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Chair

Mr. Scott Reid

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• (1235)

[English]

The Vice-Chair (Mr. Mario Silva (Davenport, Lib.)): I'd like to call the meeting to order.

First of all, I want to state that our chair will be here, hopefully, in about half an hour. In the meantime, I'm Mario Silva, the vice-chair of the committee, and I want to welcome both witnesses here.

Just before we do that, I want to know if it is the will of the committee and if we can have some agreement... We have an individual, Yessica Morales, who is visiting Canada. Maybe we could have Mr. Marston actually speak to the issue and then see if there is consensus within the committee.

Mr. Marston.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair.

This young woman's father was a Colombian activist who was murdered by the paramilitary. She is on a tour through Canada. Since the committee has passed the motion to study Colombia, we thought it would be of value to the committee if she were allowed to give us 20 minutes of commentary and take questions at the end of this meeting.

I understand that this is a surprise. I didn't know about her visit until four o'clock yesterday myself. She is being interviewed at the present time by *The Toronto Star* and would be here probably within half an hour. If at the end of the meeting we could do that, I certainly would appreciate it.

Thank you.

The Vice-Chair (Mr. Mario Silva): Is there agreement from the committee members?

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Mr. Chairman, are we talking about 20 minutes, or are we talking about 20 minutes with a round of questions? That doesn't leave very much time for the witnesses we have here right now.

Mr. Wayne Marston: I'm not tied to any particular time.

The Vice-Chair (Mr. Mario Silva): Right now we have two witnesses. That could take us an hour, and we could leave the last half hour, if we wished, to have Ms. Morales speak for about five minutes and then maybe have people ask a few questions of her. Is that agreed to?

It is agreed. We will have her speak.

She is here, Mr. Marston? She is here, and you will get her?

Mr. Wayne Marston: She is in the building. Our staff will have her here. She has a representative here right now.

The Vice-Chair (Mr. Mario Silva): Okay, thank you very much.

Mr. Wayne Marston: Thank you.

The Vice-Chair (Mr. Mario Silva): We will begin.

Welcome to the committee. Who will start first? It will be Professor Lamarche first.

Thank you, and welcome.

[Translation]

Mrs. Lucie Lamarche (Full Professor, Common Law Section, As an Individual): Thank you, Mr. Co-Chair.

I would like to thank the members of the committee for their interest and I congratulate them on the welcome initiative taken by the subcommittee, to highlight the importance of this new procedure by the Human Rights Council, the UPR, the Universal Periodic Review. I may sometimes use the acronym UPR myself, rather than the French EPU, and I hope the translators will forgive me.

I read the excellent presentation given by my friend and colleague the Secretary General of Amnesty International, Alex Neve, on Tuesday, and I will be very careful not to reiterate what he said, with which I am in total agreement.

The remarks that follow will focus on the national implications of the Universal Periodic Review procedure. After providing some details to explain the mechanism itself, I will address the central issue of the difficulties reported in terms of monitoring the implementation of human rights at the national level, and conclude with a few recommendations.

I would briefly recall some points relating to the Universal Periodic Review, the UPR, by the United Nations Human Rights Council. Point 5(e) in resolution 60/251, adopted by the United Nations in 2006, describes the UPR as an exercise to evaluate the fulfilment by States members of the United Nations of their human rights obligations. It adds that the review shall be conducted in a spirit of cooperation and dialogue and based on objective and reliable information.

I think it is very important to keep in mind that this new exercise, carried out by peers, is not a substitute for the oversight performed by the independent expert organs under the treaties; rather, it supplements that work. This is an important observation, since the independent periodic evaluation by treaty organs does not leave it up to the State party to choose the recommendations or the roadmap that it intends to follow, while the UPR puts the State in charge of that roadmap, until the next periodic review.

At this point in experience with the UPR, I think it is wise to say that any evaluation of the mechanism itself is premature. We should however recognize that it to its credit it invites the entire international community into the exercise, both to evaluate and to be evaluated.

In fact, the review of the Canadian report that the Working Group of the Human Rights Council carried out was largely based on the compilation produced by the United Nations High Commission on Human Rights, and so no one can claim to be surprised on reading the report produced by the working group as a result of that review. Nor can anyone claim to be surprised at the very active participation in the exercise by civil society organizations, civil society itself having actually become expert in the area of international human rights law.

I do not want to list the salient points in the 68 recommendations in the working group's report here again, except to say that we must agree that certain issues have become pressing and urgent.

Canada therefore cannot claim that it is being asked to consider anything new as a result of these exercises. What distinguishes the UPR is actually "who is saying it" rather than "what is being said". In this case, Canada is being called to account by its peers, and how it responds to that call will also be interpreted and handled by the international community.

The structuring questions that I would like to raise with you today really involve the issue of the implementation of human rights at the national level and the need to cooperate with civil society in that exercise.

We have to recognize that in Canada, relations with the United Nations run on parallel tracks. On the one track we have federal, provincial and territorial departments and agencies, and the famous but nonetheless obscure Subcommittee on International Human Rights does its work and sends its communications to the United Nations.

• (1240)

On the other, we have civil society, which these days, and let us say it again, has readier access to United Nations institutions than it has to the Canadian government itself, when it comes to discussing issues relating to the implementation of human rights in Canada.

This has gone on so long that sometimes it is difficult to keep a straight face, and this problem is not unique to the advent of the UPR on the Human Rights Council landscape. It's a little like a cat and mouse game played out on two planes.

On the first plane, the federal/provincial/territorial human rights committee serves as the drive belt for information to be included in the Canadian report. Then Canadian Heritage edits the report, and, it

has to be said, it has an annoying habit of consulting civil society post facto, and not at the outset. It was no different in the case of the report of the Human Rights Council Working Group. What happened was that civil society was invited to contribute in April, rather than before the Canadian report was submitted to the Human Rights Council.

I would reiterate that we may well wonder about this situation, given that we knew, in view of the source of the working group report, that there would be nothing particularly new and that essentially what it involved was submitting information that had already been collected, and recommendations that had already been made by the expert, independent treaty oversight organs, for review by peers. That is the first area of discontent.

Canada is a dualist federation. In this country, human rights instruments do not automatically become part of domestic law. That is the second area of discontent. However, developments in international law, the people's law, mean that the Canadian government can no longer rely on that theory, as if it were running for cover. But really, it is a hiding place with two doors. First, the provinces and territories state their preferences regarding the international obligations they choose to ratify, and then, they throw the ball back into the federal government's court and say they don't have to explain why they are not complying with Canada's international obligations. The most classic case in this regard is the International Covenant on Economic, Social and Cultural Rights, where the ping-pong game between the various levels of government has reached completely counterproductive heights.

This grey zone, which is said to be unique to Canadian federalism, has many consequences, and they are illustrated in the working group's report. One particular example is the withdrawal of the reservations regarding the International Convention on the Rights of the Child. Another is the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which has not been ratified; and the protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the recent Convention on the Rights of Persons with Disabilities, or the International Labour Organization Convention concerning Indigenous and Tribal Peoples.

Each of these issues raises questions involving federal, provincial and territorial jurisdictions. Obviously, we have not found ways of communicating that allow us to bring Canada up to the level of contemporary international standards for human rights. "We consult," the federal government says. Well we have been hearing that for a very long time and it is still going on in the same opaque realm as it did in the early 1990s. So that is the second problematic area.

•(1245)

Before giving you my recommendations, I am going to address one final issue. This relates to the follow-up on the Universal Periodic Review, or UPR, that the government is announcing in the Roadmap it is to produce. We should be able to see this next week. What we don't know, however, is whether the Roadmap will provide a permanent follow-up mechanism, or whether we are just going to find ourselves collecting ad hoc proposals or proposals announced today that nothing more is said about until the next Universal Periodic Review. This would be extremely unfortunate.

In a nutshell, what use will be made of the Roadmap? As well, how will the Canadian government use the Roadmap in dealing with other expert, independent organs, in relation to oversight of the treaties it has ratified? In other words, will it make everyone wait from now until the next Universal Periodic Review is held?

Our recommendations focus on two issues, both of which arise out of the same principle. First, it is urgent that open, rational and ongoing dialogue about human rights in Canada be encouraged. This dialogue model will ensure, first, that the situation as it relates to human rights is evaluated, and second, that a consensus is sought regarding the ratification and promotion of new human rights standards. It is an open secret that this type of procedure can come about only if political leadership is expressed and there is a profound statement of its faith in international human rights law. This is not a simple thing, particularly since that leadership has to be expressed not only transversally, but also at several levels, that is, at both the federal and the provincial or territorial levels.

So what are we waiting for, to take two actions that Canadian institutions know are necessary? First, as the Secretary General of Amnesty International said on Tuesday, the conference on the leadership provided by both federal and provincial ministers responsible for human rights should be convened. Second, this mysterious federal/provincial/territorial human rights committee should be opened up and transformed into a permanent, democratic advisory committee, where experts, and I stress that term, from civil society would be consulted not on an as-needed basis, but on an ongoing basis. That would avoid some awful messes. For example, we still don't know exactly why Canada has delayed ratifying the Optional Protocol to the Convention Against Torture. We could cite numerous other examples, including the famous case of the American Convention on Human Rights.

In short, this open space would reshuffle the deck in terms of our understanding of human rights. It could not help but facilitate constructive rather than defensive dialogue in this area. I reiterate that this proposal cannot relieve the provinces and territories of their obligations, and that applies to Quebec on the same basis as the other provinces and territories. The quasi-secret practice of assigning reports to the United Nations to the provincial human rights commissions, and then having them receive ministerial approval before being routed through Canadian Heritage, has to stop. This necessary dialogue also has to be open, at the provincial and territorial levels. In other words, we have to stop allowing or tolerating the practice by other levels of government of referring us to the federal government when it suits them.

The government will undoubtedly be tempted to commit itself to developing performance indicators it can use to better manage its next report for the next Universal Periodic Review.

•(1250)

Indicators are useful, but they do not replace political dialogue. They are also limited by nature. They are no substitute for the requirement that concrete expression be given to human rights.

In conclusion, the UPR provides something new, a little something new. We can still take consolation in the fact that it has reopened dialogue on the question of how to keep human rights issues permanently on the agenda in Canada.

The Vice-Chair (Mr. Mario Silva): Thank you, Professor Lamarche. I completely forgot to mention that because we have only an hour for the meeting, it is best if we limit all witnesses to 10 minutes' speaking time, if possible. Thank you.

[English]

Samira Ahmed, you're next.

Thank you.

Mrs. Samira Ahmed (Board Member, Canadian Coalition for the Rights of Children): Thank you.

The Canadian Coalition for the Rights of Children appreciates the opportunity to speak with you about Canada's implementation of international human rights agreements.

My name is Samira Ahmed, and I am a student board member with the coalition, filling in today for Kathy Vandergrift, our chairperson, who is in Vancouver speaking on the rights of the child. I am a law student at the University of Ottawa in the field of international human rights.

When Canada was appointed to the Human Rights Council it pledged to uphold the highest standard in promotion and protection of human rights. I invite you to look at the recent review of Canada's performance under the universal periodic review process.

Over 50 Canadian NGOs registered concerns with a common theme of failure to meet minimal standards. Other UN members from all parts of the world tabled similar concerns about the very basic implementation of human rights treaties in Canada. Canada received over 88 recommendations for action, including many that address general implementation of all human rights agreements. One would expect that after the government heard of this, they would have felt embarrassed and would have actively engaged in improving the situation. Following the review, only one day of consultations was conducted with Canadian NGOs, but it was not entirely a consultation, because no proposals were put on the table as to how the situation could be improved.

Civil society repeated the same things it said before. Canada needs to put in place an effective, transparent, accountable system for implementing its obligations under international human rights treaties. The experience of children's rights is a good example of the need for improvement. Canada was a leader in the development of the Convention on the Rights of the Child. We will celebrate its 20th anniversary this fall.

Canada was to present its third report on the implementation of the convention in January 2009. It is late. It has not yet been presented. There have been no consultations with civil society, as required during the convention. Most important, there has not been reporting on the over 45 recommendations that Canada received during the second review in 2003. This is in spite of a three-year study done by the human rights Senate committee and an excellent report titled "The Silenced Citizens", which called for major improvements in the way Canada implements the rights of children. We hope this committee will recommend specific improvements for implementing all human rights now, and then take a closer look at children's rights as an example in the light of the upcoming 20th anniversary and Canada's third report on implementation.

The Canadian Coalition for the Rights of Children would like to put forward four proposals for your consideration, the first being structural reform: Reform or replace the continuing committee of officials on human rights at the senior body responsible for implementing, monitoring, and reporting on Canada's human rights obligations. It is obvious from the UPR process that this current structure is not working. The Senate human rights committee came to the same conclusion in 2007 in their report "The Silenced Citizens". The government's response stated that this committee does not take seriously its responsibility to implement children's rights.

Let me share the coalition's experience with this committee. In 2008 we wrote to them with the simple request to tell us what they had done with the 45 recommendations they had received in 2003. It seemed logical that this would be the starting point to write the third review on the implementation of the convention. What was the answer we got? They would not tell us anything. They would not meet with us. And that was 2008. It is now 2009, the end of May, and we still have not received the third report on the implementation of the convention that was due in January. Not only that, but there has been no consultation with civil society. We still don't know what was done with the recommendations received in 2003, and most of those recommendations were actually repeats of recommendations received in 1995. This does not serve Canada's children well, and it does not serve you well as parliamentarians.

A committee that meets infrequently, in secret, and refuses to tell anyone what it's done or to meet with the people who are affected by the decisions it's talking about flies in the face of what human rights and good government stand for. Ending the secrecy by requiring a regular public reporting will have a transforming effect on the whole system. This should start with public responses to recommendations received from UN treaty bodies within one year of receiving them.

The second recommendation we put forward is to reform the nature and quality of reporting. Implementation reports should be based on outcomes for all people covered in the human rights agreements. Current reports catalogue government programs but tell us very little about the situation of the people they're supposed to help.

• (1255)

Let me give you an example. The one initiative for children cited in Canada's report to the UPR is the national child benefit. This program description sounds great, but in reality, in December, the same month as the report was filed to the UPR, the National Council

of Welfare released a detailed report on what people actually receive from government benefit programs, including children, and the conclusion paints a very different picture. Most families on welfare composed of two parents and two children, or one parent and one child, are worse off than they were ten years ago. The report goes on to state that this is a big step backwards in the fight against child poverty.

This is the kind of information you need to know. You need to know the impact the programs and policies have on children. You need to know the truth about the situation of people in Canada. That is what rights-based reporting can give you. Officials continue to tell us that federalism is the challenge. I would suggest that rights-based reporting for outcomes affecting people could be a part of the solution, because it would provide us with useful information on outcomes for intended beneficiaries of government initiatives, or the realities that need to be addressed. It would allow you to assess programs to see if they are benefiting the people they are intended for and make adjustments if needed.

The federal government is responsible for Canada's implementation of human rights agreements. One of the effective tools it could use without violating provincial jurisdiction is regular rights-based reporting on the real situation of people across Canada, in relation to the full range of issues addressed in human rights agreements.

The third recommendation we would like to put forward is to adopt a continuous improvement model for monitoring and implementation of international agreements. A continuous learning and improvement model is preferable to the current approach, which is a defensive report submitted every five years that deals with the same issues every five years. This involves very few consultations with young people or civil society organizations that are working with children. When implementation is something we are dealing with regularly, we share information and strategies for improvement in our discussions. Then there is less need to be worried about accountability.

A continuous improvement model would include early response and more preventative approaches, which are consistent with the promotion of human rights. The Convention on the Rights of the Child, for example, explicitly calls for cooperation between government and non-governmental organizations to realize the rights of children. A cooperative, continuous improvement strategy would be more effective and less adversarial than the current approach of debating the same or similar issues before the UN committee every five years.

The last recommendation we'd like to put forward is to use children's rights as a case study. Canada and this committee have an opportunity for improvement with the current report on the implementation of the Convention on the Rights of the Child. It is also a strategic opportunity, given that the twentieth anniversary of the convention is approaching in the fall.

Canada claims to be the leader in children's rights, but is falling behind in other countries in the implementation on the Convention on the Rights of the Child. The Canadian Coalition for the Rights of Children encourages this committee to take a specific focus on the rights of children following this general study on human rights.

I have with me a summary fact sheet of the 45 recommendations that were received by the Canadian government in 2003. They're broken down into ten key areas that could make a great difference for young people in Canada. If Canada wants to remain an international leader in children's rights, then it needs to examine its own record in the ten areas. A closer look at Canada's third report by this committee could provide a good opportunity to understand the interface between practices within Canada and the international human rights agreements. The coalition welcomes the opportunity to work with you in improving the way Canada implements international human rights obligations for the sake of our children first, and also for the international reputation of our country.

Thank you.

• (1300)

The Vice-Chair (Mr. Mario Silva): Thank you very much.

Given the fact that we only have about a half an hour left, I'm going to ask if it's okay with the members to limit it to five minutes, and only one round.

Mr. Kennedy.

[Translation]

Mr. Gerard Kennedy (Parkdale—High Park, Lib.): Thank you.

[English]

I have a similar question for both of you. I think the underlying problem here is that the rights discussion quickly gets rarefied and disconnected. Madame Lamarche is recommending an open dialogue, and you're looking for relevant continuous improvement to replace the.... This is a heavy means of going about things, and it's easy for people to not take this process seriously. I'm not suggesting that applies to this committee or the government, but it kind of floats away. I guess I'm wondering what other countries have done to make the rights discussion more real.

To give you a concrete example, I ran food banks in this country for 13 years. Children and families went without food through no fault of their own. There is no real visceral recognition that this condition exists in this country, yet you don't have to go very far down the list of rights to see some basic security rights that people should have, including food, shelter, and so on.

Have other countries done better at centring the relevancy and having that open dialogue?

Ms. Ahmed, by the way, please convey my greetings to Ms. Vandergrift. We worked together in Edmonton years ago.

Has anyone brought this out of the committees and reports and into where the public cares?

• (1305)

Mrs. Lucie Lamarche: Thank you for the question.

Two examples come to my mind. The first one is Brazil. Brazil has a continuous process, where institutions as well as civil society representatives are involved all the time. So there isn't this big rush six months before producing any report whatsoever, either dedicated to an expert committee, or now in the case of the Human Rights

Council procedure. There's the idea that there is a continuous discussion and we're always ready for conclusions; it doesn't mean we never have anything to celebrate. Brazil is not a small country, and it is a federation, so it's interesting in that regard.

The other example is South Africa. It has a mixture of human rights institutions and civil society networks that work on a permanent basis, which means that at the end of the road, representatives of both parties agree to agree, and agree to disagree. You don't need to be in Geneva to have this "confrontational moment" and then come back home to move to another set of human rights. The idea of permanency and continuity is closely linked to the real meaning of consultation and accountability.

I think the Canadian government has always promoted the idea that at the moment a report is transmitted to civil society, it has been consulted. Consultation means that you have to be informed of what's at stake and aware of the facts, and can come together on conclusions. Parliamentary accountability also means accountability to civil society, and there are existing and working examples that are not very expensive. The idea is to open the institution and get the process.

Mr. Gerard Kennedy: Thank you.

Ms. Ahmed, is there anything you'd like to add?

Mrs. Samira Ahmed: Other countries have implemented a child commissioner at the federal level to help monitor children's rights. It allows for more dialogue with children and integration into the curriculum so children are more aware of their rights. Then they can report and know that there's somebody they can go to if there is a rights-based issue with children. It can help with accountability and dialogue to have somebody continuously available to allow for change in the process. Countries like U.K. have implemented that system.

Mr. Gerard Kennedy: Thanks very much.

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): We are out of time on that question. Thank you.

Madame Thi Lac.

[Translation]

Mrs. Ève-Mary Thäi Thi Lac (Saint-Hyacinthe—Bagot, BQ): Thank you, ladies, for being with us this afternoon. Your presentations were interesting. I am going to start by asking you a question.

You referred to treaties that you say it is important that the government sign, including the treaty against torture. Do you not believe that the government is making mistakes at this point? As well as not signing certain important treaties, we have reached the point where treaties that have already been signed by Canada are no longer being honoured.

Take the Omar Khadr case, we know he was a child soldier. Canada is a signatory to the agreement on child soldiers. As well as not honouring that treaty, we are also seeing Canada challenging judgments in the courts and also not honouring resolutions adopted by Parliament in this regard.

I would like you to address that subject. How can we counteract that? As well as not signing new treaties, we have reached the point where we are not honouring treaties we have signed.

Mrs. Lucie Lamarche: The case of the Optional Protocol to the Convention Against Torture is a little baffling. It is rare to see a case that starts out as rumour and then becomes logical, because, we are told, we don't know precisely why some provinces would object, in particular, to the requirements relating to prison inspection. This is a very uncomfortable situation, in terms of democracy, because we don't know. If we know, we might be able to concede to some of the reservations expressed by certain provinces, but we don't know. The confusion defies both logic and Canada's international commitments, and that in itself is a failure and an affront to the promotion of human rights.

On the question of the treaties that have been ratified, the protocols to the International Convention on the Rights of the Child and the Convention itself are good examples. I do not have a magic formula that would instil greater respect for human rights conventions in the Canadian government, but we can say this. Is this not proof that we must give this new tool, the Universal Periodic Review, the complete attention it requires, and do the same in terms of monitoring the treaties that have been ratified? So it is an additional tool, not a substitute tool. As good optimists, we can hope that two oversight mechanisms rather than one will at least facilitate dialogue regarding violations of existing treaties, although the dialogues are different in nature. In the case of the Universal Periodic Review, Canada is in dialogue with the international community of States. In the case of the Convention on the Rights of the Child, for example, the dialogue is with a committee of independent experts. We must therefore look to this new combination as our hope for higher compliance rates.

You are right, Mrs. Thi Lac, when you say that for some time we have not had particularly glowing results in Canada in this regard.

• (1310)

Mrs. Ève-Mary Thài Thi Lac: Do you think this is a question of political power or political will, at this point?

Mrs. Lucie Lamarche: I think we can't separate the political will from the tools available. We are looking at the introduction of a new tool. But the Canadian government's Roadmap cannot disregard compliance with obligations it has agreed to or undertaken by treaty. So we must not lose sight of the monitoring and oversight mechanisms set out in instruments that have been ratified. The idea of ongoing dialogue is not a new requirement, it is a heightened requirement, because even more methods are being made available to States and civil society to ensure that Canada fulfils its obligations.

Mrs. Ève-Mary Thài Thi Lac: You referred to a conference of the provinces, the Quebec nation and the territories, that could be held to develop an ongoing dialogue in order to bring pressure to bear.

Do you think this tool could be used by the provinces, the territories and the Quebec nation to put pressure on the federal government to implement a permanent tool in relation to children's rights?

Mrs. Lucie Lamarche: There are permanent tools that can't be described if we are outside the system, including the famous federal/provincial/territorial committee. Really, at present, the permanence, or ongoing oversight of Canada's international obligations is handled by an institution made up of the human rights commissions, which serve as a relay to the respective provincial justice ministries. It is an extremely opaque mechanism, and is based on a particular understanding of human rights. That understanding is that governments are accountable only to their own legislatures and not to civil society. There is a basis for this opaqueness. The idea of the conference—and many of us share the idea that this kind of federal/provincial/territorial conference is needed—is to share a new leadership, but also a new hypothesis, that human rights in Canada are not the exclusive property of expert institutional agencies. Ultimately, they themselves are subject to the political judgment of parliaments and legislatures, because, and we are well aware of how this operates, the provincial portion of a Canadian report is always approved first by the minister responsible. The entire process is conducted—it is not quite accurate to say in the most complete secrecy, but certainly not in the most complete spirit of sharing—in that no information is conveyed to civil society.

The idea of the conference is to find a new commitment and a statement of a principle of openness, that is, that human rights are not entirely a matter of international relations like other subjects are. It is the central nervous system of the international community, and as a result, the leadership has to promote openness in the dialogue. These are not a few minor issues in international relations. Human rights belong to people. Parliamentarians, sovereign as they may be, are not the only ones who have human rights; people do.

• (1315)

[English]

The Chair: Thank you.

Mr. Marston, please.

Mr. Wayne Marston: Thank you, Mr. Chair.

Before I start talking to our guests, the motion that I gave notice of I'll hold until the next meeting because of the changes we made for our Colombia guest.

Thank you for your testimony. I am very pleased to hear from the civil society.

One of the things that we've noted of this process is that it's very much parked in the bureaucracy of our government. In some fashion, it's almost like the process is walled in. As dutiful as our bureaucrats are, they still are accountable to their political masters, whoever they may be at any given point in time, and I see that as problematic.

Hearing your testimony, from both of you, it was very much in line with what Mr. Neve gave us the other day from Amnesty International.

The other thing that occurred in Tuesday's testimony, in fairness to the people from the bureaucracy who were here, they sounded very open to change in the process. They were—and you should hear this—apologetic for the fact that because, as they stated, of the limited timeframe, they didn't access civil society as they felt they should have. In fairness to them, I think it's important to say that.

Since this process is new, there is still room for change and tweaking. So one of the things that's been suggested is bringing together first ministers, territorial ministers, and so on. I understand we haven't really looked at human rights in Canada in that fashion since 1988, so that's a very good thought, and I appreciate it.

Do you feel the current process has been heavily politicized, or do you feel it's because it's new to the bureaucracy that it has that kind of walled-in feeling?

Mrs. Lucie Lamarche: Thank you.

May I quote first a few lines from the report of the working group? This is from paragraph nine of the report:

Canada views the participation of civil society as an important aspect of the UPR process, and acknowledged the dissatisfaction expressed by civil-society representatives regarding the timing and nature of its UPR consultations. Canada is committed to engaging with civil society and intends to hold further consultations in follow-up to the UPR.

In your question, it seems to me there are two different aspects that have to be considered. The first one is what happened around the UPR process's first report? And then I can see where it's been a change for the bureaucracy. What I cannot see is what was the big surprise, because the way the report was built, most of the information was taken from previous assessments produced by the UN experts committee. So there were no absolutely new fields or understanding of human rights violations, or slow progress raised in that report.

The timeframe argument has to be handled carefully, I think. I'm saying that with respect, because it's true that it's not an easy job to do, to get everybody on board and produce a report for the UN. But what's really new in the process is the format, the forum, who's evaluating the report, but not the content. So I'm a bit skeptical about the timeframe argument.

Nevertheless, we have to look at the future. What I read here is that something wonderful will happen, there will be something new taken from the UPR experience. But before we go back to the UPR, we'll have to process other reports, based on the reporting timeline related to human rights treaties. The chances are that in six months we won't necessarily be looking at UPR any more; we'll be raising the same points about the classical treaty reporting system and again worrying about the fact that consultations are either late or meaningless.

Those are questions, but I don't think that the venue of the UPR explains everything, as far as accountability and consultation are concerned.

About the depoliticization of the UPR process, Canada was a strong and very useful promoter of the mechanism. One of the strong, basic arguments was that we will have a depoliticized process. We are not too sure at this point in time that the process is absolutely depoliticized or less politicized than the former Human Rights Commission. What we do know is that it seems most state members are on board, with more or less success, and I personally see that as good news.

Now, the fact that the Human Rights Council is using UPR to level the playing field is good news, but it doesn't mean that it puts

us in a position to share a better understanding of what promoting human rights at home means, in the case of Canada.

Again, those are two different ways of approaching the experience of the UPR.

• (1320)

Mr. Wayne Marston: Mr. Chair, we're close on time. I'm going to pass on the next question, because we had agreed to move on by 1:30.

The Chair: We'll move, then, to the Conservatives. Mr. Sweet, please.

Mr. David Sweet: Thank you, Mr. Chairman.

Madam Lamarche, I want to clarify something. A little bit might have been because of the translation—not that the translation wasn't good, but because of the speed of your speech, etc., there were a couple of sentences I didn't quite get.

You mentioned that other levels of government constantly send you back to the federal government. Do you remember making that statement? Could you give me an idea about what you're implying there? Have you pressed provincial or territorial governments, or municipal even, and they've bumped you back to the federal?

By the way, your credentials here only say “full professor, common law section”. Could you give me the rest of the organization you represent?

Mrs. Lucie Lamarche: Thank you.

I came to the University of Ottawa three years ago. Previously I was a professor at the University of Montreal. I've been involved with civil society organizations—sometimes I feel forever—over those UN participation and human rights issues.

With due respect, I'll take my example from Quebec. Quebec was the first Canadian province that decided to show up in Geneva and share the experience of constructive dialogue over the monitoring of human rights treaties. Quebec was first, but it's not the case any more. Other provinces have decided to go and be part of the federal delegation. The UPR experience speaks for itself. As a province concerned with many fields of jurisdiction related to human rights implementation, Quebec as a province did not consult with its own civil society before the UPR, which we can assume is less complex than consulting with representatives from all over Canada.

Civil society, starting with La ligue des droits et libertés du Québec, had to insist on having a meeting after February when the delegation was back from Geneva. Basically there's documentation to show that Quebec's position is that it's accountable only to the Assemblée nationale, and it's piggybacking on federal decisions over the follow-up to UPR. I think it speaks for itself. This is one province, but I know that other provinces would take the same position on that. It belongs to the federal government when it suits provinces and territories not to be on board on issues related to human rights. This is nothing new under the sky for those of us who have been involved in that kind of process for two decades now.

That's the ping-pong game that I think should stop. When they're in Geneva, the federal government makes the point—and rightly so—of saying it is a provincial field of jurisdiction. When they come back home, the provinces tell you it's the treaty-making power, and the federal government represents the state, so there's not much they can do at the provincial level. Theoretically it doesn't keep the road, and politically it's not exactly productive.

How can we change it? We have to start with leadership and a different level of jurisdiction, sharing a common understanding of what it means to be accountable and promote consultation on human rights. Otherwise, with the next report produced in Geneva we'll have another example of the classic back and forth, everybody's responsible, but nobody's responsible for children's rights, torture, or civil rights.

• (1325)

Mr. David Sweet: So you have pressed the provincial government before—not specifically for the UPR—and they've simply said they weren't going to consult because it wasn't their responsibility, it's the federal government's.

Mrs. Lucie Lamarche: I would say they have the same understanding of their duty to consult as the federal government, which at the end of the day is close to meaningless consultation.

Mr. David Sweet: You said you reviewed Mr. Neve's testimony. Did you also review the testimony of the government representatives who were here? I questioned them specifically on a new process that was going to be developed. I asked them if there was going to be a new process. I asked them if it was going to be accountable and have specific benchmarks. Can you give me an idea of what you felt about that testimony? You've already commented a bit, but give me your full, unvarnished opinion.

Mrs. Lucie Lamarche: I don't know what the federal road map will be. I'm puzzled a bit by the expression “road map”. We may have reason to believe there will be a legitimate temptation to go for benchmarking—where are we now, and where will we be in four years? Indicators have limits. We'll have to make sure those indicators are designed from the human rights perspective.

This is more than results-based management; this is about human rights. So a whole set of questions will probably open when we're given the opportunity to understand what the road-map approach is. But I'm afraid I can share no big secrets in that regard.

Mr. David Sweet: Madam Ahmed, you mentioned a child commissioner, I believe. Could you name a few countries that have a child commissioner? Do they act in a role similar to an ombudsperson in intervening in individual cases or even on a broad spectrum of policy?

Mrs. Samira Ahmed: The idea is kind of a two-part role. They are to look at specific cases that serve as examples of.... Sorry; let me start over.

First I'll start by listing some countries. There are the U.K., Norway, and New Zealand. I'm blanking on some. There's a long list of countries. I think there are about 15 countries that have federal advocates who are child commissioners. Their role is to oversee and make sure children are taken into account in all decisions that affect them, in terms of the legislation aspect. Also, their role is to take on cases that serve as examples for major issues affecting children. An

example of a current one is an aboriginal community that has no elementary school. That would be an example of a type of case that a child commissioner in Canada would take on to serve as the example for life differences available for different children of different backgrounds.

Mr. David Sweet: They would not just take on individual cases; they would also deal with policy.

Those countries you mentioned, do they have similar infrastructures at the municipal level, like the children's aid societies, etc.?

Mrs. Samira Ahmed: I think so. Yes.

Mr. David Sweet: Is the commissioner at the bureaucratic level of the government? You're saying they would actually act even at the development stage of legislation to see if it took the perspectives of child rights and safety into account?

• (1330)

Mrs. Samira Ahmed: Their idea is to act as a kind of independent body, to be somewhat separate from the government but to provide consultation in terms of advice for different decisions that are being made. One of the best things I could suggest is that I provide some documentation that outlines the specific duties a commissioner would have, that I provide that to you at a later date based on the commission, because that's not entirely my area of expertise.

Mr. David Sweet: That's great.

Thank you very much, Mr. Chairman.

The Chair: Thank you, Mr. Sweet.

Thank you to both our witnesses.

With regard to any submissions, I encourage you to submit them to the clerk of the committee. The clerk will then ensure they are distributed to all members and can be of use to all members.

It being 1:30, we'll now dismiss these witnesses with our thanks and call upon our next witness.

Perhaps we'll suspend temporarily while we bring the next witness up.

Thank you.

• (1330)

_____ (Pause) _____

• (1330)

The Chair: All right, we're back in session.

We have with us, as we'd agreed earlier, Yessica Hoyes Morales, who is a lawyer and human rights defender from Colombia, who will address us on matters of concern to her country.

There are a couple of opening notes. My understanding is that Madam Hoyos Morales does not speak either of our official languages and will speak through a translator. We'll just have to move with the speed that allows. We only have half an hour. This creates a bit of a problem.

Although I'm sure Ms. Morales has some very important things to say to us, just keeping it to the clock would be helpful. For all members, when we get around to questioning, it will be five-minute rounds. This time, unlike my previous practice, I will be ruthless in enforcing five minutes. Be warned, and think of your questions now.

Without further ado, we welcome you, Ms. Morales.

Please begin.

Ms. Yessika Hoyos Morales (Lawyer and Colombian Human Rights Activist, As an Individual) (Interpretation): Good afternoon. I would like to thank you for receiving me and listening to what I have to say. I'll try to be brief in spite of the fact that I have many things to say.

My name is Yessika Hoyos Morales, and I am the daughter of Jorge Darío Hoyos Franco, a trade unionist who was assassinated in the year 2001. My father was one of the 2,709 trade unionists who have been killed since 1986 up to this date. This year, 16 trade unionists have already been killed.

The problem is not only the murders but the impunity around the murderers. According to the data provided by the prosecutor general's office, up to January this year they have only investigated 816 of these murders.

In Colombia, not only trade unionists are being assassinated. We also have many of our human rights defenders, journalists, and people who belong to social organizations being killed. From July 2002 up to 2007, 1,112 extrajudicial killings took place.

The Colombian government is seriously implicated in the activities of the paramilitaries. Jorge Noguera, the former director of the national security department in Colombia, the intelligence department of the country, is being investigated by the prosecutor's office because of his links with the paramilitary.

Mr. Jorge Visbal Martelo, former ambassador of Colombia to Canada up until two years ago, is being investigated today by the prosecutor's office for his links with the paramilitary.

There are other illegal activities on the part of the Colombian government—for example, the tapping of the telephone lines of human rights defenders, journalists, members of the opposition party, and even the magistrates of the Supreme Court of Justice, and of the three largest trade union organizations in the country.

● (1335)

I will close my remarks by stating that there are multiple violations of human rights in my country. I would like to thank you for giving me this opportunity, because it is usually other voices that are heard at forums like this.

I am very thankful to you for listening to me, because in Colombia there are really serious violations of human rights.

The Chair: Thank you.

Let's turn to our first questioner. I'll remind questioners that both questions and answers have to be translated. I encourage you to keep them as short as you can.

● (1340)

Mr. Mario Silva: Thank you, Mr. Chair.

I want to thank Yessika Morales for her intervention and for being here before the committee.

I want to get her perspective in terms of speaking with not just civil society but the general population of Colombia. I realize there are still some serious issues of human rights violations going on, both with the paramilitaries and FARC, and also in the civil war and in the drug trade, which also plays a major role in the country's troubles. President Uribe obviously did not create these problems. They were there before he got elected.

In my discussions with many people on the ground in Colombia about this situation, they said that there are serious violations, but it has improved somewhat, not in all aspects of society, it's true, and there are many issues that are still very serious. Specifically, you mentioned the trade unions and the killing, which is quite sad and still terrible, but there has been a certain level of security brought about by certain parts of the community and society.

I just want to know what your assessment is. For example, in speaking with the youth of your country, do they feel the situation has actually gotten worse? Since your father was taken hostage in 2001, do you feel it's gotten worse? Or is it the same or better?

Ms. Yessika Hoyos Morales (Interpretation): The security situation has worsened in Colombia. It has not improved at all. The figures actually prove that.

Last year, that is, in 2008, there were 112 extrajudicial killings that are being called "false positives". It is not the paramilitaries or the guerrillas but the army of Colombia that is killing our youth.

I don't know if you have heard about this, but recently it has been discovered and proven that youth are being called by the military themselves, offered jobs, and taken to other places in Colombia. Then they're asked to run, dressed in guerrilla outfits, and they're killed.

Mr. Mario Silva: I was at the OAS meeting at Medellín last year. I remember that in Medellín ten years ago you couldn't walk on the street, because you were terrified for your life, especially with all the drug activity that was taking place with Pablo Escobar. You can walk today in Medellín's downtown, and it is full of people downtown, which wasn't the case ten years ago.

Now Uribe has 80% approval rating, and he was one of the first presidents I think in a long time who was elected in the first round. How is it possible that you can say that the situation's actually worse when his popularity's so high and when the people I spoke to on the ground said that they can actually feel some level of security walking down the street, which they didn't feel ten years ago?

● (1345)

Ms. Yessika Hoyos Morales (Interpretation): I can tell you that's a false sense of security, because security has not actually improved in Colombia, and the figures on crimes can't actually be an evidence of this. Even though you say that in Medellín people are walking on the streets, there are many fears, probably as much as elsewhere.

Most communities feel very fearful in all cities in Colombia, and in different places, especially the youth. For example, very recently, the Black Eagles—the new paramilitary groups that we have in the country—sent threats saying that any youths found on the streets after 10 p.m. would be killed, as well sex workers, gays, and social leaders. Also, the media has sort of made all of this new news, saying that the country is more secure.

As to the president's popularity, I think this is not really true. If you go out to the rural areas, to the committees, you will see that the president is not so popular as you would believe.

The Chair: Madame Thi Lac, please.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: Thank you for being with us today, Ms. Morales. I had the opportunity to meet you at our caucus meeting earlier this week. I wanted to say that you show great courage. We know that you might suffer reprisals.

[*English*]

Ms. Yessika Hoyos Morales: *Gracias.*

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: I also want to follow up on the question from my colleague, who said that the country was more secure. You were about to say that there is more intimidation, and this means that people are more afraid, they stay home and live in fear. This actually creates a false feeling of security in your country.

[*English*]

Ms. Yessika Hoyos Morales (Interpretation): Yes, I think that one of the main reasons is fear. On the other hand, I also believe that the figures are being manipulated by the government and the media. It may be true that in some instances there are a lesser number of homicides, but not in terms of trade unionists, for example. At the same time, we find a big increase in the forced disappearances of people, in the number of extrajudicial executions, as well as torture. And, I repeat, I think the government is manipulating these data.

Very recently, even at the level of DAS, which is the national security department, I would like to repeat that it has been proven they are following and tapping the phones of members of the Supreme Court and other important officials, as well as the members of the opposition. So I think this doesn't speak much for security in the country.

• (1350)

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: I have one last question.

You know that Canada is currently wanting to ratify a free trade agreement with Colombia. I am the member for a riding where there is a settlement program for refugees from Colombia, where a large number of Colombians have settled, although it is a rural riding. I am very aware of the fact that many of your fellow citizens have had to leave the country involuntarily and flee Colombia, to settle in my fine riding.

In fact, it seems to me that ratifying this kind of agreement is as if the government were "talking out of both sides of its mouth". On the one hand, it says it recognizes people whose human rights have not been respected in Colombia, and accepts them here in Quebec and

Canada, which take them in. On the other hand, it agrees to trade with a country that does not respect human rights.

I have made a motion here in this committee. Do you not think it is in fact very urgent that we consider that question?

[*English*]

Ms. Yessika Hoyos Morales (Interpretation): Yes, I respect Canada, and I'm sure the Canadian government is respected by many, because it is known for respecting human rights. However, if Canada ratifies this agreement with Colombia, it will be backing the regime of human rights violators.

I would like to invite you all to come to Colombia and see firsthand what is happening there. Thousands of youths are being killed. Human rights defenders are being killed.

I am standing here now without my father because he was killed. Many other youth have lost their parents, their brothers, their sisters, not many years ago—within this administration, a few years ago—just because they wanted to build a better Colombia. I am not the only one who would tell you this. You can speak with many of the human rights organizations, human rights defenders, indigenous organizations, peasants.

The people of Colombia also oppose this agreement for that reason.

The Chair: All right, as I turn the microphone over to Mr. Marston, I'll just observe that I won't be seeing the clock as being 2 p.m. until we've gone through all our questioners.

Mr. Marston, please.

Mr. Wayne Marston: Thank you, Mr. Chair.

I certainly appreciate the position you've just taken. I want to thank the committee for allowing this witness to come forward.

You would not necessarily be aware of this, but in 2008 a House of Commons international trade committee said we should not be signing an agreement with Colombia until their human rights record had been examined. I'm sure you're aware the U.S. Congress also blocked a potential deal, and Mr. Obama said he wouldn't respond until such time as there's a definite improvement in their human rights record.

Perhaps, in some ways, when Canada signed this draft agreement with Colombia it helped to highlight some of the abuses. In 1996-97 I met an individual from Colombia who was one of the people in the occupation of the Coca-Cola plant. He went back to Colombia and two weeks later was taken off a bus and was shot in front of his family. So many of us here have a great sympathy for your cause.

I'd like to hear your reaction when you first heard a potential agreement was signed with Canada.

Then there's a second question, and this is going to be very personal, but I think that's the purpose of your visit to Canada. If this president is renewed, what is your personal safety when you return to Colombia?

• (1355)

Ms. Yessika Hoyos Morales (Interpretation): When I first heard that there was a possibility that Canada would sign a trade agreement with Colombia, my reaction, of course, was one of deep pain.

I have always felt this deep admiration for Canada. I know Canada as a peacemaking country, as a country that is known throughout the world for respecting human rights. I know that there are many lines of cooperation with Colombia, especially through your membership in the G-24. This group has also pressured Colombia to meet the recommendations, the international recommendations, in terms of human rights.

So this is a source of concern for me. It's like you are turning your back on the Colombian people. If you sign this agreement, you'll be showing support for a government that is a violator of human rights.

As to my own personal life, I have been threatened many times. We have received, at the Colectivo de Abogados, recent threats to our lives.

President Álvaro Uribe himself has said publicly that I am an enemy of the country when I come to the point of describing what is happening in my country. I only want to say that I am not an enemy of my country. On the contrary, if that's what I do, it is because I love my country. I love Colombia. I love my homeland.

It is because I love my homeland that I am here speaking before you.

The Chair: Mr. Sweet, please.

Mr. David Sweet: Mr. Chairman, the first thing I would like to say is that Madam Morales sits here in front of us with obviously great passion, probably for many reasons, but obviously one big reason is that she has lost her father.

First off, Madam Morales, on behalf of the committee, I just want to give you our deepest sympathies in that regard.

I don't have any specific questions, but I would say this. We were studying in this meeting the UPR. Half of the UN countries have been studied now. The other half are yet to come. I would suggest that all of them will have reports that will have flaws in human

rights. I would suggest to you that a large percentage of those countries trade with each other, as well.

The notion of owning another person's fallibilities because you trade with them could be taken to very broad dimensions. If we go down that road, the whole notion of trading with a nation....

I understand the feelings around here. I understand the battle for human rights. In fact, we're all on this committee because we care deeply about human rights. But I have to say—to the committee, to our witness, to you, Mr. Chairman—that the notion that our country would be demeaned by some actions that we feel would have benchmarks to try to provoke some action for better human rights is a notion that I just cannot let stand before the committee. That certainly would not be the motivation of the government; in fact, quite the contrary.

• (1400)

The Chair: Let's translate that for the benefit of our witness.

Ms. Victoria Giraldo (Interpreter): I already did.

The Chair: In that case, is there any commentary?

Ms. Yessika Hoyos Morales (Interpretation): I understand what you say, and I understand that you may not wish to stop trade between the two countries. This trade has always existed and will most probably continue to exist, but is trade more valuable than human lives? At which point can we say this is the case? Because we're talking here about the lives of indigenous peoples, trade unionists, and many other Colombians.

The Chair: Thank you very much.

We appreciate the patience of all members of the committee in staying a little later than usual and also their flexibility in meeting with the witness.

In particular, to our witness Senora Morales, let me say that we very much appreciate you coming here, and your translator as well.

Thank you very much.

The meeting is adjourned.

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