

**SUBMISSION FOR
THE UNIVERSAL PERIODIC REVIEW ON CANADA
UNITED NATIONS
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Submitted by:

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¹ The Concordia Student Union is the representative body of Concordia University's 35,000 undergraduate students, run by students. All of Concordia's undergraduate students are automatically members. The CSU LIC is staffed by volunteer law students supervised by a practising lawyer, providing free legal information to Concordia undergraduate students concerning immigration, consumer protection and discrimination law.

INTRODUCTION

1. The CSU LIC would like to raise the following issues for consideration by the working group involved in the Universal Periodic Review on Canada:
 - a. Violations of students' rights of association, peaceful assembly, freedom of speech and political opinion;
 - b. Racial profiling of students;
 - c. Homophobia in the workplace;
 - d. Discrimination against non-parent, non-Quebec-resident students, and
 - e. Victimization and exploitation of international students
2. The CSU LIC's submission highlights the violation of students' rights of association and peaceful assembly through arbitrary and abusive police action and restrictive provincial and municipal regulations. This submission also focuses on the systemic ineffectiveness of Concordia University's procedural infrastructure in handling human rights complaints and the resulting impediment to students' access to justice. Finally, the CSU LIC wishes to point out the unacceptable deficiencies and delays in the processing of human rights complaints by the Quebec Human Rights and Youth Rights Commission.

VIOLATION OF RIGHTS TO ASSOCIATION AND PEACEFUL ASSEMBLY, FREEDOM OF SPEECH AND POLITICAL OPINION

Student Strikes and Governmental Response

3. The provincial-wide, spring 2012 student strikes against Quebec university tuition increases resulted in thousands of arrests, searches, detention orders and criminal charges against students that were both arbitrary and abusive. Students were injured and intimidated by riot police while exercising their right to protest against governmental policy. In one such incident, some 40 students, half of whom from Concordia University had left a demonstration in Victoriaville, Quebec and were on a bus back to Montreal when, for no apparent reason other than their participation in the protests, they were stopped by police, arrested, detained overnight and charged with criminal offences.
4. These arbitrary and abusive police actions constituted a violation of students' right to the life, liberty and security of the person under s. 7 of the *Canadian Charter of Rights and Freedoms* and s. 1 of the *Quebec Charter of Human Rights and Freedoms*. Students' rights under ss. 8 and 9 of the *Canadian Charter* and ss. 24 to 25 of the *Quebec Charter* to be secure against unreasonable search or seizure and not to be arbitrarily detained or imprisoned were also violated. Furthermore, the police's obstruction of and punishment for students' exercising their fundamental rights to free speech and peaceful assembly went contrary to s. 2 of the *Canadian Charter*, s. 3 of the *Quebec Charter*, and ss. 18, 19, 21 and 22 of the *International Covenant on Civil and Political Rights* (ICCPR). As well, the case can be made that political profiling was practiced by law enforcement against these students, which would also

constitute the breach of the equality provision of the *Quebec Charter*, which prohibits discrimination based on political convictions.

5. In order to suppress student protests, the Quebec government enacted Bill 78, *An Act to enable students to receive instruction from the postsecondary institutions they attend*, and the City of Montreal also passed a regulation called the *Règlement sur la prévention des troubles de la paix, de la sécurité et de l'ordre publics, et sur l'utilisation du domaine public*, and another by-law to ban the wearing of masks during protest. Many groups, including the Barreau du Québec, condemn these regulations as unjustly infringing on students' fundamental *Quebec Charter* s. 3 and *Canadian Charter* s. 2 rights of association, peaceful assembly in a public place and freedom of expression. In May 2012, two UN Special Rapporteurs express concerns about these laws.

Private Security Guards Profiling and Detaining Students Involved in Protests

6. Concordia University students who participated in the demonstrations against Quebec tuition hikes, or who were perceived to be doing so, were illegally detained, interrogated, and compelled to produce identification by private security guards on and near the Concordia campus, in violation of the students' right to free expression and political opinion. In several cases, these guards did not clearly identify themselves (which is contrary to provincial government guidelines) and used intimidating tactics, including threats of arrest, to check students' IDs. These private actions infringed upon the students' fundamental civil rights and liberties, which protect them against profiling based on prohibited grounds of discrimination such as age, social condition and political convictions under ss. 10 and 24 of the *Quebec Charter*, ss. 8, 9 and 15 of the *Canadian Charter* and ss. 18, 19, 21, 22 and 26 of the *ICCPR*.

RACIAL PROFILING BY THE POLICE

7. Concordia University students have been the targets of racial profiling by the Montreal City police and Montreal Transit Authority inspectors. A female student of Arabic background was violently and arbitrarily arrested by police and given two citations totalling over \$1,000 for misuse of municipal property and having made a loud noise other than yelling. The police questioned the student while she was sitting on a bench near a bus stop to rest momentarily after leaving the downtown university library in the early morning hours. The officers told her she was breaking the law by placing her bags on the bench. When she asked what law that was, they violently handcuffed, arrested and searched her. She overheard them discussing a prank emergency call made by earlier a woman with a foreign accent. They assumed that she had made this call because of her "foreign" background.
8. This form of racial discrimination is prohibited under ss. 1, 3, 4, 10 and 24 of the *Quebec Charter* and ss. 8, 9 and 15 of the *Canadian Charter*, and condemned in the *International Convention for the Elimination of All Forms of Racial Discrimination (ICERD)*. After the student filed a complaint with the help of the Center for

Research-Action Race Relations (CRARR), the City of Montreal withdrew its two citations. This and other similar cases were brought to the attention of the Police Ethics Commissioner's Office and the Quebec Human Rights and Youth Rights Commission.

9. In collaboration with CRARR and other groups, the CSU LIC recommends increased institutional accountability and the need for more racial sensitization of municipal officials to comply with article 2 of the *ICERD* and articles 71 and 72 of the *Durban Programme of Action* to combat racially discriminatory law enforcement practices. The City of Montreal should report annually on the number of racial profiling and discrimination complaints filed against it and provide anti-discrimination and anti-racist training for the police, educators, social workers and judges. Police candidates should be screened out at training levels for racism and other bias. Hiring criteria should be improved to reject applicants with insufficient skills to work in a multicultural city like Montreal. Institutional managers (i.e. the Police Chief, the Head of the Montreal Transit Authority, and City Councillors) should directly be held accountable.
10. Additionally, CRARR, the CSU LIC and other groups strongly recommend that the systemic deficiencies and delays in the Quebec Human Rights Commission's handling of complaints be addressed. Many student complainants are discouraged by the amount of time it takes the Commission to process their cases, and some feel that the authorities are often not properly nor seriously investigating their race-based complaints. The Human Rights Commission should receive more resources and skills to treat complaints of racism more effectively.

HOMOPHOBIA IN THE WORKPLACE

11. A Concordia University student working in one of the university's service departments was subjected to discriminatory remarks of a sexist, homophobic and otherwise offensive nature from her coworkers causing her to terminate her position. No apology was ever offered, nor disciplinary action taken, because the office had no policy in place to prevent or respond to discriminatory or harassing behaviour in the workplace. Concordia investigated the matter, but the complaint was dismissed on the basis that there had been no harassment as defined by the University's *Code of Rights and Responsibilities*, while the lesbophobic discrimination aspect was ignored. As the student was not unionized, no other internal recourse was made available to her.
12. However, the situation showed clear elements of discrimination on the basis of sexual orientation intersecting with gender as set out in s. 10 of the *Quebec Charter* and s. 15 of the *Canadian Charter*, as well as a violation of the student's rights to free speech, opinion, expression and conscience, as set out in s. 3 of the *Quebec Charter*, s. 2 of the *Canadian Charter* and s. 26 of the *ICCPR*. This lack of recourse and appeal process throws into sharp focus the inability of Concordia University's infrastructure to handle human rights complaints appropriately and effectively and to effectively address homophobia in employment, despite the fact that the Quebec

Government has adopted a Plan of Action against homophobia in different sectors, including educational institutions.

DISCRIMINATION AGAINST NON-PARENT STUDENTS IN COMMON LAW UNIONS

13. Canadian students from other provinces studying in Quebec and living in *de facto* common-law unions have been denied access to loans and Quebec tuition rates because they do not have children. This goes against Quebec's commitment to gender equality, equality for same-sex couples, equality for common-law relationships and a couple's choice regarding children. This discrimination was brought to light by a Concordia University student originally from British Columbia, who discovered that she did not qualify for residency for tuition purposes (despite qualifying for health care and automobile insurance purposes) because neither she nor her Quebec resident partner of three years had any children.
14. Article 2 of the Quebec *Act Respecting Financial Assistance for Education Expenses* defined "spouse" as "the person who is married to, or in a civil union with, and is not separated, legally or de facto, from the student, or *the person of the opposite or the same sex who lives with the student in a de facto union with a child of the person or of the student*" (emphasis added). International students in legitimate common-law relationships with Quebec residents, couples who decide not to have children, who are biologically unable to have children, or for whom adoption is too costly, and same-sex couples, were also affected by this restriction.
15. With CRARR's assistance, the student filed a complaint with the Quebec Human Rights and Youth Rights Commission to declare the restriction discriminatory on the basis of civil status and social condition under s. 10 (the equality provision) of the *Quebec Charter*. After three years of investigation, the Commission ruled in the student's favour, and ordered the Quebec Education Ministry to pay her differential fees, and Concordia University to pay her moral damages. The Commission also ordered the Ministry to amend the law and other student financial aid policies to end this form of discrimination based on civil status. As neither the Ministry nor Concordia complied with the Commission's order, the case is being litigated before the Quebec Human Rights Tribunal.

VICTIMIZATION AND EXPLOITATION OF INTERNATIONAL STUDENTS

Predatory Landlords' Illegal Rental Practices Target International Students

16. International students at Concordia University, who represent 10% of the student population, have been subject to abusive, discriminatory and illegal rental practices by Montreal landlords. These students, many of whom come from countries with no rental housing laws and are women and members of racialized and ethnic minorities, are particularly vulnerable to such practices as they often lack knowledge of the local law and often have no established local support systems. The Concordia Housing and Job Office received many complaints about landlords coercing student tenants into

paying illegal application fees and advance deposits and providing private information. These students have testified that landlords treated them with negligence bordering on harassment, refused to make repairs to their apartments, required co-signers to be of Canadian origin and failed to provide adequate security within the apartments.

17. The president of the Quebec Human Rights and Youth Rights Commission was called upon to open an inquiry into these landlords' illegal practices under s. 71.1 of the *Quebec Charter* regarding cases of discrimination, but the Commission declined to intervene, claiming that it was not within its jurisdiction. The Commission's refusal came despite clear indications of discrimination that would engage its jurisdiction on the basis of race, ethnic or national origin, gender and social condition in the sense of s. 10 of the *Quebec Charter*, and in contravention of s. 12 on discrimination in making in juridical acts concerning services ordinarily offered to the public. These predatory apartment rental practices additionally violated the students' rights to safety, dignity and privacy, which are respectively protected by ss. 1, 4 and 5 of the *Quebec Charter*.

International Students from China Exploited by University Recruitment Agents

18. Several international students from China studying at Concordia University have been victims of questionable Concordia recruitment practices in China. In exchange for paying high housing and application fees to one of these agents in particular as part of the admission process, Chinese students were promised certain living conditions in Canada which turned out to be false. Upon arrival in Montreal, these students were placed in overcrowded apartments often far from campus, given very little food, and forbidden from inviting visitors over without the landlord's permission. They were required to pay exorbitantly high monthly rent and a deposit for several months' rent, while never receiving a written lease. This situation, which appears ongoing, also involves students from other countries.
19. Under s. 118 of the Canadian *Immigration and Refugee Protection Act*, no person shall knowingly organize the coming into Canada of one or more persons by means deception or use of coercion. These conditions explicitly violated students' rights to safety, dignity and privacy, which are protected by ss. 1, 4 and 5 of the *Quebec Charter*, as well as their right to fair housing and other tenant protections as guaranteed by Quebec's housing laws and the *Civil Code of Quebec (CCQ)*, which requires landlords to fulfill certain obligations which were manifestly not met in these circumstances. Since the University, as a provincial para-public institution, has to abide by federal and provincial laws regarding immigration, education, housing and civil rights, this situation raises the question of Canada's failure to comply with ss. 2, 11 and 13 of the *International Covenant on Economic, Social and Economic Rights* and other similar provisions of the ICERD.