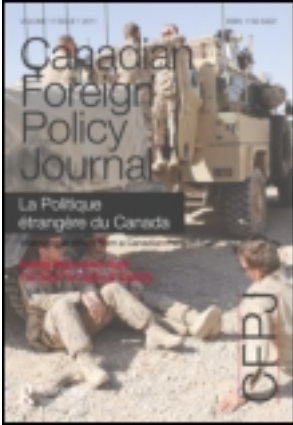


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David Webster ^a

^a Assistant Professor, International Studies , University of Regina
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CANADA AND BILATERAL HUMAN RIGHTS DIALOGUES

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DAVID WEBSTER*

Attacking Stephen Harper's Conservative government in September 2009, Liberal leader and former human rights academic, Michael Ignatieff, highlighted the government's alleged mismanagement of relations with China as one reason the Liberals should return to power. The Conservatives, he said, had "bungled relations with China" with the result that "Canadian exports to China have flat lined and we've lost out on hundreds of thousands of potential Chinese tourists". Liberal foreign affairs critic, Bob Rae, struck a similar tone in attacking the government's failure to win a Security Council seat in October 2010, citing what he called "a significant refusal on the part of the government to even talk to the Government of China over many years" as the first of four examples of government foreign policy incompetence (Canada, 2010: 1419; see also Simpson, 2009; Liberal Party, 2009).

Near the centre of the debate over trade and human rights in relations with China, and more generally, lies Canada's ambiguous embrace of bilateral human rights dialogue (HRD) as a tactic aimed to nudge forward human rights without sacrificing trade promotion. HRDs with China, Cuba, and Indonesia were opened in 1997, on the grounds that engagement and dialogue with human rights violators would improve their rights records. The countries chosen for HRD processes were all leading targets for criticism from civil society organizations. The debate over HRDs today centres on the input of civil society into policy making: is it a welcome democratization, or a departure from expert-driven policy making with potentially catastrophic effects? (Gilley, 2008; Paltiel, 2009). Few of the hopes placed in them can be shown to have borne fruit; instead, there are changes in the international human rights regime that make violators less accountable. After a dozen years, the HRD tactic is due for reconsideration. This article recounts the creation and evolution of Canada's human rights dialogues as a mechanism to disarm domestic critics. It makes proposals for change in light of the experience: most crucially, for greater inclusion of civil society in order to make the process more effective. Among its aims is to stimulate further research that will systematically assess the HRD process.

Successive Canadian governments have made rhetorical references to human rights advocacy for several decades, with the implication that rights are in some way inherent in policy, even in Canada's identity as a nation. "Canada has been a consistently strong voice for the protection of human rights and the advancement of democratic values," one recent statement reads (Canada, 2009). There is little substance to this self-image; the reality has been, as international affairs scholar, Jean Daudelin, (2009: 8) writes, a "human rights-blind" foreign policy except during small "ethical windows".

A dozen years ago, amidst a debate between governments and NGOs about whether to integrate human rights into a trade promotion agenda, Ottawa joined several other countries in a new tactic: bilateral human rights dialogues. The logic behind HRDs is that two countries

* David Webster is Assistant Professor, International Studies at the University of Regina. This article is based on a briefing produced for the Canadian Advocacy Group on Indonesia. Neither CAGI nor its member groups bear any responsibility for the conclusions drawn here, however. Research was supported by a Kiriya research fellowship from the University of San Francisco. The author grateful to the members of NGOs working on Canadian relations with Indonesia and China who shared their thoughts and experiences, and to Candace Chui, Micheline Lévesque, Carole Samdup, Tom Tiek, Norman Webster, and the anonymous referees for comments and other assistance.

will engage in conversation about means to strengthen human rights, to present concerns to each other, and to work for improvements in a confidential, confidence-building atmosphere; this, in turn, is intended to diffuse rights norms and values (Kent, 1999; 2001; Wan, 2001; Foot 2000). The tactic has spread widely. Australia, for instance, conducts bilateral dialogues with China, Vietnam and Laos. Several European countries hold bilateral dialogues and also support European Union rights dialogues with 30 countries or associations. The United States at times takes a more punitive stance on human rights, epitomized in tough sanctions against Burma, but has nevertheless held HRDs with several countries. American dialogues with China and Vietnam have been on-again, off-again affairs as the sides argue over whether dialogues are sufficiently constructive.

As part of the late-1990s shift to bilateral HRDs, Ottawa opened dialogues with three trade targets with problematic rights records: China, Cuba, and Indonesia. This represented a change of direction, one that has weakened the overall Canadian stance on human rights without much evidence of rights improvements as a result. Canada's HRDs, as they stand, contain a number of flaws. They lack transparency, participation, and results-based evaluation. The HRD tactic needs to be reconsidered in order to create effective dialogues, or else abandoned.

Canada and Human Rights

Postwar Canadian diplomacy was characterized by reticence to undertake international human rights advocacy, although Canadian diplomats had been active in the League of Nations minority-protection instruments, and Canada was willing to sign onto United Nations measures against genocide. Although McGill professor, John Humphrey, penned an early draft of the 1948 Universal Declaration of Human Rights, Canada reluctantly voted for the declaration only under pressure from its allies (Humphrey, 1984; Schabas, 1998; Egerton, 2001). Until 1975, no Canadian government showed significant commitment to international human rights (Gillies, 1996). This shifted only as part of a larger global awareness of human rights issues, in the context of lengthy campaigns by domestic rights groups (Clément, 2008), and in the context of a global move "from standard setting to monitoring" (Donnelly, 2007: 8-10). This linked process was both domestic and transnational. President Jimmy Carter's administration in Washington moved human rights to the centre of its rhetoric, if not always its policy (Hartmann, 2001). Other Western governments, such as Norway and the Netherlands, added their own pledges of allegiance to the principle that human rights should be a factor in foreign policy. Even amidst this global rights moment, the Trudeau government's foreign policy paid little attention to rights promotion. One of his foreign ministers recalled that Trudeau himself practiced an "instinctive avoidance of human rights in his contact with other countries" (Lackenbauer, 2002: 14). It is only in retrospect that any suggestion has been made that Trudeau's government was a global rights advocate.

Brian Mulroney committed the Canadian government to a stronger stance on human rights. Apartheid was the key case, with Canada taking a rhetorical anti-racist position in opposition to the policies of the American and British governments. Strong words of condemnation also came after the 1989 Tiananmen Square killings in China. In both cases, however, rights groups accused the government of a rhetoric gap, with sanctions designed to

avoid damage to Canadian companies' interests (Freeman, 1997; Gecelovsky & Keenleyside, 2005). Mulroney declared in 1991 that Canada would "no longer subsidize repression and the stifling of democracy," but offered no implementation plans. The first test case came when Indonesian soldiers opened fire on pro-independence protesters in Dili, East Timor. Mulroney's government chose to freeze future aid worth \$30-million, while leaving existing projects untouched. This was a careful attempt to show disapproval without harming bilateral relations (Dagg, 1993; Scharfe, 1996; Webster, 2009a). Indeed, Canadian aid in this period was marginally more likely to flow to countries with poor human rights records than those with better records (Barratt, 2006), making the aid-rights linkage almost entirely rhetorical.

Led by Jean Chrétien, the Liberals returned to power in 1993 with promises of stronger international human rights advocacy. Chrétien's government identified the promotion of Canadian values as one of the three pillars of Canadian foreign policy. Far more important, however, was another pillar: Canadian prosperity, embodied in a push to promote Canadian exports through Team Canada trade missions. This sparked a debate about linking trade and human rights. Activist groups called for rights advocacy to accompany or even replace trade promotion. Responses to this wave of rights activism came in two flavours. The Asian values school placed the community ahead of the individual, and viewed the state as the embodiment of the community (Bauer & Bell, 1999; Acharya, 1995; Aung-Thwin, 2002; Avonius & Kingsbury, 2008; Meijer, 2001; Mendes, 1997). Another view saw economic growth as a prerequisite for greater respect for human rights. This school was bolstered by liberal theory that greater wealth created rising expectations, more space for civil society, and a larger middle class that was the primary carrier for democratisation demands (Morley, 1993). Summed up as "Lipset's law" after a leading advocate, Seymour Martin Lipset, this democratic growth theory provided the philosophical justification for Chrétien government policy.

Creating Canada's Human Rights Dialogues

The position of the Chrétien government was also influenced by an international system in which dynamic growth was centred on Asia's Pacific Rim. In this context, Ottawa chose to prioritize trade promotion and to reverse the Mulroney government's rhetorical linkage of trade and rights. Canada was not alone in this, of course, nor was it slavishly following the lead of key allies. Policy makers made their choice autonomously, in perceived Canadian national interests (Kirk & McKenna, 1997).

Foreign Minister André Ouellet, meeting with representatives of the Association of Southeast Asian Nations (ASEAN) in Vancouver in 1995, endorsed the ASEAN conception of constructive engagement with human rights violators. This was a policy that ASEAN developed to justify deepening relations with Burma (Myanmar), seen as one of the world's worst rights violators. Burma was a lightning rod for sanctions-based strategies to advance rights, as apartheid South Africa had been earlier—a parallel very evident in the pronouncements of such groups as Canadian Friends of Burma and the American Campaign for Burma. ASEAN governments argued that greater freedoms would come through bringing Burma into the international community, rather than by isolating it. An added implication was that Western states should pursue constructive engagement with the major violators within ASEAN, especially Indonesia (Acharya, 1995: 12; Gillies, 1996: 228).

Facing mounting domestic criticism of the Team Canada approach and its apparent silence over human rights, the Chrétien government looked for ways to display some rights advocacy. As part of a 1995 foreign policy review, it restored the parliamentary subcommittee on international human rights that it had abolished upon coming to power. Lloyd Axworthy, one of the main carriers of the humane internationalist (Pratt, 1994) perspective in Canadian foreign policy, took over as foreign affairs minister and championed what he called “principled pragmatism”, the belief that Canada could act both in its own self-interest and in a moral fashion (Axworthy, 1997a). “Isolation is the worst recipe, in my judgment, for curing human-rights problems,” Chrétien said while in Indonesia for a Team Canada mission (Stackhouse, 1996). While he stressed trade, his ministers insisted this did not mean silence on rights—quite the reverse. Trade and rights, Axworthy argued, were “not mutually exclusive but mutually reinforcing”. Good governance, including respect for rights and the rule of law, made growth possible, and growth made stable rights-respecting societies more likely (Axworthy, 2000: 34). Here was Lipset’s law recast as government policy.

The new bilateral human rights dialogue tool offered a means to advocate rights to regimes with which Canada hoped to trade, with reduced risk to that trade. Australia led the embrace of bilateral dialogue in 1996, announcing it would end its sponsorship of the annual UN Commission on Human Rights resolution on human rights in China, and instead focus its efforts on a bilateral dialogue. The CHR resolution never gained enough votes to pass, but it nevertheless carried tremendous symbolic importance as the major remaining symbol of international pressure after the end of Tiananmen-related sanctions. In 1997, France, Germany, Spain, Italy, and Japan also dropped their sponsorship of CHR. Human Rights Watch called this shift a “sustained attack [on the] universality of human rights—the fundamental premise that they apply to all nations without exception” (Human Rights Watch, 1998). Canada joined the shift. Instead of backing CHR resolutions, Canadian rights advocacy would be done in private, one on one, with more reliance on “bilateral and quiet diplomacy channels” (Zhu, 2001: 105; see also Canada, 1997a). This reacted to apparent Chinese receptivity to rights dialogue, and picked up on prior Canadian quiet diplomacy on human rights in China. When President Jiang Zemin visited Canada in 1996, Axworthy said the Chinese had been very forthcoming on rights issues raised privately rather than publicly. Even while arguing in other areas that state sovereignty was losing its relevance, Axworthy’s embrace of bilateral HRDs rested on the assumption of that same state sovereignty (Sallot, 1997; Axworthy, 1997a: 32). The HRD process unusually, for Canada, represented a move from multilateral to bilateral mechanisms.

Indonesia and Cuba, Canada’s next HRD partners, shared one thing with China. They were targeted by human rights groups in Canada, and at times by the US government. The East Timor Alert Network, for instance, was a thorn in government plans to engage with Indonesia. Indonesian foreign minister, Ali Alatas, called Canadian NGOs “the most ferociously anti-Indonesian in the world” while diplomats wrote of the need to “get ETAN off our back” (Canada, 1998; 1995). Similarly, media reports on human rights troubles in Cuba bedevilled Canadian plans to engage with the Castro regime. Axworthy justified the HRD strategy as preferable to megaphone diplomacy, but also spoke of an integrated approach combining soft diplomacy (including HRDs) with hard diplomacy (including CHR

resolutions). He argued that trade “creates a relationship within which we can begin to speak about human rights” (Axworthy, 1997b). In this, he anticipated Ignatieff’s more scholarly argument that “rights talk [could become] the shared vocabulary from which our arguments can begin” (Ignatieff, 2001: 95; 2000). Axworthy believed Canada could support “change from within” through fostering civil society in countries with poor human rights records. The HRDs were “only a means to an end.” They could not replace multilateral advocacy, only supplement it (Axworthy, 1997b).

Thus HRDs were initially justified not as replacements for multilateral rights promotion but as supplements, with concrete results and the growth of civil society anticipated. In the process of implementing HRDs with China, Cuba, and Indonesia, however, these stipulations evaporated. HRDs became an end in their own right, freezing out meaningful civil society participation while serving as an excuse to avoid multilateral action—a substitute rather than an addition.

The Cuba Dialogue

The short-lived HRD with Cuba provides the clearest example of Canadian constructive engagement because it contrasts so sharply with the approach of the United States. It also highlights flaws in the HRD process. Canada and Cuba have enjoyed relatively friendly relations, despite very different political systems. Business interests drove a Canadian re-engagement with Cuba after 1993, accompanied by a new dialogue on human rights. Carrots for Cuba featured a \$30-million aid programme, agreed in 1996. This made Canada one of Cuba’s leading donors, conferring potential leverage (McKenna & Kirk, 1999: 59).

In UN human rights bodies, Cuba has been one of the most vocal opponents of the US emphasis on civil and political rights, preferring thematic resolutions on economic, social and cultural rights, and stressing the right to development. With others, it has painted the civil and political rights advocacy of developed countries as human-rights imperialism, while ignoring the role of the third world in advancing human rights notions through such common causes as the struggle against apartheid and racism. Nevertheless, it has been a powerful rhetorical strategy, one aided by American resistance to be bound by any form of international rights oversight. The Chrétien government engaged with Cuba amidst global distaste for the US Helms-Burton sanctions legislation. For Canada, Helms-Burton also raised the always troublesome spectre of extra-territorial application of American law to Canadian-based companies.

Axworthy and Cuban President Fidel Castro agreed to a dialogue on trade and human rights in 1997. “What have the Americans accomplished?” Axworthy asked (*The Globe and Mail*, 1997). There was an “alternative Canadian way of doing things” (Knox, 1997) that stressed “active engagement and dialogue” (Kerry, 1997). A year later, he pointed to the release of Cuban political prisoners as proof of the success of the HRD. Yet this issue ended the HRD. Chrétien intervened on behalf of four high-profile dissidents, who were nevertheless convicted of anti-government activities and sentenced to jail terms of three to five years. Canadian lobbying proved ineffective on this issue. With his personal prestige on the line, Chrétien issued an angry public condemnation and announced that Canada would review all its bilateral contacts with Cuba, including the HRD. Subsequently, he pointed to

Cuba's poor human rights record as the reason it was not invited to take part in planning a Free Trade Area of the Americas at Québec City in 2001. This marked a symbolic reversal from Canadian government hopes that Cuba would be invited to the 1994 Summit of the Americas in Miami (Greenspon & Sallot, 1999; Wright, 2007; McKenna & Kirk, 2010). It also marked an acceptance of the trade-rights linkage that the Chrétien government had rejected outright in Asian cases. This did not, however, set a precedent. Canada had limited need for Cuban trade. In the two other HRD partners, Canadian interests were much larger.

The China Dialogue

The China HRD, like its Cuba counterpart, was presented as a marker of difference: Canadian conciliation versus American confrontation. Canadian efforts to engage China are longstanding (Evans & Frolic, 1991). Under Deng Xiaoping, China accepted the invitation to integrate into global systems, agreeing to join the International Monetary Fund and the World Bank, the Asia Pacific Economic Cooperation forum, the World Trade Organization, and even the CHR in 1982.

A Canadian policy of constructive engagement with China was almost automatic. If one of Canada's great foreign policy accomplishments was engaging with China and encouraging others to follow suit, then it made sense to stay that course. Engagement with China also reflected Chrétien government priorities, with China squarely at the centre of Team Canada trade promotion. As B. Michael Frolic (1997: 325) wrote: "trade began to emerge ascendant and the human rights agenda was consciously softened and directed into manageable initiatives such as legal reform and support to women's organizations." Ottawa funded a two-year dialogue on human rights between academics in Canada and China. In 1996, Canadian and Chinese diplomats held a meeting devoted to human rights in Beijing, one unaffected by continuing Canadian sponsorship of a CHR resolution condemning China. Rather than Canada convincing China to alter its human rights record, China was able to convince Canada to drop its criticism in the hopes of future change (Frolic, 1997; Mendes, 1997; Mendes & Traeholt, 1997). Ottawa had even been convinced to pay for what China wanted—and to portray that as pressure, rather than acquiescence.

The Chinese government's human rights stance shifted after Tiananmen, from an initial rejection of any foreign interference with Chinese national sovereignty, then to a denial that major abuses were taking place, and finally to conceding the fact of human rights problems but proposing dialogue as the best way to resolve them. China was one of several regimes with poor human rights records that sought membership on the CHR, an "abuser's club" seeking to defuse criticism and mount a challenge to the universal nature of the international human rights regime. This was a sign not of the CHR's impotence, but of its influence, as targets fought hard to avoid CHR censure (Lauren, 2007).

In the dialogue with Canadian academics, one Chinese delegate attacked the CHR's "confrontational atmosphere", calling instead for the Committee to "encourage dialogue and cooperation among countries, increase understanding, and try to eliminate conflicts and criticism" (Liu, 1997: 235-237). This semi-official voice echoed that of China's leaders. Premier Li Peng, derided by critics as the butcher of Beijing for his role in ordering a violent response to Tiananmen Square protests, told the United Nations in 1992 that "China values

human rights and stands ready to engage in discussion and cooperation with other countries on an equal footing on the question of human rights” (Nathan, 1999: 137). The Chinese government issued white papers on human rights in 1991 and again in 1995, the second advocating “dialogues and exchanges in the sphere of human rights” (Foot, 2000: 186). In 1997, China’s CHR representative attacked the commission’s atmosphere of confrontation and politicization, and accused the United States of an attack on developing countries under the guise of human rights, warning colleagues “what happens to China today may well happen to them tomorrow” (Laroche, 1997).

China opened a wide array of bilateral human rights dialogues as states defected from the CHR coalition critical of its rights record. As recounted in researcher and former diplomat Charles Burton’s influential review of the China-Canada HRD, the two governments held nine rounds of dialogue between 1997 and 2005. Chinese government officials characterized the dialogue with Canada as a model HRD, “one of the best ones, [showing] less political prejudice against us” (Burton, 2006: 10). Chinese officials clearly understood the HRD as a concession to Canada in exchange for taking no action at the CHR, one serving a domestic political need of the Canadian government by disarming NGO criticism. Despite earlier assertions that HRDs were one mechanism to be used alongside other forms of advocacy for human rights, officials pointed to the HRD itself as a contribution to rights in China. In sum, process replaced pressure.

This could be justified if the HRD, billed as more effective, yielded demonstrable results. HRD defenders point to Chinese signature of human rights covenants as a sign of success. China did sign the Covenant on Economic, Social and Cultural Rights in 1997 (ratified in 2001) and the Covenant on Civil and Political Rights in 1998, but there is no evidence that the Canadian HRD, or any other HRD, was the reason. As the Charter 08 declaration by Chinese dissidents points out, “this political progress stops at the paper stage” (Charter 08, 2008). Bargaining with the United States, which included a measure of public pressure, may have been more influential. So too might the CHR avenue. There were no resolutions presented in 2002 or 2003, but the United States again presented one in 2004, citing “China’s failure to meet the commitments made at the US-China Human Rights Dialogue” (Williamson, 2004). This prompted Beijing to break off its HRD with Washington until the two agreed in 2008 to resume it “with the understanding that the discussions need to be constructive” (US State Department, 2008). There is no evidence that Canada wields any more influence on China than any other country as a result of being among the first to shift from public pressure to quiet diplomacy. Ottawa’s inability to gain the release of Canadian citizen Huseyin Celil from a Chinese jail in 2006 is a case in point.

The mechanics of the HRD, lacking significant transparency, also reduced the chance of meeting stated goals. The very limited inclusion of the civil society filtered out individuals and groups critical of the Chinese government’s rights record. “The bilateral human rights dialogue has not achieved its objectives, the situation of human rights in China has deteriorated, and Canada’s access to China’s markets has not yet increased,” Montreal-based Rights and Democracy (2001), wrote in a critique of the Canada-China HRD. “More importantly, the UN human rights system has been weakened by manipulation and application of a double standard.”

Rather than the hoped-for enmeshing of China in international human rights regimes, Chinese diplomats have been effective in altering international human rights norms (Foot, 2000; Zhu, 2001; Nathan, 1999; Wan, 2001; Kent, 1999). There has been widespread acceptance by Western governments that once sought to condemn China that a confrontational strategy is counter-productive, and that—as Chinese officials argued—dialogue is axiomatically more effective—an assumption frequently asserted but rarely tested. Human rights remain an aspect of Chinese foreign relations, but as Ming Wan (2001: 8) notes, “Beijing has succeeded in marginalizing human rights disputes in its official relations with the West.” Its view gained official sanction when China was able to convince the UN Sub-commission on Human Rights to endorse “constructive dialogues ... to enhance understanding” (UN Sub-commission Resolution E/CN/sub.2/1997/L.33; Kent, 1999: 49)—diffusion tactics aimed at replicating the success of the Helsinki process, in which the Soviet Union accepted human rights norms (Thomas, 1999). Yet in that case, strong transnational civil society networks were required to give effect to the process (Chilton, 1995). The HRD process with China did not manage to replicate that inclusion. Indeed, civil society has been marginalized by the process as practised in the Canada-China dialogue.

In campaigning to scrap or improve the HRD, a coalition of groups, including Amnesty International, Rights and Democracy, the Canada Tibet Committee, and other groups with dedicated China-specific mandates, was able to make the process a public issue. This drew lamentation from some academics and policy makers who saw barbarians at the gates, activists lining up with a Conservative mob poised to wreck a carefully-honed foreign policy. The alignment made many left-leaning activists uncomfortable, forcing them to grapple with their traditional antipathy for the Canadian right wing—a sign that Conservative tactics aimed at winning new domestic constituencies to their banner (Kwan, 2007). However, the translation of the issue into the public realm can also be read as a welcome democratization of foreign policy (Gilley, 2008). Public debates over the Canada-China HRD, in the context of the overall human rights situation in China, achieved three things. First, the Harper government suspended the HRD. Second, a parliamentary sub-committee on international human rights held hearings on the HRD in 2006, concluding in a report that still remains secret that the HRD “had not met its objectives” (Gillis, 2007). Third, the debate forced the government to agree to an independent review of the HRD by Charles Burton, which identified a series of problems with the process. A screened version of his report was made public in 2006 (Burton, 2006).

HRDs are a Liberal creation, and the Harper government has shown little commitment to Canadian foreign policy traditions it sees as Liberal-inspired. It has not hesitated to hurl harsh condemnatory words at China, although there is little apparent thought of backing up rhetoric with a plan of action. The “old Liberal gang” (in the words of one activist) has been sharply critical of the Harper approach to China, arguing among other things that it risks harm to Canadian trade prospects. Although Harper rejected these criticisms, the government has moved to repair relations with China, apparently listening more to business interests and less to human rights NGOs. Trade Minister Stockwell Day, Foreign Affairs Minister Lawrence Cannon, and finally Harper himself visited China in 2009. Cannon’s announcement of a deal to once again engage China in dialogue seemed to be a bid to

demonstrate action on human rights at low cost, a strategy that would echo the Liberal approach. Nine organizations grouped in the Canadian Coalition for Human Rights in China responded that resuming quiet diplomacy by a secret bilateral dialogue with the Chinese government has the effect of implying tacit acceptance of Chinese government violations of the universal norms of human rights (Iype, 2009; Mayeda & Blanchfield, 2009).¹ Business groups and many academics, however, argue that dialogue should be resumed due to China's enormous economic importance (Paltiel, 2009). The current trend seems to be to attempt business as usual with China, while maintaining a disapproving image for domestic consumption. Resumption of the HRD seems to be in the cards, but is periodically delayed by irritants such as the granting of honorary Canadian citizenship to the Dalai Lama, spats over attendance at the Beijing Olympics, and Canadian words of sympathy for dissidents like 2010 Nobel peace prize winner Liu Xiabo. Whether "cool politics, warm economics" (Evans, 2008: 131) are sustainable remains an open question.

The Indonesia Dialogue

Dialogues with big China and little Cuba hit stormy waters. A more even course is offered by the Canada-Indonesia HRD, between two self-proclaimed middle powers (Indonesia-Canada Conference, 1985). Then Minister of Foreign Affairs Lloyd Axworthy, and the Indonesian Foreign Minister, Ali Alatas, agreed to a bilateral dialogue in 1997. Both governments pledged to work for fuller human rights along with other countries within the framework of the World Conference on Human Rights (held in Vienna in 1993). In other words, a bilateral HRD should not replace multilateral advocacy efforts. Like China, Indonesia was a trade target with a poor human rights record and an undemocratic regime. Officials cited Indonesian willingness to undertake the HRD as one reason that Canada was choosing to engage with Indonesia rather than to call for sanctions, as it did in the case of Burma. There was none of the same balancing with CHR resolutions as in the China case: the CHR had passed resolutions on East Timor in 1993 and 1997 and chairman's statements in other years. However, atrocities in the full view of the world press were needed before the CHR convened a special session on East Timor in 1999 as it moved towards UN-sponsored independence. The record of Western human rights interactions with Indonesia shows that quiet diplomacy was mostly ineffective, with public pressure needed to achieve results (Glasius, 1999). In the case of East Timor, not until the fall of the Suharto regime did a window of opportunity appear (Martin, 2001; Webster, 2009a; Robinson, 2010).

As with China, the context for the Indonesia HRD was a significant human rights lobby at home, one that nipped at the heels of Ottawa's efforts to develop joint initiatives with Indonesia in other international issues. Human rights in Indonesian-occupied East Timor were a major roadblock to better Canada-Indonesia relations as public opinion began to take notice of violations there. At first confined to the British Columbia-based East Timor Alert Network, Amnesty International and church supporters, the East Timor cause saw growing support in Canada. That accelerated after CBC screened footage of the 1991 Dili massacre, with East Timor the test case for Mulroney's commitment to link aid and rights. The Liberals opted for closer relations with Suharto's Indonesia once they were in power. Backed by the mainline churches through their Canada-Asia Working Group, by such solidarity agencies as

¹ The nine groups were Amnesty International Canada, Amnistie internationale Canada, Canada Tibet Committee, Canada Uyghur Association, Falun Dafa Association, Movement for Democracy in China (Calgary), PEN Canada, Toronto Association for Democracy in China, and Vancouver Society in Support of Democratic Movement.

the Canadian Catholic Organization for Development and Peace, by other human rights groups, by substantial support on university campuses, and ultimately, by a series of unions affiliated with the Canadian Labour Congress, Canadian rights activists demanded action on East Timor, including an arms embargo on Indonesia. This garnered substantial media coverage, especially as Axworthy's refusal to impose an arms embargo underlined the gap between his own humanitarian rhetoric and the higher priority placed on trade (Scharfe, 1996; Webster, 2009b).

The HRD process offered a way to display rights advocacy to critics at home while allowing Canada-Indonesia relations to deepen and trade ties to grow. It also let Canadian diplomats tell their Indonesian counterparts that Canada was a friend, not a critic, despite vocal protests by NGOs at home. "We wanted to work with Indonesia," according to the record of an Axworthy meeting with Suharto, to show that protests "were extreme positions of a few people which the Canadian government did not share" (Canada, 1997b). Foreign Affairs thus sponsored a bilateral human rights symposium in Jakarta in October 1997. The fall of Suharto the next year left the HRD in abeyance: a tool devised for constructive engagement with a dictatorship seemed to have little relevance to a democratizing country. However, Axworthy and Indonesian foreign minister, Hassan Wirayuda, agreed at the 2000 ASEAN summit to resume the process (Axworthy, 1997b; Canada, 2000). A second HRD finally convened in Jakarta in 2003. Indonesia now held a different place in Canadian foreign policy thinking. It had moved from emerging trade partner and human rights problem, to potentially like-minded power. Lingering human rights violations in Aceh and Papua made little impression on this shift. A parliamentary foreign affairs committee report on relations with the Muslim world, for instance, recommended strengthened bilateral cooperation with Indonesia (Canada, 2004). The process is now roughly on an annual basis, with sessions alternating between the two countries, the most recent in January 2009, and an occasional parallel meeting process for academics from the two countries (Indonesian Embassy, 2009). Democratic transition in Indonesia has increased the hope for an effective dialogue on human rights, although dialogue can also be problematic if it means engaging with the military figures who continue to enjoy impunity for past human rights violations as a result of the military's ongoing political importance.

The Canada-Indonesia HRD is a pioneering effort. Canada was the first country to establish a bilateral HRD with Indonesia, and the first to do so with a democratizing country. Others have followed in Canadian footsteps. For instance, Norway commenced a bilateral HRD with Indonesia in 2001, identifying it as one of the pillars of bilateral relations. The Norwegian HRD appears to be at a higher level than the Canadian: to be more transparent, and to include a stronger civil society component. For instance, past participants include Amnesty International, the Norwegian Helsinki Committee, and the Rainforest Foundation. Where Canada-Indonesia discussions take place entirely off the record, the Norwegian opening statement is posted on the foreign ministry's web site (Støre, 2009, Marsudi, 2006). The mechanism is clearly spreading beyond China to be a major means of international engagement with Indonesia. Part of the test will be the degree to which NGO voices, expressed through such networks as the Canadian Advocacy Group on Indonesia and its

member groups' Indonesian partners, are heard. In principle, the Indonesian democratic governments of the past decade are not hostile to Indonesian NGO voices, so there is at least the possibility of meaningful inclusion.

Lessons from the HRD Experience

Bilateral human rights dialogues are a new means of promoting respect for internationally-recognized rights. So far, they rarely have been studied. The HRD experience is now established enough to require reflection—not simply as an aspect of Canadian relations with China, but in their full context. This means comparisons between different countries, for instance, are needed. What are the key goals of HRDs, and are they effective in meeting those goals? Do off-the-record dialogues advance understanding and respect for rights, or are they window dressing to disguise a lack of action? Are they useful as a means of engaging with rights violators, with societies undergoing democratic transition, or with democratic states that still face human rights challenges? Do they effectively promote the dissemination of human rights values? Given the greater stress in Asia on economic and social rights, can HRDs become venues for rights to spread in both directions? How can they be structured and altered for the best results possible in different contexts?

HRDs are popular with Western countries that picture themselves as bridge-builders to the third world. Canada, Australia and European countries, which have played leadership roles in the growth of the multilateral human rights regime, have tended to turn more towards HRDs, seeing them as a way to reconcile their rhetorical commitment to rights with their pragmatic pursuit of increased trade. The pioneers of middle power multilateralism, ironically, have become the leaders of HRD bilateralism. Australia's government has championed the constructive engagement path the most strongly, arguing that "non-confrontational, cooperative dialogue is the most effective way to address the human rights situation in other countries" (Australia, 2007). This language stands in the quiet diplomacy school, downplaying multilateral and public pressure tactics. Axworthy did recognize the shortcomings of a solely bilateral approach to HRDs. The result was a "plurilateral" HRD for Asian governments, sponsored by Canada, China and Norway. The plurilateral HRD, however, has no link to existing multilateral human rights mechanisms, and no effective accountability. By creating a new intergovernmental mechanism without the transparency or accountability of existing mechanisms, a Rights and Democracy study notes, "... the symposia might actually be serving to undermine the UN human rights system" (Woodman & Samdup, 2005). It has no links, for instance, with the NGO-led efforts to develop an Asian human rights covenant (Asia Human Rights Commission, 1998). It is not comparable to the efforts to develop an African regional human rights mechanism (Welch, 1991; Murray, 2008). Asia remains the only major region without a regional rights mechanism, although some hopes are being vested in the new ASEAN Intergovernmental Commission on Human Rights, chaired by Indonesia (Sarson, 2010). Another shortcoming is that HRDs, originally seen as carrots to accompany human rights sticks, are now used to replace sticks. Axworthy (1999) wrote, "Dialogue is not a substitute for pressure or public censure. It is another channel that can be used to deliver tough human rights messages and to work with a range of actors in government and civil society to bring about change." HRDs have, however,

become just that: substitutes for pressure. All too often, they are more about means than ends, with the dialogues themselves held up as evidence of rights advocacy. Rather than reporting results, the fact that these “ritualized chat sessions” (Wan, 2001: 132) take place are reported as accomplishments in their own right (German Institute of Human Rights, 2005).

There are efforts in Europe to assess and strengthen the HRD process. The EU-Iran HRD has been ended due to lack of results. EU policies aim to mainstream human rights so that they become an aspect of all EU foreign relations. Any new dialogues are to open with a consideration of the actual human rights situation in the other country, starting by defining “the practical aims which the Union seeks to achieve ... as well as an assessment of the added value to be gained from such dialogue. [EU dialogues should aim at] a degree of genuine transparency vis-a-vis civil society.” They are to be assessed every two years with civil society inclusion, to see how results measure up to initial goals, and ended if no progress seems apparent or imminent (European Union, no date).

As a German Institute for Human Rights (2005) report points out, HRDs need to be coordinated with one another if the dialogue partner is not to “play off one technical cooperation partner against the other,” and they need to be coordinated with other elements of the bilateral relationship. The Institute recommends more benchmarked and quantitative evaluation methods. As it stands, the number of dialogues held is one of the few benchmarks used, and this is a measure of nothing.

Planning and evaluation of HRDs is certainly lacking. There is no Canadian counterpart to the Norwegian human rights plan, which calls HRDs “... a means of focusing long-term, international efforts to promote human rights” (Norway, 2007). Canada has no national action plan on human rights; Indonesia and China do. Canadian fostering of such plans as Indonesia’s is positioned as teacher-pupil, with only one partner challenged to improve. This does not suggest much possibility of open dialogue. Nor does Canada’s dialogue with Indonesia include Norway’s efforts to foster connections between civil societies in both countries. As a former Indonesian ambassador to Canada has written, links between Canadian and Indonesian civil society are “... the real driving force in relations between our two countries” (McIninch, 2003: 20). Similarly, Canadian engagement with China could benefit from the input of Chinese-Canadian, Tibetan-Canadian, Uighur-Canadian, and Mongolian-Canadian views (Burton, 2009). Any renewed HRD with China would benefit from the inclusion of China-focussed NGOs on the Canadian side, and of the growing civil society sector in China (Hom & Mosher, 2007). Charles Burton’s 2006 recommendations provide a road map for improving the Canada-China dialogue. The Canada-Indonesia dialogue could also be reviewed by an outside expert, to consider its effectiveness. Both dialogues would also benefit from increased civil society inclusion. A parallel civil society dialogue, as proposed by the Australian Council for International Development and endorsed by the Australian parliament’s human rights sub-committee, could lead to a more valuable and more far-reaching dialogue (Australia, 2005). This would also permit the Chinese and Indonesian sides to share their own experiences and their own criticisms of Canadian weaknesses on economic and social rights. Change rarely comes as the result of outside pressure, but change from within can be supported by steps that foster the growth of civil society.



If the HRD tool is to continue, dialogue must become more transparent and results-oriented. So far the HRD process, and indeed much Western engagement with China, is reactive and disjointed, with an “urgent need for much more strategic thinking” aimed at determining goals and evaluating results (Woodman, 2004). Standards should include ratification of international human rights covenants, ending torture (still widespread even in parts of democratizing Indonesia, according to Amnesty International’s 2009 annual report), access for UN rights rapporteurs, and other forms of cooperation with the international human rights regime. Yet they cannot be limited to that: ratification does not equal implementation. The culture of impunity for rights violators needs to end, with protection of human rights defenders included as one goal of dialogue. HRDs could gain increased value if made truly two-way, seeking Canadian implementation of the United Nations Declaration on the Rights of Indigenous Peoples, for instance, alongside dialogue partners’ implementation of mechanisms more oriented to the civil and political side of rights. They could usefully include the impact of corporate as well as state actors, using tools developed for citizen monitoring and human rights impact assessment. After all, Canadians’ self-image is often undercut by the role of Canadian mining companies and other investors, whose activities affect human rights from Chile to Indonesia (North, Clark & Patroni, 2006).

Human rights, broadly understood, are not a western invention, but draw on sources in all cultures. Third world publics do not necessarily need to have human rights values introduced to them; many non-Western NGOs have already embraced a universalistic vision that leaves space for different imaginings of rights, which could be usefully disseminated to some western NGOs. Indonesian efforts to grapple with the historical memory of crimes against humanity in East Timor and elsewhere, for instance, might become part of the dialogue in the efforts in Canada to examine the painful legacy of Indian residential schools, using the tools of truth commissions. Such a conversation is impossible if confined to the government level alone.

The value of a tool devised for another decade, however, remains in serious doubt. HRDs cannot be separated from their origin as a way to compartmentalize human rights away from trade and to disarm domestic criticisms. HRD processes exist outside the multilateral system, weakening its universality. To the extent that HRDs silence the necessary public pressure for human rights, they represent a reduction rather than an increase in Canada’s international human rights advocacy. A bilateral dialogue between unequal partners seems an ineffective way to promote the diffusion of values from the smaller partner to the larger—whether China or Indonesia. A multilateral forum already exists in the form of the UN Human Rights Council, designed as a more effective version of the old Commission on Human Rights. The Council has a mechanism for a Universal Periodic Review of the rights records of its members. Here, multi-directional diffusion is at least possible, despite myriad disappointments that states have not used the new Human Rights Council as hoped (Lauren, 2007). A stress on bilateral dialogues takes away from the potential of multilateral forums. When Canada was named to the 2008 troika reviewing Indonesia’s right record as part of the Universal Periodic Review, there was little sign of effective pressure, despite the useful suggestions raised in Geneva by the Indonesian NGO Coalition (2008). A similar reluctance to push can be seen in other potential venues. In 1999, Canadian diplomats scored a major success by convening a meeting on East Timor at an APEC summit, and making sure it

placed effective pressure on Indonesia to end killings there, and to accept a UN-mandated peace force (Webster, 2009a). There has been no building on that foundation, which saw the effective entry of rights diplomacy into APEC—a significant but little-hailed Canadian accomplishment.

Where Liberal governments chose the HRD tactic to present an image of rights advocacy that would not impede trade prospects, the Harper Conservative government initially preferred finger-wagging and public lectures. These were aimed at domestic public opinion, and were not accompanied by any apparent search for effective ways to deliver change. Canada's embarrassing defeat in a bid for a UN Security Council seat showed the country's foreign policy falling well short of its aspirations, and receiving a failing grade from other governments (Roth, 2010). Harper has taken the defeat as evidence of the rightness of unpopular stances:

We take our positions based on the promotion of our values – freedom, democracy, human rights and the rule of law, justice, development, humanitarian assistance for those who need it. Those are the things we are pursuing and that does not change, regardless of what the outcome of secret votes is (Ouellet, 2010).

Yet it is hard to discern what those positions amount to—there is verbal posturing on human rights but little apparent search for effective rights-promotion strategies. Quite the reverse: the Harper government's dislike of certain Canadian civil society organizations has prompted the Canadian International Development Agency to sever support to such NGO voices as KAIROS and the Canadian Council for International Cooperation.

Both Liberal and Conservative governments have, in effect, segregated rights from the mainstream of Canadian foreign policy, treating it as an optional extra. If the gap is ever to be closed and foreign policies start to reflect the genuine belief of Canadians in universal human rights, this must change. The debate goes to the core of Canada's diplomatic self-image. Canadian governments paint this country as an eternal voice of human rights, claiming rights and rights advocacy as part of the national character, integral to Canadians' place in the world. An honest engagement with other countries on human rights will require an honest engagement with Canada's own less-than-spotless rights record. Canadian governments will have to live up to their own rights rhetoric in meaningful ways that challenge our country's assumptions about itself.



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