



Statements and Speeches

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THE CANADIAN APPROACH TO THE INTERNATIONAL PROMOTION AND PROTECTION OF HUMAN RIGHTS

An Address by the Honourable Mark MacGuigan, Secretary of State for External Affairs, to the Annual Meeting of the Canadian Section of the International Commission of Jurists, Toronto, August 31, 1982

The international community will mark next year the thirty-fifth anniversary of the Universal Declaration of Human Rights. Today I would like to anticipate that anniversary and review with you old problems and recent progress in the promotion and protection of human rights throughout the world.

In a symposium sponsored by UNESCO [the United Nations Educational, Scientific and Cultural Organization] in 1948, Jacques Maritain issued a warning that even now should be the daily watchword of those who profess attachment to the cause of human dignity.

What he said was this: "The function of language has been so much perverted, the truest words have been pressed into the service of so many lies, that even the noblest and most solemn declaration could not suffice to restore to the peoples faith in human rights. It is the implementation of these declarations which is sought from those who subscribe to them; it is the means of securing effective respect for human rights from states and governments that it is desired to guarantee."

A few months after Maritain wrote these words the UN General Assembly adopted the Universal Declaration of Human Rights. The Declaration, together with the UN Charter itself, gave a constitutional expression to the basic rights and freedoms of the human person. Since 1948 these rights and freedoms have been further defined in more than 20 conventions and covenants. Indeed that number more than doubles if we include the related agreements developed under the auspices of the International Labour Organization.

All these international instruments are major achievements in themselves. Each of them, we hope, brings us closer to conditions of true civilization and to the ideal of man's humanity to man. Yet each must be examined in the light of Maritain's admonition that faith in human rights can be restored only by implementation of those rights and not by their mere enumeration.

**Human rights'
place in foreign
affairs**

Regrettably — and perhaps inevitably — we have made more progress in enumeration than in implementation. It is a sad truth that even governments which have freely subscribed to international agreements on human rights can still be heard to claim

that their application of these agreements is a purely internal matter. Even states with a reasonably proud record in the field of human rights at home still sometimes assert that human rights have no place in foreign affairs.

Such claims and assertions are wrong on many counts. They are wrong, above all, as a matter of treaty law. For international agreements on human rights operate on both the domestic and international planes. States that become parties to these agreements assume obligations both to their own citizens and to the international community. Every stateparty to such a treaty in effect has invited every other stateparty to examine the treatment it affords its citizens. Thus a government that expresses its concern about violations of human rights by another government is not intervening in an internal matter. Rather it is exercising a legitimate treaty right – and indeed discharging a treaty obligation to promote universal respect for human rights and fundamental freedoms.

Those who would deny human rights a place in foreign affairs are wrong as well even in terms of realpolitik. A treaty-breaker is a treaty-breaker, whether the treaty concerned may deal with human rights or international trade or nuclear disarmament. Respect for treaty obligations cannot be a sometime thing if treaties are to be more than scraps of paper. And an affront to human freedom in Poland or elsewhere engages our self-interest in other ways as well – not only because no man is an island but because freedom is truly indispensable to peace and security in the world. Oppression may give the appearance of stability to some societies and some groupings of states. Stability of that kind, however, is a tragic and dangerous illusion.

What, then, can we do to ensure genuinely effective promotion and protection of human rights and freedoms as a legitimate objective of Canadian foreign policy?

Our first priority, in my view, must be to ensure the health of our own society and institutions. There is no paradox involved in this statement. Human rights do not end at home but they do begin there. Thus our immediate duty is to preserve and expand our heritage of freedom in Canada. The Canadian Charter of Rights and Freedoms, which you have been discussing today, is a great milestone in this regard. Its origins and objectives are Canadian but it also bears upon our international obligations. For one thing, it is our domestic record that – despite its blemishes – gives us a credible voice in the field of human rights within the wider forum of the international community.

Canada's actions

In that wider forum, Canada has been mindful of the watchword enunciated by Maritain. In the UN context, both at the General Assembly in New York and in the Commission on Human Rights in Geneva, Canada has been active on three fronts. First, we have supported the elaboration of new international instruments for the protection of human rights, focusing on particular types of violations or victims. Second, we have explored creative ways to promote the observance of existing rights

and freedoms. And finally, we have initiated a study that seeks to analyze the causes of certain human rights abuses, in the hope of preventing their recurrence.

On the first front — the development of new international instruments — the General Assembly last December unanimously adopted the Declaration Against All Forms of Intolerance and Discrimination Based on Religion or Belief. This declaration, 20 years in the making, spells out in detail the right to freedom of religion that was first enunciated in general terms in the Universal Declaration of Human Rights. When the Declaration on Religious Intolerance was finally adopted, a number of delegations paid tribute to the important role played by Canada in the elaboration of this instrument.

Again in December of last year, Canada ratified the International Convention on the Elimination of All Forms of Discrimination Against Women. We were one of the principal drafters and supporters of this convention, and a Canadian has been elected to sit on the committee that will monitor its implementation.

Canada is also actively participating in a working group that is elaborating a draft convention against torture. I am optimistic that the working group will submit a final draft of the convention to the Human Rights Commission in the very near future. The terrible practice of torture cannot be allowed to go unpunished. We have pressed hard to ensure that the convention, when it emerges, will include a provision on universal jurisdiction. Such a provision would allow the prosecution of a torturer in any state, regardless of his nationality, the nationality of his victim, or the place where the torture occurred.

On the second front I mentioned a few minutes ago, Canada recently sponsored an initiative focusing on the right and responsibility of individuals and groups to promote existing human rights and freedoms. This initiative was adopted at the last session of the Human Rights Commission. We hope that a declaration on this subject will help to deter countries from punishing their citizens for merely asserting rights embodied in universally accepted instruments. We hope too that the declaration will better enable organizations such as the International Commission of Jurists to carry out their mandates.

Disappearances

I should also mention here the important activities of the UN Working Group on the Disappeared — a dreadful new concept that has entered our modern vocabulary. This working group embodies many of the aims of Canadian foreign policy in the field of human rights. It attempts to deal with the problem of disappearances on a generic basis by attacking it wherever it occurs, without singling out individual countries for special consideration. The working group has carried out its mandate in a manner that has been commended even by some of the countries under investigation. Most important of all, it has proven itself effective and has reported on more than 2 100 missing persons in 22 different countries. The working group has also established an emergency procedure — the first of its kind within the UN — which authorizes the

chairman of the group to respond to urgent reports of disappearances by an immediate direct approach to the government concerned. This procedure has saved many lives and has acted as an important deterrent against arbitrary action.

Finally, on our third front, relating to the prevention of further abuses of human rights, Canada recently took the initiative in bringing about the preparation of a report that analyzes the root causes of massive exoduses of people. The report explores a number of ways to prevent this sad phenomenon and the human rights violations that inevitably result. It was considered by the Human Rights Commission last winter and will now be taken up by the General Assembly this fall.

CSCE follow-up

Moving beyond the UN context, Canada has tried to make full use of the opportunities offered by the Helsinki Final Act of the Conference on Security and Co-operation (CSCE). It was at Helsinki of course that the Eastern bloc officially acknowledged that human rights are indeed a matter of international concern. We are insisting that this acknowledgment be given meaningful effect. At the Madrid review meeting of the CSCE, Canada has taken a firm stand on human rights, and especially on the implementation of the Final Act's provisions regarding freedom of movement. We have also demanded that progress in the field of military security be matched with comparable progress in humanitarian matters. That is why we have proposed a meeting of experts to discuss human rights in the follow-up to Madrid. We are determined that the final document from Madrid reflect a strong concern for human rights.

It is the radically different philosophy of life prevailing in the Eastern bloc that explains so many human rights violations there and so many problems of implementation of human rights agreements in the international arena. So long as these violations and problems continue, human rights must necessarily figure among the critical issues of East-West relations.

For similar reasons, human rights must also be addressed in the North-South dialogue. Ideology, however, does not play the same role in human rights violations in the developing countries. These countries naturally tend to attach more importance to economic rights than to the traditional civil and political liberties of the Western world. Canada, of course, recognizes that the basic necessities of life are essential to a life with dignity. We believe, however, that human rights are indivisible and we do not agree that some can be sacrificed in favour of others. While developing countries have the primary responsibility for their own development, we accept that we too must make major commitments of money and resources if disparities are to be eliminated and if all forms of human rights are to be protected.

Canada has played its full part in contributing to international development. We have also supported other initiatives directed to improving human rights in the developing world. Thus we have helped turn the Commonwealth into one of the newest agencies for the promotion of human rights. At their 1981 meeting in Melbourne, the

Commonwealth heads of government endorsed in principle the establishment of a special human rights unit within the Commonwealth Secretariat. We hope that this unit will advance the cause of humanity by helping all Commonwealth member countries share their experience in law-making and law reform.

The brief review I have just conducted shows that the record of the past 35 years is not entirely a gloomy one even with regard to the implementation of human rights conventions. I think it is fair to say that Canada has done more than most countries to encourage better implementation. Yet Canada's responses to human rights violations — in the Eastern bloc or in the developing world — are the subject of considerable debate in this country.

For my part I believe there is a place in Canada's foreign policy for vigorous public diplomacy. In appropriate circumstances we have not hesitated to speak out openly and bluntly in expressing the very real indignation of the Canadian people. I have in mind, for instance, our condemnation of human rights violations in Poland, El Salvador, South Africa and Cambodia.

Value of quiet
diplomacy

On the other hand, there are situations where so-called quiet diplomacy may be more appropriate. Our views may sometimes have a greater impact when expressed as humanitarian concerns or concerns for the advancement of bilateral relations. Confrontation and condemnation in some cases may only serve to harden attitudes and provoke harsher measures. Should we, for instance, sever all diplomatic ties with South Africa as we have been urged to do? I think not. Such action might give vent to our frustrations. It would not, I fear, make a real contribution to ending *apartheid*.

The Canadian government is also frequently urged to suspend all aid to states that are serious human rights offenders. But doing so may only work against the achievement of basic human rights for the very victims of such offences. Our principal aid objective is to deliver assistance to the poorest people of the poorest countries. Should we doubly penalize them by cutting them off from our assistance because their governments abuse them? Obviously not. It seems to me what we can do, however, and what we do in fact is to take account of human rights considerations in determining eligibility for Canadian aid, and in deciding on the amount and the kind of aid given. Both the needs of the country and the readiness of the government to channel assistance to its neediest citizens are important factors in establishing such eligibility. In addition, we exclude from consideration that tiny number of countries whose governments' excesses have resulted in massive social breakdown — as in Uganda under Amin.

Value of public
opinion

The debate on the most appropriate way of responding to human rights violations will go on. It is a constructive debate. Governments need to be prodded and to be kept informed by organizations like the International Commission of Jurists. An alert public opinion is still one of the best bulwarks against crimes of inhumanity.

Maritain in 1948 ventured to express only the most guarded optimism about the chances of securing effective respect of human rights from states and governments. He wrote, of course, against the background of horror of the Second World War. Since then, we have mercifully been spared from horror on that same scale. What we have lost in scale, however, we have made up for in refinement. The new science and the new technology of the postwar years have been used to mount new assaults upon the integrity of man, new invasions of his innermost being, new obscenities against the human spirit. The jailers of the mind, the specialists of pain and terror and degradation — all the enemies of decency and dignity — have found new weapons for their works of darkness.

But on our side we have weapons too. The best is mankind stands higher, stronger than the worst. The best endures. The international instruments we have forged since 1948 will not rust from want of use. They will lead us slowly, painfully closer to the end Maritain had in mind in 1948 when he wrote: "Pending something better, a Declaration of Human Rights agreed by the nations would be a great thing in itself, a word of promise for the downcast and oppressed of all lands, the beginning of chances which the world requires, the first condition precedent for the later drafting of universal Charter of civilized life."

The International Commission of Jurists is one of the guides and guardians of the road to "something better". I wish you well in your work. I invite your comments and criticisms on Canada's performance in the field of human rights. And I thank you for the honour you have done me in asking me to join you today.

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