Canada and the International Human Rights Regime

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Introduction

Canada’s spotless international reputation has given this country of relative economic and military unimportance a great amount of soft power and international influence. Publications cite Canada’s high standard of living, domestic happiness levels, tolerant society, and advocacy for human rights as measures of the country’s excellence. Canada has frequently been dubbed the “moral leader of the world” and “Canada the Good” as a direct result of its stance on controversial moral issues – where other countries often falter. Honesty and morality have become synthesized with national identity, allowing a mosaic of nationalities and ethnicities to unite under a common image of tolerance and acceptance. However, deeper probes into Canada’s history and current conduct within the sphere of human rights initiatives reveal a picture in stark contrast to its publicized image. As major world powers, such as the United States, retreat from some of their traditional roles in setting international norms, it is important to understand how middle and growing powers approach international issues and whether or not they act in the public interest. Canada, with its historically pioneering role in human rights and middle power status, is a critical example of how economic interests outweigh humanitarian considerations, even in situations with human lives at stake.

This article will briefly outline Canada’s role in the development and implementation of the international human rights regime that garnered its world-renowned reputation. It will then examine its current commitments and failures to meet the demands of the human rights regime both domestically and abroad. This article draws on pre-existing literature describing the history of Canada’s role in establishing multilateral documentation and norms in human rights. Its place within such literature combines historical information with still-evolving current affairs, and not only evaluates separate cases but compares them to each other in order to identify common patterns and pinpoint exceptions to Canada’s purported role in protecting human rights.

The international human rights regime is a broad collection of treaties, organizations, and processes, spearheaded by the United Nations (UN) and its affiliated organs and member states. Since the UN’s inception in 1945, it has aimed to guarantee the rights of civilians around the world through multilateral action in accordance with its underlying purpose of “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.¹ Declarations and treaties are developed through mechanisms such as the UN Human Rights Council and similarly-minded NGOs, and individual states then have the opportunity to ratify and implement such agreements domestically to improve the conditions of their populace. As global economic and security conditions continue their upward trajectory, the importance of human rights has become increasingly emphasized, with great economic and political consequences for nations that choose to abstain from participation. Failure to adhere to the regime can be debilitating, with states that have poor records suffering economic sanctions and international isolation. Leveraging the increasingly interconnected international political landscape to achieve human rights goals has largely been an effective form of advocacy, with many states unable

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to bear the negative consequences and consequently making political decisions that improve the conditions for suffering civilians.

**History of Canada in the Human Rights Regime**

Firstly, it is necessary to consider Canada’s role in the inception of the contemporary international human rights regime. This role has been characterized by contradictory approaches, with times during which the country acted as a staunch supporter of international law and moments wherein Canada obstructed human rights progress. This is especially evident in its relationship with the UN Commission on Human Rights, from its creation in 1946 to its replacement by the UN Human Rights Council in 2006.²

John Humphrey, a Canadian international lawyer, was the first Director of the UN Human Rights Division and a central figure in drafting the 1948 Universal Declaration of Human Rights. Although a diverse group of individuals was involved in the Human Rights Commission, Humphrey wrote the Declaration’s first draft, and he and his staff provided consistent support for other committee members.³ In 1982, Canada’s repatriated constitution had, at its centre, a Charter of Rights and Freedoms. In the late 1950s, Prime Minister John Diefenbaker of the Progressive Conservative Party advocated for the adoption of a Bill of Rights to be entrenched in Canada’s constitution. In 1960, a Bill was enacted in statutory form but not yet reflected in the constitution. Twenty years later, when the Liberal Party returned to power, Prime Minister Pierre Trudeau set global precedent for domestic human rights by introducing a series of constitutional reforms, including an enforceable Charter of Rights. After initial rejection by several provinces and consistent rejection by Quebec, the Charter was nevertheless unilaterally introduced by Trudeau.⁴

After entrenching its commitment to domestic human rights, a shift in political power and normative ideology in Canadian leadership allowed the country to garner a global reputation as a campaigner for international human rights. In 1956, Lester B. Pearson drove the creation of the UN Emergency Force (UNEF), for which he won the Nobel Peace Prize. Canada’s contribution to UNEF through Pearson and its armed forces defined Canada’s identity on the world stage as a protector of human rights and security. UNEF is commonly viewed as an early model for modern peacekeeping.⁵ The concept of a “responsibility to protect,” or R2P, was also pushed by Canada. At the UN General Assembly in 1999, then Secretary-General Kofi Annan challenged the international community to reach a consensus regarding appropriate responses to “gross and systematic violations of human rights,” such as the Rwandan genocide, if humanitarian intervention was truly an unacceptable assault on state sovereignty. There had been a long-standing ideal of non-intervention and the ultimate importance of state sovereignty.⁶ In response, Canada’s federal government, in conjunction with various organizations, announced in 2000 the creation of the International Commission on Intervention and State Sovereignty (ICISS). Essentially, the Commission’s purpose was to

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help the international community reach the common ground desired by the Secretary-
General. Soon after its establishment, the ICISS generated a report about a so-called
“Responsibility to Protect.” Notable Canadians involved were Gisele Cote-Harper, a
professor of law and member of numerous human rights bodies, and Michael Ignatieff, a
professor of human rights and prolific writer. Canada’s Minister of Foreign Affairs, the
Honourable John Manley, was responsible for appointing an international Advisory Board as
a political point of reference for the Commission. The main conclusion of the report was that
the UN Security Council should have the capacity to authorize military intervention in the
event that a government could or would not protect its peoples from mass violence.
Unsurprisingly, R2P has been met with great opposition within the Security Council and from
General Assembly members. Many academics, policymakers, and civil society members at
large have also criticized Canada’s failures to uphold R2P in cases such as Darfur.

Current Commitments

Canada maintains its reputation for moral leadership in the realm of human rights by
incorporating the concept in its domestic and foreign policy initiatives. Domestic policies
focus largely on addressing key issues within its indigenous populations. Abroad, it has
focused its policies on female empowerment, a concept that defined its G7 presidency in
2018. Canada also continues to advocate for human rights indirectly through active
participation in UN-lead initiatives and diplomatic measures.

A cornerstone of Prime Minister Justin Trudeau and the Liberal Party’s 2015 federal
election campaign was the amelioration of indigenous conditions. Key platform points
included the implementation of the Truth and Reconciliation Committee’s 94
recommendations published earlier that year, facilitated by the newly developed Federal
Reconciliation Framework. Active between 2007 and 2015, the Truth and Reconciliation
Commission created a historical record of residential schools in Canada, working directly
with victimized communities and families to build a six-part report outlining the legacies of
the government’s atrocities as well as recommendations to ensure holistic healing and
reparrations. Interviewing 6500 witnesses and hosting nationwide events to engage members
of the public from all disciplines, the TRC concluded its work with its 94 calls to guide future
governmental actions and relations with indigenous communities.

The Crown also purports to repair the historically strained relationship between
indigenous communities and policymakers, addressing key social, economic, and
environmental issues that indigenous activist groups such as Idle No More have made
impossible to ignore. These promises include “a new fiscal relationship starting with lifting
the two percent cap on funding for First Nations programs; significant investments in
education, including new funding to support and preserve Indigenous languages and culture;
and an immediate national inquiry into missing and murdered Indigenous women and
girls.” Both indigenous activists and international bodies praised the Liberals’ commitments

8. Steven Edwards, “UN reform recommendations include Canada’s Responsibility to Protect
10. Liberal Party of Canada, “Trudeau Presents Plan to Restore Canada’s Relationship with Aboriginal
aboriginal-peoples.
to improving socio-economic conditions and repairing the relationship between indigenous communities and the federal government.

The Liberal agenda was inspired by and called to entrench the UN’s 2007 Declaration of Rights of Indigenous Peoples (UNDRIP) into Canadian federal legislation and practices, a decision praised by domestic activists and international bodies. Placing distinct, actionable items pertaining to indigenous conditions helped propel the Liberals to a majority government and placed high expectations on their capacity to act. Canada seemed poised to set the precedent for indigenous reconciliation and had the opportunity to demonstrate how other national governments should recognize and address the legacy of colonialism.

More recently, the Trudeau government refined and elaborated on its commitments to indigenous communities with the announcement of the Aboriginal Rights Framework in 2018. This framework promised to “accelerate work to renew the nation-to-nation, Inuit-Crown, and government-to-government relationship between Canada and Indigenous Peoples based on the recognition of rights, respect, co-operation, and partnership.” Applicable to all future policy and legislation surrounding key issues such as land claims, self-governance, and self-determination, this initiative laid the foundation for change in issue areas that have plagued indigenous communities for decades and had never been addressed by the federal government: water-boil advisories, improved education, and actionable reconciliation items that extend beyond hollow declarations.

Trudeau’s commitments to human rights advocacy extended beyond key domestic issues, and greatly influenced the development of Canada’s current foreign policy. The proposed foreign policy reinforced Canada’s role in the global advancement of human rights, specifically in the realm of gender equality. Declaring the government of Canada as feminist, Prime Minister Trudeau and his Foreign Minister Chrystia Freeland have been vocal advocates for gender equality during the election period and the Liberal administration. Freeland was first elected as Toronto Centre’s Member of Parliament (MP) in a 2013 by-election and then re-elected in 2015 as MP for University-Rosedale. Women’s rights to education, reproductivity, and security became cornerstones of Canadian foreign policy, which has traditionally focused on areas of democracy advancement and economic interest. Applying a gendered lens to Canada’s economic and security-related foreign policy reflects these bold commitments. For example, Canada’s foreign aid program was reorganized under the new moniker of Canada’s Feminist International Assistance Policy, with a mandate adjusted to highlight a focus specifically on the promotion of gender equality and female empowerment. In regards to security, Canada applied this feminist approach to its peacekeeping tradition/reputation by spearheading the Elsie Initiative on Women in Peace


Operations to increase meaningful participation of women in peace operations through research, “monitoring, and critical evaluation.” These changes then prompted the creation of a gender advisory council that ensured the theme of gender equality was integrated across the 44th G7 summit in 2018, over which Canada presided. Cited as the best opportunities to reduce extreme poverty and build a more inclusive global society, these policy adjustments were mirrored by internal decisions within the government, namely Trudeau’s decision to appoint a gender-balanced Cabinet upon election.

**Human Rights and Domestic Policy**

*Inaction on the TRC*

Despite domestic and international praise for a platform centred around action-oriented reconciliation, the Trudeau government has failed to make significant progress. It has instead defaulted to the federal tradition of recognition favoured by past governments, whom it had criticized and promised to improve upon. Trudeau’s government has upheld the status quo, veiled by a hollow veneer of unfulfilled promises. Of the 94 calls to action put forth by the Truth and Reconciliation Committee, only 10 have been completed and 55 have failed to advance past a rudimentary proposal stage to be brought before policymakers. Completed projects are limited in scope, confined to areas of language, sport, and art. While important in their own rights, implementing these recommendations has done little to ameliorate the conditions within indigenous communities. Reframing policy under more inclusive language and supporting indigenous development through sport and art alone fail to address the vast systemic inequalities indigenous communities across Canada continue to face, and threatens to undermine the credibility of the Liberal government in rebuilding positive relationships with indigenous peoples moving forward. Minor changes to Cabinet names and the internal restructuring of federal bureaucracy in the name of reconciliation does not align with the government’s initial promises to meaningfully repair indigenous relations. The discrepancy between these grand promises and the realities of inaction further exacerbates a historically strained relationship. Espousing new commitments and grand declarations resembles political public relations tools the government leverages to mask their deference to the tradition of policy-related inaction that they swore to overcome.

**Missing and Murdered Indigenous Women**

Canada’s failure to acknowledge and act upon the epidemic of missing and murdered indigenous women had resulted in harsh, widespread criticism from international and domestic parties. Consequently, it was a central issue in the Liberal’s 2015 platform, with promises to “establish... [a] comprehensive National Inquiry into Missing and Murdered Indigenous Women and Girls with full involvement of Indigenous organizations,  

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17. “Is the future of foreign policy feminist?”


communities and families” within the first 100 days post-election. The National Inquiry into Missing and Murdered Indigenous Women and Girls was launched in 2016, when it began collecting 1484 testimonies from victims and families in addition to the consultation of 101 experts across a range of disciplines and backgrounds. The inquiry comprehensively examined the systemic causes of the astronomical rates of violence against indigenous women in Canada, and would inform subsequent Crown action to develop policies and solutions. These actions mark a departure from the federal tradition of ignorance and inaction on this issue, reflecting the newfound commitment to indigenous and women’s rights omnipresent across their campaign platform. This campaign has been praised for its scope and depth with which it is conducted: utilizing testimonies, forensic records, and academic research to generate a comprehensive portrait of the vulnerability of Canada’s indigenous women.

However, the outcomes of this inquiry are vague, without actionable outcomes to address the insights gathered through the inquiry process. As of 2019, the inquiry merely promises to funnel its findings into public education and advocacy for indigenous women while creating an artistic legacy to commemorate the program. Previous human rights investigations conducted by the Inter-American Commission on Human Rights, in partnership with the Native Women’s Association of Canada and the Canadian Feminist Alliance for International Action, have concluded that Canada has a legal responsibility under international human rights law to eliminate discriminatory measures. Although Canada’s federal inquiry has yet to publish its findings, evidence of systemic discrimination in the areas of economic, social, and psychological health are likely to emerge as they have consistently across independent reports and investigations completed in the past. Yet, as evidence highlighting systemic discrimination originating in colonial violence and continually perpetuated through the Indian Act and the legacy of residential schools continues to mount, the Canadian government continues to stall on concrete action and hides behind an arduous evidence collection process. This inquiry is an important step in mending indigenous relations with the Crown, but in isolation will not produce any tangible improvements to the vulnerability of these populations. As more data is collected, discrimination and violence against First Nations women continues at alarmingly high rates: Aboriginal women are 2.7 times more likely to experience violent victimization than the national average and account for 24% of all Canadian homicide victims. They are still discriminated against with nothing actually done to empower and protect them. Data collection and inquiry are synonymous with the status quo, dressed under a guise of vague future improvements that have no framework by which to be development, implemented, or measured.

The sentiments behind the inquiry are important: legitimizing voices of those long oppressed and ignored by the federal government is essential in repairing their relationship

22. Marion Buller et al., Our Women and Girls are Sacred: Interim Report, 59.
with First Nations communities. However, the government’s reliance on this report to make any substantive changes that address the systemic causes of violence against women is inherently problematic. Although the inquiry is unprecedented in the Canadian federal tradition, the Canadian government lags behind research and recommendations conducted by independent parties, who have used similarly exhaustive measures to determine the systemic causes of violence and delivered actionable recommendations that they argue the government has the legal responsibility to act upon. The rhetoric across independent inquiries consistently mirrors findings of the ground-breaking investigations conducted by the Inter-American Commission on Human Rights, who published a report on missing and murdered indigenous women in 2012 in partnership with the Native Women’s Association of Canada and the Canadian Feminist Alliance for International Action. This report concluded that the crisis of missing and murdered indigenous women stemmed from systemic discrimination: “economic marginalization, social dislocation and psychological trauma” associated with the legacy of residential schools and other instances of colonial violence. Findings were supported with recommendations for policy and programming action items, while underscoring Canada’s obligation under international human rights law to eliminate these sources of systemic discrimination through co-ordinated nationwide efforts.

Information drawn from the inquiry will add to the mounting collection of evidence and data-driven conclusions about the crisis, without substantial proposals to actually address it at a system-wide level. It will merely echo years of outcries from activists and human rights organizations. While the Canadian government commits itself to data collection, research, and analysis, its capacity to enact change is stymied by a continued reliance on information gathering as opposed to action-oriented solutions. Valuable resources and time have been tied up in an inquiry process that has not enacted any tangible protection to the vulnerable populations that remain systematically marginalized in Canada. The government’s failure to act has rendered them complicit in the struggles facing indigenous people, perpetuating these pre-conditions for violence ingrained in the Canadian system.

United Nations Declaration on the Rights of Indigenous Peoples

Canada’s vow to remove its permanent objector status to the UNDRIP was met with resounding international praise, despite no clear path forward regarding its actual implementation with Canadian law and domestic policy. Designed to guide state interaction with indigenous groups along norms of “self-determination, equality, protection of their respective cultures, a collective identity, and economic and social development,” UNDRIP was written with a broad scope and provided no guidance for implementation within individual states upon ratification. In Canada, integrating this document has complex implications for the future interpretation and application of Section 35 of the Constitution,

25. Marion Buller et al., *Our Women and Girls are Sacred: Interim Report.*
which entrenched indigenous land and treaty rights established before 1982. This section has gone unchanged since its publication, allowing Canadian lawmakers and courts to present a narrow interpretation of its content when indigenous issues are brought before the Crown. Policymakers have taken advantage of the section’s dated composition to ignore indigenous interests when pursuing national socio-economic development. Adopting UNDRIP principles within the larger reconciliation strategy would effectively “breathe life” into Section 35 and grant indigenous communities increased influence over provincial and federal decisions that impact traditional territory as recognized in the Indian Act.30

UNDRIP’s cornerstone principle of “free, prior, and informed consent” grants indigenous communities an unprecedented level of influence over economic activities and legislation that impact their traditional territories. In Canada, this namely applies to economic mega-projects such as the proposed LNG pipeline, Alberta’s oilsands, and Site C dam.31 The term “consent” within the UNDRIP framework lacks a consistent definition and application, which has ignited a tense debate about the concept of an indigenous veto to project proposals that infringe on their traditional land and resources.32 Activists claims that the ratification of UNDRIP grants to all indigenous communities and leaders binding veto power over all future federal decisions that impact traditional lands, whereas federal policymakers maintain that the concept of consent has a more nuanced definition when integrated into Canadian federalism.33 UNDRIP assigns a general veto to indigenous communities regarding legislation and economic activity, which can be overridden in the instance of military activity.34 However, the global scope of the UNDRIP development creates specific overlaps of authority when integrated within the specific context of Canadian law and policy practices, and has uncertain implications for the future national economic interest in an era of reconciliation.

The intricacies and warring interests that surround this implementation are evident in the Trans-Mountain pipeline project, the battleground for the first major post-UNDRIP clash between the federal economic interest and First Nations’ territorial concerns. Tensions climaxed in protests and arrests in the interior of British Columbia (BC) near traditional Wet’suwet’en territory, where activists challenged the Trudeau government’s decision to expedite the construction of the pipeline through, ignoring indigenous objections in the areas of sovereignty and environmental concerns.35 The land in question is claimed as Crown Land by the federal government while the Wet’suwet’en leaders argue the land is under their control.36 While the government maintains that indigenous groups have the right to oppose, their veto claims hold no power provided the federal government performs their Duty to Consult.37 The BC provincial government has authorized continued pipeline development

31. James Wilt, “Implementing UNDRIP in Canada: Here’s What You Need to Know”.
33. Thomas Isaac and Arend J.A. Hoekstra, 3.
34. Ibid., 4.
with the underlying assumption that consultations were adequately conducted, concluding that an agreement for use was reached between the government and indigenous communities. However, continued resistance and 14 protest related arrests demonstrate that this “justifiable infringement” on indigenous rights of land use is intensely opposed by these communities. These actions have received substantial domestic and international backlash, and threaten the rhetoric of reconciliation the Liberal government has championed. Moreover, it threatens the sincerity of the government’s past and future promises to address First Nations grievances on the path to building a more trusting relationship between provincial and federal parties and the indigenous population. The government appears to have reached a crossroads: sacrificing economic development and infrastructure projects or risk worsening their reputation regarding the amelioration of indigenous conditions.

The Canadian government’s actions in the near future will set a precedent for land use disputes. Balancing polarizing interests places the government in a precarious position: yielding to the indigenous veto on economic activities may sacrifice important infrastructural development plans and exacerbate tensions between indigenous and non-indigenous populations; however, pursuing these projects on the basis of “just infringement” may permanently destroy a pathway to true reconciliation and damage Canada’s shaky reputation for moral leadership.

Framework for Indigenous Rights, 2018

To improve the integration of UNDRIP within section 35 of the Constitution, the Trudeau government publicized an intention to develop an Indigenous Rights, Recognition, and Implementation Framework in February of 2018. Intended to embody the transformation of indigenous-Crown relations, the framework would be developed through engagement with indigenous stakeholders to support mechanisms for self-determination and governance. This framework would shape the development and implementation of all future legislation. Replacing the Comprehensive Land Claims and Inherent Right Policies with the reworked Policy on the Recognition and Implementation of Indigenous Rights would facilitate future legislative negotiations by strengthening indigenous law-making power along principles of self-determination, self-governance, and treaty rights already entrenched in the Constitution. Lastly, this framework would attempt to build accountability measures into federal policymaking such that they better conform to UNDRIP recommendations and resolve overlaps in authority that cause unnecessary tensions between the divergent interests of the Canadian government and indigenous activists.

Reframing the strategies by which Canadian governments engage with indigenous communities through legislation and policy signals that the influence of the long-contested Indian Act is waning. However, the framework’s narrow focus on relationship management neglects important questions regarding treaty reparations and land disputes. Therefore, this

38. Tzeporah Borman, “Why the Trans Mountain fight is over more than just a pipeline”.
39. Ibid.
42. Ibid.
proposed increase in opportunities for self-governance is limited to specific communities. The framework and the policies developed under it will not override pre-existing provincial and territorial jurisdiction, effectively failing to cede substantial decision-making power to local indigenous communities. Provincial and federal governments still allow themselves ample opportunity to intervene and unrightfully influence indigenous affairs. The rhetoric of the framework remains unnecessarily paternalistic, despite promises to adjust legislature, policies, and practices towards forms of self-governance indigenous communities have reasonably demanded for decades. Indigenous leaders were encouraged to participate in the formation and implementation of alternative models of governance to increase control over local affairs, yet excluded from the formation of these alternative models. This fails to reflect traditional forms of governance. Ushering in a new era of reconciliation is merely a strategy to make minor adjustments to the status quo while simultaneously providing indigenous communities with a false sense of independence and long-awaited self-determination. Investigations conducted by the Yellowhead Institute concluded “there are so many discussions about the need to close the socio-economic gaps between Indigenous people and other Canadians in this country and we don’t see those gaps closing.” This reflects the Canadian federal tradition of sacrificing transparency as not to cede meaningful influence to the communities that continue to face systemic discrimination.

Standard of Living

Canada’s egregious human rights record extends beyond a failure to uphold formal commitments international agreements in a domestic context. The substandard living conditions and health crises that define the modern indigenous experience is a manifestation of decades of federal negligence and the refusal to pursue policies that improve infrastructural determinants of living conditions and population health. This presents a stark contrast to Canada’s international reputation for quality of life. In 2019, Canada was ranked the third best country to live in globally in a report published by U.S. News, BAV Group, and the Wharton School of Business, while three of its urban centres (Toronto, Vancouver, and Calgary) were ranked in the Top 10 of the Economist Intelligence Global Liveability Ranking. Both reports cite high quality of life, access to healthcare, and business-friendliness as key aspects of Canada’s liveability; however, these elements are not equally extended to all Canadians. When comparing Canada’s quality of life as published by these reports with the realities of First Nations, Inuit, and Metis communities across the country, the differences are staggering. Investigations into the living conditions of First Nations communities have hailed these regions ‘Canada’s Third World,’ where issues of poor population health, lack of access to clean water or housing infrastructure, and ineffective policy solutions have failed to improve conditions.

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45. Ibid.
46. Ibid., 13.
48. Ibid.
Water and Housing Infrastructure

Canada is famed for its rich freshwater resources: it houses 7 percent of the global renewable freshwater supply, which supports a nation of 37 million, or 0.49 percent of the global population. Yet access to this abundant supply of freshwater is not guaranteed to all peoples of the country. First Nations communities across the nation are put under boil water advisories (BWA), which are issued when the water in a community is known to or may be unsafe to use. The Liberal government’s 2015 platform promised to eradicate all long-term BWAs that have been in place for over one year within five years by investing $1.8 billion annually in addition to core funding to improve First Nations water infrastructure, operations, and management.

However, an independent assessment of the government’s progress in reducing BWAs in Ontario - the province with the highest number of advisories - concluded that government action has been ineffective and unsustainable. The assessment found that only 33 percent of the communities surveyed were on track to have the ban lifted, while the remaining 67 percent are either uncertain about lifting the ban within the five year commitment or will not be able to lift the ban unless current processes are significantly reformed. Moreover, communities where BWAs were lifted experience long-term maintenance issues that threaten the sustainability of government-led solutions. For example, Constance Lake lifted its BWA in 2016, but the following year their infrastructure required $793,920 in repairs that the government had not budgeted to the community. The report cites qualitative issues such as insufficient infrastructure funding, poor resource allocation, inadequate resources for operations and management, lack of First Nations decision-making power in the process, and insufficient transparency in monitoring the progress towards ending BWAs. Most saliently, the report concluded that water issues are often addressed in isolation, when in fact they are one facet in a complex web of poor living conditions perpetuated on First Nations reserves and intersect with other crises in population health, infrastructure, and environmental consequences of industrial activity. These challenges are compounded by the colonial legacy of systemic racism and forced relocation, which creates a complex and harrowing reality of compounding crises and terrible living conditions the government fails to address holistically.

Continued failure of the Canadian government to address these crises on reserves reflects historical attitudes of indifference to understanding and improving the well-being of First Nations communities. Section 91 (24) of the Canadian Constitution Act, 1867 assigned the federal government legal responsibility for “Indians and lands reserved for Indians.”

54. Ibid.
56. Ibid.
57. Ibid.
Demonstrating a renewed commitment to this constitutional responsibility, the Liberal government has pledged additional infrastructure funding of $1.8 billion. A report by the Parliamentary Budget Officer emphasized that the government is providing 30 percent less in capital expenditures than actually needed and only 50 percent of the $360 million required for operations and maintenance. Therefore, although the pledge for additional funding presents itself as laudable progress on the government’s part, it is evident that policymakers did not have a true understanding of the severity of the water crisis and failed to allocate sufficient resources to implement effective long-term solutions. The Trudeau government failed First Nations communities by neglecting to conduct the due diligence necessary to understand the drinking water crisis and consequently budgeting insufficient resources to uphold their commitment.

Ineffective Reporting and Measurement

These issues plaguing indigenous communities are complex, rooted in a colonial legacy and maintained through systemic forms of discrimination and federal indifference. Although government rhetoric towards First Nations issues has shifted to one of reconciliation, the bureaucratic systems and processes in place to understand and resolve First Nations crises are flawed. Canada’s Standing Committee on Public Accounts has cited improper use of data to measure, track, and implement improvements on programs aimed at closing socio-economic gaps in First Nations communities. The Department of Indigenous Services Canada uses an internally-developed Community Well-Being Index to measure the well-being of indigenous communities against the greater Canadian population, which then influences how the Department allocates funds and programs. However, the Office of the Auditor General of Canada (OAG) reported that “the [Indigenous Services] Department did not adequately measure well-being for First Nations people on reserves,” because it only measured four elements of well-being. The index ignores “critical variables such as health, environment, language, and culture,” emphasized as key elements of well-being by First Nations stakeholders. The OAG also concluded that the Indigenous Services Department possessed the volumes of data necessary to compare relative well-being of First Nations communities with national averages, but still continue their negligence. The government’s approach to data collection and measurement of First Nations’ well-being demonstrates an unwillingness to engage directly with these communities to build comprehensive understandings. This approach reflects traditional attitudes of ignorance and paternalism towards this historically marginalized population. Using incomplete metrics prevents the government from accurately measuring current conditions on reserves, providing policymakers with an incomplete understanding of both the severity of infrastructural issues and their impact on indigenous health crises. Thus, policymakers make expensive infrastructure investment decisions rooted in a poor understanding the indigenous context.

59. Ibid.
66. Ibid.
62. Ibid.
Furthermore, the techniques used to assess policy interventions in First Nations communities are incomplete. The federal government measures its policies on a “per dollar spent” basis, as opposed to critically assessing the outcomes of their policies to determine those making tangible improvements.\(^ {65}\) This negligent reporting strategy reflects a surface level commitment to reconciliation, wherein the government is not conducting the due diligence necessary to meaningfully evaluate the outcomes of government programs and spending. Policymakers with the capacity to create meaningful change through effective policies and program spending cannot make informed decisions about where to most effectively deploy resources, because they are unaware of which solutions actually improve outcomes.

These gaps in measurement and analysis enable the government to improperly monitor conditions on reserves and publish misleading reports about federal progress. For example, the federal government only reports BWAs and infrastructure concerns on communities south of the 60th parallel,\(^ {66}\) so Northern communities’ experiences are not reported to policymakers who hold the power to allocate funds to build critical infrastructure. These reports also ignore First Nations communities in BC and Saskatchewan, so their reported progress on addressing First Nations issues is not reflective of nationwide progress.\(^ {67}\) Additionally, the government does not report on water systems for which they have not assumed financial responsibility; they acknowledge “there are close to 500 drinking water systems… [in] on-reserve establishments such as convenience stores, gas stations, and other facilities… not funded by the Government of Canada.”\(^ {68}\) These “semi-public” drinking water systems are essential to businesses and infrastructure that provide access to critical goods and services on reserves.\(^ {69}\) Their operation is imperative to ensure the sustained economic and social health of these communities, and yet are excluded from government aid. The government’s refusal to maintain or invest in infrastructure they arbitrarily classified as “semi-public” reflects their willingness to deny access to basic human needs and dignified living conditions to entire communities across the country.

**Population Health Crises**

Decades of poor living conditions and government negligence have compounded the legacy of colonial oppression, culminating in a string of public health crises in First Nations communities. Indigenous people in Canada experience significantly higher rates of addiction, chronic health issues like diabetes and heart disease, and most notably, epidemic rates of suicide. Aboriginal, Inuit, and Metis populations across the nation experience statically higher rates of suicide across all age, economic, and gender strata.\(^ {70}\) Findings from the Truth and Reconciliation Committee of Canada and Statistics Canada’s investigations into indigenous suicide are astounding: “Forty per cent of deaths amongst young Inuit are suicides, as compared to 8 [percent] in the rest of the population… Aboriginal youth who are

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66. Pamela Palmater, “First Nations water problems a crisis of Canada's own making”.
67. Ibid.
69. Ibid.
living on reserves are 5 to 6 times more likely to die by suicide than non-Aboriginal youth.”71 These epidemic rates are linked to the colonial legacy of intergenerational trauma and ongoing marginalization, in addition to “accloration stresses” such as “(1) loss of land, traditional subsistence activities and control over living conditions; (2) suppression of belief systems and spirituality; (3) weakening of social and political institutions; (4) racial discrimination; and (5) marginalization.”72

This issue is exacerbated by a lack of healthcare infrastructure, governmental assistance, or economic resources required to meet the needs of a population in crisis. In 2016, a collective of remote First Nations communities in Northern Ontario issued a Declaration of Health and Public Health Emergency, citing health issues such as unclean drinking water and health care deficiencies that have exacerbated suicide and addiction crises in the region.73 In response, the House of Commons Standing Committee on Indigenous and Northern Affairs adopted a motion to examine the health emergency. Recognizing the government has “failed to meet the most basic health needs of individuals and that the current system is in need of meaningful reform,” the Committee advanced four recommendations for the urgent improvement of First Nations health care infrastructure and the federal response to health crises on reserves.74 However, these investigations have not produced significant improvements in health crisis prevention on reserves. In 2019, communities across Canada have declared a state of emergency in response to overwhelming rates of suicides, such as God’s Lake, Manitoba, a community of 1300 that lost four citizens to suicide in the summer of 201975 alongside 22 other attempts, or Attiwapiskat First Nations, a remote community in Northern Ontario that experienced 11 suicide attempts in one night, and 101 over a period of 7 months.76

The Liberal reign has had its share of successes and failures in addressing a long list of indigenous-held grievances against them. The government was faced with the challenge of acknowledging and rectifying a history of oppression and violence over which it had no direct control, while moving forward with policies that would eliminate the systemic barriers indigenous populations continue to encounter. The Crown’s inconsistent approach to its indigenous policy encapsulates a dichotomy of effort: well-intentioned promises are made, and more appropriate language is used, but inaction persists. As the 2019 election approaches, it is unclear if the legacy of the Trudeau government will reflect its initial commitments of reconciliation and the empowerment of indigenous communities.

International Relations and Human Rights

Myanmar, China and Trade

Its economic power and rapid politico-economic development on the world stage make China a formidable superpower with whom Canada must maintain relations. Through decades of bilateral trade, China has become Canada’s second-largest trade partner. However, as China’s abysmal human rights violations continue to come to light, the need to more carefully examine Canada’s degree of complicity in global ignorance increases in urgency. There is a question of whether trade with China, largely a result of national economic self-interest, is more important to Canada than the humanitarian causes for which Canada has historically and continues to claim to stand. In 2016, Prime Minister Trudeau’s government announced a signing of 56 trade deals worth over $1.2 billion while the Prime Minister also had “difficult” conversations with Chinese officials about human rights. At the time, Canadian Kevin Garratt had been detained in China on charges of stealing state secrets and spying. A recent example of an egregious violation of human rights in China involves allegations of re-education camps detaining up to one million ethnic Uighurs, as well as supposed suppression of Turkic Muslims in the province. Canada’s ambassador to China, John McCallum, has stated Canada’s intention to encourage China to improve its human rights record before establishing a trade deal with them.

In the summer of 2018, Canada’s Minister of Foreign Affairs, Chrystia Freeland, and its Minister of International Development, Marie-Claude Bibeau, issued a statement on the human rights crisis facing Myanmar’s Rohingya people. The statement clearly and strongly condemned Myanmar’s top military officials, saying the Rohingya people have been subjected to gross human rights violations perpetrated by Myanmar’s security forces. Moreover, the statement emphasized Canada’s commitment to addressing the humanitarian crisis through financial aid, support of the findings of a UN report detailing the crisis, and targeted sanctions against senior military officials in Myanmar for the genocide. Official government materials and House of Commons debates emphasize the concerning nature of both the violence and displacement of over 730,000 people into Myanmar’s neighbour of Bangladesh, consistent with statements that Canada is committed to one of its core values of human rights. Preceded by Trudeau’s suggestion, Parliament unanimously voted to strip Aung San Suu Kyi, Myanmar’s civilian leader, of her honorary Canadian citizenship for

79. Ibid.
being an “accomplice” to the genocide. It is widely agreed that Aung San Suu Kyi was aware of and enabled the atrocities.\textsuperscript{84}

Canada exercising its diplomatic muscle to harm Myanmar’s economy and sending a strong message of international resolve and condemnation to the country’s leaders contrasts starkly to its stance on Chinese human rights violations. This difference is likely caused by the differences between China’s and Myanmar’s economies, as well as their trade relations with Canada. China is consistently seen as an economic powerhouse with not only extensive diplomatic but also economic ties to Canada. On the other hand, Canada does not risk major economic interests in opposing Myanmar and can safely promote its liberal reputation in this case. Canada’s government states that the country’s bilateral trade with Myanmar remains modest despite growth. In 2017, bilateral merchandise trade was valued at $162.3 million.\textsuperscript{85} Conversely, trade with China in the same year was valued over $93 billion, making them one of Canada’s top trading partners.\textsuperscript{86} Given parallel differences in Canada’s behaviour toward human rights abuses in Myanmar relative to those perpetrated by more important trade partners, it follows that Canada, a supposed human rights protector, takes economic considerations into account prior to its liberal responsibilities and reputation.

\textit{Saudi Arabia and Trade}

In 2014, Canada’s previous government under Stephen Harper struck a $15 billion deal to sell military vehicles to the Saudi Arabian National Guard. Saudi Arabia’s emerging market was made a foreign policy priority under the Conservative government, and the country is currently known as one of the worst violators of human rights as well as Canada’s seventeenth largest trade partner in major sectors of oil, military goods, and technology.\textsuperscript{87} \textsuperscript{88} As the Liberal government moves forward with the deal despite mounting socio-political pressure, critics are concerned the Saudis will use the vehicles against citizens to crush popular dissent. For years, Saudi Arabia has faced criticism from other countries’ governments and activists for cracking down on dissidents and the Shia Muslim minority. Its 2016 mass execution, which Canada condemned, provides a cogent example of such a threat. Canada has also criticized the Saudis over their treatment of blogger Raif Badawi, who has family in Quebec and was sentenced to prison time and lashes for insulting Islam.\textsuperscript{89} However, it appears the economic benefits of doing business with the state outweigh perceived hypocrisy on the part of the Canadian government in the area of human rights and possible deterioration of its reputation.\textsuperscript{90} In the case of Myanmar, the Canadian government has successfully bolstered its reputation as a defender of human rights by condemning abuses.

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\item \textsuperscript{86} “Canada’s Bilateral Trade with Asia,” \textit{Asia Pacific Foundation of Canada}, https://www.asiapacific.ca/statistics/trade/bilateral-trade-asia-aggregate/canadas-bilateral-trade-asia.
\item \textsuperscript{90} Kirsty Wigglesworth, “The Saudi arms deal: What we’ve learned so far, and what could happen next,”
\end{itemize}
The economic benefits of dealing with the Saudis include employment of about 3000 Canadians, largely in London, Ontario. It is also important to note that serious belief about the Saudis using the vehicles for something other than their stated military purpose would throw the deal into doubt. Under Canada’s weapons export rules, weapons shipments are forbidden if there is reasonable risk that they might be used against civilian populations by the buyer.91 The Liberals’ hypocrisy is especially clear when considering that former Foreign Affairs Minister Dion initially characterized the arms deal as one the government was obliged to accept, but then defended a decision to approve the remaining permits for an increased number of vehicles. Dion claimed that refusing to sign would have caused a major economic backlash. More recent diplomatic disputes seem to reinforce the idea that economic factors are more impactful on Canadian relations with the Saudis than human rights considerations.92

On a large scale, even after the release of a UN report alleging human rights violations by a Saudi-led coalition’s bombing in Yemen, Canada’s federal government continued its support of the arms deal.93 The civil conflict is essentially a proxy war between Saudi Arabia, seeking to restore the government, and Iran, supporting the rebels. Investigations have since revealed that Canadian vehicles were used against the rebels by the Saudis in one of the world’s worst contemporary humanitarian crises. In this context, the tweets by Foreign Affairs Minister Chrystia Freeland and Canada’s Global Affairs Ministry urging the release of two female bloggers and activists imprisoned by the Saudis was quick to sour Saudi-Canadian relations. One of the women is the sister of Raif Badawi. Freeland and Trudeau have refused to apologize.94 In response, the Saudi Foreign Ministry accused Canada of attempting to interfere with their internal affairs. The Saudis immediately took steps to suspend trade with Canada, except in oil, and to cut diplomatic ties. The killing of journalist Jamal Khashoggi in a Saudi consulate in Istanbul further strained Saudi-Canadian ties. American intelligence officials allege that Khashoggi was interrogated, tortured, and murdered by a team of Saudis in relation to his criticism of Crown Prince Mohammed bin Salman (MBS).95 Despite mounting public opinion and Turkish and American evidence, Trudeau’s Liberal government has yet to directly implicate the Crown Prince and moreover, to end the arms deal. Although Trudeau has stated his government is seeking a way to end vehicle shipments to Saudi Arabia, it remains to be seen whether Canada will act on its supposed outrage with Saudi violations of human rights.96 Moreover, as outlined by former envoy to Saudi Arabia Dennis Horak, such an action seems a futile gesture with a detrimental impact on the economy without any impact on human rights.97 The actions, separate from the words, of not only the Harper but the Trudeau government strongly suggest that Canada prioritizes economic considerations over purported human rights advocacy.

Analysis indicates the Liberal government, despite advocating greater multilateralism and global cosmopolitanism than the previous Conservative government, has a similar arms export record to a country rampant with human rights abuses. More pertinently, it is evident that Canada’s actions in exporting arms contrast starkly – yet are simultaneous to their self-perception as global “good Samaritans.” In fairness, relations with human rights abusers like those governing Saudi Arabia are difficult to navigate for many major liberal democratic

91. Ibid.
92. Ibid.
93. Ibid.
94. Katie Dangerfield, “Saudi Arabia-Canada spat: Here’s everything to know about the feud.”
96. Ibid.
97. Ibid.
governments, especially given the importance of trade to domestic prosperity. However, in light of Trudeau’s feminist identity and desire to promote gender-equitable society, continuing to sell arms to countries with consistent human rights abuses is overtly hypocritical. This is especially alarming given the arms deal effectively commits Canada to aiding the problematic Saudi government until 2028. Expert policy suggestions by critics of the deal share the common theme of outlining ways in which Canada’s government can review exports and make it more difficult to sell weapons to human rights violators. However, as circumstances currently stand, Trudeau’s feminist foreign policy cannot be truly reconciled with Saudi abuse of women’s rights. Even in non-military matters, concerns have been raised regarding Saudi investment in Canada. Some have suggested that Canada seek alternative sources of funding for medical school training rather than from what is essentially a “genocidal dictatorship.” Overall, Canada’s actions in support of such a repressive government are incongruent with its supposed leadership in human rights protection, and indicate that an economic lens is more important to Canadian governments’ policy decisions.

Conclusion

Canada’s contemporary role within the human rights regime is contradictory and complex, revealing its projection of moral leadership is subject to influence from primarily economic interests. Relying on its history of major human rights achievements and advocacy to mask the hypocrisy of its actions, Canada’s title as moral leader of the world is not reflected in its current domestic conduct or foreign diplomacy. The economic interests of the Crown require capital-intensive resource development and massive trade deals with some of the world’s great economic and military powers, which undermines Canada’s ability to meet its human rights commitments. Canada is a strong supporter of human rights to the extent that its support does not interfere with the country’s major economic interests, both domestically and internationally.


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