

Canada and The World

New Directions for Canada's
International Policy

Human Rights in Canadian Foreign Policy: New Departures

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CANADA AND THE WORLD: NEW DIRECTIONS FOR CANADA'S INTERNATIONAL POLICY

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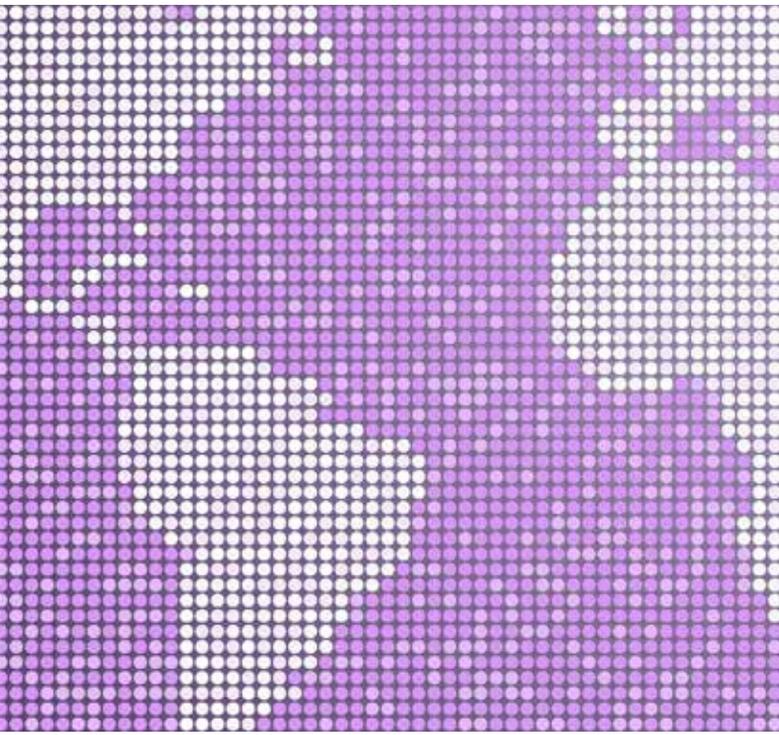
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Human Rights in Canadian Foreign Policy: New Departures

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Human Rights in Canadian Foreign Policy: New Departures

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EXECUTIVE SUMMARY

TODAY'S DYNAMIC INTERNATIONAL SCENE poses numerous threats to human rights and to the international regime established to protect those rights. But human rights issues are hardly diminishing in importance in international discussions. Rather, the nature of the debate on human rights is shifting, with less emphasis on “naming and shaming” and more on dialogue and co-operation. In this new environment, how Canada approaches the world is as important as which challenges it tackles.

Canada should make multilateralism a priority, deploying persistent, skilled diplomacy in long-term engagements. Developing new partnerships is also essential to the pursuit of human rights objectives. Going beyond old parameters to engage mid-tier democracies, reach out to global South human rights networks, and engage sub-state authorities such as regional and municipal governments, can create new opportunities to advance human rights and contribute to the better realization of them. Canadian human rights policy should seek action across the broad range of human rights, including global rights to health and equal access to basic services for the poor.

It has the opportunity to lead by example, by enshrining a human rights agenda at home and abroad.

Within this context, the following four possible initiatives might be considered:

1 Cities: In recognition of rapid urbanization round the world, Canada could build awareness of and support for the notion that municipal authorities are important human rights ‘actors’ – that they can and must play a vital role in advancing human rights, and also that they should be empowered to do so (and held to account when they fail). Rights challenges such as policing, housing, access to essential services, education, social integration and more all fall within the purview of municipal authorities. Canada could promote the creation of a platform for cities at UN Habitat III in Nairobi in 2016, press the greater inclusion of municipal perspectives in UN deliberations and encourage the involvement of Canadian cities in the emerging global dialogue around the “human rights city”.

2 Women: Canada’s leadership role promoting women’s rights globally has slipped in recent years. There is an opportunity for Canada to make women’s human rights a key objective of foreign policy, while also signaling greater focus at home with the establishment of a national inquiry into missing and murdered aboriginal women and girls. Applying a human rights lens to existing support for maternal, newborn and child health will lead to more funding support for programs supporting sexual and reproductive rights.

3 Canada’s global miners: Canada is playing only a modest or marginal role in efforts to ensure its mining companies respect human rights abroad, even though it is home to a majority of the world’s mining companies and Canada’s stock exchanges account for a large amount of the global investment in mining. Canada should deliver a national plan that would set out how Canadian policy and law support the implementation of the UN Guiding Principles on Business and Human Rights, and it should implement the 2007 Final Report of the National Roundtables on Corporate Social Responsibility and the Canadian

Extractive Industry in Developing Countries.

4 Global terrorism: After more than a decade of increased investment in security and anti-terrorism policies, it would seem the global threat of Islamist and other terror is hardly diminished and, indeed, in some countries, is noticeably greater. Research and programming in engagement strategies to dissuade those who would join terrorist groups, or ‘de-radicalize’ those who have already joined, receives only a fraction of the funds spent on surveillance, or on overseas anti-terror operations. Canada should substantially increase funding for research into and programs for de-radicalization, and establish a Global Commission on Countering Extremism to investigate and report on ways to counter extremist ideology and to prevent radicalization.

From the mid-1970s onwards, every Canadian government, and every foreign minister, has claimed to attach importance to promoting human rights both in multilateral forums and in bilateral relations. Of course, some governments (and some ministers) have worked harder to this end, and human rights goals have often yielded to trade, security or other objectives. But importantly, the fact that human rights ought to be a foreign policy priority is not in dispute. The government that emerges after the October 2015 elections, therefore, is almost certain to want to maintain Canada’s long-standing commitment to human rights in its foreign policy. This note sets out some specific policies that might be pursued to give substance to this commitment.

Before doing so, however, the note provides a brief overview of the international context that will shape the impact of any human rights policy. It is trite to note that we are living through a period of rapid global change. Yet global power shifts, rapid technological change, growing economic integration, increased environmental stress and other challenges will obviously have an impact both on the degree to which people will enjoy their human rights, and on the ability of countries, like Canada, to advance human rights concerns in their foreign policy.

BACKGROUND

TODAY'S DYNAMIC INTERNATIONAL SCENE poses numerous threats to human rights and to the international regime established to protect those rights. It goes without saying that terrorism (and counter-terrorism) has had an impact on human rights, and it is self-evident that basic rights and freedoms are respected (or not) to substantially varying degrees in different countries. More to the point is the way the changing international scene is having an impact on efforts to advance human rights through international bodies. In particular, the claim is made that the decline of the west — and the rise of the rest — is likely to undermine the global human rights regime established through the United Nations (UN) and regional or other intergovernmental organizations over the past several decades. This claim is grounded in the fact that more authoritarian states appear to be more influential, and that their interest in putting sovereignty above human rights treaties will weaken the usefulness of multilateral organizations such as the UN to leverage human rights reform. Linked to this argument about power is an argument about ideology, namely that the human rights idea that has risen to global prominence did so in an era where liberal democracies both championed it and held disproportionate influence in global institutions. As that influence wanes, so too will the global concern for human rights.

The first point to note about such arguments is that they are weakly supported in fact. If one takes the 1990s as the apogee of western power, then presumably for at least the past decade there should have been much more 'pushback' at the international level on human rights. However, if one considers the UN Human Rights Council, the direct scrutiny of countries' human rights records is increasing, the number of 'Special Procedures' (expert mechanisms that monitor and report on human rights abuses) has doubled in the past 15 years, and the number of Commissions of Inquiry appointed to report on serious human rights abuses has also grown. Additionally, several new international human rights treaties and protocols have been drafted in the past 15 years, without any significant weakening of existing rules. The same trend is visible — arguably more so — in regional organizations. Although there have been efforts in the OAS and Council of Europe by some less democratic

powers to weaken those organizations' roles in defending human rights, these have not succeeded.

Nevertheless, there is the widespread perception, especially among western diplomats (including Canada's), that it's "getting harder" to pursue human rights issues, notably at the UN. No doubt this is true as regards some human rights issues and vis-à-vis some countries, especially those backed by emerging powers. And there is a good degree of acrimony in many UN human rights discussions, with votes too often split along west/east and north/south cleavages. But human rights issues are hardly disappearing or even diminishing in importance in international discussions. Rather, it would be more correct to say that the nature of the debate on human rights issues is shifting. There is a stronger preference for "dialogue" and for mechanisms that proceed with the consent of states; there is less support for country-specific 'naming and shaming' (except in egregious situations of human rights abuse), and a concern too about human rights conditionality. As emerging powers play a bigger role in international discussions on human rights, they resist linking aid, trade or financing discussions to a country's human rights record. Also, as regards substantive issues, there is certainly more interest in economic and social rights, and the links between what is perceived to be an inequitable global economic order and human rights.

In short, the international debate on human rights is shifting, rather than diminishing. Certainly, the role of China and other authoritarian, sovereignty-preoccupied regimes, is largely negative. But there are a number of democracies among the emerging powers, and a rapidly growing global (and educated) middle class that do show an interest in human rights; coupled with a dramatic increase in the flow of information about the abuse of rights, this makes it likely that a vibrant debate on rights will persist in global affairs.

It is worth briefly considering the way in which civil society is reacting to changing global dynamics. NGOs, social movements and international advocacy networks have played a crucial role in building and strengthening the international human rights regime, and Canadian governments have in the past worked closely with civil society to advance human rights issues. There are two key dynamics at work. First, there is an effort at "internationalization"; by this is meant that global NGOs like Amnesty International-

al are decentralizing staff, operations and decision-making to the global South, to bolster their claim to be truly international. At the same time, prominent NGOs located in southern countries (including in Brazil, Kenya, South Africa, Colombia, and more) are increasingly acting on a regional and international level (and being supported by prominent donors to do so). Secondly, in this process, there is a much greater emphasis on so-called “south-south” networks, whereby human rights NGOs in the global South seek more deliberately to network and campaign with their colleagues in other southern countries. Funding actively supports this shift. Certainly, such developments face challenges, not least in a number of countries that are placing various constraints on civil society, including the prohibition of foreign funding of NGOs.

This brief assessment of the global scene points to a number of factors which will be key in devising a forward-looking agenda for Canadian human rights policy — one which is fully informed and appropriately nuanced, consistent and effective in the evolving global context.

First, multilateralism is essential. Now more than ever Canada will need allies to advance human rights issues. The UN human rights system is far from perfect, but it remains a key venue within which Canada can work with other states to build broad-based alliances in favour of particular human rights policies. It is easy to ridicule the UN’s efforts, and indeed some decisions made at the UN invite ridicule. Yet, if the system were not in place we would have far fewer opportunities to advance human rights concerns at the global level. As non-western countries play a more active (or occasionally dominant) role in UN human rights debates, western countries may feel less inclined to participate fully. That would be a mistake. As noted, the debate is shifting but hardly in a uniformly negative manner. Persistent, skilled diplomacy will be at a premium in this long-haul engagement. To stand still, demur or exit will be to surrender to the interests of others.

Second, Canada must develop new partnerships to pursue human rights objectives. A key drawback of the UN system is the way it pigeon-holes states into regional groups; in the human rights area, this creates both false antagonisms and unhelpful solidarities. It is hardly original to note that there are many democratic countries outside of the ‘Western European and Others Group’ to which Canada belongs at the UN. Mid-tier powers including Indonesia,

India, South Africa, Brazil and Turkey, are all democracies and all are active in global human rights debates. And Canada has significant roles to play in regional and other IGOs, such as in the OSCE with its increased engagement in the former Soviet Union, and in the OAS with regard to entrenchment of democratic governance across Latin America. But new partnerships should not focus only on states. Canada should be reaching out actively to global South human rights networks, and not only via Canadian-based NGOs. At the same time, there are many levels of government that have responsibilities as regards human rights, and which are increasingly active at the international level. Sub-state authorities like regional, provincial and municipal governments, and hybrid forms of government including indigenous tribal councils, have international networks that offer opportunities to advance human rights and to contribute practically to the better realization of them.

Third, Canadian human rights policy must genuinely seek action across the broad range of human rights. Although Canada is a party to the International Covenant on Economic, Social and Cultural Rights, and has usually not obstructed those pushing for action on economic and social rights, it’s fair to say it hasn’t been a champion in this area. That needs to change. Canadian support for maternal, newborn and child health is easily reconceived as championing global rights to health and equal access to basic services for the poor (though there are implications for programming). The same is true in other areas of Canadian development policy and the vital place of human rights within it.

Fourth, the promotion of policies abroad is dependent on Canada showing a clear commitment to human rights at home. That is, if we stand aloof from (or even undercut) the international human rights system, we will be less able to demand that it be used to sanction other countries. Clearly, there is much to be proud of in Canada’s domestic human rights record; nevertheless, there are continuing problems and room for improvement. Canada should lead by example — credibly, self-confidently and without hesitation. Thus, for each of the initiatives suggested below, there is an agenda for action at both the domestic and international levels. This domestic ‘anchoring’ of foreign policy could also be an important means of broadening the participation of ordinary Canadians in the formulation and implementation of Canada’s global human rights strategy.

The following four possible initiatives might be considered:

1. CITIES – THE NEW FRONTIER FOR HUMAN RIGHTS

The world is urbanizing at a dramatic rate. For the first time in history, more than half the global population is urban and this will climb to 60% by 2030. Slum populations will double (from 2010 figures) to 2 billion people by 2040. The number of “megacities” — those with more than 10 million people — will also grow, likely to over 30 by 2025. Yet, paradoxically, as municipal authorities grow in importance they are at the same time often starved of the powers and revenues they need to improve the quality of urban life in an equitable manner. This is often discussed as a question of governance, distribution of powers or even tax policy. But it is also a human rights issue because cities must grapple with numerous issues that are key to the protection of human rights: policing, housing, access to essential services, education, social integration and more. However, both domestically and internationally, municipal governments are not normally thought of as bearing specific duties in relation to human rights; the international human rights system remains focused on central state authorities.

This initiative would aim to build awareness of and support for the notion that municipal authorities are important human rights ‘actors’ — that they can and must play a vital role in advancing human rights, and also that they should be empowered to do so (and held to account when they fail).

Canada is a highly urbanized country (more than 80%, according to StatsCan), and although it faces a continuing problem of homelessness and urban poverty (especially among marginalized groups), it has also been remarkably successful in building relatively safe urban environments that promote social integration. Several Canadian cities routinely feature in ‘Top 10’ lists of most livable cities in the world. At the same time, there is increasing dissatisfaction among municipal governments in Canada that

their powers and finances are not keeping up with their growing responsibilities.

Suggested actions:

- The UN’s “Habitat III” conference will take place in Nairobi in 2016 (the first was in Vancouver in 1976). This provides an excellent opportunity to launch a ‘platform’ whereby cities could engage (and learn) globally on human rights issues, but also, possibly, be answerable in their own right to delivering on certain obligations.
- There is a small but growing number of cities (from north and south) that are championing the idea of the “human rights city”. Often, they adopt specific “charters” promising a commitment to key rights, or action on certain issues. The purpose is both genuinely intended to align municipal policy with human rights, but also to enhance cities’ stature and possible claims on central government revenues. The government should promote the involvement of Canadian cities in this emerging global dialogue around the “human rights city”. It might support a global conference in Canada on this theme, led by the Federation of Canadian Municipalities (which does already provide advice and expertise abroad).
- The government should take forward an initiative at the UN Human Rights Council that would ensure the role of municipal authorities be given greater weight in UN deliberations. Various mechanisms might be pursued, but the key task is to get the idea firmly on to the UN agenda.

2. WOMEN – A TOP PRIORITY

From the mid-1980s onwards, Canada led global efforts on women’s human rights. It championed ratification campaigns for the Convention on the Elimination of All Forms of Discrimination against Women, promoted the adoption of new standards to ensure violence against women was properly seen as a human rights issue, and

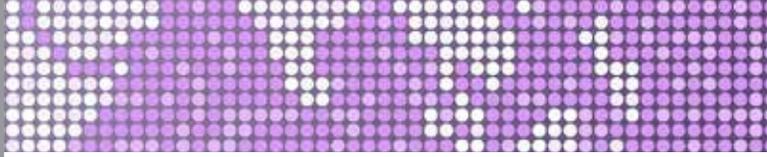
placed issues of gender and discrimination into Security Council deliberations.

But the priority given to women's rights has diminished in recent years. While the previous government's emphasis on maternal, newborn and child health (MNCH), and on ending child, early and forced marriage, appear to champion women's rights, actual programming is minimal as regards the latter, and steers clear of important rights issues as regards the former (for example, by downplaying sexual and reproductive rights although they are central to maternal health).

Further, little has been done in recent years by Canada to improve global efforts to end violence against women. Canada's ability to champion this issue — one it largely placed on the UN agenda in the early 1990s — was hampered by the previous government's refusal to heed the advice of several UN bodies that it establish a national inquiry on the issue of missing and murdered indigenous women and girls — clearly a matter of 'walking the talk'.

Suggested actions:

- Announce the re-prioritization of women's human rights as a key objective of Canadian foreign policy, and put that priority into the mandate letter of the Foreign Minister. This should be done alongside an announcement of a national inquiry on missing and murdered indigenous women and girls.
- Commit to continuing and expanding Canadian funding for efforts to improve maternal, newborn and child health (MNCH), but with a sharper 'rights-based approach' to the issue. That would include funding for programs promoting sexual and reproductive rights.
- The Sustainable Development Goals (SDG) will be agreed in September 2015, and are likely to include a detailed set of commitments to realizing the rights of women and girls. The draft SDGs include targets on ending discrimination, harmful practices and violence against women, promoting their equality in politics and business, and ensuring their equal access to services, education, technology and more. Canada should take the lead in promoting women's equality in the SDG process through 2030, and marshaling policy, strategy and resources to meet these targets.



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3. CANADA'S GLOBAL MINERS – REGAINING LOST LUSTER

The nature and scope of activity of the global extractive industry continue to generate complaints of its negative impact on human rights. Surveys repeatedly show this sector as being disproportionately represented in tallies of human rights grievances against companies. Numerous efforts via the UN, OECD, OAS, EU, and elsewhere have been made or are ongoing to address this problem, including both regulatory and voluntary approaches. Yet Canada is playing only a modest or marginal role in such efforts, although it is home to a majority of the world's mining companies and Canada's stock exchanges account for a large amount of the global investment in mining.

Although the government insists (and many Canadians believe) that Canadian mining companies lead the world in their adherence to environmental and social standards, the truth is there are credible allegations of complicity or negligence in environmental harm and human rights abuses against Canadian mining companies in many countries. There are a number of lawsuits in Canadian and other courts arising from these disputes. While the current government has aggressively promoted Canadian mining companies abroad, it has largely failed to develop a credible accountability mechanism that would ensure public funding (via CPP investment or EDC grants and loans) is not supporting bad practice. It has also failed to ensure local communities abroad can have their grievances heard, their interests addressed and their human rights respected, thus letting the practices of some companies tarnish Canada's image.

This is hardly a new problem. A multi-year and multi-stakeholder effort concluded in 2007 (see the "Final Report of the National Roundtables on Corporate Social Responsibility (CSR) and the Canadian Extractive Industry in Developing Countries") with a detailed set of recommendations. Importantly, both the NGO and private sector participants agreed to these. But very few have been implemented.

At the global level, a voluntary set of 'UN Guiding Prin-

ciples on Business and Human Rights' adopted in 2011 calls upon countries to develop policies to ensure their companies are not complicit in human rights abuses abroad. As of yet, Canada has not developed a plan to implement the UN Guiding Principles. At the same time, a UN process has just begun (despite the objection of most WEOG members) to draft a treaty on business and human rights, with as yet unclear implications as regards the obligations on countries (such as Canada) in which mining and other companies are headquartered (so-called 'home states').

Suggested actions:

- Implement the 'National Roundtables' recommendations, in particular as regards establishing an Ombudsman to deal with complaints, and a mechanism to withhold government funding from companies that fall short of agreed human rights standards in their overseas operations.
- Deliver a national plan that would set out how Canadian policy and law support the implementation of the UN Guiding Principles.
- Engage fully and constructively with the UN treaty process, leading efforts to clarify the legal obligations on 'home states' as regards the conduct of their companies abroad.

4. GLOBAL TERRORISM – ANOTHER TRACK

MILITARY AND SECURITY approaches have dominated the global response to the threat of Islamist or other terror. Yet, after more than a decade of increased investment in what might be called identify, find and destroy (or arrest) policies, it would seem the threat is hardly diminished and, indeed, in some countries, is noticeably greater.

Governments know this, and in many countries they are increasingly investing in engagement strategies that seem to dissuade those who would join terrorist groups, or 'de-radicalize' those who already have. There is in-

creasing scholarly attention to the topic and to understanding which programs work, and why. But this area of research and programming still receives a fraction of the funds spent on surveillance, or on overseas anti-terror operations. There is also no global institutional framework to co-ordinate such programs, to mobilize and target research funds, to ensure information sharing on best practices, and to champion the validity of approaches that can too easily be portrayed as being ‘soft’ on terror. The UN Security Council has passed dozens of resolutions on terrorism (and its Counter-Terrorism Committee grills states on their security and other policies to punish terrorism), but there is no UN or other multilateral body dedicated to pursue de-radicalization programs.

Canada’s ‘Kanishka’ project (run by Public Safety Canada) is investing in research in this area, and has some comparative knowledge of efforts in other countries. This could be the basis for a global ‘Commission’ or similar body that would substantially increase the profile of and funding for this vital alternative track.

Suggested actions:

- Substantially increase funding in Canada for research into and programs for de-radicalization, and for seeking to understand and counter support for violent extremism.
- Establish a Global Commission on Countering Extremism, tasked to investigate and report on ways to counter extremist ideology and to prevent radicalization. It would be made up of well-known and respected political, religious and military leaders. ■

