



**HOUSE OF COMMONS  
CANADA**

**RIGHTS & DEMOCRACY:  
MOVING TOWARDS A STRONGER FUTURE**

**Report of the Standing Committee on  
Foreign Affairs and International Development**

**Dean Allison, MP  
Chair**

**JUNE 2010**

**40th PARLIAMENT, 3rd SESSION**

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# **THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL DEVELOPMENT**

has the honour to present its

## **FIRST REPORT**

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the situation at Rights & Democracy and has agreed to report the following:



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# **RIGHTS AND DEMOCRACY: MOVING TOWARDS A STRONGER FUTURE**

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## **INTRODUCTION**

Early 2010 saw the public disclosure of an internal dispute at the International Centre for Human Rights and Democratic Development (Rights and Democracy), an arms-length institution that was created by Parliament to promote human rights and democratic development in countries around the world. The allegations from all sides are of a serious nature. The House of Commons Standing Committee on Foreign Affairs and International Development (hereinafter the Committee) decided to pursue hearings on these events because of Rights and Democracy's unique role, and the fact that it was created by an act of Parliament and reports to parliament through the Minister of Foreign Affairs.

During four hearings on this issue in the spring of 2010, the Committee was presented with competing and often contradictory narratives and explanations of what has occurred at Rights and Democracy over the past year. One side has depicted a Board of Directors (hereinafter the Board), with new composition and ideological convictions, which began to micro-manage the organization and interfere in programming decisions and staff relations. These witnesses told the Committee that the Board repeatedly questioned and attempted to undermine the president, Rémy Beauregard, a trend that culminated in a performance review which included several negative and erroneous allegations regarding his work. Overall, this side portrays certain members of the board, in particular its Chair, as having compromised the independence and integrity of the organization.

The other side depicted a staff and President that has been operating outside of Board oversight on many decisions, a situation which resulted in funding and programming that lacked sufficient accountability or adequate controls. The current board members who appeared told the Committee that they attempted to re-establish Board control over policy directions, which resulted in backlash from the staff and the withholding of information. Overall, they argued that staff allegations concerning the Board's mistreatment of Mr. Beauregard and the pursuit of an ideological agenda were being used to distract attention from Rights and Democracy's problems with management and accountability.

Hearings based on individuals' recounting of internal organizational dynamics and decisions bring inherent challenges to the Committee's work. This task has been rendered more difficult by the fact that all the necessary documents needed to clarify some elements of the story have not yet been provided to the Committee: the performance review of the late President, Rémy Beauregard, and some of the contracts and final reports of external firms that were engaged during the 66-day tenure of Dr. Jacques Gauthier, who is an international lawyer and member of the Board, as Interim President. Each of the latter items will be discussed later in this report.

Overall, the Committee was left to determine whether the recent crisis at Rights and Democracy can be attributed mainly to the actions of certain board members—as was argued by former and current staff and a former board member; or, to the actions of senior management—the position taken by the current members of the Board. The alternative to these two explanations is that the situation is attributable to some combination of the two. In reconstructing the pattern of events at Rights and Democracy, the Committee has attempted to approach its hearings and this report with both a sense of fairness and a desire to clarify the facts within their proper context.

The first part of this report describes the history and operations of Rights and Democracy. The second part briefly summarizes the current crisis. The third part analyzes key themes that the Committee believes can be identified based on the information presented and submitted by all witnesses during the Committee’s hearings on this subject. The report concludes with recommendations for both the Government of Canada and Rights and Democracy. These recommendations are designed to address the current situation while also looking towards the future.

## **PART 1: THE BACKGROUND**

### **The History of Rights and Democracy**

Rights and Democracy is a non-partisan, arms-length institution with an international mandate. It was created by an Act of Parliament in 1988.

Rights and Democracy is the result of parliamentary action. In the mid 1980s, a Special Joint Committee on Canada’s International Relations, made up of Senators and Members of Parliament, conducted a comprehensive examination of the future direction of Canadian foreign policy. Their review included a consideration of Canada’s role in supporting international democratic development and human rights. In its report of June 1986, the Committee affirmed “that the international promotion of human rights is a fundamental and integral part of Canadian foreign policy.”<sup>1</sup> It recommended that the “long-term development of political, civil and cultural rights” should therefore become part of Canadian international assistance in the same way that Canada was at that time contributing “to long-term economic and social development through [its] aid program.”<sup>2</sup> The Committee also recommended “that the government consider establishing an International Institute of Human Rights and Democratic Development with carefully prepared guidelines for supporting activities by non-governmental organizations.”<sup>3</sup>

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1 *Independence and Internationalism*, Report of the Special Joint Committee of the Senate and of the House of Commons on Canada’s International Relations, June 1986, p. 99.

2 *Ibid*, p. 103-104.

3 *Ibid*, p. 105.

The Mulroney government accepted the Joint Committee's recommendation. It then appointed two Special Rapporteurs in January 1987 to "examine how the Government might proceed with the creation of an institution which would have as its objective the development, strengthening and promotion of democratic institutions and human rights in developing countries ..." While the Rapporteurs were completing their study, the ideas behind the new Centre received further backing from the House of Commons Standing Committee on External Affairs and International Trade in its May 1987 report on Canada's architecture for international development assistance, *For Whose Benefit?* The House Committee argued that the new entity should be granted sufficient independence to conduct its work. More specifically, the Committee recommended that the Centre "carry out its distinct mandate as an independent, free-standing body working closely with Canadian human rights groups and non-governmental organizations."<sup>4</sup>

The final report of the Special Rapporteurs, law professor Gisèle Côté-Harper and political scientist Dr. John C. Courtney, was delivered to the government in January 1988. Mindful of the sensitivities associated with one country's promotion of democratic development in another, and wanting to avoid any possible perception that Canada would be exporting a specific system or set of values, the Rapporteurs advocated a broad and inclusive approach to democratic development. They wrote: "The notion of democracy which we have adopted, and which we believe must define and inspire Canadian assistance in this area, is quite simply the participation of citizens in decision-making which affects their lives." They made recommendations to the government with respect to the mandate, organization and governance of the proposed Centre.

In 1988, Parliament adopted legislation establishing an International Centre for Human Rights and Democratic Development, better known today as Rights and Democracy. It was given a mandate directly linked to the International Bill of Human Rights.<sup>5</sup> The Centre began its operations in 1990. The Honourable Ed Broadbent, a former Member of Parliament and leader of the New Democratic Party, was named its first president. Parliamentary funding for core operations was set at \$15 million over the first five years (it remained at roughly \$5 million annually until 2005).

### **Involvement of the Committee**

Over the years, this Committee has consistently engaged with the work of Rights and Democracy. At one level, representatives have provided their expert opinions on a variety of studies undertaken by the Committee and its Subcommittee on International

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4 *For Whose Benefit?*, Report of the Standing Committee on External Affairs and International Trade on Canada's Official Development Assistance Policies and Programs, May 1987, p. 30-31.

5 Under the *International Centre for Human Rights and Democratic Development Act*, the International Bill of Human Rights is defined as "(a) the Universal Declaration of Human Rights; (b) the International Covenant on Civil and Political Rights; (c) the Optional Protocol to the International Covenant on Civil and Political Rights; and (d) the International Covenant on Economic, Social and Cultural Rights." See: International Centre for Human Rights and Democratic Development Act, 1985, c.54, <http://laws.justice.gc.ca/en/I-17.3/text.html>.

Human Rights. More fundamentally, in accordance with the *International Centre for Human Rights and Democratic Development Act*, the Minister of Foreign Affairs must cause a review to be conducted of the Centre's activities every five years. This report must be tabled in Parliament by the Minister of Foreign Affairs and then examined by a committee.

On December 15, 2004, Rights and Democracy appeared before the Committee to discuss its five-year review.<sup>6</sup> At the end of the meeting, the Committee accepted the review's recommendations and passed a unanimous motion recommending to Parliament that Rights and Democracy's funding appropriations be increased. Funding was subsequently augmented from its previous annual level of \$4.8 million to the current appropriation of some \$11 million.

On October 29, 2009, representatives of Rights and Democracy again appeared before the Committee to discuss the organization's most recent review for 2003-2008.<sup>7</sup> Witnesses included the now late President Rémy Beaugard, then-member of the Board Payam Akhavan, a lawyer and professor at McGill University, and then-senior employees Marie-France Cloutier and Razmik Panossian. Notwithstanding later revelations, the Committee was not informed at this meeting of any of the internal divisions and disputes that were evidently destabilizing the institution.

### **Current Operations of Rights and Democracy**

Rights and Democracy is based in Montreal. Under Section 4(1) of the *International Centre for Human Rights and Democratic Development Act*, the Centre is empowered to "initiate, encourage and support cooperation between Canada and other countries in the promotion, development and strengthening of democratic and human rights institutions and programs that give effect to the rights and freedoms enshrined in the *International Bill of Human Rights*, including, among those rights,

the right to an adequate standard of living;

the rights of persons not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment;

the rights of freedom of opinion and expression; and

the right to vote and be elected at periodic, genuine elections in pluralistic political systems."

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6 *Evidence*, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, Meeting No. 17, December 15, 2004.

7 *Evidence*, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Meeting No. 36, October 29, 2009.

Moreover, “A major object of the Centre is to help reduce the wide gap that sometimes exists between the formal adherence of states to international human rights agreements and the actual human rights practices of those states.”<sup>8</sup>

The Centre can conduct these activities through support for programs in other countries, including by fostering research and education, the exchange of information and collaboration among people and institutions, the sponsoring of technical assistance, training programs and advisory services, the maintenance of data centers, and support for seminars and workshops. Section 5 (1) (a) of the *Act* allows the Centre to provide financial resources as required directly to foreign-based NGOs.

Rights and Democracy focuses on four thematic areas, in addition to special projects (which includes initiatives such as the John Humphrey Freedom Award and those funded by the Urgent Action and Important Opportunities Fund):<sup>9</sup>

- **Democratic development**—fostering democratic practices, institutions and culture, including through civil society participation and human rights protection.
- **Economic and social rights**—helping to reduce the gap between states’ de jure and de facto adherence to international human rights agreements, including through the promotion of social, economic and cultural rights.
- **Rights of indigenous peoples**—contributing to the full recognition and implementation of the rights of indigenous peoples, including through support for the participation of indigenous women in these processes.
- **Rights of women**—facilitating women’s leadership and participation in civil society, including their full participation in peacebuilding processes and transitional justice systems.

The Centre’s website indicates that it has been focusing activities in some thirteen countries, including the Democratic Republic of the Congo, Sudan, Zimbabwe, Afghanistan, Burma, and Haiti.

### **Funding Sources**

All of the funding received by Rights and Democracy comes from the Canadian government. As of 2008-2009, 78% was provided by the government as core funding. The remaining 22% was received from the Canadian International Development Agency (CIDA) and the Department of Foreign Affairs and International Trade (DFAIT) for specific projects in Haiti, Afghanistan, Sudan and Burma. Administrative costs represented

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8 *International Centre for Human Rights and Democratic Development Act*, Section 4(1) and 4(2).

9 See Rights and Democracy website: [http://www.ichrdd.ca/site/what\\_we\\_do/index.php?lang=en](http://www.ichrdd.ca/site/what_we_do/index.php?lang=en).

approximately 10% of the agency's expenditures.<sup>10</sup> The Centre's total budget was \$11.3 million in 2009, approximately \$7.5 million of which was dispensed on projects.

### **The Governance Structure of Rights and Democracy**

In order to avoid any possible confusion over the governance structures and roles and responsibilities of certain actors at Rights and Democracy, it is necessary to outline at length the key provisions of the organization's statute and by-laws at the outset of this report. This information provides the context for the debates that will be discussed in the next chapter.

Parliament's adoption of the *International Centre for Human Rights and Democratic Development Act*<sup>11</sup> (hereinafter the Act) created an organization that is arms-length from government. Section 22 states that: "The Centre is not an agent of Her Majesty." Furthermore, Section 23 (2) specifies that "the Chairman, President, directors, officers, employees and agents of the Centre are not part of the federal public administration."

The Act also establishes the governance structure for Rights and Democracy through the creation of a board of directors and the position of president.

The president is appointed by the Governor in Council to hold office for a term not exceeding five years, following consultation with the Board. Rights and Democracy has had seven Presidents since 1990, including those acting in an interim capacity. The individuals who have held this position are:

- The Honourable Ed Broadbent, 1990-1996;
- The Honourable Warren Allmand, 1997-2002;
- Jean-Louis Roy, 2002-2007;
- Jean-Paul Hubert (interim), Nov. 2007-July 2008;
- Rémy Beaugard, July 7, 2008 – January 8, 2010;
- Jacques Gauthier (interim), January 22 – March 29, 2010; and
- Gérard Latulippe, March 29, 2010 – current.

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10 Rights and Democracy, *Annual Report 2008-2009*, Montreal, 2009, [http://www.dd-rd.ca/site/PDF/publications/annual\\_reports/annualReport2008-2009.pdf](http://www.dd-rd.ca/site/PDF/publications/annual_reports/annualReport2008-2009.pdf), p. 17-19.

11 R.S., 1988, C. 54.

The functions of the President are outlined in the *Act*:

15 (1) The President is the chief executive officer of the Centre and has supervision over and direction of the work and staff of the Centre and shall perform such duties or functions as are imposed, or exercise such powers as are conferred, on the President by or under the by-laws of the Centre or by resolution of the Board.

The *Act* also establishes a board of directors, consisting of a chairman, the president, and eleven other board members. The Chairman is appointed by the Governor in Council to hold office for a term not exceeding three years, following the minister's consultation with the Board. The *Act* establishes the functions of the chairman of the Board:

14 (1) The Chairman shall preside at meetings of the Board and shall perform such other duties or functions as are imposed, or exercise such powers as are conferred, on the Chairman by or under the by-laws of the Centre or by resolution of the Board.

The By-laws of Rights and Democracy provide further clarification around the role of the Board, stating that it "shall establish the policies which determine the activities of the Centre and shall approve the annual budget of the Centre."<sup>12</sup> One of the Centre's managers, the director of Administration and Resources, acts as secretary of the Board.

Other members of the Board are appointed by the Governor in Council to hold office for terms not exceeding three years at staggered intervals (to ensure that not all terms of office expire in any one year). Board members, including the chairman, are eligible to be appointed for no more than two consecutive terms. With respect to the appointment process, Section 7 (2) of the *Act* states:

All appointments to the Board shall be made after consultation by the Minister with the Leader of the Opposition and the leader of every other recognized party in the House of Commons.

The chairman and vice-chairman of the Board, the president, and six other Board members are required to be Canadian citizens or permanent residents. Three Board positions are reserved for nationals of developing countries.

Under the *Act*, basic parameters around eligibility for Board membership are described under Section 13 (3), which states:

The Board must have knowledge of Canadian foreign policy and experience in international development, the development of democratic institutions, the promotion of human rights internationally and international law relating to individual and collective rights.

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12 International Centre for Human Rights and Democratic Development, *By-Law No. 1*, as amended by the Board of Directors at its meeting of March 26, 2010. Note: this provision has not been changed from the by-laws as adopted on June 26, 2008.

The individuals who are currently members of the Board were appointed as follows:

- Aurel Braun – Chair – March 2009;
- Elliot Tepper – February 2008;
- Jean Guilbeault – February 2008;
- Jacques Gauthier – February 2008;
- Soyata Maiga – international member – October 2008;
- Brad Farquhar – April 2009;
- Marco Navarro-Genie – April 2009;
- David Matas – November 2009;
- Michael Van Pelt – November 2009.

The Board is required to meet at least twice annually and at other times deemed necessary by the chairman. It is empowered under section 18 of the *Act* to “appoint advisory, audit or other committees under such terms and conditions as the Board may by by-law prescribe.”

As noted above, the Board is given broad powers to make by-laws under the *Act* respecting:

21. (a) the assignment of any functions of the Centre to the executive committee of the Board and the manner in which those functions shall be exercised;

(b) the constitution of advisory, audit or other committees appointed pursuant to section 18, and the remuneration and expenses, if any, to be paid to the members of such committees;

(c) the powers, duties and functions of the Chairman, President, directors, officers, employees and agents of the Centre;

(d) the employment, engagement and remuneration of officers, employees and agents of the Centre;

(e) the procedure in all business at meetings;

(f) the acquisition, holding, expenditure, investment, administration or disposition of property; and

(g) generally the conduct and management of the affairs of the Centre.

The *Act* also establishes an executive committee of the Board, consisting of the chairman, the president and at least three other Board members who are elected annually. This committee performs such functions as the Board may assign to it through by-laws,

which were provided to the Committee upon its request. The executive committee is required to meet at least four times each year. The Centre's by-laws specify that the Executive Committee is not permitted to set new policy directions for Rights and Democracy or to alter previous policy directions already established, to change the Centre's authorized budget, or to enact, amend, or repeal its by-laws.<sup>13</sup>

The *Act* also empowers the Board to appoint advisory and audit committees. The by-laws then clarify the role of the audit committee, which is to be composed of three board members. They state that:

18. (3) The Finance and Audit Committee assists the Board of Directors in fulfilling its oversight responsibility by reviewing the Centre's financial information and budget, by reviewing the systems of internal controls and the annual audit reports from the Auditor General of Canada.<sup>14</sup>

The by-laws outline the more specific responsibilities of the Audit Committee. Some of the most important are as follows:

4.1.1 It provides an open avenue of communications between the Auditor General, Management and the Board of Directors.

4.1.3 It shall have the responsibility to recommend the conduct of any special audit work, when in its judgement such work is warranted.

4.2.1 It reviews the Centre's audited financial statements and the Auditor General's report to ensure that the financial statements constitute a full and meaningful report. It approves the financial statements and recommends them to the Board of Directors.

4.3.2 It reviews and approves the annual budget proposals and recommends them to the Board of Directors.

4.3.3 It review management's response to issues raised by the Auditor General following the annual audit.<sup>15</sup>

Finally, an Executive Performance Review Committee is established by the by-laws. There is no mention of this committee in the *Act*. It is comprised of three board members, one of whom must be the chair. The Committee's mandate is as follows:

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13 International Centre for Human Rights and Democratic Development, *By-Law No. 1*, as amended by the Board of Directors at its meeting of March 26, 2010. Note: this provision has not been changed from the by-laws as adopted on June 26, 2008.

14 International Centre for Human Rights and Democratic Development, *By-Law No. 1*, as amended by the Board of Directors at its meeting of March 26, 2010. Note: this provision has not been changed from the by-laws as adopted on June 26, 2008.

15 International Centre for Human Rights and Democratic Development, *By-Law No. 1*, as amended by the Board of Directors at its meeting of March 26, 2010. Note: this provision has not been changed from the by-laws as adopted on June 26, 2008.

- Review and approve the objectives set for the president at the beginning of each fiscal year;
- Consult Board members and management staff on the president's performance;
- Seek feedback from other staff, as deemed to be appropriate;
- Evaluate the performance of the president on a yearly basis;
- Report on the conclusions of the evaluation to Privy Council;
- Assist in the selection of management staff; and,
- Receive, comment and provide advice on the president's proposals regarding structural changes that might be required from time to time.<sup>16</sup>

## **PART II: THE CURRENT CRISIS – SUMMARY OF WITNESS TESTIMONY**

The crisis at Rights and Democracy became public in early January 2010, following the death of its president, Rémy Beauregard, from a heart attack during the night of January 7<sup>th</sup>-8<sup>th</sup>.

Within days of Mr. Beauregard's death, Rights and Democracy staff called upon key members of the Board of Directors—Dr. Aurel Braun, a professor at the University of Toronto; Dr. Jacques Gauthier; and Dr. Elliot Tepper, a professor at Carleton University—who had prepared a disputed evaluation of Mr. Beauregard to resign. Within weeks, further information emerged in the media that mentioned three small grants provided by Rights and Democracy to NGOs based in the Middle East. All of the stories aired in the media depicted an organization mired in internal tensions and disagreements. By February, some were arguing that the international reputation of the Centre had been damaged.

Jacques Gauthier was appointed interim president of Rights and Democracy on January 22, 2010. A week later, three senior staff—Marie-France Cloutier (Director of Administration and Resources), Razmik Panossian (Director of Policy, Programmes and Planning) and Charles Vallerand (Director of Communications)—were placed on administrative suspension. On February 19, 2010, Rights and Democracy announced that Mr. Gauthier had authorized a forensic audit to be carried out, with the purpose of examining financial transactions between 2005 and 2009. In early March, twenty-four hours prior to the announced appointment of a new president, Gérard Latulippe, the three senior staff were dismissed by bailiff, and in May 2010, they commenced legal action against Rights and Democracy for wrongful dismissal.

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16      Ibid.

Some witnesses who testified during the Committee hearings suggested that the tensions that contributed to the crisis at Rights and Democracy had been building over the last year. Others argued that the structural problems and factors underlying the current disputes had been in place longer than that. However, there were differences of opinion expressed to the Committee regarding the exact nature of these underlying tensions and regarding what the crisis at Rights and Democracy is really about.

On the one hand, board members Aurel Braun, Jacques Gauthier, Brad Farquhar and David Matas, a lawyer who had previously served on the board, testified that the problems in the organization were longstanding and connected to problems regarding internal management practices and accountability. Mr. Braun, the Board Chairman, told the Committee that "Rights and Democracy is a dysfunctional organization. Becoming a dysfunctional organization can be decades in the making."<sup>17</sup> Vice-Chair Jacques Gauthier, who along with Payam Akhavan was appointed to the Board in February 2008, told the Committee that:

...when I joined the Board of Rights and Democracy, it was a fairly troubling period. Several months earlier, in December of 2007, a report had been issued by the Inspector General of the Department of Foreign Affairs and International Trade, DFAIT. That report looked at a considerable number of demands and attacks against Rights and Democracy, suggesting that the institution was poorly managed, and that there were major financial or accounting problems...

Everyone appointed in February of 2008 was well aware of the concerns that had been reported in the newspapers for weeks and weeks. We were told that changes had to be made.<sup>18</sup>

Rémy Beauregard was appointed president of Rights and Democracy several months later in mid-2008. When the previously confidential 2007 DFAIT report was released as the result of an *Access to Information Act* request in 2009, he noted that all of its recommendations had been implemented. Beauregard added in a media interview that he found that the report "did not identify anything scandalous but... nonetheless said there were a certain number of procedures that needed to be improved... I think it's important, for a public organization, that Canadian citizens have access to this information to know what is going on."<sup>19</sup>

On the other hand, many witnesses argued that the current crisis essentially began with the appointment of Aurel Braun as chair of the Board in March 2009. Early in his mandate, he became concerned over three grants to NGOs in the Middle East that had been authorized by the president and the organization's participation in certain conferences.<sup>20</sup> In the months that followed, Mr. Braun, Mr. Gauthier and other directors

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17 *Evidence*, Meeting No. 8, April 1, 2010.

18 *Ibid.*

19 Graeme Hamilton, "Lax spending disclosed; Review tabled in Parliament excludes concerns about ex-rights group chief," *National Post*, September 5, 2009.

20 *Evidence*, Meeting No. 8, April 1, 2010.

(including Mr. Farquhar) continued to demand information on this and related matters, such as the organization's office in Geneva and the funding that it was providing to the Office of the UN High Commissioner for Human Rights.

It is abundantly clear to the Committee that a significant factor underlying the dispute between certain members of the Board and Mr. Beauregard and the organization were differing views on the current dispute in the Middle East. From the perspective of Professor Braun and his supporters, their clear view was that support for certain organizations, in the words of Mr. Braun, followed a pattern of "delegitimizing and dehumanizing a fellow democracy." From the perspective of President Beauregard, it is clear that Rights and Democracy felt it important to support the cause of civil rights in Israel, Gaza, and the West Bank, even if this meant supporting organizations critical of the state of Israel. It is clearly impossible to understand the depth of emotion underlying the dispute between members of the Board and between the Board and senior officials at Rights and Democracy without comprehending the deep differences of opinion on this important subject.

While media reports have focused on tensions between the Board and the president, Payam Akhavan argued before the Committee that the initial problems began within the Board itself, when a minority led by Braun and Gauthier pursued a "hostile takeover."<sup>21</sup> Akhavan told the Committee that: "On November 8 I wrote to Mr. Gauthier, asking him whether there was an intention to gain, and I quote, 'a decisive majority of Board members that will once and for all silence the dissenting Board members and probably also set the stage for removal of the president and his senior staff'."<sup>22</sup>

By early January 2010, some new members had been appointed to the Board, which changed voting patterns. For the first time in months, and against the apparent backdrop of escalating internal disagreements, a Board meeting was scheduled for January 7. When it became clear at this meeting that the disputed performance review of Mr. Beauregard, which had been prepared by a Board committee, would not be amended, and following a vote against the reappointment of Bolivian Board member Guido Riveros Franck (a former member of Bolivia's Parliament), both Payam Akhavan and Afghan Board member Dr. Sima Samar (the Chair of the Afghanistan Independent Human Rights Commission) resigned from the Board. Contradicting some depictions of this meeting, Mr. Braun and Mr. Farquhar told the Committee that it had in fact been less confrontational than the previous one convened in June. They added that Mr. Beauregard had joined them in repudiating the controversial grants.<sup>23</sup> Payam Akhavan, on the other hand, told the Committee: "That day Mr. Beauregard was visibly distressed, knowing he would probably have to resign with a stain on his reputation."<sup>24</sup>

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21 *Evidence*, Meeting No. 9, April 13, 2010

22 *Ibid.*

23 *Evidence*, Meeting No. 8, April 1, 2010.

24 *Evidence*, Meeting No. 9, April 13, 2010.

Despite the conflicting testimony, several overarching themes can be identified. This report does not discuss every issue raised by witnesses during the meetings. It does, however, attempt to identify what the Committee feels are the key issues that arose in the course of its hearings on the situation at Rights and Democracy, which are discussed in the next section.

### **PART III: KEY ISSUES RAISED DURING COMMITTEE MEETINGS**

#### **Accountability and Transparency**

Several witnesses charged that one of the main issues affecting Rights and Democracy involves deficiencies with respect to accountability. During Committee hearings, however, there were differing accounts as to the exact nature of the accountability problems that have arisen at the Rights and Democracy.

Certain witnesses, including in particular former board member Payam Akhavan, argued that there have indeed been problems with accountability and transparency at the Centre which can be attributed to the activities of the Board and interim president Jacques Gauthier. Mr. Gauthier had authorized several contracts to hire external firms during his short tenure, which included two law firms, a communications firm, an accounting firm, and a private investigation firm.<sup>25</sup> Some committee members questioned the rationale behind these contracts, the tendering process involved in awarding contracts to the specific firms, results of the firms' work, and their costs. Mr. Gauthier offered few details about these contracts in his testimony. In his appearance before the Committee, Mr. Latulippe, the new president, provided approximations of the costs of key contracts that were awarded to external firms during the tenure of the interim President. He subsequently clarified these contracts and amounts in a letter dated May 27, 2010 to the Committee:

- \$37,392.80 to Ogilvy Renault (a law firm) until March 31, 2010;
- \$230,743.55 to Borden Ladner Gervais (a law firm) until March 31, 2010;
- \$6,781.61 to Woods LLP (a law firm) until March 31, 2010;
- \$14,463.76 to Prima Communications until April 5, 2010;
- \$91,983.72 to SIRCO (a private investigation firm) until March 31, 2010; and,
- \$120,658.55 to Deloitte and Touche (an accounting firm) until April 1, 2010.<sup>26</sup>

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25 *Evidence*, Meeting No. 7, March 30, 2010 and Meeting No. 9, April 13, 2010.

26 *Evidence*, Meeting No 10, April 15, 2010.

In this letter to the Committee, Mr. Latulippe stated that he did not have copies of the contracts with Ogilvy Renault and Woods LLP. He added that SIRCO's investigation has not been completed, and that as the SIRCO report will be used as part of a legal proceeding, it would be "highly prejudicial" to the Centre if it were to provide the retainer letter undertaken with SIRCO to the Committee prior to the conclusion of the litigation. The final work product from Deloitte and Touche—the forensic audit—"will be finalized sometime in the month of June at which point it will be provided to the Committee."<sup>27</sup>

As described in a previous section of this report, Rights and Democracy is governed in accordance with its Act and its established by-laws. These by-laws, as adopted in June 2008, were amended by the Board during its March 26, 2010 meeting.<sup>28</sup> In relation to the contracts listed above, one notable change was included. The 2008 version of the by-laws states that contracts for non-repetitive activities with budgets exceeding \$10,000 must trigger a call for tender. At least three tenders must be sought and there is an "obligation to justify the choice taking into account the price, the services offered and their quality."

The by-laws as adopted in March 2010, however, include a new clause, which states: "This section regarding calls for tender does not apply in cases of appointment or engagement of employees, agents, consultants and advisors by the President of Rights and Democracy, as provided for in section 26."<sup>29</sup> In other words, from now on, should the President hire an individual or a firm for more than \$10,000, that contract is not subject to a call for tender.

It is unclear why this amendment was adopted on March 26, 2010 and whether the aforementioned contracts were granted with the approval of the Board. It is also unclear if the intention of the Board was to apply this stipulation retroactively to include the contracts let between January 22, 2010 and the adoption of the new by-laws on March 26, 2010. If not, any contracts that were agreed to in this period would presumably be subject to the previous by-laws that oblige the President to issue a call for tender for any contracts exceeding \$10,000 in value. However, in his appearance before the Committee, Mr. Gauthier confirmed that the contracts were not tendered to other firms.<sup>30</sup>

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27 Letter from Gérard Latulippe, President of Rights and Democracy, to the Clerk of the Committee, May 27, 2010. "Re: Documents requested by Standing Committee on Foreign Affairs and International Development regarding Rights and Democracy."

28 International Centre for Human Rights and Democratic Development, *By-Law No. 1*, as amended by the Board of Directors at its meeting of March 26, 2010; and, International Centre for Human Rights and Democratic Development, *By-Law No. 1*, as amended by the Board of Directors at its meeting of June 26, 2008.

29 International Centre for Human Rights and Democratic Development, *By-Law No. 1*, as amended by the Board of Directors at its meeting of March 26, 2010.

30 *Evidence*, Meeting No. 8, April 1, 2010.

Payam Akhavan argued that the Board amended the by-law “to retroactively justify awarding these lucrative contracts without tender.”<sup>31</sup>

Mr. Akhavan also told the committee that there was a problematic case involving a sitting member of the Board. He suggested that a short-term contract had been granted to Marco Navarro-Genie, a member of the Board and assistant professor at St. Mary’s University College, to conduct work for Rights and Democracy on behalf of the interim President while Mr. Navarro-Genie also continued to serve as a board member.<sup>32</sup> Incoming president Gérard Latulippe responded to this claim as follows: “...first, there was no contract with Mr. Navarro-Genie. Second, I understand it’s the practice that on these boards you can have an advisor who is a member of the Board. ... He was hired and paid with the tariff that is applicable to the Board members, \$325 a day, and he received \$2,925.”<sup>33</sup> In response to a request for further details regarding the nature of the actual work performed by Mr. Navarro-Genie for the Centre, Mr. Latulippe responded in his follow-up letter of May 27, 2010 to the Committee that he did not have the details of his assignment.<sup>34</sup>

In contrast to the issues raised above, a different understanding of accountability problems at Rights and Democracy was put forward by the current chairman of the Board, Aurel Braun, and other board members. Mr. Braun implied that the Board’s desire to improve accountability was behind a considerable degree of the tensions between the Board and staff members. He stated that, “The organization has spent ... about \$3.5 million in subsidies. We don’t know where all of this money has gone. We do know that far too much of it has gone to terrorist front organizations that pretend to be human rights organizations...”<sup>35</sup> Jacques Gauthier similarly told the Committee that tensions between the Board and the staff were the result of the Board trying to enforce accountability on program and funding decisions. He stated that “the difficulties with the staff began when... questions were raised by members of the finance committee, me, and the chair of the Board...” Mr. Gauthier was referring to questions that had, for example, been asked about the severance payment provided to an ex-employee and the purpose and results of discretionary funding provided to the Office of the High Commissioner for Human Rights in Geneva. He also argued that it had been difficult for Board members to ascertain the exact costs of the former Rights and Democracy office in Geneva, which “was completely controlled by salaried members” instead of by the Board.<sup>36</sup>

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31 *Evidence*, Meeting No. 9, April 13, 2010.

32 *Ibid.*

33 *Evidence*, Meeting No. 10, April 15, 2010.

34 Letter from Gérard Latulippe, President of Rights and Democracy, to the Clerk of the Committee, May 27, 2010. “Re: Documents requested by Standing Committee on Foreign Affairs and International Development regarding Rights and Democracy.”

35 *Evidence*, Meeting No. 8, April 1, 2010.

36 *Ibid.*

Another board member, Brad Farquhar told the Committee that he had come to the overall conclusion that the organizational culture at Rights and Democracy “is not predisposed to openness and accountability, even to members of the Board.” He stated that he has “observed board members trying to do their jobs by asking questions about projects and results and being consistently met with non-answers, with bobbing and weaving, with disdainful contempt, and with delay tactics.”<sup>37</sup> Mr. Gauthier pegged the “dysfunction” at Rights and Democracy to these same problems, which he hoped would be fully identified through the work of an external accounting firm—Deloitte and Touche—that was hired during his interim presidency.<sup>38</sup>

This depiction of accountability problems was disputed by former and current staff as well as Payam Akhavan, who pointed out that the most recent five-year review of Rights and Democracy conducted by the Department of Foreign Affairs, as well as the financial audit by the Office of the Auditor General that it contained, were both positive.<sup>39</sup> Mr. Longangué, a senior advisor at the Rights and Democracy and president of the Union of Employees of Rights and Democracy, and Mr. Akhavan, referred to this 2003-2008 review, which Mr. Akhavan quoted to note that it included a positive overall assessment of the Centre and had “‘confirmed the effectiveness and relevance’ of the organization’s activities in the field.” Mr. Akhavan said that, “The Auditor General’s June 9, 2009 report was also positive.”<sup>40</sup>

Some other statements included in this review, which was referenced by several witnesses:

- “R&D’s programming has evolved and its quality has improved over the 2003-2008 period while remaining aligned with the primary mission of R&D as stated in the original *Act*.”
- “Without straying from its non-partisan approach, R&D’s programming has made a positive contribution to Canada’s role in the area of human rights and democratic development on the international stage.”
- “R&D’s programming is managed according to accountability principles and best management practices for the sector. R&D is becoming increasingly focused on the principles of results-based management.”
- “Despite increased budgets over the past five years, the percentage of administrative costs in relation to the program budget has varied little and remains within the standards for this type of organization. The current

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37 Ibid.

38 Ibid.

39 *Evidence*, Meeting No. 7, March 30, 2010 and Meeting No. 9, April 13, 2010.

40 *Evidence*, Meeting No. 9, April 13, 2010.

financial system allows for sound financial monitoring of program budgets and broader thematic areas, but not of the specific activities and projects within them.”<sup>41</sup>

These witnesses questioned how the organization could be labelled as unaccountable, given the results of these external reviews. Referring to the latter, they challenged the basis of claims made by certain board members that Rights and Democracy lacked accountability standards. The disputed Geneva office, according to staff, had also received a positive external review.<sup>42</sup>

Former employee Marie-France Cloutier, who had worked at Rights and Democracy since its creation nearly twenty years ago, stated that, “all the financial transactions were made in accordance with established standards, in an entirely legal manner, and in accordance with an open and transparent process.”<sup>43</sup> Former staff members also stated that information requested by the Board was provided in a timely and transparent manner. Mr. Panossian went so far as to describe an atmosphere of paranoia that had characterized staff interactions with the Board, where the Board appeared to be “convinced a priori” that staff were “hiding something”.<sup>44</sup> Ms. Cloutier added that, partly as a result of the increased need to provide information to board members, “the budget allocated for the operation of the Board of directors will be exceeded by 140%.”<sup>45</sup>

In seeking to move the Rights and Democracy forward, Mr. Latulippe stressed the need for transparency and communication on the part of both the staff and the Board.

Overall, the Committee is troubled by the expenses incurred between January 29, 2010 and April 5, 2010 in the management of the crisis. The Committee has not yet received details on spending after that date.

## **Governance**

Another theme that arose during the Committee meetings pertains to the governance of Rights and Democracy. Testimony received by the Committee points to tensions within the Board itself, between the Board and the late president and between the Board of Directors and the staff. Each of these dynamics will be dealt with in turn below.

The first issue that was raised pertained to questions about control over Rights and Democracy, both at high-level and in operational terms. Current board members who appeared before the Committee stressed that they are responsible for the overall policy

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41 Foreign Affairs and International Trade Canada, Five-Year Review of Rights and Democracy (Programs and Activities), August 2008.

42 *Evidence*, Meeting No. 7, March 30, 2010 and Meeting No. 9, April 13, 2010.

43 *Evidence*, Meeting No. 7, March 30, 2010.

44 *Ibid.*

45 *Ibid.*

direction of the Centre, which is then implemented by the president and the staff under the President's authority.<sup>46</sup> In other words, staff should follow the direction set by the Board and respect board oversight of Rights and Democracy's operations.

These witnesses highlighted examples of actions to the contrary, including the fact that the Board was unaware until shortly before their appearance before the Committee that a new and long-awaited collective agreement had been signed by the staff some two months previously. Brad Farquhar put it to the Committee that: "The collective agreement with a union is one of the most material contracts to an organization, and it is incomprehensible to me that the entire agreement was put together without board knowledge or consent, and that it remained hidden from view for over two months."<sup>47</sup> Chairman Aurel Braun went so far as to suggest that "the purpose of the rushed collective agreement in January 2010 was to give unionized staff taxpayer money in exchange for the union's backing for the senior staff campaign to obscure that senior staff's long history of dogmatism and rejection of accountability."<sup>48</sup> This claim was firmly denied by other witnesses.<sup>49</sup> The Committee believes that while it would be normal for a board not to be involved in the details of the negotiation of a collective agreement, from a point of view of corporate governance, it would be normal for the Board to be advised in a timely manner that an agreement had been reached.

Board members also reminded Committee members of the letter that was written by the majority of the staff to the Board following Mr. Beauregard's death, and copied to the Prime Minister and the Minister of Foreign Affairs, demanding the resignation of three board members—Aurel Braun, Jacques Gauthier and Elliot Tepper. Mr. Farquhar summed up his frustration with staff relations in declaring that:

What I have observed at Rights and Democracy is a clear belief among staff that the organization's quasi-autonomy from the government of the day should translate into independence from the oversight of their own board. When board members' questions are met with non-information, physical blockades, and leaks to the media, it sets off alarm bells that prompt the board to ask more questions to get to the truth of the matter. When this is construed as harassment, as government interference, or as the implementation of some kind of partisan vendetta, it is an outrageous attempt to politicize something that does not deserve the label.<sup>50</sup>

Mr. Matas agreed that many of the issues that were the subject of discussion during the Committee hearings are symptomatic of a larger dispute over whether the board or the staff controlled the direction of Rights and Democracy. These witnesses indicated that they

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46 *Evidence*, Meeting No. 8, April 1, 2010.

47 *Ibid.*

48 *Ibid.*

49 *Evidence*, Meeting No. 7, March 30, 2010 and Meeting No. 9, April 13, 2010.

50 *Evidence*, Meeting No. 8, April 1, 2010.

have and will continue to focus their energies on reasserting this control and staff respect for board oversight.<sup>51</sup>

The recently dismissed senior staff and the union representatives from Rights and Democracy characterized the problem as being one of board interference in the running of the organization. In other words, rather than providing high-level policy direction, board members were involving themselves in the day-to-day operations of the Centre and questioning staff directly about their activities and decisions.<sup>52</sup> On this issue, one former president, Ed Broadbent, told the Committee that staff members are responsible to the President of the Centre, as its “CEO”, and as such, “neither the chair nor any other member of the board has a right to impinge or encroach upon the president’s authority to deal directly with the staff.”<sup>53</sup> Similarly, former President the Honourable Warren Allmand stated that, “It is not the role of the board to micromanage the centre.”<sup>54</sup>

Dismissed staff expressed concern over the role they argue the Chairman of the Board has played in igniting tensions between the Board and the staff, given that his is a position which they feel should lean more towards mediation and a conciliatory approach. In discussing what he considered as an aggressive and critical stance adopted by the certain members of the Board towards the staff and the President, Charles Vallerand stated:

I think the first mandate of the chair of the board is to try to reconcile the various points of view, to find ground for agreement and, in an agency such as ours, to establish consensus. It is not to lead the charge, to arrive at the first meeting and attack and hammer in the nail until it hurts.<sup>55</sup>

Internal communications and dispute resolution mechanisms appear to have deteriorated significantly if not completely broken down during Mr. Gauthier’s tenure as interim President, according to Maxime Longangué. He told the Committee that, “during the whole period of the term of Mr. Gauthier there was no communication at all between the board, the interim President, and the staff—no communication at all.”<sup>56</sup> Moreover, a programme officer at Rights and Democracy and vice-president of the Union of Employees, Micheline Lévesque, told committee members that during this same period staff feared “reprisals” for speaking out in public about the situation.<sup>57</sup> She described the atmosphere at Rights and Democracy as “witch-hunting”.

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51 Ibid.

52 *Evidence*, Meeting No. 7, March 30, 2010.

53 *Evidence*, Meeting No. 9, April 13, 2010.

54 Ibid.

55 *Evidence*, Meeting No. 7, March 30, 2010.

56 Ibid.

57 Ibid.

In response to the arguments put forward by members of the Board that staff did not respect the role of the Board, one of the former employees, Razmik Panossian, argued that the staff letter demanding the resignation of certain members “was not a rebellion against board authority or a rejection of the government’s right to appoint board members. Everyone at Rights & Democracy is cognizant of the fact that it is a public institution, accountable to Parliament and to Canadians through its board of directors. Never once did we reject this principle.”<sup>58</sup> Rather, they had “lost confidence in the ability and good faith of three men who were in breach of section 24 of our constitutive act...”<sup>59</sup> Section 24 of the *Act* states that in exercising their powers and performing their duties, every Board member must,

- a) act honestly and in good faith with a view to the best interests of the Centre;
- b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
- c) comply with this Act and the by-laws of the Centre.

Mr. Akhavan supported this point of view. He told the Committee that during his time on the Board, “the staff never told us how to run the organization.” He went on to argue that the problem did not begin as one between staff and the Board, but that it began with disagreements and tensions within the Board itself. He argued that what unfolded resulted from “a minority of a board trying to dominate and eliminate the majority. That was the real problem, which then spilled over into relations with the staff.”<sup>60</sup> The Committee was never told why the term of former board member, Guido Riveros Franck, was not renewed. It is also unclear why Ms. Donica Pottie, an official with the Department of Foreign Affairs and International Trade and the government representative on the Board resigned “suddenly”, in the words of Mr. Akhavan, “just seven months into her three-year term.”<sup>61</sup> What is undisputed is that Mr. Akhavan and Sima Samar, did resign their positions. According to Mr. Akhavan, he and Ms. Samar, who did not appear before the Committee, “decided to walk out in protest.”<sup>62</sup>

Finally, the roles and responsibilities of the president and the Board were discussed by most witnesses. There were clearly disagreements, including within the Board, over the scope of President’s purview. Examples of differences of opinion pertained to: the President’s authority to approve programming under the Urgent Action Fund; the role of the Board in approving programming decisions; the Chairman’s asserted right to veto certain funding decisions; the level of funding that should trigger Board oversight in

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58 Ibid.

59 Ibid.

60 *Evidence*, Meeting No. 9, April 13, 2010.

61 Ibid.

62 Ibid.

decision-making; the Board and Chairman's roles in the approval of the Centre's annual reports; and, the process involved in the Board's consideration of the five-year strategic plan.

Several witnesses identified the performance appraisal of the late President Rémy Beauregard as being a key issue. This included a debate over the process through which the performance review was conducted. As noted previously, there is a Board Committee responsible for evaluating the performance of the Centre's President. The three members of this Committee were Mr. Braun, Mr. Tepper and Mr. Gauthier. According to information provided by witnesses, the Committee met with Mr. Beauregard to discuss his evaluation in March 2009. No criticisms were reportedly brought forward in the course of this meeting, and general support was offered when the President's performance was next discussed with the wider Board. According to Payam Akhavan, "the board majority was highly satisfied with Mr. Beauregard's performance, but the chair instructed the secretary not to record this in the minutes."<sup>63</sup>

Subsequently, what appears to have been a largely negative performance review was submitted by the Chairman to the Privy Council Office (PCO) in May 2009. Mr. Beauregard was not shown a copy of this report or permitted to discuss its contents with the performance review committee prior to its transmission to the PCO. Marie-France Cloutier, who had acted as secretary of the Board in her capacity as director of administration and resources, told the Committee that, "I've been employed by Rights and Democracy for 20 years, and all the presidents have been evaluated by the board of directors and have always seen their performance evaluations. This is normal practice in human resources management."<sup>64</sup> Former presidents Ed Broadbent and Warren Allmand confirmed that they had been shown their performance evaluations while occupying the position.<sup>65</sup> Ms. Cloutier acknowledged that Rights and Democracy's by-laws require that the performance review of the President be submitted to the PCO, but she contended that the by-laws do not "state that it must be done without showing it to the main person concerned."<sup>66</sup>

Mr. Beauregard obtained a copy of this evaluation through an Access to Information request. In response to questions from Committee members as to why it was necessary for Mr. Beauregard to take this step, David Matas told the Committee that the Board was not empowered to withdraw the performance review from the PCO once submitted, in accordance with their by-laws.<sup>67</sup> Mr. Braun and Mr. Gauthier provided very little commentary or clarification to the Committee on this issue. In their appearance before the Committee with other Board members, it was Mr. Matas who took the lead explaining the

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63 *Evidence*, Meeting No. 9, April 13, 2010.

64 *Evidence*, Meeting No. 7, March 30, 2010.

65 *Evidence*, Meeting No. 9, April 13, 2010.

66 *Evidence*, Meeting No. 7, March 30, 2010.

67 *Evidence*, Meeting No. 8, April 1, 2010.

executive performance review process, which began in March 2009, even though he was appointed to the Board in November 2009.

On the question of why Mr. Beauregard was not made aware of or permitted to discuss his review before its transmission to the PCO, Mr. Braun told the Committee that “Mr. Beauregard was given every opportunity to meet with the [performance review] committee before, but refused, and to meet with the committee afterwards, but refused.”<sup>68</sup> Suzanne Trépanier, the widow of the late President, challenged this testimony. She provided the Committee with her accounting of the number of dates for which each of the relevant players had indicated their availability to the secretary of the performance review committee from July 20<sup>th</sup> to October 10<sup>th</sup> 2009: “Rémy 44, Aurel Braun 17, Jacques Gauthier 12, Jean Guilbeault 50, Donica Pottie 9.5 and Elliot Tepper 0.5.” She stated: “I’m sure you’ll agree that saying Rémy went to great lengths to avoid the meeting is quite simply untrue.”<sup>69</sup> Marie-France Cloutier also told the Committee that she had “personally tried to convene the evaluation committee at the board’s request from August until October, and none of the dates that we suggested suited Mr. Braun or Mr. Gauthier.”<sup>70</sup>

The content of the final version of performance review, as submitted to the Privy Council Office was also criticized by several witnesses. According to Mr. Akhavan, the evaluation included “baseless accusations, half-truths, and distortions that disregarded or minimized his successful leadership.”<sup>71</sup> He described it as “character assassination.” Madame Trépanier had a similar impression of the evaluation.<sup>72</sup>

Three grants to NGOs based in the Middle East, which will be discussed later in this report, were reportedly mentioned in the evaluation. According to Mr. Matas, however, the reference to these three grants only took up “a half-page... in the 16-page review.”<sup>73</sup> Mr. Beauregard’s participation in a conference in Cairo was also apparently highlighted. According to some of the witnesses, Mr. Beauregard was accused by certain board members of having met with representatives of Hamas and Hezbollah as part of this conference. In discussing the Centre’s general accountability issues, Mr. Braun told the Committee that, “Thousands of dollars have gone to a Cairo conference organized with the inclusion of Hezbollah, an organization deemed terrorist under the laws of Canada and other democracies.”<sup>74</sup> Madame Trépanier also referred to this allegation, but argued that, “Categorizing Rémy’s speech for an audience of over 150 people, including government

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68 *Evidence*, Meeting No. 8, April 1, 2010.

69 *Evidence*, Meeting No. 9, April 13, 2010.

70 *Evidence*, Meeting No. 7, March 30, 2010.

71 *Evidence*, Meeting No. 9, April 13, 2010.

72 *Ibid.*

73 *Evidence*, Meeting No. 8, April 1, 2010.

74 *Ibid.*

delegations, as a meeting with terrorists is absurd.”<sup>75</sup> Mr. Akhavan described how Mr. Gauthier had questioned the legality of those meetings, referring in the June board meeting to section 83.18 of the Criminal Code of Canada, which “provides that contributing directly or indirectly to the activity of a terrorist group is punishable by ten years of imprisonment.”<sup>76</sup> Mr. Beauregard had categorically refuted these accusations. Referring to all of these events, Mr. Akhavan stated: “So without a shred of evidence—without a shred of evidence—a distinguished bureaucrat with a spotless record was accused of being a criminal.”<sup>77</sup>

Mr. Beauregard was by all accounts upset over the review’s content and disagreed with it on several points. He continued to press for amendments to be made to what he felt were the inaccurate portions up until the convening of the full board in January 2010.<sup>78</sup> Moreover, according to Mr. Akhavan, the majority of board members had considered “repudiating” the performance review at their meeting of June 18, 2009. He stated that a compromise had been reached whereby the review committee had agreed to amend the report. However, Mr. Akhavan told the Committee that the Board’s “trust was betrayed. There was no intention to honour this agreement.”<sup>79</sup> Several witnesses noted that a board meeting initially scheduled for October 19, 2009 was cancelled with relatively little notice. The matter was thus not dealt with again until the meetings of January 6 and 7, 2010. To date, the performance review in question has not been altered in any way from that which was received by the PCO in May 2009.

David Matas portrayed the questions that have been raised concerning the performance review as being indicative of larger issues of disagreement over the governance of the Centre. He told the Committee:

From the paper record he left behind, I can see that Beauregard’s concerns were not just the content of the performance review but also its scope. He considered the performance review as commenting on matters that were in his view none of the business of the performance review committee. An over-expanded scope for the presidential performance review committee meant that for the President to obtain a positive performance review, he would have had to conform to the views of the committee on matters that in his opinion were not properly within their jurisdiction but were rather part of the president’s reserve domain. ... The dispute about performance review was embedded in the larger dispute itself about accountability, about whether the staff or the board decided the course of the organization.<sup>80</sup>

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75 *Evidence*, Meeting No. 9, April 13, 2010.

76 *Ibid.*

77 *Ibid.*

78 *Ibid.*

79 *Ibid.*

80 *Evidence*, Meeting No. 8, April 1, 2010.

## Mandate

Several witnesses discussed the mandate, purpose and future direction of Rights and Democracy. They also debated the Centre's degree of independence from the government of the day.

Micheline Lévesque stated that the unique nature of Rights and Democracy is based on three characteristics: it was created by an Act of Parliament; its mandate is directly linked to the International Bill of Human Rights rather than Canada's foreign policy; and, the organization has a two-fold mission to work on both human rights and democratic development.<sup>81</sup>

In terms of the Rights and Democracy's independence from government, in a letter to the Committee, the Right Honourable Joe Clark, who was the Secretary of State for External Affairs when Rights and Democracy was created, described the parliamentary process behind its establishment in the late 1980s.<sup>82</sup> He explained that the organization was created through all-party collaboration, with the intention of it being arms-length from government and having an independent mandate. The provision of public funding to support the Centre, however, necessitated "certain controls." Mr. Clark wrote that, "Independence was the primary concern; the controls were to be as limited as possible in an organization financed by public funds." He also specified that "there was no provision for policy direction from the Minister." Rights and Democracy was given multi-year funding, and appointments would follow consultation with all party leaders. According to Mr. Clark, there were "compelling reasons behind this structure":

It was understood that the credibility of this new institution—its capacity to be taken seriously—depended upon its independence. Its inherent value was that it would not be another ordinary instrument of the government of Canada, not a branch office of the Foreign Ministry, or of CIDA, or of the Prime Minister's or Privy Council Office, or indeed of Parliament.<sup>83</sup>

Ed Broadbent and Warren Allmand also underscored the importance of Right and Democracy's independence from government. Mr. Broadbent stated that in previous years, individuals without partisan agendas and with an understanding of the independence of Rights and Democracy had been appointed to the Board and as presidents. It was clear that the Centre could, at times, "be in open disagreement with [the government] on international human rights issues."<sup>84</sup> Mr. Allmand characterized the appointment by a Conservative government of the former leader of the

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81 *Evidence*, Meeting No. 7, March 30, 2010.

82 Letter from the Right Honourable Joe Clark to the Clerk of the Standing Committee on Foreign Affairs and International Development, dated April 13, 2010.

83 Letter from the Right Honourable Joe Clark to the Clerk of the Standing Committee on Foreign Affairs and International Development, dated April 13, 2010.

84 *Evidence*, Meeting No. 9, April 13, 2010.

NDP—Mr. Broadbent—as the Centre’s first President as having set “an example for this principle of independence.”<sup>85</sup>

Current board members disagreed with elements of the above characterization of Rights and Democracy. Instead, they stressed that Rights and Democracy is a “shared governance organization.” For example, Aurel Braun stated that the Centre is “not an independent organization”.<sup>86</sup> Rather, it has “an area of autonomy—but [is] not an NGO.”<sup>87</sup> Mr. Matas offered a similar assessment, describing the incongruent nature of Rights and Democracy’s existing structure as follows:

...we have an organization that is fully government funded, has its civil service salaries, purpose, unionization, but that thinks of itself in many ways as an NGO and wants to function as an NGO in terms of policy and direction. And there’s a mismatch.<sup>88</sup>

The new President of Rights and Democracy, Mr. Latulippe, also stated that the Centre “enjoys considerable independence from the federal government,” and can operate in the countries that it chooses.<sup>89</sup> Nevertheless, it is not a non-governmental organization (NGO). As it receives public funding, he stated that the Centre is accountable to the government and Parliament. Rights and Democracy does have room for manoeuvre owing to its autonomy. However, Mr. Latulippe also commented that: “Program activities and funding of the centre must not come into contradiction with Canadian foreign policy, no matter which party is in power. Foreign policy is the prerogative of the Minister of Foreign Affairs and the Prime Minister...” Referring to his new role, Mr. Latulippe told the Committee that he was “not here to interpret or discuss Canadian foreign policy.”<sup>90</sup>

On the question of Right and Democracy’s mandate, former presidents Broadbent and Allmand emphasized the explicit reference to the International Bill of Human Rights. Mr. Broadbent thus stressed that “the agenda for the centre is not to promote our particular form of parliamentary democracy or our Charter of Human Rights and Freedoms.”<sup>91</sup> Mr. Allmand similarly argued that the Centre’s “governing imperative is not the foreign policy of Canada, it is not the foreign policy of the United States, and it certainly is not the foreign policy of Israel.”<sup>92</sup> Both agreed with Mr. Clark in arguing that the independence of the Centre’s mandate is the key element in its reputation and in the ability of the Centre to conduct its work in a credible manner internationally. They suggested, however, that this independence has been compromised by recent events. Mr. Broadbent argued that there

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85     Ibid.

86     *Evidence*, Meeting No. 8, April 1, 2010.

87     Ibid.

88     Ibid.

89     *Evidence*, Meeting No. 10, April 15, 2010.

90     Ibid.

91     *Evidence*, Meeting No. 9, April 13, 2010.

92     Ibid.

has been indirect or “subtle” political interference in the operation of Rights and Democracy as a result of the recent appointments to the Board. He argued that this interference was accomplished through the government’s appointment of “people who you know in advance are going to pursue [a particular] agenda.”<sup>93</sup>

Board members all refuted these allegations of political interference. Mr. Gauthier stated that “the suggestion that we have been given instructions to alter the course of the direction of Rights and Democracy is not truthful.”<sup>94</sup> He argued that what the Board has tried to do is to strengthen the accountability and transparency of the Centre’s operations and funding decisions.<sup>95</sup> Incoming President Gérard Latulippe similarly stated that, “I am not here to change an organization in an ideological way. Nobody from the government, nobody from the board, has even asked me anything in terms of changing this organization ideologically.”<sup>96</sup>

David Matas suggested there are deeper issues to consider. He argued that there are contradictions in Right and Democracy’s current mandate, stating that “the political objective of appearance of non-interference [in the funding of NGOs operating in other countries] is no longer attainable through a structure like Rights and Democracy.”<sup>97</sup> Mr. Matas pointed out that Rights and Democracy now devises its own programs and finds NGOs to deliver them, rather than funding programs being created and run by NGOs based in developing countries, which he suggests was the original intention behind the organization. He concluded his remarks by questioning the need for Rights and Democracy’s continuation as an organization given the other existing mechanisms that could deliver similar programs.<sup>98</sup>

The Committee’s support for the continuation of the mandate of Rights and Democracy, as established by Parliament more than twenty years ago, and the independence of the Centre’s operations from the government of the day will be detailed in the next part of this report.

### **Operational Decisions**

Finally, the Committee was made aware of tensions at Rights and Democracy which emanated from disagreements over operational decisions. The most notable of these was over different points of view regarding the proposed funding of three organizations based in the Middle East—Al Haq, B’Tselem and Al Mezan. The Chairman of the Board was notified of this funding, which was provided through the Urgent Action

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93      Ibid.

94      *Evidence*, Meeting No. 8, April 1, 2010.

95      Ibid.

96      *Evidence*, Meeting No. 10, April 15, 2010.

97      “Unravelling,” written brief sent to the Committee by Mr. David Matas.

98      Ibid.

Fund under the authority of the President, in March 2009. The Board eventually voted to repudiate the grants at its meeting in January 2010, with Rémy Beauregard joining in this consensus.

The activities of these three organizations are beyond the scope of this report and will not be addressed in detail here. What will be discussed are the differing accounts that were given to the Committee regarding the degree of concern that the Board had with respect to these grants and what they represented in the larger picture. Aurel Braun told the Committee that the Board was “troubled” by a pattern of “partisanship” in the grants. As noted previously, he stated: “That was the default setting, and it was very often delegitimizing and dehumanizing a fellow democracy, as if this were non-partisan.”<sup>99</sup> Mr. Matas described the problem with the grants as being one of the Board seeking to ensure balance and fairness in the Centre’s programming. He told the Committee:

... we don’t have a Middle East program at Rights and Democracy. If we had a fully fledged Middle East program with balance on both sides, maybe B’Tselem would be somewhere in that mix, but to take three organizations all doing the same thing on the same side ... It’s out of context, it’s not helpful, and it just didn’t work in the context of the organization.<sup>100</sup>

In contrast to this testimony, former employee Razmik Panossian suggested that the Board used the grants as an ongoing excuse to undermine the authority of the President and the staff. He told the Committee that he had indicated to the Board Chairman that the grants were of a one-off nature and would not be repeated. Mr. Panossian went on to state that:

The story should have ended there. That would have been the reasonable thing to do. But these grants were used as an excuse throughout the year to undermine Mr. Beauregard, and indeed to undermine Rights and Democracy throughout 2009. Note that \$30,000, the total amount of these grants, constituted 0.27% of Rights and Democracy’s \$11 million annual budget. You can guess how many hundreds of board and staff hours have gone into dealing with Mr. Braun’s hang-up on these grants, up to their final repudiation by the board in January 2010.<sup>101</sup>

Another debate appears to have taken place over the participation of Rights and Democracy in a conference - the UN-sponsored 2009 Durban Review Conference (Durban II), held to evaluate progress toward the goals set by the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban I). Marie-France Cloutier told the Committee that President Rémy Beauregard had clearly informed the Board that Rights and Democracy would not be participating in any form in the Durban II process.<sup>102</sup> However, according to Cloutier, Board Chairman Aurel Braun

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99 *Evidence*, Meeting No. 8, March 30, 2010.

100 *Ibid.*

101 *Evidence*, Meeting No. 7, April 1, 2010.

102 *Ibid.*

then actively pressured her to change the official minutes of this meeting which indicated Beauregard's decision on the matter. Ms. Cloutier stated that Mr. Braun "wanted [her] to change that to say it was the board that had decided that. But the decision had been taken prior to the board meeting, so I told him so."<sup>103</sup> Some witnesses cited the latter example as being indicative of the Board's interference with the day-to-day operation of the Centre, as discussed in the previous section.

#### **PART IV: THE WAY FORWARD**

G rard Latulippe acknowledged to the Committee that he is assuming the helm of an organization in crisis, saying that he has accepted the position of president "at a time when the organization is going through a major governance problem."<sup>104</sup> He also assessed that the "management of resources and labour relations" have been "central to the dispute." With that in mind, Latulippe conceded that he must address this situation immediately and directly, working to ensure that "coherence" is restored to the organization. He added that: "We can very well wonder how long taxpayers will agree to pay for an organization that is tearing itself apart in public, here in Canada, whereas it should be focusing its efforts on promoting democratic values around the world."<sup>105</sup>

In explaining his vision for moving Rights and Democracy forward, Mr. Latulippe emphasized that a five-year strategic plan is in place for 2010-2015 which was developed by the staff and agreed to by the Board. He characterized the plan as "ambitious," and articulated his desire to broaden its sources of funding, to balance further the programming emphasis between human rights and democratic development initiatives, and to focus on results. He told the Committee that, "going forward, all decisions on programs, activities, and funding must be based on measurable results reflecting best practices for improving democratic principles of human rights in respective countries."<sup>106</sup>

Mr. Latulippe closed his remarks with an optimistic assessment of Rights and Democracy's future. With sufficient time, he is hopeful that the organization "will be able to close the gap and to bring closer the board and the staff... toward specifically the realization of our strategic plan." Mr. Latulippe argued that common ground upon which the Centre can move forward does exist, given that the five-year plan demonstrates that both staff and the board appear to "agree on the substance."<sup>107</sup> However, cooperation, compromise and reconciliation, from all sides, will be critical. The five-year plan cannot be achieved without this approach and without improvements in the working atmosphere at Rights and Democracy. The Committee agrees that to the greatest extent possible the managers, President and Board of Rights and Democracy must employ internal conflict

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103 Ibid.

104 *Evidence*, Meeting No. 10, April 15, 2010.

105 Ibid.

106 Ibid.

107 Ibid.

resolution mechanisms and cooperative approaches to ensure the effective operation of the Centre and to prevent concerns and differences of opinion from expanding into more deep-seated problems.

This Committee has had a long-standing relationship with Rights and Democracy, an organization which was created by Parliament to work in an area under the Committee's mandate. Rights and Democracy reports to Parliament through the Minister and receives funding through a parliamentary appropriation. The Committee recognizes that there have been some challenges at Rights and Democracy in its twenty years of operation, but the Committee also accepts that those have generally been rectified over the years through the process of the Centre's response to the recommendations and commentary provided to it through external reviews.

The Committee also strongly believes that there remains a vital role for Rights and Democracy in the promotion and protection of international human rights and the strengthening of democratic systems around the world. On the latter point, this Committee affirmed the importance of Canadian support for international democratic development, delivered through a variety of mechanisms, in its 2007 report on that subject.<sup>108</sup> Rights and Democracy is the only Canadian organization that has a specific mandate to deal with both of these areas, while at the same time being arms-length from government and independent in its operations. Considering the events that have been witnessed in recent years in countries where Rights and Democracy has been active—whether it is Zimbabwe, Burma, Haiti, the Democratic Republic of Congo, Afghanistan, or the Sudan—the rationale for having such an organization has never been stronger.

Through its statute, Rights and Democracy was given the objective of narrowing the gap between what states commit to internationally with respect to human rights and democratic principles and what they implement in reality. Granted, this is a daunting task. And some twenty years later, that gap persists in many states. Others that have recently emerged from conflict or from a democratic transition require assistance to keep momentum moving forward. It is clear that local communities and civil society organizations working on the ground in many countries need the support that Rights and Democracy can offer. The imperative of this task reinforces the need for Rights and Democracy to ensure that the principles of aid effectiveness, program efficiency, and results-based management are incorporated in all of their work. Based on this analysis, the Committee's overarching recommendation on the future of Rights and Democracy is the following:

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108 Standing Committee on Foreign Affairs and International Development, *Advancing Canada's Role in International Support for Democratic Development*, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, July 2007.

#### **Recommendation 1:**

**The Government of Canada should publicly recommit to the independence and continuing role of Rights and Democracy in providing critical support for human rights and democratic development around the world.**

The Committee's other recommendations are intended to reinforce this important organization and to rectify some of the problems that it believes contributed to the current crisis.

#### **Immediate Remedies**

Beyond the political commitment called for above, some witnesses argued that other steps are needed to address the crisis that has beset Rights and Democracy. These witnesses argued that more immediate action is required to deal with the governance and accountability problems that have been discussed in this report.

#### **Recommendation 2:**

**The Committee recommends that the Government of Canada provide Rights and Democracy with consolidated funding for the next five years at the level of the current annual appropriation for each of the five years. At the end of this five-year period, the government should review whether the provision of further multi-year and consolidated funding for Rights and Democracy is appropriate.**

#### **Recommendation 3:**

**The Committee recommends that the Government of Canada strongly encourage The Board of Directors of Rights and Democracy to invite the Office of the Auditor General (OAG) to perform a performance audit of the organization. In the future, the government could consider replacing the requirement for a five-year review by the Department of Foreign Affairs under Rights and Democracy's statute with the requirement for a performance audit by the OAG every five years.**

#### **Recommendation 4:**

**The Committee recommends that the Government of Canada strongly encourage The Board of Directors of Rights and Democracy to amend its by-laws so that all contracts above \$10,000 in value are automatically subject to calls for tender.**

#### **Recommendation 5:**

**The Committee also recommends that the Government of Canada strongly encourage Rights and Democracy to publish all contracts greater than \$2,000 on its public website.**

**Recommendation 6:**

The Committee recommends that the Government of Canada strongly encourage Rights and Democracy to publish on its public website information on the travel and hospitality expenses incurred by all Board Members during each quarter.

**Recommendation 7:**

The Committee recommends that the Government of Canada consider amending the *International Centre for Human Rights and Democratic Development Act* to include a clause stipulating that appointments to the Board of Directors should have regard for expertise in international human rights and democratic development and knowledge of corporate governance.

**Recommendation 8:**

The Committee recommends that Treasury Board Secretariat and Privy Council Office should collaborate to offer enhanced training on board governance to all members of the Board of Rights and Democracy. This training should be mandatory for all existing board members and an early requirement for all new appointments to the Board.

**Recommendation 9:**

That the Privy Council Office remove the Board's evaluation (and all documents related to the evaluation) of Rémy Beauregard from all files.

**Recommendation 10:**

That the current Board of Rights and Democracy issue an apology to Mr. Beauregard's family for any statements damaging his reputation.

**Recommendation 11:**

That the Government of Canada reconstitute the Board, with a new Chair.

**Recommendation 12:**

That the Government of Canada authorize the new Board to review the appointment of Mr. Latulippe.

**Recommendation 13:**

That the new Board should be appointed in consultation with the opposition parties to ensure an arms-length, non-partisan Board (see process below).

**Recommendation 14:**

**That the appointment process of board members should be amended to permit a 30 sitting-day review period so that the Foreign Affairs committee can study the candidacies of all those submitted by the government to sit on the Board.**

**Recommendation 15:**

**That the Parliamentary Act should be amended to require the president, the chairman of the Board and senior management to appear annually in front of the Standing Committee on Foreign Affairs and International Development to ensure the transparency and accountability of the organization.**

**Recommendation 16:**

**That both Deloitte & Touche and the Auditor General should appear before the Committee to discuss their final audit reports of Rights and Democracy.**

## **CONCLUSION**

The Committee believes that there remains a purpose and need for Rights and Democracy, suitably strengthened in the areas of accountability and governance. While some details of the recent crisis at Rights and Democracy remain unclear and disputed, Committee members agree on a common goal moving forward—a transparent and cooperative approach to the important work that Parliament created Rights and Democracy to carry out. The Committee accepts that the overall policy direction of the organization should be set by the Board and implemented by the President and the staff. The Committee also accepts the testimony of both the new president and former employees that the five-year strategic plan represents a good basis upon which to start.

In a letter sent to the Committee, the Right Honourable Joe Clark, who was Secretary of State for External Affairs when Rights and Democracy was created, underlined that this organization was created through a spirit of cooperation. He wrote, “The process which produced it was genuinely deliberative, consultative and multi-partisan—one might say that process displayed Parliament at its best...”<sup>109</sup> The Committee accepts this, both as an explanation of the genesis of Rights and Democracy, and as a goal for the future. Beyond the recommendations directed to the Government of Canada and through it to Rights and Democracy itself, going forward Committee members acknowledge the need to ensure a cooperative parliamentary role to both supporting and interacting with the organization.

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109 Letter from the Right Honourable Joe Clark to the Clerk of the Standing Committee on Foreign Affairs and International Development, dated April 13, 2010.

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## APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p><b>As an individual</b></p> <p>Marie-France Cloutier</p> <p>Razmik Panossian</p> <p>Charles Vallerand</p>	2010/03/30	7
<p><b>Public Service Alliance of Canada</b></p> <p>Micheline Lévesque, Vice-President, Union of Employees of Rights &amp; Democracy</p> <p>Maxime Longangué, President, Union of Employees of Rights &amp; Democracy</p>		
<p><b>Rights &amp; Democracy</b></p> <p>Aurel Braun, Chair of the Board of Directors</p> <p>Brad Farquhar, Member of the Board of Directors</p> <p>Jacques P. Gauthier, Vice-Chairman of the Board of Directors</p> <p>David Matas, Member of the Board of Directors</p>	2010/04/01	8
<p><b>As an individual</b></p> <p>Payam Akhavan, Professor of International Law at McGill University, and Former Member of the Board of Directors at Rights &amp; Democracy</p> <p>Hon. Warren Allmand, Former Member of Parliament and Former President of Rights &amp; Democracy (1997-2002)</p> <p>Hon. Ed Broadbent, Former Member of Parliament and Former President of Rights &amp; Democracy (1990-1996)</p> <p>Suzanne R. Trépanier</p>	2010/04/13	9
<p><b>Rights &amp; Democracy</b></p> <p>G�rard Latulippe, President</p>	2010/04/15	10



## **APPENDIX B LIST OF BRIEFS**

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### **Organizations and individuals**

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**Clark, Right Hon. Joe**

**Rights & Democracy**



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 7 to 10, 23 and 24](#)) is tabled.

Respectfully submitted,

Dean Allison, MP  
Chair



## **Dissenting Opinion by the Conservative Party of Canada**

### *Rights and Democracy: Moving Towards a Stronger Future*

The Committee heard from witnesses representing a broad spectrum of stakeholders, including current and former Presidents of Rights & Democracy, Board Members, Management and former employees as well as the wife of the former President, the late Rémy Beauregard. We thank all of the witnesses who appeared before the Committee.

The government's unquestioning support for Rights & Democracy has been confirmed by the Hon. Lawrence Cannon, Minister of Foreign Affairs:

Rights & Democracy was created by a Conservative government. Given that our government has a sincere and fundamental belief in the work of this organization, it will continue to support Rights & Democracy.<sup>1</sup>

While the Committee was informed of the various challenges facing Rights & Democracy, we were also made aware of the broad consensus between the staff and the board on roughly 98% of all issues at Rights & Democracy<sup>2</sup> that the Board had recently approved management's five-year plan,<sup>3</sup> and that the new President, Gérard Latulippe, will use that consensus as a base upon which to build the organization's future.<sup>4</sup>

In his Committee appearance, Mr. Gérard Latulippe laid out the basic elements of a go-forward plan. The Government members have full confidence in the direction that Mr. Latulippe has taken.

We want to express our confidence in the Board of Directors and thank them for their perseverance during these difficult incidents. These are essentially volunteer positions and their labour is one of service to their country.

While we worked diligently with opposition members to agree on the body of this report, we cannot support all the recommendations pushed through by the opposition majority on the Committee.

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<sup>1</sup> Hansard, Vol 145, p. 229 (March 9, 2010)

<sup>2</sup> Mr. Brad Farquhar, Member of the Board of Directors, Rights & Democracy, appearing before the Committee on April 1, 2010.

<sup>3</sup> Dr. Payam Akhavan, Professor of International Law at McGill University, and Former Member of the Board of Directors at Rights & Democracy, before the Committee on April 13, 2010 and Mr. Jacques P. Gauthier, Member of the Board of Directors, Rights & Democracy, appearing before the Committee on April 1, 2010.

<sup>4</sup> Mr. Gérard Latulippe, President, Rights & Democracy, appearing before the Committee on April 15, 2010.

