The McLeod Group

CANADA, HUMAN RIGHTS AND THE UNITED NATIONS

Historically, Canada has made important contributions to the global advancement of human rights. This has been manifested through our work on particular human rights issues and in our broader efforts in the creation and evolution of institutions that address human rights. In this work, Canada has shown special leadership on gender equality, landmines, child soldiers, the creation of the International Criminal Court, reforms leading to the creation of the UN Convention on the Rights of the Child and, more recently, the issue of child, early and forced marriage.

Erosion of Canada's Reputation

In recent years, however, the behaviour of the Canadian government in United Nations deliberations on human rights has badly eroded our country's reputation. For example:

- Canada's polarizing positions with respect to Israel/Palestine and a flat refusal to support any serious expression of concern about Israel's human rights record;
- Canada's aggressive opposition to the UN Declaration on the Rights of Indigenous Peoples: Canada was the *only* country to qualify its support for the outcome document from the 2014 UN World Summit on Indigenous Peoples;[1]
- Refusal to co-sponsor important UN resolutions dealing with the new Arms Trade Treaty and calling for a global moratorium on executions;[2]
- Reticence to champion previously agreed UN language dealing with sexual and reproductive rights;[3]
- Strong opposition to UN recognition of the rights to safe water and sanitation.[4]

Canada not only acts in disregard of human rights, it adopts a bullying, self-righteous demeanour, positioning itself *against* the UN system.

Action Speaks Louder than Words

There is something else. The UN human rights system is, at its heart, about improving human rights protection in countries around the world – all countries. And that includes Canada, because respect for human rights must begin at home.

- If it is important to Canada that countries sign on to major UN human rights treaties, we need to be a stellar example ourselves;
- If it is important to Canada that countries engage constructively and respectfully with UN human rights review processes, we need to set a stellar example ourselves;
- And if it is important to Canada that countries go beyond the easy step of signing on to UN treaties and actually adopt the laws and measures that will concretely implement those obligations, we need to set

The McLeod Group works to strengthen Canada's contribution to a better world.
The McLeod Group is made up of professionals with many years of experience in government, civil society and academia, working across the fields of international development, diplomacy and foreign policy. We work with others who value human rights, inclusion, equality and sustainable development to advance Canadian policy and action on international cooperation and foreign affairs.
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a stellar example ourselves.

Ratification, Engagement and Implementation

Canada has traditionally enjoyed a strong record in negotiating and ratifying UN human rights treaties. Recently, however, that has come to a near standstill.

The Harper government has ratified only one human rights treaty since coming to power in 2006. That was the Convention on the Rights of Persons with Disabilities in 2010. The list of unratified treaties grows longer by the year:

- The Convention on Migrant Workers;[5]
- The Convention on Enforced Disappearance;[6]
- Optional Protocols to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of Persons Living with Disabilities and the Convention on the Rights of the Child, all establishing complaint processes for individuals who allege that their treaty-protected rights may have been violated.

Two are particularly baffling.

> ***The Optional Protocol to the Convention against Torture.*** This especially important torture prevention treaty sets up national and international inspections of prisons to identify and address conditions that breed torture. This practical and important treaty was adopted in 2002. Canada's first promise to 'consider ratifying' it was part of the Harper government's election pledges when Canada ran for a seat on the UN Human Rights Council in 2006. As part of a UN human rights review in 2009 Canada again promised to 'consider ratifying' the protocol; but in that same review in 2013 backtracked and stated there was no plan to ratify 'at this time.' The process remains in limbo.
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> ***The Arms Trade Treaty***. Canada, the country that led on landmines, voted for, but didn't co-sponsor, the resolution adopting the ATT in April 2013. Over 60% of the world's governments, including the United States, have now signed this treaty, taking a symbolic but important first step. Not Canada. Sixty of those states have ratified the ATT, bringing it into force in December 2014. That Canada was not among the first group of leaders to sign and ratify it is a disgrace. The Harper government said it needed to consult with Canadians to make sure the treaty would not affect hunters and farmers. In fact, the treaty is very clear. It would have absolutely no domestic impact on gun ownership unless Canadian hunters and farmers attempt to send their shotguns to Syria or South Sudan.

We cannot expect or press other countries to do the right thing until we do it ourselves. However, signing and ratifying treaties and conventions is only the beginning. Having signed on, the expectation is that a county will engage constructively in UN processes that are designed to encourage, if not require, compliance. That takes various forms, including the appointment of independent experts with a brief to focus on particular countries or human rights themes. Most of these experts are known as Special Rapporteurs (SRs). Several SRs dealing with thematic areas have turned their attention to Canada over the years, carrying out missions to investigate concerns and to make recommendations through public reports that are tabled at the Human Rights Council.

Similarly Canada is reviewed on occasion by the expert bodies set up to monitor state compliance with international human rights treaties. Regular reviews of all state parties are routine. And there is now also a regular review of the human rights record of all UN member states, carried out by other states. Canada has been reviewed under this Universal Periodic Review process in 2009 and 2013.

Some of the results have been troubling:

- The SR on indigenous peoples raised questions about the housing crisis at Attawapiskat and was accused by the government of merely seeking publicity;[7]
- The SR on the Right to Food was personally insulted and criticized by Immigration Minister Jason Kenny and Health Minister Leona Aglukkaq for wasting his time and UN resources on a country like Canada;[8]
- Committees dealing with torture and children's rights have carried out their mandated regular reviews of Canada's record and have been chastised for not focusing on countries like Syria, Belarus and Iran.[9]
- The UN High Commissioner for Human Rights was similarly criticized by Foreign Minister John Baird for a one-line reference to Quebec student protests in a speech surveying challenges to the rights of free expression and assembly around the world.[10]

And when Canada was reviewed as part of the Universal Periodic Review process in 2013, the only

recommendations accepted by the government were those that it said it was already implementing. That defeats the very purpose of a review – which is surely about moving forward and improving, rather than confirming the status quo.

The government's attitude demonstrates the opposite of good faith, ignores the crucial premise of universality that is the very basis of the international human rights system, and sets a bad example for other countries. The Canadian government's behaviour – insulting and mocking the reviewer – is what one might expect of the human rights violators Canada criticizes so loudly.

And What about Implementation?

Canada's challenges on the implementation front only deepen. The difficulties stem from the federal nature of our governance. Recommendations come out of UN reviews. Some touch on matters that are under federal responsibility, while others are provincial and territorial. The question obviously arises: How to bring the whole package together to ensure compliance and implementation? Canada needs a good system, one that is transparent, politically accountable and well coordinated.

The only system, however, that brings governments across Canada together on human rights is a mid-level committee of federal, provincial and territorial (FPT) officials that meets behind closed doors and has no decision-making responsibility or authority. Canada has no federal human rights minister and no federal minister is tasked with the responsibility.

Symptomatic of the problem and the malaise is the fact that, at the political level, FPT ministers responsible for human rights have not met to discuss the subject since the beginning of Brian Mulroney's second mandate in 1988. It has been more than a quarter of a century since there has been a ministerial human rights meeting in Canada.

As a result, UN recommendations flounder and pile up. There is no way of tracking what happens to them, or of knowing which have been rejected, which accepted and why.

Human rights protection is all about implementation. Without it, the international human rights system is little more than a house of cards and empty promises. If Canada is serious about international human rights, one of the most important contributions we can make is to show the world the very best of what it is to live up to international obligations.

Ways Forward: Six Important First Steps

1. Treat United Nations human rights institutions and processes with respect. Win back the leadership role Canada once played in the UN community.
2. Stop dithering on the Arms Trade Treaty. Ratify it and then begin pressing other countries to do the same.
3. Sign and ratify the UN Optional Protocol against Torture, like 76 other countries have done.
4. Reconsider the Canadian position on UN conventions and protocols on indigenous people, enforced disappearances and migrant workers. Get Canada back in the game, and on the right side of history.
5. Welcome UN Special Rapporteurs and other representatives of UN human rights review processes. Regardless of whether their recommendations are accepted, respond to them and make any follow-up action public. Make Canada an example for the world in taking these processes seriously.
6. Bring together human rights ministers from across the country and task them with charting a better course for Canada.

Notes

[1] Matthew Coone Come, "Canada sets lowest standard at World Conference on Indigenous Peoples", Septembre 27, 2014, http://www.cbc.ca/news/aboriginal/canada-sets-lowest-standard-at-world-conference-on-indigenous-peoples-1.2779590.

[2] Robert Fox, "Canada's strange inaction on the Arms Trade Treaty", *Ottawa Citizen*, September 24, 2014, http://ottawacitizen.com/news/national/canadas-strange-inaction-on-the-arms-trade-treaty.

[3] Amnesty International, "Canada ignores the importance of sexual and reproductive health rights in addressing rape", June 12, 2013, http://www.amnesty.ca/news/news-releases/canada-ignores-the-importance-of-sexual-and-reproductive-health-rights-in-address.

[4] Maude Barlow, "'Do you have running water? I don't and I live in Canada'", *Globe and Mail*, July 28, 2011, http://www.theglobeandmail.com/globe-debate/do-you-have-running-water-i-dont-and-i-live-in-canada/article588465/.

[5] "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Adopted by General Assembly resolution 45/158 of 18 December 1990", Office of the United Nations High Commissioner for Human Rights, http://www2.ohchr.org/english/bodies/cmw/cmw.htm.

[6] "International Convention for the Protection of All Persons from Enforced Disappearance", Office of the United Nations High Commissioner for Human Rights, http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx.

[7] "UN official blasts 'dire' conditions in Attawapiskat", *Globe and Mail*, December 20, 2011, http://www.theglobeandmail.com/news/politics/un-official-blasts-dire-conditions-in-attawapiskat/article4085452/.

[8] Laura Payton, "UN official sparks debate over Canadian food security", May 16, 2012, http://www.cbc.ca/news/politics/un-official-sparks-debate-over-canadian-food-security-1.1130281.

[9] See, for example, Thomas Walkom, "Harper government's dismissal of UN torture report absurd", *Toronto Star*, June 5, 2012, http://www.thestar.com/news/canada/2012/06/05/walkom_harper_governments_dismissal_of_un_torture_report_absurd.html#.

[10] "Ottawa defends Quebec Bill 78 against UN critique", June 18, 2012, http://www.cbc.ca/news/canada/montreal/ottawa-defends-quebec-bill-78-against-un-critique-1.1283594.