

After the Election: What Next for Human Rights?

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We could not have orchestrated this if we had tried. Months ago we choose the date for tonight's lecture. Weeks ago we settle on a topic. It could have been a human rights review of UN Security Council resolutions dealing with Cyprus. It could have been an overview of Canadian human rights jurisprudence in the 1960's. It could have been a comparative review of 19th century political philosophy through a human rights lens. And I'm sure the room would be full.

But we did know of course that once the date was chosen we would be in a post-election phase, which party would be in power and whether we would have majority, minority or coalition; all unknown. Regardless, seemed timely to settle on the election and its implications for human rights as tonight's topic.

But who would have guessed that the election result would have been as decisive as it ended up being, that a number of important and often controversial human rights issues such as Syrian refugees, the niqab and Bill C-51, the new anti-terrorism law passed earlier this year, would figure so prominently in the campaign. And who would have guessed that this would end up being the very day that the new government, and a new slate of Ministers, would take power.

Actually I suppose I should somehow claim that I did foresee all of that and set tonight's topic entirely with that chain of events in mind. But know. This is simply a case of serendipity.

There is certainly a mood of change – and an associated sense of hope and expectation – in the air these past couple of weeks. And that definitely extends to human rights.

And it is time. Whichever party, in whatever configuration, had come to power on October 19th, it was, it is most definitely and urgently time for a significantly strengthened federal government commitment to human rights; a commitment that extends as equally to pressing human rights concerns within our own borders (such as violence against Indigenous women) as it does to the human rights positions, initiatives and leadership we adopt and advance on the world stage (such as a pressing for a coherent global approach to the Syrian refugee crisis).

I do a lot of my human rights work outside of Canada. I engage at all levels – with survivors of violations, foreign government officials, UN peacekeepers, human rights activists, local politicians. And in the course of that work very often ears prick up when it becomes known that I am Canadian. Through those many encounters over the course of the 15 years I have been in my position I have charted a very worrying shift in how the world views Canada when it comes to human rights, a shift, sadly which has very much been in decline in recent years.

Let me share 3 quick examples. I share these to give you a sense of where we have travelled as a country over the past decade in particular when it comes to human rights. And I think it sets us up for where we need to head next.

Early 2001. I am with an Amnesty team researching violations in a far-flung corner of Guinea in West Africa. Refugees had been fleeing there from Sierra Leone and Liberia for years. But now Guinea had become unsafe, with rebel groups, particularly from

Sierra Leone attacking refugee camps and repeating the horrors that had forced people to flee years earlier.

Our team was at a transit centre very close to the frontlines of violence. Before conducting interviews we began with meetings with elders and leaders in the camp, to introduce ourselves and explain the purpose of our visit.

No sooner had I said, my name is Alex Neve, I'm here from Canada when one elderly leader leaped to his feet embraced one of my hands in both of his and turned to the group of around 200 people surrounding us and pronounced, *we will be okay. I know about Canada. It is the land of human rights.* Talk about a bit of pressure!

Nine years later, 2010. I made 3 trips to Guantánamo Bay that year to observe the trial against Omar Khadr, the Canadian citizen who had been taken into custody on the battlefield in Afghanistan in 2002 when he was only 15 years old. Held at the notorious US prison camp since that time, his case gave rise to all of the grave human rights concerns for which Guantánamo had become infamous: detention without charge, unfair trials, torture and ill-treatment, lack of consular assistance, and, in his case, refusal to acknowledge that he had been a 15 year old child soldier when he was captured, making him a victim of human rights abuse. And what was troubling in his case was not only the responsibility of US officials for the ongoing and serious violations he was enduring; it was the defiant, often belligerent, refusal of the Canadian government to acknowledge the violations, press for the abuses to end and truly go to bat for the rights of a Canadian citizen.

The US military doesn't allow human rights activists to roam free at Guantánamo. We are accompanied almost constantly (except the sleeping tent, latrine or when out for a

jog) by a military minder, usually a Marine. I was the only Canadian among the small group of human rights observers. And I always remember the reaction of one Marine, who was clearly following closely the various legal cases underway, when he heard I was Canadian. Referring to Canada's indifference to Omar's plight he said to me:

"What is it with you guys anyway? I thought you were the human rights good guys."

And then an encounter with a European Ambassador at an event in Ottawa only about 3 months ago. We were making polite conversation at a reception and he became quite frank with me about his views about Canada and human rights. In fact it came up with a sense of bafflement and confusion, and some well-intended but misplaced hope that I would somehow be able to make sense of it all for him. He had a great line that he used to describe his own point of view, which I have referred to several times in media interviews since. His view of Canada and human rights, especially on the world stage, was "sometimes a champion, often an obstacle, most frequently a puzzle and never predictably a partner,"

Quite a trajectory over those 14 years. From a beleaguered refugee in an isolated corner of Africa: Canada, the land of human rights. To a marine sergeant in the armed forces of our closest ally: what is it with you guys anyway? And finally a seasoned diplomat with one of our closest allies, never predictably a partner.

And here is our task friends, our task as a community here in Fredericton concerned about human rights, our task as a nation. We have the challenge and very much the opportunity now to turn that journey around and return to where it begins, Canada the land of human rights.

And what that means can actually be stated in quite simple, straightforward terms. It is time for a whole new approach from our new our government to respecting and upholding human rights, domestically and globally. Sounds simple and straightforward. Can be expressed in just one sentence. But there is so much that lies within.

At it starts with essential core values and principles aimed at advancing a strong human rights agenda; values and principles that will ensure that human rights set the tone for government, the direction for governance, and are at the very heart of governing.

It begins and ends with unwavering respect for the universality of all human rights. And the most important word there is universality. Universality means *all rights*, such that we show the same regard for the ban on torture as the obligation to provide essential health care. It means in *all countries*, so that we speak out whether a country is a close trading partner or military ally; or is an irritant or implacable foe. Universal certainly means *at all times*, whether a country is calm and stable or whether insecurity and turmoil prevails. Universal requires us to be *consistent* in upholding at home the standards of human rights protection we promote abroad. And it absolutely means *for everyone*, rejecting double standards and discrimination that permit human rights violations against some individuals and communities that would never be tolerated for others.

Second, respect for women's human rights and gender equality is essential. In recent years Canadian foreign policy was guided by economic diplomacy and the Global Markets Action Plan. Diplomats were told that their first thought when waking up and last reflection before going to sleep was to be what can I do and what have I done today to advance Canada's economic interests. It is time to add advancing respect for

women's human rights to that daily task list. But more than respect, Canada is a country so very capable of demonstrating leadership with respect to gender equality in both words and action. That means for instance that admirable global initiatives launched in recent years by Canada, dealing with such serious concerns as maternal and newborn health, or the widespread practice of forced, early child marriage need now to be rooted in a framework that is focused on women's equality, with a human rights perspective at its core, including willingness to champion the sexual and reproductive rights of women and girls.

Next, our new approach to upholding universal human rights must be rooted in a strong commitment to global cooperation and multilateralism; to the international mechanisms and standards that are meant to ensure human rights protection. In recent years too often Canada has been dismissive and even derisive of UN human rights experts and processes. Too quick to complain about the UN from the sidelines. The UN, with all its imperfections, is where the world comes together, is how the world comes together, to advance human rights. We have to be engaged.

Fourth, we need to rediscover Canada's peacemaking and peacekeeping roots. When faced with international crises, conflict and hotspots – of which there have been many in the past couple of years (Syria, Ukraine, South Sudan, Libya, northern Iraq, Yemen, CAR) we are the country that must push for human rights to be put first in the global response. Not to say that there is or is not a military role at times. But that cannot and should not be Canada's starting point. That is not our strength, our expertise or even our capacity. Our contributions lie elsewhere and must be revived, strengthened and celebrated. This includes rediscovering and reclaiming our once upon a time passion for such important global innovations as the International Criminal Court and the groundbreaking but generally disregarded Responsibility to Protect principle.

Fifth, embrace dissent. Welcome critique. Engage with opposition. Ensure there is unhindered space for robust advocacy on public policy issues. Over the past several years various government measures have punished and sought to silence or muzzle those who disagree and differ with government: civil society groups, watchdogs, human rights activists, scientists, academics and others. That is of deep concern from a human rights perspective. Essential freedoms to expression, opinion, access to information are at stake. It also cuts to the heart of our democracy and impoverishes us a society. That crackdown must end and instead a new commitment to opening up that space for debate and disagreement must prevail, in which we take particular care to ensure that voices from more marginalized and disenfranchised communities are heard.

And finally, it most certainly is time for a new collaborative relationship with Indigenous peoples, grounded in full recognition of and respect for their inherent rights. The recommendations from the Truth and Reconciliation Commission await attention. Land and resources claims and disagreements linger and fester in many corners of the country, with the views of Indigenous communities far too often disregarded as decisions about pipelines, mines, oil and forestry speed ahead. An inquiry and action plan to address violence against Indigenous women and girls are eagerly anticipated. Respect for the important UN Declaration on the Rights of Indigenous Peoples, disgracefully and most unfortunately sidelined by the previous government, points the way ahead in resetting this fundamental relationship.

Values and principles will be nice. But how about action? That is after all what will start to make a difference in people's lives. And after many years of human rights decline it is vital that steps be taken in very short order to begin to turn things around.

So let me suggest a 12 point agenda that could move forward right now. These are largely recommendations that are already reflected in the Liberal Party's election platform. They are measures that do not require repealing laws or bringing forward new Bills, all of which would take time as Parliament would need to convene, law-making processes commenced, Committees struck, hearings scheduled.

Here are a dozen very significant steps that could start right now.

- First, work with Indigenous peoples to convene an independent public inquiry into the alarming levels of violence faced by **Indigenous women and girls** in Canada, and do so in a way that lays the ground for development of a comprehensive national action plan to address what is very likely our country's most shameful national human rights crisis.
- Second, take a new approach to government dealings with **Indigenous peoples** – including decisions regarding pipelines, mines, dams and other development projects and levels of funding provided for such essential programs as child protection, safe water, education and adequate housing – by applying the framework of the UN Declaration on the Rights of Indigenous Peoples and upholding crucial rights with respect to meaningful consultation and free, prior and informed consent.
- Next, move forward with the commitment to resettle 25,000 **Syrian refugees** to Canada by the end of 2015 through government sponsorship, ensuring that refugees are chosen on a non-discriminatory basis. And importantly resource and support it well. If that means things slow down a bit from what is a bold promise, so be it. Let's do it generously and quickly, yes; but let's do it well and

successfully. And build on that domestic action by actively working for a coordinated, generous and rights-based global response to the Syrian refugee crisis.

- Fourth, restore the cuts to the Interim Federal Health Program that provides **health care for refugees and refugee claimants**. It was never okay to use access to health care, including life-saving health care, as a pressure tactic in a misguided and inflammatory campaign to clamp down on so-called bogus refugees.
- Fifth, ensure that policies and programs currently underway to promote maternal, newborn and child health and to end early and forced marriage include funding and other support for the full range of **sexual and reproductive rights** services.
- Sixth, draw on Prime Ministerial influence and stature in advocating directly and personally for the rights of Canadians and individuals with close Canadian connections who are experiencing grave human rights violations in other countries including **Raif Badawi** imprisoned and sentenced to 1,000 lashes in Saudi Arabia for blogging about rights, justice and other social issues, and whose wife and children live in Sherbrooke, Quebec; along with Canadian citizens **Huseyin Celil** in China, **Bashir Makhtal** in Ethiopia and **Salim Alaradi** in the United Arab Emirates; each of whom has been imprisoned unlawfully and faced other grave abuses such as torture and ill-treatment.
- Next, right past wrongs that have been committed in the name of national security, beginning by redressing the serious human rights violations, including

torture and ill-treatment, which the Supreme Court of Canada has confirmed in the case of **Omar Khadr** and a judicial inquiry has catalogued in the cases of **Abdullah Almalki**, **Ahmad Abou-Elmaati** and **Muayyed Nureddin**.

- And staying with the national security theme, launch a process of public consultation with experts to identify the substantial reforms that will be needed to ensure that the **Anti-Terrorism Act, 2015** is consistent with Canada's international human rights obligations and take steps to ensure that national security agencies in Canada are at long last subject to meaningful expert, independent review and robust parliamentary oversight.
- Ninth, in assessing the recently concluded **Trans-Pacific Partnership** and formulating Canada's position on this major new trade deal, take steps recently recommended by UN experts to ensure that the agreement does not negatively impact on the enjoyment of human rights as enshrined in legally binding instruments, or constrain the ability of Canada and other parties to the TPP to meet their human rights obligations. One step in that direction would be to launch a consultative process that works towards establishing an **Extractives Sector Ombudsperson** with the power to investigate and recommend sanctions for companies that fail to respect human rights in their business relationships.
- Ten, show the world that Canada is back and re-engaging internationally by announcing an early intention to ratify two important UN human rights treaties. The **Optional Protocol to the UN Convention against Torture** and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment is a treaty meant to prevent torture through a process of national and international prison inspections. It has been around since 2002. Almost all of our allies are on board.

In 2006 Canada made UN pledge to consider ratifying. In 2009 again at the UN we again promised to consider it. More recently in 2013 we announced during a UN human rights review that there is no intention to ratify at this time.

Preventing torture is a no-brainer. This needs to be wrapped up in very short order. The other is the 2013 UN Arms Trade Treaty, a crucial high-profile new treaty that aims to bring long-needed human rights rules to the world's deadliest commerce, the global cross-border trade, sale and transfer of weapons that are then used to commit war crimes in the midst of conflict, crimes against humanity and other mass atrocities. 2/3 of the world's state in just over 2 years have either fully ratified or at least symbolically signed this treaty. That even includes the United States, no fans of anything that might smell like gun control, which as at least signed on. We are among the 1/3 of states standing on the sidelines, alongside North Korea, Russia, Iran, China and other notorious human rights violators. Let's push for both of these treaties to be done deals by year's end.

- Eleven, make it clear that human rights now come first for Canada, always, not only for the human rights team at Foreign Affairs and not just when the UN Human Rights Council is in session. Set clear and concrete human rights goals associated with **upcoming international meetings** which the Prime Minister and Ministers will attend, including the G20 Summit in Turkey, the APEC Summit in the Philippines, the Commonwealth Heads of Government Meeting in Malta and the United Nations Climate Change Conference in France.
- And finally, signal a commitment to getting our house in order when it comes to ensuring that we fully and properly implement our international human rights obligations and take up UN human rights advice and rulings in ways that Canadians can understand and track. The current system, in place for 40 years,

is secretive, has no political clout and does not even report to Parliament or provincial legislatures. Signal a commitment to convene the first **federal, provincial and territorial ministerial meeting** to discuss human rights since 1988. That's right, ministers have not come together to discuss how to better protect our rights for over 25 years.

Just after the election the head of the Canadian Human Rights Commission issued a statement, really and truly unprecedented in how direct and frank it was, in which she looked forward to an end to the "erosion of human rights" in Canada. That is the erosion I sketched in 3 opening encounters in West Africa, Guantánamo Bay and Ottawa. That erosion has been all the more lamentable as Canada has – not always, let's not get too dewy-eyed – but very, very often led the world in human rights, both through measures implemented at home and positions advanced abroad.

What do I hope?

That our new government enthusiastically embraces new values and principles that make it clear that human rights come first.

And that the government takes steps now to demonstrate the conviction of those values and principles. Why not an announcement per day, starting this week.

And the disappointment of the European Ambassador will fade. The uncertainty of the US Marine Sergeant will clear up. And yes, once again, it will be Canada, the land of human rights.