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Howard Sapers

Office of the Correctional Investigator of Canada

Ivan Zinger

Office of the Correctional Investigator of Canada

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The Ombudsman as a Monitor of Human Rights in Canadian Federal Corrections

Howard Sapers* & Ivan Zinger**

Introduction:
A Human Rights Approach to Corrections

An important challenge for many countries, including advanced democracies, is guaranteeing the human rights of its prisoners. The quality of regard to, and respect for, human rights may impact on the success of prisoners' reintegration and participation in society. A good balance between internal and external monitoring can prevent human rights breakdowns, detect violations when they occur, and rectify the situation to ensure that they do not happen again. Striking the appropriate balance between internal and external monitoring is not easy. Canada, like many other countries, has struggled with establishing and maintaining this balance. Even so, accountability and transparency in decision-making remains a fundamental challenge of a compliant human rights monitoring system.

The best approach to ensure that the rule of law is upheld in corrections is to conceptualize the business of corrections as a human rights business.¹ When government has exceptional authority over its citizens, the potential for abuse of powers is great and the protections of fundamental rights must be a core preoccupation of those empowered and trusted with such exceptional powers. In a correctional context, every aspect of a prisoner's life is heavily regulated by correctional authorities. Correctional authorities make thousands of decisions every

* BA. Correctional Investigator of Canada.

** LL.B, Ph.D. Executive Director and General Counsel, Office of the Correctional Investigator.

1. Ivan Zinger, *Human Rights Compliance and the Role of External Prison Oversight*, 48 CAN. J. OF CRIMINOLOGY & CRIM. JUST. 127, 132 (Apr. 2006) (Can.).

day, which impact on prisoners' fundamental rights (e.g., use of force, segregation, searches, transfers, and visiting). Routine daily decisions, such as whether prisoners have contact with family and friends, whether and how they can practice their religion or access medical services, and when they can eat and sleep, are all regulated by correctional authorities. Without recognizing that the business of corrections is all about promoting and monitoring respect for human rights, preventing human rights violations, and detecting and remedying human rights violations, systemic abuses of power are unavoidable.

I. The History and Key Features of the Public Sector Ombudsman

The word ombudsman is Swedish and refers to a representative or agent of the people.² In 1809, Sweden became the first country to establish a Parliamentary ombudsman's office with the responsibility to investigate citizen complaints against public officials.³ More than a century passed before the idea was taken up by another Scandinavian country, Finland, which created an office in 1919. During the last four decades, there has been explosive growth in the spread of ombudsman schemes, particularly in Western Europe and the Americas. In 1974, the International Bar Association approved a resolution defining an ombudsman as:

An office provided for by the constitution or by an action of the legislature or parliament and headed by an independent, high-level public official who is responsible to the legislature of parliament, who receives complaints from aggrieved persons against government agencies, officials, an employees or who acts on his motion, and who has the power to investigate,

2. Financial Ombudsman Service, What is an Ombudsman?, http://www.financial-ombudsman.org.uk/news/417_EduPackCard-2.pdf (last visited Mar. 30, 2010).

3. BYRON NORDSTROM, THE HISTORY OF SWEDEN 66 (2002).

recommend corrective action and issue reports.⁴

The features common to all Ombudsman offices, which make them attractive as mechanisms for complaint resolution, have been described by the British and Irish Ombudsman Association (BIOA) as follows:

- Ombudsmen offer access to redress not available for cases which might not be considered by the Courts.
- Ombudsmen are independent and impartial and conduct their investigations in private.
- Ombudsmen are free to complainants.
- Ombudsmen can usually take account of what is fair and reasonable and are not bound by interpretation of the law or precedent.
- It is not necessary for the complainants to obtain professional advice prior to bringing a complaint to an Ombudsman.
- Compliance with an Ombudsman's recommendation is secured by a variety of means – by law, by contract, by moral force and the standing of the Ombudsman.
- Ombudsman schemes make extensive use of informal settlements and conciliation; some offer access to mediation.
- Ombudsmen level the playing field between the under-represented complainant and large and powerful organizations.
- Ombudsmen are inquisitorial, not adversarial, and

4. W. Haller, *The Place of the Ombudsman in the World Community* 29 (1988) (Fourth International Ombudsman Conference Papers) (Canberra).

investigations are conducted in private. Ombudsmen can examine and interview witnesses and use professional experts where appropriate. The procedure for investigations can be tailored to the circumstances of the case.⁵

Based on the above features, it is clear that ombudsmen have dual roles. While they provide redress for individual grievances, they are also concerned with the improvement of service delivery standards.⁶ An ombudsman is therefore not merely an agent of redress; he or she also has a quality-control function. Through investigating individual cases, ombudsmen may highlight weaknesses in practices, rules and attitudes. Discovering these weaknesses is of advantage to both complainants and those who have not complained because the resulting improvements in the system provide a generalized benefit. These two roles do not conflict, nor should they be separated.⁷ Any office that receives and investigates complaints is only doing half its job if its casework experience is not used to provide comprehensive feedback to the organization investigated. For example, such feedback could relate to improvements in the way internal complaints are dealt with, so that fewer complaints would make their way to the ombudsman. Feedback could also lead to improvements when investigations reveal systemic problems or failures.

II. Human Rights in Canadian Federal Corrections

International and domestic human rights instruments affirm that persons deprived of their liberty have the right to be treated with fairness and humanity, and have the right not to be subjected to cruel, inhumane or degrading treatment or punishment. The best argument for observing human rights standards is not merely that they are required by international or domestic law, but that they actually work better than any

5. BRITISH & IRISH OMBUDSMAN ASS'N (BIOA), GUIDE TO PRINCIPLES OF GOOD GOVERNANCE (Oct. 2009), *available at* <http://www.bioa.org.uk/docs/BIOAGovernanceGuideOct09.pdf>.

6. MARY SENEVIRATNE, OMBUDSMEN: PUBLIC SERVICES AND ADMINISTRATION JUSTICE 17 (2002).

7. *Id.*

known alternative—for offenders, for correctional staff and for society at large. Compliance with human rights obligations increases, though does not guarantee, the odds of releasing a more responsible citizen. By respecting the human rights of prisoners, we convey a strong message that everyone, regardless of their circumstance, race, social status, gender or religion, is to be treated with respect and dignity.

The human rights standards and principles outlined in international instruments, such as the *International Covenant on Civil and Political Rights*,⁸ the *Convention Against Torture*⁹ and the *Standard Minimum Rules for the Treatment of Prisoners*,¹⁰ should be reflected in all rules regulating correctional practices and procedures.

The international human rights obligations pertaining to Corrections can be summarized in four key principles:

- The safety of correctional staff, prisoners and society at large is paramount.
- Prisoners retain the human rights and fundamental freedoms of all members of society, except those that are necessarily removed as a consequence of sentence.
- Decisions affecting prisoners are made in a fair and forthright manner.
- Correctional authorities apply the “least restrictive measures” consistent with public safety.¹¹

8. International Covenant on Civil and Political Rights, Dec. 16, 1966, Can. T.S. 47 (1976).

9. Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment, Dec. 10, 1984, Can. T.S. 36 (1987).

10. Standard Minimum Rules for the Treatment of Prisoners, ECOSOC Res. 664 (XXIV) (July 31, 1957), ECOSOC Res. 2076 (LXII) (May 13, 1977).

11. Howard Sapers, Office of the Correctional Investigator of Canada, The Challenges of Oversight in Federal Corrections, International Corrections and Prisons Association Annual Conference (Oct. 2008), available at <http://www.oci-bec.gc.ca/comm/presentations/presentations200810-eng.aspx>.

In the long-term, failure to comply with any of these four principles jeopardizes public safety because it hinders the ability of correctional professionals to effect changes in prisoners—in other words, it hinders rehabilitation of prisoners. Prisoners may attend very good rehabilitation programs; however, if they live within an environment disrespectful of human rights, any gain that may have been made through correctional intervention will quickly erode or even dissipate completely. In sum, an environment respectful of human rights is conducive to positive changes, whereas an environment disrespectful of human rights will have the opposite effect; it will harden criminals by reinforcing pro-criminal attitudes and disrespect for authority.¹²

III. The Development of the Specialized Prison Ombudsman

The establishment of specialized prison Ombudsman offices is relatively recent, but it continues to gain popularity around the world. Scotland and Northern Ireland are examples of jurisdictions that have recently established a specialized prison Ombudsman office. Many countries view such an office as one of the most effective models of external oversight to address prisoners' complaints and grievances. The specialized expertise and close working relationship with correctional authorities and stakeholders make prison Ombudsman offices oversight bodies capable of unbiased investigations and timely resolution of offender complaints.

Historically, most prison Ombudsman offices have been created as a direct result of well-publicized serious human rights violations and to address the chronic inability of internal prison complaint and grievance mechanisms to fairly and effectively respond to offenders' complaints. Canada is no exception in this regard.

In 1971, Kingston Penitentiary experienced one of the bloodiest riots in its history. Five correctional officers were taken hostage and a group of prisoners were brutally tortured—two of the prisoners died, thirteen others were seriously injured, and part of Kingston Penitentiary was destroyed. Following the riot, many of the inmates implicated

12. *Id.*

in the disturbance were transferred to Millhaven Penitentiary. Subsequently, correctional staff at Millhaven Penitentiary assaulted eighty-six offenders involved in the riot, causing injuries of various degrees. A Royal Commission of Inquiry, chaired by Justice Swackhamer, was appointed to examine these tragic events, and it made strong recommendations to improve the management and operations of the Canadian Penitentiary Service, as it was then known.¹³ The Office of the Correctional Investigator (“OCI”) was established in 1973 pursuant to Part II of the *Inquiries Act*,¹⁴ in response to Justice Swackhamer’s sweeping recommendations for strengthening the accountability and oversight of the federal correctional system.

The Office was finally entrenched into legislation on November 1, 1992, with the enactment of the *Corrections and Conditional Release Act (CCRA)*.¹⁵

IV. The Correctional Investigator: Canada’s Federal Prison Ombudsman

The Office of the Correctional Investigator investigates and attempts to resolve individual federal offender complaints. As well, it has a responsibility to review and make recommendations on the Correctional Service of Canada’s policies and procedures associated with individual complaints. In this way, systemic areas of concern can be identified and appropriately addressed.

The “function” of the Correctional Investigator is purposefully broad, as detailed in sections 167 and 170 of the *CCRA*:

167. (1) It is the function of the Correctional Investigator to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the

13. MINISTRY OF THE SOLICITOR GENERAL OF CANADA, REPORT OF THE COMMISSION OF INQUIRY INTO CERTAIN DISTURBANCES AT KINGSTON PENITENTIARY DURING APRIL, 1971 (1972) (Can.).

14. *Inquiries Act*, R.S.C., ch. I 13 (1985).

15. *Corrections and Conditional Release Act*, 1992 S.C., ch. 20, available at <http://laws.justice.gc.ca/en/C-44.6/index.html>.

Commissioner [of Corrections] or any person under the control and management of, or performing services for or on behalf of, the Commissioner, that affect offenders either individually or as a group.

170. (1) The Correctional Investigator may commence an investigation

- a) on the receipt of a complaint by or on behalf of an offender;
- b) at the request of the Minister; or
- c) on the initiative of the Correctional Investigator.

(2) The Correctional Investigator has full discretion as to

- a) whether an investigation should be conducted in relation to any particular complaint or request;
- b) how every investigation is to be carried out; and
- c) whether any investigation should be terminated before its completion.¹⁶

These sections provide the Office with broad authority to identify, define and investigate a wide range of “problems” brought forward by, or concerning, federal inmates or parolees, provided only that such problems result from the conduct of Correctional Service of Canada (CSC) staff and representatives. Such conduct may include everything from board policy initiatives to everyday, operational decision-making by staff on the institutional ranges.

The Office can initiate an inquiry on the basis of a complaint or on its own initiative. The Correctional Investigator has complete discretion in deciding whether to conduct an investigation and how to carry out that

16. *Id.* §§ 167, 170.

investigation.

The Office addresses the vast majority of inmates' complaints at the institutional level, through discussion and negotiation. When a resolution is not reached at the institution, the matter is referred to regional or national headquarters, depending upon the area of concern, with a specific recommendation for further review and corrective action.

Whenever a matter has not been adequately addressed, the Office's findings and recommendations are presented to the Commissioner of Corrections. That report provides comprehensive information supporting the Office's conclusions and recommendations.

If at this level the Commissioner, in the opinion of the Correctional Investigator, fails to address the matter in a reasonable and timely fashion, it is referred to the Minister of Public Safety and eventually may be detailed within an Annual or Special Report.

In the course of an investigation, the Office's staff has very significant authority to enter premises and to acquire information from files or individuals. The Correctional Investigator may hold hearings, and may summon and examine under oath any person who is able to furnish any information related to a matter being investigated. This authority is tempered by strict legal rules limiting the investigators' ability to disclose the information acquired. A vital assurance to all those with whom the Office deals, this confidentiality underlines the independence of the Ombudsman model from other forms of investigation and adjudication.

The Correctional Investigator is, above all, an Ombudsman. This involves a fundamental balancing of authority and functions, which has long characterised the Ombudsman approach. Legislation arms the Office with the operational tools and discretion to carry out thorough investigations on a broad range of offender problems.¹⁷ Nevertheless, the Correctional Investigator may only recommend solutions to offender problems. Recommendations may be directed toward local institutional staff and management, the regional correctional authorities and the

17. Sapers, *supra* note 11.

national headquarters. Recommendations may be made directly to the Commissioner of Corrections and the responsible Minister and, ultimately, to both Houses of Parliament.

As with other Ombudsman agencies, this balancing gives rise to two features that underpin effectiveness as compared to other investigative or adjudicative mechanisms:

- enhanced and direct access to information permits the Office to bring timely closure to most matters, usually at the institutional level; and,
- the focus on persuasion that flows from the power only to recommend means that the Office:
 - tends to address the most urgent and significant unresolved matters in statutory reports; and
 - must attempt to buttress findings and recommendations with a thorough and compelling review of supporting information.¹⁸

It will be the relevance and weight of the evidence that is provided, as well as the clarity and strength of conclusions, that determine the outcome of efforts.

The Office of the Correctional Investigator currently has twenty-four staff members, with twenty directly involved as intake officers, investigators, coordinators or directors, in the day-to-day handling of inmate complaints. The Office receives between six and eight thousand offender inquiries and complaints annually. For fiscal year 2008-09, approximately two thousand were addressed through an “immediate response” (the provision of information, assistance or referral) and approximately four thousand resulted in an inquiry or investigation.¹⁹ The investigative staff last year spent in

18. *Id.*

19. OFFICE OF THE CORRECTIONAL INVESTIGATOR, ANNUAL REPORT OF THE

excess of two hundred days in federal penitentiaries conducting interviews with more than 2,500 offenders, and met with inmate organizations at every institution in the country.²⁰

Of the approximate 6,000 offenders' inquiries and complaints received by the Office in fiscal year 2008-09, the ten most frequent areas of concern identified by offenders were:

1. HEALTH CARE (851).
2. TRANSFER (447).
3. ADMINISTRATIVE SEGREGATION (423).
4. CELL EFFECTS (416).
5. CONDITIONS OF CONFINEMENT (373).
6. STAFF PERFORMANCE (357).
7. VISITS (311).
8. CASE PREPARATION (257).
9. INFORMATION - ACCESS AND CORRECTION (253).
10. GRIEVANCE PROCEDURE (209).²¹

V. Strengthening External Monitoring in Canada

There are three areas where external oversight could be enhanced to strengthen Canada's compliance with its domestic and international human rights obligations.

A. *Independent Adjudication of Administrative Segregation Decisions*

In the summer of 1994, the OCI received several complaints related to an intervention by an all-male Emergency Response Team (ERT) at the Prison for Women (P4W), Canada's only penitentiary for women at the time. The complainants alleged excessive use of force by the ERT, illegal and dehumanizing strip searches of women by male correctional officers, unlawful long-term administrative

OFFICE OF THE CORRECTIONAL INVESTIGATOR 2008-09 (2009), available at <http://www.oci-bec.gc.ca/rpt/annrpt/annrpt20082009-eng.aspx>.

20. *Id.*

21. *Id.* (follow "Annex A: Statistics").

segregation, and inhumane and punitive conditions of confinement. The OCI conducted an investigation, which also included reviews of the CSC's own internal investigation and its videotape of the ERT intervention. On February 14, 1995, given the gravity of the human rights violations, Ron Stewart, Correctional Investigator (CI) at the time, issued a Special Report, which concluded the following:

- the force used was excessive;
- the involvement of an all-male ERT was degrading and dehumanizing to the women involved;
- the conditions of confinement were punitive and inconsistent with legislative provisions governing administrative segregation; and,
- the internal investigation conducted by the CSC was at best incomplete, inconclusive and self-serving.²²

In addition to containing a number of recommendations on significant policy changes in the areas of investigations, administrative segregation and the deployment of all-male ERTs, the Special Report also recommended financial compensation for the women involved.²³ On February 21, 1995, the Special Report was tabled before Parliament by the Minister, who in turn announced that an independent inquiry would be convened. Later that evening, a major television network aired the video of women at P4W being strip searched by an all-male Emergency Response Team, and Canadians were shocked by what they saw.

On April 10, 1995, Madame Justice Louise Arbour, former UN High Commissioner of Human Rights and former member of the Supreme Court of Canada, was appointed as Commissioner for the *Commission of Inquiry into Certain*

22. RON STEWART, OFFICE OF THE CORRECTIONAL INVESTIGATOR, SPECIAL REPORT (Feb. 14, 1995) (Can.).

23. *Id.*

Events at the Prison for Women in Kingston. Justice Arbour's report confirmed the conclusions of the OCI with respect to the incident under investigation, as well as the recommended compensation for the women involved.²⁴

In her report, Justice Arbour stated: "my objective in bringing forward recommendations on various aspects of corrections is to assist the correctional system in coming into the fold of two Canadian constitutional ideals – the protection of individual rights and the entitlement to equality."²⁵ Justice Arbour also commented on the value of a prison Ombudsman to foster a culture of human rights within the CSC: "Of all the outside observers of the Correctional Service, the Correctional Investigator is in a unique position both to assist in the resolution of individual problems, and to comment publicly on the systemic shortcomings of the Service. Of all the internal and external mechanisms or agencies designed to make the Correctional Service open and accountable, the Office of the Correctional Investigator is by far the most efficient and the best equipped to discharge that function."²⁶

In her 1996 report, Madame Justice Arbour concluded that "the management of administrative segregation that I have observed is inconsistent with the *Charter* culture which permeates other branches of the administration of the criminal justice."²⁷ She went on to say: "I see no alternative to the current overuse of prolonged segregation but to recommend that it be placed under the control and supervision of the courts. Failing a willingness to put segregation under judicial supervision, I would recommend that segregation decisions made at an institutional level be subject to confirmation within five days by an independent adjudicator."²⁸

For over a decade, the CSC has rejected independent adjudication and continues to this day to argue that an enhanced internal segregation review process can achieve fairness and compliance *with* the rule of law. Since the Arbour

24. SOLICITOR GENERAL OF CANADA, REPORT OF THE COMMISSION OF INQUIRY INTO CERTAIN EVENTS AT THE PRISON FOR WOMEN IN KINGSTON (1996) (Can.), available at <http://www.elizabethfry.ca/arbours/ArbourReport.pdf>.

25. *Id.* at vi.

26. *Id.* at 194.

27. *Id.* at 190.

28. *Id.* at 191.

Report of 1996, several other internal and external reports have all observed similar fairness and non-compliance issues as highlighted in the *Arbour Report*, and have made similar recommendations for the independent adjudication of segregation cases.²⁹ Most interestingly, in 2004, the Department of Public Safety and Emergency Preparedness Canada undertook its own evaluation and again found that the Service's repeated attempts to achieve compliance with the rule of law and fair decision-making through operational enhancements to administrative segregation processes did not yield sufficient, sustained or desired results. The Department recommended to the CSC's Executive Committee that it implement and test models of independent adjudication, but not surprisingly, again this recommendation was rejected. More recently, the Office of the Correctional Investigator recommended that the Correctional Service immediately implement independent adjudication of segregation placements of inmates with mental health concerns.³⁰

Meanwhile, the situation of segregated prisoners (many of whom are mentally ill) has deteriorated since 1996, and far too many lament in harsh conditions of confinement. Statistics from the Correctional Service of Canada (CSC) indicate that it made a staggering 7,619 placements in administrative segregation, and that on any given day, there were, on average, approximately 904 offenders in segregation during fiscal year 2008-09. The number of placements is astonishing given that the total incarcerated population in the CSC's maximum- and medium-security institutions that have segregation units is less than 10,000 prisoners. Moreover, a snapshot of the

29. See, e.g., CANADIAN HUMAN RIGHTS COMM'N, *PROTECTING THEIR RIGHTS: A SYSTEMIC REVIEW OF HUMAN RIGHTS IN CORRECTIONAL SERVICES FOR FEDERALLY SENTENCED WOMEN* (2003) (Can.); CROSS GENDER MONITORING PROJECT, *THIRD AND FINAL ANNUAL REPORT* (2000) (Report submitted to the Correctional Service of Canada by Thérèse Lajeunesse and Associates Ltd.); MICHAEL JACKSON, *JUSTICE BEHIND THE WALLS: HUMAN RIGHTS IN CANADIAN PRISONS* (2002) (Can.); *Report of the Sub-Committee on the Corrections and Conditional Release Act of the House of Commons Standing Committee on Justice and Human Rights, A Work in Progress* (2000) (Can.); M. Yalden, Correctional Service of Canada, *Human Rights and Corrections: A Strategic Model* (1997).

30. OFFICE OF THE CORRECTIONAL INVESTIGATOR, *ANNUAL REPORT OF THE OFFICE OF THE CORRECTIONAL INVESTIGATOR 2007-08* (2008), available at <http://www.oci-bec.gc.ca/rpt/annrpt/annrpt20072008-eng.aspx>.

segregated offender population indicates that on April 12, 2009, almost 37 percent (311 of 848) of segregated offenders had spent over sixty days in administrative segregation. It is clear that independent adjudication is a viable solution to ensure that fair decisions are made and that least restrictive alternatives to administrative segregation are applied promptly and consistently.

B. The Correctional Investigator's Reporting Relationship

The second area of external oversight that could be enhanced deals with the reporting relationship of the OCI to Parliament. In the case of both annual reports and urgent reports, the Correctional Investigator submits the reports to the federal Minister of Public Safety who, in turn, must submit the reports to both Houses of Parliament within thirty sitting days. A key element of any Ombudsman operation is the independence of the office from the government organization it is mandated to investigate. This independence has traditionally been established and maintained by having the Ombudsman report directly to the legislature. The current reporting relationship of the Correctional Investigator through the federal Minister of Public Safety, given the Minister's direct responsibility for federal Corrections, has been an ongoing point of debate within the corrections field for a long time. Since its creation in 1973, the OCI has advocated for the establishment of direct legislative reporting (i.e., not via the Minister).³¹ Reporting directly to Parliament is more consistent with the traditional role of Ombudsman offices, within and outside Canada. It would help ensure that the Correctional Investigator's independence is never questioned and truly establish the Office at arms length from the agency it oversees.

31. OFFICE OF THE CORRECTIONAL INVESTIGATOR, ANNUAL REPORT 1973-74 (1974) (Can.).

C. *Optional Protocol to the Convention against Torture (OPCAT)*

The OPCAT was adopted by the United Nations General Assembly in December 2002.³² Canada was a member of the group that drafted the OPCAT and voted in favour of its adoption. Canada has been a signatory to the *Convention against Torture* since 1987, but has yet to sign and ratify the OPCAT. As of September 2009, there were forty-nine State Parties and twenty-four Signatories to the OPCAT.

The OPCAT establishes a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The OPCAT's objective is to prevent torture through dual proactive inspection mechanisms.

The OPCAT compels State parties to permit visits to any place within their jurisdiction where persons are deprived of their liberty by a public authority. This mandate, to prevent torture and other cruel, inhuman or degrading treatment, is accomplished by:

- Creating both an independent international and national oversight mechanism;
- Establishing a system of regular visits conducted by both mechanisms; and
- Allowing inspections in places where people are deprived of their liberty.

The creation of a national review mechanism as described in the OPCAT would include powers to: examine the treatment of persons deprived of their liberty in places of detention; make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons

32. Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 57/199, U.N. Doc. A/RES/57/199 (Dec. 18, 2002), available at <http://www2.ohchr.org/english/law/cat-one.htm>.

deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the UN; and to submit proposals and observations concerning existing or draft legislation pertaining to persons being deprived of their liberty.

Recently, in his Annual Report 2007-08, the Correctional Investigator again encouraged the Canadian Government to demonstrate its leadership on the international scene by signing and ratifying this important human rights instrument.³³ Moving quickly on ratification would add to Canada's long historical tradition of promoting and defending human rights and democratic values, both domestically and abroad.

VI. Conclusion

Correctional Ombudsman offices are an effective counterweight to the natural tendency of large social control institutions to overreact to social and political pressures. The need for independent oversight increases when law and order become politicized. A correctional authority may become lax in its attitude towards human rights if it operates within a political climate that encourages calls for harsher measures against prisoners. Prison Ombudsman offices, which rely on recommendation, persuasion and publicity to effect change, will have great difficulties resolving systemic issues in these circumstances.³⁴

As an oversight agency, the Office of the Correctional Investigator continues to face many challenges. However, since its creation, the Office has been an important part of safeguarding the rights of offenders and in making Canada a safer place. Public safety is enhanced by ensuring that offenders are treated fairly, provided the necessary assistance to become law-abiding citizens, and safely reintegrated into society in a timely and supported fashion.

33. OFFICE OF THE CORRECTIONAL INVESTIGATOR, ANNUAL REPORT OF THE OFFICE OF THE CORRECTIONAL INVESTIGATOR 2007-08, *supra* note 30.

34. Zinger, *supra* note 1, at 135.