

Canadian Group
Inter-Parliamentary Union



Groupe canadien
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**Report of the Canadian Parliamentary Delegation
to the International Parliamentary Conference on
Parliaments, minorities and indigenous peoples:
Effective participation in politics**

Canadian Group of the Inter-Parliamentary Union (IPU)

**Tuxtla Gutiérrez, Chiapas (Mexico)
31 October – 3 November 2010**

International Parliamentary Conference on Parliaments, minorities and indigenous peoples: Effective participation in politics

On November 1st, 2010, the Honourable Donald H. Oliver, Senator, Speaker *pro tempore* and Chair of the Canadian IPU Group, addressed the participants at the International Parliamentary Conference, on the theme of *Parliaments, minorities and indigenous peoples: Effective participation in politics*. Chief Wilton Littlechild, former Canadian MP, former member of the UN Permanent Forum on Indigenous Issues also addressed the Conference.

The Conference was co-sponsored by the Interparliamentary Union, and the Mexican Congress, the Government of the State of Chiapas, in partnership with the United Nations Development Programme; the UN Office of the High Commissioner for Human Rights; the UN Independent Expert on minority issues; and the Minority Rights Group International. Seventy-seven parliamentarians from 34 Parliaments attended the event.

In plenary and panel sessions, the Parliamentarians discussed issues such as: 1) effective participation in politics: a human right, a prerequisite for democracy and a means of preventing conflict; 2) perspectives on effective participation of minorities and indigenous peoples; 3) legislative lessons learned; 4) the participation of minority and indigenous women in decision-making; 5) measures for enhancing effective participation through representatives, political parties, Parliament, local, provincial, regional government and autonomous structures; 6) dialogue with indigenous leaders from the State of Chiapas; and 7) building an agenda for effective political participation.

At the end, the Conference adopted the *Chiapas Declaration* (see Appendix).

Canadian Diversity

In his presentation, Senator Oliver started by drawing the attention of participants to the fact that Canada has taken several steps to further engage visible minorities and aboriginals in the political process. For instance, resident non-citizens – in other words, new immigrants to Canada who have not yet received their citizenship – do not have the right to vote. However, Canada's major political parties "allow for the participation of resident non-citizens." This means that newcomers to Canada can become official members of a political party and participate in the selection process to choose their candidate for electoral office. The openness of the candidate selection procedures in Canada arguably allows for significant input from ethnic minorities.

Canada is one of the most ethnically diverse and multicultural countries in the world. The ethnic origins of Canadians include three distinctive groups:

- 1) Canada's Aboriginal peoples (First Nations, Métis and Inuit);
- 2) the European groups that first settled in Canada, and;
- 3) the various groups of immigrants that have arrived over the past century.

In a country with citizens of such diverse ethnic backgrounds, it becomes all the more important that all citizens are able to contribute to society's growth. Canada must work to avoid citizens being prevented from full participation because of their ethnic origin, their religion, or the colour of their skin and to ensure that all members of society have equal access to education, employment and promotion, and justice. Canada should also strive for truly inclusive parliaments and greater civic engagement, by promoting equal chances of participating in the political decision-making process for all of its citizens, irrespective of their diversity.

Senator Oliver elaborated on diversity in Canada, a fact of life, a basic cultural value, and a characteristic by which we define ourselves as a nation. In a 2005 poll, our diverse, multicultural nature was by far the dominant response, outranking universal health care, freedom, the weather, and even hockey.

Canada is originally home to the Aboriginal peoples – First Nations, Métis and Inuit peoples. Great cultural, linguistic and spiritual diversity is evident amongst the myriad Aboriginal nations in Canada. Canada owes its diversity to a long history of immigration. European settlement began in the 17th century, and several waves of immigrants have since come to Canada from all corners of the globe. Until the 1970s, most of Canada's immigrants came from Europe, Great Britain, and the United States. Then, all that changed as more and more immigrants arrived from Asian and South Asian countries. Today, the bulk of immigrants come from countries such as China, India, and the Philippines. But they also come from almost every other country in the world. The latest census carried out in 2006 found there were more than 200 different ethnic groups and that five million people in Canada belong to a "visible minority" as defined in the *Employment Equity Act* of 1995. This Act is designed to promote diversity and eliminate systemic discrimination in the workplace. It also serves to correct the under-representation of 4 targeted groups: women, Aboriginals, people with disabilities and visible minorities and it makes employers accountable for making their work environment reflective of Canada's diversity. "Visible minorities" are thus defined as: "persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour." In 1981, visible minorities represented 5% of Canada's total population. This rose to 9% in 1991, 13% in 2001, and 16% in 2006. Canada's visible minority population will continue to grow much more quickly than the rest of the population. It is projected that by 2017, if present immigration trends continue, visible minorities could account for 20% of the total population.

Canada's visible minority population is most concentrated in cities. Nationally, 96% of the visible minority population live in a metropolitan area, compared with 68% of the total population. In the 2006 census, 47% of the population of Toronto, Canada's largest city, reported themselves as a visible minority.

Today, there are over one million Aboriginal people in Canada, accounting for 4% of the overall population. Approximately 50% of them live in urban areas.

In total, visible minorities and Aboriginals combine for more than 6 million people. This represents nearly 20% of Canada's total population. This is a considerable number that has engages Parliamentarians across Canada to study ways that would enable

greater representation and participation of minorities and aboriginals in Canadian politics.

Participation and Representation

As in all democracy, all Canadians are invited to participate in the parliamentary process, by exercising their democratic right to vote, and by seeking public office at any level of government. Visible minorities have constitutional and legislative protections from discrimination in all facets of public life. Aboriginal peoples also have special rights, enshrined in the Constitution, to be consulted on matters that may affect them, including legislation proposed by Parliament. I will speak on each of these in turn.

Legal rights to political participation for Aboriginal peoples and ethnic minorities have been strengthened over time. In the beginning, for example, many groups of people were excluded from voting. At first, only men could vote. It was not until 1918 that women were allowed to vote in federal elections. Until 1920, the provinces had the power to determine who was entitled to vote in federal elections. Property requirements applied in some provinces, but not in others. Aboriginal peoples or people of certain ethnic origins were allowed to vote or not, depending on where they lived. Although suffrage became universal, in principle, in 1920, Aboriginal peoples and people of Asian origin continued to be excluded. The last of these limitations were finally lifted, and since 1960, all Canadian citizens, regardless of gender or ethnic origin, have the right to vote.

There is also an opportunity to participate in the legislative process as an elected official. Canadians have elected three provincial premiers of non-European descent – two in Prince Edward Island and one in British Columbia. Since 1991, every premier of Nunavut and the Northwest Territories has been of Aboriginal descent. At the municipal level, the first visible minority and the first Muslim mayor of a major Canadian city was very recently elected in Calgary.

Special care has also been taken to ensure that more visible minorities are represented in appointed positions. For example, two recent appointees to the role of Governor General, the representation of the Queen in Canada, have been visible minority women who came to Canada as children – one from Hong Kong and the other from Haiti. Several of the Lieutenant Governors of our provinces are or have been visible minorities. For instance, in Senator Oliver's native province of Nova Scotia, the current lieutenant-governor is Her Honour Mayann E. Francis. She is the first Canadian of African descent to hold this prestigious position in Nova Scotia.

Senator Oliver said that despite all the progress made, the situation in Canada is not without blemish. Problems remain and racism is a fact of life. And immigrants to Canada and Canada's Aboriginal peoples do not always have all the chances to which they should be entitled. He maintained that the various ethnic groups in society have to be adequately represented in Parliament.

Although the legal exclusions have been lifted, the Parliament of Canada, in the Senator's analysis, still does not adequately reflect the diversity in Canadian society today. For example, in 2010, although Aboriginal people in Canada account for about 4% of the population, only five members of the House of Commons are of Aboriginal

descent – about 1.5% of the total seats in the House of Commons. Aboriginal representation in the Senate is more balanced. Currently, six Senators are of Aboriginal descent, accounting for about 5% of the Chamber. Visible minorities are also seriously under-represented in Parliament. Visible minorities represent 16% of the total Canadian population, but only 7% of the total seats in the House of Commons are occupied by MPs from these minorities. In the Senate, there are only seven visible minority Senators, representing about 6.6% of the Chamber. Furthermore, during the 2006 federal election, the major political parties ran 108 visible minority candidates, or about 8% of the total number of candidates.

Giving the example of his province of origin, Nova Scotia, Senator Oliver mentioned that the Government of Premier John Hamm passed a legislation in 2000 that set aside a number of seats on provincial school boards for African-Canadians in electoral districts with a high-percentage of Blacks. The province of Nova Scotia has also conducted numerous studies and consultations to look into the creation of an Aboriginal or Black seat in the Legislature. Most recently, the mayor of Halifax, Nova Scotia's capital and largest city, has agreed to meet with black residents to discuss the creation of a seat for Blacks on the Halifax regional council.

Senator Oliver suggested that, meanwhile, Parliament must do what it can to become more inclusive in the absence of more Aboriginal and visible minorities in the House of Commons and the Senate by supporting a culture in which citizens feel their views are represented and in which Aboriginal peoples and minorities are consulted and involved in the development of legislation that affects them.

Policy and legislative innovations have long supported the participation of Aboriginal peoples and visible minorities in Canadian society and in public life. Canada's Multiculturalism Policy, adopted in the 1970s, was a key innovation in this regard. This policy was fundamental to the creation of a Canadian society in which all ethnic groups may fully participate, whilst maintaining and developing strong collective identities. The Canadian Constitution and its Charter of Rights and Freedoms enacted in 1982 also provides for the basic principle of non-discrimination which states that:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Furthermore, various human rights statutes, both federally and provincially, also protect individuals in Canada from discrimination by private actors. The *Employment Equity Act* is also in place to protect workers, as it is intended to promote diversity and eliminate systemic discrimination in the workplace.

Consultation with Aboriginal Peoples

Senator Oliver went on with a brief history of Canada's Aboriginal Peoples constitutional and other rights. He held that they have always held a unique legal and constitutional position, one that affords the Indigenous peoples of Canada an

opportunity to participate in the legislative process when measures and law affecting their rights are being contemplated.

The *Royal Proclamation of 1763* set out various Aboriginal rights and certain protections for Canada's indigenous peoples. One hundred years later, upon confederation, the *Constitution Act, 1867* granted the federal Parliament legislative authority over "Indians, and Lands Reserved for the Indians."

The rights of the Aboriginal peoples of Canada were eventually entrenched in our *Constitution Act* of 1982. Section 35(1) recognizes and affirms all existing Aboriginal and treaty rights of the Aboriginal peoples of Canada.

There is a substantial body of Supreme Court of Canada jurisprudence that sets out the meaning and significance of the Aboriginal rights and treaty rights set out in section 35(1) of the *Constitution Act* of 1982.

The Supreme Court of Canada and lower courts have also confirmed that the provincial and federal Crown must consult with Aboriginal peoples on proposed measures and laws that may affect their title, treaty rights, and Aboriginal rights.

The concept of the duty to consult, and obligations arising from it, are still being developed in Canada. Aboriginal groups and governments are frequently at odds in litigation, negotiation, and policy development, as to the scope of governmental responsibility for consultation. The Senator is of the view that it is ultimately difficult to say what kind of consultations will satisfy the consultative duties of the Crown when it comes to legislation affecting Aboriginal rights.

In conclusion, Senator Oliver stated that Canadian Parliament and parliamentarians need to do more across the board in order to ensure that all its citizen, in particular visible minorities and Aboriginal Peoples, may participate in the development of laws and measures that affect them. Particular challenges remain with respect to the inclusion of visible minorities and Aboriginal peoples in institutional processes and solutions must be explored that address underlying issues such as their socio-economic conditions and new creative ways are to be found to promote ethnic diversity and minority inclusion across society. He suggested that innovative institutional responses such as reforms to electoral systems, reserved seats in Parliament, and special Parliamentary assemblies should be studied.

The Chiapas Declaration

At the end of the Conference, participants adopted the *Chiapas Declaration* by consensus.

Stating that minorities and indigenous peoples are the most vulnerable members of our societies and that they remain excluded from decision-making that affects their lives and the future of our countries, the participants affirmed that minorities and indigenous peoples have the inalienable right to full and equal membership of their nations. This right has to be translated into public policies that are sensitive to their situation, needs, and aspirations and accompanied by sufficient resources. This requires the effective participation of minorities and indigenous peoples at all levels of government, and in particular in national and regional parliaments.

All public policies should be submitted to minorities and indigenous peoples for prior consultation. Furthermore, political parties are responsible to promote the effective participation of minorities and indigenous peoples and address their concerns in their party programmes.

The participants urged every parliament, within the next two years, to:

1. Hold a special debate on the situation of minorities and indigenous peoples in their country; recognize the diversity in society; and adopt a Plan of Action to make the right to equal participation and non-discrimination a reality for minorities and indigenous peoples;
2. Adopt and implement laws to end discrimination and provide for the effective participation of minorities and indigenous peoples in decision-making, including in parliament, while taking care to secure the effective participation of minority and indigenous women. Where such laws already exist, evaluate their effectiveness and make adjustments where necessary;
3. Ensure that the legislative process is transparent and that parliamentary records are made available immediately so that minority/indigenous peoples can monitor the activity of their representatives and in so doing, hold them to account for their actions and omissions.

The *Declaration* also calls on the IPU to collect data on representation of minorities and indigenous peoples in Parliament and to monitor the implementation of the *Declaration*.

Respectfully submitted,

Ms. Patricia Davison, M.P.
Canadian Group IPU

Appendix



International parliamentary conference

Parliaments, minorities and indigenous peoples: Effective participation in politics

31 October - 3 November 2010

Tuxtla Gutiérrez, Chiapas (Mexico)

CHIAPAS DECLARATION

We are calling for genuine change. We cannot accept that minorities and indigenous peoples are the most vulnerable members of our societies and that they remain excluded from decision-making that affects their lives and the future of our countries.

We affirm that minorities and indigenous peoples have the inalienable right to full and equal membership of our nations. This right has to be translated into public policies that are sensitive to their situation, needs, and aspirations and accompanied by sufficient resources. This requires the effective participation of minorities and indigenous peoples at all levels of government, and in particular in national and regional parliaments. All public policies should be submitted to minorities and indigenous peoples for prior consultation.

We further affirm the responsibility of political parties to promote the effective participation of minorities and indigenous peoples and address their concerns in their party programmes.

We urge every parliament, within the next two years, to:

1. Hold a special debate on the situation of minorities and indigenous peoples in their country; recognize the diversity in society; and adopt a Plan of Action to make the right to equal participation and non-discrimination a reality for minorities and indigenous peoples;
2. Adopt and implement laws to end discrimination and provide for the effective participation of minorities and indigenous peoples in decision-making, including in parliament, while taking care to secure the effective participation of minority and indigenous women. Where such laws already exist, evaluate their effectiveness and make adjustments where necessary;
3. Ensure that the legislative process is transparent and that parliamentary records are made available immediately so that minority/indigenous peoples can monitor the activity of their representatives and in so doing, hold them to account for their actions and omissions.

We call on the IPU to take the lead in collecting data on the representation of minorities and indigenous peoples in parliament, with due regard for privacy concerns and peoples' right to choose their own

identity. We also call on the IPU to monitor the implementation of this Declaration, to facilitate networking among parliaments and to convene a follow-up meeting two years from now to discuss progress and set targets for future action.

As parliaments elaborate their Plans of Action, we recommend that, at a minimum, they:

1. Ensure that the right to free, prior and informed consent is observed in every step leading to the adoption of legislative and administrative measures affecting minorities and indigenous peoples; hold government to account for the implementation of such measures;
2. Require of government that all submissions to parliament of draft legislation and the national budget include an assessment of their impact on minorities and indigenous peoples;
3. Make regular use of plenary sessions in parliament and other parliamentary forums to discuss minority/indigenous matters in order to raise awareness and combat prejudice in society; organize awareness-raising sessions for all parliamentarians so as to increase their knowledge of minorities and indigenous peoples and the particular problems they face; ensure that minority and indigenous issues are mainstreamed into parliamentary work, in particular at the committee level;
4. Allocate sufficient resources to establishing dialogue between minority/indigenous peoples and public institutions and to parliamentary committees on minority and indigenous issues so as to allow them to carry out effective outreach activities such as public hearings with minority and indigenous peoples;
5. Increase parliaments' familiarity with work being done within the United Nations system so as to equip them to better hold governments to account for their international commitments, including the achievement of the Millennium Development Goals; more particularly, urge ratification of ILO Convention 169 on Indigenous and Tribal Peoples and the implementation of the UN Declarations on the rights of minorities (1992) and indigenous peoples (2007); hold debates in parliament on the conclusions and recommendations made by the UN human rights treaty bodies and special mechanisms with regard to minority and indigenous peoples' rights.

Adopted by consensus by the participants in the International parliamentary conference on 'Parliaments, minorities and indigenous peoples: Effective participation in politics', Tuxtla Gutiérrez, Chiapas (Mexico), 3 November 2010

Travel Costs

ASSOCIATION	Canadian Group of the Inter-Parliamentary Union (IPU)
ACTIVITY	International Parliamentary Conference on Parliaments, minorities and indigenous peoples: Effective participation in politics
DESTINATION	Tuxtla Gutiérrez, Chiapas (Mexico)
DATES	October 31 – November 3, 2010
DELEGATION	
SENATE	The Hon. Donald H. Oliver, Q.C.
HOUSE OF COMMONS	
STAFF	
TRANSPORTATION	\$2,722.61
ACCOMMODATION	\$218.73
HOSPITALITY	
PER DIEMS	\$71.20
OFFICIAL GIFTS	
MISCELLANEOUS / REGISTRATION FEES	\$90.00
TOTAL	\$3,102.54