ACTIVE DEMOCRACY:
Citizen Network for the Implementation of Summit Commitments

CANADA REPORT 2008

CIVIL SOCIETY PARTICIPATION IN THE
SUMMITS OF THE AMERICAS

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I. Executive Summary

The Canadian Foundation for the Americas (FOCAL) is the national coordinator for the Active Democracy: Citizens Network for the Implementation of Summit Commitments (the Network) consisting of civil society organizations now in 24 countries in the Western Hemisphere. FOCAL also sits on the Network's Hemispheric Coordination Team (HCT), with Corporación Participa, a Chilean NGO and the Instituto Venezolano de Estudios Sociales y Políticos (INVESP), a Venezuelan NGO.

The information in this report was compiled by FOCAL, adapting the methodology outlined in the Network's *Manual for the Development of an Evaluation Index of Government Compliance (EIGC)*. This methodology is a quantitative assessment measuring perception of progress toward Summit mandates which complements the narrative around Summit implementation produced by each Active Democracy National Coordinator.

Over the 2006-2007 period, the Network surveyed the perception amongst key stakeholders of progress Canada and other countries in the Western Hemisphere had made toward the implementation of Summit of the Americas commitments in four thematic areas: (1) access to public information; (2) freedom of expression; (3) local government and decentralization; and (4) civil society participation in governance.

The findings and recommendations generated by each national report are intended to reflect perceptions on progress made in each country to implement Summit mandates. Canada is starting from a strong baseline of legal standards that uphold the four thematic areas, making changes to meet Summit mandates less necessary. Although many of these mandates are already implemented in Canada, the individuals consulted for this report highlighted areas where they felt improvements could be made so that Canada could maintain a solid commitment and lead by example.

After forming expert panels, distributing surveys to informed individuals, and conducting background research in these four themes, FOCAL convened a group of Canadian civil society organizations, academics, public policy representatives and advocates to a symposium in Ottawa on May 15, 2008, to discuss Canada's progress in implementing theme-related Summit commitments based on their experiences. The event brought together over 30 individuals with practical experience in these fields, including with gender perspectives. They provided valuable insights into the Canadian government's progress on the four themes. The recommendations in this report have emerged from this discussion and research on the perceptions of this group of people and highlight where experts believe attention is warranted.

Recommendations:

Access to information
- The Canadian government should follow up on the recommendation of the Parliamentary Task Force to extend access to information regulation to private companies that receive public funding or deliver public services.
- The government should include a public interest clause in its access to information legislation, as recommended by the Office of the Information Commissioner, in order to ensure cost does not prohibit access to critical public information.
- The government should review the needs of marginalized communities' access to information in Canada, in the light of its decision to close SchoolNet.

Freedom of Expression
- The Canadian federal and provincial governments should review the use of human rights legislation and commissions as tools for censorship used by interest groups with the view of protecting freedom of expression while promoting respect for visible and religious minorities in the public discourse.
- The Canadian federal government should refrain from tightening control over information through additional anti-terrorism legislation.
- Canadian law enforcement agencies and prosecutors should recognize the right and need for journalists to protect their sources and their independence and not attempt to use the material they gather for prosecution or law enforcement.
- The federal government should reverse its decision to make arts funding contingent on its compatibility with mainstream political views or the contested criteria of public morality.
- Federal, provincial and municipal law enforcement should respect the rights of demonstrators to assemble and protest without police interference, threats, surveillance, infiltration or intimidation.

Decentralization: Provincial and Municipal Government
- The Canadian government's $33 billion, seven-year "Building Canada Plan" for infrastructural development in cities and municipalities is a step in the right direction, but it is under-resourced. The federal government should cooperate more fully with provincial and municipal authorities to ensure Canadian cities and their residents do not fall behind, even as they continue to grow.
- Cities and municipalities should continue to make more of their services, key information, and governance information available to citizens on the Internet via their web sites.

Civil Society Participation in Governance

- All levels of Canadian government should seek to engage and support civil society organizations on a long-term basis and provide predictable funding opportunities that are not vulnerable to the frequent shifts in government policy.
- The federal government should loosen the restrictions on advocacy activities for registered charities, which in effect silence or limit their ability to participate and influence policy development.
- The federal government should reverse the policy that cut funding offered to advocacy organizations in 2006 by Status of Women Canada. The new partnership fund created under the Women's Program in effect limits the capacity of these organizations to advocate policy change.

While Canada has a strong foundation from which it can implement and uphold the Summit mandates, this report encourages the federal, provincial and local governments to cooperate and further enhance Canada's implementation of its commitments. In sum, Canadian governments at all levels should ease access to information; increase protection of the freedom of expression; encourage decentralization; increase the capacity of local governments when appropriate; and establish more secure avenues of funding for civil society organizations.

II. Introduction

The present report on the implementation in Canada of mandates assumed by the governments of the Organization of American States at the 2001 and 2005 Summits of the Americas is part of a hemispheric analysis currently taken place in 21 Latin American and Caribbean countries. The Active Democracy: Citizens Network for the Implementation of Summit Commitments monitors the implementation of commitments in four thematic areas: (1) access to public information; (2) freedom of expression; (3) local government and decentralization; and (4) civil society participation in governance. The first phase of this project began in 1997 with 18 countries in the hemisphere participating, and continues to expand.

Background

In its **first phase**, under the leadership of the PARTICIPA Corporation of Chile, the project was focused on the promotion of the participation of civil society organizations (CSOs)[1] in the inter-American system, and was a pioneer in bringing civil society proposals to the Second Summit of the Americas in Santiago, Chile in 1998.

In its **second phase**, led by the PARTICIPA, the Esquel Group of the United States and the Canadian Foundation for the Americas (FOCAL), developed a set of activities—both at the national and the hemispheric levels—with the aim of promoting the participation of organizations and social networks in the Summits process. A series of consultations on the themes of strengthening democracy, creation of prosperity, and the realization of human potential were carried out with civil society organizations in order to formulate proposals for the Third Summit of the Americas held in Quebec City in April 2001. The consultations took place in Argentina, Barbados, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, and Uruguay. The result was the formulation of 243 proposals, representing the consensus of 900 CSOs, which were presented to the governments within the framework of the Quebec City Summit. More than half of those recommendations were included in the Summit's Plan of Action.

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[1] Civil society in this report is understood as "the forms of autonomous association, vis-à-vis the market and the State, whose objective it is to claim rights, express opinions, influence decisions which affect the community and control the authorities. This sphere is self-generating and intervenes through existing public communication and institutionalized participation mechanisms. A fundamental condition of its development is that it requires institutional frameworks to reproduce itself and preserve its freedom of action (...) Those who form civil society do not aspire to exercise directly either political or economic power, but rather to have an influence on—especially through public communication—state institutions, political parties and the private environment." This definition includes academic entities, opinion centres, and various social organizations dedicated to the promotion and defense of rights, among others. This definition is drawn from *Informe de Desarrollo Humano 2004: El poder: ¿para qué y para quién?*, United Nations Development Program (UNDP-Chile) 2005, pp. 218-219.

A **third phase** followed an evaluation of this process. The Hemispheric Coordination Team developed a formal monitoring mechanism, the Evaluation Index of Government Compliance (EIGC), for tracking the degree of government compliance of certain mandates related to democratic governance in the Quebec Plan of Action. To this end, a methodology was devised and it was applied in Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Jamaica, Mexico, Paraguay, Peru, Trinidad and Tobago, the United States, Uruguay and Venezuela. Called the *Civil Society Follow-Up Strategy for the Implementation of the Quebec Plan of Action*, the monitoring exercise took place between July 2002 and March 2005 and was coordinated by PARTICIPA, FOCAL, the Regional Coordination for Economic and Social Research (CRIES), the University of the Andes of Colombia, and the Inter-American Network for Democracy (RID). The central objective was to achieve greater specificity and methodological rigor in monitoring and promoting compliance with the Quebec Plan of Action's overarching theme of strengthening democracy by improving and broadening citizen participation. Through this method, the Network decided to monitor Summit mandates related to:

- Access to public information,
- Freedom of expression,
- Local governments and decentralization,
- Strengthening of civil society participation.

The results of the first use of this monitoring methodology produced a series of national reports that evaluated the degree of compliance and implementation of the mandates of the Quebec City Summit in each participating country. The Network included these results in the Hemispheric Report 2005,[2] which was brought to public attention at both the Monterrey Special Summit as well as the Fourth Summit of the Americas at Mar del Plata. Also included in this report were proposals aimed at contributing to the improvement of the way governments comply with these Summit mandates, in order to support the strengthening of democratic governance in the countries of the region.

In the **fourth phase**, covered by this report, the Active Democracy Hemispheric Coordination Team comprised of Corporación Participa, INVESP, and FOCAL, oversaw a second round of national reports using this methodology, which culminated in a second hemispheric report for release at the Fifth Summit of the Americas in Trinidad & Tobago on April 21-22, 2009.

[2] Active Democracy. *Hemispheric Report 2005.* Active Democracy web site, 2005.
http://www.sociedadcivil.net/documentos/Informe%20Hemisferico.pdf (Accessed August 5, 2009).

Impact of the Civil Society Follow-up Project

As pioneers and long-time advocates focused on civil society participation in the inter-American system, the Network can point to the following areas of impact over the years on relevant national, regional, and inter-American governance issues:

- Dissemination of the Summits of the Americas process in 21 countries of the Caribbean, Central America, the Andes region and the Southern Cone.
- Definition of the baseline situations in 21 countries with respect to the themes being monitored, including achievements and challenges.
- Broadening and strengthening, in some countries, of the dialogue between government and civil society regarding the deepening of CSOs' participation in national, regional and hemispheric environments.
- Dissemination and advocacy strategies in various forums of the inter-American System, such as the activities related to the Summits of the Americas process as well as to the OAS General Assemblies.
- Broadening and strengthening of alliances with other networks and CSOs.

Civil Society Follow-up Project Work Plan

The current phase of work, generating National Reports, began in May 2007 under the hemispheric coordination of PARTICIPA, FOCAL and INVESP. The guiding vision continues to be strengthening CSOs' participation in the inter-American processes, and, more specifically, CSO presence at the next Summit of the Americas to be held in Trinidad and Tobago, April 17-19, 2009. The crux of activities to be conducted in each of the 21participating countries, including Canada, will focus on three central objectives:

1. Consolidating and broadening the hemispheric network of civil society organizations.
2. Reporting on and supporting the fulfillment of specific mandates related to the strengthening of democracy in the region.
3. Establishing communication between CSOs and governments in order to implement the mandates of the Summits of the Americas.

In effect, the current work plan and Active Democracy methodology consists of three strategies:

Strategy 1: Evaluation of compliance with Summit commitments

This evaluation will be carried out in Argentina, Barbados, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, the United States, Uruguay and Venezuela. Its goal will be to monitor government implementation of the commitments of the Summits of the Americas in the four thematic areas:

- Decentralization and local governments,
- Access to public information,
- Freedom of expression, and
- Strengthening of civil society participation.

This Canada Report 2008 adapted the research methodology that draws on multidisciplinary research and national experts as well as engaging governments on research findings so that they can improve the implementation of the mandates of the Summits of the Americas. Additionally, these reports will generate quantitative rankings on the EIGC, which will be the basis of the project's hemispheric report. This index will provide an assessment of the degree of compliance and implementation of the mandates of the Summits in the themes mentioned in the participating countries.

Strategy 2: National government-civil society alliances

This strategy entails developing a National Alliance between CSOs and government representatives in 12 of the 24 countries after the generation of the National Reports. Canada is one of the 12 countries selected to form a National Alliance, which was launched in March 2008. The objective is to develop a joint working agenda between civil society and government, centered on concrete actions that may contribute to the implementation of the commitments in the four thematic areas being monitored by the project.

Strategy 3: Advocacy and dissemination

This strategy presents national and regional public opinion on the achievements of the democratic governance monitoring process in the participating countries. With the purpose of increase public awareness aimed at broadening citizen participation in the process in order to improve the quality of dialogue.

Importance of the Network in Relation to the Nature of Summit Mandates

The Active Democracy Network and its EIGC methodology take into account the 'nebulous' nature of the mandates and commitments signed during the processes of the Summits of the Americas.

The Quebec Plan of Action and the other multilateral declarations from the Summits include agreements on a set of actions to be carried out by governments. The commitments contain few concrete and/or specific tasks directed toward achieving goals in a given period of time nor are they explicit with what actors should be involved.[3] For this reason, these plans are "general mandates of a permanent nature."

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[3] These characteristics differentiate them radically, for example, from the commitments relative to the fulfillment of the Millennium Development Goals (MDGs) established by the United Nations. The predominant verbs in the MDGs are active and concrete, such as "will strengthen", "will promote", "will work toward", "will support", "will seek to", "will drive".

The Summit mandates compel governments to carry out actions that will contribute to and are consistent with the fundamental objectives agreed upon at the Summits. Similarly, the Summit mandates require that governments permanently refrain from carrying out activities that are contrary or detrimental to the specific commitments. The EIGC allows a periodic evaluation of these general mandates of a permanent nature, according to the importance which the CSOs and thematic experts assign to what each government has done, in a given period of time, in each one of the themes or commitments being monitored.

Civil society has an important role in inspiring governments to bring this vagueness "down to earth" by taking actions each year that will lead to the attainment of the objectives defined in these commitments. Similarly, it has a right to critically evaluate these sets of activities, since they effectively constitute a sign of the government's fulfillment of the agreed commitments.

Consequently, the Active Democracy methodology consists of both a qualitative assessment and quantitative index of indicators for evaluation by national experts and civil society organizations, who will critically assess the specific actions through which each government has put into practice the general commitments undertaken at the Summits.

III. Evaluation Index of Government Compliance

The information in this report was compiled by FOCAL, which adapted the Evaluation Index of Government Compliance (EIGC) methodology[4] developed by the Network's hemispheric coordination team. In its role as national coordinator for the research in Canada, FOCAL implemented the Active Democracy research methodology, with technical input from thematic and methodology experts from the region.[5]

Methodology

The application of the Evaluation Index of Government Compliance (EIGC) methodology in Canada involved asking evaluators to assess the degree to which a set of actions[6] was carried out or not by the government indicate progress toward strengthening basic elements of good democratic governance in each of the thematic areas of interest. In this way, the EIGC captured the opinion of national experts and civil society regarding government policy and activity that allow the country to move in that direction. Important products of the evaluation

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[4] Active Democracy. "*Manual for the Development of an Evaluation Index of Government Compliance (EIGC)*", Active Democracy website, October 15, 2007. http://desarrollo.jhonqwerty.com/scivil/wp-content/uploads/2007/10/guia-metodologica-ingles.zip (Accessed August 2009).
[5] See Appendix I: Canada Adaptation of the Methodology (January-July 2008). The methodology manual guiding the implementation of the project in each participating country can be accessed at http://desarrollo.jhonqwerty.com/scivil/wp-content/uploads/2007/10/guia-metodologica-ingles.zip.
[6] Appendix II: Observable Activities for each Thematic Component and Sub-component Researched in Canada lists thematic components, sub-components and observable activities.

also include recommendations on avoiding policies that go against the principles or goals expressed in that mandate.

FOCAL commissioned background research into observable changes in the legal or normative frameworks of relevance to the four themes over the period January 2006 to December 2007.[7] As part of this process, FOCAL reached out to over 300 Canadians from civil society and public policy institutions to invite their participation in the evaluation process through the completion of surveys and interviews intended to capture their perception of progress or setbacks in each of the four themes. Fifteen Canadians agreed to participate on expert panels formed for each theme. The expert panels convened together with other stakeholders in a symposium of 30 people held in Ottawa on May 15, 2008 to discuss Canada's progress in implementing the identified Summit commitments based on their daily experiences, gender perspectives, and knowledge of developments in these four areas of democratic governance in Canada.[8] The collective input garnered through this process yielded valuable insights into the Canadian government's progress to date on the four themes.

Baseline Results in Canada for evaluation period 2006-2007

In assessing observable government activity since the Quebec City and Mar Del Plata Summits to strengthen decentralization and local government; improve access to information; protect and enhance freedom of expression; and improve civic participation in governance, Canadian experts and civil society evaluators generally agreed on the following baselines:

- In efforts to **strengthen provincial, municipal and federal governance mechanisms** there has been a particular focus on infrastructure with the $33 billion Building Canada Plan**.** Additional weight was given to evidence of strengthened women's participation in local and federal governance processes. There have also been improvements in the transfer of responsibilities, financial resources and technical capacity from federal to local levels, as well as with respect to and valuation of cultural diversity.
- Canada evaluators judged that, in the area of **access to public information,** much of the observable government activity over the period was somewhat detrimental to achieving the general objective of full access to public information, specifically in terms of certain developments in legislation, effective access to information on senior public authorities, activities and finances of private companies offering public services, and access to information in violations of human rights. More positive developments are notable in effective access to information about electoral expenses, on state activities and on lobbying activities respecting the House of Commons and the Senate.
- Canada has a strong legal framework supporting **freedom of expression**. However, concerns were raised surrounding the use of national security as a tool to prosecute whistleblowers; on control of the

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[7] Ibid.
[8] See Appendix III: Canada Thematic Evaluation Panels.

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media, and its implications and on access to tools that ensure free expression, for example SchoolNet.

- In the area of **civil society empowerment**, evaluators judged that there has been a long history of civil society participation in Canada. Overall, the consensus was more negative with respect to legal changes affecting civil society participation, and more positive with respect to government-CSO relations in practice (e.g. provision of information to civil society) as well as government support for civil society participation in the inter-American system.

IV. Compliance with Mandates in the National Setting

The most basic step in the methodological process of this project was identifying the mandates that guide the work. Specifically, to what promises are we referring when we say that we are evaluating governments' Summit commitments? What did the governments declare that they would do at the Quebec City (2001) the Special Summit in Monterrey (2004) and Mar del Plata Summit (2005). What promises and declarations issuing from the Summits empower civil society organizations and citizens to hold governments accountable for the next steps, that is, the actions required for implementation of those promises and declarations?

The following sections of this report identify the commitments found in the text of the Summit plans of action in the four areas of interest:

- A. Decentralization and local government;
- B. Access to Public Information;
- C. Freedom of Expression; and
- D. Strengthening Civil Society Participation.

The fulfillment of commitments in each of these areas in Canada is then described and analyzed, integrating background research and expert feedback on the observable measures of implementation. The analysis includes key recommendations for strengthening democratic governance in each area of interest.

A. Decentralization and Local Government

Commitments from the Quebec City Plan of Action[9]

In recognition that adequate citizen participation and political representation constitute the foundations of democracy and that local governments have a significant presence in the daily lives of citizens, the 34 governments committed to:

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[9] Third Summit of the Americas. "Quebec City Plan of Action", Summits of the Americas Information Network web site, April 22, 2001. http://www.summit-americas.org/iii_summit/iii_summit_poa_en.pdf (Accessed August 2009).

"*To strengthen democracy, create prosperity and realize human potential, our Governments will:*
- *promote mechanisms to facilitate citizen participation in politics, especially in local or municipal government;*
- *promote the development, autonomy and institutional strengthening of local government in order to promote favorable conditions for the sustainable economic and social development of their communities;*
- *strengthen the institutional capacity of local governments to allow full and equal citizen participation in public policies without any discrimination, facilitate access to those services fundamental to improving citizens' quality of life, and strengthen decentralization and the integral development of these services in part through commensurate and timely funding and initiatives that permit local governments to generate and administer their own resources;*
- *promote sharing of information, best practices and administrative expertise among local government personnel, associations of local governments, community associations and the public, in part by facilitating access to information and communications technologies by municipalities and by encouraging cooperation and coordination among national, sub regional and regional organizations of mayors and local government;*
- *stimulate international cooperation in training directors and managers of local government; Support convening a meeting in Bolivia of ministers or authorities at the highest level responsible for policies on decentralization, local government and citizen participation in municipal government.*"[10]

Decentralization, Provincial and Municipal Government in Practice in Canada over 2006-2007

On the theme of local governments and decentralization, Canada has not progressed significantly toward its Summits of the Americas commitments.

Canada's constitution recognizes the federal and provincial governments as being separate, but equal; they are relatively independent entities with their own powers and policy jurisdictions, but these cannot be altered without the consent of both federal and provincial governments. Local governments, on the other hand, are creations of the provinces and territories; they derive their powers from provincial and territorial law, therefore they can be altered at any time, without their consent. This translates into local governments being abolished or amalgamated at the whim of the province or territory, municipalities being directed to change their financial structures, local governments losing or gaining powers and responsibilities, and changing the methods of electing local officials.

This type of power structure is not always viewed positively, given the diversity of communities across Canada, be it in cities or rural areas and Aboriginal or non-Aboriginal jurisdictions. A common criticism is that more services are being devolved to local governments without the necessary funding accompanying this transfer of power. The precise functions of these entities vary across Canada, but broadly encompass: local policing and firefighting services, public transportation, industrial and economic development, and the management of public utilities

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[10] In July 2001, the Declaration of La Paz established the High-Level Inter-American Network on Decentralization, Local Government and Citizen Participation (RIAD) [http://www.planalto.gov.br/riad]. This body is dedicated to ensuring that the commitments made to strengthening local governments and democracies are not just declarative.

such as water and sewage services. Generally, cities and municipalities rely on property taxes, license fees and fines for their own sources of income.

The present government's response was its "Building Canada Plan," which has committed to giving $33 billion over 14 years (2007-2014) for infrastructure development in cities and municipalities.[11] The plan will be primarily financed by a municipal GST rebate, a gas tax fund, a federally contributed 'Building Canada' Fund and Provincial-Territorial Base Funding.[12] However, this funding remains subject to federal priorities and approval, forcing municipalities to bargain for funding with vague criteria.

In a 2008 survey of 2,000 Canadians, the Federation of Canadian Municipalities (FCM) found that the average Canadian believed municipalities lacked adequate resources needed to face governance challenges. Eighty per cent agreed that municipal governments need to have greater access to other means of generating revenues in addition to property taxes.[13] The FCM represents Canada's largest cities, small urban and rural communities, and 18 territorial and provincial municipal associations.

ICTS and Local Governance

Information and Communication Technologies (ICTs) are being adapted for local government use and there appears to be a high degree of connectivity across Canada. Most cities and municipalities have a web site, with the standard "Who we are," "Services" and "Get involved" buttons. What is less clear is how effective this tool has been in facilitating democracy and better governance.

Women in Local Government

While women are 52 per cent of the Canadian population, they are underrepresented in Canada's political systems. Women currently are 13.5 per cent of mayors and 23.2 per cent of councilors. Only 20.7 per cent of parliamentarians are women. Of 152 communities surveyed by the FCM in 2004, 86 per cent said they did not have an equal number of men and women on council and 14 per cent reported they had no women on municipal council at all.[14] The FCM is lobbying for 30 per cent participation of women on municipal councils by 2026; the United Nations defines 30 per cent as the minimal number of women required for government to reflect women's concerns, for an average of 21.7 per cent. At present, Canada ranks 45th of 189 countries for the number of women in national politics, placing the country behind Sweden (45 per cent), Finland (38 per cent), Argentina (35 per cent) and Germany (32 per cent), based

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[11] Infrastructure Canada. "Building Canada – Modern Infrastructure for a Strong Canada", Infrastructure Canada, 2007. http://www.buildingcanada-chantierscanada.gc.ca/plandocs/booklet-livret/booklet-livret09-eng.html (Accessed May 2008).
[12] Ibid.
[13] Federation of Canadian Municipalities. "Key Results from the FCM-Strategic Counsel Survey," Federation of Canadian Municipalities Backgrounder, April 15, 2008. http://www.fcm.ca//CMFiles/skeys1PFA-4172008-8817.pdf (Accessed April 2008).
[14] Federation of Canadian Municipalities. "Women in Municipal Politics", Federation of Canadian Municipalities website, September 23, 2006. http://www.fcm.ca/english/policy/big.pdf (Accessed April 2008).

on 2006 Inter-Parliamentary Union Table on Women in National Parliaments statistics. While the Liberal Party declared that one-third of Liberal candidates in the next election would be women and 41 per cent of the New Democratic Party's caucus is women, the Conservative Party has not announced changes to its nomination policy.

Aboriginal governments and governance

Critics have said that Canada hosts a third-world country within its 'developed nation' boundaries. The condition of Canada's Aboriginal reserves are characterized by poor health facilities, contaminated drinking water, low economic development, and higher teen suicide rates than off reserves.. The current government has voiced its concern that the money being spent on reserves is wasted due to corrupt and inefficient governance so funding is therefore awarded contingent upon conditions met in governance agreements. The latest Federal Budget awarded $70 million over two years to establish a new framework for aboriginal economic development by the end of 2008; $70 million over two years for First Nations education in support of agreements between the federal government, provincial governments and First Nations communities; $147 million over two years for First Nations and Inuit health programs; $330 million over two years to improve access to safe drinking water in First Nations communities; and $43 million over two years to improve child and family services on reserves.[15] However, this top-down approach to financial management and governance may be replicating past mistakes by imposing non-Aboriginal practices over traditional Aboriginal governance practices that have more resonance with these populations.

The Assembly of First Nations (AFN) has said that local governments on First Nations reserves are under-funded and subject to colonial government structures, ill-suited to Aboriginal cultural traditions. The AFN National Chief called the 2007 federal budget a "bitter disappointment for First Nations and a missed opportunity for all Canadians." He cited research done in 2007 by the Study of Living Standards, which found that, if investments were made to bring First Nations education levels to be on par with the rest of the population, Canadians would see an additional $71.1 billion added to the national economy. Under the current system, however, First Nations students receive an average of $2,000 in resources less than students in mainstream schools.[16]

The AFN has called for substantial reform of the fiscal relationship between the federal government and First Nations to eliminate the Indian Act and the Department of Indian Affairs, recognize the autonomy of First Nations governments and start sustainable transfers based on real rates of growth to deal with the reserves' challenges. In turn, the government has critiqued the accountability and fiscal responsibility of some aboriginal local government.

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[15] Canadian Broadcasting Corporation. "Federal Budget 2008 Highlights", CBC News Online, February 26 2008. http://www.cbc.ca/news/background/budget2008/ (Accessed April 2008).
[16] Assembly of First Nations. "AFN National Chief Calls Federal Budget a 'Bitter Disappointment'", Assembly of First Nations Media Release, February 27, 2008. http://www.afn.ca/article.asp?id=4029 (Accessed April 2008).

This reluctance to engage in substantial reform of aboriginal local governance is matched by Canada's international disengagement from processes that expand and protect aboriginal self-government internationally. Canada refused to endorse the United Nations' Declaration on the Rights of Indigenous Peoples in 2007 and actively lobbied for others to do the same. This refusal contrasted with the previous government's call at the Fourth Summit of the Americas in Mar del Plata (2005) to intensify and conclude negotiations for the prompt adoption of the *American Declaration on the Rights of Indigenous Peoples*.[17] This policy change was confirmed in April 2008 when Canada said it would desist from negotiations on the Declaration, but reserved the right to comment on the final text. The United States is the only other country in the hemisphere to adopt this approach.

Recommendations for Decentralization and Local Government

The following are recommendations and proposals generated in Working Group discussions held with FOCAL in May 15, 2008:

- Canadians can learn from international election systems/processes. Participants said that there is a lack of knowledge in upper echelons of government on how elections function on the ground and this should be corrected.
- More research on decentralization and local government is needed.

B. Access to Public Information

Commitments from the Quebec City Plan of Action

In the Quebec City Plan of Action the participating governments pledged that, in order to increase the transparency and accountability of public institutions, they will work together:

"*to facilitate cooperation among the national institutions responsible for guaranteeing [...] free access to information, with the aim of establishing best practices to improve the administration of information held by governments about individuals, facilitating citizens' access to this information.*"[18]

Canada's access to information framework is consistent with that of other democratic countries. To expand the right to information, which was vaguely established in the *Charter of Rights and Freedoms*, Canada enacted the *Access to Information Act* (AIA) in 1983. The AIA's purpose is to "provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited

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[17] Third Summit of the Americas. "Quebec City Plan of Action", Summits of the Americas Information Network web site, April 22, 2001. http://www.summit-americas.org/Quebec-Indigenous/indigenous-eng.htm (Accessed April 2008).

[18] Third Summit of the Americas. "Quebec City Plan of Action", Summits of the Americas Information Network web site, April 22, 2001. http://www.summit-americas.org/iii_summit/iii_summit_poa_en.pdf (Accessed August 2009).

and specific and that decisions on the disclosure of government information should be reviewed independently of government."[19] Thus, the framework on access to information by any person residing in Canada is explicitly based on the principles of right of access and government transparency and accountability. This includes underprivileged people such as temporary workers, refugees, and illegal immigrants. Additionally, there is no need to give any justification for the request, as the AIA stipulates that requests should be processed exclusively on the basis of the information they are requesting.[20]

The AIA identifies 19 government departments (ministries), 130 government agencies, and 95 publicly-owned corporations and wholly-owned subsidiaries that must comply with the Act.[21] Each one must have a designated Access to Information and Privacy Coordinator to deal with information requests.[22] The AIA does not confer this obligation on non-public entities that receive public funding or perform public functions. In the past two years, several proposals have been floated to change this—through task forces, electoral platforms, and parliamentary commissions—with no option adopted.

The AIA contains both exclusions (categories of information that the government is not obligated to provide) and exemptions (entities that are not obligated to comply with the AIA, at least not in all cases). A perceived weakness of the act is that there is no comprehensive 'public interest' override to nullify these exceptions.[23]

One significant barrier to access does exist. Each request costs a token amount (CDN$5), but behind that small fee is an undetermined additional cost to access (preparation of reports, printing, etc.).[24] At the same time, the fees collected for the 2006-2007 fiscal year covered less than one per cent of the costs of complying with access to information requests, which is borne by the responding institution.[25]

Between December 2006 and September 2007, the AIA was amended for the second time in its history. This was done in order to comply with the *Federal Accountability Act*, a law passed in response to the sponsorship scandal and the subsequent Gomery Inquiry. However, the amendments indicated that the Canadian government was not strongly committed to the "limited necessary exceptions" clause of the AIA's purpose. While the changes in legislation added 19 new institutions to the list covered by the AIA, they also almost doubled the existing number of exemptions (from 13 to 23) and added two new exclusions. While the government that passed the amendments deemed these new

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[19] Government of Canada. *Access to Information Act*, RSC 1985, c. A-1, s. 2.1.
[20] Ibid., s. 4.
[21] Government of Canada. *Access to Information Act*, Schedule I, Schedule II and Administrative Compilations.
[22] Ibid.
[23] Office of the Information Commissioner of Canada. *Response to the Report of the Access to Information Review Task Force - A Special Report to Parliament*, Public Works and Government Services Canada, 2002, 64.
[24] Ibid., s. 11.
[25] Government of Canada. "Privacy Act and Access to Information Act Bulletin Number 30 – Statistical Tables," Info Source, 2008, http://infosource.gc.ca/bulletin/2008/bulletin03-eng.asp#Toc182879762 (Accessed April 2008).

exceptions necessary for anti-corruption legislation, the Information Commissioner of Canada's independent watchdog for Access to Information matters called them "not justifiable."[26]

The AIA states that the institution that receives the request shall grant access within 30 days, unless the case needs information from another government institution.[27] However, news reports have indicated that the government has been exploiting loopholes in the current exception regime, inserting unnecessary additional steps that allow answers to requests to be delayed, sometimes indefinitely. The number of requests that are completed in 30 days or less as a proportion of total requests is down four per cent since 2005.[28] Ironically enough, the AIA may have become a way of institutionalizing an informational barrier between the government and the citizens.

While the AIA states that obstructing access to information requests is an indictable offence, punishable by steep fines and incarceration, this is difficult to enforce. More "passive" forms of non-compliance, such as sloppy record-keeping, are impossible to punish. Non-standardized records, an endemic problem in the Canadian government, may unnecessarily delay access to information and even make it impossible to comply with requests.[29] In the event that the person who requested the information is dissatisfied with how their request was treated, the Office of the Information Commissioner (OIC) is the first recourse for complaint. The OIC not only handles complaints, but also publishes yearly reports and papers on issues of interest. In the last two years, the heads of the institutions that receive failing grades from the OIC have had to attend a parliamentary hearing to explain the grades.[30] While this is not a formal sanction, it is a considerable stick to initiate compliance with information requests. However, the OIC has also complained in its last two yearly reports of a mounting workload and the absence of additional funding, pointing to the underlying cause of lack political will on the part of the government to enhance the public's access to information.[31]

There was an attempt at comprehensive reform of the AIA. The *Open Government Act* (OGA), first tabled at the end of 2005, is meant to adapt the 25-year-old AIA to the existing reality. However, when the Conservative Party took power in early 2006, the OGA was banished to legislative limbo. Even the name change (*Open Government* vs. *Access to Information*) belies a significant difference: the AIA puts the onus on the citizen to find something out, while the

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[26] Office of the Information Commissioner of Canada. *Information Commissioner Annual Report, 2006-2007,* Public Works and Government Services Canada, 2007, 12.

[27] Government of Canada. *Access to Information Act*, ss. 7, 9.

[28] Government of Canada. "Privacy Act and Access to Information Act Bulletin Number 30 – Statistical Tables," Info Source, 2008, http://infosource.gc.ca/bulletin/2008/bulletin03-eng.asp#Toc182879762 (Accessed April 2008).

[29] Access to Information Review Task Force, "The Access to Information Act and Record-Keeping in the Federal Government," National Archives of Canada, 2001, http://www.atirtf-geai.gc.ca/paper-records1-e.html (Accessed April 2008).

[30] Office of the Information Commissioner of Canada, *Annual Report 2006-2007*, 2008, 13.

[31] Office of the Information Commissioner of Canada, *Information Commissioner Annual Report, 2005-2006,* Public Works and Government Services Canada, 2006, 15-16; ---. *Annual Report 2006-2007*, Public Works and Government Services Canada, 2007, 97-98.

OGA puts the onus on the government to be as transparent as possible of its own accord.

In May 2008, the government closed down an online database that tracked access to information requests. In the case of completed requests, it allowed database users to access the originally requested information directly. The closed database was not only a good example of full government disclosure, but it also allowed users to see information without formally requesting it, enhancing access and reducing redundant costs for the government and for people requesting information. Free expression advocates saw the closure as government unwillingness to share information under the guise of cost-cutting.

Access to information, women, and women's rights

The AIA does not make distinctions based on the sex of the person that requests information. The steps involved in the request and the subsequent provision of the information contain no theoretical or practical sex-based restrictions.

Information on state activity

Some of the notable administrative changes in the last few years include:

- Establishment of a new profession in information rights (i.e. access to information and privacy) administrators in Canada. Two of Canada's associations of access and privacy administrators (CAPA and CAPAPA) came together to spearhead an initiative to develop core competencies and a certification process for the new profession.
- An advisory working group of nine recognized access to information and privacy rights experts from across Canada, chaired by the Information and Privacy Commissioner of Alberta, was formed to oversee the development of national professional standards and to propose a process for certifying and overseeing the new profession. The Quebec association of ATIP professionals (*l'Association sur l'accès et la protection de l'information*) has lent its support to this initiative and is represented on the working group.
- Creation of Right-to-Know week in 2007, from September 28 to October 5 to raise public awareness of its right of access and how it is an essential right in a healthy democracy.
- Creation of a backlog reduction plan, for which additional investigators were approved in January 2006, for fiscal years 2006-07 to 2009-10. However, a lack of office space for the new investigators delayed the full implementation of the plan.

Information on the public budget

Electronic copies of every federal budget and budgetary update (the so-called "mini-budgets") since 1994 are available online and free of charge in the website of the Canadian Department of Finance. Printed copies can be requested, although they cost CDN$25 per copy. Budgets are electronically accessible by

theme, topic and table of contents. In the research period, the electronic versions of the budget have become more comprehensive and user-friendly.

Information on Senior Officials

The *Conflict of Interest Act*, which came into force on July 9, 2007 prohibits ministers from voting on matters related to their personal gain and ensures Parliamentarians focus on the public interest. Through the Act, Members of Parliament and Public Office Holders are required to report all personal trusts and private interests from whom they derive benefit to the Conflict of Interest and Ethics Commissioner. The Commissioner makes orders prohibiting members from using the trusts for political purposes and has the power to fine violators and hold them accountable for their actions.

Information on legislative activities

Both the House of Commons and the Senate publish online transcripts, records and orders of business that detail projected, ongoing, and concluded items in the legislative process. Hard copies of these documents are not readily available outside of Parliament, but the amount of written material produced by the legislative process makes this impractical. Additionally, all proceedings of both chambers are transmitted live on online radio and television feeds. However, the material is presented in an unwieldy manner, in a format that is difficult to navigate as the information consists mainly of literal transcriptions that run for hundreds of pages. There is no summary of voting or legislative records for individual Members of Parliament or Senators. This void is filled by grassroots organizations (such as www.howdtheyvote.ca) that summarize voting records and legislative initiatives. Local watchdog groups commonly summarize this type of information about candidates during election years as a way to inform voters about their stances on their key issues.

Information on lobbying activities related to government and parliament

The *Federal Accountability Act* establishes a new Commissioner of Lobbying as an independent agent of Parliament. It will provide the Commissioner with enhanced investigatory powers and mandate to enforce compliance with the proposed *Lobbying Act*. The Commissioner will be able to:
- Verify information on contacts with senior public-office holders that lobbyists submit, and display that information on a Website;
- Ask senior public office holders to verify the accuracy and completeness of contact report information that lobbyists submit and, if necessary, report to Parliament the names of those who do not respond;
- Conduct expanded investigations, including the power to summon and compel persons to produce documents relevant to any investigation of possible infractions under the *Lobbying Act* or the *Lobbyists' Code of Conduct*;

- Prohibit any lobbyist convicted of any offence from communicating with the government as a paid lobbyist for up to two years, if the Commissioner deems it to be in the public interest;
- Publish the names of violators in reports before Parliament; and undertake expanded outreach, education, and communications activities to foster understanding and awareness of the requirements with the public, lobbyists and their clients, and public-office holders.
- Requires lobbyists to record activities with senior public-office holders, including with whom they met, when, and on what specific subject, plus any other information that may be prescribed in regulation.
- Prohibits ministers, ministerial staffers, and senior public servants from registering and lobbying the Government of Canada for five years after leaving office. To ensure fairness, the Commissioner will have the authority to exempt certain individuals from this ban, consistent with criteria set out in legislation.
- It will ban any payment or other benefit that is contingent on the outcome of any consultant lobbyist's activity and prohibits lobbyist contingency fees.
- Will extend from two to 10 years the period during which possible infractions or violations under the *Lobbying Act* can be investigated.
- Will double the criminal monetary penalties for lobbyists who fail to comply with the requirements of the *Lobbying Act.*

As of April 2008, the only legislation of the *Federal Accountability Act* relating to lobbyist in the new *Lobbying Act* that has come into force has been: Sections 88.1, 88.11 and 88.2, which prohibits designated public office holders and individuals identified by the Prime Minister as being members of his or her transition team from becoming registered lobbyist once they have left office.

Activities and finances of private companies that offer public services

New conflict of interest legislation was amended to ensure private companies would not be required to release confidential information about "the vulnerability of…. (a) third party's buildings or other structures, its networks or systems." The revised legislation allows a minister to override confidentiality in the public interest, which is infrequently invoked.[32]

Access to information on violations of human rights

Section 17, Safety of Individuals, of the AIA allows the head of a government institution to refuse to disclose any record requested under this Act that contains information for which the disclosure could reasonably be expected to threaten the safety of individuals.

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[32] Beeby, Dean. *Telegraph Journal*, August 20, 2007, A6.

Gender and Electronic Media

The City of Montreal used electronic media to hold public consultations in September and October 2007 on its draft policy for Equal Participation of Women and Men in the Life of Montreal.[33]

Electoral expenses

The existing regime for disclosing campaign contributions and electoral expenses, defined by the *Canada Elections Act* (CEA), has not changed in the past two years, and is very transparent. Contributions and expenses must be disclosed to the Chief Electoral Officer (CEO). The CEO can then publish summary statistics, and discloses all information in a very comprehensive online database that allows search queries by candidate, contributor, party, electoral district, etc. There is no specific gender breakdown of the people that make or receive contributions. Most of the library of documents of Elections Canada, specially the most recent ones, can be ordered free of charge. If a citizen cannot access the online database, they can request printed copies.

Political donation rules were amended four times between December 2006 and December 2007. The amendments included: establishing lower limits (around CDN$1,100, adjusted for inflation) for each contribution to parties and candidates, demanding that contributors are Canadian citizens or permanent residents, and banning corporate and trade union contributions. This is the capstone of an ongoing effort to promote transparency, limit the influence of special interests, and promote public ownership of the electoral process.[34]

The system was tested in April 2008. Elections Canada, directed by the CEO, prompted a police raid of the national headquarters of the Conservative Party, the governing party. The CEO had evidence that the Conservative Party had funneled funds that allegedly had been used for local campaign advertising and actually spent them in federal campaign advertising. While this practice is allowed under the CEA, the transfer of funds meant that the Conservatives spent CDN$1 million above the federal campaign limit of CDN$18.3 million.[35] The investigation is ongoing, but the incident proves that the system of independent oversight of electoral expenses and contributions, together with strong disclosure rules, is being applied to all parties.

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[33] Ville de Montréal. "Equal Participation of Women and Men in the Life of Montréal," Ville de Montréal. www.ville.montreal.qc.ca/commissions, www.ville.montreal.qc.ca/femmesetvilles (Accessed April 2008).
[34] Elections Canada, "Chief Electoral Officer Announces Election Financing Changes Brought In by Federal Accountability Act," Elections Canada, January 2, 2007. http://www.elections.ca/content.asp?section=med&document=jan0207&dir=pre&lang=e&textonly=false (Accessed April 2008).
[35] Tonda Maccharles, "Tories violated elections law: Elections Canada," Toronto Star, April 20 2008, http://www.thestar.com/News/Canada/article/416499 (Accessed April 2008).

Proposals for strengthening access to public information in Canada

The following are proposals generated in working group discussions held with FOCAL in May 2008:

- The government is not applying the freedom of information law as it is written and this must be corrected.
- The government should allocate sufficient human resources to fulfill Access to Information requests as promptly as possible and deal with the high turnover of ATI officers.
- The Canadian Government should take advantage of electronic media in terms of the provision of information services and keeping records.
- The government should consider the establishment of an independent access authority. Promoting the disclosure codes used by government could be a first step to more transparency.
- The government should support an inter-American initiative that monitors test cases in the Americas in order to identify and help countries establish standards. A taskforce could meet every four years and request information from a number of countries to see how they compare and do a hemispheric report card on access to information.
- The Canadian government should have a standard methodology on how to classify information as the current system allows significant variation and inconsistency in the application of the Freedom of Information Act between departments.
- A self-regulating lobbying body would solve much of the industry's perceived problems with the public.
- The government should follow through on its plan to create a public appointments commission to screen public appointments and prevent patronage appointments.[36]

C. Freedom of Expression

Commitments from the Quebec City Plan of Action

In the Quebec City Plan of Action, the countries of the Americas committed themselves to:

"*ensure that national legislation relating to freedom of expression is applied equitably to all, respecting freedom of expression and access to information of all citizens, and that journalists and opinion leaders are free to investigate and publish without fear of reprisals, harassment or retaliatory actions, including the misuse of anti-defamation laws.*"[37]

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[36] Richard Brennan, "Tories' cronyism rampant, critics say; Two important provisions of the much vaunted accountability act haven't been implemented", Toronto Star, January 1, 2008, A14.
[37] Third Summit of the Americas. "Quebec City Plan of Action", Summits of the Americas Information Network web site, April 22, 2001. http://www.summit-americas.org/iii_summit/iii_summit_poa_en.pdf (Accessed August 9, 2009).

The main issues related to freedom of expression in Canada are:
- Legislative framework,
- Structure of ownership in the media sector,
- The exercise of freedom of expression by journalists, artists and demonstrators,
- The impact of levels of education and the use of technologies on freedom of expression.

Legislative Framework in Canada

Canada has a legal framework to protect freedom of expression. The Charter of Rights and Freedoms makes "freedom of thought, belief, opinion, and expression, including freedom of the press and other media communication" a fundamental right. This freedom is limited only to "reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society." The laws that prescribe these limits include sections of the Criminal Code, the Information Act, the Security of Information Act (formerly the Official Secrets Act), and guidelines such as those used by the Canada Customs and Revenue Agency (CCRA) and Canadian Radio-television and Telecommunications Commission (CRTC).

The defined limits to free expression are divided into three categories: 1) defamation laws, 2) protection for vulnerable groups, 3) public order and national security.

Defamation laws

Canada has a well developed criminal and civil libel system. Criminal convictions carry penalties that range from two to five years in prison, while civil libel is often settled through the reparations and fines. A November 2007 ruling by an Ontario Court of Appeal overturned the conviction of *The Ottawa Citizen* newspaper for defamation for running a story that suggested a police officer acted improperly. The judge panel ruled that media who report a story within the standards of responsible journalism, even if it gets some of the facts wrong, has a defense against defamation suits due to the public need to know.

Protection of vulnerable groups: child pornography

Child pornography, its production, consumption and distribution, is illegal in Canada and prosecuted. Free expression related to child pornography can be protected, should artistic merit be found in the representation or written material under scrutiny. The artistic merit argument is, however, controversial and was the subject of several bills to reduce or remove that element by both Liberal and Conservative minority governments. New legislation consistently died in the House of Commons before it could be passed. The Prime Minister made the passage of Bill C-2, an omnibus crime bill announced in the 2007 Speech from the Throne, a government priority. However, proposals to remove the artistic merit defense and replace it with one of demonstrating a public good, and to create a new "voyeurism" offense, were amended out of the government proposals.

Public order

Within the Public Order category, there are three limits prescribed by law on free expression: a) hate speech and propaganda, b) obscenity, and c) national security.

a. Hate speech and propaganda
Federal and provincial laws prohibit and restrict hate speech against social groups and have human rights commissions. The Broadcasting Act prohibits any licensee from broadcasting or distributing programming that contains abusive comments to individuals or that would incite hatred on discriminatory grounds. Punishment is severe: fines or the limitation or denial of license renewal for the broadcaster.

However, this legislation and human rights bodies that enforce it have come under fire in the last three years. Federal and provincial human rights commissions found themselves criticized by journalists and others for hearing cases that involved relatively mild criticism of various religious and other minority group organizations. Journalists have charged that section 13(1) of the federal human rights legislation, dealing with printed materials, is being used as a tool of censorship, rather than to protect human rights. *MacLean's* magazine and syndicated columnists Mark Steyn and Ezra Levant both faced human rights charges based on material they had printed during this time.

b. Obscenity
Obscenity is defined under the Criminal Code as "any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence." The definition and its application remain subject to interpretation. Its broad application by customs agents at the Canadian border spurred a long-running lawsuit by Vancouver-based Little Sisters book store, whose imports of gay literature were regularly seized or delayed at the border. Canada's customs agency (CCRA), and not the importer, must demonstrate that materials imported across the border were obscene and it has guidelines and two tests to make this determination. The first is a tolerance test, and is aimed at determining whether public opinion would perceive the material to be harmful to society. The second determines if the defense of artistic merit could be applied to the case. The guidelines direct staff to resolve in favour of freedom of expression should there be any doubt in the classification of the materials. The CCRA also publishes a quarterly listing of materials seized and whether it was allowed or prohibited entry, which provides a way for civil society to monitor and analyze CCRA decisions.

Access to legal aid for appeals on seizures of allegedly obscene materials remains a challenge. In January 2007, Little Sisters was denied funding to prosecute its appeal against CCRA by the Supreme Court of Canada. The court ruled that Little Sisters book store could not get advance funding because its case was not in the public interest. Free expression advocate PEN Canada denounced the inability of small enterprises to challenge the government's exercise of power on issues of obscenity.

Book banning by school boards reflect a high sensitivity of public institutions to public criticism, with free expression becoming a casualty. There appears to a lack of stated policy and capacity to respond to controversies, no matter how minor, over the content of media, particularly at the local level. In two cases, a single complaint sparked the removal of the books in question. The Halton Catholic School Board, which banned the books of an atheist, argued that the books reflected different values than that professed by the school and has refused to restore the books to its collection. This decision sets a contentious precedent for limits to free expression on the basis of religious beliefs at a publicly-funded school.

c. National security

National security has become a reason for denying access to information and restricting free expression in Canada. Canada implemented anti-terrorism legislation which placed restrictions on information following the 2001 terrorist attacks on the United States. The Anti-Terrorist Act allows the Attorney General to issue secrecy certificates to prohibit the release of information considered essential for national security. The Act penalizes public servants or people who having access to secret information that leak information to third parties; but also people who, knowing that the information is restricted, keep it for private use or to confirm and communicate the information. Offences could entail a maximum penalty of 14 years in prison. One of the main criticisms made of this amendment is that it is a substantial deterrent to whistle-blowers within the government and to journalists. This law was used to arrest and charge an Environment Canada contractor for allegedly leaking a draft of the government's controversial climate change plan to the media. Government efforts to strengthen prosecutor and police powers failed due to opposition party objections.

In 2006, the courts struck down the part of the Anti-Terrorist Act used by the Royal Canadian Mounted Police to get a warrant to search the home of a journalist that had gained access to information from inside the police force on the Maher Arar rendition case. The federal government decided to not appeal the decision. However, experts have argued that the legislation is still being used as a tool by police and the courts to prosecute whistleblowers for leaking information.

Structure of Ownership in the Media Sector

a. Media concentration

In September 2007, the Canadian parliament held hearings on the concentration of the media, which has been an issue of public debate since the Fifties. Concerns range from media owners monopolizing TV, radio and newspapers in local markets to multi-media convergence, which provides owners with a disproportionate influence to the reduction of the number of reporters on the ground and increased reliance on generic newswire stories that do not reflect Canada's regional and ethnic diversity.

b. Editorial lines

Concerns about editorial lines are often connected to the ownership debate. Editorial lines or 'what should be written' also apply to trade publications. In February 2006, the two top editors of the *Canadian Medical Association Journal* were fired by the publisher without cause. In protest, 14 of the remaining editorial staff resigned, alleging that the journal's editorial independence appeared to be compromised, possibly affecting the integrity of its scientific content. The firings raised concerns in the trade publications industry that publishers may value editorial independence less than they value employee obedience.

Exercising Freedom of Expression: Journalists, Artists, Demonstrators

Journalists, artists and demonstrators, due to the nature of their activities, often are the first to encounter challenges to free expression in Canada. These challenges include journalists' right to protect their sources, to work free from the threat of violence, to access public documents and proceedings. For artists, most recently it has been government restrictions on funding films. For demonstrators, arbitrary arrest, surveillance and infiltration appear to have intensified in Canada since the 2001 Summit of the Americas.

a. Journalists

Journalists continue to face challenges from the government on the confidentiality of sources across the country. Journalists argue that being able to protect their sources enables them to gather news that would not be available otherwise. By granting police and the government access to their notes, for example, journalists would become agents of the state. Despite multiple rulings by the courts against police attempts to seize reporters' notes and court subpoenas, new attempts to do so continue, reflecting a low awareness among the police and authorities of the rights and responsibilities of journalists.

Violence: Threats to free expression in Canada have also come from abroad. In April 2007, *The Pakistan Post* journalist Jawaad Faizi was attacked by two men wielding a cricket bat. The reporter and his editor had received threats in January 2007 for writing critically about Islam and a religious organization in Pakistan called Idara Minhaj-ul-Quran. They had reported the threats to the police before the attack.

Court restrictions: Journalists continue to contest court-imposed publication bans on high profile cases, arguing that disclosure of the information would be in the public interest. In March 2008, the CBC, CTV, *Toronto Star*, and Associated Press appealed a court-ordered news blackout over the bail hearings of 17 people arrested on allegations of terrorism in 2006. In Alberta, the government is appealing a ruling won by *The Edmonton Journal that* allowed it to publish details of a domestic abuse and murder case revealed at a bail hearing. The judge ruled the publication ban unconstitutional and said that automatic publication bans allow the accused to remain anonymous during their trial and unfairly limit press freedom.

b. Support for Artistic Expression

The Canadian government introduced a clause in Bill C-10 that it said would prevent taxpayers from funding the production of films with violence or sexual exploitation. However, the artistic community, PEN Canada and the Canadian Civil Liberties Association expressed their concern that the government would use the clause to choose which films it provides tax credits to, based on its contents. "The idea that a government should be able retroactively to deny tax-credit status to a film because of its content is contrary to public policy is a dangerous intrusion upon freedom of expression," said PEN Canada in its presentation to a Senate of Canada committee hearing, adding that the government had no guidelines, the interpretation of the legislation would be subjective and "at the whim of the politicians and bureaucrats who administer them." The government, in turn, has said it would write guidelines once the legislation was passed.

c. Right to assemble and demonstrate

Protesters continue to face challenges in their ability to demonstrate freely and express their dissent in Canada. Police have sought to increase their ability to control and contain protests, particularly in major cities and during major events such as international summits. The use of arbitrary arrest at protests or pre-emptive arrests of protest leaders before they even arrive at demonstrations have increased. The effect of such arrests often is to intimidate protesters and reduce the effectiveness of the protest. The tactic of mass arrests in Montreal attracted attention from the United Nations Human Rights Committee in 2005 and prompted a judge in 2007 to acquit 193 people arrested at a protest in 2004. The development of protest medical teams and the broad distribution of "know your rights" leaflets and legal aid forms to demonstrators are civil society responses to the increase in numbers of arrests and violent police responses. Another method of control and intimidation is the broad use of police surveillance crews that video-tape and photograph demonstrators who are not breaking the law. There appear to be no clear lines of accountability for the use of these materials.

The infiltration of police agents among protesters is another tactic that has outraged demonstrators. Critics say that inserting undercover police into demonstrations is a disproportionate tactic to the minimal threat protesters pose and an attack on their right to democratic assembly and free expression. At least three Sûreté du Québec officers infiltrated demonstrations outside the 2007 tri-partite Canada-Mexico-United States leaders meeting in Montebello, dressed in black clothes with their faces covered in bandannas, one of them carrying a rock while confronting police lines. Protest organizers denounced the infiltration of these officers as *agents provocateurs* to provoke violence, de-legitimize the protesters, and justify the presence and expense of hundreds of police officers. The Quebec police chief said the officers were undercover to identify "violent" protesters and protect the "peaceful" protesters. This division of protesters into violent and peaceful categories by police is cause for considerable debate about the legitimacy of protest. The Communications, Energy and Paperworkers Union of Canada filed a formal complaint with the police ethics commissioner on April 11, 2008. Opposition politicians also demanded a formal inquiry into the affair.

Impact of Education and Information Technologies

Canada has developed technical responses and strategies to ensure people have access to the tools of free expression. SchoolNet, LibraryNet, and Community Access Program, in addition to local and provincial initiatives, provided ready access to education in person or long distance and Internet access.. These programs attempted to reach out to Indigenous Peoples and marginalized or minority groups, which still lag behind in terms of access to education and Internet. It is unclear what impact the closure of the SchoolNet program in 2007 will have on access by people to education and ICTs. The Community Access Program was renewed for 2007-08.

Freedom of Expression Updates in 2008

On January 15, 2008, the Canadian Radio-television and Telecommunications Commission (CRTC) introduced new ownership guidelines that it intends "to ensure that a diversity of voices is maintained in the Canadian broadcasting system." A person or company can only own two of the following types of private media outlets in each locality: a radio, TV or newspaper. The CRTC also approved the Canadian Broadcast Standards Council's Journalistic Independence Code, which includes journalists on its complaint panels. In response to the trend toward media mergers, the CRTC also set an ownership limit of 45 per cent for the total television audience and prohibited any transaction that would have one person controlling all companies that distribute television programming. The effectiveness of these new regulations has yet to be evaluated.

The courts have re-affirmed the right of journalists to protect sources. On January 18, 2008, a Montréal federal court ordered two journalists working for *La Press*e to identify the source of the leak of a classified document by the Canadian Security Intelligence Service (CSIS) that accused a Moroccan citizen, Adil Charkaoui, of being linked to terrorism. The court made the order at Charkaoui's request, who was arrested in May 2003 on suspicion of being a terrorist. Under the security certificate system, the government is not required to provide Charkaoui with the evidence it has used to designate him as a suspected terrorist. This is an example of the unforeseen fall-out of the anti-terrorism legislation on the free expression of journalists.

On March 17, 2008, *Hamilton Spectator* journalist Ken Peters won an appeal based on the Charter of Rights and Freedoms against his 2004 contempt of court conviction for refusing to reveal his source on a story about problems at a nursing home. The ruling lifted a $31,600 fine and reinforced the legal right of journalists to protect their sources. In February 2008, a similar case, supported by a subpoena for an journalist's notes, was negotiated into a compromise in which the journalist testified, but did not have to identify his sources.

Proposals for strengthening Freedom of Expression

The following are recommendations and proposals generated in working group discussions held with FOCAL in May 2008:

- Federal and provincial governments should review their respective human rights commissions and establish guidelines for ensuring both free expression and human rights are protected in its hearings.

- The federal government should ensure legal aid is available for individuals and small enterprises who seek to defend their free expression rights.

- Provincial and municipal governments should establish guidelines and build the capacity of publicly-funded institutions to respond to complaints that may put Canadians' free expression rights at risk.

- Whistle-blowers who act in the public interest should have their free expression rights guaranteed by the federal government and not face disciplinary action under the Anti-Terrorist Act.

- The police and law enforcement authorities should receive training on the rights, role and responsibilities of journalists in a democratic society.

- Federal and provincial governments should cooperate to provide training to ethnic and diaspora media in the exercise of their free expression rights in Canada and raise awareness of resources available to them to prevent threats and violence.

- Courts should refrain from the use of publication bans, except in the specific interest of protecting minors and vulnerable people.

- Federal and provincial police and law enforcement authorities should refrain from arresting protest leaders before protests, mass arrests, restricting protests to designated areas, and infiltration of demonstrators as it violates citizens' right to assemble freely and free expression.

- Federal and provincial police and law enforcement authorities should publish public guidelines for deploying surveillance teams at demonstrations and what it does with photographs and footage as well as establish a timeline for destroying this data.

- The federal government should review the impact of the closure of SchoolNet and determine with its provincial partners the next step of using ICTs in education.

D. Strengthening Civil Society Participation

Commitments from the Quebec City Plan of Action

The Quebec Plan of Action established commitments for the strengthening of civil society's participation in national and hemispheric processes, specifically:

"*The creation of public and private financing mechanisms to help strengthen the capacity of civil society organizations (CSOs) to publicize their work and its results, as well as to promote social responsibility;*"

"*The promotion of the participation of all minority groups in the creation of a stronger civil society;*" and

"*The development of educational programs, in cooperation with the relevant civil society organizations, academic experts and other appropriate sources, to educate the public in the areas of democracy and human rights.*"[38]

National government-CSOs relations

The history of civil society participation in Canada is a long and relatively positive one. The one constant is that the influence of CSOs in the decision-making process of local governments has remained fairly significant, depending on the issue and on the organizations' level of involvement in the issue at hand. Canada has experimented and gained experience with involving civil society in policymaking processes domestically and on international policy.

Public and private financing mechanisms

The Canada Revenue Agency has issued new policy statements since the Quebec City Plan of Action in 2001. These new policies allows more NGOs to register as 'charitable organizations', including those that "provide assistance to an ethno cultural community or communities, or that educate the public about a particular culture". This change also permits organizations to "restrict access to its programs or services to a specific group if the reasons for doing so are justified by the purposes", which had previously been prohibited as a discriminatory practice.[39] In May 2008, "organizations established to promote volunteerism in the community-at-large through broad-based activities" could also qualify to be registered charities, further expanding the scope of organizations with access to the benefits of this legal status.[40]

In the research period, government leadership changes (two minority governments) and funding issues have created uncertainty and unresolved tensions. Unexpected changes in government priorities and decisions have made some civil society organizations vulnerable and, in some cases, undermined

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[38] Third Summit of the Americas. "Quebec City Plan of Action", Summits of the Americas Information Network web site, April 22, 2001. http://www.summit-americas.org/iii_summit/iii_summit_poa_en.pdf (Accessed August 9, 2009).
[39] Canada Revenue Agency. "Registering a Charity for Income Tax Purposes", Canada Revenue Agency, T4063(E) Rev. 01, 2007.
[40] Ibid.

others' long-term viability. The biggest concern for Canadian CSOs in this period was about maintaining government support.[41]

A significant concern for CSOs was finding a way to deal with the restrictions on advocacy that accompany government funding and government certification as charities. Charities are only permitted to devote 10 per cent of their organization's activities toward advocacy work. However, these same charities need to advocate policy changes in order to remove barriers that restrict or prevent them from fulfilling their missions. Restrictions on the advocacy activities of charities continues to be vague and need to be made clearer and more flexible. The government also imposes limitations on the revenue charities can generate, which is a further barrier to sustainability.

Indicative of the change in policy focus and the impact of funding restrictions was the case of Status of Women Canada (SWC), the government agency in charge of the promotion of women, and the women's advocacy organizations it supported. In October 2006, the minister in charge of SWC created a political storm by dropping the word "equality" from its mandate. Meanwhile, over 2006-2007, this agency lost much of its operating budget, forcing it to close 12 of 16 offices across Canada. The government then increased its budget in 2007 to $20 million, including a $4.7 million Women's Partnership Fund for non-governmental organizations and public institutions to address the economic and social situation of women and their participation in democratic life. The government also announced its intention to develop an action plan in 2008.[42] One impact of this shift toward program delivery is that advocacy-oriented women-focused NGOs have lost funding or could not access the funding due to the 10 per cent rule. A number of organizations closed as a result of this changed funding structure.

In addition, there is some concern that the Canadian government is not developing policies, funding, program categories and a regulatory framework on issues such as human rights and social enterprise.

Promotion of minority groups' participation

Indigenous Peoples

On November 1, 2007, the federal government, led by Indian and Northern Affairs Canada (INAC), launched an action plan to address the legal duty of federal departments and agencies to properly consult with First Nation, Métis and Inuit groups when government activity may adversely impact established or potential Aboriginal and Treaty rights. This legal duty to consult is defined broadly and can be triggered by a federal approval, license, permit or by any large

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[41] Fataneh Zarinpoush, Michael Hall. *"Leadership Perspectives: Interviews with leaders of Canada's charities and nonprofit organizations"*, *Imagine Canada*, 2007.
http://nonprofitscan.imaginecanada.ca/files/nonprofitscan/en/other_research/leadership_perspectives_080108.pdf (Accessed April 2008).

[42] Status of Women Canada. "Women's Program Funding Guide", Status of Women Canada, 2007.
http://www.swc-cfc.gc.ca/funding/wp/wpguide_e.html (Accessed April 2008).

or small size project or activity.[43] An interdepartmental team is responsible for implementing the plan, issuing interim guidelines, training officials, creating a information bank on Aboriginal and Treaty rights, and engaging First Nations, Métis and Inuit groups, as well as provinces, territories and industry groups, in the development of a consultation and accommodation policy in last quarter of 2008.

People with disabilities

The 2007 budget included a new emphasis on Canadians with disabilities, something Canadians had not seen in over 10 years. The budget included the following changes of interest to civil society organizations:[44]

- A Disability Savings Plan to assist families which have children with a severe disability save for the long term financial security of their children.
- A Mental Health Commission to develop a national mental health strategy. For 2007-09, it is funded with$10 million and, starting in 2009-10, it will receive stable funding of $15 million per year.
- A Working Income Tax Benefit Entitlement for low income Canadians, with an additional supplement for persons with disabilities.
- An Enabling Accessibility Fund of $45 million over three years to "contribute to the capital costs of construction and renovation related to physical accessibility for persons with disabilities."
- On May 12, 2008, Canada became a full party to the Convention on the Rights of Persons with Disabilities.

Civil Society's Participation in the Summit of the Americas Process

Several events held by the Canadian government before the Summit in Mar del Plata, Argentina in 2005 provided opportunities for experts, civil society and government representatives to discuss key issues related to the Summit. Through the Canadian International Development Agency (CIDA), the Government of Canada supports the participation of civil society organizations in the Summit process. Various organizations such as Rights & Democracy, the Assembly of First Nations' Women's Council, the Canadian Centre for International Studies and Cooperation, the Canadian Foundation for the Americas (FOCAL) and several other groups have been heard in some of these forums. In addition, Foreign Affairs Canada (FAC) published a newsletter to reach out to CSOs and Canadians and inform them on the Summit progress. As well, FAC organized roundtables that allow civil society organizations to take part and share

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[43] Indian and Northern Affairs Canada. "Government of Canada moves ahead with Action Plan to Consult First Nation, Métis and Inuit Groups." News Release, November 1, 2007, http://www.ainc-inac.gc.ca/nr/prs/s-d2007/2-2948-eng.asp (Accessed April 2008).
[44] Council of Canadians with Disabilities. "Annual Report 2007", Council of Canadians with Disabilities web site, 2008. http://www.ccdonline.ca/about-us/annual-reports/2007.html (Accessed April 2008).

information regarding the preparations and government positions on the issues going into the Summit.[45]

Proposals for strengthening Canadian CSOs' participation in national affairs and in the Inter-American system

The following are recommendations and proposals generated in working group discussions held with FOCAL in May 2008:

- Barriers restricting charities' advocacy activities to a small percentage need to be removed as it is preventing women's organizations from accessing funding because they do not meet the criteria.
- Civil society needs a hemispheric funding mechanism to support its work.
- There needs to be a feedback/communication process between the Canadian government and CSOs to review how money is being spent and where it is being directed. Overall, increasing and improving communication between the Canadian government and CSOs would help the relationship.
- The reporting process for funded CSOs needs to be simplified with results being efficiently measured. The Results Based Management structure is an inefficient way to measure results.
- The federal government should help provide networking connections to private industry. Municipal government also has a role to play in this networking.
- Government should take advantage of the Internet as a means of communications to disseminate information and diversify its reach to civil society. E-discussion between government departments such as DFAIT and CSOs has been underused and not well advertised.
- Adding post-OAS General Assembly and post-Summit consultations would help keep everyone informed, in addition to existing pre-event discussions between government and CSOs.
- Canada's success stories of its strong CSO community and relatively good relations between the government and CSOs should be disseminated to other countries in the hemisphere.

V. Conclusion & Observations

The EGCI methodology evaluates the amount of change a government has made in a given area of interest—in particular, access to public information, freedom of expression, local governments and decentralization and civil society participation. The evaluation is based on an assessment of expert opinions on the action's taken by governments in the 2006-07 period. According to these indicators, Canada has seen an increase in civil society participation.

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[45] Canadian International Development Agency. "Fourth Summit of the Americas, Argentina, Nov. 4-5, 2005", CIDA web site, June 23, 2006. http://www.acdi-cida.gc.ca/CIDAWEB/acdicida.nsf/En/NIC-43142214-PJX#2 (Accessed April 2008).

With the completion of this national report, FOCAL has begun the next phase of this project, which is to found a National Alliance. This National Alliance is a voluntary association between government and civil society, including stakeholders from non-government organizations, international organizations, academics and independent experts.

Recommendations

Overall
Although Canada has a strong and respected legal foundation to uphold the Summit mandates, further progress is encouraged to meet Summit Mandates. In sum, to ease access to information; increase protection of the freedom of expression; encourage decentralization and increase the capacity of local governments when appropriate; and, establish more secure avenues of funding for civil society organizations.

Access to information
The Canadian government has not extended access to information regulation to private companies that receive public funding or deliver public services. This idea was featured as a Parliamentary Task Force recommendation and should continue to be considered for adoption. In addition, there continue to be costs associated with accessing public information, which could present a barrier. Currently, there is no public interest clause targeting these costs although the Office of the Information Commissioner has endorsed changes in this area. Finally, the closure of the SchoolNet program raises concerns about access to information by marginalized communities in Canada.

Freedom of Expression
While a solid legal framework exists to protect free expression and delineate its limits, there is considerable debate about the fringes of these limits. This debate includes new concerns about the use of human rights legislation and enforcing institutions as tools of censorship. The Canadian government has also sought to tighten control over information using the vehicle of additional anti-terrorism legislation. Journalists continue to struggle to protect their sources and their reputation as independent agents, apart from the state. Artists face a complex dilemma to work out when considering government sources of support for potentially controversial topics. Protesters complain about the threats of intimidation, arrest, surveillance and infiltration. In short, free expression remains a contested right within the Canadian context.

Decentralization, Provincial and Municipal Government
Few notable changes have occurred over 2006-2007, except in the area of municipal infrastructure development with the current government's $33 billion "Building Canada Plan" for 2007-. As a sign of progress in adopting information and communications technology for more efficient local governance, most cities and municipalities have a website, with the standard "Who we are," "Services" and "Get involved" buttons.

Civil Society Participation in Governance

Canada has a long and rich history of civil society participation. However, CSOs have come to rely heavily on government funding, which is not always assured and is subject to changes of policy and political leadership, which, in turn, places them at risk. The perception of the government's continued vagueness with respect to restrictions on advocacy activities for charities has created some backlash from civil society groups.

The federal department for the Status of Women, has also undergone major changes in the last two years including a 2006 change in its mandate that stopped funding to women's advocacy organizations. A new fund was created to foster partnerships between public institutions and women's organizations, but advocacy organizations consider the funding cut a blow to their ability to propose changes affecting women.

APPENDICES

APPENDIX I: Canada Adaptation of the Methodology (January-July 2008)

1.   Establishment of National Research Team. Basic requirements were previous social sciences research experience as well as work with a gender perspective.

2.   In Canada, the research team developed a list of observable activities of relevance to developments in the thematic areas in Canada over the research period (January 2006-December 2007), and proceeded to conduct background research on observable activities by consulting official documents and other sources of information.

3.   Parallel to this process, the research team sought to conduct primary research on the observable activities by sending requests for interviews and information by e-mail and phone to officials in government agencies with pertinent jurisdiction regarding the activities that it had carried out in the 4 EGCI research areas. (At least 11 government officials contacted between March-April 2008).

4.   Establishment of a Panel of Experts in each subject area. It was required that they regularly participate in discussions, seminars, studies and legal debates, as well as have published work related to the formulation, implementation and evaluation of public policies in the research areas . Close to 300 experts and/or representatives of civil society organizations and research centers in Canada were contacted regarding the formation of four experts panel, with a goal of a minimum of 6 people represented on each panel. Ultimately the participation rate was less than ideal, an experience that was a common challenge for many participating country teams, and one Canada panel had only five experts (local government and decentralization), while two panels were combined given that the subject matters shared many reference points (access to information and freedom of expression) to have a combined total of 6 experts.

5.   FOCAL briefed the government office in charge of the follow-up of the Summits process of focus and progress of research.

6.   Ranking of the activities by the Panels of Evaluators in each of the 4 areas. These panels included both experts and representatives of civil society organizations and research centers and academics. At a symposium held in May 2008, the evaluators completed two forms. The first regarding their perception as to whether the activities carried out by the government were oriented to fulfilling the mandates or not. This opinion was also expressed on a scale of whether this fulfillment or lack thereof was a lot, average or little.

The second sheet was for the general ranking. In this one they evaluated the degree to which the government's actions represented progress or setbacks for

the fulfillment of the general principles agreed to in the Summits mandates. The score ranged from $+3$ to -3. The positive numbers (+) indicate a perception of progress in the fulfillment of commitments. The negative numbers (-) indicate a perception of difficulties or setbacks. The 0 shows that there was no progress or setbacks of any kind regarding the mandates.

7.   Systematization of the information. The Canada research team collected the scoring sheets from the evaluators and sent them to the Hemispheric Coordinator to complete the EGCI calculations. (June, 2008)

9.   First draft Active Democracy Canada Report (narrative) sent to Hemispheric Coordination. (July, 2008)

8.   Building of the EGCI. In Chile, the methodology expert Rodrigo Márquez, hired by the project to design the EGCI, calculated the EGCI on the basis of the questionnaires received from the 21 countries. This Index was constructed by taking an average score for each subject by country (as a function of the scores of each evaluator), and then forming an aggregate score of the information collected.

Mr. Márquez provided the Hemispheric Coordination Team with the results of the global EGCI, by subject and by country. This information was sent to each national research team, in order for them to prepare their National Reports. The Hemispheric Coordinator was responsible for drawing-up the Hemispheric Report with the global EGCI results.

APPENDIX II: Observable Activities for each Thematic Component and Sub-components Researched in Canada

This section includes the May 15 workshop discussion guides. For more information about the Active Democracy Guidelines and Methodology, please access the guide at http://www.sociedadcivil.net/tag/metodologia/.

Discussion Guidelines for Working Group on Access to Public Information

COMMITMENTS FROM THE QUEBEC CITY PLAN OF ACTION (2001)

In the Quebec City Plan of Action the participating governments pledged that, in order to increase public institutions' transparency and accountability, they will work together "to facilitate cooperation among the national institutions responsible for guaranteeing [...] free access to information, with the aim of establishing best practices to improve the administration of information held by governments about individuals, facilitating citizens' access to this information".

1. **Legislation on freedom of access to public information and other norms.**

- Have any concrete actions taken place that imply progress in matters of legislation on Access to Information? Have any actions been taken that are detrimental to progress in matters of legislation?
- Have any legal barriers been removed to promote Access to Information about women and women's rights?

2. **Effective access to public information**

- Have any changes occurred (positive or negative changes) in terms of effective Access to Public Information? (i.e. state activities, public budgets, legislative activities etc.)?

3. **Use of ICTs to facilitate access to public information.**

- Have any changes occurred (positive of negative changes) in terms of electronic media and ICTs and the relationship between gender and electronic media?

4. **What, if any, improvements have been made in terms of Access to Information regarding electoral expenses?**

<u>Discussion Guidelines for Working Group on Freedom of Expression</u>

COMMITMENTS FROM THE QUEBEC CITY PLAN OF ACTION (2001)

In the Quebec City Plan of Action, the countries of the Americas committed themselves to "ensure that national legislation relating to freedom of expression is applied equitably to all, respecting freedom of expression and access to information of all citizens, and that journalists and opinion leaders are free to investigate and publish without fear of reprisals, harassment or retaliatory actions, including the misuse of anti-defamation laws"

1. **Legislation on freedom of expression**

   - Have any concrete actions been taken that imply progress in matters of legislation on freedom of expression? Have any actions been taken that are detrimental to progress in matters of legislation?
   - Have any legal barriers been removed? Have any changes occurred to promote women's freedom of expression?

2. **Censorship, limitations and sanctions**

   - Are there any limitations or sanctions on women's expression and women's rights?

3. **Objective possibilities for citizens to express themselves freely**

   - Are there any changes in objective possibilities for citizens to express themselves freely?
   - Have any changes occurred with regards to women's right to express themselves freely?
   - Is there enough CSO participation in the OAS?
   - What efforts are made for the participation of women in the Inter-American system?

<u>Discussion Guidelines for Working Group on Decentralization and Local Governments</u>

COMMITMENTS FROM THE QUEBEC CITY PLAN OF ACTION

In recognition that adequate citizen participation and political representation constitute the foundations of democracy and that local governments have a significant presence in the daily lives of citizens, the 34 governments committed to:

"Promote mechanisms to facilitate citizen participation in politics, especially in local or municipal government; promote the development, autonomy and institutional strengthening of local government in order to promote favourable conditions for the sustainable economic and social development of their communities;"

"Strengthen the institutional capacity of local governments to allow full and equal citizen participation in public policies without any discrimination,…strengthen decentralization and the integral development of these services…and timely funding and initiatives that permit local governments to generate and administer their own resources;" and

"Promote sharing of information, best practices and administrative expertise among local government personnel, associations of local governments, community associations …by encouraging cooperation and coordination among national, subregional and regional organizations of mayors and local government."

1. **Strengthening of regional-local democracy:**

   - What Canadian government initiatives exist to strengthen citizens' participation in local politics? (Structures and funding)
   - How has the dialogue between the federal government and local governments been undertaken, and proceeding? What are the challenges and positive developments that have been encountered?
   - What initiatives have been introduced to strengthen women's participation in local politics, and political institutions?
   - Has there been any talk/concerted moves towards having quotas for women within organisations, and in elected posts?

2. **Modernization and improvement of regional-local public management:**

   - What type of transformations have there been in local organisations, regarding the goals of modernization, transparency and the simplification of processes?
   - How have fiscal strengthening initiatives been undertaken? What effects have these processes had?
   - Have there been any notable initiatives in regards to the professionalization of sub-national government employees?

3. **Transfer of competencies from national level to regional-local level:**

   - How has the transfer of responsibilities, financial resources and technological capacities, been managed in Canada?
   - What are the challenges that have arisen due to this? How have those challenges been overcome?

- Are there any positive developments on this front to record?

4. **Respect and valuation of regional-local cultural diversity:**

   - What supportive initiatives have taken place with respect to preserving regional-local cultural expressions and cultural heritage?
   - Has there been a gendering aspect to these cultural preservations?
   - Do you think that there has been an adequate emphasis placed upon cultural preservation?

5. **Aboriginal government/governance:**

   - What are some of the challenges faced in confronting the issue of Aboriginal governments/governance within Canada?
   - How should the Canadian government proceed in light of international developments, regarding the rights of indigenous peoples?
   - What do you think most likely will occur in regards to this issue?

Discussion Guidelines for Working Group on Civil Society Participation

COMMITMENTS FROM THE QUEBEC CITY PLAN OF ACTION (2001)

The Quebec Plan of Action establishes commitments for the strengthening of civil society's participation in national and hemispheric processes, specifically:

"The creation of public and private financing mechanisms to help strengthen the capacity of civil society organizations (CSOs) to publicize their work and its results, as well as to promote social responsibility;"
"The promotion of the participation of all minority groups in the creation of a stronger civil society;" and
"The development of educational programs, in cooperation with the relevant civil society organizations, academic experts and other appropriate sources, to educate the public in the areas of democracy and human rights."

1. **Legal changes that weaken or strengthen civil society participation**

   - What, if any, legal barriers have been removed to promote civil society participation?
   - Have any positive measures been incorporated to promote the participation of women and women's rights organizations?

2. National Government--CSO relations in practice

- Has any financial support been provided to improve relations between the Canadian Government and CSOs?
- Has there been an effort to provide information required to strengthen civil society participation?
- Have CSO activities or initiatives been welcomed by the Canadian government?
- Has there been any special support for the participation of women and their organizations?

3. Participation in the Inter-American system

- Do any strategies exist for Canadian government-CSO alliances in connection with: General Assemblies of the OAS, Summits of the Americas and Ministerial meetings?

Appendix III: Canada Thematic Evaluation Panels and Consultation Participants

Thematic Area	Last Name	First Name	Organization	Position in Organization	Expertise in Gender?
Access to Info and Freedom of Expression	Karutnarante	Dayanti	Freelance Journalist	Freelance Journalist	NO
Access to Info and Freedom of Expression	McCloskey	Bill	Transparency International-Canada	Board Member	YES
Access to Info and Freedom of Expression	Nakanuku	Louisa	Carleton School of Journalism & Communications	Doctoral Candidate	NO
Access to Info and Freedom of Expression	Rubin	Ken		Public Interest Researcher	No
Access to Info and Freedom of Expression	Wadell	Chris	PEN Canada		NO
Access to Info and Freedom of Expression	Conacher	Duff	Coordinator	Democracy Watch	Some
Civil Society	Bulgur	Kim	Metis National Council	former Health Director	YES
Civil Society	Edgar	Laura	Institute On Governance	Lead Director for Social Development	YES
Civil Society	Farren	Mark	Demographics Consultant		YES
Civil Society	Marleau	Perry	Eye on Ottawa	Board Member	NO
Civil Society	Ostrovski	Halina	Xela Enterprises	Consultant	YES
Civil Society	Rubio	Frances	Prevent Cancer Now	Coordinator	YES
Civil Society	Russell	Susan	Executive Director	Cdn Federation of University Women	YES
Civil Society	Solano	Paolo	Commission for Environmental Cooperation	Interim Director, Submissions on Enforcement Matters Unit	NO

Civil Society	Conacher	Duff	Coordinator	Democracy Watch	Some
Local Government	Fudge	Ann	Ann Fudge Campaign For School Board Trustee		No info
Local Government	Gottsbacher	Markus	IDRC	Senior Program Officer	YES
Local Government	Kimball	Jackie	Democracy in Action		Some
Local Government	Kovacs	Jerry	Grad Student	grad student (thesis on democracy theory)	NO
Local Government	Conacher	Duff	Coordinator	Democracy Watch	Some

PARTICIPANTS - May 15, 2008 - Democratic Governance in Canada consultation			
John A.	Petrolias		
Mark	Farren	Bay Street Consultants	International Health Demographics / Inter-Culturalism Social Development
Laura	Chrabolowsky	Human Resources and Social Development	Department of Political Science
Keith	Mines	US Embassy	
Susan A. G.	Russell	Canadian Federation of University Women	
Jean-Paul	Ruzkowski	Northstar Trade Finance Inc.	Trade, Finance
Halina B.	Ostrovski	HBO International	International business
Jackie	Kimball	Ryerson University	
Racquel	Smith	Canadian Foundation for the Americas	Summit and Afro-Latino programs
Jen	Peirce	Carleton University	
Rachel	Schmidt	Canadian Foundation for the Americas	
Alexa	Barrera	Canadian Foundation for the Americas	
Leslie	Fillion-Wilkinson	Canadian Foundation for the Americas	
Jenna-Dawn	Shervill	Foreign Affairs and International Trade	Inter-American Relations and Regional Policy
Craig	Hunter	Canadian International Council	National Capital Branch
Markus	Gottsbacher	International Development Research Centre	Peace, Conflict and Development
Gonzalo	Moreno	Carleton University	

Barbara	MacLaren	Canadian Foundation for the Americas	Labour Mobility
Sandra	Berberi	Canadian International Development Agency	Haiti and Dominican Republic - Education
Christopher	Waddell	PEN Canada, Carleton University	School of Journalism
Dayanti	Karutnarante	Writer / consultant	
Frances	Rubio	Prevent Cancer Now	
Kim	Bulgur	Metis National Council	
Gina	Cosentino	Assembly of First Nations	
Averyl	Easter	Transport Canada	
Laura	Edgar	Institute on Governance	
Anne	Fudge		
Jerry	Kovacs	University of Ottawa	
Perry	Marleau	Eye on Ottawa	
Bill	McCloskey	Transparency International Canada	
Maria Julia	Rodriguez	Embassy of Argentina	
Ben	Rowswell	Privy Council Office	Priorities & Planning
Ken	Rubin	Journalist and Researcher	
Paulo	Solano	Commission for Environmental Cooperation	Submissions on Enforcement Matters Unit
Phil	Gonzalez	Carleton University	
Lorraine	Harrilal	Carleton University	
Tanya	Zayed	Consultant	