Attacking Stephen Harper’s Conservative government in September 2009, Liberal leader and former human rights scholar Michael Ignatieff highlighted the government’s alleged mismanagement of relations with China as one reason the Liberals should return to power. Ignoring Harper’s turn towards Latin America, he accused the government of failing to “open up new markets.” 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.” (Simpson 2009; Liberal Party 2009). Near the centre of the debate over trade and human rights in relations with China – and more generally – lay Canada’s ambiguous embrace of “bilateral human rights dialogue” (HRD) as a tactic aimed to nudge forward human rights without sacrificing trade promotion.

Human rights have been asserted rhetorically as a goal of Canadian foreign policy 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,” (Foreign Affairs Canada 2009). There is little substance to this self-image; the reality has been, as Jean Daudelin (2009, p. 8) writes, a “human rights-blind” foreign policy except during small “ethical windows.” The “invented tradition” of Canada as human rights advocate is powerful, enshrined in imagery like the $50 bill with its picture of Canadians claiming
their rights and its quotation from the Universal Declaration of Human Rights, in television Historica moments, and in the project to construct a Canadian Museum of Human Rights in Winnipeg.

A dozen years ago, amidst a debate about integrating human rights into a trade promotion agenda, the Canadian government joined several other countries in a new tactic: bilateral human rights dialogues. The logic behind these HRDs is that two countries will sit down together for a conversation about means to strengthen human rights, present concerns to each other, and work for improvements in a confidential, confidence-building atmosphere; this in turns 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 Iran. Several European countries hold bilateral dialogues, and also support European Union HRDs with 30 countries or associations, including both those seen as having poor rights records such as China and Iran and those viewed as more democratic including the United States and Canada. The United States at times takes a more punitive stance on human rights, epitomized in tough sanctions against Burma, but nevertheless maintains bilateral rights dialogues with Afghanistan, Colombia and others. American dialogues with China and Vietnam have been an on-again, off-again affair 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. Yet there is a growing call for the suspended Canada-China
dialogue to be simply resumed with no real changes. The HRD tactic needs to be
rethought 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 on to UN
measures against genocide. McGill professor John Humphrey penned an early draft of the
1948 Universal Declaration of Human Rights, but Canada initially stood with the Soviet
Union, Saudi Arabia and South Africa in refusing to support it. It voted for the
declaration only under pressure from its allies and out of a sense of discomfort at the
company being kept (Humphrey 1984; Schabas 1998; Egerton 2001). Until 1975, no
Canadian government showed significant commitment to international human rights.
That year, a federal-provincial conference approved Canadian ratification of the
International Covenants on Civil and Political, and on Economic, Social and Cultural
Rights, which together elaborated and codified the Universal Declaration (Gillies 1996).
This shift in Canada came as part of a larger global awareness of human rights issues and
in the context of lengthy campaigns by domestic rights groups (Clément 2008). Human
rights scholars write of a 1970s “human rights moment” symbolized by Amnesty
International’s 1977 Nobel Peace Prize and such developments as the coming into force
of the two Covenants. Jack Donnelly (2007) calls this the period that rights moved “from
standard setting to monitoring” (p. 8-10). Regional rights conventions were negotiated, and the domestic laws of many countries began to embrace such steps as more equal rights for women. 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. Trudeau himself practiced an “instinctive avoidance of human rights in his contact with other countries,” wrote Mark MacGuigan, one of his foreign ministers (Lackenbauer 2002, p. 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 with twin declarations that Canada would no longer “subsidize repression and the stifling of democracy,” made at the 1991 Commonwealth heads of government meeting and the francophonie summit. No implementation plans accompanied this rhetoric, however. 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). It echoed Canadian government responses to the 1989 Tiananmen Square massacre, which saw limited sanctions aimed in such a way as not to interfere with trade prospects (Gecelovsky and Keenleyside 2005). Indeed, one author
has found that Canadian aid was marginally more likely to flow to countries with poor human rights records than those with better records (Barratt 2006). The aid-rights linkage, in other words, has been almost entirely rhetorical.

The Liberals under Jean Chrétien returned to power in 1993 with promises of stronger action on international human rights. 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 to growing markets in Asia and Latin America through “Team Canada” trade missions. The increased emphasis on commerce sparked an ongoing debate about linking trade and human rights. Activist groups ranging from the Canada Tibet Committee to Amnesty International 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. This school downplayed Western notions of human rights in favour of cultural-relativist arguments drawing on a claimed “Asian tradition,” arguing that the right to economic development and growth was a higher priority than individual rights, at least in the short term (Bauer and Bell 1999; Acharya 1995; Aung-Thwin 2002; Avonius and Kingsbury 2008; Meijer 2001; Mendes 1997). Another view saw economic growth as a pre-requisite 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

Chrétien government thinking was also influenced by an international system in which dynamic growth was centred on Asia’s Pacific Rim. Ottawa wanted a piece of the action. It therefore chose to prioritize trade promotion and reverse the Mulroney government’s rhetorical linkage of trade and rights. Canada was not alone in this, of course, but policymakers in Ottawa made their choice autonomously, in perceived Canadian national interests, not out of the desire to match Canadian policy with key allies.¹

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 states 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, inheriting the mantle of apartheid South Africa as the country most targeted by activists for economic pressure – a parallel very evident in the pronouncements of such groups as Canadian Friends of Burma and the US Campaign for Burma. Debates over linking trade with human rights prompted ASEAN governments to formulate their argument that greater freedoms would come through bringing Burma into the international community rather than by isolating it. Although not a fully-developed political plan, this drew on the ASEAN basis of unity: non-interference with one

¹ See for instance the case for autonomy in Canadian policy towards Cuba laid out in Kirk and McKenna 1997.
another’s internal affairs, and non-interference in the region by outside powers. An added implication was that Western states should pursue “constructive engagement” with the major violators within ASEAN, especially Indonesia (Acharya 1995, p. 12; Gillies 1996, p. 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 it had abolished on coming to power. Lloyd Axworthy, one of the main carriers of the humanitarian internationalist 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. While he stressed trade, his ministers insisted this did not mean silence on rights – quite the reverse (Stackhouse 1996). Raymond Chan, a prominent Vancouver-based campaigner for human rights in China named to the new post of secretary of state for the Asia Pacific, insisted: “Trade reduces isolationism. Trade also expands the rule of law and generates the economic growth required to sustain social change and development.” (Chan 1997, p. 113). Trade and rights, Axworthy similarly 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, p. 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 Committee on Human Rights resolution on human rights in China, and instead focus its efforts on a bilateral dialogue. The annual 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. At the 1997 CHR, a series of governments dropped their sponsorship of a resolution critical of China: France, Germany, Spain, Italy and Japan all took this step. Human Rights Watch was highly critical of this shift, calling it 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, p. 105). Axworthy justified his decision to withdraw Canada from the coalition backing a CHR resolution on the grounds that international support was waning, so a bilateral dialogue would be more effective (Foreign Affairs 1997). The move 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, p. 32). The
HRD process, unusually for Canada, was a shift 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 church-sponsored East Timor Alert Network, for instance, was a thorn in all 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.”

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. To an audience of human rights supporters at the University of Ottawa, he spoke of the need to combine “soft diplomacy” including technical assistance and HRDs, with “hard diplomacy” including sanctions and 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 argument that “rights talk” could become “the shared vocabulary from which our arguments can begin” (Ignatieff 2001, p. 95; Ignatieff 2000). Axworthy was enamoured with “niche diplomacy,” areas in which Canada could play an important role. One niche, he said, was supporting “change from within” through fostering civil society in countries with poor human rights records. Indeed, this was a main purpose of the HRD process, which aimed

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2 E-mail from Canadian embassy in Jakarta to DFAIT, 3 Nov. 1998; marginal note on e-mail from Canadian embassy in Jakarta to DFAIT, 21 Feb. 1995. Both documents from DFAIT file 20-TIMOR, ETAN papers (private collection, Toronto). Yvon Grenier has made a similar critique of the Cuba dialogue for “total indifference to the lives of Cubans” (McKenna and Kirk 1999, p. 70).
to foster government-to-government discussions on rights, civil society initiatives, exchanges between human rights institutions, and free media. The HRDs, he said, were already “starting to bear fruit” but were “only a means to an end.” They could not replace multilateral advocacy, only supplement it (Axworthy 1997b).

Thus HRDs were framed not as replacements for multilateral rights promotion, but as supplements. They were justified on the basis anticipated concrete results. And they aimed at the growth of civil society. In the process of implementing HRDs with China, Cuba and Indonesia, these three qualifications evaporated. HRDs became an end in their own right, showing few measurable results and 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 US approach. It also highlights flaws in the HRD process. Canada and Cuba have enjoyed relatively friendly relations despite very different political systems since Fidel Castro took power in 1959. Business interests drove a Canadian government 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 and Kirk 1999, p. 59).

At the CHR, 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 civil and political rights advocacy from developed countries as human-rights imperialism. This case ignores 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 being bound by any form of international rights oversight. The global background for the Chrétien government’s engagement was global rejection of the tightening US embargo, embodied in widespread distaste for the US Helms-Burton sanctions legislation. For Canada, Helms-Burton also raised the always troublesome spectre of extra-territorial application of US law to Canadian-based companies.

Axworthy visited Cuba in 1997, inking a deal with Castro for a dialogue on trade and human rights. He promoted it as an alternative “Canadian way of doing things” likely to be more effective than the US policy of confrontation. “What have the Americans accomplished?” he asked. By contrast, Canadian “active engagement and dialogue” had paid dividends that the new HRD could build upon. A year later, he was pointing to the release of Cuban political prisoners as proof of the HRD’s success. Yet this political prisoner issue ended the HRD. Making a 1998 prime ministerial visit to Cuba, the first since Trudeau, Chrétien intervened on behalf of four high-profile dissidents. The following year, the four were convicted of anti-government activities and sentenced to jail terms of three to five years. Axworthy protested but said the HRD should continue because “it is important to continue engaging directly.” Canadian lobbying, however, proved ineffective. With his personal prestige on the line, Chrétien issued an angry public condemnation and announced 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 Quebec City in 2001. Here, he implicitly accepted the trade-rights linkage that he 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**

Canada began its first HRD in 1997, specifically as a substitute for sponsorship of a China resolution at the CHR. As with the Cuba dialogue, policymakers presented it as a marker of difference: Canadian conciliation contrasted with American confrontation. Canadian efforts to engage “Red China” in international relations had a long pedigree preceding US President Richard Nixon’s decision to end the policy of isolating China (Evans and 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, and even the CHR in 1982. The Tiananmen Square killings of 1989 slowed the process but within a few years China was back on the path to integration. It won Most Favoured Nation status in US trade, then gained entry into the World Trade Organization in 2001.

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Against this background, 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 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.” Even as the Canadian government sponsored CHR resolutions condemning China, it funded a two-year dialogue between academics in Canada and China. In January 1996, Canadian and Chinese diplomats held a meeting devoted to human rights in Beijing, one unaffected by continuing Canadian sponsorship of a CHR resolution on 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 and Traeholt 1997). Not only had Canada been persuaded to drop its pressure, it had 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. Western advocates of this process hoped China would be trapped by a process of human rights “diffusion and enmeshment” into eventual compliance with the international human rights regime (Foot 2000; Zhu 2001; Nathan 1999; Wan 2001; Kent 1999). 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 criticized 
“irregular phenomena” on the CHR: “Certain countries do not respect the sovereignty of 
other countries, but use human rights issues for political purposes or interfering with 
other countries’ internal affairs.” Attacking its “confrontational atmosphere,” he called 
for the CHR to “encourage dialogue and cooperation among countries, increase 
understanding, and try to eliminate conflicts and criticism” (Liu 1997, p. 235-7). 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 UN 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 
and again in 1995, the second advocating “dialogues and exchanges in the sphere of 
human rights” (Nathan 1999, p. 137; Foot 2000, p. 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. Chinese government officials characterized the dialogue with Canada as a “model” HRD, “one of the best ones,” showing “less political prejudice against us.” 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 (Burton 2006). Despite Axworthy’s assertions that HRDs were one mechanism to be used alongside other forms of advocacy for human rights, officials regularly 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 and the Covenant on Civil and Political Rights in 1998, and ratified the ICESCR in 2001, but there is no evidence that the Canadian HRD, or any other HRD, was the reason. 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 U.S.-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.”
The mechanics of the HRD, by lacking significant transparency or as strong civil society component, also reduced the chance of meeting stated goals. Partly as the result of lack of formal records, there was little of the institutional memory that might make progress possible. The very limited civil society inclusion, meanwhile, filters 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.”

In other words, Chinese diplomats have managed to alter international human rights norms, rather than being the object of “diffusion and enmeshment” (Foot 2000; Zhu 2001). China has altered the international system in many ways as a result of its size and economic power (Evans 2008, p. 135). One of those ways has been in shifting international human rights norms. 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, p. 8) notes, “Beijing has succeeded in marginalizing human rights disputes in its official relations with the West.” The Chinese 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).
The Sub-commission in effect accepted the Chinese delegate’s argument: “The Commission on Human Rights has already paid a high enough price for confrontation. I therefore urge once again those Western countries bent on confrontation to abandon this approach and return to the path of dialogue” (Kent 1999, p. 49).

In campaigning to scrap or improve the HRD, a coalition of groups including Amnesty International, Rights and Democracy, and groups with dedicated China-specific mandates was able to make the process a public issue. This drew lamentation from some academics and policymakers who saw barbarians at the gates, activists lining up with a Conservative mob poised to wreck a carefully-honed foreign policy. The alignment, indeed, 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). But the translation of the issue into the public realm can also be seen 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. Reviewer Charles Burton, a Brock University professor and former diplomat at Canada’s embassy in China, identified a series of problems with the process and 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 human rights 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 rejects these criticisms, the government has moved to repair relations with China, apparently listening more to business interests and less to human rights NGOs. Foreign minister Lawrence Cannon visited China in May 2009, a month after trade minister Stockwell Day did the same, and announced a deal to once again “engage” China in dialogue. This seemed 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.”

The current trend seems to be to attempt business as usual with China, while maintaining a disapproving image for domestic consumption. Whether “cool politics, warm economics” (Evans 2008) is sustainable remains an open question.

The Indonesia dialogue

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Iype 2009; Mayeda and Blanchfield 2009; letter from Amnesty International Canada (English), Amnistie internationale canada (francophone), 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, to Lawrence Cannon, 6 May 2009.
Axworthy and Indonesian foreign minister Ali Alatas agreed in July 1997 to hold a bilateral dialogue modelled on the Canada-China HRD. Both governments agreed 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 Canada was choosing to engage with Indonesia rather than 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. 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, it took the fall of the Suharto regime for progress to be made.

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 had been 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 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 demonstrate 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.”

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 foreign minister Hasan Wirayuda agreed at the 2000 ASEAN summit to resume the process. A second HRD finally convened in

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5 Canadian Embassy in Jakarta report to Ottawa, 31 July 1997, DFAIT file 20-TIMOR, ETAN papers.
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 middle power (with lingering human rights violations in Aceh and Papua making 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. In 2004, Wirayuda agreed to upgrade the HRD, leading to a third session. The process is now on a regular annual basis, with sessions alternating between the two countries and an occasional parallel meeting process for academics from the two countries. Democratic transition in Indonesia has increased the hope for an effective dialogue on human rights, but 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 (Store 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 Network on Indonesia and its member groups’ Indonesian partners, are heard.
At least in theory, 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
Human rights dialogues are a new means of promoting respect for internationally-
recognized rights. So far, HRDs have barely been studied. The HRD experience is now
established enough to require evaluation. Is it an effective means of advancing respect for
human rights? Do off-the-record dialogues advance understanding and respect for rights,
or are they window dressing to disguise a lack of action? How can they be evaluated and
their success (or lack of it) assessed? 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 diffusion 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 advancing international rights advocacy and in the growth of the
multilateral human rights regime have tended to turn more towards HRDs as a way to
reconcile their rhetorical commitment to rights with their pragmatic pursuit of increased
trade. Australia 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. On the other hand, there are efforts in Europe to assess and strengthen the HRD process. At the opposite end of the scale, the EU has linked its trade relations with Iran to its HRD, with one foreign minister saying “as soon as we do not have human rights dialogue, political dialogue, the trade agreement does not exist anymore” (European Union 2007). Similarly the EU has attempted to develop benchmarks for progress in its dialogue with China.

As a German Institute for Human Rights (2005) 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 such as technical cooperation. The Institute’s study recommends more benchmarked and quantitative evaluation methods. The Canadian government has so far resisted results-based evaluation. Axworthy did recognize the shortcomings of a solely bilateral approach to HRDs. The result was a “plurilateral” HRD 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 and 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).

Conclusion

“Dialogue is not a substitute for pressure or public censure,” Lloyd Axworthy, originator of the HRD process, told human rights NGOs in 1999. “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” (Axworthy 1999). HRDs have, however, become just that: substitutes for pressure.

All too often, HRDs 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, p. 132) took place is reported as an accomplishment in its own right. Here is the danger that the German Institute of Human Rights (2005, p. 20) writes about: that “all the planning will amount to no more than developing and mechanically carrying out activities (‘completed so and so many dialogue sessions’; ‘published expert reports’; ‘provided so and so much further education for judges’). It will not become clear, however, what sort of results these activities are supposed to produce, nor how they are connected to the achievement of the overall goal.”

Planning and evaluation of HRDs is certainly lacking. There is no Canadian counterpart to the Norwegian human rights plan that calls HRDs “a means of focusing long-term, international efforts to promote human rights” (Norway 2007). Nor does Canada’s dialogue with Indonesia include Norway’s efforts to foster connections between civil society in both countries. 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 and Mosher 2007). The Canada-Indonesia dialogue could usefully be reviewed by an outside expert as the Canada-China dialogue was, to consider its effectiveness and ways it could be improved. Both dialogues would also benefit from increased civil society inclusion. Conference calls in advance of dialogue sessions are a step in the right direction, but they do not constitute full participation. 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, might lead to a more valuable and more far-reaching dialogue (Australia 2005). It could also permit the Chinese and Indonesian sides to share their own experiences and their own criticisms of Canadian weaknesses on economic and social rights. 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 “diffused” to them; many non-Western NGOs have already embraced a universalistic vision that leaves space for different imaginings of rights, which could usefully be diffused to some Western NGOs.6

Indonesian efforts to grapple with historical memory of crimes against humanity in East Timor and elsewhere, for instance, might usefully come into dialogue with new 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.

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6 The West-centric case for the origins of human rights thinking made by Ignatieff 2001 is opposed by the argument made by Lauren 2003 and by Asian NGO groups such as the authors of the *Bangkok NGO Declaration on Human Rights*. 


If the HRD tool is to continue, dialogue must be more transparent and results-oriented. Standards should include ratification of international human rights covenants, access to UN rights rapporteurs and other forms of cooperation with the international human rights regime, but they cannot be limited to that: ratification does not equal implementation. They could gain increased value if made truly two-way, seeking Canadian implementation of the UN 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. Similarly, useful HRDs would need to be part of a whole-of-government approach, not shunted off to the margins.

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 and break the trade-rights link. If it is not solely business interests that promote the resumption of the Canada-China dialogue, it is certainly true to say that the case for resumption is grounded more often than not a perceived need to grease the wheels of Canada-China trade. “Trade first” policies must make room for other aspects such as rights promotion.

This is not a task that can be accomplished bilaterally. Canadian policy has been most effective when it has stressed multilateral forums. HRD processes exist outside the multilateral system, weakening its universality. To the extent that HRDs silence the necessary public aspects of pressure for human rights, they represent a slackening rather than an increase in Canada’s international human rights advocacy. A bilateral dialogue
between unequal partners seems an ineffective way to promote diffusion of values from the weaker partner to the stronger. A multilateral forum already exists in the form of the UN Human Rights Committee with its mechanism for periodic peer review of the rights records of its members, where multi-directional diffusion is at least possible. Canadian policymakers seem reluctant to use this existing forum for this purpose. Yet by avoiding it, they contribute to its growing perceived ineffectiveness. When Canada was named to the 2008 troika reviewing Indonesia’s right record as part of the new Universal Periodic Review of members, there was little sign of effective pressure, despite the useful suggestions raised in Geneva by Indonesian NGOs (Indonesian NGO Coalition 2008). Nor is there any evident push from Ottawa for Asian regional rights mechanisms to parallel useful regional rights regimes in other continents. 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 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.

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 chose finger-wagging and public lectures. These aimed at domestic public opinion, and were not accompanied by any apparent search for ways that might deliver results using international channels. Both governments in effect segregated rights from the mainstream of Canadian foreign policy, treating it as an “optional extra,” even if a valuable one. If the “rhetoric gap” is ever to be closed, and foreign policy start to reflect
the genuine belief of Canadians in universal human rights, this must change. A policy that integrates human rights into the core of foreign policy might require ditching the HRD tactic, or at least reforming it.

The debate goes to the core of Canada’s diplomatic self-image. Canadians governments paint this country as an eternal voice of human rights, clamring rights and rights advocacy as part of the national character, integral to Canadians’ place in the world. Effective dialogue with other countries on human rights will require an honest reflection on this self-image, and an acceptance that there is a yawning gulf between Canadian rhetoric and actions. Canada’s main presence in some countries, for instance, comes in the form of mining companies that are linked by local activists to human rights concerns. An honest engagement with others on rights will require an honest engagement with Canada’s own less-than-spotless rights record. Canadian governments would have to live up to their own rights rhetoric in meaningful ways that challenge our country’s assumptions about itself.

References


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