in the United States. Disproportionately large numbers of Indigenous children continue to be in children's aid society custody at the present time.

In almost all of the locations we visited, people drew our attention to the epidemic of murdered and missing Aboriginal women in Canada. Family members of the missing and murdered women spoke of official unresponsiveness to their concerns, of delays in starting investigations (assuming they were started at all), and of the profound grief caused by the unresolved disappearances and murders. Some contrasted this indifference to the haste with which other human rights violations are responded to, mentioning the fact that Canada has established no commission of inquiry on the murdered and missing women, in spite of United Nations urging that it do so. Yet, in the midst of this grief, we learned of individuals and communities who

are working towards solutions, often drawing upon Indigenous traditions to overcome official indifference and mobilize support and action. Demonstrations, vigils, marches, art projects, and community events to honour the murdered and missing women, show solidarity with their families, and help their children cope with loss, were described at CAC meetings all across Canada.

The mobilization of Indigenous traditions and community-based initiatives in response to residential school abuses, and to the missing and murdered women, is but one manifestation of the resilience and courage of Indigenous Peoples that was described to us. In Whitehorse and Yellowknife we were told of the significance of the presentation to Prime Minister Trudeau of the claims put forward in Together Today for Our Children Tomorrow, which began the long process of negotiating land claims' settlements. Madeleine Redfern, of the Qikiqtani Truth Commission, described how the Inuit had committed over \$1 million to establish their own Truth Commission after a government-funded commission in the 1980s had left most of the job undone and engendered much distrust by failing to disclose all of the results of their work. The Qikiqtani Truth Commission has visited 13 communities, has already issued an interim report, and will make its final report and all its research publicly available. Innovative education programs, based on Indigenous values and languages, were described to the CAC in several locations, and the CAC had the opportunity to observe such schools in Iqaluit and in the Northwest Territories. Measures to instill pride and a sense of identity in youth, and to work with elders for the preservation or revival of traditional knowledge, were brought to our attention as models for the programming of the

Museum.

Doing justice to the experience of Indigenous Peoples of Canada, we heard, requires that the Museum *learn*; this is a complex process, and time must be dedicated to it, as shown by the presentation in Calgary of Beverley Jacobs, a faith keeper from the Mohawk Nation, Grand River Territory. Lewis Cardinal (Cree) told us at the Edmonton bilateral that it also requires the establishment of trust between the Museum and Indigenous Peoples, and the building of relationships that would encompass learning, planning, and doing. Municipal officials in Edmonton told us that there is a need to develop proper protocols for the ground at the Forks upon which the Museum is located, something that we note both requires the existence of trust and a relationship between the Museum and Indigenous Peoples.

Relationship building would encompass, at the very least, the First Nations of Manitoba, but could reach much farther. In Thunder Bay, it was pointed out that Northwestern Ontario and part of Manitoba are in the area covered by Treaty 3, the North-West Angle Treaty; Winnipeg is the closest metropolitan centre for much of this territory, and closer to Thunder Bay than Toronto. There was considerable interest, on the part of both Indigenous and non-Indigenous residents of Thunder Bay, in developing a close and “neighbourly” relationship with the Museum. We were also advised of communities in Manitoba, like the Franco-Manitobans, who would value a close relationship with the Museum.

The Holocaust

Canada was in Auschwitz.

Romy Ritter (alluding to the name prisoners gave to the compound where richly laden trains of goods were received into the camp),
Vancouver Regional Director, PR,
Canadian Jewish Congress,
Vancouver

Many of the people we spoke to left little doubt about the centrality of the Holocaust to the contemporary experience of human rights, or about how essential it is for the Holocaust to anchor the Museum. In Edmonton, Debbie Goldsman, whose parents both fled Warsaw, and who fought with the partisans, said that it would be a tragedy not to have a Holocaust gallery in the Museum. Many of those we spoke to recognized the Holocaust as the inspiration for the creation of post–World War II instruments and machinery for safeguarding human rights, and urged that a permanent exhibit at the Museum be created. A case was made for the recognition of other genocides: the Armenian Genocide, the Holodomor in Ukraine, the Rwandan Genocide, Pol Pot’s killing regime in Cambodia, and the Genocide of Indigenous Peoples in the Americas. Although some of these presentations had an edge of competitiveness to them, as if there were a contest underway to determine the worst experience, or establish whose suffering was the most authentic and legitimate, most people told the Museum to turn away from that competitive approach. The overall goal, they contended, was to understand, and to prevent, future atrocities:

If you say that one person's suffering is more important than another's, you deny the validity of that person's experience. That's the thin edge of the wedge that allows genocide to happen.

Mark Kuly,
Teacher, Manitoba School Improvement Program
(MSIP),
Winnipeg

Those who advocated that the Museum should recognize the centrality of the Holocaust emphasized that it is the Holocaust that provides our paradigm for understanding the causes and processes of all mass, state-sponsored violence, as well as provides the inspiration for human rights protection on a world-wide scale. As such, it merits a permanent home and a major focus within the Museum. With such an essential foundation secured, the Museum can and should explore relationships between other genocides and the Nazi atrocities: for example, how the Nazis learned from the earlier genocide in Armenia. At the Vancouver bilateral meetings, we were exhorted to use the experience of the Nazi Holocaust as a lens through which to view all genocides.

The CAC heard moving testimonies from Holocaust survivors. Philip Reitman spent his teenage years in concentration camps in Europe and immigrated to Newfoundland at the end of the war. For almost 40 years, the pain of remembrance kept him from speaking of his experiences; now, he has spoken to almost 300,000 people in Atlantic Canada. He warned, *"Teach this in schools. It can happen again. It is your generation."*

Sidney Cyngiser, a Holocaust survivor in

Calgary, echoed this warning: *"I find it a sacred duty to speak. I want children to appreciate democracy and freedom in this country. They need to understand what it means to be on guard, because everything can change in a moment"*.

People spoke about the role of the arts and education in remembering the Holocaust. In Ottawa, Vera Gara, a Holocaust survivor, showed a moving film on the search for Raoul Wallenberg, the Swedish diplomat in Hungary who had issued life-saving documents to thousands of Jews. The film also emphasized the involvement of Canada and Canadians such as David Matas, a member of the CAC, in the efforts to discover the fate of Mr. Wallenberg. He has been made an honorary Canadian citizen, giving Canada official standing for its activities on his behalf. Many of those who are experienced in the use of film, music, and theatre, such as Floralove Katz, the daughter of Holocaust survivors, offered to share with the Museum their expertise, as did those who had developed and tested approaches to the teaching of difficult issues to students of various ages. Many educators appearing before the CAC said that, if done well, talking about the Holocaust is, in their experience, the best way to teach young people about human rights.

The impact of the Holocaust on young people was a recurring theme. Romy Ritter of the Canadian Jewish Congress Pacific Region told us in Vancouver that her organization represents 1.5 million Jewish children who were murdered. *"We feel a sacred burden on their behalf to teach future generations what can happen.... We inoculate children against hatred."* We were told that Canadian children today also face the chilling threat of anti-Semitism. In Moncton, David

Attis told us of his daughter's fear about going to a school where, as her classmates told her, "*the teacher who hates Jews teaches.*" That teacher was Malcolm Ross, whose newspaper articles, pamphlets, and books described Jews as evil. Audrey Lampert, a Commissioner of the Human Rights Commission in New Brunswick, became involved with David Attis in his human rights complaint against the school board that employed Ross. Her own son kept a notebook of incidents during the Ross events. Mr. Attis emphasized that even though the case, *Attis vs. School District 15*,⁵¹ produced a precedent on hate speech in the classroom, the debate about controls on hate speech continues to this day.

Indeed, many of those who attended the sessions across Canada spoke not only of the Holocaust but also of the resurgence of anti-Semitic views and behaviour. Anti-Semitism in the immediate post-war years was evocatively described (e.g., park benches in Montreal with signs saying "No Jews or Dogs Allowed") but officials of B'nai Brith gave the CAC at the Ottawa bilateral meetings the results of their most recent study on hate crimes against Jews, African-Canadians, and lesbian, gay, bisexual, and transgender (LGBT) people to show that this kind of crime is dramatically on the rise.

Dehumanization

Included in the learning brought to the CAC were the lessons from Holocaust studies about the use of dehumanization to lay the groundwork for the abuse of others. People described the staged withdrawal from Jews of civil and political rights, including the right to education, to work, to hold property, to choose their place of residence, and even to maintain their own names. The inculcation

in the dominant population of the idea of "the other" who is less than human involves not only stripping the other of civil and political rights, but going to the point of criminalizing him or her. When the other is thus placed outside the circle of humanity, restraints on violating that person's rights are dissolved, and atrocity becomes possible, perhaps inevitable.

In order for a group to participate in the oppression of others, it is necessary that what is mere prejudice have the appearance of truth. To give falsehoods the air of truth, their approval and promotion by political and religious authorities is an essential factor.

Halifax roundtable

Dehumanization was described in the context of Indigenous Peoples, women, racialized persons, persons with a disability, prisoners, and the poor. Deprivation or withholding of civil and political rights has been the fate of all members of these groups: the right to vote and hold public office, the right to earn a living or to have control of one's wages, the right to get married or to form a family, to express one's sexuality, to preserve one's bodily integrity, to choose one's residence. Not only have the rights been withheld, but behaviour often has been criminalized (e.g., attempted suicide, being involuntarily committed with a "form 10,"⁵² begging or simply being in the street, and so on). The accounts at the CAC meetings from representatives of a wide range of people and communities showed very vividly how the process of dehumanization creates a culture in which violations of human rights can happen with impunity.

Defending Human Rights

Many people came to the CAC meetings to describe the work of a person they found inspiring. While hoping that the Museum would recognize that work, they would often counsel against the creation of “hero cults” around particular persons. They emphasized that it is ordinary people confronting challenges in their lives who keep human rights alive. The message should be not that it takes a champion to defend human rights, but that anyone can champion human rights.

It's an international responsibility, to protect their neighbour. It's a question of being human, what makes us human. My father was a genocide survivor. He told me the stories. He survived because a Kurdish family hid him. He was only one in his village to survive. My father always taught me not to hate. He would say, "You won't make the world a better place by hating, but never deny the truth, however painful."

Arthur Tachdijian,
Western Region, Executive Director,
Armenian National Committee of Canada,
Vancouver

How to do that called forth a number of references to responsibility. It was noted that we all have a responsibility to defend human rights. The responsibility can be individual, but it was also pointed out that there is collective responsibility as well.

I feel a responsibility because I'm human.

Max Eisen,
Canadian Jewish Congress,
Toronto

Really, human rights are everyone's business. Nobody is totally free from some form of

persecution. However, everyone can also become someone who oppresses another.

St. John's roundtable

Something is wrong when my security needs to be defended by destroying the security of someone else. If the rights of some are eroded, nobody's rights are safe.

Bill Baldwin,
Justice for Mohammed Harkat Committee,
Montreal

Many praised collective action to advance and secure human rights. They described ad hoc grassroots campaigns, the work of trade unions, and organizations formed for a specific purpose, such LEGIT, the Women's Legal Education and Action fund (LEAF) and the Council of Canadians with Disabilities (CCD). Many people saw enormous value in having the Museum tell the stories of Canada's social movements, and their role in promoting and achieving human rights protections.

We turn now to what people told us about the origins and the experience of some of these campaigns, and the issues underlying them.

We have a lot of concern for people in poverty. Now people fight for individual and not collective rights.

Linda Ross,
Advisory Council on the Status of Women,
Newfoundland and Labrador,
St. John's

The Rights of Women

You can't really talk about the right of equality of women, for example, without understanding

economic rights, without understanding social rights, without understanding that individual discrimination, which is a civil and political right, also plays out across cultural grounds, plays out across social grounds, plays out across economic grounds.... There are a number of so-called individual rights that can only be expressed as a group—for example, the right to free association and, many would argue, the right to religious freedom.... You need to look at how individual identities intersect—for example, very few people are merely women, most people are also mothers, they are also in a marital status, they are also of a particular ethnic background, and it's that interplay and understanding of how these different threads interweave, that we're capable of respecting the identity of people who come before us.

Pearl Eliadis,
Human rights lawyer,
Montreal

I think we have to think of women's right to equality as a collective right and not an individual right. Therefore, we always have to remember that women are part of a group that is traditionally discriminated against and that there are positive action measures that must be put in place so that the group is not discriminated against. And so, when we oppose, for example, "It's my individual choice, me, to do a certain thing": "Yes, all right, but if your individual choice endangers the collective right of equality between men and women, you can't..."

Christiane Pelchat,
President, Council on the Status of Women
Montreal

Patricia Paradis, a lawyer and human rights professor, reminded the CAC in Calgary of the history of women's quest for civil and political rights in Canada by means of the law. She

referred to cases like the 1930 Persons Case,⁵³ which held that women are persons under the Constitution of Canada and thus able to be appointed to the Senate. In St. John's, Michelle Smith recounted women's fight for the vote in Newfoundland before Confederation, and for full rights guarantees in s. 15 of the Canadian Charter of Rights and Freedoms. Yamuna Kutty of the Multicultural Women's Organization of Halifax emphasized the continuing importance of seeing women as persons. She told us that the children of immigrant women from home cultures that may not include this value need to understand that in Canada, their mother is a person.

Representatives of the Advisory Council on the Status of Women of Newfoundland and Labrador, and of the Yukon, added another dimension to our understanding of women's struggle: women's collective action to win not just legal rights, but also social and economic rights. They urged the Museum to remember the grassroots campaigns for women's rights. The Museum needs to view equality for women as a human right, and to understand that poverty and violence against women are violations of women's human rights. Seeing them as human rights issues, rather than private challenges or matters requiring individual adjudication in the criminal law or human rights tribunals, allows us to take a systemic approach to the eradication of poverty and violence.

Kasari Govender of West Coast LEAF described violence against women as the most widespread and tolerated abuse of human rights in the world; she and others urged that this story be told in the Museum. There are now many authoritative resources on the treatment of violence against women as a human rights issue, to which we

were directed at our sessions. It was emphasized that although it is only in recent years that the grassroots movements of women around the world have drawn attention to violence against women as a human rights issue, this kind of violence has a long history: violence against women has been used as an instrument of oppression within the family, and as a way for one people or nation to oppress another through colonization, and in war and civil strife. The dehumanization of women—through popular culture, propaganda, and religious doctrine—contributes to the impunity with which violence is used. The role of the state in condoning violence against women caused some people to draw a parallel between it and official, state-sponsored torture:

A lot of the solutions will come in how we treat women who have been tortured in the home and see them as torture survivors the same as prisoners of war or military survivors of torture.... We have to acknowledge what happens not only on the battlefields around the world, also the battlefield in the home.

Linda MacDonald and Jeanne Sarson,
Activists for the rights of victims of non-state torture,
Halifax

Everywhere we went, we heard about the horrendous toll of violence against Aboriginal women. We also learned, however, that for these women, winning full equality may not be a matter of going forward, but of returning to the honoured and powerful place women held before having that status taken away from them by colonial measures such as the Indian Act. Aboriginal women brought legal challenges to the inequality imposed upon them by the Indian Act, and we heard words of praise for Jeannette

Corbière Lavell, Sandra Lovelace Nicholas, and Sharon McIvor and her son Jacob Grismer⁵⁴ for their courage in bringing significant court cases. Equally, if not more significant to many who spoke to us, are the strategies based on traditional knowledge, culture, and community building; women both lead and benefit from these measures. Such strategies see Aboriginal women in the entire context of their Peoples.

We were told by Arlene Hache (Algonquin) of the Centre for Northern Families/Yellowknife Women's Society how essential it is to see the relationship between the equality and well-being of women, and the well-being of her whole family and of society. She illustrated her point with this comment: *"You have to have children in your care before the issue of childcare is relevant. Indigenous women still face challenges in keeping their families together, given aggressive child welfare agencies, the lack of access to legal services, and the difficult living conditions generated by widespread poverty"*.

Peggy Taillon of the Canadian Council on Social Development stressed the importance of not putting women's rights into a silo by themselves. She, like many who spoke to us, noted the interplay between gender and other personal attributes, such as race and disability. We heard, for example, that disability is gendered, and the DisAbled Women's Network (DAWN) Canada seeks to have that fact recognized in services and policies applicable to persons with a disability.

At the Vancouver bilaterals, Mark Peninga emphasized the importance of having a moral and religious underpinning for what we consider to be human rights. Reverend Karen Hamilton, Secretary-General of the Canadian

Council of Churches, also urged the Museum to acknowledge that religion, faith, and belief are an integral part of reality for many human beings, and that the whole notion of human rights is inseparable from what most of the major faith communities see as “the divine imperative to care.”

Yet, despite agreement about the need for a “principled” and “moral” approach to human rights, there was considerable unease about the compatibility of faith-based principles and human rights. In Quebec, it was pointed out by Professor Henri Brun that since the Quiet Revolution in the 1960s, Quebec has staunchly protected the principle of neutrality of the state and the separation of church and state. Christiane Pelchat, President of the Quebec Council on the Status of Women, voiced the concerns of many women and women’s rights advocates (both inside and outside of Quebec) when she said that the three monotheistic religions are patriarchal in nature and have established discriminatory and controlling rules about women. As such, they are a serious threat to women’s right to equality. She pointed out that in both the Canadian and Quebec Charters there is recognition that women, as half the population, have the right to equality in the enjoyment of all rights.

Some of the sharpest tensions in the domain of human rights in Canada today derive from the apparent conflict between assertions of freedom of religion and values such as gender equality, and the protection of children from abuse. How Canada works its way through these tensions and contradictions will be a test of its wisdom. The Museum cannot turn away from playing its own wise role in bringing people together for respectful

exploration of these issues.

Children and Youth

A large number of those who spoke to us stressed how important it will be for the Museum to establish strong and vital links with children and young people. The human rights stories of children and young people, and their involvement in the Museum, are an important aspect of the Museum’s identity.

We heard in depth and breadth about violations of children’s human rights, from the past to the present. In the contemporary setting, we heard from Christine Thomas of the Vancouver Association for Survivors of Torture about children who have experienced torture directly, or through its impact on their parents. Child soldiers also seek the services of the Centre; the experience of Canadian child soldier Omar Khadr has raised many troubling issues about the human rights of young people in the post-9/11 world.

Refugee and immigrant children lead double lives, we were told by the Multicultural Association of the Greater Moncton Area (MAGMA): they have to explain to their parents the culture to which they have come, while experiencing and joining in the family’s efforts to preserve the home culture. In such circumstances, youth can help one another. In Thunder Bay, for example, we heard of an innovative program at the Multicultural Association of Northwestern Ontario, in which refugee and immigrant youth and Aboriginal youth from remote reserves who attend school in Thunder Bay, work together to explain their cultures to one another. Schoolchildren from some immigrant communities face bullying or rejection at school because of what their classmates are taught about conflicts in

their homeland:

There were children who were crying and afraid to go to school, because they were bullied; other children who had to listen to very unpleasant tales—people were brought in to tell them how the Serbians had raped them. Some of that may have been true, some not, but it shouldn't have happened in the classroom at all. Children are too young to take sides.

Radmila Swann,
Serbian Heritage Society,
Ottawa

These experiences raised important questions about how educators can deal with difficult or complex human rights stories, and we were grateful to several organizations experienced in this field for their insights and suggestions.

Concern about the human rights of children is a particular focus in the domain of education. Historical examples abound, with the horrendous experience of Indigenous children in residential schools, and abuse of children in other institutional settings, still a raw memory. The segregation of African-Canadian schoolchildren was described to us in Nova Scotia; in Iqaluit, we learned that high school education became available to Inuit children only in the 1960s. The education of Aboriginal children in traditional ceremonies was truncated not only by the residential school experience, we learned, but also by the criminalization of those ceremonies for many decades. Cecil Sveinson (Cree) of the Winnipeg Police Services, a pipe carrier and sun dancer, told us that the elders had kept the ceremonies alive during this long ban by holding them in secret and remote locations, where the RCMP could not find them. He continued, "*The sad thing is we stopped bringing our children to*

ceremonies, because they'd slow us down if we had to run away." Eric Wong told us in Vancouver about the catch-22 that had delayed his father's formal education: "*When my father was a young man, he was one of the older students in his class. Because he was of Chinese ancestry, he couldn't go to school until his family's name appeared on the voters list. And his name couldn't appear on the list until Canada gave those of Chinese ancestry the right to vote after World War II*".

This problem has not gone away. Youth today continue to face problems accessing education because of their refugee or immigration experience.

The system has a huge impact on the youth; when they are in these camps they do not have education (though they learn survival skills). Another issue is a lot of people do not have birth certificates and it is difficult to place them in the grade if we don't know their age. This impacts their entire life due to retirement age, or being placed in classes, etc. We have approx. 50–60% high school dropouts for refugee youth downtown. They are disadvantaged because of systemic bias.

Margaret Von Lau,
Executive Director,
Newcomers Education and Employment Development
Services (NEEDS),
Winnipeg

In recent years, increasing attention has been paid to persons with a learning disability, who are among the invisible disabled. People we spoke to in Ottawa and Edmonton told us that those with a learning disability are often stereotyped as being lazy or stupid, and both children and the parents who advocate for them are seen as troublemakers

or disruptive. The failure to provide learning supports to these children and youth, however, condemns them to a lifetime of underemployment, despite their average to above-average intelligence and creativity.

We'd never say to a blind child, "if you try harder you can see." Yet we do this to people with invisible disabilities.

Kathryn Burke,
President and Chief Executive Officer,
Burke + Associates Inc., Learning Disability Association,
Edmonton

Not all of the stories about children and education we heard have this painful edge to them. Buzz Berzins of the Newfoundland-Labrador Human Rights Association described his association's main victory as the change from a denominational to a public, secular, education system. Its activities prompted a Royal Commission, which reported in 1991–92, in *Our Children Our Future*, and laid the groundwork for the transition to secularism. Others who appeared before us recounted success stories in Alberta, Nova Scotia, and New Brunswick in securing education in the French language for Francophone children, and we visited a Dene School in Yellowknife where children were immersed in education based on the traditions and the language of the Dene People.

We were urged to make it possible for children to tell their own stories. Indeed, encouraging the agency of children in and through the Museum was a high priority for many who spoke to us. We learned of the power of children to inspire action, and to take it. From the McConnell Foundation in Montreal, and Cindy Blackstock (Gitxan) of the First Nations Caring Society of Canada, we

heard the story of Jordan's Principle, named in honour of Jordan River Anderson of the Norway House Cree Nation. He was born with complex medical needs, and the federal and provincial governments squabbled for all of his short life about who would fund the services to meet them, while he languished in hospital, or lived in foster care away from his home reserve. In the most broadly based movement for children's rights in the country, Jordan's Principle was developed, providing simply that the provincial and federal governments should meet the needs of the child first and figure out the jurisdictional disputes later. Sadly, although this Principle has now been embedded in provincial legislation and a motion in the House of Commons, this inspiring little boy died at the age of five, never having spent a day in his family home.

Dr. Blackstock also told us of the highly successful YouTube campaign begun by students in Atiwapiskat, for a new school. It reached people all over North America. The origin and program of the Free the Children Foundation was also described to the CAC in Toronto. Established during his teenage years by Craig and Mark Kielburger to inspire children in Canada to work for the human rights of children around the world, the success of this foundation attests to the effectiveness and motivation of children as human rights activists. We heard of children's efforts on their own and other children's behalf, human rights and about the need to encourage them, and about their desire to provide for the sharing of strategies, mentoring, and validation of their yearning to work for their own and others' human rights. That children and young people are adept in using new forms of technology can give a focus to their human rights campaigns, whether these

are ad hoc efforts or organized under the auspices of an established group. Many people who spoke to us emphasized the importance of the Museum making strategic use of these media, and of how crucial it is to give young people their own voice in the programs of the Museum.

Rights of Persons with a Disability

Not so long ago, we heard, persons with a disability were made invisible. Jim Derksen, a disabled rights activist from Winnipeg, described his surprise at finding out that there were others in town who, like him, used a wheelchair. We heard from Professor Roy Hanes in Ottawa that this invisibility was no coincidence: his research discloses the use of the law to ban persons with a disability from public spaces. We heard elsewhere of the continuing involvement of criminal law in the lives of some people with disabilities: those who were criminalized for unsuccessful suicide attempts, or who now carry a record for having been confined pursuant to a “form 10” involuntary committal in Alberta.

The excitement caused by the use of constitutional law in the United States civil rights movement, and the focus on disability issues arising from the U.N. Year and Decade of Disability, helped to forge a vigorous movement seeking full human rights for persons with a disability. The newly emergent organizations, we heard, were not built along the traditional model of offering modest services to persons with a disability, but instead worked as rights advocates. They sought to depart from the medical view of disability and embrace a human rights perspective, and, in that, have achieved considerable success.

We learned at the CAC sessions of many landmark decisions: the VIA Rail case, the successful challenge by Leilani Muir against her involuntary sterilization under Alberta’s eugenics laws,⁵⁵ and the prosecution of Robert Latimer for the murder of his daughter Tracy, who had cerebral palsy.⁵⁶ The achievement of human rights legislation, and Charter of Rights and Freedoms protection, for persons with a disability are stirring chapters in the still rather brief history of this movement. The gap between rights on paper and rights in reality, however, was raised with us more than once; people expressed their frustration at having to win their rights “one ramp at a time,” and urged a more systemic and proactive approach to the realization of equality. Steve Estey of the Canadian Council for Disabilities made a practical point: Human rights are not resource neutral: they require investment.

The links between disability and economic deprivation were also starkly portrayed. Cathy Moore of the CNIB told us in Ottawa that economic options for the visibly impaired had traditionally been restricted to living in an asylum, begging, or living on the streets. Others told us, sadly, that employment options for persons with a disability have not improved markedly, and that poverty is still an enormous challenge.

LGBT Rights

We received many poignant accounts of the movement for full human rights for lesbian, gay, bisexual, and transgendered persons. The early struggles and milestones of the LGBT movement involved decriminalization, and sometimes very high-profile efforts to keep social spaces, such as clubs and bathhouses, from being closed. Strategic efforts in the 1970s by a well-organized

grassroots movement brought many legal victories, including inclusion of protection on the basis of sexual orientation in human rights legislation, and, ultimately, recognition by the Supreme Court of Canada that sexual orientation is a protected ground under the guarantees of equality in s. 15 of the Charter.⁵⁷ People attending our sessions identified several prominent cases establishing this protection, including the case of Delwyn Vriend in Alberta, who secured a Supreme Court ruling that Alberta could not deny protection on the basis of sexual orientation in its human rights legislation.⁵⁸ Securing civil rights, such as the right to marry, adopt, and bring same-gendered partners to Canada under our immigration laws, resulted from other well-planned and well-executed court cases. Representatives of trade unions who came to the CAC sessions spoke with pride about acting in solidarity with LGBT members to secure same-sex benefits and advance employment opportunities.

Kristopher Wells of the University of Alberta Institute for Sexual Minority Studies told the CAC that the post-1969 generation has a different approach to issues such as same-sex marriage because, “*we were born free.*” The first generation of youth to come out as teenagers are defining new battlegrounds for the movement, such as in the schools. And there are others: the issue of protection on the grounds of gender identity in human rights instruments, and the availability of funded health services such as assisted reproduction (available in Quebec since 2000) and completed gender reassignment surgery (and the changes to vital statistics records to back it up). In Edmonton, Michael Phair told us that the human rights of queer people from other countries, who come as refugees or as immigrants to Canada,

as well as those remaining at home, is emerging as an important issue. Yet old issues remain: We heard of sometimes brutal violence and vitriol against LGBT people, social exclusion, and rejection by families and communities.

In terms of self-preservation there are degrees of being out. But for myself, I was never in, which has benefits and detractions. In some ways it has enabled me to be authentic, but it's alienated me from my community and family.

Albert McLeod (Metis),
Two-Spirited People of Manitoba,
Winnipeg

Criminalization

The Museum was urged at some of the bilateral sessions to turn its attention to criminalization and incarceration as human rights issues. The historical perspective casts light on numerous instances of criminal law being used to control the behaviour of those considered inferior, or less than human: prohibitions on public visibility of those with a disability, on drinking off-reserve, on being a “streetwalker” who “failed to give a good account of herself” when stopped by police, and on those without visible means of support. The criminalization of sexuality is a theme that runs through the human rights history of women, racial minorities, and the LGBT community. Criminal penalties prevented the distribution of birth control information. Indigenous ceremonies were criminalized, as was union organizing. Religious minorities, such as Jehovah’s Witnesses, were persecuted under the law. The historical record also tells us of the denial of civil rights, such the right to vote, to prisoners, and the effects on a person’s human and employment rights of a

record of incarceration.

We were told by representatives of the John Howard Society in Saskatoon that incarceration is one of the main human rights issues in Canada but that it is not recognized as such. They highlighted the over-representation of Aboriginal People in Canadian correctional institutions, a systemic problem that has been recognized by the Royal Commission on Aboriginal Peoples and the Supreme Court of Canada,⁵⁹ but has yet to be solved. Stan Tui, Lorraine Scott, and Grace LaFond of the John Howard Society urged the Museum to begin a conversation that would explore ways of keeping Aboriginal People out of jail, and to celebrate them for their strengths.

The Elizabeth Fry Society also attended the Saskatoon bilateral meetings, and its representatives spoke about issues relating to the rights of women prisoners. They deplored the absence of legal aid for prisoners, who face internal prison discipline without counsel or other representation. Women who are incarcerated must also deal with child custody problems and the apprehension of their children by the state without the benefit of legal advice.

David Farthing, the founder of Youth Canada, spoke to us in Ottawa about youth in prison, and urged the Museum to find ways of involving them in its programming. He pointed out the link between race and incarceration where youth are concerned, going so far as to classify correctional facilities on the basis of the racial population confined within them.

We heard of the difficulty of drawing a line between liberty and protection where youth are

concerned. Several people spoke to us about youth protection legislation aimed at getting youth off the streets, where they might be in danger, and into a safe location. While some people approved of such an approach, others pointed out its restrictions on liberty, and the dangers posed by what is, whatever its formal name, still incarceration. Senator Landon Pearson spoke of additional problems in using the criminal law with respect to children and youth, principally their lack of a voice in the legislative process:

There is a sense that if you bring legislation to protect children in the criminal code, particularly from sexual exploitation, you also have to realize that the legislation related to the criminal justice system for young people should be having the same attitude. We raise, for example, the age of consent for sexual activity to 16, but we like to lower the age of criminal responsibility to below twelve. That's really a contradiction in terms... you can't be responsible for one thing and not for another. The need to think when you're developing legislation that's going to have an impact on children requires you to listen to them, and that's not something government does very well, on the federal level. I tried to do that when I was in the Senate, but it's not institutionalized, there's no way of gathering the voices of young people, and so we put in legislation that backfires, or put a 15-year-old in jail until he's 35 and when he comes out he's a criminal. That's what we've done. So you have to think long term, what you're doing now will have an impact 30 years later...

The Honourable Landon Pearson,
Senator, director and founder,
Landon Pearson Resource Centre for the Study of
Childhood and Children's Rights,
Ottawa

People in Quebec pointed out that the rate of

criminality among youth in that province is the lowest in Canada. The strong social supports inherent in Quebec's socio-economic policies was given credit for this success. Once again, the need for society to invest in youth was emphasized.

Loss and Invisibility

One of the CAC members observed during our process that, at times, he found the frequently recurring sense of loss of home in the stories we heard, to be overwhelming. Indeed, the stories of loss are legion. Some of the themes included people being taken away from home and familiar surroundings, exiled to Sierra Leone, in the case of Black Loyalists, or Louisiana, in the case of Acadians; and people torn from their homes, farms, and businesses and placed in concentration camps during World War I and World War II, in the case of Japanese-Canadians and those of Italian or Ukrainian origin. The settlement of Canada hastened the confinement of Indigenous Peoples on small reserves, their traditional territories lost to them forever. Indigenous children were taken to residential schools or seized by child welfare authorities, and women were exiled from their families and communities for "marrying out." Inuit and other Indigenous Peoples from the north spent long periods in hospital ships or in faraway institutions because of a lack of adequate health care in home communities. If they died in the south, their bodies were interred there. They never got to go home. Many persons with a disability, or to whom a disability was wrongly attributed, lost their liberty when detained (and often forgotten) in institutions for persons believed to be incapable of living independently.

Refugees from many parts of the globe described

in compelling terms the loss of their whole world—sometimes in an instant—because of religious or ethnic persecution, state violence, and war. In Halifax, we were told of the razing of Africville, a small, self-contained settlement of African-Canadians established in the Bedford Basin early in the 1800s. Beginning in the 1960s, its residents were involuntarily relocated, many to public housing across the city, in order to build a major bridge between Halifax and Dartmouth. This dislocation dispersed the population but did not destroy the sense of community among those who still work on commemoration, and the search for redress:

The history of the treatment of the people of Africville demands an apology. Sometimes an apology is a really hard thing to do. You know, an apology forces the person who's doing the apologizing to really get it.

Irvine Carvery,
former resident of Africville,
Halifax

Loss of language, culture, and identity were also recurring themes, and the accounts of resistance to these losses were often inspiring. It was clear, however, that resistance to the deprivation of language, culture, and identity, or efforts to reclaim and protect them, can produce difficult conflicts. We heard in Quebec about efforts to protect and enhance the French language and culture, and the adverse reactions these, in turn, encounter from the Supreme Court of Canada.

Suggestions arose at the CAC proceedings that these stories of loss would make a powerful theme for a Museum exhibit. However, as with many human rights topics, perspective

is important. The sense of loss so eloquently expressed in the CAC bilateral and roundtable meetings did not simply happen. Dispossession and deculturing are two of oppression's most powerful tools, and the accounts we heard are sad testimony to the prevalence of their use.

A theme related to loss is that of invisibility. People spoke not just of the invisibility of their stories because of gaps and inattention in official histories, or Canada's short collective memory of human rights matters. They also told us, in quite personal ways, about how it felt to have their life experiences, or their experiences of rights violation, be invisible to others, and even to themselves.

Mark Tewkesbury, an Olympic gold medalist, told us in Calgary, *"I grew up as an invisible minority—being gay. I didn't have words or language to describe how I felt. And so, I kind of closed down, tried to hide, not to get noticed. I had a double life."* Jim Derksen spoke of being grown up before he realized that there were three or four others in town who were in wheelchairs, but that they never went out of the house. They were hidden.

Previously we were invisible. We were literally locked up. Previous to that we were begging on the streets. That role still exists. It seemed important to be in front and to be active.

Jim Derksen,
Council of Canadians with Disabilities,
Winnipeg

We were told of workers who are invisible today, as well as about those whose contributions have not yet been registered in our history. A female sex worker told the CAC in Toronto that it is not

the case that all sex workers are victims. *"You don't hear about the invisible majority; we are choosing this work. I've done other jobs."* Another woman in Toronto told us that when she became a sex worker, she thought a lot about *"how I had to keep it private, so no one knows this is the labour I engage in."* She compared that secrecy with the forthrightness with which she has claimed her linguistic rights as a Francophone, and asked, *"being a woman is not illegal, so why is being a sexual woman illegal?"*

Social, Economic, and Environmental Justice

Poverty is the biggest human rights violation in Canada.

John Cox,
People First of Canada;
Sharon Murphy,
Canada Without Poverty,
Halifax

Many people spoke of the role of the trade union movement in the struggle for human rights, often but not always focusing on the critical issues of economic justice. Evelina Pan, a trade unionist from Thunder Bay, told us at the Toronto bilaterals, *"More than just a pair of hands in the workplace, people want to be treated fairly and without discrimination."* She described the struggles to have women's issues included on the union agenda, and described eloquently the philosophy of the union activist: *"Our struggle doesn't end when employees leave the workplace, it extends into society."*

Economic and social rights receive less recognition than other rights in Canada's Charter

and domestic human rights instruments, and the CAC heard statements of regret concerning this important oversight. However, another side of this issue was presented in Quebec. It was pointed out that securing economic and social justice happens, by and large, outside of the context of human rights law, through statutes and policies affecting education, labour, social welfare, the family and other fields. Professor Henri Brun cited the Chaouli decision of the Supreme Court⁶⁰ as a situation in which vindication of the individual rights of two persons (to insure themselves for services not publicly funded) has engendered a collective loss to the social health system, with potential future consequences for the poorest in society. Again, the tension between the individual and the collective is evident.

The debilitating consequences of poverty were described at the bilateral and roundtable meetings; Sharon Murphy told the CAC in Halifax, *“that’s what the poor feel like all the time, like you’re constantly on the outside looking in.”* Poverty, we were told by Debbie Frost of Canada without Poverty, is particularly hard on children—it takes away their dignity. The links between poverty and more widely recognized grounds of discrimination such as disability, gender, and race, were made clear. Krista Daley, the Human Rights Commissioner for Nova Scotia, offered some suggestions for changing prevailing views about poverty. She urged that poverty be seen as a systemic human rights issue, which is often tied in with race and gender. Further, there is a need to break down the charity model of dealing with poverty: poverty is a social condition that can be more effectively addressed through legal empowerment of the poor. We also heard about the links between

poverty, other grounds of discrimination, and environmental injustice. Waste is dumped in or near poor neighbourhoods; the lands and waters of Indigenous Peoples are despoiled in search of economic gain; and pollution affects disproportionately the air, water, health, and the food of the poorest among us. Claude Picard (Huron Wendat) of the Association of First Nations of Quebec drew to our attention that thousands of First Nations people live on reserves without clean drinking water or electricity. Krista Daley was blunt about what she called environmental racism, and the stories from the African-Canadian community in Halifax provided examples: garbage dumps located near their communities, and African-Canadian homes bypassed by pipes carrying clean water. An infectious diseases hospital was located adjacent to Africville.

Many people left little doubt that the agenda for human rights activism in Canada includes the quest for social, economic, and environmental justice. There is a rich history of efforts to secure protection for social and economic rights, whether in legislation, policy, collective bargaining, or the constitution itself, which people wanted to see included in the Museum. Paul Moist, President of the Canadian Union of Public Employees (CUPE), told us that his union was willing to act as a major resource to the Museum in documenting the activities of the labour movement in seeking rights in this country, and, today, assisting with human rights education and activism throughout the world. Like Tony Tracey and Larry Haiven from the Canadian Labour Congress (CLC), Moist was discouraging in his assessment of Canada’s record on labour issues. Haiven and Tracey pointed out that Canada has not yet ratified the Convention on the International Labour

Organization, one of the oldest international instruments. However, these union leaders did stress the commitment and the resourcefulness of the trade union and labour movements, and their eagerness to work with the Museum.

The Arts

Music has the power to transport us to a place of change where in a moment of clarity, we begin to see our connectedness to fellow human beings.

Zane Zalis
Composer and educator,
Rainbow Harmony Project,
Winnipeg

Artists may be the ones who, faced with historians, anthropologists, or all scientists, are able to supply an essential note to a museum that talks about man. Because artists succeed in rendering the universal soul of that country.

Antonine Maillet,
Writer,
Montreal

All art is political...to learn to think is also a human right.

Norah Patrich,
Artist,
Vancouver

We heard from a wide range of people about the power and importance of the arts in telling us about and exploring the many facets of human rights stories. In Iqaluit, Becky Kilabuk suggested that one of ways the Museum can avoid “museumizing” the lives of Indigenous communities is to represent contemporary live performances by throat singers, rather than simply

through old objects or photos. In contrast, Norah Patrich, in Vancouver, spoke about the power of memorializations, such as the monument to The Bombings of the Plaza del Mayo in Argentina. She suggested an exhibition of all the drawings and maquettes of human rights monuments around the world to show how different cultures are coming to terms with human rights.

On a smaller, but no less powerful scale, Alice Sabourin (Metis) spoke about the Remember Me Project in Thunder Bay, which commemorates the lives of Aboriginal murdered and missing women.

Professor Alan Whitehorn of Toronto spoke about how many people were touched by his book of poetry, which was inspired by his research into genocide. Gordon Hum of Toronto and Asna Adhami of Halifax also spoke about the use of poetry as a vehicle to express the complexities of their identities. Gordon Hum writes from the perspective of an Asian man, a victim of racial profiling by the RCMP, but one who continued to fight racism and discrimination through his involvement in hockey and education for Indigenous Peoples in Alberta, as the head of a number of multicultural associations, and as the current principal of Toronto’s largest Muslim high school. He also shared with us his poem This Banana Don’t Bruise Easily. Asna Adhami is a young filmmaker of colour from Halifax.

In Montreal, well-known writer Antonine Maillet underlined the poignant and unforgettable story of the deportation of the Acadians. She also spoke eloquently of the importance of the cultural revival and preservation of the Acadian language and identity.

It is as a writer that I will tell stories that are not about actual people, but characters who represent a lot of people. If I talk about Pélagie, for example... She is a woman who decided to bring back her people and recreate... bring back to life a people that was dying, that was going to die. Because the deportation of Acadians which took place in the years 1755 to 1760 they more or less decided on genocide... (they intended to) deport these Acadians, to eliminate them, to get them off the land... They separated families, husbands from wives, from children. They put them on thoroughly diseased boats and unloaded them onto often unknown territory. They became sort of the nouveau-slaves, there... But, the Acadian people decided... to live. They did not accept this deportation, they did not accept genocide. The only way to fight genocide is to stay standing, to stay alive. So, I gave as a symbol to those people, to all those women who decided to come home... and, I called it Pélagie.

Antonine Maillet,
Writer,
Montreal

In Winnipeg, we heard about the importance of teaching young people multimedia skills so they could “speak” in their own voices about their lives and experiences. We know that throughout the world young people are raising their voices, whether through song or digital media, including mobile phones, posters, poems, or paintings, to connect with each other and the world about human rights.

Other people use more traditional forms of artistic expression as a way of celebrating their identities:

When you're self-conscious about how you move, you shy away from something that makes you look

different, stand out. For a time I avoided settings where I might want to dance. Then I found out about MoMo dance theatre. It has lessened any lingering self consciousness I might have had—to get up in front of audiences and receive applause. Who would have thought that people would pay to watch me move? It's very gratifying.

Thomas Poulsen,
MoMo Board of Directors,
MoMo Mixed Ability Dance Theatre,
Calgary

A number of people spoke about the power of the arts—in particular film and video—to acknowledge and bring to light stories that were being suppressed or had been forgotten. For Diane Heffernan, video was the perfect medium “to make history” by filming, through the NFB’s Challenge for Change and Studio D programs, the stories of lesbians in Montreal over the last four decades:

I used the camera; I lived my activism behind the camera to document the movement... When I arrived as a lesbian in the 60s, I was looking for books, I was looking for films about lesbians, they didn't exist... Once I got the instrument in my hands, I always did that, and right up to today I'm still doing it.”

Diane Heffernan,
Video artist and filmmaker,
Montreal

Through performances, it was also noted that music was a medium that could give voice to human rights on an emotional visceral level. Zane Zalis and a group of young people gave a heart-wrenching performance of stories about the Holocaust, and the Rainbow Project, a choir

of gay singers, sang their resistance to the “silencing” of gay voices world-wide.

What the Museum Should Do, and How

Many people who came to the CAC meetings confirmed the importance of the Museum being a place of inspiration, with its eye on the future. In Montreal, Djemila Benhabib told us that “*the Museum must be a museum for the future*”; at the same bilateral, Bill Baldwin noted that “*a museum for human rights that only talks about things in the past would be nonsense.*” The Honourable René Dussault said, in Quebec, that we need to “*create a museum that influences the future.... This entails getting people to think about the differences that frighten them, that seem foreign to them.*” Karen Hamilton, of the Canadian Council of Churches, told us, “*‘human right’ is based in hope; if we didn’t believe it’s possible to move forward, there wouldn’t be human rights. This Museum wouldn’t be being built.*” Brian Vardy and Ruth Noel in St. John’s said, simply, “*The Museum needs to tell stories of hope.*”

We heard many ideas about what faculties and skills the Museum should strive to instill in its visitors. There were some strong common themes. One was listening:

Listening is an active thing...in order for it to work we all have to go somewhere together.

Mark Kuly,
Teacher,
Manitoba School Improvement Program (MSIP),
Winnipeg

Darlene Lanceley (Cree) of Saskatoon affirmed

that, “*listening teaches you things if you are brave enough to open up your mind.*” To whom should we listen? Maureen Brown (Cree) observed in Winnipeg that, “We learn a lot from our young people if we listen, but often we don’t listen.”

Another theme was talking. Fumi Torigai, President of the Japanese-Canadian Association of Yukon, asserted that the Museum must be a place of discussion and analysis. In Edmonton, Lewis Cardinal (Cree) said that, “*If we don’t engage in dialogue amongst ourselves, we won’t understand the grandeur of Canada.*” Marcia Carroll in Charlottetown reminded us that “*we need to hear real voices speaking, people who experience the struggle in their lives.*” Again and again, we were urged to let children and young people speak, and to tell their own stories.

What will be the result of this listening and talking? Cindy Blackstock summed it up: “*We need to awaken ourselves so that we can see.*” Alexander Neve wanted the Museum to propel people to want to get involved, and to give them the opportunity.

Practical suggestions about the Museum’s programming also emerged. At the Charlottetown roundtable, we were told that the Museum should ask tough questions and not shy away from controversial issues. Daniel Paul, a Mi’kmaq elder, exhorted us to tell the whole story; his words were echoed by Louise Simbandumwe, who came to Canada as a refugee at 11: “*The important thing is for the story to be told.*” Kathryn Burke of Edmonton issued a challenge to the Museum: to be a thought leader and a catalyst for change. In the same vein, Fil Fraser of Edmonton reminded us, “*Don’t only be a repository, be an*

advocate for the principles of human rights.” The knowledge base of the Museum was the concern of Dominique Clément, an Edmonton scholar, who told us that the Museum should be a hub for visiting scholars, experts from the developing world, and graduate students, with an archive that would draw students and scholars.

People did not want the Museum to forego the opportunity to use artifacts, even though they appreciated that it is meant to be an ideas museum. They did not want to sacrifice the iconic value of the artifact. Indeed, one dramatic example illustrates the potential power of even a small artifact. John Cox and Sharon Murphy suggested that the Museum establish a memorial to all of those who died invisible and whose graves are still lost—the babies in butter boxes,⁶¹ children at residential schools, residents of institutions, missing and murdered Indigenous women, slaves, people killed or missing in the Holocaust and other genocides, those who died in exile from Canada or from their home territory within Canada, and the homeless/nameless who die of exposure.

Others made suggestions about the well-being of Museum visitors. Cheryl Fennell and Saeid Mushtagh of the Baha’i Community of Yellowknife reminded us that peace and rest are important in a human rights museum. A place where one can quietly reflect is very important. In the Yukon, we heard from members of the Yukon Aboriginal Women’s Council and the Whitehorse Aboriginal Women’s Circle that it will be important to include humour in the Museum. They said, “*We need humour to help us heal.*” Kimberly Quinney told us in Saskatchewan that the Museum needs to

provide support services in the event that the exhibits trigger emotional responses.

Conclusion

It has been an amazing journey for us on the CAC. We are grateful for the wholehearted way in which people brought their stories and their ideas to our sessions. We hope that this report, and the Museum, will be seen as our way of honouring the enormous gift of story and wisdom that has been imparted to us.

Thank you.

Recommendations: Chapter 3

1. The Museum needs a framework—an integrated consistent, thematic approach. Each element must relate to the whole.
2. The Museum cannot make assumptions or take anything for granted. An institutional practice of self-reflection, and great care in the building of relationships that bring the Museum knowledge, will be essential.
3. The Museum should help people make connections between Canada and the world.
4. The Museum should not take sides. It should make every effort to learn the facts, and then explore what can be done to bridge conflicts and promote understanding. It should not see its role as one of mediating old or current

conflicts, but rather to conduct its public education programs so as to add to the store of understanding and acceptance in the world, and promote respect for human rights.

5. The Museum should note how and when Canada has shown leadership in recognizing and protecting human rights. However, the Museum should be honest about our history and continuing legacy of human rights violations. The Museum must be self-critical and non-defensive.
6. The Museum should embrace the complexity of human rights and avoid oversimplification and easy answers; it should not shy away from conflict, or attempt to erase differences of opinion or perspectives.
7. The Museum should present a comprehensive continuum of human rights with an historical and evolutionary thread so as to avoid focusing on only one category of human rights violation in isolation.
8. The Museum should embrace a comprehensive view of human rights reaching back into history and extending to current challenges in harmonizing Canada's law with international human rights standards.
9. The Museum should take the long view of the human rights story, showing the full historical context and uncovering what has been hidden because of more conventional or limited approaches. Such an approach would give a full account of the history of Quebec reaching back 400 years, and include its development of its own vision of human rights, collective values, and social solidarity.
10. Taking the long view recognizes the deep roots of many communities in Canada, and allows the Museum to tell not only their stories of discrimination and oppression but also of survival, and revival.
11. The Museum should develop an appreciation of the variety of Indigenous identities and experiences before and after contact, and the distinctive world views of Indigenous Peoples.
12. The Museum should recognize that colonialism, both within Canada and beyond, is an historic and present assault on the human rights of Indigenous Peoples. In its effort to include Indigenous Peoples, the Museum should first involve local communities, then national and international ones. Not only should stories of Indigenous Peoples from around the world find a home in the Museum, steps should be taken to include Indigenous Peoples from outside of Canada as visitors to the Museum. In order to fully engage Indigenous Peoples and provide opportunities for them, the Museum should consider initiatives such as artist-, writer-, and scholar-in-residence programs; research opportunities, to consider the connections between Aboriginal rights, treaty rights, and human rights; and exhibits that respect the Aboriginal languages of the territory. Some of these initiatives should be operational by the time the Museum is opened. Indigenous youth should be engaged in and by the Museum through mentorship and outreach programs, and education programs should have a focus on Indigenous youth.
13. The Museum should develop proper protocols for the ground at the Forks upon

which the Museum is located, working with the Indigenous Peoples whose territory is involved.

14. Relationships with the Museum's local communities are important and should be fostered. These include not only the First Nations of Manitoba and the treaty areas encompassed within Manitoba (and extending beyond its borders), but also communities such as Franco-Manitobans and those in Northwestern Ontario, for whom Winnipeg is the nearest metropolitan centre.
15. The Museum should position the Holocaust as a separate zone at the centre of the Museum, showing the centrality of the Holocaust to the overall human rights story and in prompting the creation of the Universal Declaration of Human Rights, with its grounding in the idea of common humanity. The story of human rights told in other parts of the Museum should bring home to visitors the core messages of the Holocaust, including the message that learning and acting on the lessons of the Holocaust—that respecting human rights—give hope that nothing like the Holocaust will ever happen again.⁶²
16. The key lesson of Holocaust studies—that dehumanization is the precursor to human rights violations, and prepares the way for them—should not be forgotten. Nor should the use of dispossession and deculturation as methods of oppression.
17. The Museum should tell the stories of Canada's social movements and their role in promoting and preserving human rights. It should avoid the creation of hero cults, but rather emphasize that it is ordinary people, acting alone or collectively, who safeguard and advance human rights.
18. The Museum should take a systematic, and human rights, approach to the analysis of women's rights, and violations of them, like violence against women. It is important to take a contextualized approach to women's rights, seeing the woman in the context of her whole society and recognizing her multiple identities.
19. In presenting the story of women's human rights, the Museum should acknowledge that in both Canada and Quebec, there are fundamental guarantees of the equality of women and men, and yet true equality for women has not yet been realized. The Museum should recognize the threat posed to women's equality and human rights by religious fundamentalism across the world, and be attentive to the ways in which the conflict between freedom of religion and women's equality is being resolved—or not—here and elsewhere.
20. The Museum should seek to navigate the difficult line between cultural relativism and universalism.
21. The Museum should recognize that human rights violations have a systemic dimension to them, and talk about the systemic and structural aspects of discrimination. This approach acknowledges the interconnections between grounds of discrimination—such as race and poverty, and disability and poverty—and treats the finding of solutions as a human rights challenge, and not a medical or charitable issue.

22. The Museum should present the struggle in Canada and the world for social and economic rights, and for environmental justice, drawing upon the experience and perspectives of grassroots activists, trade unions, and other actors in civil society.
23. It will be essential for the Museum to establish strong and vital links with children and young people. Enabling them to tell their own stories is an important goal for the Museum. The effective agency of children on behalf of their own, and other children's, human rights should be recognized, and encouraged. Efforts should be made to include youth who are facing particular challenges, such as those in prison, or refugee youth.
24. The Museum should draw upon the experience of educators who specialize in teaching difficult subjects, such as the Holocaust, and upon the experience and commitment of organizations such as the Canadian Teachers' Federation, to develop its approach to the involvement of young people both within the Museum and through extended outreach programs.
25. The Museum should be alert to emerging issues of human rights, through the maintenance of communications links to grassroots human rights activists. It should make efforts to present human rights issues that are unpopular or underemphasized, such as the reality of the criminalized and incarcerated, recognizing that history shows the centrality of both criminalization and incarceration as a means of oppression of unpopular or dehumanized minorities.
26. The Museum should use the arts to illustrate the richness of the human soul and of reflection, its dark zone,s and the multiple ways in which human beings transcend their realities and thereby seek survival. Artists in the Museum should be representative of the diverse regional, ethnic, and racial identities of Canada's artists. The overall tone of art featured in the Museum should be inspirational—it should show how individuals have resisted discrimination and sought to obtain justice against all odds. The arts should be defined broadly to include media favoured by youth, such as graffiti.
27. The Museum should be a place of inspiration, with an eye on the future. It should encourage people to think about the differences that frighten them, and to communicate with one another through speaking truth, listening, discussing, and analyzing. The Museum should inspire and propel people to become involved in human rights issues, and give them the opportunity and the means to do so.
28. The Museum should not overlook the power of the artifact.
29. The Museum should be attentive to the well-being of visitors, through the provision of places to rest, be quiet, and reflect, and by having support services available in the event that the exhibits trigger emotional responses. It should remember that humour, too, can help people heal.

4.

The Way Forward

History is repeating itself. What happened to the Japanese-Canadians, the Sikh workers in B.C.—the denial of citizenship? It's playing out again with the struggle of migrant workers. These workers are invisible. They're getting sick, but are sent home to die. [Human rights] is how we treat the most marginalized people.

Chris Ramsaroop,
Justicia for Migrant Workers,
Toronto

It is much easier to harm people nowadays. There are powerful forces at work to make the world more dangerous—our interdependence is greater; we're racing ahead in technology, but not racing ahead in political consciousness. We have a responsibility to do even more than we have done. What's gotten us through in the past may not get us through in the future.

Alan Whitehorn,
Professor of Political Science (Genocide and Human Rights),
Royal Military College,
Toronto

I came from a world where there was no room to speak back. But then I met a coach who created space for who I was. She would ask me after a race, "How did you feel about that?" It became a human experience. It got to a point where I had to tell her (about me being gay), out of respect and trust. That simple act made me make a huge improvement....I think if one person making a difference, imagine what a museum could do.

Mark Tewkesbury,
Canadian author, swimmer and Olympic gold medallist,
Calgary

Much of what we heard as we travelled across the country were the stories of everyday people. Some of the stories shared with us celebrated human rights successes but some demonstrated to us just how far we still have to go. This reinforced for us the essential need for the Canadian Museum for Human Rights to be a vibrant part of the fabric of Canadian society. The Museum must be forward-looking and create opportunities for people to become involved not only in the Museum but also in human rights issues locally, nationally, and internationally. It is interesting that so few of the stories shared with us were based on what the law says about human rights. Most of the stories were about the everyday experiences of the people and the organizations they have created. This reinforced for us that the law is only one way to approach the presentation of human rights in the Museum and it may not be the most important medium for sharing stories on human rights with others. After all, the law follows; it seldom leads.

To answer the question about what opportunities the Museum needs to create, we offer a perspective that contextualizes and grounds the idea of human rights. This perspective is called the "human rights lens," and we believe it is one of the necessary actions that must form the foundation of the Museum's work. We offer this perspective as one way in which the Museum can implement our recommendations and can develop and enhance its programs and its institutional practice. It is equally an important approach to share and promote amongst the visitors who will come to the Museum and those who will visit the website. It must be a component of the Museum's educational program.

People who believe that human rights really matter bring to their daily lives this lens, through which they reflect on their behaviour, their experiences, and the behaviour and experiences of others. It is a simple check, a guide to be internalized, a way of imagining the world. Some of what we describe as the human rights lens is already a foundation of the Museum, given its statutory frameworks and its mandate as discussed in Chapter 2, and what we heard during the public engagement sessions held across the country and presented in Chapter 3. In this, our final chapter, we share what we think the Museum must accomplish to fulfill its statutory mandate. This is not the final word on what must be done but what we understand as essential and necessary at this point in time in the journey towards opening day.

The Human Rights Lens

The human rights lens is not a creation of our work but rather a concept that is employed by many people who work in communities working to achieve equality and justice for all.⁶³ The human rights lens is more than a strategy or tool. It involves both individual and collective commitments. Employing a human rights lens means that you notice when certain groups of people are excluded, or treated unfairly or inappropriately, and you are moved to find out why, or to do something about it. It means that you are able to reflect on whether you are thinking or acting as if others are somehow “lesser” than you. It means that you notice that the building you are walking into is not accessible and that someone in a wheelchair could not navigate a snow covered sidewalk. Louise Simbandumwe, who came to Saskatchewan at the age of 11 as a refugee from

Burundi, understands what being an outsider means:

[My identity has]always been fluid, because we've never lived in any location for long. My identity is that of an outsider. I have no sense of rootedness in any culture. It gives me an interesting vantage point. It provides empathy for other outsiders. I know how difficult it is. It allows me to see dynamics that might be invisible to others. It informs the work I do as an activist. I notice things like power structures, how some are excluded, the way an accident of birth predetermines people's life chances. For me, being part of creating opportunities for others is very important. I wouldn't have the consciousness without going through what I went through.

Louise Simbandumwe,
Winnipeg

It means that you can recognize patterns of systemic discrimination and that you notice when you walk into a room that all the people there are white or male and all the managers in your workplace are white and male, and that there seem to be neither the opportunities nor the space for anyone else. Developing a human rights lens means taking account of the privileges one has and not just the disadvantages that race, culture, ethnicity, heterosexuality, gender, able-ism, and language can impose. As Mark Kuly, a teacher in the Manitoba school system, shared with us:

People like me (steady job, white, middle-class) have a lot of assumptions about the world, based on our experience. I recognized in [my students'] stories that what I thought was the norm was actually privilege....Listening is an active thing. In order for it to work we all have to go somewhere together, both the listener and the teller. Stories are connected to human rights. The recognition that we are not “others,” that we have our humanity in

common. We can prove it when we have a magic space between us.

Mark Kuly,
Teacher,
Manitoba School Improvement Program (MSIP),
Winnipeg

A human rights lens is only the starting point. What follows is more important: having the commitment, the courage, and the confidence to do something about it.

A human rights lens has many facets. As individuals the lens we each develop takes account of both the disadvantages and the privileges we simultaneously carry. Using a human rights lens is always self-reflective, but it is also more than that. When we come together as human rights experts, activists, Museum staff, or individuals who are experiencing assaults on their human dignity, the knowledge we have gained from using our individual lens informs others and they, in turn, inform us.

The lens also responds to experience. Our collective knowledge and actions must be informed by the reflective process of knowledge sharing. In this way, employing a human rights lens in our daily lives has an impact on individuals, communities, and societies. The human rights lens is about more than the sharing of knowledge, life's lessons, or the pain and suffering of human rights violations. Our actions are informed when we discover obstacles to the realization of substantive equality and lives lived with human dignity. Discovering the obstacles, both structural and systemic, allows us to consider our human rights strategies. Sometimes, when we use our lens, we learn about abuses of human rights that

are not covered by law or actions that have been discounted by law.

One of the primary experiences we heard about in our public engagement and story-gathering process was the pain that individuals carry when they have had their human rights violated or have not had access to even basic human rights. The mechanisms that both federal and provincial governments have in place, through the *Charter of Rights and Freedoms*, the *Quebec Charter of Rights and Freedoms*, and provincial and territorial human rights codes, only come into play when the right to equality has been violated and when discrimination has occurred. The focus of the law is on remedies for past wrongs, not on future conduct. This is both a challenge and an opportunity for the Museum: How do you move beyond the pain and suffering that accompanies the violation of human rights to ensure that such violations are not repeated in the future? How do you address not only the pain of individuals, but the systems and structures that allow such violations to occur? We will remind the Museum that it holds the power to create opportunities for people to heal the scars they carry from the violation of their human rights, either their own or those of the people who came before them. And in the area of human rights—more so than in any other aspect of civil society—power creates a significant responsibility. It is our firm belief that this shared commitment to healing and moving forward must be at the core of the Museum.

A human rights lens enables us to begin to address many complicated questions. There is no single right answer about what must be done, but a multitude of right answers. Each individual who makes a commitment to achieving justice

and equality for all acts on the knowledge that he or she acquires through the use of the lens and the sharing of similarly committed individuals. Artists use this lens to help them communicate. As Asna Adhami, journalist, poet, and filmmaker, shared with us in Halifax, “Sometimes in art there is more licence to be raw than to be in other platforms.” Artists challenge us to bring nuance and complexity to the way we look at the world and each other. Within the arts there are many human rights stories shared.

The human rights lens is used by those who work with the law or conclude that the law gives them an opportunity to make their voices heard. The cases⁶⁴ taken to Canadian courts or international and domestic human rights tribunals share a profound story, the passions and pains of which do not often emerge in a written judgment. The human rights lens cannot just be applied to the present but also needs to be used to view historic events and beliefs. Teachers not only share formal lessons about what human rights are but they often teach by example creating classrooms that are safe spaces for all.

Staff at the Museum must not only be knowledgeable about human rights and able to use a human rights lens, they must create opportunities for the talents and experiences (including professional experiences) of all those committed to human rights. Taken together, we believe that the human rights lens will assist staff in developing Museum programs that will provide visitors with the knowledge, tools, and motivation to promote a culture of human rights.

Building a Human Rights Culture

It is not enough for the Museum to move forward solely through the development of a human rights lens in the self-reflective practices developed amongst the staff as both individuals and as a collective, or in their choice of exhibits. We must strive to build a human rights culture at the Museum, a culture that is intended to be shared with everyone and one that becomes a foundational commitment within Canadian society. As a country, Canada can be an international leader and a model for other states if we are able to successfully plant a flourishing human rights culture within our society.

The Role of the Creative Arts in the Museum

Art and characters appeal to our ancestral, immemorial, and emotional memory. The appeal is universal.

Antonine Maillet,
Writer,
Montreal

For many years, artists have been at the forefront of thinking about, advocating for, and exploring the broad and multi-layered themes related to human rights. Art bears witness. Artists take the pulse of humanity and challenge us to think deeply about

our relationships with each other, and how easily and quickly we can forget the humanity of our neighbours, wherever they may live.

The arts can serve as touchstones for the exploration of human rights. Artists enable the weaving and interweaving of stories, questions, and challenges throughout the Museum. Artistic explorations of human rights themes and stories can engage visitors on-site and on-line, in profound ways that are both startlingly direct, and nuanced, with layers of complexity. Art can and often has been decisive in changing the way people think and feel. Artists provide critical social commentary on the world in which we live. By creating new configurations, art pushes at the edge of semantic availability, enabling new meanings to be imagined, and hence new possibilities for identification. The arts play an important role in contesting and complicating categorizations of peoples and their histories.

It is important for imagination to find a place within a community. What happens when you tell someone they can't have an imagination? We all use our imagination to go into our futures. What happens when that's taken away?

Edith Regier,
Crossing Communities Art Project,
Winnipeg

We also know that art and the ability of the imagination to transcend are the only things that many people in horrible, unspeakable situations have to hold on to—words etched on a wall; secret letters smuggled from prisons and

detention centres; sketches on bits of paper or cloth; voices rising in cries, wails and songs; memory objects fashioned out of scraps—all in their own unique way testify to the resilience of the human spirit.

The potential for the use of art as a continuous, foundational element in linking stories within the Museum is vast. There are countless ways in which artistic works will not only engage visitors in conversation, but also engage in its own past/present conversation and dialogue. Here are a few suggestions:

- Art as story: There are countless examples of the ways in which people have expressed themselves through the arts as a way of telling their story and relating their experiences. The Museum could use the arts as one way of telling stories of human rights triumphs, defeats, and challenges.
- Art as engagement: The arts can invite people into the Museum space (physical and virtual).
- Art as inspiration: The arts can create a space of refuge, quiet, and healing that fosters reflection. The ability to survive and to flourish is the best victory against those who try to silence through human rights violation.

Perceiving human rights through the lens of the creative arts allows us to see the world as it is and then to imagine it as we know it can be.

The Role of Law

What I mean is that the Canadian charter is a reflection, and is part of a legal and human rights tradition that is much broader than the Canadian constitution that includes international rights. This is why I started with the notion of international rights and their importance. It's fed by this river that is History which is the great international tradition of which human rights are a part.

Pearl Eliadis,
Human Rights Lawyer,
Montreal⁷⁰

There is no necessary connection between law and equality, justice, or human dignity. Some of the most repressive systems in history have had their legal systems put in place by elected governments. The anti-Semitic structure of Nazi Germany, the apartheid structure of South Africa, and the codification of oppression in Canada's *Indian Act*, after all, were all legal structures. Nevertheless, an understanding of the types of legal instruments and structures available to deal with human rights abuses provides several kinds of insights. What the law protects, and how it protects, gives us an idea of the level of society's commitment to safeguarding rights, and to which rights it is committed. Over time, the law may change to reflect the expanded understanding of human rights derived from overall societal changes, or because of the concerted human rights activism of groups previously excluded from protection.

Every court case on a human rights issue means appearing in two courts at once: the court of law and the court of public opinion. In a human rights court challenge, the battle of public opinion can

be won even though the court case is lost. The injustice of a bad court judgment may mobilize the government to action in a way that it had not intended before court proceedings. Litigation has the advantage of drawing attention to violations. It certainly focuses the mind of the defendant. The perpetrators can ignore resolutions, petitions, demonstrations, or the media. They cannot ignore a lawsuit; they must develop some response. The law is, therefore, a powerful response to the violation of rights and the denial of human dignity.

Very often, the best way to bring home the awful reality of widespread human rights violations is to confront the public with one or a few cases. Litigation allows for the details of a narrative to become public and well known. Human rights violations are often hidden in a cloud of hypocrisy. Human rights advocacy is often met with promises and claims of performance. A court decision cuts through the baffle and produces a finding that either there has been compliance with human rights norms or there has not. When the sovereign is wearing no clothes, a court is professionally bound to say so.

When we go to the law in search for justice, we often find that the law is an incomplete remedy. Rights law, as we have already discussed, focuses on past harms and not on preventing future harm. It is a structure, therefore, that does not and cannot prevent the pain and suffering of individuals and groups who have had their rights violated. As such, a human rights strategy should not focus entirely on the law. Sometimes respect for human rights can be achieved incrementally, but sometimes whole-scale changes are needed. Some would say that the courts are a poor place to ask for big human rights leaps. But a human

rights strategy that ignores the law abandons a viable technique. Relying on the law in every case is a recipe for failure, but avoiding the law in every case means giving up on one way to succeed.

Ultimately, the growth of a culture of human rights means developing a human rights consciousness in humanity at large. Bringing lawyers onside with human rights values may mean little if the public at large is hostile or indifferent. After all, law schools do not require their students to study human rights and a commitment to human rights is not a constant in the mind of every lawyer.

The law follows the initiatives of individuals and groups, be they elected politicians or equality seekers. The law is a record of where we have come, not where we are going. Nonetheless, it is important for the Museum to offer visitors the opportunity to learn not only about the law but also how to use it to advance their claims for justice and respect for human dignity. Accessible legal education must be a core activity of the Museum and a consistent thread throughout many of the Museum's exhibits. The language of the law and lawyers is specialized and not easily understood by those without the privilege of legal education. Creating opportunities to learn both the law and how to use it in accessible formats must be one of the Museum's goals.

The Role of History

The "history of human rights in Canada" is a complex and unwieldy topic. How might we begin to tell such a story? Cynics might suggest that historians would be able to trace the line of "human wrongs" more easily. Certainly, many Canadians will be aware of egregious examples of the trampling of human rights in our history. They

will be visiting the Canadian Museum for Human Rights and curious about how it will choose to present this dismal history. For some, a failure to include some of the travesties that have occurred will lead to criticism of the Museum. Others may be less knowledgeable about the past, and could benefit enormously from learning more about the foundations that underlie our present situation. Canada has certainly progressed in the human rights protections offered to residents of this country and there are parts of our history that we can recount with pride.

Even a short list will offer pointers about some historical matters that should be included in Museum exhibits, even though the list may disquiet or even disturb the reader. This list contains a mere sample of the many issues that people shared with us, which we survey in Chapter 3. We were told over and over to "tell the truth." There are moments in our history that do not engender pride, but to fulfill our obligation to tell the truth, the Museum must include events such as:

- The theft of land and resources by settler communities from Indigenous nations.
- The destruction of languages, cultures, spiritualities, and families as generations of Indigenous children were forcibly detained in Indian residential schools.
- The denial to women of political and property rights, and their enforced subjugation under a tightly laced framework of educational, employment, social, and cultural inequalities.
- Resistance or hostility to the survival of the French language inside and outside of Quebec.
- Canada's dismal record with respect to refugees from Nazi Germany.

- The homophobia that sought to inculcate a compulsory heterosexuality in all Canadians.
- The marginalization of persons with disabilities through the denial of housing, jobs, public services, and social interaction.
- The unjustifiable targeting of certain racial, ethnic, or religious groups and their arbitrary incarceration in times of war or perceived peril.
- The discriminatory immigration rules that deliberately attempted to shape Canada into a “white nation.”
- Racist practices that subordinated all non-white groups through the refusal of fair access to housing, education, employment, public services, and social equality.
- The practice of eugenics on vulnerable peoples including Indigenous Peoples and those perceived to have a disability.
- The use of the criminal law to punish behaviour that the dominant culture perceived to be deviant—for example truancy, vagrancy, union activity, Indigenous ceremonies, and sexual activity.
- The lack of a respectful response from the rest of Canada to Quebec’s refusal to sign on to the *Canadian Charter of Rights and Freedoms*.
- The dishonouring of Canada’s fiduciary obligations to Indigenous Peoples.

A reflective view of history also guards against the common tendency to characterize historical wrongs as happening in “the bad old days,” when many people were unenlightened, discriminatory, and incapable of recognizing the impact of their practices. “Oh, everyone was anti-Semitic in that era,” is an example of this type of thinking. This is simply inaccurate, however. Many non-Jewish Canadians, for example, spoke out against

the unfairness of the immigration, housing, employment, educational, and social rules and practices that denied Jewish people equal citizenship in Canada. Nor were people subject to these wrongs ignorant of their own circumstances or incapable of resisting. Indigenous nations sent representatives to Europe throughout the previous two centuries to lobby for the protection of their rights; those in the feminist movement were very clear about systemic gender inequality; racialized minority groups have long opposed segregation and legal discrimination; disability rights activists have demanded equal entitlement to education and employment for many, many years; and gays and lesbians painstakingly constructed their own relationships and communities in resistance to the norms that were being forced upon them.

The Museum should also guard against presenting historical exhibits that suggest rights violations were a relic of times gone by, and that Canadian society has only evolved and improved over time. While there has been progress in some areas in some eras, human rights violations of the past continue to have resonance in today’s world.

The history of human rights in Canada has been described as “*a dialectical dance between those who wish to deny others the enjoyment of human rights, and resistance on the part of those who were denied their rights.*”⁶⁵ This dance cannot yet be relegated to the past. First, understanding history helps us to see how some injustices are carried by subsequent generations. We frequently heard this from the people who talked to us about the interment of the Japanese, those who survived the Holocaust, and the children of residential school survivors. In order to assist in the development of exhibits and in the education

offered to visitors in understanding human rights as they have developed over time, the following questions may be useful:

- Did these historical abuses cause damage that continues?
- Have the violations of human rights left problematic legacies? Do current generations continue to draw unfair privileges, or suffer unfair disadvantage, because of historical injustice?
- Do these historical abuses remind you of problems that continue today?
- Are there modern-day parallels?
- Have the discriminatory attitudes that led to the historical abuses reshaped themselves into less visible but equally damaging practices?
- Are there forms of redress, reparations, or apologies that might help to make amends for our historical abuses?

These questions serve as a good beginning for the consideration of the importance of the history of human rights.

The Place of Indigenous Peoples

Only two of Canada's founding peoples have had the opportunity to participate fully in the development of domestic laws that protect human, civil, political, and economic rights in this country. This has left Canada impoverished, with an inadequate and incomplete legal framework. It has constrained the development of the human rights culture of our society. We heard across the country that the present circumstances

of Indigenous Peoples are unacceptable in a democratic country that prides itself on its respect for justice, equality, and human dignity. Our knowledge of history also informs our conclusion that the Museum offers a new opportunity to truly set the standard for including Indigenous Peoples.

We therefore must begin by acknowledging the place of Indigenous peoples as the first founding peoples of this land. Their contributions are reflected in the record of relationships and subsequent agreements, some codified as sacred treaty documents, that welcomed settlers to every area of this country. We also acknowledge that the First Peoples have suffered greatly for their many acts of generosity to those who came after and acknowledge that between 50–100 million Indigenous Peoples in North America have lost their lives to some form of colonialism. Although the record is full of incidents of the wrongful taking of land and resources as well as Aboriginal lives, it is not the ethnocide and genocide of Indigenous nations that must ground the work of respectfully including the First Peoples in the Museum. Being victimized does not bring to the visitors of the Museum any hope. Aboriginal teachings share that they are not victims but rather survivors, warriors, and teachers. Aboriginal peoples have lives that are worth celebrating.

It is important to begin by recognizing Canada's colonial history, as it has resulted in a loss of relationship between Canada and Aboriginal peoples. It has, as a further consequence, diminished Indigenous legal traditions.⁶⁶ At this point in time in Canada's history, the Museum can provide an important opportunity to educate Canadians about the rich diversity of Aboriginal ways, including their legal traditions. As we

heard from the majority of Aboriginal people who took the time to share their thoughts with us, it is an important opportunity, which lends itself to the advancement of the Museum's objectives. The Aboriginal people who shared with us were very clear that they wanted to be included in the Museum as contemporary people with a vibrant heritage in this country, rather than as artifacts of the past.

This brings us to the place where we note the importance of respecting Indigenous legal traditions, both to Aboriginal People themselves as well as to all who visit the Museum. Simply put, Western legal systems are organized around the presumption of conflict, the existence of rights set off against the state's or a citizen's duties. This contrasts with the legal systems of Aboriginal nations. Indigenous legal traditions are rich with diversity but are most often premised on the idea of peaceful relationships, which are generally inclusive of values such as kindness, caring, sharing, strength, truth, humility, and respect. This is not only a commitment that benefits Aboriginal people but also allows all visitors to the Museum to learn from different legal traditions that might serve their quest for equality, respect, and dignity well.

Little is known outside of Indigenous communities about the standpoint of Indigenous nations, including how the concept of human rights fit within this framework of Indigenous legal traditions. As Ellen Gabriel (Mohawk), President of Quebec Native's Women's Association, shared with us:

Human rights cannot be separated from our relationship with the land....I guess the continual

attack of the right to the land denies our right to have a healthy community, healthy families. The denial of our human rights is mixed with how land is being abused.

Dana Soonias (Cree), CEO of Wanuskewin Heritage Park, shared with us the fundamental problem about human rights and First Peoples:

Human rights in itself to First Nations people is almost like a foreign term. It's within the culture, human rights is a given in First Nations culture. But, it's not a term that they're familiar with. So if you say human rights to a First Nation person, especially an elder... it's just a terminology they're unfamiliar with. So human rights might mean very little to them, or it may mean something completely different. A human right, that's life, that's food, that's water, that's land.

To be truly inclusive of Aboriginal peoples, the Museum must make a commitment to encouraging this kind of sharing of knowledge around human rights in the oral traditions of First Peoples, which is sometimes transformed into scholarly writing. Unfortunately, a large gap exists between the conceptualization of human rights as Aboriginal People aspire to them and that which is codified in Canadian and international human rights documents.

Endnotes

- ¹ In June, 2009 Prime Minister Stephen Harper announced a Statement of Intentions to designate a National Museum of Immigration at Pier 21 in Halifax- making this the 6th national museum and the 2nd one outside of Ottawa. Pier 21 opened as a museum in 1999.
- ² There are a number of terms used to refer to Indigenous Peoples, such as 'Indigenous Peoples', 'Aboriginal Peoples', 'Native Peoples', 'First Nations' and 'First Peoples'. Each of these terms however have been imposed on Indigenous nations who each have a specific name for themselves. For the most part in this report, the Content Advisory Committee has elected to use the term Indigenous Peoples- a term most frequently used in international contexts. Aboriginal Peoples is the Canadian constitutional term and is also used where appropriate. As the Museum moves forward, the staff will need to determine a consistent language usage to refer to First Peoples in Canada and elsewhere in the world.
- ³ Canadian Museum for Human Rights Mission Statement.
- ⁴ The Museum leadership at this time (2009) consisted of COO Patrick O'Reilly; Chief Finance Officer Suzanne Robertson; Director of Communication and Public Engagement, Angela Cassie; and Director of Marketing and Partnerships Kim Jasper Recommendation 5 Content Advisory Committee (CAC), p. iii.
- ⁵ For biographies of each of the members of the CAC, see Appendix A
- ⁶ The initial advisors to the Friends and the exhibition designers Ralph Appelbaum and Associates for the Exhibit Master Plan (2005) were Yude Henteleff, Constance Backhouse, David Matas, Ruth Selwyn and Ken Norman. All of these, with the exception of Ruth Selwyn, were part of the Content Advisory Committee who led the story-gathering tour across Canada.
- ⁸ From the notes of the February 26-7 meeting in Winnipeg of the Content Advisory Committee- in this instance Laurie Beachell was referring specifically to making sure the consultation process was accessible to people with disabilities.
- ⁹ Media was contacted in each city we visited. For a full schedule of Media see Appendix B
- ¹⁰ *Andrews v. Law Society of British Columbia* [1989] 1 SCR 143.
- ¹¹ For a fuller discussion on the definitions of equality in Canadian law, please see Joel Bakan, *Just Words: Constitutional Rights and Social Wrongs* (Toronto: University of Toronto Press, 1997).
- ¹² Chief Justice McLachlin, "Equality: The Most Difficult Right", (2001) 14 Sup. Ct. L. Rev. (2d) 17.
- ¹³ Enacted by S.C. 2008, c.9, s.2
- ¹⁴ Amartya Sen, *The Idea of Justice* (Cambridge, Mass: Harvard University Press, 2009) at 357
- ¹⁵ E/CN.4/SR/78/7; cited in Johannes Morsink, *Inherent Human Rights: Philosophical Roots of the Universal Declaration* (Philadelphia: University of Pennsylvania Press, 2009), at 67.
- ¹⁶ Morsink, *Ibid*
- ¹⁷ The horrors of the Nazi camps had been brought to the attention of the Allies long before the war ended, and they had made respect for universal human rights a goal of the peace negotiations and of the later tasks given to the Human Rights Commission that was to draw up the International Bill. *Ibid*, at 63.
- ¹⁸
- ¹⁹ Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001) at 235.
- ²⁰ Voelkischer Beobachter, North German Edition, 13 July 1938. Article headlined "No one wants to have them. Fruitless debates at the Jew-Conference, Evian, 12 July." http://www1.yadvashem.org/odot_pdf/Microsoft%20Word%20-%203347.pdf
- ²¹ On December 9, 1948, in a speech on the introduction of the draft Declaration to the General Assembly of the United Nations, Rene Cassin "harshly rebuked the Soviets for their criticism of the Declaration as an incursion on national sovereignty. He reminded them that in 1933 Hitler's representatives had used the same argument in the League of Nations to justify their actions against their own countrymen.;" Plenary Meetings of the General Assembly, 180th Plenary Meeting, December 9, 1948, 867.
- ²² President Franklin Roosevelt's "Four Freedoms", State of the Union Address to Congress, January 6, 1941.
- ²³ The French delegate to the Third Committee and member of the Drafting Committee, René Cassin, spoke of the Declaration as "the first document about moral value adopted by an assembly of the human community." Morsink, *supra*, note 2, at 57.
- ²⁴ SR.41.9; Morsink, *Ibid*
- ²⁵ Emile Saint-Lot, A/C.3.3.73; Morsink, *Ibid*
- ²⁶ *Ibid*, René Cassin, *La Pensee et l'Action* (Boulogne-sur-Seine: F. Lalou, 1972), 114, cited in Glendon, *supra*, note 5, at 161. "The Universal Declaration, in other words, was not an "international" or "intergovernmental" document; it was addressed to all humanity and founded on a unified conception of the human being."
- ²⁷ Francesca Klug, "The Universal Declaration of Human rights: Sixty years on", Lecture delivered at Chatham House, December 8, 2008. <http://www.equalityhumanrights.com/human-rights/international-framework/60th-anniversary-of-the-declaration/celebrating-the-anniversary/the-universal-declaration-of-human-rights-sixty-years-on/>
- ²⁸ Henry J. Steiner, Philip Alston and Ryan Goodman, *International Human Rights in Context: Law, Politics and Morals* (Oxford: Oxford University Press, 2008) at 136; Glendon, *supra*, note 5, at 207, "The Eisenhower administration took a dim view of economic and social rights..."
- ²⁹ A list of these treaties and of other international human rights instruments stemming from the Universal Declaration of Human Rights is set out in Appendix 4 to this report.
- ³⁰ Mary Robinson, "The Declaration of Human Rights: A Living Document", Address given at the Symposium on Human Rights in the Asia-Pacific Region, 27 January 1998, <http://www.unu.edu/unupress/mrobinson.html> (retrieved 9/28/2009) at page 7 of 13
- ³¹ Preamble
- ³² Article 1.
- ³³ For example, to the provinces created out of the former Rupert's Land: Manitoba, Saskatchewan and Alberta.
- ³⁴ This term is used in s. 3(a) of the *Museums Act*.
- ³⁵ Canadian Human Rights Act, S.C. 1976-77, c.33; s. 67 was repealed by an Act to amend the Canadian Human Rights Act. S.C. 2008, c. 30.
- ³⁶ L.R.Q. c. C-12.
- ³⁷ The quasi-constitutional status of human rights legislation was established by the Supreme Court of Canada in *Winnipeg School Division No. 1 v. Craton*, [1985] 2 S.C.R. 150.
- ³⁸ Article 10
- ⁴⁹ L.R.Q., c. C-11.
- ⁴⁰ The Supreme Court of Canada has recognized in several decisions the fundamental importance of the goal of protecting and advancing the French language. However, in these decisions we also see that the Court's choice of other, or countervailing, values has weakened the scope of the law. Whether, how, and to what extent, to protect the rights of a linguistic or cultural minority within Quebec, which is itself a linguistic and cultural minority within Canada and Northern America, is a persisting and fundamental question.
- ⁴¹ Section 27 of the Canadian Charter of Rights and Freedoms declares that the Charter is to be interpreted in accordance with the multicultural heritage of Canadians; after the entrenchment of the Charter in 1982, the government of Canada passed an Act for the Preservation and Enhancement of Multiculturalism in Canada, S.C. 1988, c. 31.]
- ⁴² See the press release from the office of the Premier, Le premier ministre annonce sa vision et crée une commission spéciale d'étude, February 8, 2007. The Premier articulated these fundamental values at the same time as he announced the appointment of the Bouchard-Taylor Commission. Subsequently, in June 2008, Bill 63 amended the *Charte des droits* to add two sections specifically recognizing the equality of women and men. For a discussion of response to that initiative, see Louise Langevin, "We-Sisters and the Rights of Women to Equality: Analysis of Dissenting Opinions Surrounding the Enactment of Bill 63 Amending the Charter of Rights and Freedoms," (2009) 21:2 *CJWL* 353. Pauline Maurois' Bill 391, introduced in November 2009, incorporated the heritage of Quebec and the three fundamental values earlier enunciated by Premier Charost into the *Charte des droits*.
- ⁴³ *Provincial Electoral Boundaries (Saskatchewan)*, [1991] 2 S.C.R. 158 at 186, quoting her earlier observations in *Dixon v. B.C. (A.G.)* [1989] 393 at 409 (B.C.S.C.).
- ⁴⁴ S.C. 1960, c. 44.
- ⁴⁵ Succession of Quebec, [1998] 2 S.C.R. 217, at paras. 79-82. The other three principles are federalism (paras. 55-60), democracy (paras. 61-69) and constitutionalism and the rule of law (paras. 70-78).
- ⁴⁶ Johannes Morsink, *Inherent Human Rights: Philosophical Roots of the Universal Declaration* (Philadelphia, University of Pennsylvania Press, 2009)
- ⁴⁷ For more details on the people we spoke to during the story-gathering tour across Canada, see: *Lord Cultural Resources: Story-Gathering Report*, March 2010
- ⁴⁸ *Morrissey and Cole v. Canada* was filed in the Federal Court Trial Division in 1992, and the government settled the matter by granting permanent resident status to Cole. For a description of this case, in the context of the whole issue, see Nicole LaViolette, "Coming out to Canada: The Immigration of Same-Sex Couples Under the Immigration and Refugee Protection Act," (2004) 49 *McGill L.J.* 969 at 974-976.
- ⁴⁹ *Council of Canadians with Disabilities v. VIA Rail*, [2007] 1 S.C.R. 650.
- ⁵⁰ *Nguyen v. Quebec (Education, Recreation and Sports)*, [2009] 3 S.C.R. 208. A number of cases dealing with the Charter of the French Language highlight the conflict between Quebec's aspirations to protect the French language and the Supreme Court's attentiveness to balancing a rights approach. Supreme Court cases striking down elements of the Charter of the French Language include *Blaikie v. Quebec (A.G.)*, [1979] 2 S.C.R. 1016; *Quebec (A.G.) v. Quebec Association of Protestant School Boards et al.*, [1984] 2 S.C.R. 66; *MacDonald v. City of Montreal*, [1986] 1 S.C.R. 460; *Ford v. Quebec (A.G.)*, [1988] 2 S.C.R. 172; *Devine v. Quebec (A.G.)*, [1988] 2 S.C.R. 790; *Gosselin (Tutor of) v. Quebec (A.G.)*, [2005] 1 S.C.R. 238; and *Solski (Tutor of) v. Quebec (A.G.)*, [2006] 1 S.C.R. 201.
- ⁵¹ The case is reported as *Ross v. New Brunswick School District No. 15*, [1996] 1

S.C.R. 825.

- ⁵² Section 12 of Alberta's *Mental Health Act*, R.S.A. 2000, c. M-12 gives a peace officer the power to apprehend a person and take him or her to a mental health facility for examination, if the peace officer has reasonable and probable grounds to believe that (a) the person is suffering from a mental disorder, and is likely to cause harm to himself or herself or another, or is subject to a community treatment order and not abiding by it, or is likely to suffer substantial mental or physical deterioration or serious physical impairment, and (b) the person should be examined in the interests of his or her own safety or that of another, or (c) the circumstances are such that it would be dangerous to follow the more time-consuming procedure of getting a warrant under s. 12 of the Act from a judge of the Provincial Court. When the peace officer apprehends a person under section 12 of the Act, that officer has to fill out a statement in the prescribed form giving the person's name (if known), the date and time of the apprehension, and the reasons for it, and section 11 of the *Mental Health Act Forms and Review Panels Regulation*, Alta/Reg. 136/2004 prescribes "Form 10" for this purpose, and includes a sample of Form 10.
- ⁵³ Edwards v. A.G. Canada, [1930] A.C. 124, reversing [1928] S.C.R. 276.
- ⁵⁴ These landmark cases are A.G. Canada v. Lavell, [1974] S.C.R. 1349; Lovelace v. Canada, Communication No. R.6/24, U.N. Doc. Supp. No. 40 (A/36/40) (1981) (UN Human Rights Committee); and McIvor v. The Registrar, Indian and Northern Affairs Canada, 2007 BCSC 827 and 1732, rev'd in part by 2009 BCCA 153. Leave to appeal to the SCC denied 11.05.2009.
- ⁵⁵ Muir v. Alberta (1996), 132 D.L.R. (4th) 695 (Ab. QB).
- ⁵⁶ R. v. Latimer, [2001] S.C.R. 3.
- ⁵⁷ Egan v. Canada, [1995] 2 S.C.R. 513.
- ⁵⁸ Vriend v. Alberta, [1998] 1 S.C.R. 493.
- ⁵⁹ R. v. Gladue, [1999] 1 S.C.R. 688.
- ⁶⁰ Chaouli v. Quebec (A.G.), [2005] 1 S.C.R. 791.
- ⁶¹ The Ideal Maternity Home was an illegally run home for unwed mothers in rural Nova Scotia, whose proprietors sold infants to couples from New York and New Jersey. Hundreds of infants considered "unmarketable" – i.e. sick, with a disability, or mixed race, were starved to death and buried in open graves or in butterboxes from the local dairy. The story is told in Bette Cahill, *Butterbox Babies*, 1992. See Susan K. Livio, "Survivors of dark episode in Canada's history trace their past" archived on Canadian Children's Rights Council Website: www.Canadian.crc.com/Butterbox_survivors.aspx (retrieved May 4, 2010)
- ⁶² See also David Matas *The Holocaust and the Canadian Museum for Human Rights* 8 March 2010 and *The Holocaust Lens* May 1, 2010 on deposit at the Museum.
- ⁶³ The human rights lens is not a term that has yet been picked up by scholars writing in the area. It is hoped that the discussion here will generate further scholarship as we feel it is an essential tool.
- ⁶⁴ Although there are many Canadian cases that we could cite that create the legal contours of the Canadian landscape, we choose to not provide a detailed citations for fear we will offend any one who's case is omitted from the list. Instead we refer you to the work of human rights scholars where many of these cases and their significance are discussed. Please see: Dominique Clément, *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. (Vancouver: UBC Press, 2008); Fay Faraday, Margaret Denike and M. Kate Stephenson, *Making Equality Rights Real: Securing Substantive Equality Under the Charter*. (Toronto: Irwin Law, 2006); James Youngblood Henderson, *First Nations Jurisprudence and Aboriginal Rights: Defining the Just Society*. (Saskatoon: Native Law Centre, 2006); Micheline R. Ishay, *The History of Human Rights from Ancient Times to the Globalization Era*. Berkeley: University of California Press, 2004); James B. Kelly and Christopher P. Manfredi, *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms*. (Vancouver: UBC Press, 2009); and Janet Miron (ed), *A History of Human Rights in Canada: Essential Issues*. (Toronto: Canadian Scholars' Press, 2009).
- ⁶⁵ *Ibid* Morin, 11.
- ⁶⁶ See the work of John Burrows, Kent McNeil, Patricia Monture and Maria Morelato. Kent McNeil has authored *Emerging Justice: Essays on Indigenous Rights in Canada and Australia* (Saskatoon: Native Law Centre, 2001) and Maria Morelato, ed., *Aboriginal Law Since Delgamuk* (Aurora: Canada Law Books, 2009)

A.

Appendix A: CAC Biographies

CAC MEMBERS:

Yude Henteleff, C.M., Q.C. LL.D. (Hon.)
Constance Backhouse, B.A., LL.B., LL.M., C.M.
Natasha Bakht, B.A., M.A., LL.B., LL.M.
Jaime Battiste, LL.B.
Laurie Beachell, B.A.
Jennifer Breakspear, B.P.A.P.M.
Mary Eberts, L.S.M., B.A., LL.B., LL.M., LL.D. (Hon.)
Derek Evans, B.A.
Sylvia D. Hamilton, B.A., M.A., LL.D., D.Litt.
Julie Latour, LL.B., B.C.L.
Diana Majury, B.A., LL.B., LL.M., S.J.D.
Guy Marchand
David Matas, B.A., B.C.L., M.A., C.M.
Patricia Monture, B.A., LL.B., LL.M., LL.D. (Hons)
Barbara Myers, B.A., M.C.P., M.P.P.I.
Ken Norman, B.A., LL.B., B.C.L.
Steve Prystupa, B.A., M.A.

Yude Henteleff, C.M., Q.C. LL.D. (Hon.)
Yude Henteleff has been a human rights advocate for over 40 years, working on a wide range of human rights issues including mental and physical disabilities, special needs children and children's rights, and discrimination in the workplace. He is a founding partner of and senior counsel with the legal firm of Pitblado LLP in Winnipeg. Among his many community affiliations, he is a member of the Advisory Council for Canadian Lawyers for International Human Rights, the Professional Advisory Committee of the Learning Disabilities Association of Canada, the Mental Health Commission of Canada National Framework Review Committee for Child & Adolescent Mental Health, and the Winnipeg Arts Council. In 1997, he was named to the Order of Canada and in

2008 he received the Human Rights Commitment Award of Manitoba for his work on human rights issues. Mr. Henteleff is the chair of the CMHR Content Advisory Committee and a member of the Museum's Campaign Cabinet.

Constance Backhouse, B.A., LL.B., LL.M., C.M.
Constance Backhouse is a Professor of Law at the University of Ottawa and has taught a variety of subjects, including human rights, women's rights, and Canadian legal history. She has served as the Director of the Human Rights Centre at the University of Ottawa and is a member of the Board of Directors for the Claire L'Heureux-Dubé Fund for Social Justice and the Women's Education and Research Foundation of Ontario. She was named to the Order of Canada in 2008. Ms. Backhouse is the Vice Chair of the Content Advisory Committee.

Natasha Bakht, B.A., M.A., LL.B., LL.M.
Natasha Bakht is an assistant professor at the University of Ottawa's faculty of law. She teaches criminal law, family law, and multicultural rights in liberal democracies. She was called to the bar of Ontario in 2003 and served as a law clerk to Justice Louise Arbour at the Supreme Court of Canada. Natasha's research interests are, generally, in the area of law, culture, and minority rights and specifically in the intersecting area of religious freedom and women's equality. She has written extensively on the issue of religious arbitration in family law. Her most recent work examines opposition to women who wear the niqab in the courtroom context. Natasha is a member of the Law Program Committee of the Women's Legal Education and Action Fund (LEAF). She also tours internationally as an Indian

contemporary dancer and choreographer.

Jaime Battiste, LL.B.

Jaime Battiste is from Eskasoni First Nation and is a graduate of Dalhousie Law School. Jaime is currently senior advisor for the Eskasoni First Nation Community, the largest Mi'kmaq community in the world. He is a former professor at Cape Breton University where he taught Aboriginal and Treaty Rights and Mi'kmaq History. Jaime was also the Aboriginal First Nations Youth Role Model for 2004-05 and a chair of the Assembly of First Nations National Youth Council in 2005-06. He is one of the founding members of the Mi'kmaq Maliseet Atlantic Youth Council and continues to be legal advisor to the Mi'kmaq Grand Council, the hereditary governing structure for the Mi'kmaq.

Laurie Beachell, B.A.

Laurie Beachell has been the National Coordinator of the Council of Canadians with Disabilities (CCD) since 1984 and has been active in advancing the human rights of persons with disabilities for over 30 years. He has served on numerous federal government committees and task forces as a representative of persons with disabilities. Recently, he was a member the Minister of Finance's Expert Panel on Financial Security for Children with Severe Disabilities. He has made numerous presentations to parliamentary committees and conferences and coordinated CCD's human rights and social policy advocacy work for the past 25 years. Through his work with CCD, he has worked collaboratively with numerous other equality-seeking organizations to advance a substantive theory of equality.

Jennifer Breakspear, B.P.A.P.M.

As a human rights activist, Jennifer Breakspear

has worked on issues affecting many different populations, communities, and causes, including women's rights, LGTB rights, and international human rights. Her research and writing have focused on our evolving understanding of international human rights law, state sovereignty, and humanitarian intervention. She owns Anderson Breakspear Consulting, a firm that provides writing, editing, and research solutions for non-profit organizations and progressive businesses and specializes in public policy issues, particularly in regard to equality and rights. Ms. Breakspear is the Executive Director of The Centre, a community resource providing support, health and social services, and public education for the well-being of lesbians, gay men, transgendered, and bisexual people and their allies in Vancouver and throughout B.C.

Mary Eberts, L.S.M., B.A., LL.B., LL.M., LL.D. (Hon.)

Mary Eberts is a lawyer, author, and lecturer on issues of women's equality, Aboriginal rights, human rights, and the Charter. She was involved in the framing of the Charter's equality guarantees, and has acted as counsel in many leading cases under the Charter, in the Supreme Court of Canada and Courts of Appeal. She is a co-founder of the Women's Legal Education and Action Fund (LEAF) and for 18 years has been litigation counsel to the Native Women's Association of Canada. Her law practice is national in scope, from a base in Toronto; in 2004-05, she held the Gordon Henderson Chair in Human Rights at the University of Ottawa. Ms. Eberts has received numerous awards for her work, including the Governor-General's Award in Honour of the Persons Case, the Law Society Medal, and several honorary degrees.

Derek Evans, B.A.

Derek Evans has been working in the fields of development, human rights, and education for over 25 years, and has worked extensively with non-governmental organizations all over the world. He has served as the Deputy Secretary-General of Amnesty International, and also as the Executive Director of the Naramata Centre for Continuing Education. In 2005, Mr. Evans founded Evans & Associates, a consulting firm providing professional training, resources, and consultancy in the areas of human rights, conflict transformation and strategic development. He is an Associate of the Centre for Dialogue at Simon Fraser University, and the founding Executive Director of CUSO-VSO, an international development agency addressing implementation of the Millennium Development Goals in some 43 countries. He has led over 70 international delegations on peace, human rights, and development issues, and continues to be a prominent figure and authority on these issues.

Sylvia D. Hamilton, B.A., M.A., LL.D., D.Litt. Sylvia D. Hamilton is a multi-awarding-winning Nova Scotia filmmaker and writer, known for her documentary films as well as her publications, public presentations, and extensive volunteer work with artistic, social, and cultural organizations on both local and national levels. Much of her work explores the history and contributions of African-Canadians. Major recognitions include a Gemini Award, Nova Scotia's Portia White Prize for Excellence in the Arts, the CBC Television Pioneer Award, and honorary doctorates from Saint Mary's and Dalhousie Universities. Her most recent film is *The Little Black School House*. She teaches at King's College in Halifax.

Julie Latour, LL.B., B.C.L.

Julie Latour is a Montreal lawyer, a former Bâtonnier of the Bar of Montreal (2006-07) and Past President of the Canadian Bar Association, Quebec Division (2004). Since the inception of her practice in 1988, and throughout her mandates at the helm of the Bar, she has demonstrated a tireless commitment to promoting equality and the advancement of women within the legal profession and the community. A renowned speaker, she is currently Co-Chair of the CBA-Quebec's Women Lawyers Forum. Since 1994, she has been practising with the Legal Affairs Division of Loto-Québec and its subsidiaries, mainly in commercial law, litigation, intellectual property, and human rights. She is a member of both the Quebec and New York State Bars.

Diana Majury, B.A., LL.B, LL.M., S.J.D.

Diana Majury is an associate professor in the Department of Law at Carleton University. She has been an active feminist for the past 30 years, working primarily in the women's movement on human rights, equality, violence against women, and lesbian issues. She has been actively involved in both the National Association of Women and the Law and the Women's Legal Education and Action Fund since their beginnings. She is currently a member of the Women's Court of Canada project steering committee.

Guy Marchand

Guy Marchand has spent the bulk of his professional life welcoming visitors and rendering museum themes to them. Through overseeing many historic sites through the years, he has developed a great knowledge and understanding of the principles related to ensuring an adequate

transmission of messages in a museum-related context. He has been involved in many public consultations. In 2007, he received the CEO's award of excellence, the highest honour given by Parks Canada, to underline his exceptional contribution to improving the activities and services offered by the Agency.

David Matas, B.A., B.C.L., M.A., C.M.

David Matas is a prominent human rights lawyer who has played an active role in defending human rights for over 30 years. He has worked with numerous human rights organizations including Amnesty International, Beyond Borders, and B'nai Brith Canada. He has served as part of the Canadian delegation to many international conferences such as the United Nations Conference on an International Criminal Court, the Task Force for International Cooperation on Holocaust Education, Remembrance and Research, and the United Nations General Assembly. Mr. Matas was awarded the Manitoba Bar Association Distinguished Service Award in 2008 and was named to the Order of Canada in 2009.

Patricia Monture, B.A., LL.B., LL.M., LL.D. (Hons)

Patricia Monture is a Mohawk from Six Nations at Grand River. She is a professor in the Department of Sociology at the University of Saskatchewan, where she is also the Academic Coordinator of the Aboriginal Justice and Criminology program. Her research and teaching cover a range of human rights topics, including self-government, Aboriginal justice, the Canadian legal system, and women's rights and equality. Her research has led to the publication of two books and numerous journal

articles as well as book chapters. As an advisor to the Native Women's Association of Canada, the Assembly of First Nations, and many local First Nations communities, she has shared her experience on a variety of issues. Dr. Monture received the Human Rights in Action Award in 2008 from the Canadian Association of Elizabeth Fry Societies and the Sarah Shorten Award from the Canadian Association of University Teachers.

Barbara Myers, B.A., M.C.P., M.P.P.I.

Barbara Myers is currently the Director of Business Development for Number TEN Architectural Group. She specializes in urban planning as well as museum planning and consultation. She has prepared business plans, feasibility studies, and public and educational programs for numerous museums, including the National Museums of Canada, the Manitoba Museum, and the National Museum of Antiquities in Edinburgh, Scotland. She is a member of the Board of Directors of the Canadian Institute of Planners, and the Manitoba Chapter of the Canada Green Building Council.

Ken Norman, B.A., LL.B., B.C.L.

Ken Norman is a Professor of Law, specializing in Human Rights, at the University of Saskatchewan. Mr. Norman was the first Chief Commissioner of the Saskatchewan Human Rights Commission. He is an editor of the Human Rights Digest and a member of the Board of Directors of the Canadian Human Rights Reporter. He was appointed by the Council of Canadian Law Deans and the Canadian Bar Association to the Board of Directors of the Court Challenges Program. He has served as counsel to the Canadian Indian Claims Commission, the Saskatoon

Legal Assistance Clinic, and the Saskatchewan Ombudsman.

Steve Prystupa, B.A., M.A.

Steve Prystupa has extensive curatorial experience and exhibit planning, gained through his professional history with various museums across Canada. He has served as the curator of history and multicultural studies at the Manitoba Museum, as a Prairie and Northern Historian with the Canadian Museum of Civilization, and as a museum funding consultant with the Department of Canadian Heritage. He is also a freelance Museum and Heritage Consultant and has provided consultation services to many community museums. He has a keen interest in innovative museum interpretive techniques and continues to study, evaluate, and apply these techniques to new exhibits.

B. Appendix B: Participant Engagement and Media Strategy

The public engagement process was identified early on in the process by the Board of Trustees as project to be undertaken in 2009–10 as an important component to the development of the content of the Canadian Museum for Human Rights.

To facilitate this goal, the CAC endeavoured to visit one city in each province and territory, so as to provide an opportunity to a large portion of the Canadian population to participate in the story-gathering process. For those outside the 20 cities visited or who were unable to attend the public engagement sessions, an on-line submission process was set up to facilitate their participation.

Lists of invitees were compiled based on four main sources:

1. Recommendations from CAC members
2. Contact lists provided by Human Rights Commissions across Canada
3. Suggestions made by human rights organizations and advocacy groups across Canada
4. Research by CMHR and Lord Cultural Resources staff.

Lord Cultural Resources was tasked with contacting the individuals and organizations listed on the invitee lists and scheduling meetings, while the CMHR was responsible for promoting the events to the media and the general public.

To reach the general public, a press release was sent out in May 2009 marking the beginning of the story-gathering tour. Media advisories were distributed to local media outlets in each community we visited at least three working days

prior to the public engagement session in each city. Follow-up calls were made to the media outlets that received the media advisories to ensure that the document was received and to promote and secure interviews.

“Share your Story” advertisements promoting the sessions were placed in major media outlets, community newspapers, and minority-language newspapers the week prior to the session, where deemed necessary. Additional steps to promote the sessions to the local population were taken, when appropriate, to increase visibility. For example, for our sessions in Iqaluit, we had the advertisements translated into Inuktitut because there are many people within the community, particularly elders, who do not speak either English or French.

We had very positive feedback from media throughout the cross-country tour as a result of these efforts. Radio and/or television interviews were done in virtually every city visited and positive stories were printed in national and local newspapers throughout the public engagement tour.

There were several notable print stories that greatly increased the visibility of the CMHR and the public engagement process undertaken by the CAC. Following the news release announcing the start of the public engagement sessions in May, 2009, several local and national newspapers featured the story, creating a buzz for future public engagement sessions. A Globe and Mail article from December 11, 2009, following the public engagement sessions in Toronto and Scarborough shed light on the story-gathering process and provided a glimpse at how these sessions fit into

the grand scheme of content development. There was also significant media coverage following the two public engagement sessions that took place in Winnipeg, which provided our most critical audience, the residents of Winnipeg, with an opportunity to experience the scope and mandate of the CMHR first hand.

Overall, we—the CMHR, the CAC, and Lord Cultural Resources—have achieved an incredible accomplishment. We reached over 2,000 Canadians from coast to coast to coast and have begun the significant task of ensuring that when these people come to the CMHR, they will see a little bit of themselves reflected there.

C.

Appendix C: Recommendations

Chapter 1: Story-gathering Across Canada

1. The Museum should continue to engage Canadians on the development of its content through regional, national, or local meetings. The contacts developed through the CAC public engagement sessions in 2009/10 form a significant base for continuing to involve Canadians in the Museum, although steps should be taken to include those who may not yet have had the opportunity to be heard.
2. The Museum should engage expertise in accessibility and universal design to ensure that all consultations, as well as all programs, exhibits, the website, and the building itself, are fully accessible to persons with disabilities.
3. The Museum should appoint a small Expert Advisory Committee of people knowledgeable in human rights to advise it on the human rights dimension of all of its content.
4. The Museum should ensure the ongoing in-house education of Museum staff in all aspects of human rights theory, practice, education, and history, as well as emerging issues. This could be done through the creation of a Learning Centre, to which the Museum would seek to attract visiting scholars, practitioners, and defenders of human rights. Permanent staff with expertise in human rights would be actively involved in shaping the Centre's program. As well as being a continuing source of in-service education and development for Museum staff, the Centre could operate programs for other general or specific audiences.
5. The Museum should develop national and regional relationships with Canadian universities, colleges, researchers, and organizations such as private foundations, community-based research and commemoration projects, and the Truth and Reconciliation Commission, as well as territorial, provincial and federal human rights commissions. In building these relationships, the people and institutions in Quebec as well as those of Aboriginal Peoples must be fully included.
6. The Museum should ensure that its staff and management are representative of the diversity of the people we encountered across Canada.
7. Developing a welcoming strategy for children and youth is absolutely essential to the success of the Museum.
8. The success of the Museum will depend on balancing the contributions of two quite different professions: museology and human rights. Meeting this challenge requires that it be expressly stated and reflected on regularly.

Chapter 2: Human Rights and Canadian Identity

Human Rights

1. The Museum should devote itself to acquiring, critiquing, and constantly renewing

its knowledge and understanding of the history, philosophy, principles, and practice of human rights in Canada and around the world, using high standards of research and scholarship, and linking with other individuals and institutions in this effort. In doing so, it will seek a deep understanding of particular human rights stories. It will strive to develop a capacity to analyze human rights issues that allows it to deal with sophisticated and troublesome situations. It will also take a broad and inclusive view of the human rights project, which encompasses aspirations and struggles for human rights and the processes and instruments through which these aspirations are realized and made accessible in substance as well as in form. It will embrace the universality of human rights that are our birthright as human beings.⁷²

2. The Museum should cultivate its own human rights imagination, in order to fully to appreciate the hope and the yearning of people everywhere for recognition of their full humanity.
3. The Museum should maintain regular communications with the public by means that are broadly accessible in language, approach, and format. It should not wait until a crisis has arisen in order to share its understanding and analysis of human rights issues.
4. Underlying all of the work of the Museum should be a commitment to growing Canada's human rights culture, which requires not only a moral and philosophical commitment to human rights but engagement in practical steps that will develop, secure, preserve,

and defend human rights. The Museum celebrates and promotes that culture but does not hesitate to acknowledge where Canada's respect for human rights—or commitment to the continued development and application of human rights—has faltered, and to learn from these experiences. The Museum can keep the flame of human rights alight, through its own work and by means of its links with organizations throughout Canada and around the world.

5. Human rights principles and practice derive from a profound respect for human dignity and our common humanity; common ground is possible between diverse philosophical and cultural traditions that honour these values. The Museum's mandate to promote respect for others and encourage reflection and dialogue necessarily entails efforts to find that common ground, and engage the public to do so as well.
6. It is essential that the Museum retain its independence. This involves a commitment by the Museum not to be "captured"—or be seen to be captured—by a particular "side" of a human rights debate. It also involves being independent from government dictate and influence. In both cases, the Museum must not only achieve and safeguard this independence: it must develop the confidence of the public that it is doing so. The Museum can best maintain its independence by nurturing the capacity to listen fairly to all sides and by developing the knowledge and judgment necessary to make its own decisions.

Canada

7. Integral to any account of human rights from the Canadian perspective is the understanding that Canada is a federal state, that its constitutional order provides an established place to Quebec and to First Peoples, that the Constitution has recognized, since Confederation, both individual and group rights, and that the modern Constitution is based on the equality of women and men. It is important to acknowledge the unfinished business of the Constitution with respect to both Quebec and Indigenous Peoples.
8. As constitutional actors in their own right, Indigenous Peoples may justly require that the Museum do more than simply view them through an anthropological or cultural lens. Indigenous Peoples' relationship to Canada amounts to much more than making a historical "contribution." Indigenous Peoples have a contemporary reality and identity, protected by the Constitution, not just a historical one. Both the historical and contemporary realities of Indigenous Peoples have much to contribute to the Museum. Indigenous Peoples' legal systems and knowledge will make important contributions to the human rights culture of Canada, a benefit so far precluded by the long, formal exclusion of Indigenous Peoples from human rights legislation, and thus from human rights discourse.
9. The Museum should identify as a priority the development of a relationship of trust with Indigenous Peoples so as to bring about their full engagement in exploring the meaning and experience of human rights in

Canada, and should welcome with respect Indigenous Peoples' law, understandings of human dignity, and other knowledge that will further the realization of human dignity in all of Canada.

10. In order to represent fairly the constitutional place of Quebec and of Indigenous Peoples, the Museum may want to find ways of reflecting in its own organization, and programming, the architecture of the Constitution. This means adopting a structure that will ensure that persons from Indigenous Peoples and Quebec, with knowledge and expertise, are available within the Museum to contribute to all aspects of exhibit development, communication, and programming, including at senior levels.
11. Any consideration of human rights instruments within Canada must respect the enactments and policies of Quebec, reflecting as they do both a distinctive legal tradition and a distinctive course of social and cultural development. Quebec's perspective on the legal and constitutional order of Canada needs to be fully understood, represented, and respected in all Museum activities.

Chapter 3: What We Heard

1. The Museum needs a framework—an integrated consistent, thematic approach. Each element must relate to the whole.
2. The Museum cannot make assumptions or take anything for granted. An institutional

practice of self-reflection, and great care in the building of relationships that bring the Museum knowledge, will be essential.

3. The Museum should help people make connections between Canada and the world.
4. The Museum should not take sides. It should make every effort to learn the facts, and then explore what can be done to bridge conflicts and promote understanding. It should not see its role as one of mediating old or current conflicts, but rather to conduct its public education programs so as to add to the store of understanding and acceptance in the world, and promote respect for human rights.
5. The Museum should note how and when Canada has shown leadership in recognizing and protecting human rights. However, the Museum should be honest about our history and continuing legacy of human rights violations. The Museum must be self-critical and non-defensive.
6. The Museum should embrace the complexity of human rights and avoid oversimplification and easy answers; it should not shy away from conflict, or attempt to erase differences of opinion or perspectives.
7. The Museum should present a comprehensive continuum of human rights with an historical and evolutionary thread so as to avoid focusing on only one category of human rights violation in isolation.
8. The Museum should embrace a comprehensive view of human rights reaching back into history and extending to current challenges in harmonizing Canada's law with international human rights standards.
9. The Museum should take the long view of the human rights story, showing the full historical context and uncovering what has been hidden because of more conventional or limited approaches. Such an approach would give a full account of the history of Quebec reaching back 400 years, and include its development of its own vision of human rights, collective values, and social solidarity.
10. Taking the long view recognizes the deep roots of many communities in Canada, and allows the Museum to tell not only their stories of discrimination and oppression but also of survival, and revival.
11. The Museum should develop an appreciation of the variety of Indigenous identities and experiences before and after contact, and the distinctive world views of Indigenous Peoples.
12. The Museum should recognize that colonialism, both within Canada and beyond, is an historic and present assault on the human rights of Indigenous Peoples. In its effort to include Indigenous Peoples, the Museum should first involve local communities, then national and international ones. Not only should stories of Indigenous People from around the world find a home in the Museum, steps should be taken to include Indigenous Peoples from outside of Canada as visitors to the Museum. In order to fully engage Indigenous Peoples and provide opportunities for them, the Museum should consider initiatives such as artist-, writer-,

and scholar-in-residence programs; research opportunities, to consider the connections between Aboriginal rights, treaty rights, and human rights; and exhibits that respect the Aboriginal languages of the territory. Some of these initiatives should be operational by the time the Museum is opened. Indigenous youth should be engaged in and by the Museum through mentorship and outreach programs, and education programs should have a focus on Indigenous youth.

13. The Museum should develop proper protocols for the ground at the Forks upon which the Museum is located, working with the Indigenous Peoples whose territory is involved.
 14. Relationships with the Museum's local communities are important and should be fostered. These include not only the First Nations of Manitoba and the treaty areas encompassed within Manitoba (and extending beyond its borders), but also communities such as Franco-Manitobans and those in Northwestern Ontario, for whom Winnipeg is the nearest metropolitan centre.
 15. The Museum should position the Holocaust as a separate zone at the centre of the Museum, showing the centrality of the Holocaust to the overall human rights story and in prompting the creation of the Universal Declaration of Human Rights, with its grounding in the idea of common humanity. The story of human rights told in other parts of the Museum should bring home to visitors the core messages of the Holocaust, including the message that learning and acting on the lessons of the Holocaust—that respecting human rights—
- give hope that nothing like the Holocaust will ever happen again.⁷³
16. The key lesson of Holocaust studies—that dehumanization is the precursor to human rights violations, and prepares the way for them—should not be forgotten. Nor should the use of dispossession and deculturation as methods of oppression.
 17. The Museum should tell the stories of Canada's social movements and their role in promoting and preserving human rights. It should avoid the creation of hero cults, but rather emphasize that it is ordinary people, acting alone or collectively, who safeguard and advance human rights.
 18. The Museum should take a systematic, and human rights, approach to the analysis of women's rights, and violations of them, like violence against women. It is important to take a contextualized approach to women's rights, seeing the woman in the context of her whole society and recognizing her multiple identities.
 19. In presenting the story of women's human rights, the Museum should acknowledge that in both Canada and Quebec, there are fundamental guarantees of the equality of women and men, and yet true equality for women has not yet been realized. The Museum should recognize the threat posed to women's equality and human rights by religious fundamentalism across the world, and be attentive to the ways in which the conflict between freedom of religion and women's equality is being resolved—or not—here and elsewhere.

20. The Museum should seek to navigate the difficult line between cultural relativism and universalism.
21. The Museum should recognize that human rights violations have a systemic dimension to them, and talk about the systemic and structural aspects of discrimination. This approach acknowledges the interconnections between grounds of discrimination—such as race and poverty, and disability and poverty—and treats the finding of solutions as a human rights challenge, and not a medical or charitable issue.
22. The Museum should present the struggle in Canada and the world for social and economic rights, and for environmental justice, drawing upon the experience and perspectives of grassroots activists, trade unions, and other actors in civil society.
23. It will be essential for the Museum to establish strong and vital links with children and young people. Enabling them to tell their own stories is an important goal for the Museum. The effective agency of children on behalf of their own, and other children's, human rights should be recognized, and encouraged. Efforts should be made to include youth who are facing particular challenges, such as those in prison, or refugee youth.
24. The Museum should draw upon the experience of educators who specialize in teaching difficult subjects, such as the Holocaust, and upon the experience and commitment of organizations such as the Canadian Teachers' Federation, to develop its approach to the involvement of young people both within the Museum and through extended outreach programs.
25. The Museum should be alert to emerging issues of human rights, through the maintenance of communications links to grassroots human rights activists. It should make efforts to present human rights issues that are unpopular or underemphasized, such as the reality of the criminalized and incarcerated, recognizing that history shows the centrality of both criminalization and incarceration as a means of oppression of unpopular or dehumanized minorities.
26. The Museum should use the arts to illustrate the richness of the human soul and of reflection, its dark zones, and the multiple ways in which human beings transcend their realities and thereby seek survival. Artists in the Museum should be representative of the diverse regional, ethnic, and racial identities of Canada's artists. The overall tone of art featured in the Museum should be inspirational—it should show how individuals have resisted discrimination and sought to obtain justice against all odds. The arts should be defined broadly to include media favoured by youth, such as graffiti.
27. The Museum should be a place of inspiration, with an eye on the future. It should encourage people to think about the differences that frighten them, and to communicate with one another through speaking truth, listening, discussing, and analyzing. The Museum should inspire and propel people to become involved in human rights issues, and give

them the opportunity and the means to do so.

28. The Museum should not overlook the power of the artifact.

29. The Museum should be attentive to the well-being of visitors, through the provision of places to rest, be quiet, and reflect, and by having support services available in the event that the exhibits trigger emotional responses. It should remember that humour, too, can help people heal.

D. | International Human Rights Treaties and Instruments

There are now nine core international human rights treaties. Each has a committee of experts to monitor implementation of the treaty provisions by its states' parties. Some of the treaties are supplemented by optional protocols dealing with specific concerns

		Date	Monitoring Body
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	21 Dec 1965	CERD
ICCPR	International Covenant on Civil and Political Rights	16 Dec 1966	CCPR
ICESCR	International Covenant on Economic, Social and Cultural Rights	16 Dec 1966	CESCR
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	18 Dec 1979	CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	10 Dec 1984	CAT
CRC	Convention on the Rights of the Child	20 Nov 1989	CRC
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	18 Dec 1990	CMW
	International Convention for the Protection of All Persons from Enforced Disappearance	20 Dec 2006	
CRPD	Convention on the Rights of Persons with Disabilities	13 Dec 2006	CRPD
ICESCR - OP	Optional Protocol of the Covenant on Economic, Social and Cultural Rights	10 Dec 2008	CESCR
ICCPR-OP1	Optional Protocol to the International Covenant on Civil and Political Rights	16 Dec 1966	HRC
ICCPR-OP2	Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	15 Dec 1989	HRC
OP-CEDAW	Optional Protocol to the Convention on the Elimination of Discrimination against Women	10 Dec 1999	CEDAW
OP-CRC-AC	Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	25 May 2000	CRC
OP-CRC-SC	Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	25 May 2000	CRC
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	18 Dec 2002	CAT
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities	12 Dec 2006	CRPD

In addition to the core human rights treaties, there are many other universal instruments relating to human rights. A non-exhaustive selection is listed below. The legal status of these instruments varies: declarations, principles, guidelines, standard rules and recommendations have no binding legal effect, but such instruments have an undeniable moral force and provide practical guidance to states in their conduct; covenants, statutes, protocols and conventions are legally binding for those states that ratify or accede to them.

WORLD CONFERENCE ON HUMAN RIGHTS AND MILLENNIUM ASSEMBLY

1. Vienna Declaration and Programme of Action
2. United Nations Millennium Declaration

THE RIGHT OF SELF-DETERMINATION

1. United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples
2. General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"
3. International Convention against the Recruitment, Use, Financing and Training of Mercenaries

RIGHTS OF INDIGENOUS PEOPLES AND MINORITIES

1. Declaration on the Rights of Indigenous Peoples
2. Indigenous and Tribal Peoples Convention, 1989 (No. 169)
3. Declaration on the Rights of Persons

Belonging to National or Ethnic, Religious and Linguistic Minorities

PREVENTION OF DISCRIMINATION

1. Equal Remuneration Convention, 1951 (No. 100)
2. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
3. International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)
4. Declaration on Race and Racial Prejudice
5. Convention against Discrimination in Education
6. Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking a settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education
7. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
8. World Conference against Racism, 2001 (Durban Declaration and Programme of Action)

RIGHTS OF WOMEN

1. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
2. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP)
3. Declaration on the Protection of Women and Children in Emergency and Armed Conflict
4. Declaration on the Elimination of Violence against Women

RIGHTS OF THE CHILD

1. Convention on the Rights of the Child (CRC)
2. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OPSC)
3. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OPAC)
4. Minimum Age Convention, 1973 (No. 138)
5. Worst Forms of Child Labour Convention, 1999 (No. 182)

RIGHTS OF OLDER PERSONS

1. United Nations Principles for Older Persons

RIGHTS OF PERSONS WITH DISABILITIES

1. Declaration on the Rights of Mentally Retarded Persons
2. Declaration on the Rights of Disabled Persons
3. Principles for the protection of persons with mental illness and the improvement of mental health care
4. Standard Rules on the Equalization of Opportunities for Persons with Disabilities

HUMAN RIGHTS IN THE ADMINISTRATION OF JUSTICE: PROTECTION OF PERSONS SUBJECTED TO DETENTION OR IMPRISONMENT

1. Standard Minimum Rules for the Treatment of Prisoners
2. Basic Principles for the Treatment of Prisoners
3. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

4. United Nations Rules for the Protection of Juveniles Deprived of their Liberty
5. Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
7. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)
8. Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
9. Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
10. Safeguards guaranteeing protection of the rights of those facing the death penalty
11. Code of Conduct for Law Enforcement Officials
12. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
13. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
14. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)
15. Guidelines for Action on Children in the Criminal Justice System
16. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)
17. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

18. Basic Principles on the Independence of the Judiciary
19. Basic Principles on the Role of Lawyers
20. Guidelines on the Role of Prosecutors
21. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
22. Declaration on the Protection of All Persons from Enforced Disappearance
23. Basic Principles and Guidelines on the Right to a Remedy and Reparation
24. International Convention for the Protection of All Persons from Enforced Disappearance (not yet into force)

SOCIAL WELFARE, PROGRESS AND DEVELOPMENT

1. Declaration on Social Progress and Development
2. Universal Declaration on the Eradication of Hunger and Malnutrition
3. Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind
4. Declaration on the Right of Peoples to Peace
5. Declaration on the Right to Development
6. Universal Declaration on the Human Genome and Human Rights
7. Universal Declaration on Cultural Diversity

PROMOTION AND PROTECTION OF HUMAN RIGHTS

1. Principles relating to the status of national institutions (The Paris Principles)
2. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

MARRIAGE

1. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
2. Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages

RIGHT TO HEALTH

1. Declaration of Commitment on HIV/AIDS

RIGHT TO WORK AND TO FAIR CONDITIONS OF EMPLOYMENT

1. Employment Policy Convention, 1964 (No. 122)

FREEDOM OF ASSOCIATION

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

SLAVERY, SLAVERY-LIKE PRACTICES, AND FORCED LABOUR

1. Slavery Convention
2. Protocol amending the Slavery Convention signed at Geneva on 25 September 1926
3. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
4. Forced Labour Convention, 1930 (No. 29)
5. Abolition of Forced Labour Convention, 1957 (No. 105)
6. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the

- Prostitution of Others
7. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

RIGHTS OF MIGRANTS

1. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPMW)
2. Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

NATIONALITY, STATELESSNESS, ASYLUM, AND REFUGEES

1. Convention on the Reduction of Statelessness
2. Convention relating to the Status of Stateless Persons
3. Convention relating to the Status of Refugees
4. Protocol relating to the Status of Refugees
5. Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live

WAR CRIMES AND CRIMES AGAINST HUMANITY, INCLUDING GENOCIDE

1. Convention on the Prevention and Punishment of the Crime of Genocide
2. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity
3. Principles of international co-operation in the detection, arrest, extradition and punishment

- of persons guilty of war crimes and crimes against humanity
4. Statute of the International Tribunal for the Former Yugoslavia
 5. Statute of the International Tribunal for Rwanda
 6. Rome Statute of the International Criminal Court

HUMANITARIAN LAW

1. Geneva Convention relative to the Treatment of Prisoners of War
2. Geneva Convention relative to the Protection of Civilian Persons in Time of War
3. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)
4. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)⁷⁴

In addition to these international instruments, there are regional instruments and mechanisms.

REGIONAL HUMAN RIGHTS INSTRUMENTS:

1. American Declaration on the Rights and Duties of Man
2. American Convention on Human Rights
3. Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador"
4. African Charter on Human and People's Rights
5. Protocol to the African Charter on Human and

Peoples' Rights on the Rights of Women in
Africa

6. European Social Charter (Council of Europe)

REGIONAL HUMAN RIGHTS MECHANISMS:

1. Inter-American Commission on Human Rights
2. Inter-American Court of Human Rights
3. African Commission on Human and People's Rights
4. European Court of Human Rights⁷⁵

For information concerning Canada's adherence to International Human Rights Treaties and Instruments, see the Department of Foreign Affairs and International Trade's web site: <http://www.international.gc.ca/rights-droits/policy-politique.aspx?lang=eng>.