

Andrew S. Thompson

# On the Side of the Angels

Canada and the United Nations  
Commission on Human Rights

WITH A FOREWORD BY ALEX NEVE



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# Foreword

*ON THE SIDE OF the angels? Our aspiration but not always our history.*

Most Canadians take considerable satisfaction in the quick and easy assumption that, when it comes to human rights on the world stage, without question Canada is a country that stands “on the side of the angels.” It is who we are.

Isn't it?

Andrew Thompson's insightful review of six decades of Canadian engagement within the UN human rights system is a thoughtful reminder that Canada has had a much more complicated and nuanced history as a global human rights leader. There have been positions, initiatives, and accomplishments that have been truly angelic, assuredly so.

But not always.

The eyes of many readers will no doubt open wide, for example, as they learn that, when the most precious and revered human rights instrument of the United Nations, the Universal Declaration of Human Rights, came up for an initial round of voting in 1948, Canada did not vote in favour of it. No, Canadians then were not with the angels as the United Nations took its initial step to give substance to the newly established global body's promise of an international order rooted in respect for human rights. Instead, alone among Western liberal democracies and aligning themselves with Soviet Bloc countries, Canadians abstained in the UN Third Committee.

That quickly gave way to a vote in favour of the declaration when it came before the full UN General Assembly. But few Canadians now would

imagine that our first foray into the world of international human rights was a thudding, uninspiring abstention. Even more remarkably, it came under the watch of our great peacemaking icon, Lester Pearson, secretary of state for external affairs at the time.

Thompson notes, in fact, that it was a full fifteen years after that unenthusiastic support for the Universal Declaration before the Canadian government finally put aside its early “suspicion” of the UN human rights system and instead saw its “utility,” began to embrace it, and eventually moved on to demonstrate leadership.

Yet there were many twists and turns to come. Although Canada was an early champion of efforts to strengthen UN instruments and mechanisms for protecting women’s human rights, this was not the case when it came to the rights of Indigenous peoples around the world. The United Nations finally turned its attention to that long-neglected global human rights disgrace through establishment of the Working Group on the Rights of Indigenous Populations in 1982. However, Thompson shows us that Canada worked hard in the early years to limit the Working Group’s mandate and power.

Rather than acknowledge the crucial need for the United Nations to take meaningful action to address what was by any measure one of the most serious human rights problems around the world, Canada was primarily concerned to avoid scrutiny and criticism of its own domestic record, head off moves to develop a new international treaty, and avoid recognition of the self-determination rights of Indigenous peoples. It was more about damage control than about advancing a strong human rights agenda. Not exactly a strong indication of being on the side of the angels.

This journey through sixty years of Canada’s approach to international human rights kicks off with the ignominious early suspicion of, and at best tepid support for, the emerging UN human rights system and comes full circle in pointing to the considerable ground lost as a global human rights leader after Stephen Harper’s government came to power in 2006. So two unflattering bookends become the initial abstention on the Universal Declaration in 1948 and opposition to the Declaration on the Rights of Indigenous Peoples, including voting no before both the Human Rights Council and the General Assembly when that groundbreaking and long-awaited instrument was adopted over the course of 2006–7.

Along the way were many other ups and downs, some of which were public sources of notoriety, while others played out almost entirely in Ottawa back rooms and UN corridors and garnered little attention.

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And therein lies the tremendously important cautionary message in Thompson's fascinating book. In mining these decades of resolutions, briefing notes, minutes, and other documents, Thompson makes a persuasive case against complacency. That matters a great deal, for complacency is a largely invisible but nonetheless powerful foe of human rights protection.

No human rights activist, no UN official, and undoubtedly no government would assert or pretend that the UN human rights system has been perfect, certainly not during the sixty years that Thompson has so expertly and carefully reviewed and not in the decade that has followed replacement of the Commission on Human Rights with the Human Rights Council in 2006.

Thompson compellingly highlights that, notwithstanding its substantial imperfections, the international human rights system that has evolved over the sixty years that he has examined, and the further decade since, is essential. He reminds us that it is the only place where the world community can and does come together to grapple with one of the most essential of all global responsibilities, defending and upholding the universal human rights that are our shared humanity.

In doing so, Thompson gives Canadians concerned about human rights a particularly valuable lens through which to view and assess some hard truths behind those imperfections. He shows us the many times and ways that Canadian political leaders, diplomats, human rights activists, and academics have rallied against UN human rights shortcomings and failings and have made key inroads in strengthening global human rights protection.

Thompson also forces us to admit that there have been moments when we stood in the way of progress and certainly times when we could and should have done more. Some parts of this history are better known than others, and this book is a valuable reference since it so thoroughly lays out that history.

What Canadians learn is that something that many of us take for granted as being integral to our national identity – our belief in and willingness to uphold human rights – can and does waver. That can occur through the political fortunes of a change of government. It can arise through the buffeting that human rights all too frequently take in the face of trading relationships, military alliances, and other geopolitical considerations.

Although Thompson does not offer up a tally – and how could he? on what quantifiable basis? – he conveys that Canada has likely been with the angels much more often than not when it comes to pushing for a world of stronger human rights protection.

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But drawing on the insightful lesson that Thompson reveals – namely, that Canadians have wavered, several times, from siding with those angels – his timely book shares a powerful message. The often strained and volatile world of universal human rights protection is essential to us all and, amid countless pitfalls and challenges, absolutely needs more, and more determined, angels ready to act as champions. Going back to 1948 and over the decades since, Canada on occasion has rejected that role, at other times shied away from it, and frequently taken it up without hesitation.

In 2016, there are many encouraging indications that Justin Trudeau's government is genuinely committed to positioning Canada once again as a human rights leader on the world stage. But will that be principled leadership that withstands the forces that tempered Canada's positions in the past? Will leadership stay strong when Canada's own record, particularly with respect to Indigenous peoples, is deservedly criticized? Will leadership not waver when it means that a close ally, such as Israel, is taken to account for war crimes? Will leadership shine through when formidable economic interests are in play, such as the effort to bring effective human rights rules to the corporate world, including Canada's powerful mining, oil, and gas sectors?

That is where the angels stand. It is where Canada must stand. Thompson shows us that it will require vigilance from us all.

Alex Neve  
Secretary General, Amnesty International  
Canadian Section (English Speaking)

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# Introduction

IN 1965, THE UNITED NATIONS General Assembly adopted and opened for signature the International Convention on the Elimination of All Forms of Racial Discrimination (ICEFRD). The principal motivation for the treaty was to discredit the apartheid systems of southern Africa and the governments that supported them, even though its content and application were couched in the language of universal human rights. At the time, the ICEFRD represented a landmark achievement for the UN human rights system. Until then, the United Nations had made some progress in advancing international human rights standards, but it had failed miserably on questions of implementation and enforcement. The ICEFRD was the first piece of international human rights law to include a treaty-monitoring body, the Committee on the Elimination of Racial Discrimination (CERD), which, at the time, was a significant innovation in the global governance of human rights.

The CERD was by no means a given. In October 1965, as the ICEFRD was being debated by the Third Committee of the General Assembly, an official with the Canadian delegation in New York reported back to Ottawa that the Philippines had submitted a resolution that would give the body the authority to hear cases of alleged violations of the treaty, something that troubled the Soviet Bloc countries deeply and to a lesser extent some member states from Africa and Asia. The official speculated that opponents would try to stall discussion of the resolution by referring the matter of

implementation back to the UN Commission on Human Rights (CHR) – the principal body at the United Nations responsible for drafting international human rights law – for more study. Further complicating the matter was that there was little consensus among the Western European and Others Group (WEOG) – to which Canada belonged – on how to proceed. Knowing that their own records on racial equality – as well as their support for racial regimes in southern Africa – could come under scrutiny, several of the group’s members were understandably unenthusiastic about the resolution before them.

Canada believed that there was much to be gained by pushing for strong implementation mechanisms and much to be lost by not doing so. Admittedly, its reasoning was more strategic than principled. Unlike several of its allies in the West, Canada had little direct stake in the treaty. Although officials objected to the proposed provisions that sought to criminalize non-violent hate speech, they were generally sympathetic to both the aims of the treaty and the larger grievances of black Africans, and few officials believed that the ICEFRD would create any real difficulties for the government. By supporting the resolution, they hoped to “head off” claims that WEOG opposed efforts to combat racial discrimination. Their goal was to remove any possibility of a propaganda victory for the Soviets, whom they feared might spin Western opposition as “a victory for them while avoiding [the] burden of effective implementation.” But more than this they reasoned that, by insisting on agreement on enforcement mechanisms, they could use the treaty as “bait to secure Afro-Asian acceptance” of the real prize, the International Covenant on Civil and Political Rights (ICCPR), soon to be opened for signature by the UN General Assembly. The calculation was that if the non-apartheid African countries and the majority of Asian states were willing to “accept implementation clauses on a convention of some emotional content for them then they presumably can be persuaded more easily to accept comparable provisions for the Covenant.”<sup>1</sup>

The plan was by no means foolproof. There was no guarantee that the concession would be reciprocated later. But officials concluded that it was worth the risk and that, for the sake of the wider development of international human rights law, Canada should try to persuade the other members of WEOG “to demonstrate eagerness for this convention” and “come down solidly on the side of [the] angels if only for [the] sake of record and in full recognition that it may not be successful.”<sup>2</sup>

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The episode described above is in many ways emblematic of Canadian diplomacy at the CHR, the body that, from its creation in 1946 to its dissolution in 2006 following the establishment of the Human Rights Council, was at the centre of the UN's universal human rights project. Not surprisingly, Canada's record during this sixty-year period was mixed, its priorities motivated by a variety of considerations, both domestic and international. There were many occasions when Canadian officials genuinely tried to find solutions to pressing human rights situations or codify particular norms into law, believing there was more to be gained either at home or with allies in advancing rather than opposing particular initiatives and treaties. But there were other moments, particularly in the early days of the commission, when Canadian diplomacy was self-serving, parochial, and overtly obstructionist depending on the human rights issue in question and on the geopolitical realities of the day and when support was given "only for the sake of record" and "in full recognition" that efforts would not be successful.

Still, more often than not, Canada did "come down solidly on the side of the angels" – the side that supported the development, expansion, and enforcement of international human rights law, especially the treaties that aligned with its strategic interests – even if, as the episode concerning the 1965 ICEFRD reveals, its reasons for being there were not entirely transparent. For this reason, the Canadian experience is revealing. At the heart of this book is an attempt not only to better understand the many contributions and shortcomings of the CHR to the global governance of human rights through the lens of Canadian diplomacy, but also to provide greater context for and insight into the present difficulties of the council, which, like its predecessor, has too often struggled to serve as an effective guardian of universal rights.



IN MARCH 2006, THE UN General Assembly passed Resolution 60/251 by an overwhelming majority of 170 in favour, 4 against, and 3 abstentions, and in doing so it authorized dismantling of the much-maligned Commission on Human Rights and creation of the new Human Rights Council.<sup>3</sup> Without question, it was a historic occasion, the outcome of long and at times seemingly intractable negotiations. In his statement following adoption of the resolution, then Secretary-General Kofi Annan hailed the decision as "a

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much-needed chance – to make a new beginning in its work for human rights around the world.”<sup>4</sup> And a new beginning was necessary. Over the course of several decades, the “credibility and professionalism” of the CHR had been damaged considerably, largely – though by no means exclusively – because member states with poor human rights records had taken up key leadership positions within the body and used their seats at the table to block criticism of their own practices, a practice that prompted Kenneth Roth, executive director of Human Rights Watch, to dub it an “abusers defence society.”<sup>5</sup>

For six decades the commission had been at the heart of UN efforts to establish an international human rights law regime. Like the histories of all UN institutions, that of the commission is as varied as those of the member states, such as Canada, that sat on it. There were moments when it was able to set bold new standards of human rights law and enact new enforcement mechanisms; there were other times when it failed terribly the victims of gross human rights violations. This is not surprising. But what makes the commission unique within the United Nations is that it was ultimately deemed to be so broken that it could not be fixed.

In hindsight, the CHR was perhaps doomed to fail from the beginning, though this was by no means obvious when it was founded in 1946. The creation of a body whose purpose was to help protect individual rights and liberties was directly at odds with Article 2(7) of the UN Charter, which prohibited the United Nations from intervening “in matters which are essentially within the domestic jurisdiction,” thus affirming the principle that state sovereignty was immune from outside interference unless otherwise authorized by the UN Security Council.<sup>6</sup>

Broadly, the CHR had two functions: setting standards and implementing them. With respect to the former, the record is notable. Over the course of six decades, the commission helped to produce instruments covering the full spectrum of human rights, from political and civil rights; to economic, social, and cultural rights; to group rights for special categories of rights holders. At least to its proponents – such as Canadian John Humphrey, the first director of the Human Rights Division in the UN Secretariat and one of the authors of the Universal Declaration of Human Rights – its purpose was nothing less than to establish “a new international morality” through law, and it was largely successful in doing so.<sup>7</sup> However, its record with respect to implementation was far less impressive. From its inception,

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the commission was highly politicized, and, along with the UN system as a whole, it struggled to enforce the norms that it codified into law.

Despite its shortcomings, the history and legacy of the Commission on Human Rights are intimately entangled in a lively debate among scholars about the origin and significance of “the human rights revolution,” a phenomenon by which individuals around the globe began to internalize the notion that all people are entitled to certain protections and benefits from their states.<sup>8</sup> The standard narrative of the rights revolution is that it had its early antecedents in the European Renaissance and the American and French Revolutions and then began to take hold of the world’s collective imagination in the mid-1940s following the Great Depression, the rise of Nazism in Europe, and later the Holocaust to become a powerful emancipatory tool in struggles against injustice, the great paradigm shift in thinking solidified with the founding of the United Nations and the inclusion of human rights in the UN Charter.<sup>9</sup> For the scholars who endorse this narrative, the commission was a flawed yet nonetheless instrumental body. In what is perhaps the most laudatory assessment of its legacy to date, historian Paul Gordon Lauren argues that, through both the drafting of international human rights law and the adoption of “extremely significant non-treaty procedures and mechanisms,” the CHR “helped to reposition, quite fundamentally, the individual vis-à-vis the state.”<sup>10</sup> This was no small accomplishment.

Predictably, others are far less generous in assessing the UN human rights project, which includes the commission. Perhaps the most powerful and controversial critique is Samuel Moyn’s *The Last Utopia: Human Rights in History*. Moyn laments the “teleology, tunnel vision, and triumphalism” of the historiography of human rights scholarship, particularly of accounts of the significance of the 1940s and the early human rights activities of the United Nations, which he accuses of being preoccupied with a “quixotic search” for the “deep roots” of universalism while glossing over involvement of the world body in re-establishing colonialism through its trusteeship system. His central argument is that human rights as a concept did not take hold of the world’s collective imagination until the 1970s and did so then only because competing “maximalist utopias” had come under crisis.<sup>11</sup>

To be sure, Moyn has his critics.<sup>12</sup> But he is by no means alone in his skepticism of the UN human rights system specifically and claims of universalism more broadly. Mark Mazower contends that, at its founding, the United Nations was little more than an “alliance of Great Powers embedded

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in a universal organization” founded upon the principles of British imperial internationalism – including its “civilizing” mission – while the early commitment to human rights in the UN Charter and 1948 Universal Declaration of Human Rights was little more than “promissory notes that the UN founders never intended to cash.”<sup>13</sup> Equally critical are Kirsten Sellars, and Roger Normand and Sarah Zaidi, who, respectively, see the UN human rights system established in the 1940s as evidence of great power hypocrisy and hegemony rather than a new commitment by the world community to alleviate human suffering.<sup>14</sup> For them, the commission, at least in its early days, was a deliberate farce. As Sellars reveals, the US State Department, driving the UN human rights agenda, intentionally wanted a weak body, its “prime aim” being “to maintain America’s moral leadership of the human rights initiative without becoming entangled in concrete obligations,” and thus adopted a “self-imposed doctrine of impotence” and a “fierce commitment to inoffensiveness.”<sup>15</sup>

Even so, the commission, perhaps more than any other UN institution, embodied the ideal of law as a check on state power. Each advance of human rights, whether a new standard or better enforcement of an existing one, constituted a challenge to the principle of the inviolability of state sovereignty. There is much truth to the assertion by Thomas Weiss and Ramesh Thakur that the CHR was “a victim of the world body’s growing success in promoting human rights and monitoring abuses.”<sup>16</sup> Indeed, for all of its sins, it was a more robust institution in 2006 when it was dissolved than it had been in 1946, when it had little ability or desire to hold member states accountable for the abuses that they committed.

The commission was a living institution that evolved with not only the times but also the international rights revolution itself. Although now dated, Howard Tolley’s 1987 book *The United Nations Human Rights Commission* remains the seminal study of the institution. Tolley’s work is a sobering critique of the limitations, double standards, and failings of the commission. Nonetheless, Tolley credits the CHR, along with its Sub-Commission on Prevention of Discrimination and Protection of Minorities, with exposing the “crack in the citadel of sovereignty” when, beginning in the mid-1960s, it brought attention to a number of cases of systemic rights violations. In some instances, it even played the role of “quasi-judicial forum” – albeit an imperfect and highly politicized one – following the adoption of Economic and Social Council (ECOSOC) Resolutions 1235 (XLII) and 1503 (XLVIII) in 1967 and 1970, which respectively authorized the commission

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and sub-commission to review individual complaints to determine consistent patterns of gross human rights violations and granted the sub-commission the authority to determine, in private, whether such violations had been committed and thus should be referred to the commission for further study or even investigation.<sup>17</sup>

Others have made similar claims. Philip Alston observes that, prior to the 1968 World Conference on Human Rights in Tehran, Iran, there did not exist a “single treaty monitoring body.” Yet, by the time of the Second World Conference in Vienna, Austria, in 1993, an elaborate – albeit imperfect – system of compliance was in place, thanks in large part to activities and developments involving the CHR.<sup>18</sup> This general assessment is shared by Roger Clark in his tribute to Kamleshwar Das, an international civil servant who, while working in the UN Human Rights Division in the 1960s, had a hand in initiating a wide range of enforcement procedures. They included drafting of the Optional Protocol to the ICCPR, which allows individuals the right to petition against the states that were parties to it; strengthening of the periodic reporting process in 1965; and dual decisions by the CHR to appoint special rapporteurs to investigate specific instances or types of serious human rights violations and commission thematic studies as a mechanism for promoting human rights standards.<sup>19</sup> Perhaps most significant of all, the commission was a place where offending states could be scrutinized (or “named-and-shamed”) for their rights records.<sup>20</sup> Although these various innovations were insufficient on their own or collectively to ensure systematic respect for rights, they were by no means insignificant or wholly ineffective.

Ultimately, the commission was more than just a body for crafting and enforcing international human rights law. It was the place at the United Nations where diplomats came together to debate the scope and parameters of human rights as well as the degree to which states were willing to allow rights to constrain the actions of their governments. The commission was a theatre in which the major events of the second half of the twentieth century – the Cold War, decolonization, the rise of social movements, and mass atrocities, among others – were hotly contested, serving as a forum in which long-standing grievances could be articulated through the language of rights. And it was an institution plagued by inertia, deadlock, and deep political and ideological divides, so much so that it and its member states often did little to advance the cause of human rights – and at times even harmed it. Ruth Russell’s lament that the United Nations is “blamed for mirroring an unsatisfactory world, but the mirror cannot help the ugly

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reflection,” is particularly pertinent to the story of the rise and fall of the CHR.<sup>21</sup>



MUCH HAS BEEN WRITTEN on the gradual emergence of a rights culture in Canada after the Second World War. It is largely a story of the bottom-up struggles and resistance of domestic civil society actors and social movements in securing rights for Canadians from an often unwilling and unsympathetic state.<sup>22</sup> In comparison, relatively little attention has been paid to the role of the Canadian state in shaping and advancing the revolution, particularly on the international stage. This omission is puzzling given that Canada is often portrayed in the literature as a constructive middle power with a deep commitment to the development of a rules-based, liberal international order best able to advance its interests through multilateral organizations, notably those within the UN system.<sup>23</sup> And, though this middle power framework provides a useful guide for understanding the evolution of Canadian foreign policy over time, it does not fully explain Canadian diplomacy at the CHR, in which international rank was of far less importance than the strength of the regional bloc to which a country belonged and in which human rights principles almost always clashed with other strategic interests.<sup>24</sup> Indeed, the commission was a place through which Canada could and did make a difference in the world. Above all, it was a setting in which Canada could and did put its imprimatur on the global governance of human rights and in which its diplomacy and contributions to international human rights law were intimately intertwined with the successes and failures of the commission itself.

Like many other states, Canada was slow to recognize the potential of the CHR. At the time of the founding of the United Nations, international human rights were not an issue of major importance for the country's political leaders. Unlike the United States, which had a "vision" of human rights for the postwar international order founded upon the ideals of the Roosevelt administration's New Deal, or other members of the British Empire, which saw rights as an extension of the Victorian-era "civilizing" mandate, Canada demonstrated little initial enthusiasm for the CHR and even contributed to its early anemia.<sup>25</sup> There were pragmatic reasons for Ottawa's ambivalence. Adam Chapnick has correctly suggested that Canadian diplomacy during the 1940s, despite the many accomplishments of the

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Department of External Affairs, was inherently cautious, conservative, and concerned with preservation of the international order above all else; historian Robert Bothwell has written that Prime Minister Mackenzie King believed that the “United Nations’ job was to prevent war, not meddle in its members’ affairs,” and matters “such as human rights, immigration and education in Canada were nobody’s business outside of the country.”<sup>26</sup> Cathal Nolan argues that the Mackenzie King government, which subscribed to a functionalist foreign policy, believed that “pursuing questions of individual rights in the international arena could only hinder the task of achieving more urgent and vital national interests” and that they would complicate relations with the provinces and run counter to British notions of civil liberties and common law traditions. Only in the early 1950s, as the United States was withdrawing from the CHR, would Canada alter its views – and then only to keep the United Nations from faltering.<sup>27</sup> William Schabas extends this argument, describing in detail Canada’s initial weariness towards the Universal Declaration of Human Rights (UDHR) in 1947–48, which federal officials feared was out of sync with a Westminster parliamentary system and would create difficulties at home.<sup>28</sup> More recently, Jennifer Tunnicliffe has made similar assertions about Ottawa’s attitudes toward the ICCPR and ICESCR (International Covenant on Economic, Social, and Cultural Rights), suggesting that “the covenants embodied a broader interpretation of rights than Canadian officials were willing to accept and, uneasy about the effect a binding international treaty on human rights could have on Canadian policy,” “the government resisted any positive participation in their development.”<sup>29</sup>

By the early 1960s, reservations of the previous generation had largely disappeared as a new wave of Canadian officials embraced the ideals of the institution if not the institution itself. In an article in 1970, Allan Gotlieb describes the shift that occurred in the late 1950s and early 1960s as the federal and provincial governments went from being largely suspicious of the utility of UN human rights activities and international human rights law to being enthusiastic proponents of universal standards.<sup>30</sup>

The mid-1970s marked the beginning of a period of robust engagement for Canada at the CHR that continued until the final days of the commission in 2006. As John Foster and Nolan describe, respectively, Canada began to see the CHR and Human Rights Committee (HRC), the body responsible for both monitoring compliance and hearing and ruling on violations of the ICCPR, as useful forums for both shaping the content and

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jurisprudence of international human rights law and establishing new enforcement mechanisms.<sup>31</sup> So did Canadians. It was no accident that Ottawa became deeply involved in the work of the commission at a time when Canadians themselves were not only coming to see themselves as bearers of universal human rights but also demanding that the rights of others in far-off lands be protected and defended.

Although the extent and nature of Canada's contributions varied, Canadian fingerprints can be found on various human rights treaties. In some cases, rights issues were codified into law because of Canadians. In other cases, Canadian contributions were subtler, sometimes as small (though not to be confused with insignificant) as altering a conjunction or changing a verb. Often Canada's victories came about as a result of sound policy crafted prior to the start of a particular session of the commission. In some instances, Canadians acted quickly to take advantage of timely opportunities midway through proceedings. In still others, they were the beneficiaries of good luck. But the opposite was also true. Over the course of sixty years, Canadians saw their fair share of defeats at the commission, their initiatives often undermined and stifled by opponents and sometimes unexpectedly by allies. And in a few cases, Canada obstructed the progression of a particular treaty, often because of fears that its advancement would give credence to or legitimize the grievances of certain groups at home and expose the country to unwanted international scrutiny. In this respect, Canada was no different from any other country.

The following chapters tell the story of Canada's varied diplomacy at the CHR, its victories and defeats, its ideas both big and small, and above all its contributions to the elusive ideal UN human rights system, based upon ambitious standards that govern the relationship between citizens and state and meaningful protections and redress for those whose rights have been violated. Given that the CHR was a choppy sea to navigate at the best of times, Canadian diplomacy was highly pragmatic. On occasion, Canadians did attempt to advance "big ideas" to codify new rights or to improve the enforcement capacity of the commission and its various treaty-monitoring bodies. But for the most part, Ottawa pursued relatively modest objectives such as proposing compromise language intended to break a deadlock, suggesting procedural reforms intended to make the commission more effective, or securing the appointment of accomplished Canadians to key positions charged with giving meaning to UN human rights activities.

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Based extensively upon archival records obtained through Access to Information requests, the chapters are organized in chronological order, though there is a strong thematic element to those that focus on the rights of particular groups, so as to provide a coherent account of the evolution of Canadian policies and positions. Together, they reveal not only the considerable imagination, resources (at least intellectual), and energy invested by Canadians at various points in the activities of the CHR but also the sophisticated if perhaps inconsistent nature of Canadian human rights policies as officials attempted to balance competing pressures and priorities against the advance and defence of principles. Above all else, they demonstrate what is possible with creative diplomacy and political will, particularly in a highly politicized and troubled forum in which military might and economic power are not preconditions of influence.

Chapter 1 examines Ottawa's initial ambivalence toward UN efforts to advance human rights from 1946 to the end of 1954, a period that laid the foundation for the development of a robust international human rights law regime. During these formative years, Canada decided not to engage with the commission, even as it set out to draft its most important contribution to international human rights law, the 1948 Universal Declaration of Human Rights. Canada's indifference would prove to be costly. When the declaration was voted on in the Third Committee of the General Assembly (the body that received international human rights treaties before they were voted on at the General Assembly), Canada, much to its embarrassment, abstained along with the Soviet Bloc countries. It was the only Western liberal democracy to do so. Despite the episode, Canadian recalcitrance continued and even became heightened as the focus of the CHR shifted toward the ICCPR and ICESCR, particularly the latter treaty. During this period, the Canadian objective was to secure laws that placed minimal international obligations on the government but still served as ideological tools for both preserving the empires of Europe and discrediting communism.

Chapter 2 fast-forwards to the early 1960s when Canada, for the first time, sat as a member of the commission. During its first term (1963–65), Canada actively sought to advance the international human rights law agenda rather than hamper it. Its engagement coincided with the rising influence of the newly independent states that sought to use the commission to prohibit racial discrimination in international law, first through the Declaration on the Elimination of All Forms of Racial Discrimination and then through

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the ICEFRD, a development that prompted several of Canada's allies to retreat from the UN human rights system. During the negotiations, Canadian officials found themselves entangled in a series of confrontations between WEOG and the Soviets over two issues: first, whether to prohibit the promotion and proliferation of hate propaganda against vulnerable minorities; and second, about the scope of the proposed enforcement mechanisms of the ICEFRD (which were intended to advance decolonization at the expense of the European imperial powers). The stakes for Canada and its allies were high, with both the fate of the treaty and the wider support of the African and Asian states for the UN human rights project resting in the balance.

The focus of Chapter 3 is on Canadian diplomacy at the 1968 World Conference on Human Rights in Tehran, Iran, an event generally considered to be a low point in the history of UN human rights activities. Its dual purposes were to celebrate the twentieth anniversary of the UDHR and to set an ambitious new agenda for the UN human rights system, particularly in the area of enforcement. It accomplished neither objective. The developing world used the occasion to launch an attack on the universalism of rights, while the West abandoned its plans to use the conference as a platform to launch ambitious reforms, which included proposals to create the post of high commissioner for human rights and to replace the commission with a new Human Rights Council. Hoping to salvage what it could of the situation, Canada introduced a resolution calling for universal access to legal aid, which won near-universal support. But it was a consolation prize, a poor substitute for improved international enforcement mechanisms.

Chapter 4 is an account of Canada's second stint on the commission, from 1976 to 1984. It would be the first of three successive terms and the beginning of Canada's most active period on the CHR. A sign of the seriousness with which Canada viewed the work of the commission, Ottawa named one of its finest diplomats of the day – Yvon Beaulne – head of the Canadian delegation. He would not disappoint, though his actions at times would be controversial. Under Beaulne's steady hand, Canada used its seat to strengthen the commission's treaty-monitoring capacities. It did so at a particularly toxic time for the commission, its agenda dominated by the highly charged and politicized situations in South Africa, Israel, and Chile. The most influential time for Canada on the commission came in 1979 when it was elected chair. Against considerable resistance, Canada introduced two thematic resolutions, first on the question of human rights violations and mass exoduses, second on the problem of disappearances, resolutions

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intended to deal with the situations in Indochina and Argentina, respectively, and, more importantly, push the boundaries of the possible at the CHR. Sadly, with the notable exception of expanding the list of countries reviewed under the Resolution 1503 confidential procedures process, none of the Canadian initiatives would be successful, their failure as much a product of US diplomacy as opposition from states that objected to having their human rights records challenged.

Canada's struggles continued in the early 1980s, only this time its own record came under fire. Chapter 5 focuses on Canadian opposition to the Working Group on Indigenous Populations, a sub-committee of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the principal UN forum through which Indigenous groups from around the world could air their grievances. Fearful that Canada was potentially vulnerable to international scrutiny, officials attempted to limit the mandate and authority of the working group, demonstrating that they were just as if not more adept at obstructing the development of international human rights law as they were at advancing it.

After a failed re-election bid in 1986, Canada rejoined the commission in 1989, beginning what would become a fourteen-year tenure on the body. The period from 1989 to 1993, which coincides with the second term of the Mulroney government, is the focus of Chapter 6. Under the Progressive Conservatives, Canada used its seat on the commission to name-and-shame states guilty of systemic and gross violations of human rights, taking particular aim at South Africa. But, as before, it also found itself on the defensive, its efforts to advance international human rights law undermined by international scrutiny of its record on the rights of Indigenous peoples.

Canada's contributions to the advancement of women's human rights, the subject of Chapter 7, were significantly more progressive. From the early 1990s to the Second World Conference on Human Rights in Vienna in 1993, Canadian officials worked alongside others on the Commission on the Status of Women (CSW), which operated in parallel to the CHR but at the margins of UN human rights activities, to elevate the importance of human rights concerns that were of most relevance to women, including the championing of international campaigns to prohibit domestic and sexual violence.

The final chapter examines Canadian efforts to strengthen the commission's authority to confront situations of mass human rights violations following the 1994 genocide in Rwanda. Beginning in the mid-1990s,

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Canadian diplomats brought into sharp focus the worst failings of the commission, and in doing so often drew the ire of the member states whose records were being scrutinized. By the mid-2000s, Ottawa, along with its allies, conceded that the commission had failed, concluding that because it had become increasingly ill-equipped to deal with the tragedies of the twenty-first century, no amount of reform could salvage it.



DESPITE ITS LIMITATIONS, the international human rights law established at the United Nations offers the best hope for a peaceful and just world in which all citizens can enjoy lives of dignity and fulfillment. But it is a tenuous and fragile hope, one easily discarded in times of uncertainty. The legitimacy and authority of international human rights law are dependent, at least in part, on both the content of the law and the ability of international institutions such as the CHR (and now the UN Human Rights Council) to hold states accountable for their actions. Any assessment of the efficacy of international human rights law and the regime charged with upholding it is incomplete without an understanding of the diplomacy – in all of its nuances, complexities, and contradictions – of the states, including Canada, on whose support and faith in the centrality of international human rights law to a just world order the system is dependent. This book is an attempt to provide just that.

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