



**TO:** The Honourable Pascale St-Onge, PC, MP  
Minister of Canadian Heritage  
15 Eddy Street,  
Gatineau, Quebec J8X 4B3  
By email to: [hon.pascale.st-onge@pch.gc.ca](mailto:hon.pascale.st-onge@pch.gc.ca)

14 December 2023 (*rev'd Dec 17*)

**AND TO:** Equitas  
1100-666 Sherbrooke Street West  
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By email to: [epu-upr@equitas.org](mailto:epu-upr@equitas.org)

**Re: Comments on Canada's Universal Periodic Review on its compliance with international human rights standards**

Dear Minister Pascale St-Onge,

I am submitting these comments on behalf of the Centre for Health Science and Law (CHSL) to you, as a Canadian leader on responding to the United Nations Human Rights Council's review of Canada's human rights record and to Equitas, the Canadian non-governmental founded in 1967 by John Humphrey, co-drafter of the United Nations Universal Declaration of Human Rights<sup>1</sup> that was retained to consult civil society and report to you the perspectives if the diverse constituencies and perspectives they represent.

Last month, I participated in one of Equitas' online consultations and the small face-to-face session held in Ottawa. I understand that Canada's response to the United Nations Human Rights Council is due by February 12, 2024.

The vast majority of the 322 recommendations made by members of the 47-member United Nations Human Rights Council are outside the mandate, experience, and expertise of the CHSL. However, we offer the following general and specific recommendations to Canadian governments:

**RECOMMENDATION 1: Initiate a robust comprehensive national audit of Canada's efforts to domestically implement its international human rights commitments.**

Canada has taken the important step of developing [a child rights impact assessment tool and online course](#) to help ensure that future regulatory and program decisions respect children's rights, though it is not (yet) mandatory, like gender-sensitive budgeting (federally) and environmental impact assessments.

If the government is serious about its dedication to human rights in Canada (and its [candidacy for a seat on the UN Human Rights Council](#)), it should take this important step to comprehensively develop, implement and assess particularized, time-delimited plans to implement those rights. While inviting national reviews of Canada by some of the [45 UN Human Rights Special Rapporteurs and other Special Procedures of the UN Human Rights Council](#) (or acceding to their requests) would facilitate this process, it seems better for the federal government to proactively launch a good-faith comprehensive review of the Canadian situation with the ongoing robust engagement of Canadian civil society organizations, experts and human rights defenders.

The practice of Canada providing examples of human-rights-protecting measures implemented by provincial governments is typically grossly misleading and a luxury of national governments in federated states. (Of the 193 member states of the United Nations, only 24 are federated states, with subnational provinces or states.) Most Canadian provinces and territories protect less than 3 percent of the national population and only in provincial or territorial constitutional spheres of responsibility; Canada's submissions do not reveal to the relevant UN council or committee the population share reached by the measures it showcases.

Though a federal-provincial-territorial ministerial forum on human rights was formalized for the first time in 2023, its meetings are short, infrequent and offer very limited opportunities for civil society to inform meeting agendas, participate orally, or review detailed meeting records, let alone conduct human rights audits.

In 2021-2022, the federal government promised civil society organizations that it would continue engagement following the June 2022 Concluding Observations of the Committee on the Rights of the Child with plans to implement the Committee's recommendations. CHSL made numerous written submissions to the UN Committee, the Government of Canada, inter-session meetings with members of the UN Committee and attended the May 2022 hearing of the Committee. We are not aware of any such engagement since June 2022. Ongoing engagement for comprehensive domestic implementation of international human rights is consistent with Universal Periodic Review recommendations:

- #45 of 322 from Albania for Canada to collaborate with civil society to follow-up to the UPR,
- #68 of 322 from Sri Lanka to strengthen Canada's national mechanism for reporting and follow-up on human rights, and
- #69 of 322 from Paraguay to establish a national mechanism implementation reporting and follow-up.

**RECOMMENDATION 2: Include a process to better articulate the rights to food and health, and the duty to warn consumers about the planet-heating risk of foods from ruminant animals in the Canadian context.**

As part of a comprehensive approach to reporting and implementing Canada's international human rights commitments, the federal government should invite analysis and consultation on its approach to domestically implement the rights to health and food (food security), including in [Articles 11 \(right to food\), and Article 12 \(right to health\) of the \*International Covenant on Economic, Social and Cultural Rights\*](#).

CHSL's view is that the rights to food and health are building-block rights. Poor nutrition and ill-health lengthen periods of disability and shorten life expectancy, which impair and, ultimately, completely obstruct the enjoyment of all other rights.

If the government of Canada wishes to be a champion of human rights, it should recognize that there are structural (often financial) impediments to some rights being spontaneously brought before the courts for rulings. In the early days of the Canadian *Charter of Rights and Freedoms*, the Supreme Court of Canada expected constitutional litigation to comprehensively articulate section 7 of the *Charter*—which guarantees every Canadian the right to life, liberty and security of person (including, arguably, the right to health)—through a multitude of court challenges. For instance, in 1988, the late Chief Justice Dickson, wrote for himself and the late Justice Antonio Lamer:

*In my opinion, it is neither necessary nor wise in this appeal to explore the broadest implications of s. 7... I do not think it would be appropriate to attempt an all-encompassing explication of so important a provision as s. 7 so early in the history of Charter interpretation. The Court should be presented with a wide variety of claims and factual situations before articulating the full range of s. 7 rights.* [emphasis added]

In the same decision, former Justice Wilson wrote in in her concurring opinion:

*I agree with the Chief Justice that we are not called upon in this case to delineate the full content of the right to life, liberty and security of the person. This would be an impossible task because we cannot envisage all the contexts in which such a right might be asserted...Indeed, we have already stated in Singh v. Minister of Employment and Immigration, [1985] 1 S.C.R. 177, that security of the person even on the purely physical level must encompass freedom from the threat of physical punishment or suffering as well as freedom from the actual punishment or suffering itself. In other words, the fact of exposure is enough to violate security of the person...* [emphasis added]

And the late Justice Beetz wrote in his reasons for concurring with the majority result:

*I share the view first expressed by Wilson J. in Singh v. Minister of Employment and Immigration, 1985 CanLII 65 (SCC), [1985] 1 S.C.R. 177, at p. 205, and confirmed by Lamer J. in Re B.C. Motor Vehicle Act, 1985 CanLII 81 (SCC), [1985] 2 S.C.R. 486, at p. 500, that "it is incumbent upon this Court to give meaning to each of the elements, life, liberty and security of the person, which make up the 'right' contained in s. 7." The full ambit of this constitutionally protected right will only be revealed over time.* [emphasis added]

There was a clear belief in the Supreme Court at that time that the content of *Charter* section 7 would be organically articulated over time, but also seemingly excessive confidence that a variety of non-criminal cases would come before the court to inform the full scope of that right. Indeed, the scant Supreme Court jurisprudence on the right to health was not elaborated more until decades later when a Quebec orthopedic surgeon sought to protect his lucrative private-for-profit services<sup>2</sup>

and women suffering from incurable, degenerative diseases sought medical assistance in terminating their lives.<sup>3</sup>

Consumer rights are, by definition, human rights in relation to business entities as illustrated by the UN Human Rights Council Committee on the Rights of the Child [General Comment No. 16 \(esp. section VI.A.2\)](#) and in relation to its [Concluding Observations on Canada in June 2022 \(esp. para 16\)](#). Canadians are entitled to non-misleading advertising and labelling by the federal *Competition Act*, *Food and Drugs Act*, *Consumer Packaging and Labelling Act*, provincial consumer protection or business practices legislation (in most provinces), and similarly common law standards. Common law also includes a well-established duty to warn consumers about hazards by robust disclosures in advertising and labelling of consumer products. However, that duty has not yet been tested on a case of failure to warn consumers about climate risks, such as the contribution of meat from ruminant animals to greenhouse gas emissions and, by extension, to a dangerously warming planet.

In 2022, the [United Nations General Assembly embraced the right to a healthy environment](#). It is not yet clear if 2023 amendments to the [Canadian Environmental Protection Act](#)—subject to a forthcoming implementation framework—will robustly protect Canadians’ environmental rights.

The threat to the right to a healthy environment posed by greenhouse gas emissions from ruminant animals is real and substantial. Globally, widespread poverty is the main impediment to ruminants rivalling the harm ruminants cause. Generally, as incomes rise, so does consumption of meat, including beef, goat, and lamb meat. Some of the evidence of this harm comes from the UN Intergovernmental Panel on Climate Change, the UN Secretary General’s Independent Group of Scientists, a Lancet Commission, a group of experts at Oxford University, and a report published in the prestigious journal *Nature Food*.

In particular:

- The United Nations Intergovernmental Panel on Climate Change indicated that the vast majority of food-related contributions to harmful greenhouse gas emissions emanate from cattle and that food systems contribute 21–37% of total global greenhouse gas (GHG) emissions.<sup>4</sup>
- The United Nations Secretary General's Independent Group of Scientists recommended, in part, the following to achieve the SDGs: "global reduction in meat consumption of around 40–50 per cent..."<sup>5</sup>
- The recent Lancet Commission report repeated observations that 30% of GHG emissions comes from food systems, of which 57% comes from the production of red meat and milk (mostly from ruminants).<sup>6</sup>
- An Oxford University team found that GHG emissions from meat and other animal-origin foods are vastly higher than plant-based food.<sup>7</sup>
- A study published in *Nature Food* and posted on the Food and Agriculture Organization (FAO) website: estimated that 57% of GHG emissions from the food system comes from livestock.<sup>8</sup>

Despite these known risks to the environment from ruminant animals, no statute or regulation specifically requiring the disclosure of such risk to rights holders (consumers and the public that does not consume them), there may be a legal duty to disclose such risks. However, the Supreme Court of Canada held that there is a general duty to disclose risks to consumers in *Hollis v. Dow Corning Corp.*:

*A manufacturer of a product has a duty in tort to warn consumers of dangers it knows or ought to know are inherent in the product's use. This duty is a continuing one, requiring manufacturers to warn not only of dangers known at the time of sale, but also of dangers discovered after the product has been sold and delivered. All warnings must be reasonably communicated, and must clearly describe any specific dangers that arise from the ordinary use of the product. The duty to warn serves to correct the knowledge imbalance between manufacturers and consumers by alerting consumers to any dangers and allowing them to make informed decisions concerning the safe use of the product.*<sup>9</sup>

*Hollis* cited with approval in paragraph 20 the Supreme Court of Canada's own 1972 decision in *Lambert v. Lastoplex Chemicals*:

*Manufacturers owe a duty to consumers of their products to see that there are no defects in manufacture which are likely to give rise to injury in the ordinary course of use. Their duty does not, however, end if the product, although suitable for the purpose for which it is manufactured and marketed, is at the same time dangerous to use; and if they are aware of its dangerous character they cannot, without more, pass the risk of injury to the consumer.*<sup>10</sup>

*Lambert* has been cited with approval by dozens of Canadian courts, including recently by the Alberta and Ontario Courts of Appeal.<sup>11</sup> Coincidentally, the *Lambert* case was about the harm caused by the pilot light of a methane-fueled furnace (i.e., natural gas) igniting an aerosolized sealant causing an explosion that inflicted serious heat-related injury and property damage. Methane is the main greenhouse gas emanated from ruminant livestock.

Human Rights Council member country Timor Leste recommended (#216 of 322) that Canada recognize the impact of climate change on human rights, some of the implementation of which might fall outside of the scope of the recently amended *Canadian Environmental Protection Act*.

**RECOMMENDATION 3: Consult civil society on Canada's position on the United Nations Human Rights Council's draft *Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises*.**

To our knowledge, Canada has not taken a formal position on business and human rights at the Human Rights Council's Open-Ended Working Group that has been negotiating the treaty for nearly a decade. Although Canada is not (yet) a member of the Human Rights Council, observer

countries are entitled to attend and participate in negotiations. [Canada did circulate a position](#) on the draft treaty in 2021 at the 10th UN Forum on Business and Human Rights—an academic and professional conference held in Geneva shortly after the annual treaty negotiations concluded in the same city. Canada also made a brief oral statement at a full Human Rights Council meeting in 2019. Its a 2021 statement entitled “[Canada’s Written Submission](#) for the session on ‘Update on the process to elaborate a legally binding instrument on business and human rights’” the government reserved its position on the entire draft treaty and supported a [US recommendation to, essentially, abandon the draft and restart the negotiations on an unspecified alternative, non-binding agreement \(at pages 24-25\)](#). It is not clear how Canada arrived at this position on the treaty. As far as we know and the Global Affairs Canada website indicates, no relevant public consultations were held on the matter; **see:** <https://www.international.gc.ca/trade-agreements-accords-commerciaux/consultations/other-autre.aspx?lang=eng>

According to a Government of Canada report, “In July 2019, [all seven civil society groups...resigned from the \[Multi-Stakeholder Advisory Board\]](#) citing disappointment with the CORE’s [Canadian Ombudsperson for Responsible Enterprise] mandate given it does not include powers to compel witnesses and documents.”

Supporting the treaty and domestically implementing its measures would address the recommendations of Ecuador (#223), Luxembourg (#224), Mexico (#225) and Peru (#226).

Thank-you for this opportunity to contribute to Canada’s position on the Universal Periodic Review. Please include the Centre for Health Science and Law in future consultations and communications.

Respectfully submitted,



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## ENDNOTES

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<sup>1</sup> The Centre for Health Science and Law is a founding member of the Geneva Global Health Hub (G2H2) and a member of the International Association of Consumer Food Organizations. CHSL is one of the few health-focused Canadian NGOs accredited by the UN Economic and Social Council (ECOSOC). I have been personally active in international standard-setting advocacy and expert deliberations at the Codex Alimentarius Commissions (since 1998), World Health Organization (since 2005), UN General Assembly (since 2011), and several UN Human Rights Council committees and working groups (since 2018). CHSL is a member of the [global School Meals Coalition](#) and provided technical assistance to 10 national governments and intergovernmental organization in Africa to help nationally

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implement the WHO *International Code on the Marketing of Breast-milk Substitutes* and other nutrition-related regulations in 2018-2022. In Canada, CHSL and its predecessor (the Canadian operations of the Center for Science in the Public Interest) have advocated nutrition labelling reforms, advertising restrictions, sodium reduction measures, a ban on trans fat, and a national, publicly funded school food program. I served as one of five voting members of the International Development Law Organization’s “Healthy Diets and Human Rights Research Initiative Advisory Board” (focusing on Kenya, Tanzania, and Uganda) along with a former Special Rapporteur on the Right to Food, current Executive Secretary of the UN Nutrition Committee, and ex officio reps of UNICEF, WHO, and FAO. I also served on a Justice Canada external advisory committee on the development of [its Child Rights Impact Assessment](#) tool and on-line course that was announced in July 2023. CHSL [contributed to the 2018-2022 child rights review of Canada](#) by the UN Human Rights Council’s Committee on the Rights of the Child.

<sup>2</sup> *Chaoulli v. Quebec (Attorney General)*, [2005] 1 S.C.R. 791, 2005 SCC 35. Available at: <https://canlii.ca/t/1kxrh>

<sup>3</sup> *Rodriguez v. British Columbia (AG)*, [1993] 3 SCR 519 and *Carter v. Canada (Attorney General)*, 2015 SCC 5 (CanLII), [2015] 1 SCR 331. Available at: <https://canlii.ca/t/gg5z4>

<sup>4</sup> Intergovernmental Panel on Climate Change (IPCC). *Special Report on Climate Change and Land, CH05, Food Security. Executive Summary*. 2019. Available at: <https://www.ipcc.ch/src/cl/chapter/chapter5/>

<sup>5</sup> Independent Group of Scientists appointed by the Secretary-General (2023). *Global Sustainable Development Report 2023: Times of Crisis, Times of Change: Science for Accelerating Transformations to Sustainable Development*. United Nations, New York. Available at: <https://sdgs.un.org/gedr/gedr2023>

<sup>6</sup> Romanello M, Napoli CD, et al. The 2023 report of the Lancet Countdown on health and climate change: the imperative for a health-centred response in a world facing irreversible harms. *The Lancet*. 2023 Nov 13:S0140-6736(23)01859-7. doi: 10.1016/S0140-6736(23)01859-7. Epub ahead of print. PMID: 37977174. Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(23\)01859-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)01859-7/fulltext)

<sup>7</sup> Clark M, Springmann M, Rayner M, Scarborough P, Hill J, Tilman D, Macdiarmid JI, Fanzo J, Bandy L, Harrington RA. Estimating the environmental impacts of 57,000 food products. *Proceedings of the National Academy of Sciences of the United States of America*. 2022 Aug 16;119(33):e2120584119. Bill Jeffery. Conference Notes. “The contribution of Ruminant Animal Meat to Greenhouse Gas Emissions and a Warming Planet.” 7<sup>th</sup> Biennial Championing Public Health Nutrition. Centre for Health Science and Law. June 8, 2023. Available at: <http://healthscienceandlaw.ca/wp-content/uploads/2023/07/CHSL-BillJeffery.FoodLaw.EcoLabels.pdf>

<sup>8</sup> Xu, X., Sharma, P., Shu, S. et al. Global greenhouse gas emissions from animal-based foods are twice those of plant-based foods. *Nature Food* 2, 724–732 (2021). <https://doi.org/10.1038/s43016-021-00358-x> Available at: <https://www.fao.org/3/cb7033en/cb7033en.pdf>

<sup>9</sup> *Hollis v. Dow Corning Corp.*, 1995 (Supreme Court of Canada), [1995] 4 SCR 634. Available at: <https://canlii.ca/t/1frdr>

<sup>10</sup> *Lambert v. Lastoplex Chemicals*, 1971 CanLII 27 (SCC), [1972] Supreme Court Reports 569. Available at: <https://canlii.ca/t/1twsz>.

<sup>11</sup> *St Isidore Co-op Limited v AG Growth International Inc*, 2020 Alberta Court of Appeal, 447 (CanLII). Available at: <https://canlii.ca/t/jc2xz> and *Burr v. Tecumseh Products of Canada Limited*, 2023 Ontario Court of Appeal 135 (CanLII). Available at: <https://canlii.ca/t/jvw3n>