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The Right to Know Our Rights: International Law Obligations to Ensure International Human Rights Education and Training

Written by Catherine Morris and Gail Davidson

May 2012

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This article was originally published online at:

<http://www.lrwc.org/the-right-to-know-our-rights-international-law-obligations-to-ensure-international-human-rights-education-and-training/>

Citation for this paper:

Morris, C. & Davidson, G. (2012, May 17). The Right to Know Our Rights: International Law Obligations to Ensure International Human Rights Education and Training. Retrieved from Lawyers' Rights Watch Canada Website:

<http://www.lrwc.org/the-right-to-know-our-rights-international-law-obligations-to-ensure-international-human-rights-education-and-training/>

The right to know our rights

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Availability of international human rights education and training in British Columbia

Lawyers' Rights Watch Canada

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Lawyers Rights Watch Canada (LRWC) May 2012

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This report was produced with assistance from the
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Acknowledgments

Special thanks to all who assisted with the production of this report. For assistance with research and editing, LRWC is grateful to Jessica Fletcher, Andrew Guaglio, Grace Woo and Christopher Gully. LRWC also extends gratitude to all those who provided information and insight through participating in interviews, surveys and consultations.

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The right to know our rights

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Executive Summary

Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training. - UN Declaration on Human Rights Education and Training

In December 2011, the United Nations General Assembly adopted the *Declaration on Human Rights Education and Training* (Declaration on HRET) which articulates everyone's right to know his or her internationally protected human rights. This Declaration is also a benchmark in the UN World Programme on Human Rights Education (WPHRE) created in 2004 by the General Assembly to implement human rights education and training (HRET), promote understanding of human rights education and principles, and set goals for the development and delivery of HRET by states.

Together, the Declaration on HRET and the WPHRE provide a clear mandate and blueprint for assessing the international human rights education and training currently available in British Columbia (BC). The Declaration on HRET marks a focal point in the emerging global consensus that implementation of international human rights depends on universal education and training about rights articulated by the *Universal Declaration of Human Rights* and protected by international human rights treaties (Chapter 3).

The Declaration on HRET emphasizes that obligations to adhere to and enforce international human rights law apply to governmental authorities in all parts of the State, including provinces in federal states such as Canada. This means that BC has international legal obligations to implement and enforce all human rights treaties ratified by Canada within its spheres of constitutional responsibility (Chapter 3).

All of the United Nations (UN) human rights treaties ratified by Canada impose, as part of the overall duty to ensure the rights protected, a duty to provide education and training about the rights protected (Chapter 3). In Canada, these duties to provide education, where they relate to public education and the training of provincial civil servants, lie with the provinces and territories.

While the Declaration on HRET defines HRET as encompassing all rights and including activities aimed at promoting respect, it also emphasizes that human rights education should be based on the principles of the *Universal Declaration of Human Rights* and relevant treaties and instruments. This report is focused on education and training about the content, purpose and enforcement mechanisms for internationally protected rights--rights established and protected by UN treaties ratified by Canada and other international human rights instruments.

The report assesses the availability in BC of international human rights education and training (IHRET) aimed at contributing to the prevention of violations of protected rights by providing knowledge and understanding of:

- the rights protected by UN treaties and other instruments;
- the mechanisms for the enforcement of internationally protected rights domestically and within the UN and Inter-American human rights systems; and
- the responsibilities and restrictions imposed on governments and individuals by those international human rights instruments.

LRWC's research indicates that very little IHRET is available in BC (Chapter 4). In BC, "human rights" education is almost exclusively concerned with education about the *Canadian Charter of Rights and Freedoms* and the *BC Human Rights Code*. Within the public school system, "human rights" education is seen as education informed by human rights principles and includes programs on inclusivity, non-discrimination, tolerance and anti-bullying. Human rights are seen through a narrow domestic lens, and there are no programs for students, teachers or public servants designed to create knowledge and understanding of, and facility with, UN human rights treaties.

Despite the fact that Canadian laws must be interpreted consistently with treaty obligations (Chapter 3), international human rights are infrequently brought to the attention of BC judges, and knowledge of international human rights is generally poor amongst the BC judges and lawyers surveyed (Chapter 4).

In BC, there is, as yet, no coordinated strategy to make international human rights law known to teachers and students within the BC school system, or to police and law

enforcement workers, civil servants, lawyers, judges and interested citizens (Chapter 4). The need for IHRET in Canada and BC has been identified by UN treaty monitoring bodies expressing concern about persistent violations of internationally protected rights.

To comply with BC's duty to ensure the enjoyment of rights by all through providing IHRET, this report recommends (Chapter 5):

- a Provincial Plan of Action that implements the WPHRE and the Declaration on HRET and that:
 - gives priority to providing IHRET in elementary and secondary schools pursuant to WPHRE 2005-2009 Phase I Plan of Action;
 - pursues the priorities of the WPHRE 2010-2014 Phase II Plan of Action for IHRET:
 - in education faculties, law schools, schools of social work and journalism schools,
 - for teachers and educators and for law enforcement officials including police, and
 - for other public officials, including those responsible for developing health care and social programs;
 - provides accessible IHRET to the general public;
- amendment of BC legislation to ensure that BC has a provincial human rights institution with a mandate to provide international human rights education;
- official assurance of a safe and enabling environment for NGOs and civil society to conduct and evaluate IHRET pursuant to international human rights norms.

“Governments, with the assistance of intergovernmental organizations, national institutions and non-governmental organizations, should promote an increased awareness of human rights and mutual tolerance ... They should initiate and support education in human rights and undertake effective dissemination of public information in this field.”

World Conference on Human Rights, Vienna Declaration and Programme of Action.

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Chapter 1: Introduction

In December 2011, the United Nations (UN) General Assembly (GA) adopted a *Declaration on Human Rights Education and Training* (Declaration on HRET).¹ This new Declaration heralds an international consensus on the integral importance of human rights education as “essential to the realization of human rights and fundamental freedoms.” The Declaration on HRET is also a landmark event of the UN World Programme on Human Rights Education (WPHRE),² which provides a mandate for national action plans for human rights education.³ The new UN Declaration and the WPHRE provide clear and timely guidance for evaluating and charting BC’s implementation of its international responsibilities regarding human rights education, “based on the principles of the *Universal Declaration of Human Rights* and relevant treaties and instruments.”⁴

¹ *Declaration on Human Rights Education and Training*, 19 December 2012, UN General Assembly, A/RES/66/137, online: OHCHR <<http://www2.ohchr.org/english/issues/education/training/UNDHREducationTraining.htm>> [Declaration on HRET].

² *World Programme for Human Rights Education*, 10 December 2004, UN General Assembly, A/RES/59/113, online: OHCHR <<http://www2.ohchr.org/english/issues/education/training/reports.htm>>, scroll to the correct document [WPHRE Declaration].

³ *Revised draft plan of action for the first phase (2005-2007) of the World Programme for Human Rights Education*, 2005, UN General Assembly, A/59/525/Rev.1, online: OHCHR <<http://www2.ohchr.org/english/issues/education/training/planaction.htm>> and MISKS <http://www.mizks.gov.si/fileadmin/mizks.gov.si/pageuploads/podrocje/mednarodno/solstvo/pdf/Rev_Action_plan_2005_07.pdf> [WPHRE Phase I].

⁴ Declaration on HRET, *supra* note 1, Article 4.

“... every individual and every organ of society... shall strive by teaching and education to promote respect for these rights and freedoms.”

Universal Declaration of Human Rights

Purpose and scope of this report

The objectives of this report are to:

- raise the level of understanding and awareness in BC of international legal obligations to provide IHRET regarding the major UN human rights treaties;
- examine and report on the availability in BC of IHRET to members of the public, students, teachers, lawyers, judges, law enforcement officials and others whose work involves internationally protected rights.

What is “human rights education” and why is it important? Chapter 2 sets out the rationale for treating IHRET as an integral part of the duty to ensure rights and examines definitions of human rights education and training.

Who is responsible to provide human rights education and training? Chapter 3 describes Canada’s – and BC’s – obligations to provide IHRET and the roles and responsibilities of other organs of society including civil society organizations.

How does BC measure up? Chapter 4 assesses human rights education and training in BC in light of the definition of IHRET set out in Chapter 3. The assessment in this report is focused on education and training about the content, purpose and enforcement mechanisms for internationally protected rights—rights established and protected by UN treaties ratified by Canada. The report assesses the availability in BC of “education, training, information, awareness-raising and learning activities”⁵ aimed at providing knowledge and understanding of:

- rights protected by UN human rights treaties and instruments;
- the responsibilities and restrictions imposed on governments and individuals by those international human rights instruments; and
- the mechanisms for the enforcement of those internationally protected rights.

Chapter 4 also reports the results of a preliminary investigation of the perceived needs for and availability of IHRET in selected sectors in BC including primary⁶ and secondary education, post-secondary education, police, lawyers and judges.

⁵ *Ibid.*, Article 2.1.

⁶ Note that in international human rights law and documents, the divisions of education are “primary,” “secondary” and “higher education.” In BC, Kindergarten through Grade 7 is referred to as “elementary” school with “primary” ring more specifically to kindergarten through grade 3 (K-3) and “intermediate” grades 4-7. “Primary” in BC thus only refers to grades K-3. Given the focus of this report on international conventions, we use “primary school” to refer to education up to secondary school level.

Chapter 5 sets out conclusions regarding gaps, needs and priorities for IHRET and makes recommendations.

Summary of research methods

The research methods included:

- Review of international law and jurisprudence regarding the duty to provide IHRET regarding rights protected by UN treaties and other international human rights instruments.
- Review of international human rights education programs available in BC.
- Interviews of key informants:
 - UN officials,
 - non-governmental organizations (NGOs) working on human rights in BC,
 - officials within official human rights bodies in BC, and
 - BC human rights educators.
- Surveys of international human rights knowledge and education needs of:
 - judges,
 - lawyers,
 - academics,
 - human rights educators, and
 - human rights workers.
- Identification and consultation of key stakeholders in BC concerning findings and recommendations.

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

Universal Declaration of Human Rights

Chapter 2

The fundamental importance of human rights education: The international consensus

The 2011 adoption of the Declaration on HRET represents a global consensus that:

Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training (Preamble).

The Declaration on HRET stipulates that

States and ... relevant governmental authorities have the primary responsibility to promote and ensure human rights education and training, developed and implemented in a spirit of participation, inclusion and responsibility (Article 7.1).

The Declaration on HRET emphasizes and affirms the important role of civil society in human rights education and training:

States should create a safe and enabling environment for the engagement of civil society, the private sector and other relevant stakeholders in human rights education and training, in which the human rights and fundamental freedoms of all, including of those engaged in the process, are fully protected (Article 7.2).

The adoption of the Declaration on HRET is a key benchmark in the WPHRE.⁷ The first phase (2005-2009) had its focus on States' integration of human rights education in primary and secondary schools. The second phase (2010-2014) has its focus on human rights education for higher education⁸ and on human rights training for "teachers and educators, civil servants, law enforcement officials and military personnel."⁹

Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training....

States and ... relevant governmental authorities have the primary responsibility to promote and ensure human rights education and training, developed and implemented in a spirit of participation, inclusion and responsibility...

States should create a safe and enabling environment for the engagement of civil society, the private sector and other relevant stakeholders in human rights education and training, in which the human rights and fundamental freedoms of all, including of those engaged in the process, are fully protected.

UN Declaration on Human Rights Education and Training

⁷ The WPHRE is discussed more fully in Chapter 3.

⁸ "Higher education" refers to post-secondary education.

⁹ See the website of the WPHRE online OHCHR:

<http://www2.ohchr.org/english/issues/education/training/programme.htm>.

While the definition of human rights education and training in the Declaration on HRET includes both international and domestic human rights as well as general education about tolerance and respect, Article 4 makes it clear that human rights education and training “should be based on the principles of the *Universal Declaration of Human Rights* (UDHR) and relevant treaties and instruments.” Accordingly, this Chapter identifies BC’s obligations to provide education and training about the substance, purpose and enforcement of rights protected by UN treaties ratified by Canada as an integral part of BC’s obligation to ensure the enjoyment of those rights.

Why is international human rights education important?

The Preamble to the UDHR states that the full realization of human rights depends on knowledge and “common understanding”¹⁰ and requires that “... every individual and every organ of society... shall strive by teaching and education to promote respect for these rights and freedoms...”¹¹ These statements emphasize that reliable implementation and enforcement of rights depends on wide public knowledge of protected rights.

A fundamental principle of the UDHR is that “the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” [emphasis added].¹² Article 2 of the UDHR affirms the universality of rights, “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Recognition and implementation of human rights are logical impossibilities without universal human rights learning about content, responsibilities and mechanisms for human rights enforcement. Thus, scholar George Andreopoulos states that human rights “constitute the common heritage of all humankind” and must “frame human discourse and dialogue”¹³ and therefore must be a core subject of education, for everyone, everywhere.¹⁴

It is also important to note that several international human rights treaties emphasize that “all peoples have the right of self-determination.”¹⁵ The recognition of collective human

¹⁰ “Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.” *Universal Declaration of Human Rights*, UN General Assembly, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948), online: UN <<http://www.un.org/en/documents/udhr/index.shtml>> [UDHR], Preamble.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ George J. Andreopoulos & Richard Pierre Claude, eds., *Human Rights Education for the Twenty-First Century* (Philadelphia: University of Pennsylvania Press, 1997) [Andreopoulos and Claude], at xv.

¹⁴ *Ibid.*

¹⁵ Article 1, *International Covenant on Civil and Political Rights*, 1966, UN General Assembly, GA Res. 2200 (XXI), UN GAOR, 21st Sess., Supp. No. 16, 52 UN Doc. A/6316 (1966), online: OHCHR <<http://www2.ohchr.org/english/law/ccpr.htm>> [ICCPR]; Article 1, *International Covenant on Economic,*

rights is particularly salient in Canada, which in 2010 endorsed the UN *Declaration on the Rights of Indigenous Peoples*.

Only when people—and peoples—understand their rights and responsibilities and the obligations of their governing authorities can they confidently articulate and insist on legislation, policies and practices that accord with binding international human rights law. It is essential for law makers to know the substance of internationally protected rights and the extent to which respect of these rights is mandatory in order to ensure that laws, policies and practices comply with international human rights obligations. Broad knowledge within a society of international human rights law has the potential to protect citizens from abuses of power or neglect of duties by lawmakers, police, military personnel, elected officials, bureaucrats or the judiciary.

As Mary Robinson, United Nations High Commissioner for Human Rights (1997-2002), is quoted as saying:

The importance of the role of human rights education in the global context of the realization of human rights cannot be ignored. Universal and effective human rights protection can only be achieved through an informed and continued demand for human rights protection by the people; only through knowing the rights of all and the means to ensure their respect can we defend and ultimately realize them.¹⁶

IHRET plays critical roles at times of political or social conflict or crisis when rights are at risk. International human rights and international humanitarian law provide standards defining the rights of State and non-state actors. Broad-based public knowledge of international human rights standards and mechanisms and their impact on domestic law should play a key role in restraining abuses by governments and non-governmental actors and keeping expressions of conflict within peaceful bounds that respect established international human rights law.¹⁷

Cultural and Social Rights, 1966, UN General Assembly, GA Res. 2200A (XXI), UN GAOR, 21st Sess., Supp. No. 16, 49 UN Doc. A/6316 (1966) online: OHCHR <<http://www2.ohchr.org/english/law/cescr.htm>> [ICESCR].

¹⁶ Mary Robinson, as quoted in J. M. Young, *Human Rights Education in British Columbia: A Report on the Place of Human Rights Education in British Columbia School Curricula* (Vancouver: Centre for Education, Law and Society, Faculty of Education, Simon Fraser University, 2006), Online: SFU

<http://www.cels.sfu.ca/publications/human_rights_education_in_bc.pdf> or OHCHR <<http://www.ohchr.org/Documents/Publications/CompendiumHRE.pdf>> [Young].

¹⁷ Specifically, HRET can play a protective and preventative role in post-conflict zones, where HRET can be seen as “a necessary element in the process of re-establishing stable and just post-war societies.” T. Bernath, T. Holland & P. Martin *How Can Human Rights Education Contribute to International Peace-building?* in *Current Issues in Comparative Education* (New York: Teachers College, Columbia University, 1999) at 14. While Canada is not at risk of armed conflict, widespread international human rights education and training about the rights and responsibilities of governments, nongovernmental organizations and citizens can help ensure that manifestations of dissent, as well as government responses to dissent, are kept within the bounds of internationally protected norms and principles.

What is “Human Rights Education”?

This section examines the broad definition of human rights education set out in the Declaration on HRET.¹⁸ The purpose of human rights education as defined by Article 2.1 of the Declaration on HRET is to promote recognition and enforcement of internationally protected rights. Article 2.2 (a) identifies the content and teaching methods of IHRET.

2.1 Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to, *inter alia*, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.

2.2 Human rights education and training encompasses education:

(a) *About* human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;

(b) *Through* human rights, which includes learning and teaching in a way that respects the rights of both educators and learners;

(c) *For* human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others.¹⁹

While the definition in Article 2 does not use the word “international,” Article 4 stipulates that HRET “should be based on the principles of the *Universal Declaration of Human Rights* and relevant treaties and instruments,” thereby emphasizing education regarding internationally protected rights.²⁰ While HRET does encompass domestic human rights laws and general principles of respect and tolerance, these approaches to HRET are to be

¹⁸ LRWC also examined several other definitions of human rights education, including the UNESCO definition found at Office of the High Commission on Human Rights (OHCHR) & UNESCO, *World Programme for Human Rights Education, Plan of Action: First Phase* (New York and Geneva: UNESCO, 2006) at 1, online: OHCHR <<http://www.ohchr.org/Documents/Publications/PAActionEducationen.pdf>>; the definition of Amnesty International found at “Human Rights Education,” *Amnesty International*, online: AI <<http://www.amnesty.org/en/human-rights-education>>; definition of the Inter-American Institute of Human Rights in Inter-American Institute of Human Rights, *Inter-American Report on Human Rights Education: A study of 19 Countries. First Report, San José, Costa Rica, IIDH* (San Jose: Inter-American Institute of Human Rights, 2002), online: IIHD <http://www.iidh.ed.cr/multic/default_12.aspx?contenidoid=63b402e3-3136-45c4-9b08-49a42ae95487&Portal=IIDHen>.

¹⁹ Declaration on IHRET, *supra* note 1.

²⁰ See the definition of Amnesty International, *supra* note 18.

connected with and “grounded on norms set forth in the different international instruments...” [emphasis added].²¹

Article 2.2(a) also broadly defines the content and purpose of human rights education and training while Article 2.2(b) refers to teaching methods. Human rights education outlined in Article 2.2(a) includes acquiring

- knowledge of substantive human rights themselves, and
- the mechanisms by which they are enforced.

One purpose of human rights education set out in Article 2.1 is to foster a culture of human rights. This approach to human rights education emphasizes that knowledge of human rights is essential to the building of a human rights culture in which the people in a society voluntarily respect and uphold internationally protected human rights and prevent human rights abuses. Attitudinal transformation is a key goal.

Teaching methods are participatory. The definition set out in Article 2.2(b) emphasizes participatory methods of education and training and a learning environment that itself fosters transformation of attitudes and respect for human rights.

²¹ See the definition of the Inter-American Institute of Human Rights, *supra* note 18

“Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to, inter alia, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.”

Declaration on HRET, Article 2.1

Chapter 3: The State duty to provide IHRET: Obligations of BC

The UN Charter and the UDHR impose duties on States to provide human rights education and training as part of their responsibilities to ensure "the equal and inalienable rights of all members of the human family" and to ensure the enjoyment by all of particular rights. The duty to provide education and training about protected rights is repeated in all the UN human rights treaties ratified by Canada and binding in BC.

This section examines the nature and scope of duties of States to promote, encourage and provide IHRET arising from UN treaties and other instruments of the UN and the Organization of American States (OAS).

Emergence of consensus: A historical overview²²

The UN has continually increased its emphasis on human rights education since the 1993 Vienna Declaration and Programme of Action²³ called upon States "to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms" pursuant to their duties under the UDHR and several other international human rights treaties.

²² The section outlining the history of the UN's work on human rights education since 1993 is drawn in part from LRWC's report by Siobhán Airey, *Promoting Global Peace and Human Dignity: Review of LRWC Lecture Series on International Human Rights and Humanitarian Law Spring 2008* (Vancouver: Lawyers' Rights Watch Canada, 2008) online: LRWC <http://www.lrwc.org/documents/LRWC.Law.Lectures.Report.2008.pdf> [Airey]. See that report for more detail.

²³ The 1993 *Vienna Declaration and Programme of Action* emphasized State obligations for provision of HRET. In Part II, paragraph 82 states: "Governments, with the assistance of intergovernmental organizations, national institutions and non-governmental organizations, should promote an increased awareness of human rights and mutual tolerance ... They should initiate and support education in human rights and undertake effective dissemination of public information in this field." The *Vienna Declaration* thus directly asks States to "initiate and support" education in human rights. This language suggests that it is not only the State's responsibility to ensure access to HRET, but also to be a major actor in at least the initiation of its provision. *Vienna Declaration and Programme Of Action*, 14-25 June 1993 United Nations World Conference on Human Rights, A/CONF.157/23, online: UNHCHR <http://www.unhchr.ch/huridocda/huridoca.nsf/%28symbol%29/a.conf.157.23.en> [*Vienna Declaration and Programme of Action*].

"The importance of the role of human rights education in the global context of the realization of human rights cannot be ignored. Universal and effective human rights protection can only be achieved through an informed and continued demand for human rights protection by the people; only through knowing the rights of all and the means to ensure their respect can we defend and ultimately realize them."

Mary Robinson, UN High Commissioner for Human Rights (1997-2002)

UN Decade for Human Rights Education (1995-2004)

The UN General Assembly proclaimed the UN Decade for Human Rights Education (Decade) beginning in 1995. The General Assembly then approved a Plan of Action for the Decade which called on States to create national plans of action for human rights education. The Office of the High Commissioner for Human Rights (OHCHR) suggested that “in countries with a federal system, plans of action may be developed at both the federal and state/provincial levels.”²⁴

World Programme for Human Rights Education (2005 – ongoing)

At the end of the Decade, on Human Rights Day, 10 December 2004, the General Assembly proclaimed the World Programme for Human Rights Education (WPHRE) to begin 1 January 2005²⁵ as a global initiative to advance the implementation and enforcement of human rights through human rights education and training. The WPHRE aimed to promote a common understanding of principles and methodologies of human rights education, provide a concrete framework for action, and strengthen cooperation between organizations and governments.

The WPHRE is structured in phases designed to target human rights education and training on specific sectors and issues. The first Phase, which operated from 2005 to 2009, focused on human rights education in primary and secondary school systems. The “Plan of Action,” Phase I,²⁶ which was submitted to the General Assembly in March 2005 after consultation with member States, proposed guidelines and a concrete strategy for development and implementation by States of key components of human rights education in the school system.

The Plan of Action stresses that a rights-based approach to education includes both “human rights through education” and “human rights in education.” The former ensures that education is based on rights-based curricula, materials, methods and training. The latter ensures that a rights-respecting environment is created to foster universal values, equal opportunities, diversity and non-discrimination within the education system.

²⁴ *United Nations Decade for Human Rights Education (1995-2004) and public information activities in the field of human rights, Report of the Secretary-General, Addendum, Guidelines for national plans of action for human rights education*, 20 October 1997, UN General Assembly, A/52/469/Add.1, online: UNHCHR [http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/de5002e16faf1df980256678005ceaa8/\\$FILE/N9728411.pdf](http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/de5002e16faf1df980256678005ceaa8/$FILE/N9728411.pdf) [WPHRE Resolution].

²⁵ *Ibid.*

²⁶ WPRHE Phase I, *supra* note 3.

The Plan of Action encompassed:

- (a) Knowledge and skills — learning about human rights and mechanisms for their protection, as well as acquiring skills to apply them in daily life;
- (b) Values, attitudes and behaviour — developing values and reinforcing attitudes and behaviour which uphold human rights;
- (c) Action — taking action to defend and promote human rights. (Paragraph 4)

The Phase I Plan of Action also affirmed the State duties set out in the Vienna Declaration and Programme of Action:

The World Conference on Human Rights reaffirms that States are duty-bound ... to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms [and that] this should be integrated in the educational policies at the national as well as international levels.²⁷

The OHCHR and UNESCO jointly published a booklet on the Plan of Action²⁸ which proposed (para 26) that the First Phase of IHRET take place in the following four stages:

- analysis of IHRET in schools;
- setting priorities and developing a national implementation plan;
- implementing and monitoring IHRET plan; and
- evaluating.

States were to submit their evaluations of the human rights education implemented by early 2010. When the Final Evaluation of the implementation of the first phase of the WPHRE was published,²⁹ Canada had not yet submitted its evaluation.³⁰

In 2010, the UN Human Rights Council recommended to the General Assembly a Draft Plan of Action for Phase II,³¹ again after consultation with member States. The Phase II Plan of

²⁷ *Ibid.* at para 9; for original quote see *Vienna Declaration and Programme of Action*, *supra* note 23 at para 33.

²⁸ See WPHRE Phase I, *supra* note 3.

²⁹ United Nations Inter-Agency Coordinating Committee on Human Rights Education in the School System, *Final Evaluation of the Implementation of the First Phase of the World Programme for Human Rights Education*, A/65/322 (Geneva: OHCHR, 2010), online: OHCHR <<http://www2.ohchr.org/english/issues/education/training/evaluationWPHRE.htm>> [UN Evaluation WPHRE Phase 1].

³⁰ Council of Ministers of Education Canada & Canadian Commission for UNESCO, *Report to UNESCO and the UN High Commissioner for Human Rights on Human Rights Education: Report for Canada 2005–2009* (Ottawa: CMEC, 2010), online: OHCHR http://www2.ohchr.org/english/issues/education/training/docs/replies/CanadaHRE_23052011_en.pdf [CMEC report].

³¹ *Draft plan of action for the second phase (2010-2014) of the World Programme for Human Rights Education*, July 2010, UN General Assembly, A/HRC/15/2827, online: OHCHR

Action contemplates States' continued implementation of the goals of Phase I while expanding the focus of human rights education and training guidelines for States. It targets the education and training of those pursuing higher education, teachers and educators, civil servants, law enforcement officials and military personnel.

Harmonized guidelines for States' Periodic Reports to Treaty Bodies (2006)

In 2006, the Chairpersons of the Human Rights Treaty Bodies (Committees) adopted harmonized guidelines for reporting under the international human rights treaties, asking States to provide the Committees with information in their Periodic Reports on:

- human rights education for public officials including judges, prosecutors, police, and members of the armed forces, doctors and teachers (para 48 (d));
- human rights educational and information programs;
- promotion of human rights awareness through the mass media and
- details of budget allocations on the implementation of human rights obligations.³²

Drafting of the Declaration on HRET (2007-2011)

In September 2007, the Human Rights Council called upon States to enhance their human rights education and training efforts and asked the Human Rights Council Advisory Committee to prepare a draft Declaration on Human Rights Education and Training.

In March 2011, after four years of consultations with States and civil society groups, the Human Rights Council approved a draft Declaration on Human Rights Education and Training. On 19 December 2011, this draft Declaration was accepted by the General Assembly "without a vote," which means that the Declaration on HRET reflects a global consensus that effective implementation and enforcement of internationally protected rights depends on public knowledge and that the primary responsibility for human rights education rests with States (Article 7).³³

<<http://www2.ohchr.org/english/issues/education/training/secondphase.htm>> [WPHRE Phase II] (scroll to appropriate document). It was noted that Canada did not provide input to the *Plan of Action* by submitting an Evaluation Report in time for incorporation into the document. Canada did, however, submit its late Evaluation Report in December 2010. See the CMEC Report at *supra* note 30.

³² *Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents, International Human Rights Instruments*, 1 June 2005, General/HRI/MC/2005/3 para 48 (e), (f), (h) online: UN

<[http://www.unhchr.ch/tbs/doc.nsf/0/0867ad7cd7b13e4fc1257019004677d2/\\$FILE/G0542226.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/0867ad7cd7b13e4fc1257019004677d2/$FILE/G0542226.pdf)>

³³ Declaration on HRET, Article 7, *supra* note 1.

The process of human rights making and implementing treaties: An overview with emphasis on obligations of Canada's Provinces

International human rights law has rapidly developed over the past six decades through the creation and acceptance by States of declarations, resolutions and statements of principles created through lengthy processes of study, consultation with experts and civil society and negotiation among States. The resulting instruments are then debated and voted on by the General Assembly. Some of these instruments become the basis of human rights treaties, which themselves are developed through similar processes of study, consultation and negotiation. Treaties are presented to the General Assembly and, after adoption by the member States, are opened for signature and ratification. Once a State ratifies a treaty, its provisions are legally binding on the State as a matter of international law. As van Ert states, "failure to give domestic legal effect to a binding treaty obligation that requires it is itself a breach of the treaty."³⁴

The *Vienna Convention on Treaties*³⁵ specifically addresses the federal States, stipulating in Article 27 that a federal structure cannot be used as a reason to avoid treaty obligations: "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty." Article 27 is particularly relevant to Canada, where provinces and territories have exclusive jurisdiction over some matters which are the subject of human rights treaties. UN treaty bodies have consistently taken the position that all levels of government in Canada are responsible, within their constitutional mandates, to implement the provisions of treaties ratified by Canada.³⁶

³⁴ Gib van Ert, *Using International Law in Canadian Courts* (Toronto: Irwin Law, 2008) [van Ert, 2008] at 234.

³⁵ *Vienna Convention on the Law of Treaties*, U.N.T.S. Vol. 1155 [Vienna Convention on the Law of Treaties], Article 26, which states: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith."

³⁶ For a summary of Treaty Bodies' positions, see Amnesty International et al., *Promise and Reality: Canada's International Human Rights Implementation Gap. Joint NGO Submission to the United Nations Human Rights Council in relation to the February 2009 Universal Periodic Review of Canada* (Canada: Amnesty International, 2008) at 2-3, online: AI

http://www.amnesty.ca/themes/resources/canada/Canada_un_upr_joint_ngo_submission.pdf [Amnesty International et al].

BC's responsibility to implement international human rights

The executive branch of the federal government of Canada has the power to enter into international treaties.³⁷ However, in Canada, powers are divided between the federal government and the provinces pursuant to Sections 91 and 92 of the *Constitution Act, 1867*. This means that the federal government and Parliament have no authority to enforce treaties beyond the jurisdiction of the federal government.³⁸ It is generally recognized that treaties must be implemented by the level of government with jurisdiction in the subject matter of the treaty. In areas of provincial jurisdiction, Provinces must make or amend legislation to give effect to treaties.

To ensure that Canada can live up to its international treaty obligations, it is Canada's practice to ratify a treaty only after securing the support of the Provinces.³⁹ This ensures that Provincial governments agree to take on the international legal obligation to implement treaties within their areas of exclusive jurisdiction.

Canada has a federal-provincial Continuing Committee of Officials on Human Rights (CCOHR) that meets twice a year to consult and share information on international human rights instruments. The CCOHR facilitates federal-provincial consultation on implementation of existing human rights treaties and ratification of new human rights treaties. Provinces and territories participate in the development of new international instruments by providing comments through the CCOHR to the government of Canada on draft human rights instruments. By this process, provincial and territorial governments are

³⁷ For more information, see Laura Barnett, "Canada's Approach to the Treaty-making Process", *Legal and Legislative Affairs Division, Parliament of Canada* (24 November 2008) at 1-2, online: Parliament of Canada <http://www.parl.gc.ca/Content/LOP/ResearchPublications/prb0845-e.htm> [Barnett].

³⁸ *Attorney General of Canada v Attorney General of Ontario (Labour Conventions)*, [1937] AC 326 [*Labour Conventions Case*]. The Court found in the *Labour Conventions Case* that Parliament may not legislate in an area of provincial jurisdiction, even if its purpose in so doing is to implement Canada's international treaty obligations.

³⁹ The practice of gaining provincial consent on human rights treaties extends back to the 1975 Federal-Provincial Ministerial Conference on Human Rights at which all the provinces gave their consent to Canada's ratification of both the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*. This Conference also established the Continuing Committee of Officials on Human Rights (CCOHR). See the Government of Canada webpage on the CCOHR, online: PCH <<http://www.pch.gc.ca/pgm/pdp-hrp/canada/cmtt-eng.cfm>>. Also see Philippe LeBlanc, "Canada's Experience with United Nations Human Rights Treaties", *UNA-Canada*, online: UNAC <<http://www.unac.org/en/library/unacresearch/agendasforchange/1994leblanc.asp>>. While provinces do consent to Canada's ratification, there are significant gaps in implementation within their jurisdiction. Amnesty International *et al* recommended (among other things) increased government openness and transparency, a coordinated and accountable process for monitoring implementation of Canada's international human rights obligations "involving both levels of government, as well as Indigenous peoples and civil society," and a "more concerted effort [...] to ensure that effective remedies are available in Canadian law and within Canadian human rights institutions for all of the rights contained in ratified international human rights treaties." Amnesty International *et al.*, *supra* note 36.

consulted throughout the drafting process. Canada's website states that the CCOHR "ensures awareness and understanding of treaty obligations, which can influence policy and program development and contribute to the implementation of the treaties."⁴⁰ In 2001, the Senate Committee on Human Rights was sharply critical of the lack of a public forum to examine—at both the federal and provincial/territorial levels—government compliance with international human rights obligations:

The real issue and problem is not, however, that the Continuing Committee of Officials on Human Rights is not providing a public forum for domestic accountability and scrutiny of Canada's implementation of its international human rights commitments. This is not its job. The real problem for Canada is that no other official body or institution of government is performing this function either.⁴¹

The CCOHR continues to be criticized for lack of transparency, effectiveness and accountability. The exact role of the CCOHR is unclear: does it facilitate true federal-provincial consultation, or is its role merely administrative? What is clear is that the CCOHR is "virtually unknown by most Canadians, conducts all of its work *in camera* and never reports publicly."⁴²

Treaty bodies

Most of the UN human rights treaties ratified by Canada have a treaty monitoring body⁴³ (Committee) to periodically assess each State Party's compliance with the treaty. The Committees are composed of independent experts nominated and elected by the State Parties. Committee members are independent in that they are elected in their personal

⁴⁰ CCOHR webpage, *supra* note 39.

⁴¹ Raynell Andreychuk & Sheila Finestone, *Promises to Keep: Implementing Canada's Human Rights Obligations. Report of the Standing Senate Committee on Human Rights* (Ottawa: Government of Canada, 2001), online: Parliament of Canada <<http://www.parl.gc.ca/37/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02dec01-e.htm>> [Andreychuk & Finestone].

⁴² Amnesty International & et al., *supra* note 36. Nothing appears to have changed since 2008; LRWC's research inquiries of officials at the federal and BC levels about the nature and processes of the CCOHR have yielded no responses at the time of drafting of this report.

⁴³ See, for example, ICCPR at Articles 28 & 40 and ICESCR, at Articles 16-17, *supra* note 15; *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations Treaty Series, vol. 1249, p. 13, online: UNHCR <<http://www.unhcr.org/refworld/docid/3ae6b3970.html>> [CEDAW], Articles 17-18; *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations Treaty Series, vol. 660, p. 195, online: UNHCR <<http://www.unhcr.org/refworld/docid/3ae6b3940.html>> [ICERD], Articles 8-9; *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, UN General Assembly, United Nations Treaty Series, vol. 1465, p. 85, online: UNHCR <<http://www.unhcr.org/refworld/docid/3ae6b3a94.html>> [UNCAT], Article 17 & 19; *Convention on the Rights of the Child* 20, November 1989, United Nations, Treaty Series, vol. 1577, p. 3, online: UNHCR <<http://www.unhcr.org/refworld/docid/3ae6b38f0.html>> [CRC], Articles 43-44.

capacities as experts in the subject matter of the relevant treaty and not appointed as representatives of States.

State Parties to each treaty are required to report to the treaty Committee one or two years after ratifying or acceding to the treaty and then periodically (usually every four years) on how the State is implementing the treaty provisions and safeguarding the protected rights. The treaty Committee reviews the State's report along with reports filed by non-governmental organizations (NGOs)⁴⁴ and National Human Rights Institutions (NHRI) during an interactive process that takes up to two days. The Committee then addresses concerns and makes recommendations to the State in the form of Concluding Observations.

Each treaty Committee also formulates General Comments or General Recommendations to interpret the specific provisions of treaties. General Comments and General Recommendations are drafted in consultation with UN specialized agencies such as UNESCO, UNICEF and the International Labour Organization (ILO). In developing General Comments and General Recommendations, the Committees also consult with NGOs, academics and other human rights treaty bodies.⁴⁵ While General Comments and General Recommendations are not binding jurisprudence, they are well-formulated, expert interpretations of international law.

How human rights treaties become part of Canadian law

The provisions of treaties ratified by Canada become part of Canadian law through passage or amendment of laws by the federal Parliament or provincial legislatures to specifically incorporate the protected rights and remedies for violation.⁴⁶ The Supreme Court of Canada (SCC) has held that international treaties and conventions are not part of Canadian law unless they have been implemented by statute.⁴⁷

⁴⁴ Sometimes NGO reports are called "shadow reports" or "alternative reports."

⁴⁵ See the index of General Comments and General Recommendations of UN Treaty Bodies, online: OHCHR <<http://www2.ohchr.org/english/bodies/treaty/comments.htm>>.

⁴⁶ For detail see Barnett, *supra* note 37. Also see Andreychuk & Finestone, *supra* note 41. For a discussion of justiciability of economic, social and cultural rights in Canada, see Martha Jackman & Bruce Porter, "Justiciability of Social and Economic Rights in Canada" in Malcolm Langford ed., *Social Rights Jurisprudence: Emerging Trends in Comparative International Law* (Cambridge: Cambridge University Press, 2008), pre-publication draft online Social Rights Accountability Project (SRAP):

http://www.srap.ca/publications/porter_justiciability_of_social_and_economic_rights_in_canada.pdf

[Jackman & Porter]; Bruce Porter, "Homelessness, Human rights, Litigation and Law Reform: A View from Canada" (2004) 10 *Australian Journal of Human Rights* 133, online: SRAP

http://www.srap.ca/publications/porter_homelessness_human_rights.pdf [Porter].

⁴⁷ *Baker v Canada*, [1999] 2 SCR 817, online: SCC <http://scc.lexum.org/en/1999/1999scr2-817/1999scr2-817.html> [*Baker*].

However, the SCC found in 1989 that an interpretive presumption exists by which “the *Charter [of Rights and Freedoms]* should generally be presumed to provide protection at least as great as that afforded by similar provisions in international human rights documents which Canada has ratified.”⁴⁸ In 1999, the SCC affirmed this principle in *Baker v. Canada*, ruling that international human rights law is “a critical influence on the interpretation of the scope of the rights included in the *Charter*.”⁴⁹ The Court also stated that “the values reflected in international human rights law may help inform the contextual approach to statutory interpretation and judicial review.”⁵⁰

The SCC in *Baker* also called attention to well-established principles of statutory interpretation, quoting with approval Ruth Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994), at p. 330:

[T]he legislature is presumed to respect the values and principles enshrined in international law, both customary and conventional. These constitute a part of the legal context in which legislation is enacted and read. In so far as possible, therefore, interpretations that reflect these values and principles are preferred [emphasis added by the SCC in *Baker*].⁵¹

United Nations Instruments

The UN human rights treaties ratified by Canada are listed in Table 1 along with ratification or accession dates and the name of each treaty monitoring body. What follows is an explanation of the human rights education provision in each of these treaties as articulated within each treaty and interpreted by treaty monitoring bodies.

⁴⁸ *Slaight Communications Inc. v Davidson*, [1989] 1 SCR 1038, at 1056-7 [*Slaight*]

⁴⁹ *Baker*, *supra* note 47, para 70.

⁵⁰ *Ibid.* For more detail see Gib van Ert, 2008, *supra* note 34; Gib van Ert, “Canada” in David Sloss ed., *The Role of Domestic Courts in Treaty Enforcement: A Comparative Study* (Cambridge: Cambridge University Press, 2009) [van Ert, 2009]; Gib van Ert, “Using treaties in Canadian courts” (2000) *Canadian Yearbook of International Law* 3 [van Ert, 2000]. Note that the implementation of “customary international law” is not addressed in this report. Customary international law “arises when consistent state practice is joined with the belief that such practice is required by law (*opinion juris*).” See *ibid.* at 5, which has a brief explanation, or read “The Incorporate of Custom, Chapter 7,” in Gib van Ert 2008, *supra* note 34

⁵¹ *Baker*, *supra* note *supra* note 47.

TABLE 1: UN Human Rights Treaties Binding on Canada
(Please note that there are other human rights treaties, such as the Genocide Convention, which Canada has ratified, plus other human rights treaties that Canada has not ratified, but these are not included in the chart below.)

Date ratified/ acceded	Treaty	Individual complaints possible?	Treaty Body
1970	<i>International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)</i> ⁵²	No ⁵³	Committee on Elimination of Racial Discrimination (CERD)
1976	<i>International Covenant on Civil and Political Rights (ICCPR)</i> ⁵⁴	Yes(OP)	Human Rights Committee
1976	<i>Optional Protocol to ICCPR (OP)</i> ⁵⁵	Yes	Human Rights Committee
2005	<i>Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty (OP2-ICCPR)</i> . ⁵⁶	Yes	Human Rights Committee
1976	<i>International Covenant on Economic, Cultural and Social Rights (ICESCR)</i> ⁵⁷	No ⁵⁸	Committee on Economic, Social and Cultural Rights (CESCR)
1987	<i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)</i> ⁵⁹	Yes ⁶⁰	Committee Against Torture (CAT)

⁵² ICERD, *supra* note 43.

⁵³ Canada has not made the requisite declaration under ICERD, Article 14.

⁵⁴ ICCPR, *supra* note 15.

⁵⁵ *Optional Protocol to the International Covenant on Civil and Political Rights*, 19 December 1966, United Nations Treaty Series, vol. 999, p. 171, online OHCHR: <<http://www2.ohchr.org/english/law/ccpr-one.htm>>.

⁵⁶ *Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty*, 15 December 1989, UN General Assembly, A/RES/44/128, online: OHCHR <<http://www2.ohchr.org/english/law/ccpr-death.htm>>.

⁵⁷ *International ICESCR* *supra* note 15.

⁵⁸ *Optional Protocol on Economic, Social and Cultural Rights (OP-ESCR)* UN General Assembly, A/RES/63/117, 10 December 2008, online: OHCHR

<http://www2.ohchr.org/english/law/docs/A.RES.63.117_en.pdf>. The OP-ESCR was opened for signature and ratification in 2009 and is to come into force with 10 ratifications. So far there are seven ratifications. Canada has not ratified (or signed) the OP-ESCR.

⁵⁹ UNCAT, *supra* note 43. Note that there is an *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT)*, 18 December 2002, UN General Assembly, A/RES/57/199, online: OHCHR <<http://www2.ohchr.org/english/law/cat-one.htm>>. The OP-CAT established “a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.” (Article 1). Canada has not ratified (or signed) it.

⁶⁰ Canada made a declaration under UNCAT Article 21 in 1989.

1981, in force 1992	<i>Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)</i> ⁶¹	Yes (OP-CEDAW)	Committee on Elimination of Discrimination Against Women (CEDAW)
2002, in force 2003	<i>Optional Protocol to the CEDAW (OP-CEDAW)</i> ⁶²	Yes	CEDAW
1991, in force 1992	<i>Convention on the Rights of the Child (CRC)</i> ⁶³	No ⁶⁴ (OP3-CRC not ratified)	Committee on the Rights of the Child (CRC)
2000	<i>Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP-SC)</i> ⁶⁵	No	CRC
2000	<i>Optional Protocol to the CRC on the Involvement of Children in armed conflict (CRC-OP-AC)</i> ⁶⁶	No	CRC
2010	<i>Convention on the Rights of Persons with Disabilities (CRPD)</i> ⁶⁷	No ⁶⁸	Committee on the Rights of Persons with Disabilities (CRPD)

⁶¹ CEDAW, *supra* note 43.

⁶² *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*, 6 October 1999, United Nations Treaty Series, vol. 2131, p. 83, online: UNHCR <<http://www.unhcr.org/refworld/docid/3ae6b3a7c.html>> [OP-CEDAW].

⁶³ CRC, *supra* note 43.

⁶⁴ An Optional Protocol to the CRC on a communications procedure was adopted by the General Assembly 19 December 2012. The OP3-CRC is open for signature and ratification as of 28 February 2012. See *Optional Protocol to the Convention on the Rights of the Child on a communications procedure* 2011, UN General Assembly, A/RES/66/138, online: UN <<http://treaties.un.org/doc/Treaties/2011/12/20111219%2003-15%20PM/CTC%204-11d.pdf>> [OP3-CRC]

⁶⁵ *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, 2000, UN General Assembly, A/RES/54/26, online OHCHR: <<http://www2.ohchr.org/english/law/crc-sale.htm>> [CRC-OP-SC]

⁶⁶ *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, 25 May 2000, UN General Assembly, A/RES/54/263, online: UNHCR Refworld <<http://www.unhcr.org/refworld/docid/47fdfb180.html>> [CRC-OP-AC].

⁶⁷ *Convention on the Rights of Persons with Disabilities*, 24 January 2007, UN General Assembly, A/RES/61/106, online: UNHCR <<http://www.unhcr.org/refworld/docid/45f973632.html>> [CRPD].

⁶⁸ Canada has not ratified the OP-CRPD.

The Universal Declaration of Human Rights (UDHR)

The UDHR Article 26 states: “Everyone has the right to education [and that education] shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms.”⁶⁹

The language of the UDHR is, itself, rooted in the language of the Charter of the United Nations, which binds member States. Chapter 1, Article 1 states that

“The Purposes of the United Nations are ... to achieve international co-operation ... in promoting and encouraging respect for human rights” and “to be a centre for harmonizing the actions of nations in the attainment of these common ends” [emphasis added].⁷⁰

The UDHR articulates two key principles related to IHRET:

- The primacy of human rights education in promoting respect for human rights throughout all societies. Without widespread knowledge and respect for human rights, adherence, implementation and enforcement are unlikely.
- The essential nature of the right to education directed at strengthening respect for human rights.

International Covenant on Civil and Political Rights

The *International Covenant on Civil and Political Rights* (ICCPR) in Article 2 obliges Canada and other State Parties to “respect and to ensure” the rights in the treaty to everyone within its territory and subject to its jurisdiction without discrimination and to undertake such, “measures as may be necessary” to give effect to these rights. Other than the duty to ensure respect for protected rights the ICCPR does not include any provisions specifically requiring states to provide education and training regarding the treaty. Much of the content of the ICCPR has been put into effect in Canada in general terms through the *Charter of Rights and Freedoms (Charter)*⁷¹ and other Canadian statutes and through jurisprudence interpreting the *Charter* and other laws.

The Human Rights Committee (Committee) interprets the text of ICCPR and assists States Parties with adherence to the treaty through a system of Concluding Observations on the States’ Periodic Reports, General Comments and jurisprudence resulting from Individual

⁶⁹ UDHR, *supra* note 10.

⁷⁰ *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, 24 October 1945, online: UN <http://www.un.org/en/documents/charter/> [UN Charter].

⁷¹ *Charter of Rights and Freedoms*, part I of *The Constitution Act, 1982, being Schedule B to the Canada Act 1982*, (UK), 1982, c 11, online: Justice Canada <http://laws.justice.gc.ca/eng/charter/> [Charter].

Communications made pursuant to the ICCPR's First Optional Protocol.⁷² Although the Committee's Concluding Observations or jurisprudence resulting from Individual Communications are recommendatory in nature and not legally binding, they are legally persuasive in that they are formulated through deliberation of experts with, "recognized competence in the field of human rights" (Article 28).

In 1981, the Committee issued a General Comment interpreting Article 2 as including the obligation to ensure education about the ICCPR. The Committee pointed out that States have "undertaken to ensure the enjoyment of these rights to all individuals under their jurisdiction" and that this "calls for specific activities by the States parties to enable individuals to enjoy their rights." The Committee observed that

it is very important that individuals should know what their rights under the Covenant (and the Optional Protocol, as the case may be) are and also that all administrative and judicial authorities should be aware of the obligations which the State party has assumed under the Covenant. To this end, the Covenant should be publicized in all official languages of the State and steps should be taken to familiarize the authorities concerned with its contents as part of their training.⁷³

Thus, the Committee makes it clear that Article 2 of the ICCPR obliges states to publicize the ICCPR in all official languages, ensure awareness for individuals of the protected rights and awareness of State duties for "all administrative and judicial authorities."

In its 2006 Concluding Observations on Canada's adherence to the ICCPR, the Committee noted the need for improved police training to address disproportionately high number of Aboriginal women likely to experience a violent death, stating that Canada must

... fully address the root causes of this phenomenon, including the economic and social marginalization of Aboriginal women, and ensure their effective access to the justice system. The State party should also ensure that prompt and adequate response is provided by the police in such cases, through training and regulations [emphasis added].⁷⁴

A General Comment issued in 1992 on the prohibition of torture in the ICCPR includes requests for information on State actions to educate the public and relevant officials about the prohibition of torture:

⁷² OP-ICCPR, *supra* note 55.

⁷³ *General Comment 3 adopted by the Human Rights Committee on article 2: Implementation at the national level*, 1981, online: UNHRC Refworld

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/c95ed1e8ef114cbec12563ed00467eb5?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/c95ed1e8ef114cbec12563ed00467eb5?Opendocument)

⁷⁴ *Concluding Observations of the Human Rights Committee: Canada* 20 April 2006, CCPR/C/CAN/CO/5, , online: Bayefsky.com http://www.bayefsky.com/pdf/canada_t4_ccpr_85.pdf

The Committee should be informed how States parties disseminate, to the population at large, relevant information concerning the ban on torture and the treatment prohibited by article 7. Enforcement personnel, medical personnel, police officers and any other persons involved in the custody or treatment of any individual subjected to any form of arrest, detention or imprisonment must receive appropriate instruction and training. States parties should inform the Committee of the instruction and training given and the way in which the prohibition of article 7 forms an integral part of the operational rules and ethical standards to be followed by such persons" [emphasis added].⁷⁵

Canada's most recent report to the ICCPR in 2004 simply states: "More information is provided in the reports the Government of Canada has submitted pursuant to the *Convention against Torture*" which Periodic Reports were provided the same year.⁷⁶

Canada's sixth Periodic Report to the Committee, due in October 2010, had not been submitted at the time of drafting of this report.⁷⁷

⁷⁵ *General Comment No. 20: Replaces general comment 7 concerning prohibition of torture and cruel treatment or punishment (Art. 7)*, 03/10/1992, UN Human Rights Committee, HRI/GEN/1/Rev.9 (Forty-fourth session, 1992), online: UNHRC
<<http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/6924291970754969c12563ed004c8ae5?Opendocument>>

⁷⁶ *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Fifth periodic report: Canada*, 27 October 2004, UN Human Rights Committee, CCPR/C/CAN/2004/5, online: Bayefsky.com
http://www.bayefsky.com/reports/canada_ccpr_c_can_2004_5.pdf.

⁷⁷ Canadian Heritage, Schedule for submission of Canada's reports to the United Nations, online Canadian Heritage: <<http://www.pch.gc.ca/pgm/pdp-hrp/docs/publications/report-eng.cfm>> In September 2011 it was estimated that Canada's report would be submitted by the end of 2011. Email communication 22 September 2011, from the Human Rights Program of the Department of Canadian Heritage.

The Case of Sandra Lovelace and the ICCPR

The importance of international human rights education is illustrated by the case of Sandra Lovelace, a Maliseet woman from the Tobique First Nation in New Brunswick, Canada. In 1977, she began to advocate internationally for the restoration of her status as an “Indian” under Canada’s *Indian Act*. At that time, Aboriginal women in Canada automatically lost this status when they married non-status men. This is what happened to Ms. Lovelace. Even after she divorced, she and her children were denied education, housing and health care provided to persons with status.

Since at least the early 1970s, Indigenous women’s groups had been protesting and advocating for their rights in Canadian courts. In 1977, after studying international human rights with Prof. Donald Fleming at St. Thomas University in Fredericton, New Brunswick, a group of women prepared a communication on behalf of Ms. Lovelace under the Optional Protocol of the ICCPR. The Human Rights Committee considered Ms. Lovelace’s communication in 1981 and found that Canada had violated her rights under ICCPR, Article 27, which ensures the right of ethnic, religious or linguistic minorities “in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

As a result of this case, Canada revised the offending legislation in 1985. The revision merely deferred the discriminatory effect by a generation, but another Aboriginal woman, Sharon McIvor, was able to build on the *Lovelace* case to resolve her subsequent complaint in domestic courts. Without human rights education, the provisions of the ICCPR would have remained unknown to Ms. Lovelace and the students in Prof. Fleming’s course. This landmark case has paved the way for many other individual communications about human rights violations in Canada.

Ms. Lovelace is well known for her advocacy on behalf of First Nations women. She was appointed to the Order of Canada in 1990, and to Canada’s Senate in 2005.

* Womyn’s History <<http://womynshistory.blogspot.ca/2009/10/sandra-lovelace.html>>. Also see Pamela D. Palmater, *Beyond Blood: Rethinking Indigenous Identity* (Saskatoon, Canada: Purich Publishing, 2011); Janet Silman, *Enough is Enough: Aboriginal women speak Out* (Toronto: Women’s Press, 1987); *McIvor v. Canada*, 2009 BCCA 153, online: CanLII <<http://www.canlii.org/en/bc/bcca/doc/2009/2009bccca153/2009bccca153.html>>.

International Covenant on Economic, Social and Cultural Rights

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) states in Article 13.1 that

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.⁷⁸

The *Charter* does not specifically address economic, social and cultural rights except as they can be fitted into Section 7 (“life liberty and security of the person”) and Section 15 (equality rights).⁷⁹ This means that, despite international law requiring Canada and all its provinces and territories to put its treaties into effect,⁸⁰ economic, social and cultural rights are often not actually justiciable in Canadian courts unless protected by specific federal or provincial legislation or case law.⁸¹

The new Optional Protocol to the ICESCR, which provides an individual communications mechanism, has not yet come into force, because it does not yet have sufficient ratifications. Canada has not ratified it, nor has it signalled its intention to do so.

The Committee on Economic, Social and Cultural Rights (CESCR) in its 1999 General Comment No. 13 identified education as a right and a means of realizing rights when concluding that “education is both a human right in itself and an indispensable means of realizing that right ... Education has a vital role in ... promoting human rights and democracy.”⁸² The CESCR has noted that national institutions can help implement State duties to achieve

⁷⁸ ICESCR, *supra* note 15.

⁷⁹ *Charter*, *supra* note 71. For case law of particular jurisdictions concerning ESCR, including Canada, see ESCRnet, and use the search engine online: ESCR <<http://www.escr-net.org/caselaw>>.

⁸⁰ *Vienna Convention on the Law of Treaties*, *supra* note 35. Article 26, which states: “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

⁸¹ For general information about justiciability of ESCR, see United Nations, *Economic, Social and Cultural Rights Handbook for National Human Rights Institutions. Professional Training Series No.12* (New York and Geneva: United Nations, 2005), online OH CHR: <http://www.ohchr.org/Documents/Publications/training12en.pdf> [UN ESCR Handbook for NHRIs]; also see Bruce Porter, “Justiciability of ESC Rights and The Right to Effective Remedies: Historic Challenges and New Opportunities. Presentation to Chinese Academy of Social Sciences, Beijing” (2008), online: SocialRights.ca <<http://www.socialrights.ca/documents/beijing%20paper.pdf>> [Porter, 2008a].

⁸² *General Comment No. 13 of the Committee on Economic, Social and Cultural Rights, The right to education (Art.13)*, E/C.12/1999/10, 8 December 1999, online: UNHRC Refworld <<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4538838c22&page=search>>.

full realization of protected rights, through the promotion of educational and information programmes designed to enhance awareness and understanding of economic, social and cultural rights, both within the population at large and among particular groups such as the public service, the judiciary, the private sector and the labour movement...⁸³

While the CESCR has not yet commented specifically on human rights education in BC, the CEDAW Committee has criticized BC for dismantling its independent human rights commission in 2003. Until that year, the BC Human Rights Commission had a mandate for human rights education.⁸⁴ The *BC Human Rights Code* now provides that the minister (currently the Minister of Justice) is responsible for human rights education about the Code.⁸⁵

International Convention on the Elimination of All Forms of Racial Discrimination

The *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD) requires in Article 2 that States “undertake to pursue by all appropriate means and without delay a policy eliminating racial discrimination...” According to the Committee on Elimination of Racial Discrimination (CERD Committee), this includes both reporting to the CERD Committee on educational efforts and training of public officials including law enforcement personnel so that “the standards of the Convention as well as the Code of Conduct for Law Enforcement Officials (1979) are fully implemented.”⁸⁶

Section 15(1) of the Canadian *Charter* guarantees the equality and non-discrimination protected by CERD:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular,

⁸³ *General comment 10. The role of national human rights institutions in the protection of economic, social and cultural rights*, Committee on Economic Social and Cultural Rights, 12/14/1998, E/C.12/1998/25, online: UNHCR Refworld <<http://www.unhcr.org/refworld/type.GENERAL...47a7079c0.0.html>>

⁸⁴ Committee on Elimination of Discrimination Against Women, Fifth periodic report: Canada, Concluding observations: 28th session, online: OHCHR <<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CanadaCO28.pdf>>, at para 359.

⁸⁵ *Human Rights Code* [RSBC 1996] CHAPTER 210, at Section 5, online: BC Laws: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96210_01 [BC *Human Rights Code*].

⁸⁶ *General Recommendation 13, On the training of law enforcement officials in the protection of human rights*, 1993, Committee on the Elimination of Racial Discrimination, Forty-second session, 1993, U.N. Doc. A/48/18 at 113, online: UMN <<http://www1.umn.edu/humanrts/gencomm/genrxiii.htm>>, emphasis added.

without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The CERD Committee recently issued a General Recommendation concerning discrimination against persons of African descent which emphasized education and media campaigns in addressing the importance of an inclusive society and respecting human rights.⁸⁷

In its 2007 Concluding Observations on Canada, the CERD Committee made specific recommendations concerning human rights education.⁸⁸ Included was a recommendation for training of officials to address “serious acts of violence against Aboriginal women, who constitute a disproportionate number of victims of violent death, rape and domestic violence.” The CERD Committee also recommended

that the State party [Canada] take effective measures to provide culturally-sensitive training for all law enforcement officers, taking into consideration the specific vulnerability of aboriginal women and women belonging to racial/ethnic minority groups to gender based violence.⁸⁹

A large percentage of Aboriginal women victims of gender-related and racialized violence live in BC.⁹⁰ The CERD Committee’s concern that law enforcement officers may not sufficiently trained in their obligations under CERD is apparent.

Canada, perhaps in response to this recommendation, commented on the education of correctional officers in its State report for the period 2005-2009, stating that BC

⁸⁷ *General Recommendation 34 on racial discrimination against people of African descent - 2011* 2011, UN Committee on the Elimination of Racial Discrimination, CERD/C/GC/34, online: http://www2.ohchr.org/english/bodies/cerd/docs/GR34_English.pdf , online: OHCHR: http://www2.ohchr.org/english/bodies/cerd/docs/GR34_English.pdf

⁸⁸ *Concluding Observations on Canada’s compliance with the Convention to End all Forms of Racial Discrimination*, 2007, Committee on Elimination of Racial Discrimination, CERD/C/CAN/CO/18, 25 May 2007, online: Bayefsky.com http://www.bayefsky.com/docs.php/area/conclobs/treaty/cerd/opt/0/state/31/node/3/filename/canada_t4_cerd_70.

⁸⁹ It was beyond the scope of this study to research the extent to which international human rights training of British Columbia law enforcement officers has taken place since 2007. LRWC notes that Amnesty International called for adherence to international human rights treaties, including adequate training for all police, prosecutors and judges on issues of violence against Indigenous women; see its report, Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada* (Canada: Amnesty International, October 2004), online AI: <http://www.amnesty.ca/stolensisters/amr2000304.pdf> [Amnesty International, *Stolen Sisters*]

⁹⁰ Please see the documentation cited in Lawyers’ Rights Watch Canada & BC CEDAW Group, *Missing and Murdered Women in BC and Canada. Submission to the United Nations Committee on the Elimination of Racial Discrimination on the occasion of its review of Canada’s 19th and 20th reports* (Vancouver: LRWC, 2012), online: OHCHR http://www2.ohchr.org/english/bodies/cerd/docs/ngos/BCCEDAWGroup_LRWC_Canada80.pdf [LRWC and BC CEDAW].

Corrections “provides seven hours of culturally-sensitive training to new correctional officers (prison officials) prior to commencement of duties.”⁹¹ However, there is no mention of education or training for police or prosecutors specifically about rights protected by CERD. Canada’s report noted that pursuant to Article 7 of CERD (Education, culture and information) the government of BC

annually supports projects throughout the province related to youth, community engagement activities, diversity training, peer mentoring in schools, teaching resources and theatre projects through its multiculturalism and anti-racism program.

Examples were given including the Dialogues on Multiculturalism Initiative, the “Make A Case Against Racism” project and the Nesika Awards, none of which appear to provide education about rights protected by CERD or other international human rights instruments.

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (UNCAT) imposes clear and specific State obligations to conduct human rights education on the law regarding torture. Article 10 stipulates that

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person [emphasis added].

⁹¹ Committee on the Elimination of Racial Discrimination, Reports submitted by States parties under article 9 of the Convention, Nineteenth and twentieth periodic reports of States parties due in 2009: Canada, CERD/C/CAN/19-20, 28 January 2011, online: OHCHR <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.CAN.19-20_en.doc>, at para 332 [CERD Report Canada 2009].

Article 11 states that:

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture [emphasis added].

The State duty to ensure international human rights education about torture clearly applies to police, prison officials and military personnel, and to any lawyers and members of the judiciary involved with arrested, detained or imprisoned persons.

Canada's *Charter*, Section 12, states: "Everyone has the right not to be subjected to any cruel and unusual treatment or punishment." The State duty to prescribe laws to punish torture wherever it occurs irrespective of the nationality of the victim(s) or suspected perpetrator(s) is also incorporated into the *Criminal Code of Canada*.⁹²

The Committee Against Torture (CAT) issued General Comment No. 2 in 2008⁹³ interpreting the responsibilities encompassed by the duty to prevent and punish torture in UNCAT, Article 2. General Comment No. 2 states that participation or acquiescence in torture (including *refoulement*⁹⁴ or "extraordinary rendition") cannot be justified for any reason whatsoever. Wars, states of emergencies or "order of a superior or public authority can never be invoked as a justification of torture"⁹⁵.

The CAT has observed that the State duty to prevent torture includes "ongoing sensitization training in contexts where torture or ill-treatment is likely to be committed is also key to preventing such violations and building a culture of respect for women and minorities."⁹⁶

General Comment No. 2 also highlighted the essential role of education in the effective prevention of torture. Regarding the duty of Canada and other states to provide IHRET on torture to the public, the CAT stated that

⁹² *Criminal Code of Canada*, R.S.C., 1985, c. C-46, Section 269.1 (1), online Department of Justice: <http://laws-lois.justice.gc.ca/eng/acts/C-46/page-125.html>

⁹³ *General Comment 2: Implementation of Article 2 by States Parties*, 2008, UN Committee Against Torture, CAT/C/GC/2, online: UNHCR Refworld <<http://www.unhcr.org/refworld/docid/47ac78ce2.html>> [CAT General Comment 2].

⁹⁴ *Refoulement* means deporting or expelling a person to a country where there are grounds to believe there is a risk the person would face torture, persecution, or serious human rights violations.

⁹⁵ CAT General Comment 2, *supra* note 93 para 26.

⁹⁶ *Ibid.*, para 28.

... Articles 3 to 15 of the Convention constitute specific preventive measure that the States parties deemed essential to prevent torture and ill-treatment, particularly in custody or detention.... [I]t is important that the general population be educated on the history, scope, and necessity of the non-derogable prohibition of torture and ill-treatment, as well as that law enforcement and other personnel receive education on recognizing and preventing torture and ill-treatment [emphasis added].⁹⁷

While CAT has not made Concluding Observations on Canada since 2005,⁹⁸ its 2006 Concluding Observations on the United States are relevant:

23. The Committee is concerned that information, education and training provided to the State party's law-enforcement or military personnel are not adequate and do not focus on all provisions of the Convention, in particular on the non-derogable nature of the prohibition of torture and the prevention of cruel, inhuman and degrading treatment or punishment (arts. 10 and 11).

The State party should ensure that education and training of all law-enforcement or military personnel are conducted on a regular basis, in particular for personnel involved in the interrogation of suspects. This should include training on interrogation rules, instructions and methods, and specific training on how to identify signs of torture and cruel, inhuman or degrading treatment. Such personnel should also be instructed to report such incidents.

The State party should also regularly evaluate the training and education provided to its law-enforcement and military personnel as well as ensure regular and independent monitoring of their conduct [emphasis added].⁹⁹

Police, lawyers and members of the judiciary are clearly included in the range of persons included as involved in the "custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment..."

Canada's judiciary has not been exempted from criticism for failing to implement UNCAT provisions. In 2005, CAT expressed concern at

⁹⁷ *Ibid.*, para 25.

⁹⁸ Canada's report to the CAT (due July 2008) for the period August 2004 to December 2007 was submitted 22 June 2011. Canada's report comments on training of consular officials and other foreign service officers in torture awareness (paragraphs 19, 20). The training was originally developed and offered in 2005 and 2006, and was redesigned in the fall of 2006, in response to recommendations of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. *Sixth periodic reports of States parties due in 2008: Canada*, 2011, UN Committee Against Torture, CAT/C/CAN/6, online: OHCHR <http://www2.ohchr.org/english/bodies/cat/docs/AdvanceVersions/CAT-C-CAN-6.pdf>

⁹⁹ *Conclusions and recommendations of the Committee against Torture: United States of America*, CAT/C/USA/CO/2, 25 July 2006, online: UHCHR [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.USA.CO.2.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.USA.CO.2.En?Opendocument) .

...the failure of the Supreme Court of Canada, in *Suresh v. Minister of Citizenship and Immigration*, to recognize at the level of domestic law the absolute nature of the protection of article 3 of the Convention, which is not subject to any exception whatsoever.¹⁰⁰

In stating that the Court did “not exclude the possibility that in exceptional circumstances, deportation to face torture might be justified,” and suggesting that the principle of non-refoulement could be “balanced” with “exceptional discretion to deport to torture,” the decision of the Supreme Court of Canada (SCC) in *Suresh*¹⁰¹ gave Canada’s domestic immigration and terrorism laws priority over UNCAT’s non-derogable right to freedom from torture. It is a State obligation to ensure that members of the judiciary understand the peremptory nature of the prohibition against torture.¹⁰²

On 22 June 2011 CAT received Canada’s Sixth Periodic Report on the UNCAT which was due in 2008. Canada’s previous report was submitted in 2006, but no concluding observations have issued.¹⁰³ Canada’s report to CAT mentions that Royal Canadian Mounted Police (RCMP) training materials contain directions with respect to section 269.1 of the *Criminal Code* which makes torture an offence. The Report indicates that the RCMP *National Security Criminal Investigations* manual provides that “every attempt must be made to ensure there is no support or condonation of torture or other abuse of human rights.” There is no mention in Canada’s report of education or training for public officials in Canada other than consular officials in the wake of the Mahar case, and no mention at all concerning education or training of BC officials in the requirements of UNCAT.¹⁰⁴

In preparation for the May 2012 review of Canada’s compliance with UNCAT obligations, CAT asked Canada for updated information about:

¹⁰⁰ *Consideration of Reports Submitted by States Parties Under Article 19 Of The Convention. Conclusions and recommendations of the Committee against Torture: Canada*, Thirty-Fourth Session, 2-20 May 2005, CAT/C/CR/34/CAN, 7 July 2005, online: UNHCR Refworld <<http://www.unhcr.org/refworld/publisher,CAT,CONCOBSERVATIONS,CAN,43f2fe460,0.html>> [CAT Concluding Observations; Canada, 2005]

¹⁰¹ *Suresh v. Canada* (Minister of Citizenship & Immigration), [2002] 1 S.C.R. 3, 2002 SCC 1 (Can.) [*Suresh*]

¹⁰² This understanding of the law against torture is confirmed by the ICCPR, in which torture is specifically stipulated to be non-derogable – even in the face of public emergency that threatens the life of the State. ICCPR, *supra* note 15, at Article 4.

¹⁰³ CAT will review Canada’s compliance with UNCAT on 21-22 May 2012 during the 48th session. The Concluding Observations of the CAT will be available online: OHCHR <<http://www2.ohchr.org/english/bodies/cat/sessions>>.

¹⁰⁴ Canada’s 2011 report to the CAT, *supra* note 98, says: “The OPCC [Office of the Police Complaint Commissioner] also took on a much more visible presence at the Justice Institute of BC, giving presentations to recruit classes, Field Trainer courses and Supervisor courses. The OPCC was also involved in various outreach presentations to multicultural and First Nations groups and agencies.”

- (a) Educational and training programmes of law enforcement personnel, penitentiary staff and staff of detention centres, members of the judiciary and prosecutors as well as consular officers on the State party's obligations under the Convention;
- (b) The training of forensic doctors and medical personnel, especially on the use of the Istanbul Protocol;
- (c) Steps taken to develop and implement a methodology to evaluate the implementation of its training/educational programmes and its effectiveness and impact on the reduction of cases of torture and ill-treatment. Please provide information on the content and implementation of such methodology as well as on the results of the implemented measures.¹⁰⁵

Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) emphasizes that equal access to education including education about rights for women are key strategies to eliminate discrimination against women.

The Optional Protocol to CEDAW provides for individual communications to the Committee on Elimination of Discrimination Against Women (CEDAW Committee) "by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party."¹⁰⁶

In 1987, the CEDAW Committee issued a General Recommendation urging States Parties to take steps to educate the public by ensuring the dissemination of the CEDAW, the reports of the States parties under article 18 and the reports of the CEDAW Committee and to "include in their periodic reports the action taken in respect of this recommendation."¹⁰⁷

The CEDAW Committee's 2008 Concluding Observations on Canada expressed concern that Canada "...has not made enough efforts to make the Convention and its Optional Protocol known at all levels."¹⁰⁸ This deficiency was noted after acknowledging that "the Convention and its Optional Protocol are made available on the Canadian Heritage website and that

¹⁰⁵ List of issues to be considered in connection with the consideration of the sixth periodic report of Canada (CAT/C/CAN/6) are online: OHCHR <<http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.CAN.Q.6.pdf>>. At the time of drafting, Canada's reply has not been posted to the CAT website at <<http://www2.ohchr.org/english/bodies/cat/cats48.htm>>

¹⁰⁶ OP-CEDAW, *supra* note **Error! Bookmark not defined.**62.

¹⁰⁷ *General Recommendation No. 3: Education and public information programmes*, 1987, UN Committee on the Elimination of Discrimination Against Women (CEDAW), 1987, at para 4, online: UN Women <<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>>

¹⁰⁸ *Concluding observations of the Committee on the Elimination of Discrimination against Women: Canada*, CEDAW/C/CAN/CO/7, 7 November 2008, online: OHCHR <<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CAN-CO-7.pdf>>

printed copies are available to the public upon request,” and that “the judiciary receives training, including on the State party’s obligations under international law, gender issues and integrating social context issues into judicial decision-making.”

The CEDAW Committee recommended that Canada do a better job of providing education and training and specifically that Canada

take further measures to ensure the dissemination of and awareness-raising on the Convention and its Optional Protocol at all levels — federal, provincial and territorial, with a special emphasis on the judiciary and the legal profession, political parties and Government officials, including law enforcement officials, as well as to the general public, in particular women and women’s non-governmental organizations (NGOs), in order to strengthen the use of the Convention and its Optional Protocol in the development and implementation of all legislation, policies and programmes aimed at the practical realization of the principle of equality between women and men. The Committee encourages the State party to promote knowledge and understanding of the Convention and gender equality systematically through all of its training programmes. It further requests that the State party ensure that the Convention and its Optional Protocol, as well as the Committee’s general recommendations and the views adopted on individual communications and enquiries, are made an integral part of educational curricula, including legal education and training of the judiciary.¹⁰⁹

This recommendation is particularly important in BC in light of the CEDAW Committee’s singling out of BC in its recommendations regarding violations of the internationally protected rights of poor and indigenous women and girls.¹¹⁰

Convention on the Rights of the Child

The *Convention on the Rights of the Child* (CRC)¹¹¹ stipulates that “States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike” (Article 42).

The CRC speaks of education in two key ways. Article 19.1 conceives of education as a method of protecting children’s rights:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ CRC, *supra* note 43.

violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation... [emphasis added].

Article 28 articulates the child's right to general education by making, "primary education compulsory and available free to all," secondary education "available and accessible to every child," and making higher education "accessible to all on the basis of capacity." Article 29 stipulates that one of the goals of the requisite education is to promote "the development of respect for human rights and fundamental freedoms..."

In 2001, the Committee on the Rights of the Child (CRC Committee) noted, in a General Comment on the Aims of Education to clarify the meaning and scope of Article 29, that "the child's right to education is not only a matter of access ... but also of content":

An education with its contents firmly rooted in the values of article 29 (1) is for every child an indispensable tool for her or his efforts to achieve in the course of her or his life a balanced, human rights-friendly response to the challenges that accompany a period of fundamental change driven by globalization, new technologies and related phenomena [emphasis added].¹¹²

The CRC Committee concluded that human rights education contributes to eliminating rights violations:

Education should thus be accorded one of the highest priorities in all campaigns against the evils of racism and related phenomena... It is therefore important to focus on the child's own community when teaching human and children's rights and the principle of non-discrimination. Such teaching can effectively contribute to the prevention and elimination of racism, ethnic discrimination, xenophobia and related intolerance" [emphasis added].

The CRC Committee addressed HRET directly, stating the importance of providing education that exposes children not only to the content of human rights but also to daily experiences of seeing human rights implemented in practice in their communities:

Article 29 (1) can also be seen as a foundation stone for the various programmes of human rights education ... the rights of the child have not always been given the prominence they require in the context of such activities. Human rights education should provide information on the content of human rights treaties. But children should also learn about human rights by seeing human rights standards implemented in practice, whether at home, in school, or within the community.

¹¹² *General Comment 1: The Aims of Education* 2001, UN Committee on the Rights of the Child, CRC/GC/2001/1, online: UNHCHR: <http://www.unhcr.ch/tbs/doc.nsf/%28symbol%29/CRC.GC.2001.1.En?OpenDocument>>.

Human rights education should be a comprehensive, life-long process and start with the reflection of human rights values in the daily life and experiences of children [emphasis added].

Article 4 of the CRC provides that States “shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention” in including economic, social and cultural rights to the maximum extent of their available resources...” [emphasis added].

The CRC Committee in its 2001 General Comment No. 5 on General Measures¹¹³ makes strong statements about human rights education, emphasizing in paragraph 53:

... States’ obligation to develop training and capacity-building for all those involved in the implementation process - government officials, parliamentarians and members of the judiciary - and for all those working with and for children. These include, for example, community and religious leaders, teachers, social workers and other professionals, including those working with children in institutions and places of detention, the police and armed forces, including peacekeeping forces, those working in the media and many others. Training needs to be systematic and ongoing - initial training and re-training. The purpose of training is to emphasize the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage active respect for all its provisions. The Committee expects to see the Convention reflected in professional training curricula, codes of conduct and educational curricula at all levels. Understanding and knowledge of human rights must, of course, be promoted among children themselves, through the school curriculum and in other ways...”

Paragraph 54 points out that

[t]he Committee’s guidelines for periodic reports mention many aspects of training, including specialist training, which are essential if all children are to enjoy their rights. The Convention highlights the importance of the family in its preamble and in many articles. It is particularly important that the promotion of children’s rights should be integrated into preparation for parenthood and parenting education.

Paragraph 55 emphasizes evaluation of educational effort, stating:

[t]here should be periodic evaluation of the effectiveness of training, reviewing not only knowledge of the Convention and its provisions but also the extent to which it

¹¹³ *General Comment No. 5 on General Measures*, 2003, UN Committee on the Rights of the Child, CRC/GC/2003/5 (3 October 2003), online: OHCHR <<http://tb.ohchr.org/default.aspx?Symbol=CRC/GC/2003/5>>, para 53.

has contributed to developing attitudes and practice which actively promote enjoyment by children of their rights.

Paragraph 69 stipulates that “learning about the Convention needs to be integrated into the initial and in-service training of all those working with and for children” and that “all efforts to provide training on the rights of the child be practical, systematic and integrated into regular professional training in order to maximize its impact and sustainability.” This paragraph also emphasizes that awareness-raising “should involve all sectors of society, including children and young people.” Training methods are to be by way of “dialogue rather than lecturing” using participatory methods.

This paragraph provides a clear statement of children’s right to know their rights: “Children, including adolescents, have the right to participate in raising awareness about their rights to the maximum extent of their evolving capacities.”¹¹⁴

In its 1996 Concluding Observations on Canada,¹¹⁵ the CRC Committee acknowledged, “numerous activities undertaken [in Canada] to disseminate information relating to the Convention” and recommended that Canada take steps to “integrate the Convention into the training curricula for professional groups dealing with children, especially judges, lawyers, immigration officers, peace-keepers and teachers.”

The CRC Committee also recommended that Canada’s

second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations [emphasis added].

The Committee’s 2003 Concluding Observations on Canada’s Second Periodic Report continue to encourage Canada to ensure:

- “that the provinces and territories are aware of their obligations under the Convention and that the rights in the Convention have to be implemented in all the

¹¹⁴ *Ibid.*, quoting a report of a 1999 workshop on general measures, CRC/C/90, para 291.

¹¹⁵ *Concluding observations of the Committee on the Rights of the Child: Canada* 1995, CRC/C/15/Add.37, 20 June 1995, online: UNHCHR <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/a6daf2f3b9d386da4125623700565bcb?Opendocument>

provinces and territories through legislation and policy and other appropriate measures” (para 9).

- “that research and educational programmes for professionals dealing with children are reinforced and that article 3 [“best interests of the child”] of the Convention is fully understood, and that this principle is effectively implemented” (para 25).¹¹⁶
- “that human rights education, including in children’s rights, is incorporated into the school curricula in the different languages of instruction, where applicable, and that teachers have the necessary training”(para 45(b)).¹¹⁷

It was beyond the scope of this research to discover how these recommendations have been implemented in Canada or BC other than by posting the link to the Concluding Observations on the Heritage Canada website.¹¹⁸ The CRC Committee’s review of Canada pursuant to its third and fourth Periodic Reports filed in 2009 is to take place during the CRC Commissions session scheduled for 17 September - 5 October 2012.¹¹⁹ Canada’s Periodic Report¹²⁰ was filed in 2009. The only reference to human rights education in BC is in a paragraph stating that:

The Government of Canada also contributes to the training of professionals in child rights through the Child Rights Education for Professionals (CRED-PRO) initiative of the International Institute for Child Rights and Development at the University of Victoria, British Columbia. CRED-PRO develops educational programs for child health professionals on a rights-based approach to child and family care. In May 2007, the Government of Canada was part of an international team that launched joint Government/Paediatric Society pilot projects in four South-American countries. A similar pilot project is being developed for Canada aimed at infusing a child-rights approach in child health policy, standards, training, and services through education for health and allied health professionals (para 44).

¹¹⁶ *Concluding observations of the Committee on the Rights of the Child: Canada 2003*, CRC/C/15/Add.215 27 October 2003, online: OHCHR <<http://tb.ohchr.org/default.aspx?Symbol=CRC/C/15/Add.215>>

¹¹⁷ *Ibid.*

¹¹⁸ Convention on the Rights of the Child: Official documents available online Canadian Heritage: <<http://www.pch.gc.ca/ddp-hrd/docs/crc-eng.cfm>>. Also see Raynell Andreychuk & Joan Fraser, *Children: The Silenced Citizens. Effective Implementation of Canada’s International Obligations with Respect to the Rights Of Children Final Report of the Standing Senate Committee on Human Rights* (Ottawa: Parliament of Canada, 2007), online Parliament of Canada: <<http://www.parl.gc.ca/Content/SEN/Committee/391/huma/rep/rep10apr07-e.pdf>> [Andreychuk & Fraser].

¹¹⁹ The CRC Committee’s review of Canada’s 3rd and 4th report has been scheduled to be conducted some time during the Committee’s 61st session, 17 September - 5 October 2012, online OHCHR:

<<http://www2.ohchr.org/english/bodies/crc/crcs61.htm>>

¹²⁰ *Convention on the Rights of the Child. Third and Fourth Reports of Canada Covering the period January 1998 – December 2007*, CRC/C/CAN/3-4, 20 November 2009, online: OHCHR

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-CAN-3_4.pdf>

However, as of the time of the drafting of this report, CRED-Pro has had no funding to implement its work in Canada.

The Canadian Coalition on the Rights of Children (CCRC) has issued an alternative report,¹²¹ *Right in Principle, Right in Practice: Implementation of the CRC in Canada*,¹²² which indicates a decrease in funds for human rights education, stating that:¹²³

[a]ccording to Canadian Government estimates for 2006/7, the amount available for grants and contributions for the entire department of Canadian Heritage totalled \$1,104,612,000, and yet grants in support of the Human Rights Program, one of many programmes and bodies supported by Heritage Canada, totalled only \$392,280. A 2009 report indicated that this amount has remained fairly stable in recent years, even though these dedicated resources are insufficient for educating all Canadians, especially children, across the country.¹²⁴

UNICEF Canada testified to the Senate Standing Committee on Human Rights that United Nations reporting holds Canada accountable to the international community but not to Canadians, and consequently, “UNICEF will know more about what Canada has said about Canada’s children’s right[s] than our own populous [sic] will.”¹²⁵

The CRC Committee Concluding Observations on Canada under the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (CRC-OP-AC),¹²⁶ recommended that Canada

¹²¹ Alternative Reports are online: Child Rights International Network (CRIN)

<http://www.crin.org/Alternative-reports/index.asp>.

¹²² Canadian Coalition on the Rights of Children (CCRC), *Right in Principle, Right in Practice: Implementation of the CRC in Canada* (Ottawa: CCRC, February, 2012), at 119, online: CRIN http://www.crin.org/docs/Canada_CCRC_CRC%20Report%20EN.pdf [CCRC]. This report does not provide the specific time period within which there has been a decrease.

¹²³ *Ibid.*

¹²⁴ Landon Pearson & Tara M. Collins, *Not There Yet: Canada’s implementation of the general measures of the Convention on the Rights of the Child* (Florence, Italy: UNICEF Innocenti Research Centre and UNICEF Canada, 2009), online CCRC: <http://rightsofchildren.ca/wp-content/uploads/Not-There-Yet-Canadas-implementation-of-CRC-general-measures-UNICEF.pdf> [Pearson & Collins], at 38, citing Government of Canada, Treasury Board of Canada Secretariat, 2006–2007 Estimates - Parts I and II: The government expense plan and the main estimates, Government of Canada, Ottawa, 2006, p. 1–99 (pdf p. 95), and p. 5–8 (pdf p. 142), online Treasury Board: www.tbs-sct.gc.ca/est-pre/20062007/me-bd/docs/ME-001_e.pdf [accessed on 14 August 2007].

¹²⁵ *Ibid.*, citing Lisa Wolff, UNICEF Canada, Senate of Canada, Senate Standing Committee on Human Rights, ‘Children: The silenced citizens,’ Senate of Canada, Ottawa, April 2007, p. 195.

¹²⁶ *Consideration of Reports Submitted by States Parties, under Article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in armed conflict, Concluding observations: Canada*, 2006, UN Committee on the Rights of the Child, CRC/C/OPAC/CAN/CO/1, online Bayefsky.com http://www.bayefsky.com/docs.php/area/conclobs/treaty/crc/opt/1/state/31/node/3/filename/canada_t4_crc_opt_ac_42.

strengthen education and training in all domestic languages on the provisions of the Optional Protocol for all relevant professional groups, in particular military personnel. It recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents, through, inter alia [sic], school curricula in a child-friendly version [emphasis added].¹²⁷

The CRC Committee also recommended that Canada's report to the Committee, "be made widely available to the public at large in order to generate debate and awareness of the CRC-OP-AC, its implementation and monitoring" [emphasis added].¹²⁸

This recommendation is particularly salient given attitudes of approximately half of those surveyed in BC¹²⁹ regarding Omar Khadr: attitudes which may demonstrate poor understanding or acceptance of the provisions of the CRC-OP-AC and other international human rights instruments creating and protecting the rights of children. The federal executive has persisted in its refusal to acknowledge Khadr's rights under UNCAT, CRC, ICCPR and the Geneva Conventions even after violations had been confirmed by the Federal Court, the Federal Court of Appeal and the Supreme Court of Canada. Canada ignored a request from the UN Secretary General's Special Representative on Children in Armed Conflict in 2009¹³⁰ and a motion passed by the House of Commons and the Senate recommending that Canada request Khadr's release from US custody and repatriation to Canada.

The 2007 Senate Committee on Human Rights noted concerns expressed by the Canadian Coalition for the Rights of Children (CCRC) that "the military is increasingly targeting young people (ages 16-34) in its recruitment programs" and that "those under 18 still receive full military training even if they are not sent to a theatre of hostilities."¹³¹ Recruitment for military careers continues among BC Aboriginal teenagers with acquiescence from the BC Ministry of Education.¹³²

The CCRC also reports that about 75% of young people in Canada "do not know how to exercise their rights and their responsibility to respect the rights of others."¹³³ Similarly, a

¹²⁷ *Ibid.*, para 17.

¹²⁸ *Ibid.*, para 18.

¹²⁹ Angus Reid, "Half of Canadians Think Khadr's Guilty Plea Was a Strategic Decision," *Angus Reid*, online: Angus Reid <http://www.angus-reid.com/wp-content/uploads/2010/10/2010.10.28_Khadr_CAN.pdf>. In October 2010, 34% of persons in British Columbia polled felt the treatment of Omar Khadr was unfair; 22% felt it was unfair and 42% were unsure.

¹³⁰ Radhika Coomaraswamy, "Statement of Special Representative of the Secretary General Ms. Radhika Coomaraswamy on the occasion of the trial of Omar Khadr before the Guantanamo Military Commission," online UN: <<http://www.un.org/children/conflict/english/09-august-2010-trial-of-omar-khadr.html>>.

¹³¹ Andreychuk & Fraser, *supra* note 118.

¹³² Royal Canadian Navy, *RAVEN Aboriginal Youth Initiative*, online: Royal Canadian Navy http://www.navy.forces.gc.ca/marpac/0/0-w_eng.asp?category=4&title=893.

¹³³ CCRC, *supra* note 122.

2006 Ipsos-Reid survey conducted by the Society for Children and Youth in BC shows that 52% of British Columbians know “not very much” or “nothing at all” about children’s rights. Seventy-five percent (75%) had only heard of the CRC or were not familiar with the Convention at all. Furthermore, 86% of British Columbians strongly or moderately agreed that the public needs more information about children’s rights in BC.¹³⁴

The CCRC also noted, along with the lack of public awareness of the CRC, a decrease in government references to children’s rights:

In recent years there has been a decrease in the use of the language of children’s rights in government documents that have direct relation to the Convention, including public health reports, reports to parliament, etc....¹³⁵

Convention on the Rights of Persons with Disabilities

The *Convention on the Rights of Persons with Disabilities* (CRPD) identifies duties of States to raise public awareness of the rights of disabled people and promote respect. Article 4 obligates States Parties to “ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.” To do so, States Parties must

promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights (Article 4.1.i).¹³⁶

In Article 8, States Parties undertake to adopt measure to “raise awareness throughout society,” to “foster respect for the rights and dignity of persons with disabilities” and to “initiate and maintain public awareness campaigns” to promote positive perceptions of persons with disabilities. In addition States are to “foster” respect for persons with disabilities throughout the education system and encourage “all organs of the media” to portray persons with disabilities in accordance with the Convention. States are also required to promote awareness-training programmes on the rights of persons with disabilities.

¹³⁴ *Ibid.*; Also see the Ipsos-Reid survey summary at Society for Children and Youth of BC, Child and Youth Officer for British Columbia, and Institute for Safe Schools of British Columbia, “Child Rights Public Awareness Campaign: Ipsos Reid Survey Summary,” 2006, online: BC Representative for Children and Youth <http://www.rcybc.ca/groups/Project%20Reports/survey_summary_nov_15.pdf>.

¹³⁵ CCRC, *supra* note 122, at 22.

¹³⁶ CRPD, *supra* note 67, at Article 4.1.i.

Canada's initial report was due in April 2012. Only two States Parties, Spain and Tunisia have received recommendations from the Committee on Disabilities. Recommendations to Spain focussed on increased awareness-raising "among the judiciary and the legal profession, political parties, Parliament and Government officials, civil society, media, and persons with disabilities, as well as among the general public."¹³⁷ Recommendations to Tunisia focussed on awareness campaigns to combat stereotypes about women with disabilities. The Committee noted that Tunisia had conducted awareness-raising with judges and education personnel, but was disappointed in lack of awareness-raising for other public officials.¹³⁸

UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

UNDRIP was adopted by the General Assembly on 13 September 2007 after almost three decades of negotiation by a vote of 144 in favour, 11 abstentions, and four against. Those that voted against were the United States, New Zealand, Australia and Canada, with Canada stating that the Declaration was "fundamentally incompatible with Canada's constitutional framework." All four opposing States plus some abstaining States have now endorsed this declaration.

While Canada endorsed UNDRIP on 12 November 2010,¹³⁹ the Aboriginal Affairs and Northern Development website qualifies Canada's endorsement by stating that the Declaration is an "aspirational" and "non-legally binding document that does not reflect customary international law nor change Canadian laws..."¹⁴⁰

This view differs from that of Craig Mokhiber, the Deputy Director of the New York Office of the UN High Commissioner for Human Rights who stated:

It is clear that the Declaration is not a treaty... It is, in many ways, a "harvest" that has reaped existing "fruits" from a number of treaties, and declarations, and guidelines, and bodies of principle, but, importantly, also from the jurisprudence of the Human Rights bodies that have been set up by the UN and charged with

¹³⁷ *Concluding observations of the Committee on the Rights of Persons with Disabilities: Spain*, September 2011, online: Bayefsky.com <http://www.bayefsky.com/pdf/spain_t4_crpd_6.pdf>.

¹³⁸ *Concluding Observations of the Committee on the Rights of Persons with Disabilities: Tunisia* 2011, CRPD/C/TUN/CO/1, online: Bayefsky.com <http://www.bayefsky.com/pdf/tunisia_t4_crpd_5.pdf>.

¹³⁹ *Declaration on the Rights of Indigenous Peoples*, 2 October 2007, UN General Assembly, A/RES/61/295, online: UNHCR Refworld <<http://www.unhcr.org/refworld/docid/471355a82.html>> [UNDRIP].

¹⁴⁰ Aboriginal Affairs and Northern Development Canada, "Canada's Statement of Support on the United Nations Declaration on the Rights of Indigenous Peoples," *Government of Canada, AANDC website*, online AADNC: <<http://www.aadnc-aandc.gc.ca/eng/1309374239861>>.

monitoring the implementation of the various treaties... There are no new rights in the Declaration.¹⁴¹

UNDRIP statements about the rights of indigenous peoples to education include rights to set up indigenous educational institutions; to have access to education in their own indigenous languages; to have access to mass media; and to appropriate portrayal of indigenous cultures in mass media.¹⁴²

While UNDRIP articulates no specific State obligation to provide education to citizens concerning the rights contained in it, the preamble makes it clear that the purpose of UNDRIP is to address “the urgent need to respect and promote the inherent rights of indigenous peoples...” It also asserts “the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States” [emphasis added]. As with all other international human rights law binding on Canada – including BC – it is impossible to respect and promote rights unless public officials, judges, lawyers, police, citizens and indigenous peoples know these rights.

A joint statement of the Assembly of First Nations and many other indigenous peoples’ organizations made at the UN Permanent Forum on Indigenous Issues in 2011 urged

¹⁴¹ Craig Mokhiber, as quoted in Joffe, Paul, "UN Declaration on the Rights of Indigenous Peoples: Canadian Government Positions Incompatible with Genuine Reconciliation" (2005) 26 *National Journal of Constitutional Law* 121, online: AFN <<http://www.afn.ca/uploads/files/education2/undripcanadiangovernments.pdf>>. Mokhiber’s view is consistent with that of other scholars who also disagree with Canada’s blanket statement that the UNDRIP does not reflect customary international law binding on Canada. While it is correct that UN General Assembly Declarations are not binding on States, “individual component prescriptions of them might have become binding if they can be categorized as reflective or generative of customary international law.” James Anaya & Siegfried Wiessner, "The UN Declaration on the Rights of Indigenous Peoples: Towards re-empowerment" (2007) 206 *Third World Resurgence*, , online: *Third World Resurgence*: <<http://www.twinside.org.sg/title2/resurgence/twr206.htm>>. In 1999, Weissner included in customary international norms “...that indigenous peoples are entitled to practice their traditions, to celebrate their culture and spirituality, to protect their language, and to maintain their sacred places and artifacts; (c) that they are, in principle, entitled to demarcation, ownership, development, control, and use of the lands which they have traditionally owned or otherwise occupied and used; (d) that they have, or should be given, powers of self-government, including the administration of their own system of justice; and (e) that governments are to honor and faithfully observe their treaty commitments to indigenous nations.” Siegfried Weissner, "Rights and Status of Indigenous Peoples: A Global Comparative and International Legal Analysis" (1999) 12: *Journal Article Harvard Human Rights Journal* 57, online Harvard: <<http://www.law.harvard.edu/students/orgs/hri/iss12/wiessner.shtml>>. Also see James Anaya, "The Emergence of Customary International Law Concerning the Rights of Indigenous Peoples" (2005) *Law & Anthropology* 127.

¹⁴² UNDRIP, *supra* note 139, at Articles 14-16.

[S]tates, in conjunction with Indigenous peoples, to promote broader public awareness of and human rights education on the Declaration as a principled, universal framework for justice and reconciliation. States must fulfil their international obligations to uphold the human rights of all.¹⁴³

Similarly, Ellen Gabriel, President of the Québec Native Women's Association, pointed out:

It is important then that human rights education, in particular, education on the UNDRIP be mandatory to all federal and provincial government officials, especially the Prime Minister of Canada, Canadian institutions like human rights commissions, secondary and primary schools be informed on the instruments that deal with the collective rights of Indigenous peoples.¹⁴⁴

The recent case of *Canada (Human Rights Commission) v. Canada (Attorney General)*¹⁴⁵ indicates that Canadian courts will consider the UNDRIP as legally relevant despite the fact that it is not a binding treaty obligation. In a precedent setting decision on April 18, 2012, the Federal Court rejected an interpretation of the *Canadian Human Rights Act*¹⁴⁶ that would prevent review of discriminatory practices against people living on reserves. The court sent the First Nations Caring Society complaint back to the Canadian Human Rights Tribunal for a hearing and confirmed that:

- international human rights law requires Canada to monitor and enforce individual human rights domestically, and to provide effective remedies where these rights are violated;

¹⁴³ Shawn A-in-chut Atleo, Joint Statement of Assembly of First Nations, Chiefs of Ontario, Grand Council of the Crees (Eeyou Istchee), First Nations Summit, Haudenosaunee of Kanehsatà:ke, Indigenous World Association, International Organization of Indigenous Resource Development (IOIRD), Louis Bull Cree Nation, Montana Cree Nation, Native Women's Association of Canada, National Association of Friendship Centres, Samson Cree Nation, Union of BC Indian Chiefs, Amnesty International, First Peoples Human Rights Coalition, Canadian Friends Service Committee (Quakers), Amnistie Internationale Canada, Hawai'i Institute for Human Rights, KAIROS: Canadian Ecumenical Justice Initiatives, Permanent Forum on Indigenous Issues, Tenth Session, 16-27 May 2011, available AFN: <http://www.afn.ca/index.php/en/national-chief/highlights-from-the-national-chief/permanent-forum-on-indigenous-issues-implementation-of-the-und-on-the->

<http://www.afn.ca/index.php/en/national-chief/highlights-from-the-national-chief/permanent-forum-on-indigenous-issues-implementation-of-the-und-on-the->

¹⁴⁴ Ellen Gabriel, *Mohawk, Turtle Clan, Longhouse from Kanehsatà:ke. Speech at the Roll with the Declaration event on Parliament Hill, June 20, 2011*, online: Kairos <<http://www.kairoscanada.org/take-action/the-land-our-life/roll-with-the-declaration/ellen-gabriels-speech-at-the-roll-with-the-declaration-event-on-parliament-hill-june-20-2011/>>

¹⁴⁵ *Canada (Human Rights Commission) v. Canada (Attorney General)* (2012 FC 445) T-578-11, April 18, 2012, paras 155, 351, 353, online: Federal Court <<http://decisions.fct-cf.gc.ca/en/2012/2012fc445/2012fc445.html>>.

¹⁴⁶ *Canadian Human Rights Act*, R.S.C., 1985, c. H-6, online: Ministry of Justice Canada <<http://laws-lois.justice.gc.ca/eng/acts/h-6/>> [*Canadian Human Rights Act*].

- ...where there is more than one possible interpretation of a provision in domestic legislation, tribunals and courts will seek to avoid an interpretation that would put Canada in breach of its international obligations. Parliament will also be presumed to respect the values and principles enshrined in international law, both customary and conventional; and
- International instruments such as the *UNDRIP* and the CRC may also inform the contextual approach to statutory interpretation.

National Human Rights Institutions: The Paris Principles

National Human Rights Institutions (NHRI) play critical roles in providing human rights education. The UN High Commissioner for Human Rights stated in 2011 that NRHIs have a “central place... in the national human rights protection system, particularly in addressing the most critical human rights issues at the national level.”¹⁴⁷ The UN sees NHRIs as “key factors in implementing international obligations,” and “cornerstone[s] of national human rights protection systems.”¹⁴⁸

The essential roles of NHRIs include both promotion and protection of human rights. Promotion includes education of the public, training of NGOs, police, prison officials, the armed forces, journalists and the judiciary, participation in development of school curricula, and other public awareness campaigns.¹⁴⁹

Standards for independent NHRIs, called the “Paris Principles” were adopted by the UN General Assembly in 1993.¹⁵⁰ The UN has created guidelines and training manuals for NHRIs.¹⁵¹ The UN International Coordination Committee has a Sub-Committee on Accreditation, which provides benchmarks against which NHRIs are assessed and accredited. The Sub-Committee generally accredits only one NHRI with a geographic reach across the country.

¹⁴⁷ *National Institutions for the Promotion and Protection of Human Rights. Report by the Secretary General*, 2011, A/66/274, online:

OHCHR <<http://nhri.ohchr.org/EN/ICC/BureauMeeting/Documents/Bureau%20meeting%20October%202011/A%2066%20274%20ENGLISH.pdf>> [Secretary General Report, National Institutions].

¹⁴⁸ United Nations, *National Human Rights Institutions: History, Principles, Roles and Responsibilities* (New York and Geneva: United Nations, 2012), at 5, 13, online:

OHCHR <http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf> [NHRI History, Principles, Roles and Responsibilities]

¹⁴⁹ *Ibid.* at 55-73.

¹⁵⁰ *Principles relating to the Status of National Institutions (The Paris Principles) 20 December 1993*, 1993, UN General Assembly, 48/134, online: OHCHR <<http://www2.ohchr.org/english/law/parisprinciples.htm>> [Paris Principles].

¹⁵¹ UN ESCR Handbook for NHRIs, *supra* note 81.

Canada has had a NHRI since 1977, the Canadian Human Rights Commission (CHRC). Although the CHRC has been an accredited “Paris Principles” NHRI since 1999,¹⁵² it has jurisdiction only with respect to federally regulated organizations, and not over matters within provincial jurisdiction. The CHRC is also limited to a narrow focus on the Canadian *Human Rights Act*.¹⁵³ The CHRC’s work in human rights education is very limited and confined to the domestic sphere.

In a federal State such as Canada, where provinces have exclusive jurisdiction in many matters, provincial government human rights institutions are not, properly speaking, “sub national” institutions. They are more properly categorized with “national” human rights institutions, as distinguished from international organizations such as the United Nations or the Organization of American States.¹⁵⁴

The international policy reasons for the creation of the Paris Principles apply equally to BC and other provinces, which share Canada’s duties to promote, protect and fulfill international human rights within their areas of jurisdictional responsibility. BC has used the language of the “Paris Principles” to describe functions within its human rights codes.¹⁵⁵

¹⁵² NHRI History, Principles, Roles and Responsibilities, *supra* note 148, at 169.

¹⁵³ *Canadian Human Rights Act*, *supra* note 146.

¹⁵⁴ See Linda C. Reif, "Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection" (2000) 13:Spring *Harvard Human Rights Journal* 1 [Reif].

¹⁵⁵ In 1997, the BC government replaced the BC Council of Human Rights with the BC Human Rights Commission and the BC Human Rights Tribunal, in which the Commission conducted public education (among other functions including complaint investigation). In 2003, BC reversed this development by amending the BC *Human Rights Code* to abolish the Commission and replace it with a Tribunal alone. The amended *Code* gave responsibility for human rights education, research and consultation to the Minister responsible for human rights (currently the Minister of Justice). Canada’s 2002 report to the CEDAW Committee stated that the “human rights system in British Columbia complies with the Paris Principles by constituting a human rights tribunal that is independent and autonomous from government and that has a diverse membership, a broad mandate, adequate powers to deal with complaints, and sufficient resources.” See Canada’s 30 December 2002 Addendum to its Fifth periodic report to the CEDAW Committee online Bayefsky.com: <http://www.bayefsky.com/reports/canada_cedaw_c_can_5_add_1_2002.pdf>. BC’s statement that the new Tribunal complied with the Paris Principles was only partially correct; the government statement omits to acknowledge that the Paris Principles make human rights education a mandatory feature of compliant institutions. The current Tribunal does not comply with several mandatory aspects of the Paris Principles. Human rights organizations objected to the changes in 2003, correcting the Attorney General’s claim that the new human rights regime in BC complies with the Paris Principles. See the 11 September 2002 letter of West Coast Leaf to then Attorney General Geoff Plant online: Westcoast Leaf <<http://www.westcoastleaf.org/userfiles/file/HRSubmissionSept15.pdf>>. It is noted that the BC government at the time considered it important to claim that it complied with the Paris Principles, thus indicating the international persuasiveness of this instrument. Practical implications for human rights education in BC are discussed in Chapters 4 and 5.

The Paris Principles stipulate that a NHRI “shall be vested with competence to promote and protect human rights” (Article 1). This includes:

- advising governments on any matter concerning promotion and protection of human rights (Article 3(a));
- promoting and ensuring harmonization of laws and practices with international human rights instruments to which the State is a party (Article 3(b));
- encouraging ratification of international human rights instruments, and ensuring implementation of international human rights instruments to which the State is a party (Article 3(c));
- contributing to reports which States are required to submit to United Nations treaty bodies pursuant to the State’s treaty obligations (Article 3(d));
- assisting in teaching and researching human rights and to “take part in their execution in schools, universities and professional circles” (Article 3(f)); and
- publicizing human rights, including increasing public awareness, “especially through information and education and by making use of all press organs.” (Article 3(g)) [emphasis added].

While the provincial Ministries of Education do provide some human rights education within the public school system, this does not eliminate the necessity for education to be provided by independent NHRIs. The Paris Principles stipulate that NHRIs are to have legislative guarantees of independence and pluralism, as well as sufficient funding to carry out their mandates.¹⁵⁶

BC is one of a minority of provinces that does not have an independent human rights institution that complies with the Paris Principles. The *BC Human Rights Code* does not provide BC’s Human Rights Tribunal with a mandate for human rights education.¹⁵⁷ Rather, Section 5 gives the BC Minister of Justice the responsibility of “developing and conducting a program of public education and information designed to promote an understanding of this Code.”

¹⁵⁶ Paris Principles, *supra* note 150, at “Composition and guarantees of independence and pluralism.”

¹⁵⁷ *BC Human Rights Code*, *supra* note 85.

UN Declaration on human rights defenders

While UN treaties and other instruments emphasize the primacy of State obligation to ensure human rights education, they also acknowledge the right and the responsibility of civil society organizations and individuals to engage in human rights education and training. The facilitation and protection of human rights defenders—including in their role as educators—is to be respected, encouraged, and facilitated.

The UN General Assembly affirmed the role of human rights defenders in promoting and protecting human rights in its 1999 Declaration on Human Rights Defenders (DHRD).¹⁵⁸ The DHRD affirms in its Preamble that, “the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State, and recognizes

the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels.

Article 6 of the DHRD affirms that:

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 14 (1), 14(2) (a) and (b) and 15 of the DHRD set out State duties to ensure:

¹⁵⁸ *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders)*, 8 March 1999, UN General Assembly, A/RES/53/144, 8 March 1999, online: OHCHR <<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>> [*Declaration on Human Rights Defenders*].

- “legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights”;
- promotion and facilitation of “the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme”;
- “publication and widespread availability...of applicable basic international human rights instruments”; and
- “[f]ull and equal access to international documents in the field of human rights, including the periodic reports by the state to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussion and the official report of these bodies.”

Article 16 recognizes the important role of NGOs and individuals in “making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research.” The purpose of this acknowledgment is to protect human rights NGOs from reprisals from governments wanting to suppress human rights education.

The DHRD also makes it clear that the State remains responsible to ensure public access to IHRET. Failure to do so constitutes a failure to abide by the UN Charter purpose (UN Charter, Article 3) “in promoting and encouraging respect for human rights and for fundamental freedoms for all...”

It is important to realize that the definition of “human rights defenders” is broadly construed within the UN human rights system, and includes persons conducting human rights education or advocacy in professional or non-professional contexts in all sectors, not just the legal profession or human rights NGO workers. The UN Special Rapporteur on Human Rights Defenders specifically includes as human rights defenders persons such as “a student who organizes other students to campaign for an end to torture in prisons” or an “inhabitant of a rural community who coordinates a demonstration by members of the community against environmental degradation of their farmland by factory waste,” or a “politician who takes a stand against endemic corruption within a Government for his or her action to promote and protect good governance and certain rights that are threatened by such corruption.”¹⁵⁹ Witnesses who give evidence or provide information about human

¹⁵⁹ “Who is a defender?” Webpage of the UN Special Rapporteur on Human Rights Defenders, online: OHCHR <<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>>.

rights abuses to courts or tribunals are also considered to be human rights defenders “in the context of those actions.”¹⁶⁰

Basic Principles on the Role of Lawyers

The UN *Basic Principles on the Role of Lawyers*¹⁶¹ codifies State duties accepted as necessary to ensure the right and duty of lawyers to act independently in their clients’ interests. This instrument articulates the State duty to ensure adequate international human rights education to lawyers:

9. Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law [emphasis added].

Declaration on Human Rights Education and Training

The Declaration on HRET is comprised of 14 articles:

- **Article 1** emphasizes the importance of HRET, and HRET as a component of the right to education.
- **Article 2** defines HRET, as quoted in section 2.2 above.
- **Article 3** outlines the scope of HRET, noting that it concerns all parts of society and includes a diversity of actors and activities.
- **Article 4** describes:
 - the content of human rights education and training, emphasizing that it should be based on the UDHR and relevant treaties and instruments;
 - the purpose of HRET, including raising “awareness, understanding and acceptance of universal human rights standards and principles” and guarantees of protection; developing a “universal culture of human rights”; pursuing “effective realization” of human rights; ensuring access to HRET without discrimination; and contributing to prevention of HR abuses.
- **Article 5** describes the principles of HRET, including that it should be accessible and available to all persons.

¹⁶⁰ *Ibid.*

¹⁶¹ *Basic Principles on the Role of Lawyers, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, 1990, Welcomed by the General Assembly in A/RES/45/166, online: OHCHR <<http://www2.ohchr.org/english/law/lawyers.htm>> [Basic Principles on the Role of Lawyers].*

- **Article 6** emphasizes tools for HRET, including new communications technologies , the media and the arts.
- **Article 7** stipulates that the State and relevant governmental authorities have the “primary responsibility to promote and ensure human rights education and training” and that States should create a “safe and enabling environment for engagement of civil society” and other stakeholders in HRET. States should also ensure adequate training in human rights, IHL and international criminal law (as relevant) for officials and military personnel, and promote “adequate training” in human rights for teachers and other educators “acting on behalf of the State”.
- **Article 8** stipulates that States should develop strategies, policies and actions plans and programs to implement HRET, e.g. through school curricula, and that all relevant stakeholders should be involved in conception, implementation and evaluation of action plans.
- **Article 9** holds that States should promote the establishment of national human rights institutions as per the Paris Principles (discussed in section 3.4.10).
- **Article 10** emphasizes the role of civil society and other non-state actors.
- **Article 11** sets out the obligation of the UN to provide HRET to its own personnel.
- **Article 12** emphasizes the need for cooperation at international, regional, national and local levels for the implementation of HRET.
- **Article 13** describes mainstreaming of HRET into existing international human rights mechanisms and encourages States to include information about HRET measures they have adopted in their reports to UN mechanisms. **Article 14** emphasizes that States should ensure implementation of the Declaration including making “necessary resources” available.

The right to human rights education

The right to know rights through education and training has been acknowledged by human rights education specialists,¹⁶² and the duty of States to ensure IHRET is well-established. However, the process of drafting the Declaration on HRET illustrated the reluctance of some States to accept the existence of a right to IHRET. The debate centred on whether there is a right to HRET, *per se*, that is distinct from the right to education. The United Kingdom, the United States and Canada were among the States raising this objection, stating at the time of adoption of the Declaration on HRET by the Human Rights Council that there was no basis in international law to recognize a specific right to HRET and,

¹⁶² Inter-American Institute of Human Rights (San Jose: Inter-American Institute of Human Rights, 2002), online: IIDH <http://www.iidh.ed.cr/multic/default_12.aspx?contenidoid=63b402e3-3136-45c4-9b08-49a42ae95487&Portal=IIDHen>.

therefore, their acceptance of the Declaration on HRET did not import an acceptance of a right to HRET.¹⁶³

The Third Committee of the General Assembly recommended by consensus on 17 November 2011 that the Declaration be referred to the General Assembly for adoption. Nevertheless, the debate continued:

... some delegations noted differences of opinion on whether human rights training and education constituted a human right. Speaking after the text's adoption, the United Kingdom's representative said her country did not believe there was a basis in international law to make human rights education and training an international human right, while the representatives of the United States and Canada said their Governments had limited national authority over education.¹⁶⁴

Canada's position had been signaled at the outset in its 2009 response to the Human Rights Council Advisory Committee's question posed in a preliminary survey of States as it was preparing to draft the Declaration: "Is the right to human rights education and training considered as such in your national system (provincial and territorial systems)?" Canada answered, with a single word: "NO" [capital letters in original]. No reasons were provided, but in a footnote, Canada noted responsibility for education as follows:

... In Canada there is no federal department of education and no integrated national system of education. Within the federal system of shared powers, Canada's Constitution Act of 1867 provides that 'In and for each province, the legislature may exclusively make Laws in relation to Education.' In the 13 jurisdictions – 10 provinces and 3 territories – departments or ministries of education are responsible for the organization, delivery and assessment at the elementary and secondary levels, for technical and vocational education, and for postsecondary education. Some jurisdictions have two separate departments or ministries, one having responsibility for elementary-secondary education and the other for postsecondary education and skills training.¹⁶⁵

¹⁶³ United Nations, "Human Rights Council adopts UN Declaration on Human Rights Education and Training, United Nations Press release, 23 March 2011," online: HREA

http://www.hrea.org/lists2/display.php?language_id=1&id=20066.

¹⁶⁴ "Third Committee Approves Resolution Recommending Adoption of United Nations Declaration on Human Rights Education and Training," *General Assembly*, online UN

<<http://www.un.org/News/Press/docs/2011/gashc4030.doc.htm>>.

¹⁶⁵ Government of Canada Permanent Mission of Canada to the United Nations and the World Trade Organization, Note YTGR0153, Geneva, 17 March 2009, online: OHCHR

<<http://portal.ohchr.org/portal/page/portal/AdvisoryCommittee/MEMBERONLY/ResponsestoquestionnairebyGovernments/Canada%20-%2017%20March%202009.pdf>> [accessed 15 May 2012].

Canada's official position at the UN appears to be that human rights education can be seen only as part of the right to education, and that as the provinces and territories have exclusive jurisdiction for education, the decision as to what human rights education to include in education programs remains with the provinces and territories. Canada further indicated that

all governments in Canada carry out education programs in the area of human rights. Within the federal government the main agencies involved are the department of Canadian Heritage, and the Department of Justice." The survey response stated that "[n]ine of Canada's provinces and the Yukon Territory have human rights commissions that are devoted to the protection of human rights guaranteed by provincial laws and human rights codes.

BC is not included among the nine.

The United States, the United Kingdom and some other States maintained that a State obligation to ensure human rights education would be a "new" obligation. The International Service for Human Rights, a Geneva-based NGO, summarized the discussion at the Open-ended Intergovernmental Working Group on the draft UN Declaration on HRET as follows:

There was a somewhat 'unusual alliance' among delegations including the United States, the UK, Russia and Egypt who particularly raised concerns about the passage of the text dealing with the recognition of the right to human rights education and training (article 1) and corresponding State obligations (article 7). All the above mentioned delegations along with several others continued to question the aim of the draft declaration to create a 'new' right and thus 'new' State obligations. In this respect, they sought to define human rights education and training not as a right *per se*, rather as a tool for the realisation of the right to education. Furthermore, they strove to change the language of the text on States' obligations arguing that the federal system would not permit such broad obligations (the US, Russian Federation), the independence of the education system from government intervention (the UK), and lack of appropriate structures (Egypt). In response to these statements, the NGOs present at the meeting, the members of the platform and the Advisory Committee member in charge of the first draft of the declaration (Mr Emmanuel Decaux) referred to different international instruments attempting to show that both the right and associated State obligations already exist.¹⁶⁶

¹⁶⁶ International Service for Human Rights, "Draft declaration on human rights education fails to fully acknowledge defenders' role," online: ISHR <<http://www.ishr.ch/council/376-council/1026-draft-declaration-on-human-rights-education-fails-to-fully-acknowledge-defenders-role>>

The concerns of these federal States are puzzling, as the same concerns exist for federal States regarding other human rights obligations. It is unclear why Canada would raise its federal structure with respect to implementation of IHRET when it has similar problems with jurisdiction regarding provisions of the ICESCR, the CERD, the CEDAW, the CRC and even, in some situations, the ICCPR and the UNCAT.¹⁶⁷

The concern about a “new” right to human rights education could be explained by a concern that the Declaration on HRET may signal an emerging norm of customary international law. State representatives may be trying to ensure that their States are noted as “persistent objectors”¹⁶⁸ to any potential crystallization of customary international law regarding a right to human rights education distinct from the right to public school education.

These arguments have detracted from the fact that IHRET is identified by the UN Charter, by all major human rights treaties and by treaty monitoring bodies as essential to the fulfillment of States Parties’ obligation to ensure protection and realization of human rights. Nevertheless, the objections of some States during the drafting process succeeded in weakening of the language of Article 1. The originally proposed language, “everyone has the right to human rights education and training,” was eventually modified to “everyone has the right to know, seek, and receive information about all human rights and fundamental freedoms, and should have access to human rights education and training.”

Even so, the Declaration on HRET clearly affirms IHRET as a foremost means of achieving significant implementation and enforcement of internationally protected rights. It also affirms that IHRET is an integral part of State duties to ensure the enjoyment of protected rights by all people. Article 7 makes it clear that the State has the primary obligation to ensure and facilitate IHRET.

¹⁶⁷ *Vienna Convention on the Law of Treaties*, *supra* note 35, Article 26 reads: “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.” Article 27 is particularly relevant to Canada, in which provinces have exclusive jurisdiction in many matters. UN human rights treaty bodies have consistently taken the position that all levels of government in Canada are responsible to implement international Conventions ratified by Canada on matters within their jurisdiction.

¹⁶⁸ A persistent objector is a State which, “while a norm of [customary] international law is in its embryonic stages... consistently and openly objects to it, after time, while a norm may apply to other States that have consistently and regularly followed it with a belief that they are legally obligated to do so...” American Society of International Law and the International Judicial Academy, “Customary International Law” (2006) 1:5 *International Judicial Monitor*, online: *Judicial Monitor* <http://www.judicialmonitor.org/archive_1206/generalprinciples.html>.

The International Labour Organization

Canada has ratified 13 International Labour Organization (ILO) conventions, but has not ratified three of the ILO's eight "Core Conventions."¹⁶⁹ BC is responsible for implementation of these Conventions which involve employment. ILO Conventions include the commitment "to respect, to promote and to realize, in good faith" the principles of ILO Conventions. The ILO, as a Specialized Agency of the United Nations, works in cooperation with the UN on matters of international human rights education and works in partnership with a number of international NGOs on human rights education, particularly on child labour issues.¹⁷⁰

Inter-American Human Rights System

Regional human rights systems affirm State obligations to ensure education in general and HRET specifically. While all regional frameworks are relevant in that they all contribute to the development of international human rights jurisprudence, this report emphasizes the Inter-American human rights system as it pertains directly to Canada.

The OAS, comprised of 35 member States, was formed in April 1948. Canada became a permanent observer in 1972 and joined as a member State 8 January 1990. Canada ratified the OAS Charter on January 8, 1990. Article 49, stipulates the right to education, which, according to the principles in Article 3(n) "should be directed toward justice, freedom, and peace." The Preamble to the Charter emphasizes that the OAS is to be based on "a system of individual liberty and social justice based on respect for the essential rights of man."

As a State Party to the OAS Charter,¹⁷¹ Canada is obliged to observe the human rights obligations set out in the Charter, which the Inter-American Commission has stated are represented by the *American Declaration on the Rights and Duties of Man* (Declaration of Rights).¹⁷² The right to education is set out in Article XII of the Declaration of Rights: "Every

¹⁶⁹ Canada has not ratified the following ILO core Conventions: No. 29 *Forced Labour Convention*, 1930; No. 98 *Right to Organise and Collective Bargaining Convention*, 1949; or No. 138 *Minimum Age Convention*, 1973. ILO Conventions binding on Canada are found in the ILO's NATLEX data base International Labour Organization (ILO), NATLEX pages on Canada, online: ILO

<http://www.ilo.org/dyn/natlex/country_profiles.ratifications?p_lang=en&p_country=CAN>

¹⁷⁰ ILO. "About 12 to 12," online: ILO

<http://www.ilo.org/ipec/Campaignandadvocacy/12to12_Partnership/About12to12/lang--en/index.htm>

¹⁷¹ *Charter of the Organisation of American States*, 30 April 1948 as amended 1967, 1985, 1992, 1993, online: OAS<http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm> [OAS Charter].

¹⁷² *Declaration of the Rights and Duties of Man*, OAS, 2 May 1948, online: *OAS Inter-American Commission on Human Rights*: <<http://www.cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm>> [American Declaration].

person has the right to an education, which should be based on the principles of liberty, morality and human solidarity....”

The right to education is also set out in the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* (Protocol of San Salvador).¹⁷³ Article 13 states that “everyone has the right to education” and that “education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace....”

Canada has not ratified the *American Convention on Human Rights* (*American Convention*)¹⁷⁴ or the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* (*Protocol Of San Salvador*).¹⁷⁵ However, the Inter-American Commission has ruled that the *American Declaration* must be interpreted in light of developments in the overall body of international human rights law, including the *American Convention* and jurisprudence of the Inter-American Court.¹⁷⁶ The Inter-American Commission has described the *American Convention* as representing “an authoritative expression of the fundamental principles set forth in the *American Declaration*”.¹⁷⁷

Several OAS Conventions make public awareness-raising, education and training key strategies for protection of rights. Included are the *Inter-American Convention on*

¹⁷³ *Additional Protocol to the American Convention on Human Rights In The Area Of Economic, Social And Cultural Rights* (“Protocol of San Salvador”), online: OAS <<http://www.oas.org/juridico/english/treaties/a-52.html>> [Protocol of San Salvador].

¹⁷⁴ *American Convention on Human Rights*, OAS. San Jose, (1969), online: OAS <<http://www.oas.org/juridico/english/treaties/b-32.html>>.

¹⁷⁵ *Additional Protocol to the American Convention On Human Rights in the Area of Economic, Social and Cultural Rights* (“Protocol Of San Salvador”), online OAS: <<http://www.oas.org/juridico/english/treaties/a-52.html>>.

¹⁷⁶ *Mary and Carrie Dann*, United States, Annual Report of the Inter-American Commission on Human Rights Case No 11.140, Report No 75/02, 2002, online: UMN <<http://www1.umn.edu/humanrts/cases/75-02a.html>>, at paras 96-97:

96. In addressing the allegations raised by the Petitioners in this case, the Commission also wishes to clarify that in interpreting and applying the Declaration, it is necessary to consider its provisions in the context of the international and inter-American human rights systems more broadly, in the light of developments in the field of international human rights law since the Declaration was first composed and with due regard to other relevant rules of international law applicable to member States against which complaints of violations of the Declaration are properly lodged. The Inter-American Court of Human Rights has likewise endorsed an interpretation of international human rights instruments that takes into account developments in the *corpus juris gentium* of international human rights law over time and in present-day conditions. 97. Developments in the corpus of international human rights law relevant to interpreting and applying the American Declaration may in turn be drawn from the provisions of other prevailing international and regional human rights instruments. This includes in particular the American Convention on Human Rights which, in many instances, may be considered to represent an authoritative expression of the fundamental principles set forth in the American Declaration.

¹⁷⁷ *Ibid.*, at para 97.

the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belem Do Para) (1994),¹⁷⁸ the *Inter-American Convention On The Elimination of All Forms of Discrimination Against Persons With Disabilities* (1999)¹⁷⁹ and the *Inter-American Convention to Prevent and Punish Torture* (1985).¹⁸⁰ Canada is not a party to any of these treaties.

Other OAS initiatives are worth noting. At the Second Summit of the Americas in 1998,¹⁸¹ the participating Heads of State and Government signed a Plan of Action on education, promising a number of educational strategies for multicultural education with participation of indigenous populations and migrants. The Plan of Action specifically promised development of educational strategies to

...foster the development of values, with special attention to the inclusion of democratic principles, human rights, gender-related issues, peace, tolerance and respect for the environment and natural resources (Section I, paragraph 9).

¹⁷⁸ *Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women ("Convention Of Belem Do Para")*, 1994, online: OAS <<http://www.oas.org/juridico/english/treaties/a-61.html>>.

¹⁷⁹ *Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons With Disabilities*, 1999, online: OAS <<http://www.oas.org/juridico/english/sigs/a-65.html>>.

¹⁸⁰ *Inter-American Convention to Prevent and Punish Torture*, 9 December 1985, OAS Treaty Series, No. 67, online: OAS <<http://www.oas.org/juridico/english/treaties/a-51.html>>.

¹⁸¹ *Organization of American States, Second Summit of the Americas, Santiago de Chile, Chile April 18-19, 1998*, online: Summit of the Americas: <<http://www.summit-americas.org/chileplan.htm>>.

Building understanding and awareness is essential to overcome the misconceptions that have too often led to conflict in the past... The United Nations Declaration on the Rights of Indigenous Peoples compels both States and Indigenous peoples to work together in mutual partnership and respect. It also sets out the standard of free, prior and informed consent.

National Chief Shawn A-in-chut Atleo, March 2012¹⁸²

¹⁸² Chief Shawn A-in-chut Atleo, Speaking Notes, Calgary Chamber of Commerce, Calgary, Alberta, Canada, March 1, 2012, online: AFN <<http://www.afn.ca/uploads/files/ncspeechcalgarychamberofcommerce.pdf>>.

Chapter 4:

How does British Columbia measure up?

In spite of clear responsibilities and mandates of governments and “every organ of society” to “strive by teaching and education” to promote international human rights, BC students, professionals, public officials or citizens have very few opportunities to access information about the UN human rights treaties ratified by Canada and the rights and responsibilities created by those treaties.

To assess the availability of IHRET in BC, LRWC asked educational institutions and human rights organizations to respond to a questionnaire about their human rights and IHRET programming and invited BC lawyers and judges to respond to a survey about their education and knowledge of international human rights.

Criteria for assessing human rights education in BC

In keeping with the definition of human rights education in the Declaration on HRET (discussed in Chapter 2), further illuminated by a review of literature, and consideration of Phases I and II of the WPHRE, LRWC used the following threshold questions to identify IHRET programs/projects in BC:

- **Content: Is the education aimed at:**
 - fostering knowledge and understanding of the rights protected by UN treaties ratified by Canada?
 - promoting understanding of and the ability to use mechanisms for the enforcement of internationally protected rights?
 - providing knowledge and understanding of the responsibilities and restrictions imposed on governments and individuals by the treaties?
 - promoting adherence to international human rights law and contributing to the prevention of violations?
- **Scope: Is international human rights education**
 - generally accessible to everyone in society at all levels of education, including primary, secondary and higher education, educators and public servants particularly those involved with the administration of justice, as well as to the general public?

“There is no greater responsibility of citizens in a democracy than to self-govern. This includes becoming informed on critical issues and engaged in demanding of governments that they act honourably. Human rights, at home and abroad, should be at the top of all of our policy lists...” –

Stephen Owen, Vice-President, External, Legal and Community Relations, University of British Columbia

Apart from asking these threshold questions, LRWC did not evaluate individual programs or courses as to content or educational methods. However, it must be emphasized that both Article 2.2 of the Declaration on HRET¹⁸³ and human rights education literature place considerable importance on the use of participatory education methods that respect the rights of both educators and learners, and which aim at “empowering individuals, groups and communities through fostering knowledge, skills and attitudes consistent with internationally recognized human rights principles.”¹⁸⁴

This section of the report first examines IHRET in the BC primary and secondary school systems, which was the recommended focus during Phase I of the WPHRE from 2005-2009, evaluated in 2010.¹⁸⁵ Next examined is IHRET for selected sectors to be emphasized to be during Phase II (2010-2014). The Plan of Action for Phase II¹⁸⁶ is focused on “human rights education for higher education and on human rights training for teachers and educators, civil servants, law enforcement officials and military personnel.” LRWC’s research examined IHRET in selected higher education sectors, including education, journalism and law.¹⁸⁷

IHRET in BC

The key finding of this research is the surprising dearth of IHRET for all sectors in BC. A number of respondents articulated a perception that international human rights is not relevant to Canada or to BC, and that only domestic law directly enforceable in courts or tribunals is significant to their work. There seemed to be little awareness among lawyers, judges or educators that international human rights treaties are important interpretive tools for advocacy in BC’s courts and tribunals¹⁸⁸ and essential tools for assessing the legitimacy of laws, policies and practices and for preventing illegality and arbitrariness by government.

The very concept of “human rights” appears to be “narrowly associated with those rights enshrined in the BC *Human Rights Code* and the *Charter*.¹⁸⁹ International human rights tend to be perceived as advanced, sophisticated, complex or remote from daily life in BC or

¹⁸³ See Chapter 2 of this report.

¹⁸⁴ Amnesty International, Human Rights Education, *supra* note 18.

¹⁸⁵ UN Evaluation WPHRE Phase 1, *supra* note 29.

¹⁸⁶ *Ibid.* It was noted that Canada did not provide input to the Plan of Action by providing an Evaluation Report in time for incorporation into the Action Plan. Canada did send in its late Evaluation Report in December 2010. See the CMEC report, *supra* note 30.

¹⁸⁷ An attempt was made to survey schools of social work, but results were insufficient for analysis.

¹⁸⁸ See Jackman & Porter, *supra* note 46.

¹⁸⁹ Airey, *supra* note 22.

Canada. One person involved in training for public officials, when asked about IHRET said that the training offered was “basic training only,” and that educators don’t “muddy the waters with things not in the direct realm of Canadian law.” This comment illustrates a common perception about international human rights in BC. The lack of government-sponsored IHRET across all sectors including in the primary and secondary school systems, for police, detention centre and penitentiary employees, for judges, prosecutors and lawyers, educators and public servants, may be related to this narrow perception.

There is no coordinated BC government strategy to make international human rights treaties in force in BC known to the BC public. This is a serious problem in BC, particularly in light of UN treaty bodies’ concerns about persistent human rights violations of the rights of women, children and aboriginal peoples in BC, and concerns about Canada’s implementation of the CAT.¹⁹⁰

Several informants working in the field of human rights education commented on human rights knowledge in BC. One international human rights educator identified the four sectors most in need of IHRET as: indigenous peoples, politicians, people working in the legal system and the public. This educator said:

There is low knowledge and understanding of international [human rights] law in BC. It is important to create knowledge of international law to increase its legitimacy and thus its leverage. Audiences needing the most education are [indigenous peoples] so that they can become more vocal, politicians, both government and opposition, [people working in] the legal system including judges and lawyers, and the general public.

A university-based educator said about the general public level of knowledge of human rights, including domestic and international human rights, saying: “there is an appalling ignorance” among most people who are “at the front line” dealing with human rights-related issues “all the time,” including school teachers.

¹⁹⁰ LRWC and BC CEDAW, *supra* note 90.

BC Primary and Secondary Schools

BC's efforts in the area of human rights education are outlined in Canada's 2010 Evaluation Report on Phase I of the UN WPHRE.¹⁹¹ The objectives of the Plan of Action for Phase I¹⁹² included promotion of "a culture of human rights" and a "common understanding, based on international instruments, of basic principles and methodologies for human rights education..." Its principles included fostering "knowledge of and skills to use local, national, regional and international human rights instruments and mechanisms for the protection of human rights..." [emphasis added].

Canada's Evaluation Report, provided by the Council of Ministers of Education, Canada (CMEC), discusses Canada's efforts from 2005-2009. The source documents for BC referred to in Canada's Evaluation Report indicate that the human rights education and training taking place in BC consists of programs designed to foster a "culture of human rights" by preventing bullying and promoting respect and acceptance of diversity.¹⁹³ There were no BC programs referred to in the Evaluation Report that focused on imparting "knowledge of and skills to use local, national, regional and international human rights instruments and mechanisms for the protection of human rights..." pursuant to the Plan Action for WPHRE Phase I.

¹⁹¹ CMEC report, *supra* note 30.

¹⁹² WPHRE Phase I, *supra* note 3.

¹⁹³ The illustrative documents from BC referenced in the Evaluation Report include:

- BC Ministry of Education, *Diversity in BC Schools* (Victoria: BC Ministry of Education, 2008), online: BC Ministry of Education http://www.bced.gov.bc.ca/diversity/diversity_framework.pdf>.. This Framework was listed in the OSCE's OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice* (Warsaw: ODIHR, 2009), online: OHCHR www.ohchr.org/Documents/Publications/CompendiumHRE.pdf> The OSCE Compendium attempts to assess "best practices" in human rights education, however, its criteria for assessment are limited to its educational methods, and not according to content related to international human rights instruments.
- BC Ministry of Education, *Safe, Caring and Orderly Schools A Guide* (Victoria: Ministry of Education, updated 2008), online: BC Ministry of Education <http://www.bced.gov.bc.ca/sco/guide/scoguide.pdf>>. This document sets out the BC government's expectations that all boards of education have school codes of conduct in place that meet provincial standards, including the requirement that all codes reference the prohibited grounds for discrimination outlined in the BC *Human Rights Code*. This report provides no references to international human rights except a reference to the *Convention of the Rights of the Child* in *Canada's Youth Criminal Justice Act* (2002) 1 Y-1.5 which is excerpted in an appendix to the *Guide*.
- BC Ministry of Education, *Making Space: Teaching for Diversity and Social Justice Throughout the K-12 Curriculum* (Victoria: BC Ministry of Education, 2008), online: BC Ministry of Education http://www.bced.gov.bc.ca/irp/pdfs/making_space/mkg_spc_intr.pdf> . This document provides suggestions for social justice education, but makes no reference to international human rights.
- BC Ministry of Education, *Special Education Services: A Manual of Policies, Procedures and Guidelines* (Victoria: Ministry of Education, 2011), online: BC Ministry of Education http://www.bced.gov.bc.ca/specialed/special_ed_policy_manual.pdf>. Note that the OSCE Compendium, references the 2008 edition of this document, but the same link now yields the March

The CMEC Evaluation Report stated:

With 13 educational jurisdictions, hundreds of school boards, and many partners in civil society, an accurate assessment cannot be made of the awareness of the world program [WPHRE] or the usefulness of the associated documents (Para 163).

The CMEC report concludes as follows:

Human rights education, its principles, values, content, and pedagogical approaches can “be found in the education systems of all of Canada’s provinces and territories. Rather than simply being labelled “human rights education,” the policies, curricula, and initiatives are often placed within the context of educational visions or of common or broad learning outcomes, or within system-wide initiatives such as inclusive education and anti-bullying programs. In curricula, the topics related to human rights are found most often in social studies but may also be part of health education, language arts, and other subjects. Resources and teacher training, as well as other supports, are widely available to complement the teaching and learning of human rights issues.

The OHCHR plans to publish an evaluation guide for States in the summer of 2012.

In 2006, a report addressing human rights in BC school curricula was produced by J.M. Young for the Simon Fraser University Centre for Education, Law & Society.¹⁹⁴ Young conducted keyword searches of curriculum documents in BC (Integrated Resource Packages and British Columbia Performance Standards) to determine the extent of content in human rights education.

The report found that the topic of human rights is addressed directly and indirectly in Kindergarten through Grade 12 (K-12) in social studies, and health and career education. Topics specifically addressed include culture and multiculturalism, security and conflict, economic rights, environmental rights, and indigenous peoples’ rights. However, Young reports:

While there is an assumption that students will learn about human rights at some point in their schooling, there is no clear consensus regarding what exactly that entails. When should students learn about human rights? How should they be studied? The answer to these questions depends largely on two criteria: understandings of the definition of human rights, which includes beliefs about how

2011 revised edition. The 2011 edition makes no reference to the UN *Convention on Persons with Disabilities*, ratified by Canada on 11 March 2010 and in force on 11 April 2010.

¹⁹⁴ Young, *supra* note 16.

and to what extent the struggle for human rights in our society and in the world should be explored by students in the K-12 system; and determinations as to where human rights education 'fits' in curricular content.¹⁹⁵

One source of Young's assertion that all BC students will learn about human rights is found in BC Prescribed Learning Outcomes (PLO) Curriculum Organiser Politics and Law:

Grades 5 and 6 there is a requirement for students to demonstrate an understanding of citizenship and have knowledge of the Canadian *Charter*, the *BC Human Rights Code*, the *Ombudsman Act* and UN human rights initiatives.

However, according to Young, "[t]he word "rights" is not specifically mentioned again in the PLOs until Grade 11 Social Studies, when they are referred to in the PLOs of three of the Curriculum Organisers...":

Politics and Government: It is expected that students will describe major provisions of the Canadian constitution, including the *Canadian Charter of Rights and Freedoms*, and assess its impact on Canadian society

Autonomy and International Involvement: It is expected that students will assess Canada's participation in world affairs with reference to: human rights, the United Nations

Society and Identity: It is expected that students will assess the development and impact of Canadian social policies and programs related to immigration, the welfare state and minority rights¹⁹⁶.

Civics 11, an elective course (for grade 11 students), calls for education in Canadian society, governance, legal rights and responsibilities, and a comparison of "human rights provisions in Canada and internationally with respect to the *Canadian Charter of Rights and Freedoms*, *BC Human Rights Code*, *UN Universal Declaration of Human Rights*." This course also analyses "the domestic and international effects of Canada's record with respect to issues and events in one or more of the following categories: environment, trade, foreign aid, peace and security, human rights" [emphasis added].¹⁹⁷

¹⁹⁵ *Ibid.*, at 4.

¹⁹⁶ *Ibid.*, at 5-6.

¹⁹⁷ *Ibid.*, at 5-6.

History 12 (for grade 12 students) calls for students to understand “the struggle for human rights, including the civil rights movement in the United States and the anti-apartheid movement in South Africa” from 1945 to 1963. History 12 also examines the Canadian *Charter* in comparison with individual rights in the USSR under Stalin, Germany under Hitler, and Italy under Mussolini.¹⁹⁸ Law 12 “includes discussion of the Canadian *Charter of Rights [sic]*, BC *Human Rights Code* and the UDHR, and compares rights of those accused of crimes with child rights.”¹⁹⁹ These courses do not appear directed towards, or capable of, promoting “knowledge of and skills to use...international human rights instruments and mechanisms for the protection of human rights...” as recommended by the WPHRE Phase I Plan of Action.

Recognition and practice of human rights BC is included in BC Performance Standards for Social Responsibility for student development and behaviour. During Kindergarten to Grade 8, students are expected to learn about the CRC. From Grades 8 through 10 students discuss human rights issues such as “racism, sexism, capital punishment”. However, as Young notes “there are no performance standards for grades 11 and 12. Nor do there appear to be any requirements to know about or act in defence of rights in the Graduation Portfolio...”

An August 2011 review of the BC Curriculum Subject Areas indicated that instructors are expected to use the BC *Human Rights Code [Code]* as a part of their “considerations for program delivery.” However, courses added from 2007 to 2009 do not suggest that teachers be familiar with the *Code*. A course in “Planning 10,” added in 2007, considers workers’ rights and prescribes discussion of the “Human Rights Act.”²⁰⁰

A course called “Social Justice 12” for grade 12 students²⁰¹ covers the UDHR as well as “the social justice implications of specific international policies, agreements, and organizations, such as UN declarations and conventions related to children, human rights, indigenous peoples, and refugees...” This course also covers a broad range of other topics, including the UN Millennium Development Goals, the North American Free Trade Agreement (NAFTA), the Kyoto Accord, land mines treaties, the World Trade Organization (WTO), and the International Monetary Fund (IMF). Neither the Integrated Resource Package (IRP) nor the

¹⁹⁸ *Ibid.*, at 7.

¹⁹⁹ Note the focus on civil and political rights (e.g. crimes) and no indication of discussion of economic, social and cultural rights of children. See *ibid.*, at 7.

²⁰⁰ There is no legislation entitled the “Human Rights Act” in BC. It is inferred that the reference is to the *Canadian Human Rights Act*, *supra* note 146, which has its focus on discrimination and exclusively addresses matters within federal jurisdiction.

²⁰¹ See the Integrated Resource Package for Social Justice 12 online: BC Ministry of Education <http://www.bced.gov.bc.ca/irp/pdfs/social_studies/2008socialjustice12.pdf>.

Teacher Guide for this course mentions specific international human rights treaties to be studied.²⁰²

One of the courses added in 2010, “English 10 and 11 First Peoples,” prescribes that teachers familiarize themselves with the *Code*. Otherwise, courses added in 2010 make no mention of human rights at all. Other than these courses, there have been no apparent changes to human rights education additions in BC schools since Young’s 2006 report.²⁰³

Information on specific UN human rights treaties as an important source of rights and law in Canada appears to be almost entirely missing from BC curricula. Identifying this absence, one informant wrote:

The schools have human rights policies that use selective human rights legislation to address 'issues' like racism, bullying, discrimination within the schools but don't appear to have human rights education programs to support an understanding of the policies and, secondly, to educate about the broader human rights context... [H]uman rights education needs to be situated within its larger context and linked to analysis of domestic legislation and policy. It is imperative to determine if Canada is fulfilling its obligations under the various treaties it has ratified by embedding principles in legislation and policy so that human rights education can be associated with what is enforceable... [H]uman rights education also needs to include what options exist when human rights violations occur. If people are better educated about human rights, how do they 1) ensure that those rights can be realized within their communities and 2) how do they complain about possible human rights violations and seek redress?

To meet the international standards set out in the Declaration on HRET, BC primary and secondary schools will need to develop curricula focused specifically on international human rights treaties. There is a particular need in BC, where 16.4 percent of children live in poverty,²⁰⁴ for a focus on internationally protected economic, social and cultural rights, so that children—as citizens—learn about the indivisibility of civil and political rights from economic, social and cultural rights. Also important for public school education is education and training about enforcement mechanisms for internationally protected rights.

²⁰² BC Ministry of Education, Social Justice 12: Teacher Guide: Instruction and Assessment Support, 2008, online: BC Ministry of Education <http://www.bced.gov.bc.ca/irp/pdfs/social_studies/support_materials/sj12_tg_cvrintro.pdf>.

²⁰³ See the guidelines for Civic Education 11, online: BC Ministry of Education <<http://www.bced.gov.bc.ca/irp/irp.htm>>.

²⁰⁴ First Call: BC Child and Youth Advocacy Coalition, *2011 Child Poverty Report Card* (Vancouver: First Call, 2011) online: First Call <<http://www.firstcallbc.org/pdfs/economicquality/3-reportcard2011.pdf>>.

Only education in the content and mechanisms of IHRET, clearly connected to domestic and international enforcement mechanisms, will fulfill the right of students and other citizens to know their internationally protected rights and how to enforce them for themselves and within their communities.

IHRET within BC schools is key to developing citizens capable of identifying gaps in implementation and enforceability and insisting that all levels of government fulfill the obligations imposed by international human rights treaties. This requires that BC teachers themselves receive training in order to provide IHRET to an acceptable standard.

The WPHRE Plan of Action for Phase II asks States to “continue the implementation of human rights education in primary and secondary school systems.”²⁰⁵ Phase II also asks States to focus on human rights education in higher education.

Higher education in BC

Attempts to survey university programs in BC in faculties of law, education, journalism and social work resulted in a very low level of response. With some exceptions, respondents tended to conceive of “human rights” as domestic human rights defined by the *Charter* or *Code*. International human rights were identified as pertaining mainly to academics’ work in relation to other countries. Some respondents, primarily those from education or social science backgrounds, tended to emphasize a social justice or civics approach, rather than a rights-based approach. One informant from a faculty of education indicated that education courses are run by professors, and suggested that the key to incorporating international human rights education in education is

to engage the professors to incorporate these ideas in their courses. In our faculty, we wouldn’t develop a program or a specific course on such a narrow topic as international human rights law; rather we would incorporate these themes into larger programs that have to do with local and global social justice, current issues, etc. So, if the professors become engaged with the ideas, then they look for opportunities to address these issues in their courses and in their work with prospective teachers and practicing teachers (as well as grad students).

²⁰⁵ WPHRE Phase II, *supra* note 31. The draft Plan for Phase II noted that Canada was one of the States that did not provide input to the Plan of Action by providing an Evaluation Report in time for incorporation into the Plan. Canada sent in its late Evaluation Report in December 2010. See the CMEC report, *supra* note 30.

One respondent commented after reading a draft of this report that there may be more international human rights education in universities than what is conveyed in this report. For example, UN documents may be addressed in social studies education courses in BC as well as courses in social justice, aboriginal programs, teacher preparation courses, and law-related courses. International human rights may also be addressed in criminology courses and other social sciences and humanities courses. More research is required to determine the extent of IHRET education incorporated into other subjects in BC higher education.

All university-based respondents we interviewed expressed interest in IHRET. The survey, augmented by online research, indicated a few IHRET courses available, primarily in BC law schools. These are listed in Appendix 2.²⁰⁶

Canada's next Evaluation Report to the WPHRE, due in 2014 is to include actions taken by Canada – including BC – to provide IHRET in higher education.

Other BC government initiatives

There are virtually no IHRET programs delivered or sponsored by the BC government. The BC government's program in domestic human rights education appears to be conducted almost exclusively through grants to NGOs. For the average citizen, human rights education must be sought out and is not easily accessible.²⁰⁷

²⁰⁶ Only courses with clearly identifiable human rights components are included in this list. Please see links to university programs, online: LRWC <<http://www.lrwc.org/education/resources/>>. The list is not exhaustive, and readers are invite to write to lrwc@portal.ca with suggestions for inclusion in online resources.

²⁰⁷ BC cannot be considered independently of the rest of Canada. International human rights obligations are taken on by the federal government but are implemented provincially in areas of the Provinces' exclusive jurisdiction. The main federal agencies with responsibility for human rights education are as follows:

- **The Department of Canadian Heritage** provides funding to selected organizations, distributes human rights publications on request and maintains a website containing information on Canada's international human rights treaty obligations including Canada's reports to the UN Treaty Bodies, and the Treaty Bodies' Concluding Observations. The Department is also responsible for coordinating Canada's reports to the UN Treaty Bodies. See the website of the Canadian Heritage Human Rights Program, online: Canadian Heritage <<http://www.pch.gc.ca/ddp-hrd/index-eng.cfm>>. In addition to the Department of Canadian Heritage and the CHRC, the federal Department of Justice is involved in the federal government's internal review process when Canada considers becoming a party to international human rights treaties.
- **The federal Department of Justice** provides legal advice to the federal government on the domestic implications of treaty obligations. However, the Department of Justice does not appear to be involved in human rights education.
- **The Canadian Human Rights Commission (CHRC)** provides some educational material on its website including a variety of publications mainly on domestic human rights. Considerable information is available on the UN *Convention on the Rights of Persons with Disabilities* and a brief reference to "other human rights laws" which mentions the UN *Declaration on the Rights of Indigenous Peoples*. See the CHRC webpage entitled "Overview: Expanding Knowledge" online: CHRC <http://www.chrc-ccdp.ca/knowledge_connaissances/default-eng.aspx>. See the CHRC webpage entitled "Other Human Rights Laws" at <http://www.chrc-ccdp.ca/complaint_form_plainte/rights_other_droits-eng.aspx>

Ministry of Justice and Attorney General of BC

The Minister of Justice, who is also the Attorney General of BC (AGBC) is responsible for education about the *Code*. Section 5 of the *Code* states: “The minister is responsible for developing and conducting a program of public education and information designed to promote an understanding of this *Code*.²⁰⁸ To fulfill this statutory mandate, the Ministry of Justice produces brief information sheets on various human rights issues, focused on BC domestic law, and links to information about the *Code* and the Tribunal. The Ministry produces no information on international human rights law other than online references to:

- “related links” to the Canadian Heritage Human Rights Program²⁰⁹ and the United Nations main page (but not to the UN human rights portal).
- A paragraph stating “Dec. 10, 2011 is Human Rights Day in British Columbia. Attorney General Shirley Bond issued a proclamation to mark the 63rd anniversary of the United Nations Universal Declaration of Human Rights and International Human Rights Day, as well as Human Rights Day in British Columbia. For a link to the United Nations Declaration of Human Rights in more than 300 languages, visit: <http://www.ohchr.org/EN/UDHR/Pages/Introduction.aspx>.”²¹⁰

The minister’s obligation under Section 5 of the Code is apparently discharged largely by way of a contract with the BC Human Rights Coalition in the amount of approximately \$894,000 per year. Most of this money is spent on providing advocacy for persons with cases before the BC Human Rights Tribunal; approximately a quarter of the sum is spent on human rights education focused primarily on the Code.²¹¹ The BC Community Legal Assistance Society (CLAS) also operates under grants from the AGBC²¹² However, CLAS grants are provided primarily for advocacy purposes. CLAS does provide some human rights education on the Code to persons needing to learn how to represent themselves before the Tribunal.²¹³

²⁰⁸ BC *Human Rights Code*, *supra* note 85, at Section 5.

²⁰⁹ If one scrolls down on the BC Ministry of Justice webpage, online: BC Ministry of Justice <http://www.ag.gov.bc.ca/human-rights-protection/>, one can see a live link to the Canadian Heritage Human Rights program, *supra* note 207.

²¹⁰ Ministry of the Attorney General webpage, online: Ministry of Justice <<http://www.ag.gov.bc.ca/human-rights-protection/>>.

²¹¹ Email correspondence 14 February 2012.

²¹² The grants to the BC Human Rights Coalition are largely for representation of persons at the BC Human Rights Tribunal. Approximately 25% of the BCHRC’s \$894,000 annual contract funding from the Province of BC is devoted to human rights education.

²¹³ Interview with key informant, August 2012.

In 2011, the Province of BC, the Ministry of Justice’s Dispute Resolution Office was assigned responsibility for facilitating development of the BC portions of reports to the UN.²¹⁴ The preparation of reports to the Universal Periodic Review (UPR) and treaty bodies could become a key opportunity to disseminate information about international human rights to public officials and the public. During its first UPR, Canada committed to improving implementation, monitoring and reporting and to “enhancing information sharing with Canadians about its international human rights treaty-adherence process and the status of the review of treaties under consideration for possible signature/ratification (para 15).²¹⁵ Fulfilment of these commitments at both federal and BC provincial levels would contribute towards improving IHRET.

BC Human Rights Tribunal

The BC Human Rights Tribunal mediates and adjudicates complaints that violate the *Human Rights Code*. The Tribunal has no mandate to conduct human rights education for the public, but does offer a series of online guides and fact sheets on matters pertaining to the *Code*.²¹⁶

The Tribunal also conducts regular human rights continuing education for its staff through self-directed monthly seminars. The focus of the seminars is almost exclusively on the *Code*. The Canadian *Charter* is addressed only as it assists in interpreting the *Code*. Only rarely do litigants raise international human rights arguments in Tribunal hearings.²¹⁷

²¹⁴ Interview with key informant 1 March 2012. At the time of drafting this report, no further information was available.

²¹⁵ Report of the Working Group on the Universal Periodic Review: Canada. Outcome of the Review. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under reviewA/HRC/11/17/Add.1, 8 June 2009, online: OHCHR <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/CASession4.aspx> > (scroll down).

²¹⁶ See the BC Human Rights Tribunal’s “Tribunal Guides and Information Sheets” at <http://www.bchrt.bc.ca/guides_and_information_sheets/index.htm>.

²¹⁷ Interview with key informant, August 2012.

Education of police working in British Columbia

Training of provincial officials, including municipal police, prison officials, prosecutors, hospital personnel, and other public servants is the responsibility of the Provinces. Research of federal and provincial police training colleges for basic cadet training and continuing education²¹⁸ indicated human rights training focused on domestic law and no IHRET.

Training of municipal police officers in BC is conducted by the Justice Institute of BC (JIBC). Training for RCMP officers who police much of British Columbia, is provided by the RCMP's "Depot" Division in Regina, Saskatchewan.²¹⁹

Justice Institute of BC: Police Training

The JIBC was established in 1978 under the *BC College & Institute Act* and offers degree and non-degree programs in a number of areas of public safety and justice education and training. All police recruits in municipal police agencies, transit police and First Nations police receive their basic training in a nine-month JIBC Police Academy program.²²⁰

The JIBC website indicates that the Police Academy "has four to six intakes a year, depending on demand, and currently graduates between 140 and 180 recruits annually." Included in the training are courses on policing ethics and professional standards, but these courses do not cover international human rights treaties. Municipal police forces may themselves offer continuing education on anti-harassment and anti-discrimination policies based on Canada's and BC's domestic human rights legislation.

RCMP Education

RCMP officers working in BC and elsewhere in Canada receive considerable training in the *Charter*, but little or no training based about international human rights treaties such as the ICCPR, CERD or UNCAT.²²¹ The exceptions are police officers engaged in training of police forces in other countries.

²¹⁸ Research for this report did not investigate training of other provincial officials, prison officials or health care workers.

²¹⁹ See the Depot Division website online: RCMP <<http://www.rcmp-grc.gc.ca/depot/index-eng.htm>>.

²²⁰ Website entitled mypolice.ca, section on British Columbia, online: mypolice.ca <http://www.mypolice.ca/police_training/recruit_training.html#BritishColumbia>. A list of the Police Academy's courses is available on the website of the Justice Institute of BC, online: JIBC <<http://www.jibc.ca/courses?keys=policy+academy&x=0&y=0>>.

²²¹ Interview and email data, August 2012 through January 2012.

IHRET needs of police educators

Interviews with a limited number of police educators in selected police forces suggest that regular police training of RCMP and municipal police officers includes considerable training in rights protected by the *Charter* and Canada's *Criminal Code* related to arrest and detention, as well as to racial and gender discrimination. However, police education does not appear to provide police recruits with any IHRET.

Respondent police educators were asked how many hours of training were provided on particular international human rights treaties.²²² No respondents indicated that international human rights instruments are included in police education curricula.

The review of treaty requirements and recommendations of treaty bodies indicates a need for IHRET for law enforcement officials in BC. More research is needed to identify the exact content of domestic human rights education available to RCMP and municipal police working in BC, and to identify specific needs for IHRET, develop IHRET curricula and evaluate the efficacy of those programs. Issues that require further research include the following:

- To what extent are federal and provincial police educators aware of Canada's international human rights obligations to provide IHRET under certain treaties such as the UNCAT?
- To what extent are police educators aware of the concerns expressed by international human rights treaty bodies about Canada's failure to comply with treaty obligations, for example, CAT's concern with "[c]ontinued allegations of inappropriate use of chemical, irritant, incapacitating and mechanical weapons by law enforcement authorities in the context of crowd control"?²²³

²²² UDHR, ICCPR, ICESCR, UNCAT, CERD, CEDAW, CRC, *supra* note 15, Genocide Convention, International Criminal Court (ICC) and Rome Statute, Refugee Convention, UNDRIP, *supra* note 139, *American Declaration on the Rights and Duties of Man*, *supra* note 172. Unfortunately, the CRPD, which is also ratified by Canada, was inadvertently left off the list in the questionnaire. Not included were the Migrant Workers' Convention or the Enforced Disappearances Convention, which have not been ratified by Canada. Also not included for reasons of brevity of the questionnaire were ILO Conventions, even though some have been ratified by Canada.

²²³ CAT Concluding Observations; Canada, 2005, *supra* note 100. Also see Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, *Report of the Events Relating to Maher Arar: Analysis and Recommendations* (Canada: Commission of Inquiry, 2006). Online: Security Intelligence Review Committee <http://www.sirc-csars.gc.ca/pdfs/cm_arar_rec-eng.pdf>, which made recommendations concerning training of RCMP personnel involved in security cases. The Report specifically made reference to Article 10 of the CAT and Canada's obligation "to ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel who may be involved in the interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment" (at 214). Also see Thomas R. Braidwood, QC, Commissioner, *Restoring Public Confidence:*

- What education do police officers need to understand the prohibition against torture and ill-treatment in UNCAT?
- What education do police officers need to receive in the universal jurisdiction provisions of the *Criminal Code* and other laws for preventing and punishing torture in compliance with UNCAT obligations?
- What IHRET do police officers need to fully understand treaty obligations to prevent, and remedy violations of internationally protected rights?

Police officers and other law enforcement officials in BC are not well served by the lack of access to IHRET. Without adequate education, police officers cannot be expected to understand the absolute and non-derogable nature of the prohibition against torture, the absolute duty to prevent and punish torture, and the legal framework which provides mechanisms in Canada to prevent and punish torture wherever it occurs, irrespective of the nationality or status of victims and suspected perpetrators. Without IHRET, police officers cannot be expected to discern accurately the validity of instructions they are given. For example, during 2011 visits to BC by former US vice-president Dick Cheney and former US president George W. Bush, when protestors questioned police as to why they were not arresting Cheney and Bush, members of the Vancouver City police and Surrey RCMP replied that they had been instructed that, as Mr. Cheney and Mr. Bush were internationally protected persons, their duty was to protect them, not to arrest them.²²⁴

Education and knowledge of judges and lawyers in BC

The judiciary is of “vital importance” to the advancement of human rights.²²⁵ While judges in Canada often interpret domestic constitutional provisions and laws in accordance with international norms and conventions ratified by Canada,²²⁶ LRWC’s research in 2008 and 2011 suggests that arguments on international human rights law are seldom made in BC courts or tribunals.

BC law schools offer mandatory courses on Canada’s constitutional law, including *the Charter of Rights and Freedoms*, as well as elective courses on civil liberties, indigenous law or other topics related to domestic human rights. The University of British Columbia (UBC)

Restricting the Use of Conducted Energy Weapons in British Columbia: Braidwood Commission on Conducted Energy Weapon Use (Victoria: Braidwood Commission, 2009), online: Braidwood Inquiry <<http://www.braidwoodinquiry.ca/report/P1Report.php>>.

²²⁴ Statements by police officers contemporaneous with the events. The instructions are incorrect in law.

²²⁵ Tanya Basok & Emily Carasco, “Advancing the Rights of Non-Citizens in Canada: A Human Rights Approach to Migrant Rights” (2010) 32:2 *Human Rights Quarterly* 342, 342-366, at 366.

²²⁶ See the case law cited in *ibid.*, at 345. Canadian courts increasingly recognize that international human rights conventions are “persuasive” (*Reference Re Public Service Employee Relations Act (Alberta)*, [1987] 1 S.C.R. 313, 348-49 (Can.) or at least “inform” the court (*Suresh, supra* note 101 Note that in the *Suresh* case, the Court informed itself, but appears not to have adhered to the CAT.

and University of Victoria (UVic) law schools also offer elective courses in international human rights.²²⁷

The UBC law school has the strongest program with regular elective courses on: International Human Rights, the Law of Armed Conflict (International Humanitarian Law) and Refugee Law (half on international law and half on Canadian domestic law). Several other courses offered by the UBC law school have some international human rights content while focusing on domestic human rights issues. UVic law school offers one elective course on International Human Rights and one elective course in Refugee Law. Consequently, in BC, very few graduating law students have a working knowledge of international human rights law.

The Continuing Legal Education Society of BC (CLEBC) conducts extensive continuing legal education for lawyers. Key word searches on the CLEBC website²²⁸ revealed the following:

- Several courses and course materials which discuss the CRC;
- Several presentations and conferences and course materials on the international human rights of indigenous peoples in 2008, 2009 and 2010;
- A 2008 manual on “Using International Law in Canada”;
- No courses that mention the CRPD, although there are numerous mentions of disability issues in the domestic context;
- No materials or course that mention the ICESCR;
- No courses or materials that mention the ICCPR (although there are two case digests that mention the ICCPR);
- No courses or materials that mention elimination of racial discrimination or the CERD
- No courses or materials that mention elimination of discrimination against women or the CEDAW;
- No courses or materials that mention torture or the UNCAT;
- Numerous courses and materials pertaining to human rights with a domestic focus on the BC *Human Rights Code*, the federal *Human Rights Act* and/or the *Charter*.

It is acknowledged that our search of the CLEBC website is unlikely to be exhaustive. While international treaties may, in some courses, be referred to in the context of particular subject matters, it appears that opportunities are sparse for lawyers to access IHRET that would enable informed use of international human rights law or mechanisms.

²²⁷ LRWC reviewed the websites of the Faculties of Law UBC, UVic and Thompson Rivers University.

²²⁸ See online: CLEBC <<http://www.cle.bc.ca/>>.

Judges in BC

Canadian judges attend judicial education each year through their own courts, the National Judicial Institute (NJI) and other organizations. The average continuing legal education for judges is believed to be about 7.5 days per year.²²⁹ The NJI is involved with the majority of judicial education. NJI is guided by the 20 Principles of Judicial Education which include “respect for Charter values and judicial independence” as the underpinning of all judicial education.²³⁰ Also important is the NJI Integration Protocol for Social Context Application²³¹ which incorporates ten principles, including the foundational principle of equality with considerable emphasis on the equality provisions in the *Charter*. New judges are involved in a three-hour session on social context in which disability rights is a recurring topic due to expertise of the particular instructor. The social context education is not framed as “human rights,” and the NJI does not explicitly address international human rights, except when specific international treaties are relevant to particular courses. Domestic human rights legislation may be part of sessions involving judicial review from human rights tribunals. Thus, it appears that unless judges involve themselves in self-directed learning about international human rights law there may be few opportunities for them to become knowledgeable in this area.

Through and with the cooperation of the administrative judges of all three levels of BC courts, LRWC invited judges to participate in a web-based survey. Twenty-one judges responded, including six members of the Court of Appeal (of about 15), 16 members of the Supreme Court of BC (of 106) and five members of the Provincial Court (of 148).²³² Several responding judges had served in more than one court, including one who served in another type of tribunal. Because the number of responses to this survey was very low, the findings have very limited value as a measure of the knowledge or views of members of the judiciary in BC. Further research is needed to gain a more reliable picture of the knowledge and perspectives of BC judges.

²²⁹ Email correspondence from expert informant, 26 April 2012.

²³⁰ National Judicial Institute, Principles of Judicial Education in Canada (“The Twenty Principles”), October 2006, online: NJCA <<http://www.njca.com.au/IOJT%20Conference/social%20context%20session.pdf>>.

²³¹ National Judicial Institute, Integration Protocol for Social Context Application, October, 2009, online: NCJA <<http://www.njca.com.au/IOJT%20Conference/social%20context%20session.pdf>> .

²³² The *Court of Appeal Act* [RSBC 1996] CHAPTER 77 provides for 14 judges plus the Chief Justice; currently the Court of Appeal has more than 15 judges. The *BC Supreme Court Act* [RSBC 1996] CHAPTER 443 specifies that there are to be 86 judges in addition to the Chief Judge and Associate Chief Judge; at present there are 106 judges. The *Provincial Court Act* [RSBC 1996] CHAPTER 379 provides that “the Lieutenant Governor in Council... may... appoint judges of the court as the Lieutenant Governor in Council considers necessary.” (Section 9(1)(a). Currently there are approximately 148 Provincial Court Judges listed on the BC Provincial Court website online: BC Provincial Court <<http://www.provincialcourt.bc.ca/judicialofficers/judgesofthecourt/judgesbydistrict.html>>.

The majority of judges who responded indicated that they do not see international human rights as particularly relevant to their work. One respondent stated that “most of the cases I hear do not concern the conventions or declarations, except The Hague Convention.”²³³ Another stated that he or she “... only found it [international human rights law] relevant on extradition proceedings.”

Fewer than a third of the judges responding indicated international human rights law as “always relevant” or “sometimes relevant.” One judge who sees international human rights as “always relevant” remarked, “Even when my decision is strictly local - every decision is potentially an example of how we treat citizens in Canada and therefore has relevance.” A respondent who sees international human rights as “sometimes relevant,” wrote:

Lawyers rarely raised international human rights issues before us. Since the Court is reluctant to raise issues on its own volition, this means that relevant legislation, policy, conventions, etc. may be overlooked. I strongly recommend pursuing this as an aspect of CLE [Continuing Legal Education].

Another respondent who said international human rights was “sometimes relevant” said:

I would seldom if ever face a substantive international human rights issue except perhaps in a collateral way. What is relevant on a surprisingly regular basis are the circumstances of people before the court on family or criminal matters in which their experiences in their country of origin helps me to understand why they are before the court.

²³³ While this judge does not indicate which “Hague Convention” she or he was referring to, in the context, the most likely reference is to the *Hague Convention on the Civil Aspects of International Child Abduction*. See *Hague Conference on Private International Law, Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980, Hague XXVIII*, online: UNHRC Refworld <http://www.unhcr.org/refworld/docid/3ae6b3951c.html>

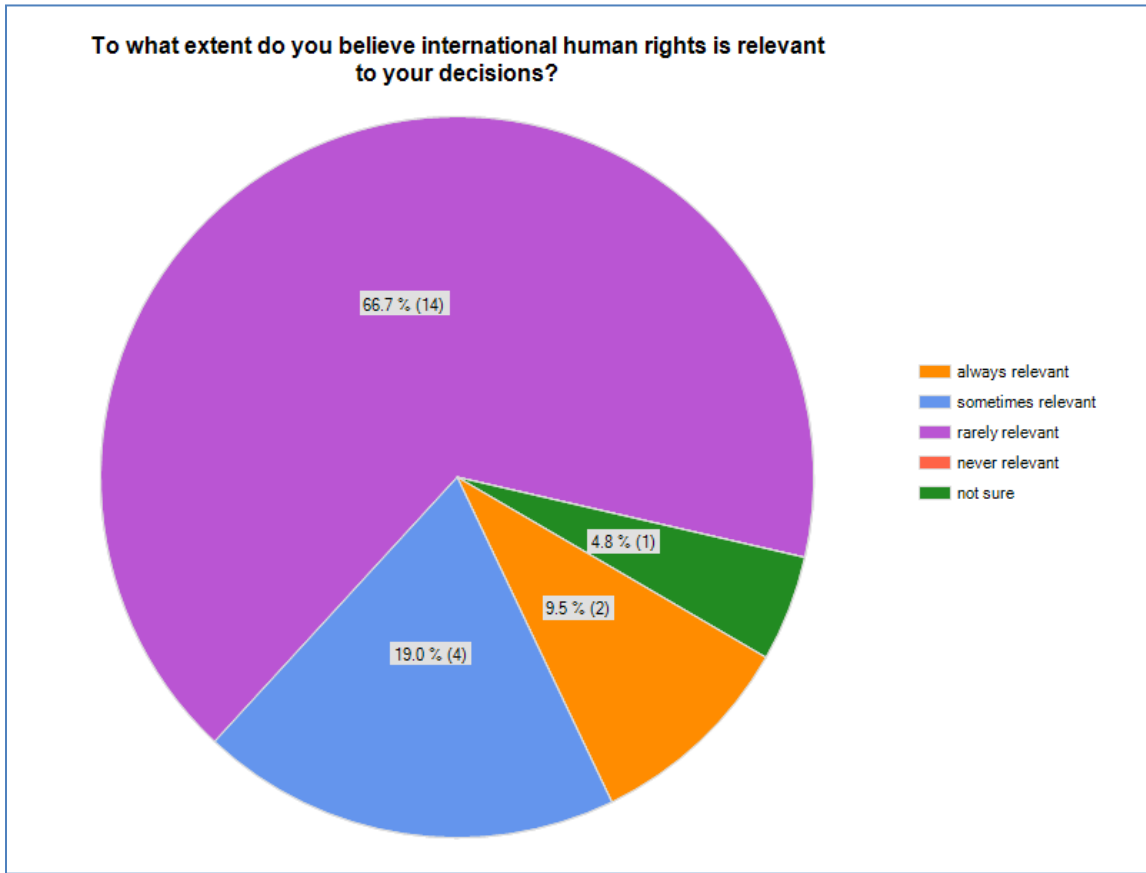


Table 2: Relevance of international human rights to decisions: Responses of 21 BC judges

The self-assessed level of familiarity with international human rights instruments was low among the responding judges, with the exception of knowledge of the UDHR. Approximately two thirds of the respondents said they were “somewhat familiar” (although the other one third said they were “not very familiar” or “not at all familiar” with the UDHR). A small minority of judges indicated being “very familiar” with only two instruments, the CRC and the Rome Statute of the International Criminal Court. A majority of responding judges (61.9%) reported they were “very familiar” or “somewhat familiar” with the CRC.. The majority were otherwise “not very familiar” or “not at all familiar” with the other treaties and instruments referred to in the survey (see Table 3).

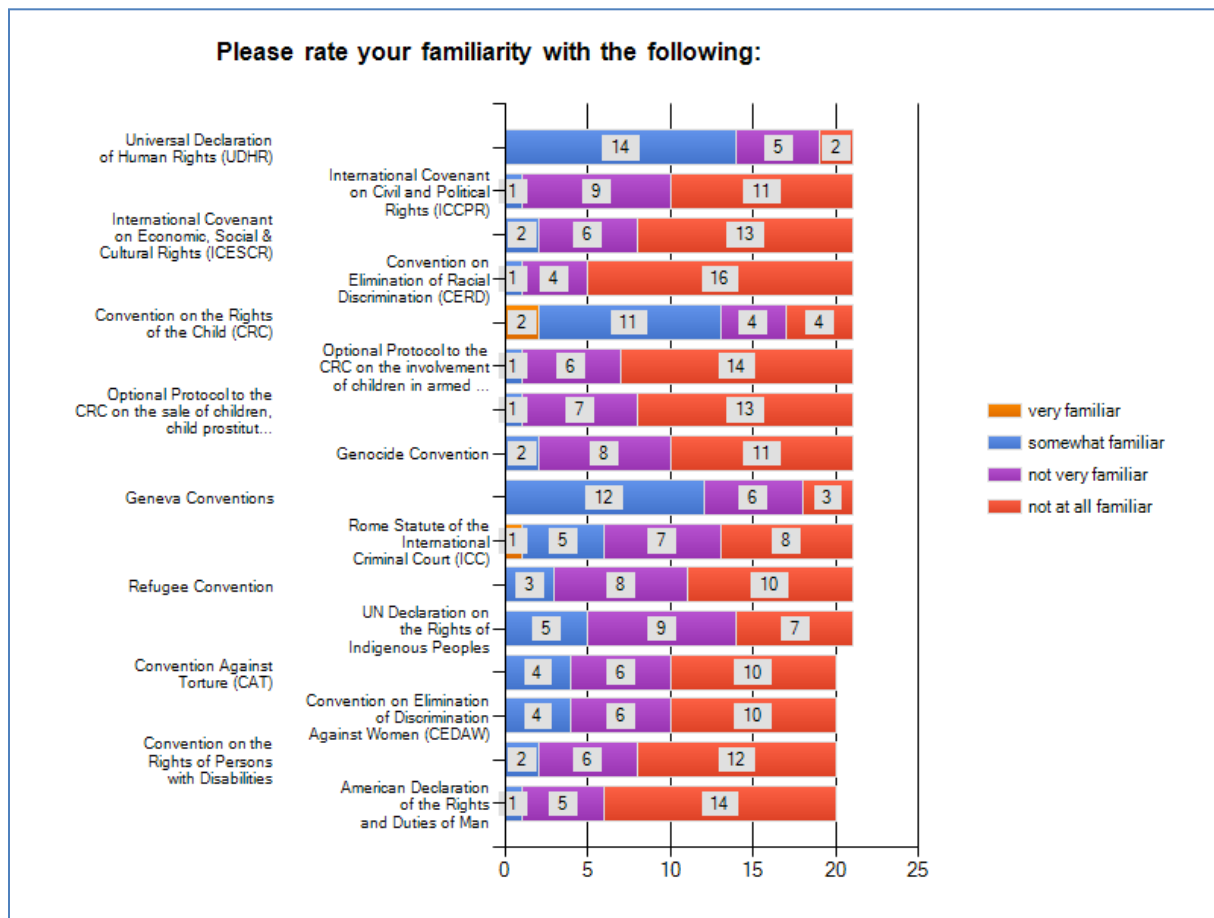


Table 3: Judges’ familiarity with International Conventions

The responding judges reported they were least familiar with UNCAT. None of the judge respondents indicated that they were “very familiar” with UNCAT; 20% (four) indicated they were “somewhat familiar.” Another 30% (six) said they were “not very familiar” and 50% (10) said they were “not at all familiar” with UNCAT.

The majority of responding judges indicated at least “some level of need” for education in most of the areas suggested (see Table 4). The lowest level of need (61.2 % indicating “low priority need” or “some need”) was on the right to freedom from torture. One third said education about torture was a “low priority need” and 5% said “N/A”. Eleven percent of responding judges indicated judges have a “high priority need” for education about the right to freedom from torture, but 50% did say judges had “some need.”²³⁴

Several comments were received in response to the question about needs for IHRET. One judge wrote:

The question presumes that more international human rights issues and training is needed by judges or tribunal members. I do not know whether that is true or not. An available response should be “I don't know.”

Two other respondent judges wrote:

I've ticked off low priority or N/A not because I don't feel the issues are unimportant, but because the issues have never been raised in any of the cases I've considered in almost [x] years.²³⁵

These issues, with an international overtone, rarely arise in our court, and when they do one is either provided with the research by lawyers, or we can have law clerks obtain the necessary information. In my experience, matters involving children most often raise the international issues.

²³⁴ See Chapter 3 for information about the CAT's criticisms of the Supreme Court of Canada.

²³⁵ The exact number of years (over a decade) was removed here so as to preserve the anonymity of this respondent.

On what international human rights issues is more education and training needed by judges or tribunal members? Please feel free to use the comment box.

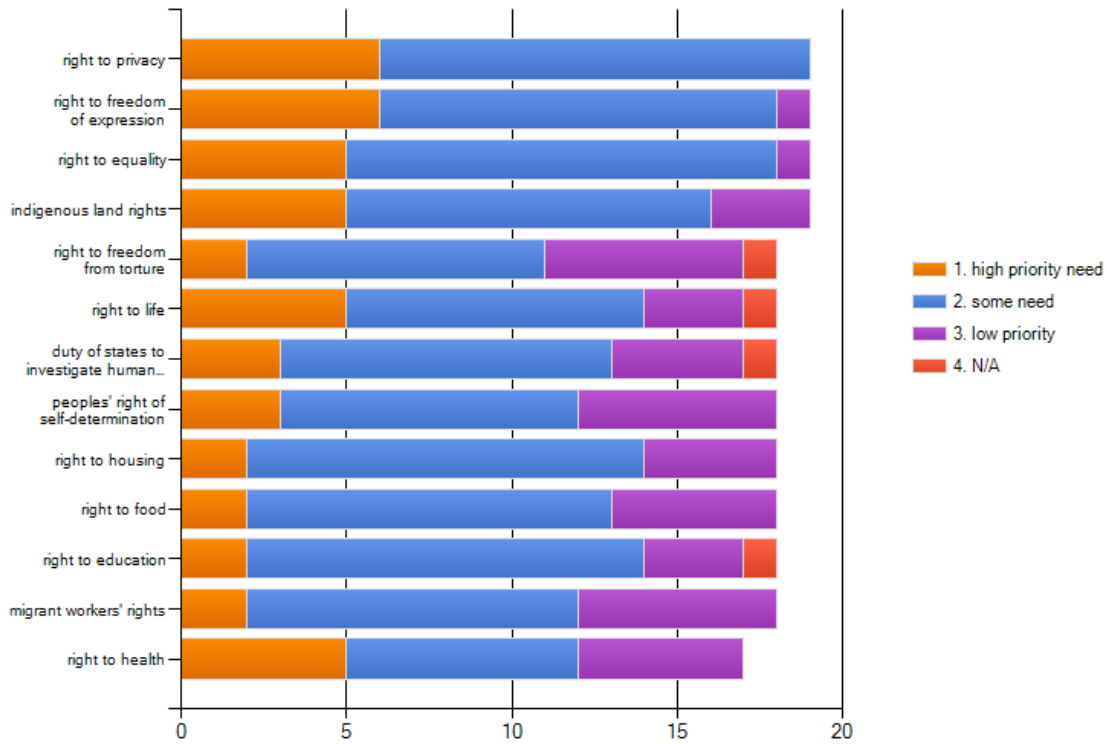


Table 4: HRE needs of BC judges: Responses of 21 judges

Lawyers in BC

LRWC organized an email invitation to BC lawyers to participate in an online survey with assistance from the BC Branch of the Canadian Bar Association's Professional Development and Sections department and the Trial Lawyers Association of BC (TLABC). The invitation to complete the survey was sent twice to members of the Canadian Bar Association who are also members of BC sections organized according to substantive areas of law. The TLABC put a notice of the survey in its August, 2011, electronic newsletter to all members. While it is estimated that information about the survey was sent to several thousand lawyers, only 131 responses were received, so the findings have very limited value as a measure of the knowledge or views of lawyers in BC in general.

While it is acknowledged that further research is needed to assess the knowledge of BC lawyers, these findings confirm LRWC's 2008 research, which suggested that lack of awareness of international human rights norms results in missed opportunities for BC courts to use international law to interpret domestic laws.

All respondents to the lawyers' survey stated they were practicing members of the Law Society of BC except for one retired member of the Law Society of BC and one law student. The majority of respondents (57%) had more than 10 years' experience, and 24% had more than 30 years' experience.

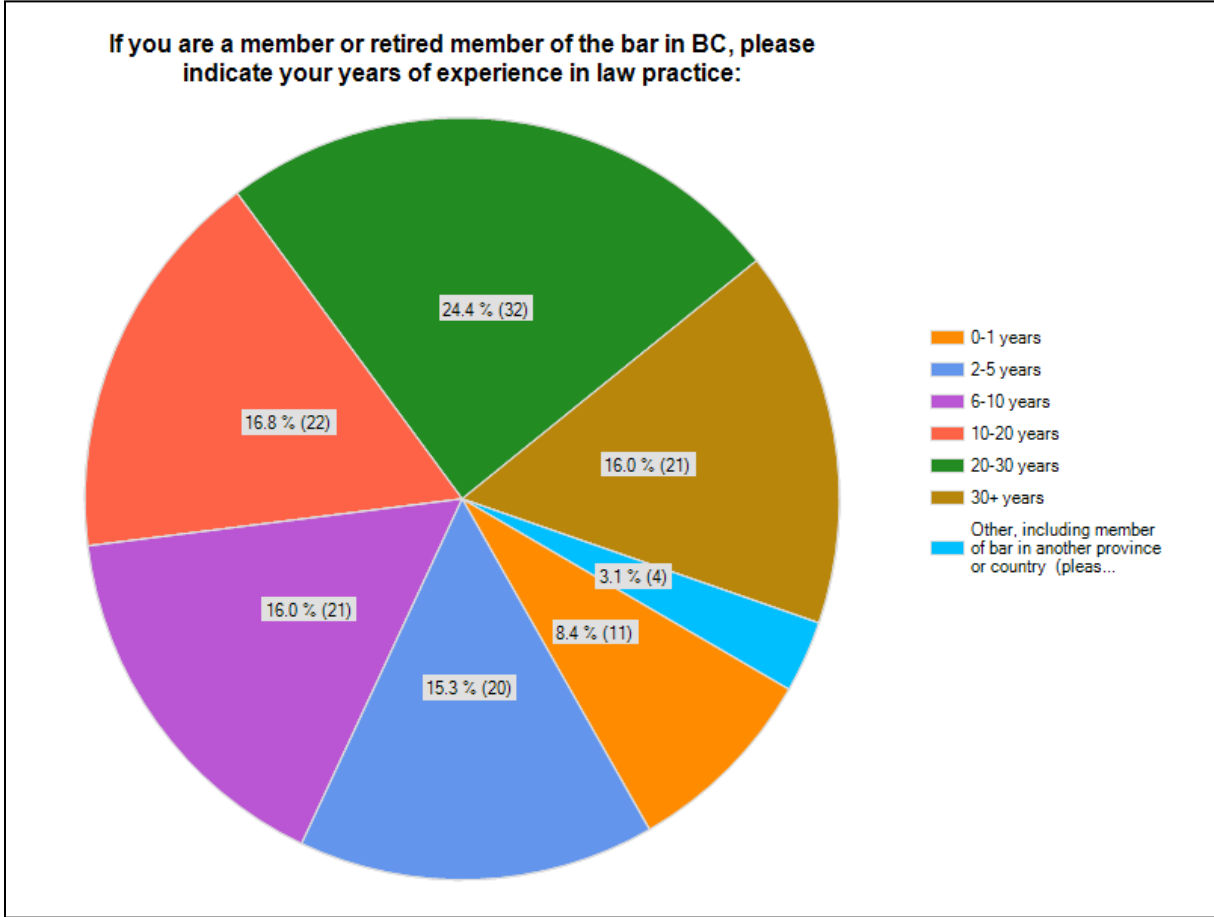


Table 5: Experience of lawyers responding to the survey

Lawyers were asked: “Have you studied or taken courses in which any of the following topics were addressed?”

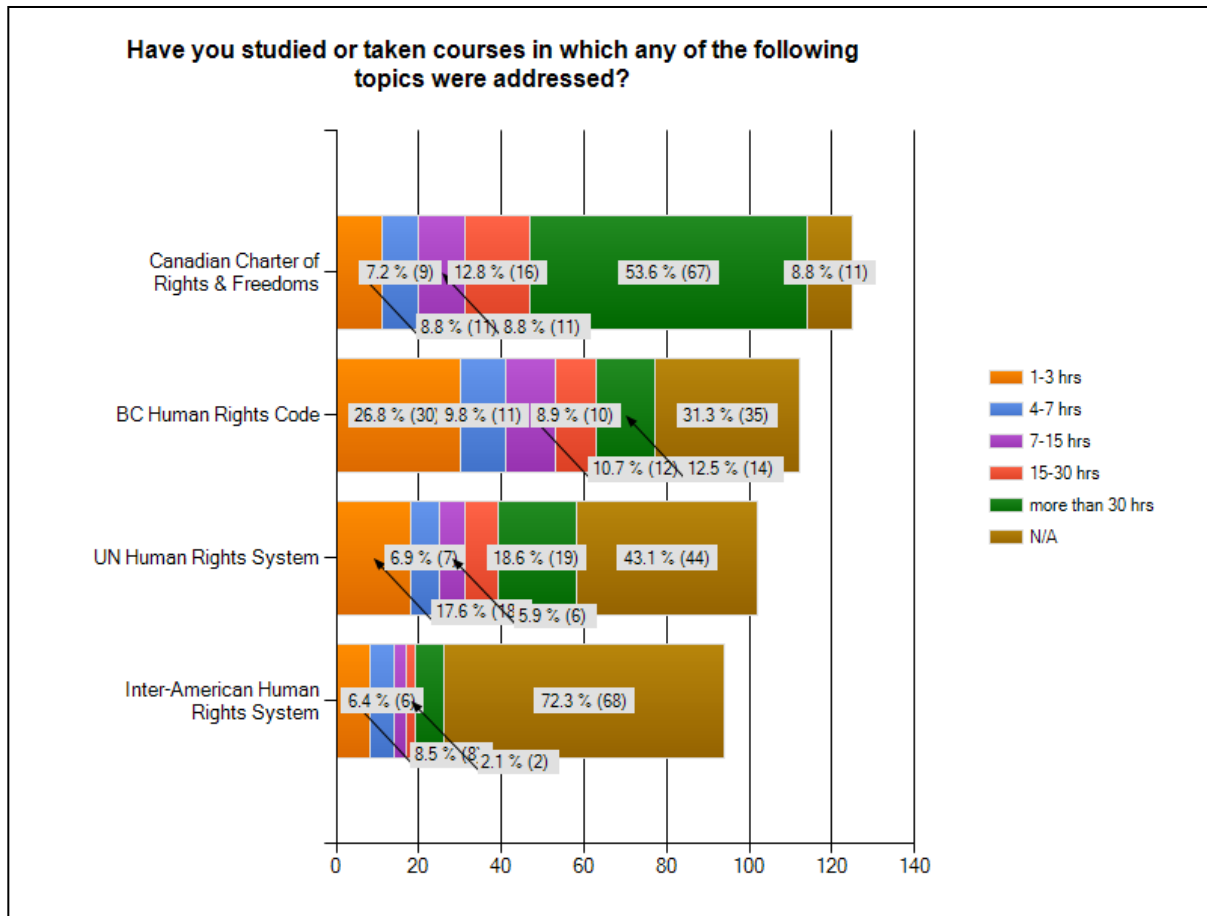


Table 6: Lawyers who have studied or taken courses in human rights topics

Lawyers with more than 30 years’ experience were most likely to have taken no courses that addressed the *Charter*. Only five of 20 responding lawyers with more than 30 years’ experience had taken more than 15 hours of courses on the *Charter*, and six had taken none. The result was dramatically different among lawyers with 20-30 years’ experience, where 21 out of 29 had more than 15 hours of courses that addressed the *Charter*, and only one had no *Charter* training at all. Sixty-four percent (64%) of lawyers’ with 0-20 years’ experience reported more than 30 hours of training in the *Charter*. Amongst lawyers with 1-10 years of experience the percentage with more than 30 hours of training rose to 72%. Only one responding lawyer with less than 10 years experience reported no training in the *Charter* at all. Training in the *BC Human Rights Code* was lower, with 31.5% of lawyers reporting no training at all.

Levels of training in international human rights law were dramatically lower, with 31 responding lawyers (30%) reporting more than 15 hours of training in the UN Human Rights system, and 44 (43%) reporting no training in the UN human rights system at all.

Training regarding the Inter-American human rights system (IAHRS) was even lower with 68 responding lawyers (72%) reporting no training in the IAHRS at all. Nine (7%) of the responding lawyers reported more than 15 hours of training in the IAHRS. Twenty-nine (29) of 33 lawyers with more than 30 years of experience reported no training at all in the IAHRS; only two had more than 30 hours of training. Lawyers with less experience were only slightly more likely to have had some training in the IAHRS.

Lawyers were also asked to assess their level of knowledge of specific international human rights instruments (Table 7). Self-assessed levels of training appear to be linked to level of familiarity with international human rights instruments. More than 90% (119) of the responding lawyers said they were “very familiar” or “somewhat familiar” with the *Charter*, with only 7.7% (10) saying they were “not very familiar” or “not at all familiar” with the *Charter*. Seventy-nine percent (101) said they were “very familiar” or “somewhat familiar” with the *BC Human Rights Code*; 20.6% (27) were “not very familiar” or “not at all familiar” with the *Code*.

Familiarity with international human rights treaties was dramatically different. With the exception of the UDHR, the level of familiarity with international human rights treaties is surprisingly low with the majority of respondents saying they were “not at all familiar” with the treaty. Sixty-four percent (64.1%) of surveyed lawyers (84) reported they were “very familiar” or “somewhat familiar” with the UDHR. The reported level of knowledge was much lower in the case of human rights treaties: 51.1% (67) said they were “not all familiar” or “not very familiar” with the CRC; 69.4% (91) were “not at all familiar” or “not very familiar” with the ICESCR; 70.9% (93) were “not at all familiar” or “not very familiar” with the ICCPR; 72.5% (95) were “not at all familiar” or “not very familiar” with the CEDAW; 72.5% (95) were “not at all familiar” or “not very familiar” with the UNCAT; and 74.8% (98) were “not at all familiar” or “not very familiar” with the CERD. The lowest reported familiarity was with the *American Declaration on the Rights and Duties of Man*; 85.4% (112) of respondents reported they were “not at all familiar” or “not very familiar” with that instrument.

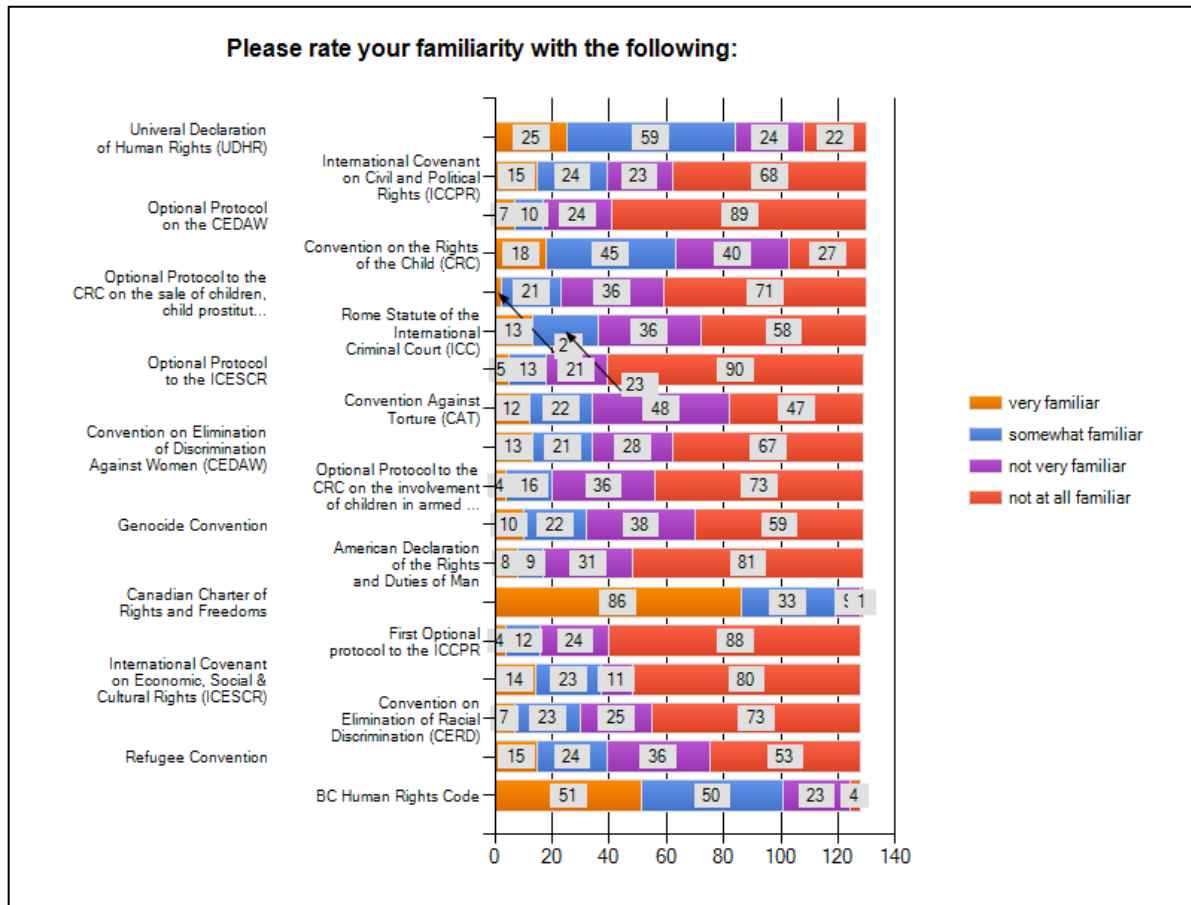


Table 7: Lawyers' familiarity with international human rights instruments
 (note that only absolute values are presented here so as to preserve readability of the chart.)

While the sample of BC lawyers responding to the survey was small, the results are consistent with van Ert's observations of "a general lack of familiarity on the part of Canadian courts and counsel with the process by which Canada subscribes to international human rights obligations."²³⁶

What is the responding lawyers' level of interest in international human rights education? Fifty-six (43.1%) said they were "very interested," and 50 (28.5%) said they were "somewhat interested." Twenty-four (18.5%) said they were "not interested."

One responding lawyer and one respondent from a human rights organizations noted that the cost of education and training is a significant issue, as is the availability of Continuing Professional Development (CPD) credits.²³⁷

²³⁶ van Ert, 2008, *supra* note 34, at 330.

²³⁷ The BC Law Society has a mandatory requirement that each lawyer take 12 hours of professional development annually, including 2 hours on ethics or professional responsibility.

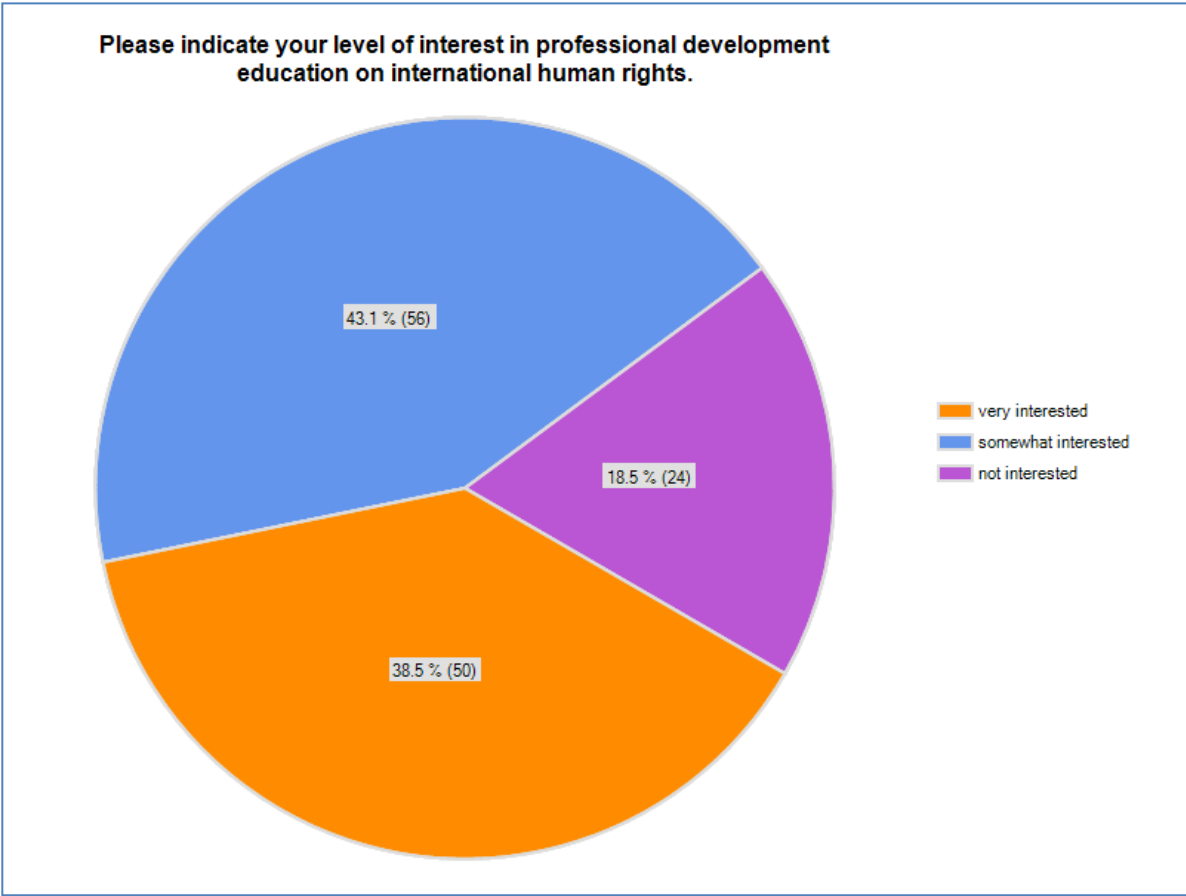


Table 8: Level of interest of lawyers in professional development education on international human rights

Non-governmental organizations

Human rights education and IHRET in BC, as in the rest of Canada, is provided largely by civil society organizations. A number of NGOs and educational institutions provide some IHRET in BC. However, much of this work is *ad hoc*, short-term and/or focused on specific issues. A few NGOs provide training sessions, however the majority offer resources in the form of links and websites, or published booklets, pamphlets, fact sheets or reports on specific issues. A key question is the extent to which the BC government provides an enabling environment for IHRET as mandated by the UN Declaration on HRET, which states:

Article 7

...

2. States should create a safe and enabling environment for the engagement of civil society, the private sector and other relevant stakeholders in human rights education and training, in which the human rights and fundamental freedoms of all, including of those engaged in the process, are fully protected [emphasis added].²³⁸

Organizations with BC government funding to conduct HRET

The bulk of provincial government funding for human rights education is provided to two organizations, the BC Human Rights Coalition (BCHRC) and the BC Community Legal Assistance Society (CLAS). Neither of these organizations provide IHRET. For more detail, see Appendix 3.

International Human Rights Education in BC

The main organizations in BC providing international human rights education in BC are listed in Appendix 4.

LRWC's survey of NGOs and educational institutions in BC indicated significant interest in international human rights education but few resources and weak infrastructure to support IHRET. In addition to the instruments mentioned in Table 9, respondents indicated interest in more education in the CRPD and rights of migrant workers.²³⁹

²³⁸ Declaration on HRET, *supra* note 1at Article 7, echoes the emphasis on the "right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels" set out in the Preamble of the *Declaration on Human Rights Defenders*, *supra* note 158.

²³⁹ Given the low number of responses and the mixed nature of the organizations reflected in this particular table, the limited value of the information is acknowledged.

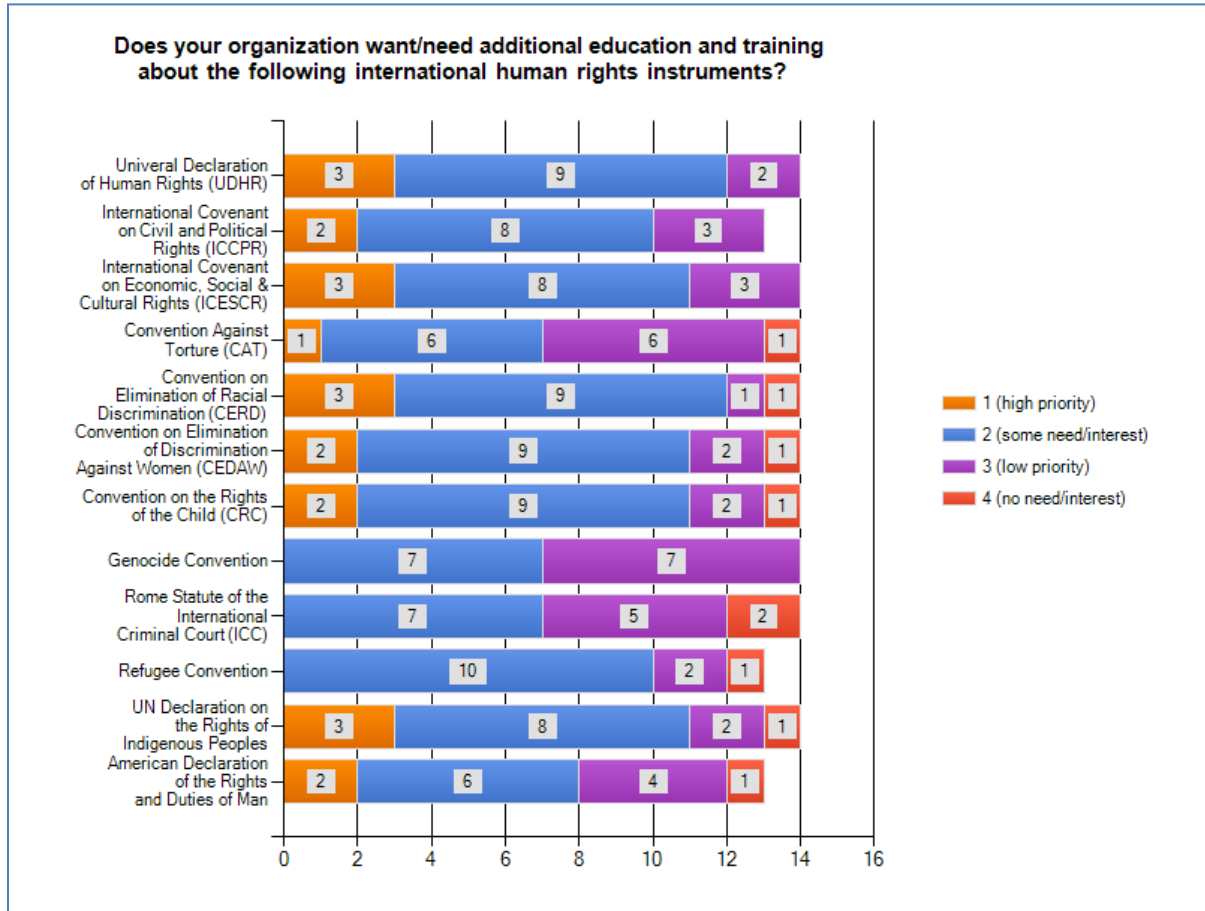


Table 9: Level of interest expressed by human rights organizations and university programs responding to our survey

Concern about marginalization of IHRET in BC

International human rights education in British Columbia is being led neither by public officials nor by academic institutions. It is largely a volunteer effort. Concerns have been expressed that persons with significant expertise in international human rights who have developed expertise either through practice or through education

are likely to find themselves marginalized. If they manage to introduce human rights education in schools or universities, their efforts tend to be paid at a rate that may not even cover travel expenses and that is generally well below average pay rates in Canada.²⁴⁰

In addition, some international human rights advocates and educators in BC are expressing concern that

consciousness of human rights that were once considered integral to Anglo-Canadian concepts of justice appears to be eroding at the official level. There is a sense that those who advocate publicly for human rights may become targets for secret surveillance by federal policing agencies.²⁴¹

A Canadian human rights worker, Dr. Cindy Blackstock, advocating for equal educational opportunities and social support for Indigenous children in keeping with the UN conventions reported surveillance of her private communications in 2011.²⁴² In August, 2011, a human rights organization was accused by a Federal Cabinet Minister of “squandering its moral authority by critiquing the human rights performance of the Canadian government.”²⁴³ In 2012, federal Cabinet Ministers have publicly claimed, without providing evidence, that environmental organizations in Canada are involved in “laundering” of foreign money,²⁴⁴ are “radicals”²⁴⁵ or that environmental “extremists” may

²⁴⁰ Correspondence from a BC-based human rights educator, 26 April 2012.

²⁴¹ *Ibid.*

²⁴² "Govt surveillance of native youth advocate Cindy Blackstock" *CBC* (17 November 2011), online: CBC <<http://www.cbc.ca/thecurrent/episode/2011/11/17/govt-surveillance-of-native-youth-advocate-cindy-blackstock/>>.

Ibid.

²⁴³ Jason Kenney, "Response to Open Letter from Amnesty International," *Jason Kenny Calgary Southeast* (9 August 2011), online: Jason Kenny <<http://www.jasonkenney.ca/news/an-open-letter-to-amnesty-international/>>.

²⁴⁴ Michelle Lalonde, "Laundering' claim irks green groups" *Montreal Gazette* (7 May 2012) online: Montreal Gazette <<http://blogs.montrealgazette.com/2012/05/07/laundrying-claim-irks-green-groups/>>.

²⁴⁵ Laura Payton, "Radicals working against oil sands, Ottawa says" *CBC* (9 January 2012) online: CBC <<http://www.cbc.ca/news/politics/story/2012/01/09/pol-joe-oliver-radical-groups.html>>.

be classified as “terrorists.”²⁴⁶ Such statements and actions that give the appearance of disparaging advocacy groups give rise to concern about freedom of expression concerning internationally protected rights and international human rights law in Canada, including BC. There is also concern that such statements and actions may signal an intent to suppress dissent and thwart the development of a “safe and enabling” environment for international human rights education as required by the ICCPR and by Article 7 of the UN Declaration on HRET.

How does human rights education increase adherence to human rights?

A body of literature on “human rights indicators” considers how to measure the degree of a State’s accountability to “respect, protect and fulfill” human rights.” The indicators are divided into “structural,” “process” and “outcome” indicators. Structural indicators include availability of laws and mechanisms to implement human rights. Process indicators include policies, practices and efforts by the State to implement human rights. Process indicators are considered to be very important in “capturing progressive realization of the right or in reflecting the efforts of the State parties in protecting the rights.”²⁴⁷ Outcome indicators include such things as literacy rates (in the case of measuring the right to education generally).

²⁴⁶ Shawn McCarthy, “Ottawa’s new anti-terrorism strategy lists eco-extremists as threats” *The Globe and Mail* (10 February 2012) online: *The Globe and Mail* <<http://www.theglobeandmail.com/news/politics/ottawa-new-anti-terrorism-strategy-lists-eco-extremists-as-threats/article2334975/>>; Tzeporah Berman, “Oil, dissent and the future of Canada” *The Globe and Mail* (2 May 2012) online: *The Globe and Mail* <<http://www.theglobeandmail.com/news/opinions/opinion/oil-dissent-and-the-future-of-canada/article2419494/>>.

²⁴⁷ *Report on Indicators for Monitoring Compliance with International Human Rights Instruments*, 2006, 7 UN Secretariat, UN Doc. HRI/MC/2006/7 online <http://www.huridocs.org/resource/report-on-indicators/>. There is considerable literature on human rights indicators. It was beyond the scope of this project to review this literature and apply it to the role of human rights education as an indicator of human rights compliance. Some of the literature located includes: Gauthie de Beco, “Human Rights Indicators for Assessing State Compliance with International Human Rights” (2008) 77 *Nordic Journal of International Law* 23; Maria Green, “What We Talk About When We Talk About Indicators: Current Approaches to Human Rights Measurement” (2001) 23: *Human Rights Quarterly* 1062 ; Institute of Human Development & et al, *Using Indicators To Promote And Monitor The Implementation Of Human Rights* (New Delhi: Institute Of Human Development, 2007), online: OHCHR <http://www2.ohchr.org/english/issues/indicators/docs/Report_New_Delhi_Workshop.pdf>; Rajeev Malhotra & Fasel, *Quantitative Human Rights Indicators—A Survey of Major Initiatives and other papers submitted to the Nordic Network Seminar in Human Rights Research, 10 - 13 March 2005 in Åbo, Finland* (Åbo, Finland: Åbo Akademi University, online: Abo Akademi University <<http://web.abo.fi/institut/imr/research/seminars/indicators/>>. The use of indicators is not without critiques. See, e.g. Sally Engle Merry, “Measuring the World: Indicators, Human Rights, and Global Governance. Presentation at the American Society of International Law, Panel on Indicators, *I.L.J.*, May 13, 2009”, online IILJ: <<http://www.iilj.org/research/documents/I.Merry.MeasuringtheworldASIL.pdf>>; Sally Engle Merry, “The Problem of Human Rights Indicators,” a forthcoming chapter in Prof. Merry’s current research, is on the use of numerical and ranking indicators in global governance, including human rights indicators for the committees monitoring human rights treaties. While indicators have some use, the main

Human rights education is considered to be a process indicator that reflects a State's commitment to the implementation of its human rights obligations. The degree to which a State takes responsibility for conducting human rights education and training is seen as a key process indicator of the degree to which the State ensures "true and faithful implementation" of human rights.²⁴⁸ Thus, if a State is diligent in providing human rights education it is seen to be making an effort to fulfill its obligations and giving its citizens an opportunity to claim the rights the State has committed to respect, protect and fulfill.²⁴⁹

In terms of its performance in promoting or providing access to human rights education and training, especially international human rights education and training, BC has a long way to go before it could become an example to the rest of Canada or to the world.

One informant, a Canadian expert on adult education and international development evaluation,²⁵⁰ suggested the following examples of indicators that might provide some illumination of causal effectiveness of human rights education:

- Examining laws and regulations law makers and policy makers produce subsequent to education, to examine the degree to which the law and policy makers incorporate particular international human rights laws;
- Measures to determine increased application of international human rights principles within particular institutions.

Development of valid indicators also depends on what resources are available for evaluation. While university credit courses can measure the participants' knowledge, there is rarely any opportunity to measure what participants do with the information after the end of the course.²⁵¹ In non-credit courses, such as non-formal education conducted by NGOs, participant surveys are usually designed to measure satisfaction, not impact, which requires follow up with participants.

Human rights organizations in BC were asked: "What (and how) do you know about the impact of training on your audience's attitudes or adherence to human rights principles?"

critique is that the indicators are not "neutral"; they oversimplify, may not be sensitive to particular contexts, and always have particular theories of human rights (and in many cases "development") buried within the indicator tools, not all of which theories are congruent, uncontested or sensitive to local knowledge or particular cultural contexts. However, indicators may be useful to measure objective data such as States' ratifications of treaties.

²⁴⁸ Institute of Human Development & et al, *supra* note 247.

²⁴⁹ de Beco, *supra* note 247.

²⁵⁰ Email correspondence 5-18 September 2011.

²⁵¹ An exception would be employee training (e.g. police training) after which officers' behaviour can be followed up and assessed through regular employment performance evaluations.

Here are the examples provided by BC human rights educators in educational institutions and NGOs as to how they measure the impact of their education:

- Client satisfaction surveys and feedback (4 respondents)
- Informal subjective impressions of degree of expressed interest by participants (2 respondents)
- “Degree of follow up. Have they taken action, signed a petition, wanted to learn more, become a member [of the organization.]” (1 respondent)
- Tracking of graduates and monitor work they do in their careers. “Many have gone on to continue reporting on global human rights.” (1 respondent)
- Absence of violations of *Charter* during training (police training)
- No measures, the reason given being that persons drawn to the particular training are already committed to human rights (2 respondents)

In 2008, the Canadian Red Cross measured the impact of its 2007-2008 “Youth Tap” programs,²⁵² on international humanitarian issues (including some basics of international humanitarian law) by determining participants whether participants:

- attended additional global issues courses (78%) thus indicating increased interest;
- tried to find more information about global issues (86%) founded a Global Issues club (22%);
- joined a Global Issues Club (24%);
- had not been more involved (10%); or
- were involved in some other ways (not specified) (24%).

Another example of systematic evaluation of human rights education is illustrated in a 4-year project on Legal Literacy for Youth: Action for a Just Society, funded by the Law Foundation of BC. Under the umbrella of two overarching themes: “a just society” and “rule of law,” the project focused on four dimensions of legal literacy: human rights, citizenship, identity and environmental sustainability. Project staff and researchers worked with several elementary and secondary schools in the Greater Vancouver area (grades 6 to 10) to develop programs and curriculum that addressed one or more of these themes. In addition to classroom-based projects, conferences on human rights and civic engagement, and the production of a DVD on the importance of law-related education in schools, CELS researchers surveyed students and interviewed teachers about their knowledge of these themes, with some questions directed specifically at their understanding of the UDHR and

²⁵² Canadian Red Cross, “About Youth TAP,” summary sheet, Vancouver: Canadian Red Cross, n.d. (approximately 2008), in possession of the author.

the *Charter*. This research also involved surveying prospective teachers enrolled in the teacher development programs at Simon Fraser University and the University of Victoria. Data collection was completed in November 2011, with the analysis still in process. Results of this study should be available by September 2012.²⁵³

One anecdotal comment by a key informant illustrates the power of international human rights education:

Youth come not knowing much and may feel cynical. Post event feedback indicates surprise that they ... understand more... appreciate more. [This] influences [their] ability to receive more information. [They are able to] pay attention to how [people] are treated, ask more questions, experience the media's lack of information. [They are] more discerning. Many want to help others and wish to become volunteers... Children and parents report change of academic focus and influence [of training] on career choices.

In 2011, Equitas published a handbook on *Evaluating Human Rights Training Activities*.²⁵⁴ This guide by provides clear guidance for systematic evaluation based on the WPHRE. The handbook emphasizes:

- international human rights and enforcement mechanisms;
- skills for practical application of human rights;
- “development of values, attitudes and behaviour which uphold human rights as well as taking action to defend and promote human rights.” (page 9);
- development of “everyone’s common responsibility to make human rights a reality in each community and in the society at large.” (page 9);
- participatory, transformative educational methods;
- contemporary educational evaluation theory and practice.

²⁵³ Interested parties may contact CELS Director and Principal Investigator, Dr. Wanda Cassidy at cassidy@sfu.ca or at cels@sfu.ca. Information on the Legal Literacy project is posted online: CELS <<http://www.cels.sfu.ca>>.

²⁵⁴ Office of the High Commissioner for Human Rights (OHCHR) & Equitas, *Evaluating Human Rights Training Activities: A Handbook for Human Rights Educators* (Montreal: OHCHR and Equitas, 2011), online: OHCHR <<http://www.ohchr.org/Documents/Publications/EvaluationHandbookPT18.pdf>> [Equitas, Evaluating Human Rights Training]

“Education should thus be accorded one of the highest priorities in all campaigns against the evils of racism and related phenomena... It is therefore important to focus on the child’s own community when teaching human and children’s rights and the principle of non-discrimination. Such teaching can effectively contribute to the prevention and elimination of racism, ethnic discrimination, xenophobia and related intolerance”

UN Committee on the Rights of the Child, General Comment 1: The Aims of Education, 2001²⁵⁵

²⁵⁵ *Supra* note 112.

Chapter 5: Conclusions and recommendations

Adoption of the UDHR in 1948 signaled acknowledgment by UN member States (at the time 58 member States) that providing public education about universal rights is an integral part of State duties to promote respect for those rights. Adoption of the Declaration on IHRET in 2011 signaled acceptance by UN member States (now 193 states) of specific State duties to ensure access to IHRET aimed at promoting understanding UN human rights treaties--the purpose, substance, rights protected, state duties imposed and enforcement mechanisms—in order to enhance adherence and discourage violations.

The Declaration on IHRET reflects the reality that all of the major UN human rights treaties adopted since 1948 contain provisions that require States to ensure education and training about the provisions of the treaty as a necessary part of the duty to ensure enjoyment by all of protected rights. IHRET duties are either included in the treaty (e.g. UNCAT), or have been identified in interpretive observations and comments of the treaty monitoring bodies (e.g. ICCPR).

The WPHRE declared by the UN in 2004 began the process of developing specific IHRET program goals for states. Phase I, which began in 2005 and Phase II, which began in 2010, provide States with guidelines for the development, delivery and evaluation of programs designed to teach proficiency with international human rights law. Phase I provides concrete action plans for governments to introduce IHRET into primary schools (known as “elementary” schools in BC) and secondary schools. Phase II recommends the development and delivery of IHRET programs for those pursuing higher education, teachers and educators, civil servants, law enforcement officials and military personnel.

Perhaps in response to late (e.g. Canada) or poor State reporting on Phase I, the OHCHR has developed an evaluation guide with an expected publication date in the summer of 2012. Reporting on human rights education efforts has now become a requirement of periodic reporting to treaty bodies and reporting for the UUPR.

“Human rights education is much more than a lesson in schools or a theme for a day; it is a process to equip people with the tools they need to live lives of security and dignity.”

- Kofi Annan, Secretary General of the United Nations

As of the date of Canada's December 2010 Evaluation Report on Phase I to the OHCHR, there were no federal or provincial programs specifically designed to ensure IHRET programs in public schools in BC for teachers or students. Canada's report refers to a number of education programs designed to promote tolerance, inclusivity and respect for others, some of which deal specifically with issues such as discrimination, bullying and intolerance based on race or sexual and gender-based identities. While the report states that education programs are "informed" by the obligations in treaties they are not aimed at teaching the particulars.

This misunderstanding of State duties to provide IHRET is reflected in BC. There is virtually no IHRET provided by the BC government. This means BC is not only lagging in developing and delivering the IHRET programs recommended by Phase I of the WPHRE, but also is in violation of specific treaty provisions. For example, UNCAT, Articles 10 and 11 requires States to ensure education and training about UNCAT for law enforcement personnel, civil or military, medical personnel, public officials and others involved in the custody, interrogation or treatment of detained persons. The absence of IHRET programs also violates Article 2. CAT has interpreted the Article 2 duty to take "other measures to prevent acts of torture" as including ensuring that the "... general population be educated on the history, scope, and necessity of the non-derogable prohibition of torture and ill-treatment, as well as that law enforcement and other personnel receive education on recognizing and preventing torture and ill-treatment...."

While education in BC primary and secondary schools seeks generally to foster respect for the rights of others, there are no programs that systematically provide information on international human rights treaties except some limited information about the *Convention on the Rights of the Child* and the UDHR. The failure to provide IHRET is responsible for the resulting paucity of public knowledge about international human rights law.

While surveys of BC judges and lawyers yielded very small samples, the results suggest an alarming lack of knowledge about international human rights treaties ratified by Canada and binding on BC. More than 50% of the respondent judges reported being "not very familiar" or "not at all familiar" with seven of the nine treaties cited in the survey. More than 50% of lawyer respondents reported being "not at all familiar" with 13 of the 16 international human rights treaties and instruments included in the survey. It seems fair to assume that levels of knowledge amongst public servants including those in law enforcement, military, detention centres, health care and education are likely to be lower.

IHRET appears to be absent from the education and training provided to law enforcement personnel in BC.

The Declaration on HRET affirms that:

- People have a right to know their rights, and to have access to education about their internationally protected rights.
- States and all relevant governmental authorities have the primary obligation to ensure access to IHRET.
- States and all relevant governmental authorities have the obligation to provide an enabling environment for civil society organizations conducting IHRET.

While some human rights workers are aware of the relevance of international human rights to issues relating to poverty, refugees, protection of the environment and peace, the key challenge is to create a clear understanding that international human rights is relevant to the daily concerns of people in BC.

Recommendations for the BC government

Provincial Plan of Action on IHRET pursuant to the WPHRE

LRWC recommends that the Province of British Columbia develop a Provincial Plan of Action on IHRET that:

- complies with BC's international legal obligations laid out in Canada's treaty obligations and other international human right law;
- adheres to the international consensus provisions adopted by the General Assembly in the UN Declaration on HRET;
- is based on the Plans of Action for Phases I and II of the WPHRE to:
 - urgently take steps to implement the 2005-2009 Phase 1 Plan of Action to develop and provide programs to teach students about international human rights law: its purpose, substance and mechanisms for enforcement in primary and secondary schools;
 - pursue the 2010-2014 Phase II Plan of Action to implement IHRET:
 - in higher education, with priority to education faculties, law schools, schools of social work and journalism schools;
 - for teachers and educators;
 - for law enforcement officials including police (see 5.1.3 below);
 - for civil servants including those responsible for developing health care and social programs;

- is developed in consultation with non-government organizations working in the field of international human rights and other persons well-informed about international human rights law.
- provides clear, transparent and coordinated mechanisms for reporting by BC Ministries to Treaty Bodies as required pursuant to Canada's treaty obligations and to the WPHRE;
- involves the dissemination of all UN treaties ratified by Canada and the American Declaration on the Rights and Duties of Man to government officials and the public and providing access to reports on Canada's compliance with treaty obligations from UN Treaty Bodies and the Working Group on the UPR;
- provides transparent mechanisms for regular review of legislation and policies to ensure compliance with international human rights obligations, taking into account the recommendations of UN treaty bodies;
- strengthens and enables the IHRET work of independent human rights institutions and NGOs; and
- ensures education of officials in the justice system.

LRWC recommends that the BC government:

- ensure that IHRET becomes part of the basic and continuing education and training programs for police, sheriffs, prison, detention centre and medical personnel and others involved in the treatment of people under detention so as to ensure that all officials involved in law enforcement understand clearly Canada's treaty obligations;
- ensure that education of all police and other justice system officials complies with Canada's treaty obligations both to provide IHRET and to evaluate the effectiveness of the IHRET provided;
- facilitate independent research on the nature and scope of IHRET needs of police and other justice system officials operating in BC (including RCMP working in BC pursuant to federal-provincial contracts) to ensure compliance with Canada's treaty obligations, and ensure that all relevant agencies are instructed to provide full cooperation to such researchers; and
- conduct reviews of interrogation rules, instructions, methods and practices involving the treatment of people subject to arrest or under detention to ensure compliance with the applicable international law obligations.

Provincial Human Rights Institution with mandates in keeping with the Paris Principles

LRWC recommends the amendment of the *BC Human Rights Code* to ensure that there is a provincial human rights institution with a mandate to conduct independent and accessible human rights education about all of BC's international and domestic human rights obligations, and a mandate to make recommendations to the government to ensure that legislation and policy adhere to BC's international human rights obligations.

Recommendations for municipal governments

LRWC recommends that municipal governments be among the key stakeholders in IHRET, including the Provincial Plan of Action on IHRET, and that regular IHRET education be ensured for municipal police and all other public officials and municipal lawyers responsible for enforcement of municipal bylaws and advising municipal councils on development of policies and bylaws.

Recommendations regarding education of Judges and Lawyers

It is recommended that those bodies with responsibility for the education and continuing professional development of judges and lawyers ensure that IHRET receives sufficient attention to ensure that legal professionals have functional knowledge and competency in this area. LRWC recommends that:

- CLEBC and other providers offer IHRET for the legal profession;
- judicial education programs provide information on treaties, instruments and mechanisms of international human rights law including the UN, Inter-American and European human rights system;
- BC law schools introduce mandatory instruction in international human rights law and ensure that IHRET is given coverage throughout the curriculum, with course descriptions amended to ensure that international human rights law is included in studies of criminal, family, poverty, employment, business law, refugee law and the international rights of indigenous peoples; and
- the Law Foundation of BC ensure that IHRET in accordance with the UN Declaration on HRET and the WPHRE is given high importance in funding decisions.

Recommendations for BC non-governmental organizations

It is recommended that BC NGOs involved in human rights work include IHRET in their human rights education.

It is recommended that NGOs make efforts to:

- increase public access to IHRET and urge funders to support IHRET;
- set priorities for IHRET based on the needs identified by UN human rights treaty bodies, the Inter-American Commission on Human Rights and other knowledgeable commentators on Canada's compliance with international law obligations;
- evaluate human rights education programs. LRWC recommends the use of the Equitas handbook on *Evaluating Human Rights Training Activities*;²⁵⁶
- ensure that funding does not impair their ability to conduct IHRET in an independent manner; and
- collaborate to develop a "hub" for IHRET.

²⁵⁶ *Ibid.*

Appendix 1: Dissemination of this report

This report is distributed electronically to individuals, groups and bodies responsible for or interested in IHRET in BC. Included are those who consulted with LRWC on the report who comprise persons from several sectors including academic institutions, schools, government and non-governmental organizations. Many of these persons expressed interest in forming a network “hub” of interested individuals and organizations to foster international human rights education in BC.

In addition, a bibliography, and links to IHRET resources are available on the LRWC website portal to International Human Rights Education and Training. LRWC conducts free public lectures on *The Right to Know Our Rights*.

Appendix 2: University programs or courses on International Human Rights²⁵⁷

The following list does not include courses that may include some references to international human rights. No exhaustive survey of all courses and programs in BC universities was possible for this research.

Courses

- **University of British Columbia, Vancouver, British Columbia**
 - [International Human Rights \(LAW 319C\)](#), Faculty of Law
 - [Law of Armed Conflict: International Humanitarian Law \(LAW 321D\)](#), Faculty of Law
 - [International Refugee Law as Applied in Canada \(LAW378C\)](#), Faculty of Law
 - [Corporate Social Responsibility and the Law \(LAW 306\)](#), Faculty of Law
 - [Governance & Human Rights Module \(IAR500\)](#), Institute of Asian Research

- **University of Victoria, Victoria, British Columbia**
 - [International Human Rights and Conflict \(DR507\)](#), MA program in Dispute Resolution, Faculty and Human and Social Development (cross listed with LAW373)
 - [International Human Rights and Dispute Resolution \(LAW373\)](#), Faculty of Law
 - [Refugee Law \(LAW373\)](#), Faculty of Law (cross listed with DR507)
 - [The Politics of Human Rights in New Democracies: Transitional Justice \(POLI 436\)](#), Department of Political Science

Programs

Centre for Education, Law and Society
Faculty of Education, Simon Fraser University (Surrey Campus)
Galleria Room 5882
13450 - 102 Avenue, Surrey, B.C. V3T 0A3
Telephone 778-782-8045; email cels@sfu.ca
www.cels.sfu.ca

The Centre for Education, Law and Society is an endowed centre at Simon Fraser University (SFU), with a mandate to improve the legal literacy of children and young adults through a

²⁵⁷ Listing in this report is not endorsement.

program of teaching, curriculum development, research, and community initiatives. CELS' work in law-related education encompasses: the role of law in society and its impact on the individual; the relationship between law and citizenship; issues relating to social justice and fundamental human rights; conflict and dispute resolution; school law, policies and culture. Human rights education forms a portion of the content of the three undergraduate courses on law-related education offered by CELS, and it is addressed in their new Master's program on Justice, Law and Ethics in Education. CELS is in the process of completing a four-year project entitled, *Action for a Just Society*, which includes curriculum development in human rights education, work with schools to support human rights initiatives, and research into human rights understandings at the grades 6 to 10 levels (students and teachers) and among prospective teachers enrolled in teacher education programs at SFU and UVic. CELS is also part of an international funding proposal to examine human rights education (theory and practice) in Canada and two European countries. While CELS focuses primarily on domestic social justice and human rights issues, it has facilitated research on international human rights in the BC educational curriculum.²⁵⁸

International Institute for Child Rights and Development (IICRD)
Centre for Global Studies, University of Victoria
PO Box 1700 STN CSC, Victoria, BC V8W 2Y2
Telephone 250-472-4762, Fax: 250-472-4830, email: iicrd@uvic.ca
www.iicrd.org

Founded in 1994, the IICRD is a non-profit organization based in Victoria, Canada, and houses at the University of Victoria. It works to advance the quality of life and development of vulnerable children internationally. Its work is round the globe. IICRD works toward effective use of the UN Convention on the Rights of the Child "to transform systems and create peace and dignity for children and our world." Through its program on Child Rights Education for Professionals (CRED-PRO) it develops and provides "educational programs on the human rights of children to professionals working with and for children in partnerships with professional associations and other key organizations worldwide" including Argentina, Uruguay, Tanzania, South Africa and Canada. IICRD also has CRED-PRO training manuals on line and other [educational resources](#).

²⁵⁸ For example, see the report by Young, *supra* note 16, and the research discussed in the text accompanying note 253.

Appendix 3: BC organizations conducting domestic human rights education²⁵⁹

BC Human Rights Coalition (BCHRC)

#1202 - 510 West Hastings Street, Vancouver, B.C. V6B 1L8

Tel: 604-689-8474; Toll free: 1-877-689-8474; Fax: 604-689-7511

www.bchrcoalition.org/files/education.html

The BCHRC's educational program builds awareness of BC human rights legislation and skills training to help prevent discrimination. BCHRC provides training to community groups, employers, labour unions, colleges and others. Training has an exclusive focus on the BC *Human Rights Code* with a primary focus on human rights issues in the workplace and on issues of discrimination based on sex, race, disability, sexual orientation or other grounds. The BCHRC also disseminates information on human rights issues throughout BC and publishes material online, but there are no materials on international human rights.

BC Community Legal Assistance Society (CLAS)

Suite 300 - 1140 West Pender Street, Vancouver, BC V6E 4G1

Telephone: (604) 685-3425, Toll Free: 1-888-685-6222; Fax: (604) 685-7611

www.clasbc.net/contact.php

CLAS has a contract with the Ministry of Justice to provide representation before the BC Human Rights Tribunal. However, CLAS is not sufficiently funded to represent everyone in hearings or in settlement mediation. CLAS does educational workshops for staff and workshops for education and coaching for self-represented people. Their own lawyers conduct Continuing Legal Education for others. The focus is on the BC *Human Rights Code*. There is little focus on international human rights, however staff occasional give presentations to other lawyers on the Disability Convention, how it affects rights in BC and how to use it in litigation.

Justice Education Society, Vancouver, BC

(formerly the Law Courts Education Society)

260-800 Hornby St. Vancouver, BC V6Z 2C5

Tel: 604-660-9870; Fax: 604-775-3476, email: info@justiceeducation.ca

www.JusticeEducation.ca

Founded in 1989, the Justice Education Society programs and resources are aimed at improving public access to justice in BC and increasing public knowledge of BC's justice system. Most programs and resources are available free of charge. The Society's programs

²⁵⁹ Listing in this report is not endorsement.

for Canadians have a focus on domestic law including videos jointly produced with the BC Human Rights Coalition aimed at assisting immigrants understand their human rights in BC and Canada. The Society has some international programs focusing on their programs to strengthen justice systems in Africa, Central America and Asia. While the society works to address human rights issues through strengthening justice systems, the society does not provide education on international human rights.

Appendix 4: Organizations conducting IHRET in BC²⁶⁰

Amnesty International, BC/Yukon Regional Activism Coordinator
430-319 West Pender Street, Vancouver, BC V6B 1T3
Telephone: (604) 294-5160

Contact: Toshio Rahman: trahman@amnesty.ca

Website on Canada: www.amnesty.ca/blog2.php?blog=hr_canada

Amnesty International's (AI) Vancouver office provides international human rights training in schools or organizations. Topics include the UDHR. AI's campaigns also always have an educational component in that AI always refers to the UN or other international human rights instrument relevant to the issue. For example, women's human rights issues are always linked to the CEDAW. Training is provided to organizations, volunteers, students (primarily aged 13 to young adult, including lectures to university undergraduates and graduate students. AI offers lectures for groups ranging from 20-30 people about once a month. AI does not charge for lectures, but there may be a small fee when AI personnel conduct workshops that are co-sponsored with other organizations. A fee \$50 is charged for occasional day-camps for high school students.

BC Association for Community Living (BCACL)
227 6th Street, New Westminster, BC V3L 3A5
Telephone: (604) 777 9100, Toll-free. 1-800-618-1119

Resources on international human rights: www.bcacl.org/unconvention

The BCACL promotes participation of people with developmental disabilities in community life. BCACL also works to ensure the rights of people with developmental disabilities to be included all aspects of community life including education, employment and independent living pursuant to Article 19 of the UN *Convention on the Rights of Persons with Disabilities* (CRPD). BCACL resources include some material on the CRPD .

BC Civil Liberties Association (BCCLA)
550 - 1188 West Georgia Street, Vancouver, British Columbia V6E 4A2
Telephone: (604) 687-2919; Toll-free: (866)731-7507; Fax: (604) 687-3045;
email: info@bccla.org
<http://www.bccla.org/>

The BCCLA is the oldest and most active civil liberties group in Canada. The BCCLA provides community education human rights, including publications and leaflets at no cost, and ensures that government action is consistent with Canadian law, including the *Charter*. While the organization's focus is mainly on Canadian and BC law, the BCCLA has some

²⁶⁰ Listing in this report is not endorsement.

online resources that discuss international human rights and the UN human rights system, including associated international agreements to which Canada is bound, are discussed in some educational sessions.

Canada Without Poverty

c/o TRAC Tenant Resource & Advisory Centre

306-535 Thurlow Street

Vancouver, BC V6E 3L2

Telephone: (604) 628-0525; email: megan@cwpcsp.ca

<http://www.cwp-csp.ca/>

Canada Without Poverty has its focus on the elimination of poverty in Canada and sees poverty as a violation of human rights and elimination of poverty as a human rights obligation. This organization's mandate includes awareness raising about poverty, and its website includes some resources related to international human rights.

Canadian Centre for International Justice (CCIJ)

Vancouver Office

1400-1125 Howe Street, Vancouver, BC V6Z 2K8

Telephone (604) 569-1778; email: info@ccij.ca

Vancouver Working Group email: vancouver@ccij.ca

Victoria Working Group email: info@ccij.ca

www.ccij.ca/index-e.php

The CCIJ works directly with survivors of genocide, torture and other atrocities. By providing information and assistance and carrying out investigations of cases, CCIJ helps survivors seek redress and bring perpetrators to justice. CCIJ also provides education and training for legal professionals, civil society groups and the public about the human rights issue of impunity. CCIJ provides access to Canadian and international jurisprudence regarding serious human rights abuses, including several online resources. Significant work for CCIJ is conducted by volunteer Working Groups across Canada including in Vancouver and Victoria.

Canadian Red Cross, BC Lower Mainland Region

3400 Lake City Way, Burnaby, BC V5A 4Y2

Telephone: 604-709-6600; Toll Free: 1-800-565-8000; Fax: 604-709-6675

BC Regional website: www.redcross.ca/article.asp?id=2933&tid=078

Resources on International Humanitarian Law:

www.redcross.ca/article.asp?id=31492&tid=001

The Canadian Red Cross conducts education on international humanitarian law (IHL), including the Geneva Conventions and related topics such as Refugee law. The Red Cross

has online educational tools and workshops for youth, volunteers and the general public in issues related to IHL, development and disasters.

Equitas

666 Sherbrooke Street West, Suite 1100, Montréal, Québec, Canada H3A 1E7

Telephone: 514-954-0382; Fax: 514-954-0659; email info@equitas.org

Online resources: <http://equitas.org/resources/>

Based in Quebec, Equitas is one of the foremost international human rights training organizations in the world. It conducts training in international human rights in various parts of the world. In Canada, most of its training is conducted in Québec, including its annual International Human Rights Training Program (IH RTP). In BC, Equitas provides training and access to its resources for partner organizations. Equitas has tool kits on child and youth rights, including *Play it Fair!*²⁶¹ for children aged 6-12 and *Speaking Rights*²⁶² for youth aged 12-18. Equitas provides training to partner organizations on how to use the toolkits. Training provides basic education on human rights including children's rights. All training includes the UDHR, the CRC and the *Charter*. Equitas has many online resources including specialized training manuals for various audiences and an evaluation manual, *Evaluating Human Rights Training Activities: A Handbook for Human Rights Educators*.²⁶³

Federation of BC Youth in Care Networks (FBCYICN)

Suite 500, 625 Agnes Street, New Westminster, BC V3M 5Y4

Telephone: (604) 527-7762; Toll-free: 1-800-565-8055; Fax: (604) 527-7764;

email: info@fbcyicn.ca

<http://fbcyicn.ca>

FBCYICN is a BC-based organization driven by youth and focussed on improving lives of young people aged 14 to 24 who are or have been in BC "foster homes, group homes, residential mental health and addiction facilities, custody centres, youth agreements, independent living, or a Kith and Kin agreement." FBCYICN provides advocacy and education programs including rights-based programs including emphasis on the CRC. FBCYICN has a partnership with the Ministry of Child and Family Development (MCFD) to conduct Right 2 Success (R2S) workshops for adults and youth.

²⁶¹ Equitas. *Play it Fair! Human Rights Education Toolkit for Children*. Montreal: Equitas, 2008, available at http://equitas.org/wp-content/uploads/2010/11/2008-Play-it-Fair-Toolkit_En.pdf

²⁶² Equitas, *Speaking Rights Toolkit*. Montreal: Equitas, 2010.

²⁶³ OHCHR and Equitas. *Evaluating Human Rights Training Activities: A Handbook for Human Rights Educators*. Montreal: OHCHR and Equitas, 2011, available at <http://www.ohchr.org/Documents/Publications/EvaluationHandbookPT18.pdf>

First Call: BC Child and Youth Advocacy Coalition (First Call)

202-1193 Kingsway, Vancouver, BC V5V 3C9

Telephone: 604-873-8437; BC Toll Free: 1-800-307-1212; info@firstcallbc.org

<http://firstcallbc.org/>

First Call is an advocacy organization that grew out of the CRC after Canada ratified it in 1991. Its mandate includes raising “the public profile of child and youth issues through public education and the dissemination of research.” The First Call Coalition is made up of dozens of provincial and regional partner organizations, communities and individuals.

Hul'qumi'num Treaty Group (HTG)

12611-B Trans Canada Highway, Ladysmith, BC V9G 1M5

Phone: 250-245-4660, Toll free: 1-888-987-3289; Facsimile: 250-245-4668

E-mail: info@hulquminum.bc.ca

www.hulquminum.bc.ca/our_work/projects

Robert Morales, the Chief Negotiator for the HTG conducts lectures, free of charge, approximately once a month, on the Inter-American Human Rights System as it relate to the petition of the HTG to the Inter-American Human Rights Commission. Also touched on in lectures are Canada's *Charter*. The emphasis is on Canada's international obligations in the international legal system, including treaties and customary international law. Lectures are given to groups ranging from 12-100 people (usually about 30) are provided about once a month to audiences of law students, lawyers of the Aboriginal Law Section of the Canadian Bar Association, grassroots public groups including church groups and to First Nations gatherings.

Lawyers' Rights Watch Canada (LRWC)

Vancouver, BC

Telephone: 604-738-0338; Fax: 604-736-1175, email: lrwc@portal.ca

International Human Rights Education portal: www.lrwc.org/educationportal.php

LRWC is a volunteer-run non-profit organization that promotes and protects advocacy rights of lawyers and other human rights defenders internationally. LRWC provides IHRET by conducting research, writing reports, publishing articles, statements and analyses and by engaging in free public talks on international human rights law. LRWC has hosted and co-hosted education sessions on international human rights law in Canada, Geneva and Cameroon. LRWC has conducted two research projects on international human rights education in BC. As part of the 2011-2012 project, LRWC created a web-based resource “portal” to human rights education tools, including international human rights treaties and instruments, a bibliography on human rights education, and a web-based directory of organizations with international human rights resources or education programs.²⁶⁴

²⁶⁴ See the directory on LRWC's website at <http://www.lrwc.org/education/resources/>

POVNet

Vancouver, BC

BC Regional website: www.povnet.org/regional/british-columbia

PovNet provides online information and resources on poverty-related issues in BC and Canada. Included is "PovNetU" which facilitates online courses for anti-poverty advocates in collaboration with other agencies (see <http://povnetu.povnet.org/>) Many of the PovNet resources are grounded in international human rights analysis (<http://www.povnet.org/online-resources/issues/human-rights>) It has a resource website at <http://www.povnet.org/resource-types>.

Society for Children and Youth of BC (SCY)

2765 Osoyoos Crescent, Vancouver BC V6T 1X7

Telephone: 604-822-0033; Fax: 604-822-9556, email: info@scyofbc.org

<http://www.scyofbc.org/> and www.everychild.ca

SCY is a non-profit advocacy organization focused on the wellbeing of BC children and youth. SCY conducts youth training and public awareness campaigns and produces educational materials and monitoring tools including a "Four Star Rating System" that rates statutes "through the eyes of a child and the lens of the UNCRC." In November 2010, SCY, The Representative for Children and Youth, BC Centre for Safe Schools and Communities, and Reel Youth launched a multi-media Child Rights Public Awareness Campaign. This campaign was inspired by SCY's 2006 Ipsos Reid Poll that found that 86% of the people surveyed in BC agreed that the public needs more information about children's rights. The campaign uses the UNCRC as a unifying framework for government and community programs and services to children, youth and families, the community and all levels of government to increase the public awareness of child rights. A website was launched at www.everychild.ca, and child rights messaging was disseminated throughout BC via public transit ads, posters, movie pre-theatre shows, youth generated radio public service announcements, and social media. Funding from this project comes in part from the Representative for Children and Youth of BC, the United Way of the Lower Mainland, and BC Gaming.

UNICEF Canada

Global Classroom

Telephone: (416) 482-4444; Toll free: 1 800 567-4483; Fax: (416) 482-8035

email: globalclassroom@unicef.ca

<http://globalclassroom.unicef.ca/>

UNICEF Canada's Global Classroom works with educators, students, parents, and all levels of government to foster commitment to social justice and, human rights. The Global Classroom aims to equip young people in Canada to promote and ensure human rights in

their communities and the world. Kelly Quinlan, the Education Manager of Global Classroom BC (including Yukon), writes teaching materials linked to BC curriculum and focused on international rights of the child, global education and social justice issues. She also designs and conducts global education workshops to teachers and “pre-service” teachers throughout BC. UNICEF’s “Rights Respecting Schools” program is based on the CRC and aims at building a culture of human rights throughout the schools existing programming, policy, decision-making. In addition to learning about the importance of rights, schools develop understanding of the responsibilities that accompany them.

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**The Right to Know Our Rights: International Law Obligations to Ensure International
Human Rights Education and Training
Lawyers' Rights Watch Canada
Vancouver, British Columbia, Canada
May 2012**

**Produced with assistance from
The Law Foundation of British Columbia**