

National Interests and International Consensus:  
The Case for a Human Rights Approach to Canadian Foreign Policy

by

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A thesis  
presented to the University of Waterloo  
in fulfilment of the  
thesis requirement for the degree of  
Master of Arts  
in  
Political Science

Waterloo, Ontario, Canada, 2009

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#### AUTHOR'S DECLARATION

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

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## ABSTRACT

The inclusion of human rights in Canadian foreign policy is typically rationalized as corresponding to the fundamental Canadian value of respect for human rights; however, Canada's limited appeals to human rights, couched in the rhetoric of values, altruism, and morality, have not produced a substantive policy that adequately considers or sufficiently protects human rights. Although human rights are generally considered subordinate to security, economic, and other national interests, this thesis will argue that these are mutually inclusive concepts that serve to support each other. By examining Canadian engagement in Afghanistan through the theoretical perspective of the English School solidarists, this thesis contends that Canada national interest can be realized through a commitment to a human rights foreign policy, thereby providing concrete justification for the inclusion of human rights in Canadian foreign policy. The objective of such an approach is to improve Canada's ability to protect and promote international human rights, leaving little doubt in the minds of Canadian foreign policy-makers that there is undeniable value in a human rights foreign policy and that such a policy will produce national interest ends.

## ACKNOWLEDGEMENTS

This work could not have been completed without the help and influence of many people. Firstly, I would like to thank my supervisor, Dr. Andrew Thompson, for his unfailing guidance, support, and patience, even across several time zones. I would also like to thank my professors and defence committee for their thoughtful comments and advice, and specifically Dr. Alistair Edgar for his suggestions and Dr. Rhoda Howard-Hassmann for her assistance in developing my early ideas. Finally, I would like to extend my gratitude to my parents for their love and encouragement and to my family and friends, especially Ms. Morgan Charlton.

To Michael James,  
with so much love and thanks.

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# 1. Introduction: A Case for a Canadian Human Rights Foreign Policy

In November 1965, renowned Canadian foreign policy expert James Eayrs gave the Alan B. Plaunt Memorial Lectures at Carleton University in Ottawa with a two-part lecture called “Right and Wrong in Foreign Policy.”<sup>1</sup> In this lecture, he promoted “practical idealism” as a compromise between the harshness of realism and the folly of idealism.<sup>2</sup> Forty years after these lectures, Canadian foreign policy scholar Kim Richard Nossal replied by modifying Eayrs’ term to “liberal realist” to better reflect typical realist notions of power, the anarchic world system, and interstate competition, but also recognize that international relations are fundamentally liberal in the way that states interact, accept diversity, and progressively work towards institutionalizing mutually beneficial rules and norms.<sup>3</sup> Nossal describes Eayrs’ characterization of a middle ground approach between realism and idealism as a helpful tool to analyze Canada’s foreign policy,<sup>4</sup> which can be extended to examine the place of human rights in Canadian foreign policy.

The idea of a *via media* between realism and liberal cosmopolitanism was taken up by the English School as a way to recognize the tensions between what were the two dominant international theories during the Cold War. One of the most well-known members of the English School, Hedley Bull, had “realism and rationalism yoked

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<sup>1</sup> The Alan B. Plaunt Memorial Lectures were presented at Carleton University in Ottawa on 18-20 November 1965. These lectures were published in 1966 by University of Toronto Press.

<sup>2</sup> James Eayrs, *Right and Wrong in Foreign Policy* (Toronto: University of Toronto Press, 1966), 29.

<sup>3</sup> Kim Richard Nossal, “*Right and Wrong in Foreign Policy* 40 Years On: Realism and Idealism in Canadian Foreign Policy,” *International Journal* 62.2 (2007): 269.

<sup>4</sup> *Ibid*, 276.

together in his nature.”<sup>5</sup> Certain theoretical perspectives of the English School represent an opportunity to reconcile the state-centric, self-interested principles of realism and the liberal utopian tendencies of cosmopolitanism, without necessarily producing a synthesis of the two. The admixture that emerges provides clarity to explain how Canada operates in international affairs and how it prioritizes the many requirements of its foreign policy, including the protection and promotion of human rights.

Current Canadian foreign policy reflects Canada’s internationalist and multilateral practices.<sup>6</sup> Traditionally, Canadian foreign policy incorporates a commitment to global stability, its prosperity and security, and reflects Canadian values.<sup>7</sup> Canada’s international human rights policy is characterized, at least publicly, only through the lens of values. The Department of Foreign Affairs and International Trade (DFAIT) claims that, “Canada has been a consistently strong voice for the protection of human rights and the advancement of democratic values.”<sup>8</sup> Canada has the ability to contribute to the positive management of global challenges, but, according to some scholars, has failed to live up to its potential. Along with Nossal in his response to Eayrs’ 1965 lecture,<sup>9</sup> other prominent Canadian scholars such as Andrew Cohen and Jennifer Welsh deride the effectiveness of Canadian foreign policy and Canada’s faltering place in the world in

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<sup>5</sup> R. J. Vincent, “Hedley Bull and Order in International Politics,” *Millennium: Journal of International Studies* 17.2 (1988): 210.

<sup>6</sup> Tom Keating, *Canada and World Order: The Multilateralist Tradition in Canadian Foreign Policy*, 2nd ed. (Oxford: OUP, 2002), 226-232.

<sup>7</sup> Patrick James, Nelson Michaud, and Marc J. O’Reilly, “Conclusion: Understanding Canada’s Foreign Policy Challenges,” in *Handbook of Canadian Foreign Policy*, eds. Patrick James, Nelson Michaud, and Marc J. O’Reilly (Lanham: Lexington Books, 2006), 520.

<sup>8</sup> DFAIT, “Canada’s International Human Rights Policy,” Date modified 10 December 2008, [www.international.gc.ca/rights-droits/policy-politique.aspx](http://www.international.gc.ca/rights-droits/policy-politique.aspx).

<sup>9</sup> Kim Richard Nossal, “*Right and Wrong in Foreign Policy 40 Years On*,” 277.



their recent respective works.<sup>10</sup> After years of budget cuts, Canada's foreign policy bureaucracy has come to be less eager to advance Canada's global position and understands that Canada is not to be a key player internationally.<sup>11</sup> Canada's lagging leadership is also being noticed on the international stage. In a particularly unflattering 2007 report, Amnesty International Canada expressed its concern that "...remarkable Canadian leadership in the struggle to shore up human rights protection around the world...has recently begun to slip."<sup>12</sup>

There is considerable debate surrounding what motivates a country's foreign policy. Even though it is sometimes presented as a priori, this idea of a value-based foreign policy for Canada has been much maligned by several scholars in the field, which begs the question of whether foreign policy is the place for altruistic priorities or platitudes. One report that highlights this is a 2003 Canadian Defence and Foreign Affairs Institute (CDFAI) study titled, "In the National Interest: Canadian Foreign Policy in an Insecure World." In this report, Nossal, along with Eayrs' former colleague Denis Stairs and several other influential foreign policy scholars suggest that Canada place more emphasis on projecting Canadian interests rather than Canadian values in its foreign policy, particularly for concerns such as human rights. For these scholars, implementing

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<sup>10</sup> See Andrew Cohen, *While Canada Slept: How We Lost Our Place in the World* (Toronto: McClelland & Stewart, 2004) and Jennifer Welsh, *At Home in the World: Canada's Global Vision for a 21st Century* (Toronto: HarperCollins, 2004).

<sup>11</sup> Greg Donaghy, "A Sad, General Decline?: The Canadian Diplomat in the 20th Century," in *Canada Among Nations 2008: 100 Years of Canadian Foreign Policy*, eds. Robert Bothwell and Jean Daudelin (Montreal and Kingston: McGill-Queen's University Press, 2009), 56.

<sup>12</sup> Amnesty International (Canada), "Canada and the International Protection of Human Rights: an Erosion of Leadership," December 2007, 3, [http://www.amnesty.ca/themes/resources/hr\\_agenda\\_update\\_2007.pdf](http://www.amnesty.ca/themes/resources/hr_agenda_update_2007.pdf).

a values-based foreign policy distorts Canada's understanding of its own interests, squanders its international influence, and exposes Canada to charges of hypocrisy.<sup>13</sup>

Much of Canada's rhetoric on human rights is cloaked in the language of altruism and morality, suggesting that it is Canada's responsibility or duty to help those in need for no other reason than that human rights reflect a fundamental Canadian value. However, Canada's limited appeals to human rights, couched in the rhetoric of values, have not produced a policy that adequately considers or sufficiently protects human rights. Thus, it becomes necessary to ask if a foreign policy primarily inspired by national interest or a foreign policy motivated by constructivist values and morality is a more useful framework for better understanding how and why states promote and protect human rights norms. This question will be explored in the latter half of this thesis using the case study of Canadian engagement in Afghanistan to demonstrate that although appeals to values may inspire a *rhetorical* commitment to human rights, there is a causal relationship between human rights foreign policy and national interests whereby the national interest is *realized* through a commitment to a human rights foreign policy.

Human rights are typically considered mutually exclusive from other "harder" foreign policy goals, but this thesis aims to demonstrate how human rights can be considered a tool to achieving those goals. It envisions a foreign policy for Canada that does not subordinate human rights to security, economic, or other interests because foreign policy-makers understand that they are mutually inclusive concepts that serve to support each other. The objective of such an approach is to improve Canada's ability to protect and promote international human rights, leaving little doubt in the minds of the

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<sup>13</sup> Denis Stairs et. al., *In the National Interest: Canadian Foreign Policy in an Insecure World*, (Canadian Defence and Foreign Affairs Institute, 2003), 13-14.

country's foreign policy-makers that there is undeniable worth and utility in a human rights foreign policy and that such a policy will produce national interest ends. The idea, as Julie Mertus puts it, is to compel human rights policy choices by presenting human rights not necessarily as the morally correct option, but as the politically correct option.<sup>14</sup>

This thesis will take a normative approach towards demonstrating that national interests are the most appropriate framework for including human rights in foreign policy. In making the case for a "human rights foreign policy," it will begin by providing a brief overview of the place of human rights in Canadian foreign policy and Canada's national interests. It will then define what is meant by the terms "human rights" and "national interest." In the discussion of human rights, the ontology of the international human rights regime, and specifically the role of morality in human rights, the universality of rights, and the relationship between rights and the state will be considered. In the analysis of national interests, realist, constructivist, and English School conceptions will be considered. The debate surrounding values versus interest based foreign policy will then be examined and will include a review of the work of key scholars in the field. Finally, in an analysis of what a human rights foreign policy might mean for Canada and using the benchmarks of greater international legitimacy, increased international cooperation, and shared risk/decreased burden, this work will substantiate the theory that Canada's national interests are supported through an effective human rights policy using the case study of Afghanistan.

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<sup>14</sup> Julie Mertus, *Bait and Switch: Human Rights in U.S. Foreign Policy* (New York: Routledge, 2004), 229.

## ***Canadian Foreign Policy and Human Rights***

### **Canadian Foreign Policy**

An analysis that laments Canada's dearth of defined foreign policy is far from a unique complaint. When Lester B. Pearson was asked to define Canada's foreign policy, he quipped, "Ask me at the end of the year and when I look back at what Canada has done, I'll tell you what our foreign policy is."<sup>15</sup> Canadian foreign policy refers to the objectives of the Canadian government outside its own borders.<sup>16</sup> Pragmatism, internationalism, multilateralism, and of course, Canada's relationship with the United States, are consistent themes in Canadian foreign policy. In the post-War era, when Canada was beginning to assert its status as a middle power, it was the policies of Pearson, and his Prime Minister, Louis St-Laurent, that first helped shape the critical concepts of Canadian internationalism and multilateralism that are reflected in contemporary Canadian foreign policy.

Internationalism is a fundamental aspect of Canadian foreign policy.<sup>17</sup> In contrast to isolationism, internationalism suggests that a state is actively involved in world affairs<sup>18</sup> and incorporates functionalism,<sup>19</sup> responsible international engagement, multilateralism, and a commitment to international institutions and agreements. Associated with discussions of middle powers, the concept became increasingly part of

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<sup>15</sup> Allan Gotlieb, "Romanticism and Realism in Canadian Foreign Policy," *Policy Options* 26.2 (2005): 24.

<sup>16</sup> Kim Richard Nossal, *The Politics of Canadian Foreign Policy*, 3rd ed. (Scarborough, ON: Prentice Hall Canada, 1997), 7.

<sup>17</sup> Don Munton and Tom Keating, "Internationalism and the Canadian Public," *Canadian Journal of Political Science* 34.3 (2001): 517.

<sup>18</sup> Costas Melakopides, *Pragmatic Idealism: Canadian Foreign Policy, 1945-1995* (Montreal & Kingston: McGill-Queen's University Press, 1998), 25.

<sup>19</sup> In the post-war era, functionalism, associated with the Canadian diplomat Hume Wrong, became one of the central tenets of foreign policy. According to Nossal, "functionalism asserted that in those areas where a smaller state had both interest and expertise...., it should be regarded as a major power and given the right to be represented on the decision-making bodies in those areas (Nossal, *The Politics of Canadian Foreign Policy*, 54).

the Canadian foreign policy lexicon following the Second World War. Robert Keohane noted that middle power internationalism recognizes that Canada's capacity limits its ability to influence the international sphere, but allows it to still have a significant impact through multilateral channels.<sup>20</sup> A former colleague of Pearson's, John Holmes, contributed significantly to the discussion, labelling Canadian diplomacy as 'middlepowermanship,' which emphasized his definition of internationalism as "co-operation of nations in the common interest."<sup>21</sup>

Closely associated with internationalism is the concept of multilateralism, which some scholars consider to be the essential characteristic of Canadian foreign policy. In his recent works, Tom Keating emphasizes the defining role multilateralism has had in Canadian foreign policy.<sup>22</sup> Alison Brysk considers that it provides Canada with a comparative advantage.<sup>23</sup> Canadian scholars such as John Ruggie, Keating, Holmes, John Kirton, and Nossal have similar conceptions of multilateralism that emphasize, "the pursuit of international order and what is good for international society in general."<sup>24</sup> Canada's multilateral agenda reflects the limits on Canada's ability to formulate its own foreign policy as a middle power. Multilateralism represents the best opportunity for Canada to realize its goals on the international stage, decrease the burden on Canadian resources, and represents the only way to tackle certain transnational problems.

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<sup>20</sup> Robert Keohane, "Lilliputian Dilemmas: Small States in International Politics," *International Organization* 23.2 (1969): 295.

<sup>21</sup> John Holmes, *The Better Part of Valour* (Toronto: McClelland and Stewart, 1970), 36.

<sup>22</sup> See, for instance, Tom Keating, *Canada and World Order: The Multilateralist Tradition in Canadian Foreign Policy* or Tom Keating, "Update: Canada and the New Multilateralism," in *Readings in Canadian Foreign Policy*, eds. Duane Bratt and Christopher J. Kukucha (Oxford: OUP, 2007), 21-26.

<sup>23</sup> Alison Brysk, *Global Good Samaritans: Human Rights as Foreign Policy* (Oxford: OUP, 2009), 67.

<sup>24</sup> Don Munton and Tom Keating, "Internationalism and the Canadian Public," 530.

Generally, Canada much prefers to advocate for multilateral human rights agreements rather than pressuring for bilateral negotiations.<sup>25</sup> Multilateralism, emphasized as a means to achieve Canadian goals rather than an end in and of itself, remains a crucial component of Canadian foreign policy. Although the salience of middle power internationalism in Canadian politics is widely debated, there is little doubt that these themes have moulded contemporary Canadian foreign policy and have clearly affected Canada's position on human rights. Even as it must operate within certain political, geographic, economic, and domestic constraints, Canada's global position does not necessarily restrict its ability to act. For instance, several prominent scholars in the field emphasize the progressive role that middle powers can have in the promotion and protection of human rights, especially in a multilateral setting.<sup>26</sup>

### **Human Rights in Canadian Foreign Policy**

Geopolitical considerations of the Cold War, a commitment to non-interference in the sovereign affairs of states, and Canada's domestic considerations, which included concerns over federal-provincial constitutional separation of powers, are cited as reasons why human rights considerations were largely absent from Canadian foreign policy during the early post-War period. Although Canada signed the United Nations Universal Declaration of Human Rights and a Canadian, John Humphreys, was instrumental in its

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<sup>25</sup> Robert O. Matthews and Cranford Pratt, "Conclusion: Questions and Prospects," in *Human Rights in Canadian Foreign Policy*, eds. Robert O. Matthews and Cranford Pratt (Montreal and Kingston: McGill-Queen's University Press, 1988), 296.

<sup>26</sup> Baehr and Castermans-Holleman explain that human rights disagreements between major powers can foment belligerent tensions, insinuating that there may be a role for middle powers as perhaps a more subtle broker (Baehr and Castermans-Holleman, *The Role of Human Rights in Foreign Policy*, 48). Alison Brysk also considers that there is a special role for middle powers. She notes that if a state is too small, it cannot devote sufficient attention to a progressive agenda; if it is too large, it is more interested in reinforcing its position at the top (Brysk, *Global Good Samaritans*, 6).

development, Canada “expressed scepticism about including strong human rights provisions in the UN Charter.”<sup>27</sup>

During the tenure of St-Laurent, who articulated a foreign policy based on “human values,”<sup>28</sup> Canada embarked upon its first international foreign aid program, pledging \$25 million to the Colombo Plan for Cooperative Economic Development in South and Southeastern Asia. St-Laurent’s foreign minister, Lester B. Pearson, won the Nobel Peace Prize for his role in solving the Suez Canal Crisis. This era, in which Canada began to exert itself on the international stage and mould a foreign policy bureaucracy with a reputation for excellence and influence, is often considered the ‘Golden Age’ of Canadian diplomacy.

Under Prime Ministers John Diefenbaker and Lester B. Pearson, Canada’s nascent commitment to human rights was displayed through the Canadian Bill of Rights,<sup>29</sup> as well as Canada’s attempts to become a member of the Human Rights Commission (which it did for the first time in 1963), among other developments. Progressive commitments to human rights were integrated into domestic law throughout the 1960s, while Canadians such as John Humphreys and Yvon Beaulne contributed to the development of international human rights law. Human rights became increasingly prominent in Canadian foreign policy in the late 1960s and 1970s as Canadians became progressively more aware of international human rights issues.<sup>30</sup>

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<sup>27</sup> Robert O. Matthews and Cranford Pratt, “Conclusion,” in *Human Rights in Canadian Foreign Policy*, 294.

<sup>28</sup> Prime Minister Louis St-Laurent at the Gray Lecture, University of Toronto, January 1947, quoted in Melakopides, *Pragmatic Idealism*, 6.

<sup>29</sup> Diefenbaker’s 1960 Bill of Rights was the precursor to the 1982 Charter of Rights and Freedoms, which, along with the Canadian Human Rights Act and the provincial and national Human Rights Commissions, institutionalizes Canada’s domestic commitment to human rights.

<sup>30</sup> Victoria Berry and Allan McChesney, “Human Rights and Foreign Policy-Making,” in *Human Rights in Canadian Foreign Policy*, 59.

It was not until the mid-1970s, however, that Canada began to publicly express an overt commitment to human rights principles. The 1975 Helsinki Final Act and the increased but inconsistent public attention to human rights of the administration of United States President Carter signalled a shift that indicated an elevated international interest in human rights. In 1976, the Trudeau government ratified the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, which made Canada a party to all six major international human rights conventions, among others.

Coinciding with this normative shift towards an international human rights agenda was a recognition that principles of sovereignty must cease to be considered inviolable. Canada gradually conceded that a commitment to human rights meant that how a state treated its own citizens could no longer be the concern solely of that state. Nossal considers that this progression was one of the critical elements that moved Canadian governments away from liberal realism and towards idealism, a modification that became ingrained in Canadian foreign policy-making and was most immediately evident in Brian Mulroney's relatively vociferous stance on Apartheid in South Africa.<sup>31</sup>

During Jean Chrétien's tenure as Prime Minister and later under his successor Paul Martin, Canadian foreign policy continued to publicly encourage the advancement of Canadian values abroad, a policy that has been criticized as sanctimonious,<sup>32</sup> Boy Scout imperialism,<sup>33</sup> and pulpit diplomacy,<sup>34</sup> particularly as it concerns Chrétien's foreign minister from 1996-2000, Lloyd Axworthy. Under Axworthy, Canada led the so-called

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<sup>31</sup> Kim Richard Nossal, "Right and Wrong in Foreign Policy 40 Years On," 273.

<sup>32</sup> Ibid.

<sup>33</sup> Robin Jeffrey Hay, "Present at the Creation? Human Security and Canadian Foreign Policy in the Twenty-First Century," in *Canada Among Nations 1999: A Big League Player?* eds. Fen Osler Hampson, Michael Hart, and Martin Rudner (Toronto: OUP, 2000), 228, quoted in Stairs et. al., *In the National Interest*, 13.

<sup>34</sup> Fen O. Hampson and Dean F. Oliver, "Pulpit Diplomacy: A Critical Assessment of the Axworthy Doctrine," *International Journal* 53.3 (1998): 379-406.



Ottawa Process to ban the use of antipersonnel landmines, encouraged the International Criminal Court, and championed the concept of human security. In 2000, a month before Axworthy departed as Minister of Foreign Affairs, Canada established the International Commission on Intervention and State Sovereignty (ICISS). In the shadow of the 11 September 2001 attacks on the United States, the Commission completed the report *The Responsibility to Protect*, which outlines principles for humanitarian intervention in the context of weakened international norms on state sovereignty.

As Prime Minister, Paul Martin continued to call attention to human security and internationalism. In the context of increased international interest in the complex associations between fragile states and international terrorism, Canada's 2005 *International Policy Statement* (IPS), an extensive foreign policy review, asked Canadians to remember that, "Canada benefits directly when the world is more secure, more prosperous, more healthy, and more protective of the natural environment."<sup>35</sup> The IPS aimed to guide Canada in a post-September 11 environment and advocated a "3-D" approach to Canadian foreign policy entailing enhanced cooperation between Canadian diplomatic, defence, and development circles.<sup>36</sup> Jennifer Welsh conveys the ideas contained within the IPS when she calls for Canada to be a "model citizen for the twenty-first century" that advocates for good governance, human rights, and fairness, while maintaining its distinctive identity vis-à-vis the United States, and pulling its weight in international initiatives.<sup>37</sup>

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<sup>35</sup> Paul Martin, "Foreword from the Prime Minister: Making a Difference: Canada's International Policy Statement: a Role of Pride and Influence in the World – Diplomacy," Para 7, [http://www.international.gc.ca/cip-pic/documents/IPS-EPI/foreword-avant\\_propos.aspx?lang=eng](http://www.international.gc.ca/cip-pic/documents/IPS-EPI/foreword-avant_propos.aspx?lang=eng).

<sup>36</sup> Roger Sarty, "Interplay of Defence and Foreign Policy," in *Canada Among Nations 2008*, 138.

<sup>37</sup> Jennifer Welsh, "Canada: Model Citizen for the Twenty-first Century," in *At Home in the World: Canada's Global Vision for the 21st Century* (Toronto: HarpersCollins Publishers Ltd., 2004), 187-234.

Predictably, the IPS has been “disowned” by current Canadian Prime Minister Stephen Harper,<sup>38</sup> and the concept of 3-D has now been repackaged as Canada’s whole of government (WoG) approach in Afghanistan. Prime Minister Harper has also identified human rights as a Canadian value that must be pursued in Canada’s foreign policy.<sup>39</sup> For instance, early in his tenure in a speech on China’s human rights record, Harper contended that “...I don’t think Canadians want us to sell out our values, our beliefs in democracy, freedom, and human rights. They don’t want us to sell out to the almighty dollar.”<sup>40</sup> Such a moralistic statement proved to upset Canada’s bilateral relationship with China to no avail and reflected the often large gulf between rhetoric and action in Canadian foreign policy.<sup>41</sup> In the presence of consistently drastic budget cuts, the Prime Minister has failed to provide DFAIT the necessary resources to develop and execute a well-articulated human rights policy.<sup>42</sup> Cases such as those of Abousfian Abdelrazik,<sup>43</sup> Omar Khadr,<sup>44</sup> or the Afghanistan detainee transfer scandal (discussed in detail in chapter

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<sup>38</sup> Ian Smillie, “Boy Scouts and Fearful Angels: The Evolution of Canada’s International Good Governance Agenda,” in *Exporting Good Governance: Temptations and Challenges in Canada’s Aid Program*, eds. Jennifer Welsh and Ngaire Woods (Waterloo: Wilfrid Laurier Press, 2007), 64.

<sup>39</sup> John Kirton, “Harper’s “Made in Canada” Global Leadership,” in *Canada Among Nations 2006: Minorities and Priorities*, eds. Andrew F. Cooper and Dane Rowlands (Montreal and Kingston: McGill-Queen’s University Press, 2006), 35, 45.

<sup>40</sup> Speech on November 15, 2006, quoted in Brysk, *Global Good Samaritans*, 74.

<sup>41</sup> Fred Edwards, “Chinese Shadows,” in *Canada Among Nations 2008*, 310.

<sup>42</sup> DFAIT accounts for the smallest percentage of the federal budget and has seen its budget drop by 23.8% in the past two years. Since 2006, DFAIT’s budget has been cut “by nearly \$639 million from 2007 levels, while at the same time increasing the Defence Department’s budget by more than \$2.4 billion.” (Collins, *Embassy*, 18 March 2009).

<sup>43</sup> Abdelrazik is a Canadian who for six years was not permitted to re-enter Canada because he was listed on a UN terror watch list and was imprisoned and tortured in Sudan. In 2009, a Federal Court ordered his repatriation. For further information, see Paul Koring, “CSIS to Abdelrazik: ‘Sudan is your Guantanamo’” in *The Globe and Mail*, 23 July 2009, (<http://www.theglobeandmail.com/news/politics/csis-to-abdelrazik-sudan-is-your-guantanamo/article1228520/>).

<sup>44</sup> Khadr is a Canadian who has been detained at Guantanamo Bay since 2002, when he was only 15 years old. He is the only citizen of a western country still held there and the Canadian government refuses to repatriate him. For further information, see Human Rights Watch, “Canada: Harper Should Raise Khadr Case During Obama’s Visit,” 17 February 2009, (<http://www.hrw.org/en/news/2009/02/17/canada-harper-should-raise-khadr-case-during-obamas-visit>).

three), cast a pall on the Government of Canada's claim to a commitment to an international human rights agenda.

### ***Canada's International Human Rights Policy***

Despite the use of a values-based approach, it is fairly well established that there is a relationship between Canada's strategic interests and Canada's promotion of human rights.<sup>45</sup> The DFAIT website claims that human rights is a central theme of Canadian foreign policy because it reflects and promotes Canadian values; serves Canada's interests by promoting a stable international system; and because it is a requirement of the United Nations Charter and customary international law.<sup>46</sup> DFAIT claims that "Canada has been a consistently strong voice for the protection of human rights and the advancement of democratic values,"<sup>47</sup> yet it does not elaborate beyond this sentiment.

Despite the considerable human rights rhetoric in Canadian foreign policy, Canada lacks, at least publicly, a coherent and comprehensive international human rights policy. Indeed, Canada can be considered as having a "human rights-blind" foreign policy."<sup>48</sup> This is an ongoing concern; in 1988, Victoria Berry and Allan McChesney wrote that because of Canada's failure to develop a human rights policy, "the role of human rights will be ad hoc, sporadic, and highly dependent on individual policy-makers and bureaucrats."<sup>49</sup> These comments, along with Pearson's glib statement regarding the post-hoc nature of Canadian foreign policy development, speak to Canada's failure to articulate an adequate political justification for the inclusion of human rights in foreign

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<sup>45</sup> Kim Richard Nossal, "Cabin'd, Cribb'd, Confin'd," in *Human Rights in Canadian Foreign Policy*, 53.

<sup>46</sup> DFAIT, "Canada's International Human Rights Policy."

<sup>47</sup> DFAIT, "Canada's International Human Rights Policy."

<sup>48</sup> Jean Daudelin, "Introduction: Managing Empires," in *Canada Among Nations 2008*, 8.

<sup>49</sup> Victoria Berry and Allan McChesney, "Human Rights and Foreign Policy-Making," in *Human Rights in Canadian Foreign Policy*, 60.

policy and Canada's lackadaisical commitment to the protection and promotion of a human rights agenda.

This unfavourable appraisal contradicts the assessments of scholars such as Alison Brysk, who concludes in her most recent work that human rights are embedded in Canadian foreign policy activities as a result of Canadian identity and cultural values.<sup>50</sup> Constructivist positions such as Brysk's are reflected in other works on Canadian foreign policy that suggest that a state's foreign policy should represent a state's most fundamental values.<sup>51</sup> Accordingly, Canada should include human rights in its foreign policy because the promotion and protection of human rights represent a fundamental Canadian *value*. Nossal observes that this was the case under Prime Ministers Jean Chrétien and Paul Martin, who, as mentioned, both adopted the mantra that Canada's foreign policy objectives should project Canadian values abroad.<sup>52</sup>

The constructivist would claim that human rights ought to be included in Canadian foreign policy because human rights are revered as a Canadian value and are thus part of the Canadian identity. Cranford Pratt, who employs the term 'counter-consensus' when describing proponents of a values-based ethical foreign policy,<sup>53</sup> rejects the suggestion that the primary motivation for a humanitarian foreign policy should be

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<sup>50</sup> Alison Brysk, *Global Good Samaritans*. In this work, she considers Canada to be one of six global good Samaritans, an exemplary state for its inclusion of human rights in foreign policy. Stressing Canada's rhetorical commitment to human rights, Brysk suggests that Canada has punched above its weight in its commitments to multilateral human rights initiatives, human rights jurisprudence and international law, training and monitoring.

<sup>51</sup> Robert O. Matthews and Cranford Pratt, "Introduction," in *Human Rights in Canadian Foreign Policy*, 8 and Bethany Barratt, "Canadian Foreign Policy and International Human Rights," in *Handbook of Canadian Foreign*, 235.

<sup>52</sup> Kim Richard Nossal, "*Right and Wrong in Foreign Policy 40 Years On*," 273.

<sup>53</sup> Cranford Pratt, "Dominant Class Theory and Canadian Foreign Policy: the Case of the-Counter Consensus" in *Readings in Canadian Foreign Policy*, 185.

anything more than altruistic.<sup>54</sup> To do otherwise would mean that Canada had abandoned a basic aspect of Canadian values.<sup>55</sup> Similarly, Nelson Michaud relies on the rhetoric of Lloyd Axworthy to demonstrate that Canadian values are an intrinsic part of the Canadian foreign policy process.<sup>56</sup> Jennifer Welsh, who is frequently cited in Michaud's work, offers that it is futile to think that Canadian foreign policy-makers can replace a values-based agenda with an interests-based agenda. She suggests that a collective Canadian identity should be considered the starting point of Canadian foreign policy because foreign policy is "partly an exercise in forging national identity."<sup>57</sup>

Several distinguished scholars identify identity as a crucial influence on Canada's human rights policy. Brysk writes that a human rights foreign policy generally reflects a nation's self-identity as a human rights promoter, explaining that interests are conceived through the lens of identity and that a distinguishing feature of Canadian identity is its "principled internationalism."<sup>58</sup> Many of these scholars suggest that human rights ought to be included in Canadian foreign policy because respect for the protection and promotion of human rights is a part of Canada's collective identity and "foreign policy is an exercise in forging national identity."<sup>59</sup> This circular logic does not even consider whether human rights in fact do resonate with Canada as a 'nation', a subject that is explored in-depth elsewhere, since identity cannot serve as a modicum for the inclusion

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<sup>54</sup> Cranford Pratt, "Competing Rationales for Canadian Development Assistance: Reducing Global Poverty, Enhancing Canadian Prosperity and Security, or Advancing Global Human Security," in *Readings in Canadian Foreign Policy*, 368.

<sup>55</sup> Ibid, 373.

<sup>56</sup> Nelson Michaud, "Values and Canadian Foreign-Policy Making: Inspiration or Hindrance," in *Readings in Canadian Foreign Policy*, 342.

<sup>57</sup> Jennifer Welsh "Reality and Canadian Foreign Policy," in *Canada Among Nations 2005: Splitting Images*, eds. Andrew F. Cooper and Dane Rowlands (Montreal & Kingston: McGill-Queen's University Press, 2005), 36-40. Quotation on page 36.

<sup>58</sup> Alison Brysk, *Global Good Samaritans*, 29-34.

<sup>59</sup> Ibid.

of human rights in foreign policy because it represents the realm of the abstract and intangible. Such vague notions have no place in diplomatic policy.

Despite the prominence of constructivist discourse in analyses of Canadian foreign policy, the constructivist approach to human rights has the inadvertent potential to do great damage to the support of a human rights agenda within Canada's foreign policy. Works such as Alison Brysk's help perpetuate Canadian illusions of national altruism that may serve to produce a foreign policy that rhetorically supports human rights but that does not act to support human rights in practice and may obscure the facts at hand. As Nossal notes, this was the tendency during the Chrétien and Martin eras,<sup>60</sup> causing Canadians to become "alarmingly smug, complacent, and self-deluded" about the effectiveness of their foreign policy.<sup>61</sup> This is a familiar refrain in Canada, where the Pearsonian myth of Canada as a peacekeeper has also been suggested to contribute to a nation losing focus of its interests and duping itself about its capacity and influence on the international stage.<sup>62</sup>

### ***Canada's National Interest and Human Rights Foreign Policy***

Canada's foreign policy is meant to allow Canada to realize its national interests. Welsh, who sees a need to reinvest in the resources that best support Canada's interests,<sup>63</sup> also considers that the "pursuit of the national interest requires steps to minimize the causes and effects of political and economic instability around the globe."<sup>64</sup> For such measured priorities to develop there is a need for strong leadership, sound policy, and

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<sup>60</sup> Kim Richard Nossal, "Right and Wrong in Foreign Policy 40 Years On," 275.

<sup>61</sup> Denis Stairs, "Myths, Morals, and Reality in Canadian Foreign Policy," *International Journal* 58.2 (2003), 239.

<sup>62</sup> Andrew Cohen, *While Canada Slept: How We Lost Our Place in the World*, 29.

<sup>63</sup> Jennifer Welsh, "Reality and Canadian Foreign Policy," in *Canada Among Nations 2005*, 29.

<sup>64</sup> *Ibid.*, 38.

conceptual clarity. There is a tendency in Canada to confuse means designed to achieve the national interest, such as multilateralism and internationalism, with ends themselves. Too many resources are invested in the process and not enough in the product. Although human rights are usually considered an *end*, in this work they are considered as a *means* to achieving the national interest.<sup>65</sup> This is the key driver behind their inclusion in foreign policy; but they are also, of course, a desirable goal outside of the policy sphere.

Conceptions of Canada's national interests are sometimes elusive. David Haglund suggests that Canadians are often loathe to even admit to the existence of their national interest.<sup>66</sup> Canadian conceptions of the national interest usually consider elements of security, economy, and prosperity. George MacLean considers the peace, order, and good governance ideals bound in the Canadian constitution and zeitgeist to represent the foundational interest in Canadian foreign policy.<sup>67</sup> James Taylor's definition of Canadian national interests includes the maintenance of peace and security, prosperity and economic relations, and the promotion of society and culture.<sup>68</sup> From a more neo-realist perspective, Steven Holloway determines that Canadian national

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<sup>65</sup> This idea of human rights as a means rather than an end is partially inspired by Jennifer Welsh's comments in the conclusion of her and Ngaire Woods' work *Exporting Good Governance*. Welsh asks if good governance should be a goal in and of itself or a means to achieving better development outcomes. After careful reflection based on the contributions of the authors present in the work she concludes that Canadian resources used to support good governance initiatives will be most effective if linked directly to achieving development related goals (Welsh and Woods, *Exporting Good Governance*, 281-282).

<sup>66</sup> David Haglund, "The North Atlantic Triangle Revisited: Canadian Grand Strategy at Century's End," (Toronto: CIIA/Irwin Publishing, 2000), 10.

<sup>67</sup> George A. MacLean, "Human Security and the National Interest? Canada, POGG, and the 'New' Multilateralism," in *A Decade of Human Security: Global Governance and New Multilateralism*, eds. Sandra MacLean, David R. Black, and Timothy M. Shaw (Burlington, Vermont: Ashgate Publishing, 2006.), 65.

<sup>68</sup> James H. Taylor, "Canadian Foreign Policy and National Interests," *Behind the Headlines* 56.3 (1999): 6-12.

interests are represented by national security, political autonomy, national unity, economic prosperity, and principled self-image.<sup>69</sup>

In this consideration of Canadian foreign policy, a return to the principles of the English School (elaborated on in chapter two) helps to develop a clearer understanding of Canada's national interest. There is a strong association between Canadian foreign policy and the English School perspective. In a 2004 article, Nossal indicates that John Holmes could be classified as a proponent of the English School, recognizing as he did that although states exist without the overarching supervision of a supranational government, a global community operates as a result of collective respect for international agreements and norms.<sup>70</sup>

Costas Melakopides' description of 'Canadian internationalism,' characterized by a balance of idealism and pragmatism and exemplified by multilateralism in the spirit of enlightened self-interest reflects the traditions of the English School.<sup>71</sup> Such an 'enlightened self-interest' has become increasingly pertinent in an interconnected and interdependent world, as noted by Andrew Thompson, when he writes that, "While national interests have determined where and why Canada has focused its efforts, values have helped to shape what it is that we are trying to achieve, and perhaps to a lesser extent how we wish to achieve it. Call it enlightened self-interest."<sup>72</sup> Alison Brysk notes

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<sup>69</sup> Steven Kendall Holloway, *Canada Foreign Policy: Defining the National Interest* (Peterborough: Broadview Press, 2006), 2.

<sup>70</sup> Kim Richard Nossal, "Canada and the Search for World Order: John W Holmes and Canadian Foreign Policy," *International Journal* 59.4 (2004): 751.

<sup>71</sup> Costas Melakopides, *Pragmatic Idealism*, 5.

<sup>72</sup> Andrew Thompson, "Fragile States, Good Governance Promotion, and Comprehensive Security," *Canadian Government Executive Magazine*, April 2008, available at: <http://www.netgov.ca/cp.asp?pid=115>.



that norm promotion such as for human rights is most effective when it corresponds with enlightened self-interest.<sup>73</sup>

Working from these scholars and the middle ground presented by the English School, Canadian national interests will be defined as national security, economic prosperity, and building a better society. As per the English School standpoint and its focus on order in international society,<sup>74</sup> this expression of national interest is not fixed but leaves much room to manoeuvre and develop long-term strategies to realize Canadian interests. Thus, national security includes the promotion of peace and security, the maintenance of international stability, as well as respect for territorial and political sovereignty. Economic prosperity includes trade and foreign investment promotion, Canadian competitiveness, and innovation. Finally, building a better society includes supporting Hedley Bull's concept of international society as well as celebrating and promoting Canadian culture, Canadian national unity, and nurturing Canadian society. Traditional Canadian foreign policy tools of multilateralism and internationalism articulated by scholars such as Keating can be interwoven with these interests.

Measuring national interest is a problematic proposal, particularly because national interests are not static and, "The issue is not one of deriving acceptable operational measures of major national objectives, but of knowing at which point levels of attainment on these objectives engage the national interest..."<sup>75</sup> Not only is it difficult to develop indicators to measure national interest, but it is difficult to know if a policy is

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<sup>73</sup> Alison Brysk, *Global Good Samaritans*, 33.

<sup>74</sup> Bull defines international society (or society of states) as existing, "when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive of themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions" (Hedley Bull, *The Anarchical Society*, 13). Bull's inclusion of "values" in his definition is broadly disputed. See, for example, Alan James, "System or Society," *Review of International Studies* 19.3 (1993): 269-288.

<sup>75</sup> Miroslav Nincic, "The National Interest and Its Interpretation," *The Review of Politics*, 61.1 (1999): 46.

making positive gains in relation to said interest. It is short-sighted to view these aforementioned indicators of national interest in a vacuum, as they are interconnected and interdependent on a variety of levels. Relative gains may lead to the growth of one indicator of national interest at the expense of another. For example, increased national security may make Canada a more attractive target for international investment, or conversely, increased military spending to increase national security may negatively impact economic prosperity.<sup>76</sup>

Within the supposedly bipartisan Canadian foreign policy elite, the inclusion of human rights in foreign policy will only be legitimized through expert associations with the national interest. Rather than advocating a balance between moral interests and national interests, a synthesis of what are in realist terms two dialectic concepts is proposed, in which ethical considerations become means to achieve interests-related ends. Implicit in this synthesis are the assumptions that the concept of national interest still has contemporary meaning and that universal human rights exist and can be considered part of international society.

To return to the aforementioned components of Canada's national interest (national security, economic prosperity, and building a better society), it is clear that the English School focus on the preservation of international order<sup>77</sup> through the maintenance of an international society can be linked to both national security and economic prosperity. Thus, strengthening international society will be considered Canada's primary national interest. In order to establish that human rights foreign policy is a

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<sup>76</sup> Ibid.

<sup>77</sup> Bull considers international order to be that pattern of activity that allows international society to pursue its priorities. These priorities include the security of life, the sanctity of promises, and the stability of possession (Bull, *The Anarchical Society*, chapter one).

condition of Canada's national interests, it is necessary to demonstrate that Canada's national interests are served by an international human rights policy, which then becomes the motivation for including human rights in Canadian foreign policy. To accomplish this, the focus here will be the link between Canada's international human rights policy and the maintenance of international society and international order, which, according to the English School, is a critical indicator of the component of the national interest that stresses building a better society.

The mechanism establishing this link is the international common interests that unite the membership of international society. Implicit in this is the recognition of the impact that a state's national interest has on other states that are also pursuing their national interest. Common interests among states in international society generate international order; "rules, laws, and conventions can, and often do, emerge without an overarching authority on the basis of shared interests."<sup>78</sup> This link will be confirmed by demonstrating that the legitimacy of Canadian action increases with a human rights foreign policy; Canada's international collaboration is enhanced; and Canada's risk or burden associated with its international engagement is reduced. These benchmarks correspond to traditional Canadian foreign policy tools of multilateralism and internationalism, as well as to the benefits of multilateral cooperation expressed in the 2005 *International Policy Statement*.

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<sup>78</sup> Kai Alderson and Andrew Hurrell, "Bull's Conception of International Society," in *Hedley Bull on International Relations*, eds. Kai Alderson and Andrew Hurrell (London: MacMillan Press Ltd., 2000), 5-6.

## ***Gauging a Canadian Human Rights Foreign Policy: Legitimacy, Cooperation, Risk and Burden***

It is far beyond the scope of this thesis to attempt to quantify these subjective points of reference. Indeed, one of the primary reasons why the English School is underappreciated outside of European political science circles is its neglect to empirically test the validity of some of its main tenets.<sup>79</sup> Although qualitative observation of empirical data will allow for a clear picture to emerge demonstrating why human rights should be considered a tool in Canada's arsenal, it is challenging to measure these notions. That said, this paper will consider legitimacy through an account of the support Canadian action and policy receives; international cooperation will be gauged through augmented instances of collaboration, such as in international organizations and initiatives with regards to Canada's human rights policies in Afghanistan; and reduced risk and burden will be measured through instances of the assumption of shared risk/decreased burden within multilateral relationships and international initiatives. A cursory example in Afghanistan would be the legitimacy Canada's mission in Afghanistan received through United Nations sanctioning of the mission; an improved Canadian relationship with NATO and its members; and the shared risk assumed in Afghanistan by stationing troops from a number of like-minded states.

The three standards developed here – legitimacy, cooperation, shared risk/decreased burden - have been developed from the conception of a positive international order conducive to building a better society, both internationally and for Canada. These indicators are operationalized through the mechanism of common interests among states; that is, each indicator contributes to the maintenance of

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<sup>79</sup> Barak Mendelsohn, "English School, American Style: Testing the Preservation-seeking Quality of the International Society," *European Journal of International Relations* 15.2 (2009): 291.

international order (leading to a better society) by reaffirming and strengthening the common interests among states or the ties that connect them. When a state's activities are perceived as legitimate, it implies that there is a reasonable consensus that the activities of the state fall within the realm of acceptable behaviour; when states cooperate, they seek and build from common ground; when a state is able to share the burden of its actions, the state recognizes that it has common interests with other states and therefore is able to reduce risk associated with action.

As part of this discussion, power relations and hegemony must be considered. Without contemplating existing power structures, a universalist human rights agenda may be perceived as “a tool with which to mask the particular national interests of powerful countries.”<sup>80</sup> Questions surrounding who determines the norms and limits of acceptable behaviour, the common interests shared between states, and who benefits from the maintenance of international order must be asked. In his recent work, Ian Clark explores the concept of hegemony in the English School, recognizing that insufficient attention has been paid to the ways in which hegemony affects the basic tenets of the English School. He explains that the English School must conceive of hegemony as an institution of international society where the great powers take on the role of managers, but do so with the consensus of the other members of international society.<sup>81</sup> Hegemony is another common institution in which the members of international society have a shared investment. Greater powers require the support of other members; the lesser powers do so because they recognize the benefits that can be derived from such a system, and

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<sup>80</sup> Micheline Ishay, *The History of Human Rights: from Ancient Times to the Globalization Era* (Berkeley: University of California Press, 2004), 11.

<sup>81</sup> Ian Clark, “Towards an English School Theory of Hegemony,” *European Journal of International Relations* 15.2 (2009): 214.

because their voices are still heard on the international stage. Andrew Hurrell expresses this as the great powers belonging to a club in which membership depends on the recognition of others.<sup>82</sup> Great powers are obligated to responsibly engage with lesser powers, because it is ultimately in the best interests of international society.

Legitimacy is therefore conceived from below, at the level of the lesser powers, rather than being imposed from above by the greater powers. It is bulwarked by international cooperation and yields international cooperation. Risk and burden to individual states is reduced through both of these indicators and the incentive to cooperate increases. A triangular set of indicators emerges in which the protection and promotion of human rights produces gains at each point in the triangle. Because of Canada's position in the international system, in the conception of international society described here, few countries stand to gain more, or to lose more.

### ***The Aim of a Human Rights Foreign Policy***

In a consideration of the roles of values and interests in foreign policy, Taylor explains that interests are something definable and tangible, making them suitable for the diplomatic sphere, while values are not because they are ideologically-driven and vague.<sup>83</sup> Working from this statement, a human rights foreign policy aims to achieve the interest of the promotion and protection of international human rights norms through “activities by policy makers to influence another state or group of states so that they may improve respect for human rights.”<sup>84</sup> A human rights foreign policy not only serves to

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<sup>82</sup> Andrew Hurrell, “Hegemony, Liberalism, and Global Order: What Space for Would-be Great Powers?” *International Affairs* 82.1 (2006): 4.

<sup>83</sup> James H. Taylor, “Canadian Foreign Policy and National Interests,” 12.

<sup>84</sup> Peter Baehr and Monique Castermans-Holleman, *The Role of Human Rights in Foreign Policy*, 3rd ed. (New York: Palgrave Macmillan, 2004), 2.

affect those who perpetrate human rights violations but also reinforces the international consensus surrounding human rights norms. The minimal rights that do not leave room for extensive debate but that allow individuals not merely to survive but to openly participate in their society as healthy and secure members can provide guidance when prioritizing which human rights are considered in foreign policy.

Jack Donnelly and David Forsythe both grapple with the challenges of including notions of human rights in foreign policy because foreign policy is traditionally the domain of realist expressions of national interest.<sup>85</sup> Stanley Hoffmann's analysis helps reconcile what appear to be two contentious concepts in his assessment that, "if a nation pursues a human rights policy, it means that it has decided that the protection of those rights abroad is in its national interest."<sup>86</sup> This idea will be critical for the remainder of this thesis. In the following section, conceptions of human rights and national interests will be further explored, helping to clarify the ideas already presented.

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<sup>85</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca: Cornell University Press, 2003), 163 and David Forsythe, *Human Rights in International Relations*, 2nd ed. (Cambridge: Cambridge University Press, 2006), 152-162.

<sup>86</sup> Stanley Hoffmann, *Duties beyond Borders: On the Limits and Possibilities of Ethical International Politics* (Syracuse: Syracuse University Press, 1981), 113.

## 2. Definitions and Methodology: Values and Interests in Canadian Foreign Policy

Foreign policy as the promotion of Canadian values abroad instead of Canadian interests is certainly nothing new in Canadian politics. The choice is presented as axiomatic: "...the projection of Canadian values rather than the protection of narrow foreign policy interests."<sup>87</sup> In recent years, Prime Ministers and Ministers of Foreign Affairs have made reference to the importance of executing a foreign policy that promotes Canadian values abroad.<sup>88</sup> However, as mentioned, there is considerable debate as to whether Canadian values provide the appropriate foundation and framework for an effective Canadian foreign policy. This is especially true for concepts typically associated with a moral imperative, such as human rights. Although the various schools of international relations have invested considerable energy examining if or why human rights ought to be considered in foreign policy, little of this discussion has been devoted to the study of Canada's international human rights policy. This thesis aims to begin to fill that gap and ultimately demonstrate the utility of executing a foreign policy driven by Canada's national interests. In this section, the epistemology of human rights and national interests will be explored and applied to Canada's foreign policy and the debate surrounding the inclusion of values and interest in foreign policy will be analyzed.

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<sup>87</sup> Bernard Wood, *Canada and Southern Africa: a Return to Middle Power Activism*, 285-286, quoted in Melakopides, *Pragmatic Idealism*, 10.

<sup>88</sup> For example, see the overview of Joe Clark's tenure as Minister of External Affairs captured by Costas Melakopides in *Pragmatic Idealism*, specifically page 163; the 1995 Canadian foreign policy review under Prime Minister Jean Chrétien *Canada in the World*, specifically section five; and the 2005 International Policy Statement *A Role of Pride and Influence in the World*, released under Prime Minister Paul Martin.



## ***Human Rights***

Robert O. Matthews and Cranford Pratt define human rights as, “a justified entitlement that any person may claim because of being human and that ought to be socially guaranteed.”<sup>89</sup> They are the “rights one has simply because one is a human being.”<sup>90</sup> Human rights are “held universally by all human beings [and] also hold ‘universally’ against all other persons and institutions,”<sup>91</sup> including the state. Based on perceptions of common or shared humanity, the United Nations Universal Declaration of Human Rights and its accompanying International Covenants on Economic, Social and Cultural Rights and on Political and Civil Rights outline the basic rights necessary for human dignity. Henry Shue specifies physical security, subsistence, and liberty (including both social participation and physical movement) as those basic rights that are necessary for the realization of human dignity.<sup>92</sup> In theory, human rights are universal, indivisible, inalienable, and interconnected.

## **Universality**

It is difficult to avoid charges of cultural imperialism when proposing and advancing international human rights standards. Cultural relativists, who represent perhaps the most significant challenge to the development of international human rights norms, “give priority to the internal judgements of a society.”<sup>93</sup> Charges of a western liberal bias are levied against those who support the universal application of human

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<sup>89</sup> Robert O. Matthews and Cranford Pratt. “Introduction,” in *Human Rights in Canadian Foreign Policy*, 4.

<sup>90</sup> Rhoda E. Howard, “Civil-Political Rights and Canadian Development Assistance,” in *Human Rights, Development, and Foreign Policy: Canadian Perspectives*, ed. Irving Brecher (Halifax: the Institute for Research on Public Policy, 1989), 356.

<sup>91</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 1.

<sup>92</sup> Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, 2nd ed. (Princeton: Princeton University Press, 1996), 157.

<sup>93</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 89.

rights, and particularly the rights expressed in the United Nations International Covenant on Political and Civil Rights. Cultural relativists claim that moral decisions are contingent upon cultural norms rather than any kind of universal minimum standard.

Appeals to human rights expressed for the purposes of this thesis recognize the importance of both cultural standards and traditions, as well as of protecting and promoting universal standards of human rights. Donnelly's concept of weak cultural relativism or strong (not absolute) universalism is employed to emphasize that although there is a minimum standard of human rights, there is room for cultural divergence in implementation and interpretation. As Donnelly's analysis stresses, most rights are not limitless, using the example of debates surrounding pornography as a limit on the right to freedom of speech.<sup>94</sup> It is critical to apply human rights norms in a context-specific analysis that will allow for the prioritization of certain rights in a culturally sensitive manner that reflects an awareness of cultural or regional approaches.<sup>95</sup> In his work on cultural legitimacy, Abdullahi An Na'im considers that international human rights standards must be developed through "internal dialogue" and the "enlightened perceptions and interpretations of cultural values and norms."<sup>96</sup> Not only are there different interpretations of rights between cultures and regions, but also inter-culturally. Human rights do not need to be applied in a rigidly uniform fashion.<sup>97</sup>

These basic rights have been described by several scholars in the field. Donnelly describes an international "overlapping consensus" regarding the most basic requirements

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<sup>94</sup> Ibid, 90-99.

<sup>95</sup> Canadian Council of International Cooperation (CCIC), "Part 3 of 3: Human Rights and 'Fragile States' Policy," in Discussion Papers on *Failed States*, January 2007, 3 (available at [http://www.ccic.ca/e/docs/002\\_peace\\_2006-12\\_failed\\_states\\_part\\_3.pdf](http://www.ccic.ca/e/docs/002_peace_2006-12_failed_states_part_3.pdf)).

<sup>96</sup> Abdullahi A. An Na'im, "Toward a Cross-Cultural Approach to Defining International Standards of Human Rights," in *Human Rights in Cross Cultural Perspectives*, ed. A. An Na'im (Philadelphia: Penn Press, 1992), 21.

<sup>97</sup> Peter Baehr and Monique Castermans-Holleman, *The Role of Human Rights in Foreign Policy*, 25-27.

for human dignity.<sup>98</sup> Along similar lines, Peter Baehr and Monique Castermans-Holleman emphasize principle rights compared to ‘other’ rights as those rights necessary for a dignified human existence, although these arguments do not address debates concerning the definition of human dignity. John Vincent and Shue use a reduced conception of basic rights; Vincent explicitly cites Shue’s notion of basic rights as those rights necessary for the enjoyment of all other rights: life, liberty, and sustenance.<sup>99</sup> The agreement between these two scholars is noted by Tim Dunne and Nicholas Wheeler in their consideration that all individuals have certain rights, “because they share the same essential human nature.”<sup>100</sup>

This thesis accepts the view that there is indeed a minimum universal consensus on certain basic rights but also acknowledges the importance of context-specific and culturally sensitive interpretations of those rights. Those basic rights described here search for a balance between the abstract appeals to human dignity expressed by Donnelly and Baehr and Castermans-Holleman, and the survivalist rights expressed by Shue and Vincent. Thus, this thesis considers the kind of minimal rights that may leave room for some debate but will nevertheless allow individuals not merely to survive but to participate openly in their society as healthy and secure members. This list includes but is not limited to the right to life, freedom of association, freedom from violence and abuse, juridical fairness, the right to sustenance, the ability to participate in the public sphere, and freedom from arbitrary arrest, detention, and degrading treatment.

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<sup>98</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 40.

<sup>99</sup> R. J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), 125.

<sup>100</sup> Timothy Dunne and Nicholas J. Wheeler, “Introduction: Human Rights and the Fifty Years’ Crisis,” in *Human Rights and Global Politics*, eds. Tim Dunne and Nicholas J. Wheeler (Cambridge: Cambridge University Press, 1999), 5.

## The Moral Ontology of Human Rights

The rich debate on the ontology of rights springs from the natural rights arguments of Ancient Greek thinkers. Suggestions such as those of Donnelly, who claims that human rights are derived from the moral nature of humanity,<sup>101</sup> are echoed by scholars such as Forsythe, who considers rights as a moral attribute that the state cannot contravene.<sup>102</sup> In addition to being founded in a moral obligation that is common to all of humanity, Matthews and Pratt emphasize that human rights are claims that “generate moral obligations”<sup>103</sup> and that “Canada has a moral obligation to attach a high priority to help consolidate international acceptance of [human] rights.”<sup>104</sup> According to this outlook, the promotion of human rights can only be fuelled by ethical motivations, which are the only way to increase support for human rights initiatives.<sup>105</sup>

Both Donnelly and Forsythe add qualifications to their morally-based convictions. Donnelly notes that “human rights should not be confused with the values and aspirations underlying it...”<sup>106</sup> and Forsythe explains that it becomes difficult to sustain the inclusion of human rights in foreign policy when only moral and altruistic arguments are made to support their incorporation. In a vein similar to Donnelly, he explains that if human rights could be linked to self-interest, it would become possible to develop a political response to a human rights violation.<sup>107</sup> In a statement that provides foundation for this thesis, Forsythe reminds Donnelly that “the inescapable fact is that by referring to human

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<sup>101</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 13-14.

<sup>102</sup> David Forsythe, *Human Rights in International Relations*, 3.

<sup>103</sup> Robert O. Matthews and Cranford Pratt, “Introduction,” *Human Rights in Canadian Foreign Policy*, 4.

<sup>104</sup> *Ibid.*, 8.

<sup>105</sup> *Ibid.*, “Conclusion,” 374. Like Matthews and Pratt, Shue considers that basic rights have corresponding duties generated through moral obligation; he considers basic rights to be the “morality of the depths,” (Shue 18) or the most basic moral obligation.

<sup>106</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 13-14. Quotation on page 11.

<sup>107</sup> David Forsythe, *Human Rights in International Relations*, 162.

rights as moral rights, one puts the basic concept in the realm of the controversial and intractable discourse.”<sup>108</sup> In addition to Shue’s moral grounding, he also claims that institutionalizing rights requires “means/ends, instrumental, or strategic reasoning.”<sup>109</sup> These scholars seem to recognize that although human rights may indeed reside in the realm of moral discourse, morality or values do not provide sufficient motivation for states to include them in their policy processes.

It is critical for a consideration of a human rights foreign policy to position human rights outside of a moral boundary because states do not operate in the moral realm. Morality in the context of the state system, as Machiavelli reminds us, is not morality in the context of the individual. The influence of Machiavelli is evident in Reinhold Niebuhr’s famous 1932 conviction that moral humankind operates in an immoral world.<sup>110</sup> This statement remains applicable because, although the representatives of the state may be moral agents, the state itself is not a moral agent. At best, the state can be considered amoral.<sup>111</sup>

Joseph Nye, Jr. considers that moral values are intangible interests,<sup>112</sup> but in terms of developing foreign policy to be executed in an anarchic and immoral international sphere, morality cannot be part of the determinations of the state. Hoffmann explains that it is the duty of a representative of the state to act in the interests of the nation, which may require immoral actions;<sup>113</sup> however, he also expresses that the challenge is to bring

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<sup>108</sup> David Forsythe, “Review: *Universal Human Rights in Theory and Practice* by Jack Donnelly,” *American Political Science Review* 84.4 (1990): 1443.

<sup>109</sup> Henry Shue, *Basic Rights*, 161.

<sup>110</sup> Reinhold Niebuhr, *Moral Man and Immoral Society: A Study of Ethics and Politics* (Louisville: Westminster John Knox Press, 1932).

<sup>111</sup> The question of whether the modern state, as a member of international society, is a moral agent or actor certainly merits further exploration and has produced a rich literature.

<sup>112</sup> Joseph S. Nye, Jr., “Redefining the National Interest,” *Foreign Affairs* 78.4 (1999): 24.

<sup>113</sup> Stanley Hoffmann, *Duties beyond Borders*, 12.

interests and morality together.<sup>114</sup> Morality and interests can be compatible, but in terms of developing foreign policy to be executed in an amoral (if not immoral) world, moralistic or value-based appeals to include human rights in foreign policy are best saved for the rhetoric of partisan politics. Based on these assessments, considerations of human rights as a moral obligation or duty will be supplanted by the assumption that the protection and promotion of human rights is necessary because they can be demonstrably beneficial to the state.

### **The Relationship between Rights and the State**

Human rights are also legal rights protected by state laws and statutes. Political legitimacy is derived from the status of human rights as legal rights.<sup>115</sup> As the international consensus surrounding the idea of human rights developed, the United Nations Security Council began to define human rights violations as a possible threat to international peace and security, thereby extending the scope of and responsibility for rights. Most states now accept that human rights are a concern of all states.<sup>116</sup> Rights require that the state stop or refrain from doing certain things and provide certain things,<sup>117</sup> both inside their own borders and also internationally. Additionally, although the focus here is the state, it is important to recall that non-state actors such as the private sector, non-governmental organizations, and international institutions are expected to promote and protect human rights.

Most of the literature on the relationship between the state and human rights focuses on the duties which the state is responsible for providing to its citizens. Shue

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<sup>114</sup> Ibid, 41.

<sup>115</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 11-12.

<sup>116</sup> Peter Baehr and Monique Castermans-Holleman, *The Role of Human Rights in Foreign Policy*, 2.

<sup>117</sup> Stanley Hoffmann, *Duties beyond Borders*, 101.

coined the term ‘service duties’ to mean those duties that a government bears on behalf of its constituents as their agent.<sup>118</sup> According to Shue, the state is obligated to avoid depriving, to protect from deprivations, and to aid the deprived.<sup>119</sup> This perception is reflected in a 2006 Office of the UN High Commissioner for Human Rights document that considers that the state, as a duty bearer, is obligated to respect, protect, and fulfil its human rights obligations.<sup>120</sup> Matthews and Pratt apply this argument to the Canadian context when they claim that Canada has duties to protect the rights of those outside Canada’s borders.<sup>121</sup> Although these assessments may be accurate, a duty is something that ought to be done; the goal of this thesis is to make a case for the removal of the “ought to’s” and the “musts” from human rights discourse and instead to present actors with a clear motivation to promote and protect human rights: it is in their best interests. The state has definite responsibilities that correspond to human rights but these are specific actions that correlate with the state’s interests.

Using both punishment and reward, there is a range of activities a state can undertake to protect and promote human rights including diplomatic, economic, and military actions. Diplomatic activities include monitoring and standard-setting, quiet diplomacy such as demarches and meetings, public statements or shaming, cancellation or postponement of visits, legal means such as complaint procedures, breaking contacts in the fields of sports and culture, ending diplomatic relations, and rewarding good

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<sup>118</sup> Henry Shue, *Basic Rights*, 151.

<sup>119</sup> *Ibid.*, 60.

<sup>120</sup> In item 48 of the document, the statement continues, “The duty to respect requires the duty-bearer to refrain from interfering with the enjoyment of any human right. The duty to protect requires the duty-bearer to take measures to prevent violations of any human right by third parties. The duty to fulfil requires the duty-bearer to adopt appropriate legislative, administrative and other measures towards the full realization of human rights.” See *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, Geneva: OHCHR, 2006, available at <http://www2.ohchr.org/english/issues/poverty/guidelines.htm>.

<sup>121</sup> Robert O. Matthews and Cranford Pratt, “Introduction,” *Human Rights in Canadian Foreign Policy*, 6.

behaviour through positive assistance or invitations. Economic activities include sanctions or trade embargoes, rewards of increased trade or development assistance, or support to civil society groups in order to circumvent a human rights violating government. The use of force is an additional option, but a discussion of military responses to human rights violations raises a host of other debates concerning humanitarian intervention and sovereignty that are outside the scope of this work. If human rights are considered a national interest, there are difficult moral questions associated with using force to defence them.<sup>122</sup> This certainly requires further research.

### ***National Interests***

National interest is a contested concept, interpreted and implemented differently by adherents to the various theories of international relations. It is considered the legitimate articulation of the needs of a community and includes several assumptions; namely that members of a society share some common interests, that certain national interests are permanent and transcend political partisanship, and that the government is the legitimate agent charged with interpreting and articulating the national interest.<sup>123</sup> The national interest can be thought of as an “analytical tool for describing, explaining, and assessing the adequacy of a nation’s foreign policy.”<sup>124</sup>

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<sup>122</sup> The idea of using force to defend human rights is one of the crucial derivatives of a human rights approach. The question at hand is whether a state’s actions are severely undermining international society and order. This is a troubling prospect, but forceful intervention to defend international society cannot be discounted; however, violence for self-interest does not serve to support international society, order, or consensus.

<sup>123</sup> Scott Burchill, *The National Interest in International Relations Theory* (Houndmills: Palgrave Macmillan, 2005), 27-28.

<sup>124</sup> *Ibid*, 23.



## Realism and National Interests

Realists claim that they attempt to consider the international system as it is, not how it ideally might be, and they therefore focus on the survival of the state in an anarchic world system. This is generally associated with the Machiavellian concept of *raison d'état*, in which the state official places the priorities and goals related to the survival of the state above all other objectives. Hans Morgenthau, an archetypal classical realist, held that the national interest is an objective and fixed concept that can be defined by power.<sup>125</sup> Kenneth Waltz describes national interest in terms of state survival in a competitive struggle between nations in a zero sum game, whereby the national interest is obvious and identical for every state.<sup>126</sup> Stephen Krasner writes that the national interest must be “related to general societal goals, must persist over time, and must have a consistent ranking of importance...”<sup>127</sup> Each of these scholars considers national interest to be an objective and straightforward concept that represents the overall goals that the members of a state share. These long-term common objectives seek only to augment the ability of the state to survive and discount a cosmopolitan ethic that might include appeals to human rights.

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<sup>125</sup> Hans Morgenthau, *Politics among Nations: the Struggle for Peace and Power*, Brief ed. (Boston: McGraw-Hill, 1993), 5-11.

<sup>126</sup> Kenneth Waltz, *Man, the State, and War: A Theoretical Analysis* (New York: Columbia University Press, 1959): 34, 192, 227.

<sup>127</sup> Steven Krasner, *Defending the National Interest* (Princeton: Princeton University Press, 1978), 13. He also examines the dilemma of reconciling the national interest as related to the interests of a society (i.e. the state) with those of the actors responsible for decision-making. Krasner emphasizes that the national interest is related to the preferences and priorities of the decision-makers of the state, a description that will not be applied here because this thesis will defer to the idea that the national interest can be defined only using long term and non-partisan scales.

## Constructivism and National Interests

Constructivism rejects the realist assertion that the national interest is fixed and objective.<sup>128</sup> It suggests that national interests are socially constructed by the dominant members of a group and are developed, learned, and relearned as the values, ideas, and beliefs of a society change. For instance, Cranford Pratt proposes that Canadian interests are shaped by national elites to the exclusion of alternative views.<sup>129</sup> James Rosenau, who introduced the idea of identifying national interest through either objective or subjective definitions, claims that “national interest is rooted in values (“what is best”).”<sup>130</sup> This interpretation suggests that there is nothing tangible or empirical about national interest.

National interests are also considered flexible and malleable, partially because, as Martha Finnemore puts forward, state preferences change through interaction in the international social system.<sup>131</sup> The national interest is a reflection of the identity of the people of that nation and has a distinctive moral flavour. Brysk perceives that states develop their national interests based on their self-identity. She sees national interest, and specifically principled national interests as deliberately developed and constructed via the political process within a society.<sup>132</sup> Identity, as well as the influences and factors that shape identity over time, is a critical concept in this interpretation. Alexander Wendt

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<sup>128</sup> Michael Barnett, “Social Constructivism,” in *The Globalization of World Politics: an Introduction to International Relations*, 3rd ed., eds. John Baylis and Steve Smith (Oxford: OUP, 2005), 263. *The Globalization of World Politics* also includes the following in its definition of constructivism: “An approach to international politics that concerns itself with the centrality of ideas and human consciousness and stresses a holistic and Idealist view of structures” (770).

<sup>129</sup> Cranford Pratt, “Dominant Class Theory and Canadian Foreign Policy: the Case of the Counter-Consensus” in *Readings in Canadian Foreign Policy*.

<sup>130</sup> James N. Rosenau, *The Study of World Politics: Theoretical and Methodological Changes*, vol. 1 (London: Routledge, 2006), 246.

<sup>131</sup> Martha Finnemore, *National Interests in International Society* (Ithaca: Columbia University Press, 1996), 5-11.

<sup>132</sup> Alison Brysk, *Global Good Samaritans*, 35-38.

emphasizes this subjective and nebulous characterization of national interest when he includes collective self-esteem in his considerations.<sup>133</sup>

### **The English School and National Interests**

Common critiques to these perspectives highlight the failure of realism to account for international cooperation and post-Cold War security challenges or cite flimsy constructivist notions of identity and hollow appeals to moral values. The English School can be considered a middle ground between realist and constructivist conceptions of national interest, whereby the national interest becomes the preservation of the international order. The English School extends Rousseau's description of the general will, or the common political expression within a society, to include an international society.<sup>134</sup>

Shades of both realist and more cosmopolitan perspectives are reflected in the English School concept of national interest, but instead of realist state survival in an anarchic world or constructivist identity in an interconnected world, the English School focuses on the preservation of international society and the common interests between states. The foremost common interest is the preservation of international order; others include the development of an environment conducive to positive trade, the protection of the ability of members of society to contribute to that society, and the establishment of non-violent conflict resolution. Like realism, adherents to the English School accept that there is a balance of power in international relations, but they also accept that all states will benefit from the establishment of rules and conventions within the international diplomatic system that limit the behaviour of states. However, as Barry Buzan points out,

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<sup>133</sup> Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press 1999): 235, quoted in Burchill, *The National Interest in International Relations*, 185.

<sup>134</sup> Scott Burchill, *The National Interest in International Relations*, 13.

inherent within the English School's concepts of international society are strains of constructivism such that international society is about the evolution of shared norms, rules, and institutions within a group.<sup>135</sup>

Proponents of the English School advocate an enlightened self-interest that suggests that states must recognize the interests of other states and the utilitarianism of an international society in which order is preserved through respect for rules and conventions that place limits on states' behaviour.<sup>136</sup> Hedley Bull focuses on this idea of an international society and enlightened-self interest in which being a good global citizen becomes an a priori aspect of the national interest.<sup>137</sup> States reconfigure traditional notions of national interest to recognize the interests of other states, and the impact their actions have on other states, regional stability, and international order.<sup>138</sup>

#### ENGLISH SCHOOL AND HUMAN RIGHTS

Bull was associated with the Grotian or internationalist tradition of the English School in that he believed that states are limited in their conflicts with one another by common interests, rules, and institutions.<sup>139</sup> Bull did not conceive human rights to be among these common interests, and actually wrote that universal human rights could be a threat to world order because conflict between states could emerge from the failure to achieve an international consensus on human rights.<sup>140</sup> He could not envision a human

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<sup>135</sup> Barry Buzan, "The English School: an Underexploited Resource in IR," *Review of International Studies* 27.3 (2001): 480.

<sup>136</sup> Scott Burchill, *The National Interest in International Relations*, 152-154.

<sup>137</sup> *Ibid*, 154-157.

<sup>138</sup> *Ibid*, 165.

<sup>139</sup> Hedley Bull, *The Anarchical Society*, 26.

<sup>140</sup> *Ibid*, 88-95.

rights code that existed objectively or independently of particular states' attitudes and principles.<sup>141</sup>

Bull's pessimism was not shared by more solidarist<sup>142</sup> English School theorists, who aimed to include the individual, as well as the state, in their conception of international society. Vincent considered that Bull was misguided in his fear that states would be undermined by a human rights agenda, instead expressing how states could be strengthened by universal human rights standards. As he remarks in one of his best-known works, Vincent "hoped to make inroads on Bull's cheerful scepticism on human rights."<sup>143</sup> Vincent puts forth a convincing argument outlining how the development of universal human rights norms could serve to benefit both the state and international society.<sup>144</sup> Although he recognizes that there is an "inescapable tension between human rights and foreign policy," he also considers that a human rights foreign policy becomes part of the national interest of the state because of its importance to securing and nourishing citizens.<sup>145</sup> Bringing to mind constructivist language, Vincent considers that human rights have evolved to add to the legitimacy of the international society, thereby strengthening and consolidating both the system and the state.<sup>146</sup>

If for English School theorists the task is to maintain international order by establishing and reinforcing common interests, human rights become an opportunity to broaden and extend areas of consensus. Only focusing on fostering international peace

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<sup>141</sup> Hedley Bull, "Human Rights and World Politics," in *Moral Claims in World Affairs*, ed. Ralph Pettman (New York: St. Martin's Press, 1979), 79-91.

<sup>142</sup> Solidarist conceptions of international society, as compared with pluralist conceptions, "presuppose that the potential scope for international society is somewhat wider, possibly embracing shared norms about such things as limitations on the use of force, and acceptable 'standards of civilization' with regard to the relationship between states and citizens (that is, human rights)" (Buzan, "The English School," 478).

<sup>143</sup> R. J. Vincent, *Human Rights and International*, viii.

<sup>144</sup> *Ibid*, 129.

<sup>145</sup> *Ibid*, 143.

<sup>146</sup> *Ibid*, 144-153.

and order does not necessarily advance individual human rights. Dunne points out that progressive English School theorists recognize the link between human rights protection and promotion and international society.<sup>147</sup> The well-being of individuals as the primary actors in international society becomes paramount to the well-being of states. In international society, conflict is more easily avoided, rights are respected, and there is further incentive to uphold international agreements because states recognize that it is in their best interests to contribute to international order. As part of this, human rights, justice, and international law are essential to the maintenance of an international order that is in turn required for the survival and prosperity of the state.<sup>148</sup> Furthermore, implicit in the English School is not only the realist assumption of shared and objective common interests within a society, but also a recognition that there are certain human interests that are shared internationally, regardless of state frontiers. To reiterate, human rights are pursued because of their contribution to the preservation of a legitimate international order.<sup>149</sup>

Coined by former Australian Foreign Minister Gareth Evans, the term ‘good international citizenship’ recognizes that national interest and human rights do not need to be mutually exclusive, but also dismisses utopian appeals to shared morality.<sup>150</sup> Canada, like Australia, is a middle power with limited military capacity, and therefore has “a long-term security interest in promoting rule-governed international order.”<sup>151</sup> Multilateral cooperation and international monitoring become part of “another viewpoint

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<sup>147</sup> Timothy Dunne, “International Society: Theoretical Promises Fulfilled?” *Cooperation and Conflict* 30.2 (1995): 143.

<sup>148</sup> Scott Burchill, *The National Interest in International Relations*, 158-159.

<sup>149</sup> *Ibid*, 183.

<sup>150</sup> Nicholas J. Wheeler and Tim Dunne, “Good International Citizenship: A Third Way for British Foreign Policy,” *International Affairs* 74.4 (1998): 848.

<sup>151</sup> *Ibid*, 855.

which argues for a mutual interdependence between the provision of national security, the strengthening of international order, and the promotion of human rights.”<sup>152</sup> Middle powers such as Canada can benefit from a concept that promotes cooperation through adherence to common interests and respect for international order. Human rights become a tool to achieve this. Good governance at home and abroad translates into respect for human rights, and human rights become a tool to achieve long-term national interests. The English School, and especially the solidarist strain of the School, provides the necessary theoretical foundations within which to base this principle.

### ***The Debate: Values versus Interests in a Human Rights Foreign Policy***

For the conventional realist, human rights have no real place in foreign policy and are subordinate to other components of the national interest. In an anarchical world system, the realist is only concerned with the augmentation of the state’s power; to act otherwise would leave the state vulnerable to the ambitions of other states. Morgenthau explains the realist’s rejection of human rights, expressing, “the principle of the defense of human rights cannot be consistently applied in foreign policy because it can and must come in conflict with other interests that may be more important than the defense of human rights in a particular circumstance.”<sup>153</sup> The realist considers that amorality or immorality is sometimes a requisite of international relations and judges it dangerous to elevate human rights to the same level as other foreign policy interests.<sup>154</sup> Human rights, if not a folly, are generally thought to be too idealistic and too utopian to be considered part of the unregulated and unrestrained international system.

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<sup>152</sup> Ibid, 854.

<sup>153</sup> Hans Morgenthau, *Human Rights and Foreign Policy* (New York: Council on Religion and International Affairs, 1979), 7, quoted in Donnelly, *Universal Human Rights in Theory and Practice*, 156.

<sup>154</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 156.

The constructivist conception of human rights in foreign policy is much more nuanced than that of the realists. The constructivist school proposes that human rights have evolved into a social fact that exists because of human agreement and that the actions of a state are strongly influenced by human rights norms and ideas.<sup>155</sup> Donnelly suggests that one of the primary reasons that human rights are included in a state's foreign policy is that human rights are considered part of that state's national identity.<sup>156</sup> Donnelly considers that moral interests such as human rights are no more outlandish than traditional interests of foreign policy such as economic and security interests.<sup>157</sup> For Martha Finnemore and Kathryn Sikkink, human rights have been institutionalized as a norm within international relations; human rights are considered as part of foreign policy because it no longer is acceptable not to consider them.<sup>158</sup> For constructivists, human rights ought to be considered within foreign policy because human rights have evolved to become an intrinsic aspect of a functional society. Human rights are perceived to be a value and should therefore be part of the international self-expression of the state.

Scholars such as Welsh, Donnelly, and Pratt who advocate for a values-based foreign policy concede that pragmatism and values can converge. Evoking the English School, Welsh writes that changes in the international system have necessitated a broadening of national interests that includes recognizing that countries now share interests more than ever before.<sup>159</sup> Former UN Secretary General Kofi Annan called for such a reconceptualization of national interests when he wrote in 1999 that, "a new

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<sup>155</sup> Daniel Mader, "Fate, Will, and Forecasting," *International Journal* 62.2 (2007): 282.

<sup>156</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 159.

<sup>157</sup> *Ibid.*, 168-169.

<sup>158</sup> Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52.4 (1998): 887-917.

<sup>159</sup> Jennifer Welsh, "Reality and Canadian Foreign Policy," in *Canada Among Nations 2005*, 38.



broader definition of national interest is needed in the new century, which would induce states to find greater utility in the pursuit of common goals and values.”<sup>160</sup>

An amalgam of national interests and values in which human rights is considered to be a tool towards national interest goals is precisely what William Schulz of Amnesty International USA advocates when he stresses that “defending human rights is a prerequisite to protecting that interest.”<sup>161</sup> Schulz goes on to call for a “more expansive, sophisticated, comprehensive form of [realism] – a new realism.”<sup>162</sup> William Thornton claims that a “new moral realism” is emerging that recognizes the benefits of correlating domestic moral values with foreign policy and of seeking stability and development through the promotion of human rights.<sup>163</sup> Forsythe explains that if human rights could be linked to self-interest, or if human rights do not interfere with self interest, it becomes possible to build a political response to a human rights violation.<sup>164</sup> Similarly to Nossal, he laments the flimsy politics behind strong international human rights rhetoric.<sup>165</sup>

What is lacking in most analyses of human rights foreign policy is a certain amount of political imagination. Such imagination could envision a foreign policy that does not subordinate human rights to security, economic, or other interests because policy-makers understand that they are mutually inclusive concepts that serve to support each other. Forsythe, who describes himself as a “pragmatic liberal,”<sup>166</sup> touches on this when he expresses what he considers to be the “fundamental challenge” of reconciling a

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<sup>160</sup> Kofi Annan, “Two Concepts of Sovereignty,” *The Economist*, 18 September 1999, 49-50.

<sup>161</sup> William F. Schulz, *In Our Own Best Interest: How Defending Human Rights Benefits Us All* (Boston: Beacon Press, 2001), 13.

<sup>162</sup> *Ibid.*

<sup>163</sup> William H. Thornton, “Back to Basics: Human Rights and Power Politics in the New Moral Realism,” *International Journal of Politics, Culture, and Society* 14.2 (2000): 234.

<sup>164</sup> David Forsythe, *Human Rights in International Relations*, 162.

<sup>165</sup> *Ibid.*, 252.

<sup>166</sup> *Ibid.*, 262.

liberal international human rights framework with the realist principles typically found in a state's foreign policy that deem human rights in foreign policy to be quixotic.<sup>167</sup> Framing human rights as moral obligation or political value within foreign policy, as constructivists tend to, marginalizes and devalues the potential of a state's international human rights policy.

Schulz's appeal for a 'new realism' relates to the work of Micheline Ishay, a colleague of Donnelly's. She suggests that commitments to human rights ought to be considered critical in any long-term security strategy. National security and human rights are not mutually exclusive; rather, human rights and other forms of global justice represent the only way towards achieving national security.<sup>168</sup> Human rights, traditionally considered by realists to be marginal, become critical to advancing national interest. Ishay proposes a modern "new realist human rights agenda" that,

recogniz[es] the legitimacy of core national security concerns, seize[s] human rights opportunities amid great power politics, reevaluat[es] the appropriate means towards human rights ends, reassess[es] the limit to imposing human rights from outside, and confront[s] the overall need for a new human rights realism in our globalized economy.<sup>169</sup>

It is the responsibility of the advocates for international human rights to frame issues that it may consider ethical within the prism of *realpolitik* and offer innovative recommendations for ensuring that a human rights agenda within foreign policy is viable. Although unintended, Ishay's proposal is a fitting response to Ian Smillie, who expresses

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<sup>167</sup> Ibid, 152.

<sup>168</sup> Schulz, *In Our Own Best Interest*, 6.

<sup>169</sup> Micheline Ishay, *The History of Human Rights*, 289.

concern that while human rights have become increasingly prominent within government rhetoric, their application has become limited by realpolitik.<sup>170</sup>

Thus, a nexus emerges between Eayrs' early Canadian practical idealism, Forsythe's pragmatic liberalism, Nossal's liberal realism, and Ishay's new realist human rights agenda in which a new approach rooted in the rationalist principles of the English School towards the inclusion of human rights in foreign policy becomes clear. Separating human rights from morality and advancing an interests-based approach to human rights in foreign policy entrenches human rights within foreign policy norms. The removal of quixotic references to human rights in foreign policy and the development of a new emphasis on a national interests-foreign policy framework present an opportunity for the human rights community to better promote and protect human rights. Although morality-based approaches can motivate and inspire, advancing interest-based approaches supported by appropriate resources can produce results. The example of Canadian engagement in Afghanistan will demonstrate that Canadian human rights policy is more likely to be successful in cases in which it is motivated primarily by national interests and that a universal human rights agenda can advance Canadian national interests.

It is undeniable that "human rights will occupy a central role only if the molders of foreign policy are persuaded that a focus on human rights goals advances our national interest."<sup>171</sup> Although a limited sample is used here, the case study of Afghanistan will demonstrate that there is much merit to the suggestion that the robustness of human rights policy within Canada's foreign policy is correlated to national interest. Thus, when

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<sup>170</sup> Ian Smillie, "Boy Scouts and Fearful Angels," in *Exporting Good Governance*, 70.

<sup>171</sup> Jerome Shestack, "Human Rights, the National Interest, and U. S. Foreign Policy," *Annals of the American Academy of Political and Social Science* 506 (1989): 20.

human rights are framed within the context of national interests they become vital to the foreign policy-maker and central within foreign policy discourse.

The promotion and protection of human rights in foreign policy advances national interests by allowing a state to be relevant and influential within global human rights discourse; to further security interests by promoting international order, peace, and stability; to enforce a just world order in which international cooperation based on shared aspirations occurs; and to garner the support of a state's citizenry.<sup>172</sup> New bilateral and multilateral relationships are forged. The promotion of human rights abroad could generate further common bonds within Canada as Canadians collectively support and rally behind Canada's international actions, as well as internationally through new partnerships. Thus, with the necessary political imagination, Canada's national interests as defined above are reflected via the protection and promotion of human rights within Canadian foreign policy, whereby policy-makers understand that traditional foreign policy interests are not subordinate to human rights interests but instead they are mutually inclusive concepts that serve to support each other.

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<sup>172</sup> Ibid.

### **3. A Case Study: Human Rights and Canada's Engagement in Afghanistan**

This chapter will apply the concept of a human rights foreign policy grounded in the principles of the English School to Canada's participation in the NATO mission in Afghanistan, in order to make the case for a human rights approach to Canadian foreign policy.<sup>173</sup> The objective here is to demonstrate how the kind of human rights approach described in the last chapter could help Canada achieve its national interest ends. To do so, this section will begin by providing an overview of Canada's engagement in Afghanistan, exploring what Canada hopes to accomplish there and how Canada intends to realize its goals. It will then ask how human rights have factored into the mission, paying particular attention to the ways in which human rights have been institutionalized in Afghanistan since the fall of the Taliban regime in 2001 and emphasizing the prioritization of those human rights that are most important to Afghans. Finally, this thesis will demonstrate how a human rights approach could help Canada achieve its objectives in Afghanistan; first by looking at Canada's specific priorities there and continuing to examine Canada's objectives in the NATO mission, as one of 42 participants. In the final section, the benchmarks of legitimacy, cooperation, and shared risk/decreased burden will be applied to demonstrate that a human rights approach can benefit international order, international society, and Canada's national interest. The aim

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<sup>173</sup> NATO is in Afghanistan to "assist the Afghan Government in exercising and extending its authority and influence across the country, paving the way for reconstruction and effective governance." "It does this predominately through its UN-mandated International Security Assistance Force (ISAF), which is assisting the Afghan authorities in providing security and stability and creating the conditions for reconstruction and development." (NATO, NATO's Role in Afghanistan, [http://www.nato.int/cps/en/natolive/topics\\_8189.htm#mandate](http://www.nato.int/cps/en/natolive/topics_8189.htm#mandate).)

here is to set the bar high to provide a coherent and logical framework for including human rights in foreign policy.

### ***Overview of Canada's Engagement in Afghanistan***

Canada's participation in the NATO mission in Afghanistan represents Canada's largest and costliest foreign policy priority. Canada has invested billions of dollars, thousands of soldiers, and the attention of several government departments. It is Canada's largest military undertaking since the Korean War and represents the chief recipient of Canadian official development assistance. The mission began as a defensive mission against a perceived international threat but now includes humanitarian justifications, leading to ambiguous rationalizations for Canada's engagement. Described in the first quarterly progress report tabled to Canada's Parliament in June 2008, the "ultimate aim [of the mission] is to leave Afghanistan to Afghans in a viable country that is better governed, more peaceful, and more secure."<sup>174</sup> According to the same report, Canada is also "helping to ensure that Afghanistan does not again become a base for terrorism directed at North America."<sup>175</sup>

Although Canada's approach to Afghanistan lacks an overarching vision and there remains considerable ambiguity concerning its goals, six priorities have been developed for Canada's engagement. For the period of 2008 to 2011, when Canada is scheduled to withdraw its troops, the priorities are as follows,

- 1) enable the Afghan National Security Forces (ANSF) in Kandahar to sustain a safer environment and promote law and order;
- 2) strengthen Afghan institutional capacity to deliver basic services;

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<sup>174</sup> Canada, "Canada's Engagement in Afghanistan: Setting a Course to 2011," (First Quarterly Report) June 2008. Released on 10 June 2008, 3. [http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/Afghrep\\_en.pdf](http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/Afghrep_en.pdf).

<sup>175</sup> Ibid, i.

- 3) provide humanitarian aid to the most vulnerable people;
- 4) enhance border security with facilitation of Afghan-Pakistani dialogue;
- 5) help advance Afghanistan's democratic governance;
- 6) facilitate Afghan-led political reconciliation...<sup>176</sup>

These priorities were developed to conflate with the Afghanistan Compact, which attempts to provide a strategic framework by identifying 1) security; 2) governance, rule of law and human rights; and 3) economic and social development, as three critical and interdependent areas of focus for activity until 2011. The first four priorities relate to the Kandahar region where the vast majority of Canada's military personnel are stationed, while the last two relate to all of Afghanistan.

Coinciding with the six priorities, Canada has also committed to three so-called signature projects. The first project involves repairing the Dahla Dam, which would provide a critical irrigation system for the Kandahar region. Canada has pledged approximately \$50 million to this project; however, the work seems to be progressing more slowly than anticipated.<sup>177</sup> For the second project, Canada has committed approximately \$12 million to building fifty schools in Kandahar Province and assisting to build the capacity of the Ministry of Education. As of June 2009, Canada had completed five schools and 25 more were underway. Despite Canada's efforts, reports suggest that insecurity and threats in the south of Afghanistan have forced the Ministry of Education

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<sup>176</sup> Canada. "Canada's Engagement in Afghanistan: Report to Parliament," (Fourth Quarterly Report) March 2009. Released on 3 June 2009, 4. [http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/docs/r03\\_09\\_eng.pdf](http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/docs/r03_09_eng.pdf). Considering that the aim of the quarterly reports to Parliament is to better communicate the mission to Canadians, it is remarkable that the priorities articulated in the PDF version of this report use different language than the HTML version of the report. Different language is also used on the "Canada's Priorities" section of Canada's Engagement in Afghanistan website (available at [http://www.afghanistan.gc.ca/canada-afghanistan/priorities-priorites/index.aspx?menu\\_id=15&menu=L](http://www.afghanistan.gc.ca/canada-afghanistan/priorities-priorites/index.aspx?menu_id=15&menu=L)).

<sup>177</sup> Colin Perkel (CP), "Canada's \$50M Dahla Dam Project in Afghanistan Shows Few Signs of Life," *Guelph Mercury*, 29 May 2009, [http://news.guelphmercury.com/Wire/News\\_Wire/World/article/487944](http://news.guelphmercury.com/Wire/News_Wire/World/article/487944).

to close up to six hundred schools, affecting 300,000 students.<sup>178</sup> The third project aims to eradicate polio across Afghanistan by 2009, which entails an investment of \$60 million. This goal seems increasingly unattainable as five new cases of polio were reported in the fourth quarterly report, in addition to the 31 new cases reported in 2008.

Canada's priorities frame the activities of the Afghanistan Task Force, situated in the Privy Council Office, which develops Canada's Afghanistan policies and works towards an integrated approach to Afghanistan. It also supports the work of the Cabinet Committee on Afghanistan, which considers diplomatic, defence, development and security issues related to Afghanistan.<sup>179</sup> These groups are shored up by personnel at the Department of National Defence (DND), the Department of Foreign Affairs and International Trade (DFAIT), and the Canadian International Development Agency (CIDA). This work is complemented by Standing Committees in both the House of Commons and the Senate, as well as by a Special Committee on the Canadian Mission in Afghanistan. These organizations and committees are meant to be illustrative of a coordinated, integrated, WoG approach, as advocated by the Organization for Economic Cooperation and Development (OECD).<sup>180</sup>

Each department involved in Canada's engagement in Afghanistan has its own focus, though it is sometimes difficult to ascertain which department is responsible for what. DFAIT, where the Afghanistan Task Force was originally housed, is responsible for maintaining Canada's embassy in Kabul and other offices in Kandahar. Canada

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<sup>178</sup> Canadian Council for International Cooperation, "Aid in the Crosshairs: Civil-Military Relations in Afghanistan," CCIC Briefing Note, April 2009," 4.

<sup>179</sup> The Committee includes the Ministers of International Trade, International Cooperation, National Defence, Foreign Affairs, and Public Safety.

<sup>180</sup> Organization for Economic Cooperation and Development, "Whole of Government Approaches to Fragile States," 2006, available at <http://www.oecd.org/dataoecd/15/24/37826256.pdf>.



opened its embassy in 2003, where it hosted “energetic and influential counsel to the highest levels of the Afghan government.”<sup>181</sup> There is much evidence to suggest that the current Canadian government prioritizes defence over diplomacy for politically-motivated reasons, none more obvious than recent budgetary numbers. What this means for Canada’s mission in Afghanistan is certainly an area for further exploration.<sup>182</sup>

The size of DND’s budget corresponds with the size of the military venture in Afghanistan. The Canadian Forces operate as part of Operation Athena in which the Joint Task Force Afghanistan (JTF-Afg) conducts operations. Approximately 2,800 Canadian personnel are stationed in Kabul and Kandahar Province, most of whom are deployed in the south. Task Force Kandahar includes a Battle Group that conducts counterinsurgency and other security operations; soldiers and military police of the Operational Mentor and Liaison Team (OMLT), which assists the Afghan National Army (ANA); and the Kandahar Provincial Reconstruction Team (K-PRT). The K-PRT, for which Canada has been responsible since 2005, includes 330 experts in diplomacy, corrections, development, policing, and the military. It supports key projects such as police training and strengthening local governing capacity.<sup>183</sup>

CIDA contributes to development projects that support basic services such as education and economic growth, humanitarian assistance, and national institutions. The most recent information posted on the CIDA website notes that it spent approximately \$280 million in the fiscal year of 2007-2008, making Afghanistan Canada’s largest

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<sup>181</sup> Geoffrey Hayes, “Canada in Afghanistan: Assessing the Numbers,” in *Afghanistan: Transition Under Threat*, eds. Geoffrey Hayes and Mark Sedra (Waterloo: Wilfrid Laurier Press, 2008), 285.

<sup>182</sup> See, for example, Janice Gross Stein and Eugene Lang, *The Unexpected War – Canada in Kandahar* (Toronto: Viking Canada, 2007) for a thorough description of DFAIT’s shortcomings on the Afghanistan file.

<sup>183</sup> Canada, “Canadian Forces Operations,” Canada’s Engagement in Afghanistan, Date modified 8 July 2009, [http://www.afghanistan.gc.ca/canada-afghanistan/approach-approche/cfo-ofc.aspx?menu\\_id=66&menu=L](http://www.afghanistan.gc.ca/canada-afghanistan/approach-approche/cfo-ofc.aspx?menu_id=66&menu=L).

bilateral donor recipient.<sup>184</sup> Programs such as the Kandahar Local Initiatives Program, which works on small-scale local priority projects, and the National Solidarity Program, which is the Government of Afghanistan's flagship program for community development, are part of CIDA's contributions.

In June 2009, the Government of Canada tabled its fourth quarterly report to Parliament, in which it analyzed progress in the six aforementioned priorities. This report conveys some positive developments in the areas of the training and infrastructure projects within the justice sector (p. 17), the capacity of the regional hospital in Kandahar (p. 22), and progress towards voter registration goals (p. 26). However, it also notes that the security situation continues to decline, resulting in higher levels of violence than any other winter quarter (p. 2). Not only is the security situation continually degenerating, people in the Kandahar region where most Canadians are stationed feel more insecure, further undermining the international mission and the legitimacy of the Afghan government (p. 3). Political reconciliation in Afghanistan still appears to be fantasy (p.11), while government capacity to deliver development programs declined (p. 26).

Beyond the areas in which Canada has not achieved its benchmarks, there are also considerable concerns associated with the WoG approach that guides Canada's actions in Afghanistan. Afghanistan represents the first opportunity for the implementation of this type of WoG approach, which originated with the American military concept of a three-block-war that simultaneously involves combat, diplomacy, and development in an overall effort to win the 'hearts and minds' of the population. Concurrent with OECD-Development Assistance Committee (DAC) "Principles for Good International

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<sup>184</sup> Canadian International Development Agency, "Afghanistan: Funding," Last modified 15 May 2009. <http://www.acdi-cida.gc.ca/CIDAWEB/acdicida.nsf/En/JUD-12514411-QD6>.

Engagement in Fragile States and Situations” and the areas of activity of the Afghanistan Compact, Canada aims to implement the kind of comprehensive strategies to state failure inspired by the three-block war concept that involve not only DND, DFAIT, and CIDA, but also other government departments, such as Canada Border Services Agency and the Royal Canadian Mounted Police, as well as non-governmental organizations, private actors, diaspora communities, and academics. This integrated approach recognizes that violence, poverty, political instability, and conflict affect and feed off each other and cannot be considered in isolation.

However, there has been a distinct failure to develop a coherent approach to Afghanistan. The best demonstration of this is the lack of cooperation between the Canadian military and civilians with regards to balancing development and security. The tension between military and civilian objectives is a result of unclear overall objectives for Canada, confusing public sentiment on the part of the government, and contradictory interpretations of priorities among Canadian actors. Such confusion has been made worse by the deteriorating security situation and the inability of development workers to safely and effectively deliver humanitarian assistance, which raises questions about the tensions between security and the realization of basic rights. With the worsening security situation and the large percentage of funding that the military receives, there is concern that Canada’s participation in the mission is becoming ‘one big D’ – defence. In these circumstances, human rights are marginalized because they are considered mutually exclusive from other pressing needs, which limits their utility in Afghanistan.

## ***The Role of Human Rights in Canada's Engagement in Afghanistan***

Within this quagmire, where little progress has been observed and the chances of success are becoming more remote, a human rights approach to Canadian policy in Afghanistan offers the opportunity more readily to realize Canadian goals in the region, as well as to assist Afghans in achieving a domestic human rights culture that respects, promotes, and protects human rights. Such an approach would integrate human rights discourse into policy considerations as a tool within a broad arsenal. Using the universalist foundations of human rights already discussed, such an approach could highlight the shared interests between Afghanistan and the other states engaged in the region, as well as strengthen the international consensus on human rights. An examination of the way human rights have been institutionalized in Afghanistan, the human rights situation on the ground, and the perspective of human rights held by ordinary Afghans must be considered prior to an analysis of how a human rights approach might benefit Afghanistan. Using this background, the way in which a human rights approach in Afghanistan might help achieve Canada's goals will be considered in the following sections.

### **Institutionalization of Human Rights in Afghanistan**

Although international human rights are institutionalized in Afghan law, they are not necessarily applied or implemented at the societal level. Human rights objectives have been included in the rebuilding of Afghanistan since the fall of the Taliban regime. They were included in the Bonn Agreement of December 2001 between international representatives and Afghan leaders, which attempted to establish the foundations for a post-Taliban Afghanistan and specifically requires the Afghan government to respect

human rights. Rights are also institutionalized through international human rights agreements, the 2003 Afghanistan Constitution, the Afghanistan Independent Human Rights Commission, the 2006 Afghanistan Compact, and the 2008 Afghanistan National Development Strategy.

Afghanistan has ratified the International Covenants on Economic, Social, and Cultural Rights and Civil and Political Rights, as well as the Conventions on the Rights of the Child, the Elimination of All Forms of Violence against Women, the Elimination of All Forms of Racial Discrimination, against Torture, and the two Optional Protocols of the Convention of the Rights of the Child. Yet their efficacy is limited and, as Afghanistan recognized in the most recent round of UN Human Rights Council Universal Periodic Review, reporting mechanisms have been sporadic and in most cases, have not occurred in years, if not decades.<sup>185</sup>

The 2003 Afghanistan Constitution explicitly provides for the promotion and protection of human rights. The protection of human rights and respect for the Universal Declaration of Human Rights are mentioned in the preamble, and articles six and seven respectively. Article 58 provides for the establishment of the Afghanistan Independent Human Rights Commission, which one scholar describes as a relatively high-profile and effective mechanism for promoting and protecting human rights.<sup>186</sup> Among many others, there are provisions for equality (through not specifically mentioning equality between men and women), health care, education, the right to life, a legal trial, and freedom from torture.

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<sup>185</sup> Afghanistan, National Report to the United Nations Human Rights Council, Working Group on the Universal Periodic Review, Fifth session, Geneva, 4-15 May 2009, A/HRC/WG.6/5/AFG/1 (24 February 2009), [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/AF/A\\_HRC\\_WG6\\_5\\_AFG\\_1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/AF/A_HRC_WG6_5_AFG_1_E.pdf).

<sup>186</sup> Leanne M. Smith, "Implementing International Human Rights Law in Post Conflict Settings - Backlash without Buy-In: Lessons from Afghanistan," *Muslim World Journal of Human Rights* 5.1 (2008): 6.

However, there is a kind of caveat to these provisions; article three of the Constitution states that, “In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution” and article 120 states that in cases that are not already considered by the Constitution or the penal code, the courts must defer to Sharia Law.<sup>187</sup> Thus, the human rights articulated in the Constitution may be open to radical interpretation based on an extreme view of the provisions of Islam. International Crisis Group notes that the Constitution “provides no clarity on resolving conflicts between international human rights law and Islamic law, for example, on disparities between men and women under Sharia with regard to inheritance rights and court testimony.”<sup>188</sup> The 2006 case of Abdul Rahman, who was sentenced to the death penalty for converting from Islam to Christianity but was eventually granted asylum in Italy, is a primary example of the application of article 3.

The 2006 Afghanistan Compact, another agreement between the international community and the Afghan government, also includes human rights terms. As mentioned, the Compact “identifies three critical and interdependent areas or pillars of activity for the five years from the adoption of this Compact: 1) security; 2) governance, rule of law and human rights; and 3) economic and social development.”<sup>189</sup> The Compact is meant to be implemented under the framework of the 2008 Afghan National Development Strategy (ANDS), which is Afghanistan’s poverty reduction strategy. The

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<sup>187</sup> Afghanistan Constitution, 2003.

(<http://unama.unmissions.org/LinkClick.aspx?link=Elections+2009%2FConstitution-Afghanistan.pdf&tabid=1975&mid=2398>) and U.S. Department of State “2008 Human Rights Report: Afghanistan,” 25 February 2009 (<http://www.state.gov/g/drl/rls/hrrpt/2008/sca/119131.htm>).

<sup>188</sup> International Crisis Group, Afghanistan Briefing, “Afghanistan: The Constitutional Loyal Jirga,” Kabul/Brussels, 12 December 2003, 6.

[http://www.crisisgroup.org/library/documents/asia/2\\_afgh\\_the\\_constitutional\\_loya\\_jirga.pdf](http://www.crisisgroup.org/library/documents/asia/2_afgh_the_constitutional_loya_jirga.pdf).

<sup>189</sup> “Building on Success – The London Conference on Afghanistan: The Afghanistan Compact,” London, 31 January 2006 – 1 February 2006, <http://unama.unmissions.org/Portals/UNAMA/Documents/AfghanistanCompact-English.pdf>.

ANDS is meant to help guide international donor assistance and considers, among other issues, how human rights are to be protected and implemented.<sup>190</sup>

An Afghan-owned human rights agenda is critical. Several scholars in the field and non-governmental organizations warn against the effectiveness of a blanket approach to entrenching human rights in Afghanistan from the top down. They note that a grassroots strategy is required whereby “human rights are made relevant to the local population.”<sup>191</sup> Afghans should be able to prioritize what rights are important to them and to focus on promoting and protecting those rights that could improve their quotidian existence.<sup>192</sup> The daily experience of human rights, such as freedom from abuse, freedom from violence, and the ability to appear in public without shame, has been identified as the highest priority when attempting to develop a culture of human rights.<sup>193</sup> It is necessary to develop an inclusive and participatory dialogue to learn about the priorities of average Afghans and gather a clearer picture of what will likely work and not work there. As Bhikhu Parekh advocates, a human rights agenda must be based in open and cross-cultural dialogue.<sup>194</sup> It is crucial for analysis to be as inclusive and participatory as possible, so as to identify those changes that are most likely to ameliorate living

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<sup>190</sup> Islamic Republic of Afghanistan, “Afghanistan National Development Strategy, 2008-2013,” [http://www.ands.gov.af/ands/final\\_ands/src/final/Afghanistan%20National%20Development%20Strategy\\_eng.pdf](http://www.ands.gov.af/ands/final_ands/src/final/Afghanistan%20National%20Development%20Strategy_eng.pdf). Leanne Smith criticizes the way in which human rights are included in the ANDS, suggesting that rights are not considered crucial to all aspects of development, but rather are considered as a mutually exclusive from other sectors of reform (Smith, “Implementing International Human Rights Law...,” 10).

<sup>191</sup> Leanne Smith, “Implementing International Human Rights Law in Post Conflict Settings - Backlash without Buy-In: Lessons from Afghanistan,” 1.

<sup>192</sup> CCIC, “Part 3 of 3: Human Rights and ‘Fragile States’ Policy,” 3.

<sup>193</sup> *Ibid*, 4.

<sup>194</sup> Bhikhu Parekh, “Non-ethnocentric Universalism” in *Human Rights and Global Politics*, 136-149.

standards.<sup>195</sup> Such contextual assessments are necessary to develop realistic and feasible solutions to the significant social, economic, and political problems in Afghanistan.

To begin, Afghans from every demographic need to be made aware of their rights under Afghan law; human rights must be “given meaning through explanation, education, and publicity through a range of strategic mechanisms, from the village to the parliament.”<sup>196</sup> Although human rights have been somewhat institutionalized, it is only at a superficial level, as most Afghans are simply unaware of their rights. Indeed, as Leanne Smith points out, most international human rights treaties have yet to be translated into either of Afghanistan’s official languages, Dari and Pashtu.<sup>197</sup> Moreover, according to 2005 statistics, only 43 percent of the adult male population and 12.6 percent of the adult female population are literate.<sup>198</sup> (In Kandahar, a mere five percent of women and 22 percent of men are literate.<sup>199</sup>)

It is critical to emphasize in Afghanistan that human rights are not only a western preoccupation. A human rights approach to peacebuilding and statebuilding is not, to use one scholar’s expression, a “modern *mission civilisatrice*.”<sup>200</sup> The rights that are enshrined in Afghan law are not absolute but are instead subject to a degree of interpretation. The inclusion of human rights does not mean implementing Canadian, American, or other interpretations of human rights, but rather recognizing that “universal

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<sup>195</sup> Derek Evans, “Human Rights and State Fragility: Conceptual Foundations and Strategic Directions for State-Building,” *Journal of Human Rights Practice* 1.2 (2009): 200.

<sup>196</sup> Leanne Smith, “Implementing International Human Rights Law in Post Conflict Settings – Backlash without Buy-in: Lessons from Afghanistan,” 9.

<sup>197</sup> Ibid.

<sup>198</sup> United Nations Development Programme, “2007/2008 Human Development Report: Afghanistan,” [http://hdrstats.undp.org/en/countries/data\\_sheets/cty\\_ds\\_AFG.html](http://hdrstats.undp.org/en/countries/data_sheets/cty_ds_AFG.html).

<sup>199</sup> Canada, “Education in Afghanistan,” Canada’s Engagement in Afghanistan, Date modified 24 April 2009, [http://www.afghanistan.gc.ca/canada-afghanistan/multimedia/trans\\_2009\\_01\\_29.aspx](http://www.afghanistan.gc.ca/canada-afghanistan/multimedia/trans_2009_01_29.aspx).

<sup>200</sup> Roland Paris, “International Peacebuilding and the ‘Mission Civilisatrice’,” *Review of International Studies* 28.4 (2002): 637-656.



human rights, properly understood, leave considerable space for national, regional, cultural particularity and other forms of diversity and relativity.”<sup>201</sup> In order for such an approach to work, the Afghan government’s nascent sovereign authority to implement human rights must be encouraged.

Conflicts between human rights and Islamic law will certainly increase tensions in Afghanistan, but it is possible to prioritize rights in such a way that a human rights agenda is realized. As mentioned, education and awareness campaigns must extend to every stratum of society, from the rural labourer to the police officer to the politician to the judge. Working from An Na’im, the framework for a common culture of universal human rights exists, but cultural legitimacy in Afghanistan must be established through cross-cultural and internal dialogue.<sup>202</sup> For instance, An Na’im juxtaposes the right of freedom from cruel, inhumane, or degrading treatment with the Quranic punishment of amputating the right hand of a convicted thief. He determines that because of the religious importance of this punishment, its abolition is unlikely, but much could be done to limit its implementation. Although An Na’im’s suggestion that the religious moral standards of a society should determine the application of human rights poses problems,<sup>203</sup> this represents one example of a cross-cultural dialogue on human rights and illuminates one way to make human rights relevant to the population of Afghanistan.

### **The Status of Human Rights in Afghanistan**

Although progress has occurred in areas such as the return of refugees, child mortality rates, and school enrolment rates, the abysmal human rights situation in

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<sup>201</sup> Jack Donnelly, “The Relative Universality of Human Rights,” *Human Rights Quarterly* 29.2 (2007): 281.

<sup>202</sup> Abdullahi A. An Na’im, “Toward a Cross-Cultural Approach to Defining International Standards of Human Rights,” 21.

<sup>203</sup> *Ibid*, 32-37.

Afghanistan demonstrates the limits of institutionalization that stagnates at the political level.<sup>204</sup> The continuously deteriorating security situation taints every aspect of development. 2008 was the bloodiest year for civilian casualties in Afghanistan.<sup>205</sup> One hundred thirty-eight suicide attacks caused 373 deaths.<sup>206</sup> Insecurity has severely restricted mobility, particularly for non-governmental organizations and other international workers. Hundreds of schools and clinics have had to close to due violence. Politicians and reformers are often targeted for assassination by Taliban elements. In the Kandahar region, people feel more insecure, further undermining the international mission and the legitimacy of the Afghan government.<sup>207</sup> There are reports of militants using women and children as human shields. It is well-understood that the security situation is almost consistently worsening and it is clear that this prevents meaningful development from taking place.

#### HUMAN DEVELOPMENT

In 2007, Afghanistan ranked 174<sup>th</sup> out of 178 countries on the United Nations Human Development Index.<sup>208</sup> Although the Constitution provides for freedom from torture, freedom of religion, and freedom of speech, they are not respected in practice.

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<sup>204</sup> The following brief overview of the human rights situation is based on Canada's fourth quarterly report, "Canada's Engagement in Afghanistan: Report to Parliament," ([http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/docs/r03\\_09\\_eng.pdf](http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/docs/r03_09_eng.pdf)); the United States Department of State "2008 Human Rights Report on Afghanistan," (<http://www.state.gov/drl/rls/hrrpt/2008/sca/119131.htm>); the Amnesty International Report 2009 on Afghanistan, (<http://thereport.amnesty.org/en/regions/asia-pacific/afghanistan>); the 2009 Freedom House Report on Afghanistan, (<http://www.freedomhouse.org/template.cfm?page=22&country=7550&year=2009>); and the 2007 Afghanistan Human Development Report, (<http://hdr.undp.org/en/reports/nationalreports/asiathepacific/afghanistan/nhdr2007.pdf>).

<sup>205</sup> Amnesty International, "Amnesty International Report 2009: Afghanistan."

<sup>206</sup> Statistic for number of suicide bombings: United States Department of State "2008 Human Rights Report on Afghanistan," Section 1.g. Statistic for the number of deaths: the Amnesty International Report 2009 on Afghanistan.

<sup>207</sup> Canada, "Canada's Engagement in Afghanistan: Report to Parliament," (Third Quarterly Report) March 2009, 3, ([http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/docs/r03\\_09\\_eng.pdf](http://www.afghanistan.gc.ca/canada-afghanistan/assets/pdfs/docs/r03_09_eng.pdf)).

<sup>208</sup> United Nations Development Programme/Center for Policy and Human Development (Kabul University). "Afghanistan Human Development Report 2007," Islamabad: Army Press, 2007, 3, <http://hdr.undp.org/en/reports/nationalreports/asiathepacific/afghanistan/nhdr2007.pdf>.

Prisoners are routinely tortured and prison standards are poor. Journalists face intimidation and harassment, and fear reprisals. Religious minorities face persecution. As mentioned, no law can be contrary to Islam and conversion from Islam is punishable by death.

Thirty percent of the population faced famine at the beginning of the winter of 2008-2009<sup>209</sup> and there appears to be even less aid reaching Afghans outside of major centres.<sup>210</sup> More than two million school age children are not able to attend school and attendance is especially hard for girls. In November 2008, a group of girls on their way to school were sprayed with acid, badly injuring several of them.<sup>211</sup> Child abuse is endemic and sexual abuse of children widespread. Labour rights are few and according to UNICEF, there are more than one million working Afghan children under the age of 14. Afghanistan is also a source, transit point, and destination for human trafficking.

According to data reported in 2007, on the Gender Development Index Afghanistan ranked second last only to Niger. Women face disproportionate levels of violence and harassment, and women in public life are particularly threatened. Most women have little or no legal recourse. According to NGO reports, hundreds of thousands of women continue to suffer abuse at the hands of men and according to the NGO Womankind, 87% of women consider themselves to be victims of violence, half of which is sexual violence.<sup>212</sup> Women are not required to wear the burqa by federal law, but local authorities sometimes harass women regarding their appearance. Women are

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<sup>209</sup> Peter Goodspeed, "Afghanistan on the Brink of Famine, Aid Agency Warns," *The National Post*, 16 December 2008, A13.

<sup>210</sup> Rani Mullen, "Afghanistan in 2008: State Building at the Precipice," *Asian Survey* 49.1 (2009): 37.

<sup>211</sup> Canadian Broadcasting Corporation, "Hundreds of Afghan students stay home following acid attack," 13 November 2008, <http://www.cbc.ca/world/story/2008/11/13/afghan-attack.html>.

<sup>212</sup> United States Department of State "2008 Human Rights Report on Afghanistan," Section 5.

used to settle debts. Although rape is criminalized, rape by a spouse is not. Approximately forty to sixty percent of marriages are forced and almost sixty percent of brides are under the legal marrying age of 16. Women have little access to health and obstetrics services. In the 2007 UN Development Report, the maternal mortality rate is estimated at 1,600 per 100,000 live births, and in the remote district of Badakhshan, the rate was 6,500 per 100,000 live births, which is the highest rate ever recorded. Women are largely unaware of their rights, especially in the rural south.

#### GOOD GOVERNANCE

One of the most pressing concerns in Afghanistan is that the government does not have the appropriate level of administrative capacity to deliver good government.<sup>213</sup> Citizens lack confidence in formal justice institutions, leaving a serious deficit in legitimacy of the government. The problems associated with delivering aid noted by the Canadian government in its 2009 fourth quarter report on Afghanistan seem to be contributing to increasing disillusionment among Afghans both with their government and international aid agencies. Although the 2004 Presidential election was the first election in more than thirty years, problems remain with regard to the political framework, effective governance, and transparency. Among those elected in the 2005 National Assembly elections were warlords and officials associated with organized crime and human rights abuses. The August 2009 presidential election will likely be a seminal point in the state of democratic development.

The government has limited authority outside of Kabul. Corruption, nepotism, and cronyism remain almost unchecked, as there are insufficient monitoring mechanisms

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<sup>213</sup> Omar Zakhilwal and Jane Murphy Thomas, "Afghanistan: What Kind of Peace?" in *The Paradoxes of Peacebuilding Post 9/11*, ed. Stephen Baranyi (Vancouver: UBC Press, 2008), 150.

and little public accountability. Freedom House considers that corruption and waste in the government are the most pressing challenges to sustainable development and Afghanistan ranks 176<sup>th</sup> out of 180 countries on Transparency International's 2008 Corruption Perceptions Index.<sup>214</sup> Political reconciliation in Afghanistan still appears to be a pipedream, and the capacity of the government to deliver development programs continues to decline.

#### RULE OF LAW

The rule of law is severely lacking throughout Afghanistan. In May 2008, the UN special rapporteur on extrajudicial killings, Philip Alston, reported on security forces killing civilians with impunity and noted that extrajudicial killings of women are especially overlooked. Official impunity remains pervasive at all administrative levels. According to Amnesty International, the justice and security sectors do not have the personnel, infrastructure, and political will to protect and promote human rights and human rights violations occur with impunity.<sup>215</sup> Despite the priority the Afghan National Army (ANA) receives from the international community, it has only managed to develop one functioning brigade and has little overall capacity. It is implicated in human rights violations and corruption. Likely as a result of these deficiencies, according to Canada's fourth quarterly report, trust in the ANA declined slightly during this period.

The Afghanistan National Police (ANP) is handicapped by corruption, inadequate training, illiteracy, involvement in drug trafficking, ineffective bureaucracy, high levels of desertion, and a reputation for using excessive force. These problems are endemic throughout Afghanistan's public institutions and are indicative of the greater frustrations

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<sup>214</sup> Transparency International, "2008 Corruption Perceptions Index," [http://www.transparency.org/news\\_room/in\\_focus/2008/cpi2008/cpi\\_2008\\_table](http://www.transparency.org/news_room/in_focus/2008/cpi2008/cpi_2008_table).

<sup>215</sup> Amnesty International, "Amnesty International Report 2009: Afghanistan."

with building its state capacity. Although the law prohibits arbitrary detention and arrest, both are widespread. Police often detain women at their families' behest for allegedly disobeying the family wishes. The capacity of the ANP has only improved marginally in the past few years and there are no key districts where the majority of Kandaharis perceive an improvement in security, despite increased training programs and infrastructure projects.

The judicial branch of the Karzai government is considered to be the most corrupt ministry.<sup>216</sup> Despite the utter lack of due process and fair trial procedures, in 2008 the government executed 17 prisoners. Detention facilities fall far short of international standards. Traditional tribal councils continue to handle an estimated eighty percent of all disputes, especially in rural areas, and judges on the Supreme Court have religious rather than civil jurisprudence training.<sup>217</sup> Too little progress has been made on the twinned issues of capable and accountable Afghan security forces (the ANA and the ANP) and the need for an independent and competent judiciary, both of which are required for sustainable security and stability in Afghanistan.<sup>218</sup>

The disarmament process is undermined by programs executed by the United States, United Kingdom, and Canada to rearm informal militias as a counterinsurgency force. NATO forces continue to hand over detainees to Afghanistan's intelligence service, the National Directorate of Security, which violates human rights with impunity

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<sup>216</sup> Rani Mullen, "Afghanistan in 2008: State Building at the Precipice," 35.

<sup>217</sup> The social code that governs the majority Pashtuns, Pashtunwali, functions as an, "alternative form of social organization with an advanced conflict resolution mechanism that does not involve [western models and conceptions of justice]." Justice and responsibility are the focus of collective interaction, while freedom, honour, revenge, and chivalry are the primary individual values (Johnson and Mason, "No Sign until the Burst of Fire: Understanding the Pakistan-Afghanistan Frontier," 61).

<sup>218</sup> Mark Sedra, Anne-Marie Sánchez, and Andrew Schrumm, "The Way Forward in Afghanistan: A Report on the National Town Hall on Afghanistan," A joint publication of the Canadian International Council and The Centre for International Governance Innovation, April 2009, 10, [http://www.cigionline.org/sites/default/files/ATH-Report\\_web.pdf](http://www.cigionline.org/sites/default/files/ATH-Report_web.pdf).

and lacks transparency. Canada has been widely criticized for its track record of turning prisoners over to Afghan authorities, where they are subject to the abusive and tortuous practices of the Afghan police and military (discussed in detail later in this chapter).

### ***A Human Rights Approach in Afghanistan***

The incorporation of human rights in the peacebuilding and statebuilding exercise in Afghanistan is by no means simple. The inclusion of human rights into peacebuilding and statebuilding strategies in Afghanistan is congruent both with the kinds of “new realism” discussed earlier and with the OECD-DAC document “Principles for Good International Engagement in Fragile States and Situations,” which links human rights to accountability, legitimacy, and strategies to prevent fragility.<sup>219</sup> The Canadian Council for International Cooperation (CCIC) explains that a human rights approach to fragile states such as Afghanistan could provide,

provisions for transparency, accountability, and equal treatment...;...a basis for greater engagement between actors...;...a better understanding of the causes of fragility...;...strategies to mitigate the most adverse conditions...;...participation strategies to engage vulnerable groups; and strategies to curtail the abuse of power.<sup>220</sup>

Derek Evans goes further, suggesting that the link between human rights standards and the normative aspects of statebuilding can be as explicit as,

Defin[ing] the role and purpose of the state...; establish[ing] the core principles that guide the relations between the state as duty-bearer and the members of society as rights-holders...;...prescrib[ing] a framework of obligations or duties to shape the application of these principles through the functions of the

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<sup>219</sup> OECD, “Principles for Good International Engagement in Fragile States and Situations,” April 2007, <http://www.oecd.org/dataoecd/61/45/38368714.pdf>.

<sup>220</sup> CCIC, “Part 3 of 3: Human Rights and ‘Fragile States’ Policy,” 2.

state...;...provid[ing] a set of key analytical criteria to assist in identifying contextual priorities....<sup>221</sup>

Although this thesis does not make the case for human rights as the normative basis of states, Evans compellingly outlines the possibilities inherent in a human rights approach. These authors describe a list of tools that includes monitoring, quietly supporting civil society groups engaged in human rights issues, helping marginalized groups participate in dialogue and generally supporting open dialogue, setting international standards, offering technical assistance, and the kinds of diplomatic, economic, and military tools described earlier.

The literature on peacebuilding and statebuilding emphatically reiterates that prolonged external statebuilding produces a weak state. Although the international community must be aware that human rights cannot be forced from the top down, local ownership does not preclude learning from the experience of the international community. It is critical to emphasize that the Afghan government is ultimately accountable to Afghans, not to the international donor community. Scholars such as Oliver Richmond and Michael Pugh complain of a liberal one-size-fits-all approach to peacebuilding and statebuilding that leaves no room for alternative thinking.<sup>222</sup> A genuine human rights approach to statebuilding in Afghanistan could assist in alleviating those fears by providing an opportunity for the type of contextual analysis that could allow for a locally-driven process. By developing an inclusive and participatory dialogue about human rights and learning about the priorities of average Afghans, national and

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<sup>221</sup> Derek Evans, "Human Rights and State Fragility," 188.

<sup>222</sup> See, for example, Michael Pugh, "Normative Values and Economic Deficits in Post-Conflict Transformation," *International Journal* 62.3 (2007): 479-494; Michael Pugh, "Post-war Economies and the New York Dissensus," *Conflict, Security, and Development* 6.3 (2006): 269-289; Oliver Richmond, "Emancipatory Forms of Human Security and Liberal Peacebuilding," *International Journal* 62.3 (2007): 459-478.



international authorities will gather a clearer picture of what will likely work and not work there.

Using a framework employed in much of the peacebuilding literature, Evans outlines three principles upon which international actors should focus when implementing a human rights policy: ensuring protection and security to individuals and communities; supporting the development of a culture of democratic governance; and strengthening the capacity for equitable access to essential public services.<sup>223</sup> Canada can work to implement those human rights that are a priority for Afghans at the grassroots level by liaising with Afghan and international stakeholders to begin the process of promoting human rights in a way that resonates with ordinary Afghans.<sup>224</sup> While narrative correlation is not causation, there is the possibility that, “human rights provides a...framework for engaging the complex challenges of institutional development from above (legal standards), from below (social mobilization processes), and from within (accountability instruments).”<sup>225</sup>

Of course, it is possible that a Canadian human rights foreign policy could achieve very little in Afghanistan. Tensions will likely be exacerbated and conflict will likely occur. Human rights could be manipulated as a tool to advance many interests, probably from disparate groups and some of which are likely to conflict. Those who promote and protect human rights will probably find themselves in increasingly vulnerable positions. Afghans will likely suffer in order to implement a commitment to a

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<sup>223</sup> Derek Evans, “Human Rights and State Fragility,” 200.

<sup>224</sup> Leanne Smith, “Implementing International Human Rights Law in Post Conflict Settings - Backlash without Buy-In: Lessons from Afghanistan,” 13

<sup>225</sup> Peter Uvin, “The Emergence of the Human Rights-Based Approach to Development,” (Harvard: Conference PowerPoint Presentation, April 2006), quoted in Evans, “Human Rights and State Fragility,” 185.

human rights agenda. There is a moral dilemma implicit in this. Yet the possibilities inherent in a human rights approach to Canadian policy in Afghanistan suggest that Canada's role as a catalyst can ignite a process that will yield a stronger and healthier Afghan state, as well as a tool for achieving Canadian objectives.

### **Human Rights and Canadian Objectives in Afghanistan**

A human rights approach to Canadian policy in Afghanistan could provide an opportunity to refocus the structure of the mission there and provide sustainable and productive policy options. The International Security Assistance Force (ISAF) is responsible for helping to maintain a secure environment in which the Afghan government can operate. Over the past several years of intervention, the critiques and challenges surrounding the international mission have remained remarkably consistent. Despite the international effort, problems of legitimacy, Afghan-owned development, sustainability, security, and accountability are as pertinent in 2009 as they were in the early years of the mission. Using the previous discussion as a starting point, the following section will briefly demonstrate how a human rights approach could improve Canada's capacity to realize its stated six priorities in Afghanistan. Much could be accomplished from encouraging an open and participatory dialogue that includes marginalized and vulnerable groups. There is an element of imaginative creativity required for this type of exercise, but perhaps after nearly nine years of Canadian engagement in Afghanistan, political imagination is what is needed for sustainable progress.

1) ENABLE THE AFGHAN NATIONAL SECURITY FORCES IN KANDAHAR TO SUSTAIN A SAFER ENVIRONMENT AND PROMOTE LAW AND ORDER

The police represent an immediate method of establishing a local government presence and are required for establishing basic rule of law and “for overcoming the downward spiral in legitimacy.”<sup>226</sup> Several key scholars in the field suggest that supporting the ANP ought to be one of the primary priorities of international engagement,<sup>227</sup> yet Canada has reported consistently negative results in this area. These failures have occurred despite Canada’s \$99 million commitment for the period of 2008 to 2011 for training, mentoring, and equipping the ANA and the ANP; building capacity in administration and logistical support; and complementary initiatives in the justice and correctional systems to support activities of the ANP.<sup>228</sup> Such a lack of sustained progress suggests that there is considerable room to attempt to implement a new framework that centres on human rights within Canada’s strategy for achieving its first priority.

Canada’s involvement in training programs could provide an ideal opportunity to promote a culture of human rights within Afghan security forces. Reducing the number of human rights violations perpetrated by the ANA and ANP is plainly crucial. Fewer victims at the hands of security may increase the confidence Afghans have in their security forces, and in turn, in their government. Human rights abuses perpetrated by government security forces serve to further destabilize populations, undermining efforts

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<sup>226</sup> Marcus Skinner, “Counterinsurgency and State Building: an Assessment of the Role of the Afghan National Police,” *Democracy and Security* 4.3 (2008): 306.

<sup>227</sup> See Marcus Skinner, “Counterinsurgency and State Building: an Assessment of the Role of the Afghan National Police,”; Rani Mullen, “Afghanistan in 2008: State Building at the Precipice,”; and Seth Jones, “The Rise of Afghanistan’s Insurgency,” *International Security* 32.4 (2008).

<sup>228</sup> Canada, “Training and Mentoring the Afghan National Security Forces,” Canada’s Engagement in Afghanistan, Date modified 2 February 2009, [http://www.afghanistan.gc.ca/canada-afghanistan/priorities-priorites/secure.aspx?menu\\_id=45&menu=L](http://www.afghanistan.gc.ca/canada-afghanistan/priorities-priorites/secure.aspx?menu_id=45&menu=L).

to facilitate security and respect for rule of law. Impunity for such abuses suggests that there is no one who can be held accountable for violations, further alienating these government representatives from the general population. Furthermore, the implementation of a human rights agenda whereby the kinds of human rights discussed earlier are protected and promoted may have the additional effect of reducing need and vulnerability, which may in turn reduce lawlessness caused by desperation.

## 2) STRENGTHEN AFGHAN INSTITUTIONAL CAPACITY TO DELIVER BASIC SERVICES

Canada has pledged to help build the confidence of Afghans in their own government by enhancing the Afghan government's ability to provide basic services and improve the daily lives of Afghans. From 2008 to 2011, \$210 million has been allocated to this priority, which includes \$50 million for the Dahla Dam signature project and \$12 million for the schools signature project. Discouragingly, despite the size of this allocation, according to Canada's most recent quarterly report, the government's capacity to deliver development programs is actually declining.

Disparate international and Canadian roles have also had the detrimental effect of contributing to the delegitimation of the Afghan government. Although the Afghan government lacks the capacity, large-scale infrastructure and institution-building projects draped in the flags of NATO countries send a signal to Afghans that their government is unable to contribute to Afghanistan's development. However, corruption and mismanagement by Afghan authorities prevent resources from reaching their intended destinations and international donors become frustrated by the wasted funds and lack of progress. This is a complex problem of statebuilding, especially because in fragile states a social contract between the governed and the governing is absent, whereby society does

not trust the government to deliver basic public services and the government cannot deliver them. In other words, “legitimacy is what is lacking in fragile states.”<sup>229</sup>

A development focus that reinforces the legitimacy of the Afghan government could do much to repair the capacity and authority of the Afghan government.<sup>230</sup> Development projects must be done in partnership with the Government of Afghanistan in order to bolster its legitimacy but constructive management programs and anti-corruption mechanisms must ensure the just distribution of funds. In this case, a human rights approach would include provisions for accountability and transparency that could aid in the delivery of resources to where they are meant to go. The government would be accountable to its citizens, not just to international donors. Resources would be distributed without discrimination and needs would be assessed with the input of the greater population, perhaps serving to extend the influence of the central government beyond Kabul as well as instigating interaction with marginalized groups.

### 3) PROVIDE HUMANITARIAN AID TO THE MOST VULNERABLE PEOPLE

The provision of humanitarian aid entails a \$111 million commitment from 2008 to 2011 to provide food (distributed through the World Food Programme) and non-food aid to vulnerable populations, as well as offer vaccinations and facilitate landmine clearance and awareness. Included in this allocation is up to \$60 million for Canada’s struggling polio eradication signature project. It is clear that humanitarian assistance is necessary for the fulfilment of basic rights and may help alleviate some of the social causes of violence. Canada’s commitment to providing humanitarian assistance likely

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<sup>229</sup> CCIC, “Part 2 of 3: The Whole-of-Government Approach in Fragile States,” in Discussion Papers on *Failed States: Canadian Action in Conflict-Affected States*, December 2006, 4. ([http://www.ccic.ca/e/docs/002\\_peace\\_2006-12\\_failed\\_states\\_part\\_2.pdf](http://www.ccic.ca/e/docs/002_peace_2006-12_failed_states_part_2.pdf)).

<sup>230</sup> Mike Capstick, “Renewing Canada’s Afghan Mission,” *Policy Options* 29.4 (2008): 25.

means that it recognizes that a population struggling to survive is unable to positively participate in society.

Although presumably human rights principles are already part of Canada's motivation for providing humanitarian assistance, a thoroughly integrated human rights approach might begin to depoliticize the provision of aid. Despite Canadian guidelines on Civilian-Military Coordination, the security-first thinking of the mission means that Canadian Forces are now expected to engage in what used to be considered development work. As part of the strategy to 'win hearts and minds' in Afghanistan, the military wants to execute small-scale projects that provide immediate aid to communities and that are clearly associated with Canada's presence there. These projects include short-term emergency relief, engaging with local communities, working on infrastructure projects, and cooperating with development actors.<sup>231</sup> DND wants to ensure that Afghans are aware of Canada's investment in their country and is sometimes critical of CIDA for not helping to make the connection between Canada's military actions and its development and reconstruction efforts.<sup>232</sup> This strategy is frequently criticized for unfairly implicating neutral development and humanitarian aid workers in the military and therefore putting them at risk. Furthermore, Canadian Forces' involvement in development has sometimes had negative effects, especially when it is used as a tool to gather intelligence, is dangled as reward or withdrawn as punishment, or when it does not coordinate with other aid programs.<sup>233</sup>

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<sup>231</sup> Patrick Travers and Taylor Owen, "Between Metaphor and Strategy: Canada's Integrated Approach to Peacebuilding in Afghanistan," *International Journal* 63.3 (2008): 692.

<sup>232</sup> Col. M.P. Jorgensen, "A Strategy for Effective Peace-Building: Canada's Whole-of-Government Approach in Afghanistan," Prepared for Canadian Forces College: National Security Studies Programme 10, 20 May 2008, 29, available at <http://www.cfc.forces.gc.ca/papers/nssc/nssc10/jorgensen.pdf>.

<sup>233</sup> *Ibid.*, 8.

CIDA's emphasis on building state institutions works towards increasing the capacity of the Afghan government, something small-scale projects emblazoned with the Canadian flag cannot do. Communication between military and civilian actors is further compromised because while NGOs may be concerned about preserving their neutrality in the Afghan mission, the military is extremely careful about how its own intelligence is used.<sup>234</sup> Thus, development assistance is using a range of devices, which adds another layer of complication to an already complex approach. Recognizing that it is a fairly recent aspect of security operations, it seems evident that the military does not have the requisite knowledge to deliver aid effectively. Additionally, considering that maintaining control over regions rather than overcoming anti-government forces is the challenge, protecting human rights, providing humanitarian assistance and working with development agencies are especially important.<sup>235</sup>

Aid must be provided without discrimination and allocated based on contextual analysis of needs on the ground that considers all partners. A broader focus on human rights in the pursuit of this priority would take into account the daily needs of Afghans and permit aid to reach those who need it most. Furthermore, by limiting the immediate associations between defence and development, a human rights approach could allow aid and development workers more mobility to deliver aid.

#### 4) ENHANCE BORDER SECURITY WITH FACILITATION OF AFGHAN-PAKISTANI DIALOGUE

The strategic importance of border control cannot be understated. Most of the remaining Taliban fighters are located in frontier areas of Pakistan dominated by the

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<sup>234</sup> Patrick Travers and Taylor Owen, "Between Metaphor and Strategy: Canada's Integrated Approach to Peacebuilding in Afghanistan," 693.

<sup>235</sup> Mark Sedra, Anne-Marie Sánchez, and Andrew Schrumm, "The Way Forward in Afghanistan: A Report on the National Town Hall on Afghanistan," 10.

Pashtun ethnic group and pose a significant threat to security and stability in the region. These border regions have become a safe haven for Taliban and terrorist elements. Drug smuggling and other criminal activity, the growth of transnational terrorist networks, and refugee flows are among the issues that must be addressed when considering border security. Canada has allocated \$32 million for this priority, which is meant to foster a dialogue between Afghanistan and Pakistan, stimulate discussions with border officials from both sides, train border officials, and fund infrastructure and equipment. Thus far, little has been achieved.

Through the contextual analysis implicit in a human rights approach and by incorporating human rights into these initiatives, a more open and participatory dialogue may emerge through both demonstrations of cultural awareness and non-discriminatory practices. A human rights approach could stress less violent means of conflict resolution among moderate elements, and could include, for example, curtailing the use of airpower in the dangerous border regions, which demonstrates little regard for civilian populations and subverts counterinsurgency efforts.<sup>236</sup> It could stress the importance of the security of the people in the region, rather than traditional notions of security that focus on the state. Ideally, tensions would be reduced through an improved understanding of priorities and strategies in the region resulting from a human rights approach.

##### 5) HELP ADVANCE AFGHANISTAN'S DEMOCRATIC GOVERNANCE

The fifth of Canada's priorities concerns support for national institutions, to which Canada is providing up to \$355 million in funding for 2008-2011. Canada is concentrating its efforts on technical and financial support for elections, an independent

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<sup>236</sup> Thomas H. Johnson and M. Chris Mason, "No Sign until the Burst of Fire: Understanding the Pakistan-Afghanistan Frontier," *International Security* 32.4 (2008): 74.



national electoral commission, and providing technical and training support and equipment to certain national institutions and departments. A human rights approach to this objective would emphasize transparency and accountability in order to strengthen the social contract between the Afghan people and their government. Within a human rights approach, “State institutions are envisioned as being directed towards promoting, both domestically and internationally, an inclusive political and social environment characterized by tolerant multiculturalism.”<sup>237</sup> Such an approach could also recognize that free and fair elections are not enough. Although Canada, and specifically Elections Canada, Canada’s independent non-partisan electoral agency, can offer much support and guidance to the Afghan democratic process, Canada must recognize that democratic and governance institutions are part of a greater effort to improve the relations between the government and the governed, a task that is only beginning once the votes are tallied.<sup>238</sup>

There is the risk that democratic institutions in fragile states will foment tensions and thus lead to conflict, despite the goals of limiting the arbitrary exercise of power and providing a voice to the marginalized. It is widely recognized that politically and economically inclusive governance practices are required to mitigate this risk.<sup>239</sup> The links between democratic development and poverty reduction, made clear in numerous UNDP documents, suggest that,

...much of the helplessness and sense of powerlessness of poor people comes from the experience with corrupt, uncaring, inefficient officers and public authorities. Free and fair elections, a free and independent media, a

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<sup>237</sup> Derek Evans, “Human Rights and State Fragility,” 190.

<sup>238</sup> Timothy D. Sisk, “Pathways of the Political: Electoral Process after Civil War,” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, eds. Roland Paris and Timothy D. Sisk (London and New York: Routledge, 2009), 196.

<sup>239</sup> Gudrun Østby, “Horizontal Inequalities, Political Environment and Civil Conflict: Evidence From 55 Developing Countries,” Centre for Research on Inequality, Human Security and Ethnicity (CRISE). Working Paper No. 28, August 2006, 7. <http://www.crise.ox.ac.uk/pubs/workingpaper28.pdf>.

separation of powers, and encouragement of an open civil society are all important for poverty reduction.<sup>240</sup>

A human rights approach could encourage the kinds of freedoms essential for the development of effective and accountable public institutions, such as freedom of the press, association, expression, and so forth. It could also ensure that the voices of marginalized groups are heard and that civil society groups are able to act as accountability mechanisms. In a human rights approach good governance is democratic governance, which means that rights must be respected, protected, and promoted within all segments of the population.

#### 6) FACILITATE AFGHAN-LED POLITICAL RECONCILIATION

Canada rightly places political reconciliation among its six priorities, pledging to support the Government of Afghanistan's national reconciliation efforts with a \$14 million commitment from 2008 to 2011 to improve dialogue and the government's capacity to communicate with its citizens. This is another aspect where Canadian efforts have failed to produce any significant progress.<sup>241</sup> The international community has acknowledged that this kind of process requires open and participatory dialogue, but there remain serious knowledge gaps in cultural understanding. This is obviously only one obstacle among many. As this thesis has emphasized, a human rights approach requires contextual analysis, which could assist in determining causes of violence and perhaps allow for better communication with moderate elements of the insurgency.<sup>242</sup>

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<sup>240</sup> UNDP, *Poverty Reduction and Human Rights: A Practice Note*, June 2003, 16. Available at [http://www.undp.org/governance/docs/HRPN\\_\(poverty\)En.pdf](http://www.undp.org/governance/docs/HRPN_(poverty)En.pdf).

<sup>241</sup> Canada. "Canada's Engagement in Afghanistan: Report to Parliament," (Fourth Quarterly Report), 11.

<sup>242</sup> The Canadian government emphasizes its willingness only to cooperate with those who have renounced violence respect human rights and the rule of law, and accept the legitimacy of the Afghan government and the Afghan constitution. However, Michael O'Hanlon suggests that, "perhaps an insufficient political reconciliation process that fails to include various elements of the insurgency has only fuelled instability in the country" (143).

Political reconciliation cannot occur if dialogue excludes large portions of the population. Considerably less aid reaches those outside of the urban centres or those outside of regions where soldiers are stationed. For example, with regard to Canadian aid, Canada focuses fifty percent of its aid on the Kandahar region, which is criticized as creating, “a disproportionate level of aid to the south to the neglect of poor and vulnerable communities in central and northern regions.”<sup>243</sup> With regard to U.S. aid, since the 2001 invasion only five dollars in non-security related aid has actually reached the Pashtun people, per person, per year.<sup>244</sup> Reconciliation requires, at the very least, an acknowledgement and understanding of past abuses and an awareness of the concerns of all groups. A human rights approach could guide a dialogue that would be inclusive, participatory, open, productive, and nation-wide. Canada recognizes that this process must be driven by Afghans, but does not seem to grasp that only a few Afghans, some of whom are complicit in human rights violations, are driving the reconciliation process.

#### HUMAN RIGHTS: A FRESH APPROACH?

The point here is to further the argument that human rights are mutually inclusive and mutually supportive of other interests, and specifically, Canada’s national interests. There is certainly an element of idealism in these suggestions, but the objective is to present a fresh take on the inclusion of human rights in foreign policy and to substantiate the case for a Canadian human rights policy. In Afghanistan, a Canadian human rights foreign policy could allow for a more productive and effective Canadian contribution to the Afghan statebuilding and peacebuilding process. As explained, it could strengthen

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<sup>243</sup> Canadian Council for International Cooperation, “Aid in the Crosshairs: Civil-Military Relations in Afghanistan,” 9.

<sup>244</sup> Johnson and Mason, “No Sign until the Burst of Fire: Understanding the Pakistan-Afghanistan Frontier,” 74.

efforts to construct a functional relationship between Afghanistan and Afghans founded in accountability, sustainability, security, communication, and inclusion. If Canada hopes to affect change in Afghanistan before the scheduled 2011 troop withdrawal date, a serious change in Canada's approach is necessary.

### **Human Rights and Canada's Goals as Part of an International Mission**

A human rights policy in Afghanistan could not only help Canada better achieve its immediate national interests, it could also aid in the realization of its long-term national interests, as defined earlier using an English School perspective. For Canada, as a state with limited influence and capital in the international system, the indicators of legitimacy, cooperation, and shared risk/decreased burden are critical for Canada to attain its national interest of building a better [international] society in which to operate. However, it is challenging, if not impossible, to use positivist inquiry when exploring such elements of the English School. Measuring legitimacy, international cooperation, and shared risk/decreased burden could require a level of conceptual stretching that could detract from the efforts of this thesis. The next section will demonstrate how a human rights approach could yield Canadian national interests by bolstering Canadian legitimacy, Canada's international cooperation, and the opportunity to lessen the risk or burden of Canadian foreign policy. This section will provide the remaining building blocks required for a normative analysis of why human rights should be the decisive element of Canadian foreign policy beyond the moral humanitarian argument.

#### LEGITIMACY

Earlier in the thesis, legitimacy is defined as behaviour that is generally considered acceptable, where a consensus exists that the actions of a particular state are

tolerable within the realm of international society. Martin Wight wrote that international legitimacy is “the principles that prevail...within a *majority* of the states that form international society, as well as the relations *between* them.”<sup>245</sup> While admittedly an inherently unquantifiable concept, legitimacy, based on norms that are malleable and changeable, dictates the scope of actions a state is permitted to take without exacting punitive measures. Vincent succinctly proposes that human rights add to the legitimacy of the state, as well as consolidate it.<sup>246</sup>

Legitimacy evolves; as Neta Crawford states, “colonialism did not just fade away; it became illegitimate.”<sup>247</sup> In a similar vein, action that subverts the international consensus on human rights is now considered illegitimate. This is the case for both the state and international society. When human rights are inadequately implemented, the legitimacy of international society is undermined.<sup>248</sup> States that actively undermine the international consensus surrounding human rights should no longer be able to be considered members of international society for this very reason. Donnelly extends this sentiment to suggest that in the post-Cold War era, human rights have become a necessary condition of political legitimacy.<sup>249</sup>

Human rights are only part of an array of norms that constitute legitimacy,<sup>250</sup> but their evolution as an international norm forms part of the international consensus that makes up international society. Looking at Vincent’s work, Dunne explains how the

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<sup>245</sup> Martin Wight, *Systems of States*, ed. Hedley Bull (Leicester: Leicester University Press, 1977), 153, quoted in Linklater and Saganami, *The English School of International Relations* (Cambridge: Cambridge University Press, 2006), 138, note 33. (Emphasis is the authors’.)

<sup>246</sup> R. J. Vincent, “Human Rights and International Relations,” 151.

<sup>247</sup> Neta Crawford, *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention* (Cambridge: Cambridge University Press, 2002), 4, quoted in Clark, *International Legitimacy and World Society* (Oxford: Oxford University Press, 2007), 182.

<sup>248</sup> Julie Mertus, *Bait and Switch: Human Rights in U.S. Foreign Policy*, 11.

<sup>249</sup> Jack Donnelly, “Human Rights: A New Standard of Civilization?” *International Affairs* 74.1 (1998): 20.

<sup>250</sup> Ian Clark, *International Legitimacy and World Society*, 182.

thinking surrounding international society can evolve to modify conceptions of legitimacy to include elements previously sanctified to the sphere of domestic politics by norms of sovereignty and non-intervention.<sup>251</sup> International society, as aforementioned, is based on common interests and broad consensus. Thus, behaviour that aims to strengthen the international consensus surrounding human rights can be considered legitimate.

The focus here will be the legitimacy that derives from building and supporting the international consensus on human rights. This consensus is the foundation of international society and a prerequisite for the maintenance or strengthening of international order, already described as Canada's seminal national interest. Specifically for this section, the argument is that were Canadian engagement in Afghanistan predicated on a human rights foreign policy, Canada could more easily realize its national interest by increasing the legitimacy of its actions in Afghanistan through support of the international consensus on human rights. This is not to suggest that Canada's engagement in Afghanistan is publicly questioned by its NATO partners, but that the legitimacy of some aspects of the mission Afghanistan and the mission itself are doubted by certain international and domestic actors, which limits Canada's chances to realize its interests.

The by-products of legitimacy are extensive. Alison Brysk explains that, "...the intangible resource of legitimacy gained by a human rights foreign policy often delivers diffuse diplomatic rewards, like improved relations with transitional regimes, enhanced credibility, expanded coalitions, and transnational migration, education, and cooperation

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<sup>251</sup> Timothy Dunne, "International Society: Theoretical Promises Fulfilled?" 143.

ties that deliver real advantages...”<sup>252</sup> Canada could leverage its increased legitimacy in order to garner diplomatic capital, increased influence, expanded economic opportunities, and so forth. The Afghan detainee transfer scandal, briefly mentioned earlier in this work, will be employed to demonstrate one form of the relationship between legitimacy and a human rights approach. The example will be examined from the standpoint of the legitimacy of Canadian action on the international stage, as well as with regards to domestic public opinion.

In December 2005, then-Chief of Defence Staff of the Canadian Forces, General Rick Hillier signed a detainee transfer agreement with Afghanistan’s Defence Minister that mandated that all terrorism suspects and Taliban fighters captured by Canadian Forces in Afghanistan be turned over to the Afghan police or military, despite the accusations of abuse and torture levelled against Afghan authorities.<sup>253</sup> The agreement stipulated that the detainees would be treated in accordance with the Geneva Conventions, which forbid torture and inhumane treatment. Under the agreement, Canada was to inform the International Committee of the Red Cross of their transfer, but would not follow-up on the condition of the prisoners. In March 2007, former Canadian Minister of Defence Gordon O’Connor revealed that the Red Cross did not in fact inform Canadian officials of the treatment of Afghan prisoners, which contradicted previous claims by the Canadian government.

At this time, Amnesty International Canada and the British Columbia Civil Liberties Association filed a case against Canada in Canadian Federal Court demanding

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<sup>252</sup> Alison Brysk, *Global Good Samaritans*, 220.

<sup>253</sup> Unless stated otherwise, the following information on the detainee transfer scandal was obtained from an award-winning series of articles by Paul Koring in *The Globe and Mail* from February 2007 to May 2009.

an end to the transfer of Afghan detainees captured by Canadians to Afghan authorities. They unsuccessfully argued that this practice violated both Canada's Charter of Rights and Freedoms and Canada's international human rights obligations, although they claim that the judges ruling, which raised concerns over the treatment of detainees, sent a strong message.<sup>254</sup>

In April 2007, *The Globe and Mail* newspaper conducted thirty interviews with Afghans detained by Canadian soldiers and transferred to Afghan prisons; these prisoners claimed that they were badly abused and mistreated.<sup>255</sup> Following these revelations, the Canadian government announced a new agreement that allowed Canadian officials to access Afghan jails and exercise more control over the treatment of detainees. Despite the new agreement, allegations of torture of prisoners at the hands of Afghan authorities continued until Canada quietly decided to stop transferring prisoners into Afghan custody in January 2008. Only a few weeks later, on 29 February 2008, Amnesty International Canada reported that Canada had resumed the transfer.<sup>256</sup> It was later revealed that the Government of Canada was also aware that the Governor of Kandahar had been implicated in the abuse of prisoners. Canadian Forces were also dogged by allegations that they themselves had mistreated Afghan prisoners, although an April 2009 report by

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<sup>254</sup> B.C. Civil Liberties Association, "Amnesty International Canada and British Columbia Civil Liberties Association v. Chief of Defence Staff for the Canadian Armed Forces, et al.," <http://www.bccla.org/antiterrorissue/afghan.htm>.

<sup>255</sup> Daniel Leblanc, Campbell Clark, and Graeme Smith, "Prisoners in Afghanistan: The Tories' Changing Story," *The Globe and Mail*, 27 April 2007, A1.

<sup>256</sup> Amnesty International (Canada), "Canada/Afghanistan: Detainee Transfers Resume," 29 February 2008, [http://www.amnesty.ca/take\\_action/actions/canada\\_afghan\\_detainee\\_transfers.php](http://www.amnesty.ca/take_action/actions/canada_afghan_detainee_transfers.php).



the Military Police Complaints Commission concluded that these allegations were largely unfounded.<sup>257</sup>

In May 2009, the Supreme Court of Canada refused to consider an appeal from Amnesty International Canada and the B.C. Civil Liberties Association. Following the ruling, a lawyer for the groups, Paul Champ said, “Canada is now dead last on this issue...Just about every other democratic country has affirmed that military detainees held on foreign soil have human-rights protections in their domestic courts, including the U.S.”<sup>258</sup>

Such an indictment of Canadian foreign policy presents an obvious challenge to the legitimacy of Canadian action. From an international perspective, Canadian legitimacy was challenged because it refused to take a human rights approach to this aspect of its policy and even faced accusations of complicity in torture and abuse. Some of Canada’s NATO allies, such as the British and the Dutch, took “a fundamentally different approach to safeguarding prisoners,” in that their agreements with the Afghan government provide more opportunity for monitoring.<sup>259</sup> The Dutch and the Americans both have full access to prisons; the Dutch in particular are said to “have a better system.”<sup>260</sup> That said, along with Canada, ISAF members have been criticized by human rights groups such as Amnesty International, which advocates halting transfers

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<sup>257</sup> Military and Police Complaints Commission, “Chairperson’s Final Report - MPCC 2007-003 - Concerning the Afghan Detainee complaint by Dr. Attaran,” 24 April 2009, [http://www.mpcc-cppm.gc.ca/alt\\_format/300/3700/2007-003/2007-003-eng.pdf](http://www.mpcc-cppm.gc.ca/alt_format/300/3700/2007-003/2007-003-eng.pdf).

<sup>258</sup> Janice Tibbetts, “Supreme Court rejects protection for Afghan detainees,” *Vancouver Sun*, 22 May 2009. <http://www.vancouversun.com/news/Supreme+Court+rejects+protection+Afghan+detainees/1619087/story.html>.

<sup>259</sup> Alex Dobrota, “O’Connor Acknowledges Error on Detainees,” *The Globe and Mail*, 9 March 2007, A13.

<sup>260</sup> Canadian Broadcasting Corporation, “The controversy over detainees: Are prisoners of war Canada’s responsibility?” *Afghanistan: In Depth*, 27 April 2007, <http://www.cbc.ca/news/background/afghanistan/detainees.html>.

completely until the Afghan justice system is better equipped to deal with detainees.<sup>261</sup> Clearly, if Canada or other ISAF members are implicated in abuse, it undermines the legitimacy of the mission. Interestingly, related to the last indicator discussed here of shared risk/decreased burden, one of the proposed solutions to this issue is, “An ISAF-wide facility ...as it would permit burden sharing and would be easier to explain to the partners’ publics.”<sup>262</sup>

The importance of legitimacy is not restricted to the international sphere; the legitimacy of Canadian action in the eyes of the Canadian public is crucial for the implementation of government policy. If the Government of Canada expects to be taken seriously when it advocates for a robust human rights agenda abroad, it must uphold the principles of human rights domestically. As demonstrated by Figure 1, opposition to the mission in Afghanistan has increased fairly steadily since the mission began. It is difficult to determine the connection between the perceived legitimacy of the Canadian mission in Afghanistan and the prisoner transfer scandal, but it is unlikely to have helped convince Canadians to support Canada’s engagement.

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<sup>261</sup> Amnesty International, “Afghanistan Detainees transferred to torture: ISAF complicity?” 13 November 2007, <http://www.amnesty.org/en/library/asset/ASA11/011/2007/en/c0abadf1-d36f-11dd-a329-2f46302a8cc6/asa110112007en.pdf>.

<sup>262</sup> Ashley Deeks, “Detention in Afghanistan: The Need For an Integrated Plan,” Center for Strategic and International Studies: International Security Program, 22 February 2008, [http://csis.org/files/media/csis/pubs/080213\\_deeks\\_afghanistan.pdf](http://csis.org/files/media/csis/pubs/080213_deeks_afghanistan.pdf).



Figure 1. Tracking Canadian Support for the Mission in Afghanistan (EKOS).<sup>263</sup>

## COOPERATION

Through a consensus on the acceptability of Canadian action based on a human rights approach, enhanced Canadian legitimacy could yield improved opportunities for international cooperation, as well as enhanced integration between Canadian actors. The structure of international society facilitates this cooperation in the same way that it constrains it by placing limits on acceptable behaviour.<sup>264</sup> In this two-way street of legitimacy and cooperation, there is increased incentive for partnership, enhanced bilateral and multilateral relationships, and to enter into and uphold international agreements. Thus, a human rights approach reinforces legitimacy at the same time as it encourages cooperation, which is required in order to tackle transnational challenges such as fragile states and terrorism.

International society is more likely to flourish if it commands the consent of those states not among the powerful and affluent.<sup>265</sup> Multilateral initiatives that include more than the usual suspects are generally found to be more comfortable avenues for

<sup>263</sup> Canadian Broadcasting Corporation, "54% of Canadians oppose Afghan mission: EKOS poll," 16 July 2009, <http://www.cbc.ca/canada/story/2009/07/15/ekos-afghanistan-mission-support015.html>.

<sup>264</sup> Timothy Dunne, "International Society: Theoretical Promises Fulfilled?," 126.

<sup>265</sup> Andrew Linklater and Hidemi Suganami, *The English School of International Relations*, 152.

approaching human rights than bilateral settings.<sup>266</sup> Moreover, multilateral cooperation is paramount for the good international citizen.<sup>267</sup> Jennifer Welsh emphasizes this when she claims that,

In the case of Afghanistan, a multilateral approach to reconstruction - driven by Afghans themselves through their National Development Framework - was deemed highly successful, whereas uncoordinated donor activity threatened to damage the legitimacy of the nascent Afghan government.<sup>268</sup>

Canada is not alone in its failure to articulate an Afghanistan strategy or policy. It would appear that, "...there was no agreed strategic plan or framework to deal with the long-term state-building enterprise needed to address the major problems facing [Afghanistan]. This lack of strategic vision has been typical of the Afghan mission from the beginning."<sup>269</sup> Canada is one of 42 countries participating in the ISAF mission and is clearly inhibited from implementing a WoG approach and its associated programs when there is an "almost total absence of international cohesion"<sup>270</sup> and disparate goals and justifications within the mission exist. By failing to encourage an internationally coherent and integrated approach to peacebuilding in Afghanistan, Canada has effectively limited the means at its disposal to achieve its goals diplomatically, developmentally, and militarily. Moreover, Canada's ability to realize an integrated approach is threatened

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<sup>266</sup> R. J. Vincent, *Human Rights and International Relations*, 136.

<sup>267</sup> Gareth Evans reference in Nicholas J. Wheeler and Tim Dunne, "Good International Citizenship: A Third Way for British Foreign Policy," 858.

<sup>268</sup> Jennifer Welsh, "Conclusion: Challenges and New Directions for Canada," in *Exporting Good Governance*, 292.

<sup>269</sup> Mike Capstick, "Renewing Canada's Afghan Mission," 22.

<sup>270</sup> *Ibid*, 23.

when its objectives are undermined by the actions of other states' participation in the mission.<sup>271</sup>

This breakdown is exacerbated by Canada's own failure to implement an integrated approach to peacebuilding both at the federal level in Ottawa and on the ground in Afghanistan. Mirroring the international situation, the various departments and organizations involved have their own priorities and agendas and therefore interpret the requirements of Canada's approach differently. The expressions of a common purpose by CIDA, DFAIT, and DND have been described as mere rhetoric,<sup>272</sup> an "empty vessel" that is nothing new and a distraction from the real challenges at hand in fragile states such as Afghanistan.<sup>273</sup>

Since human security and human rights are supposed to be at the centre of Canada's WoG approach and because universal human rights have been agreed to by both the international community and the Government of Afghanistan, a human rights approach could provide the basis for more sophisticated and progressive international cooperation. A human rights direction could "add value as an analytical tool and operational priority for a new coordinated approach to Canada's role in conflict affected states."<sup>274</sup> From such an approach, a unity of purpose could emerge among actors in Afghanistan that uses the language of rights to make real headway in achieving good governance, stability, human security, and overall development. At the two distinct levels of Canadian and international policy, it could allow for a focal point among diverse

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<sup>271</sup> Patrick Travers and Taylor Owen, "Between Metaphor and Strategy: Canada's Integrated Approach to Peacebuilding in Afghanistan," 697.

<sup>272</sup> Marie-Eve Desrosiers and Philippe Lagassé, "A Fragile Consensus on Failed and Fragile States: Canada and the Bureaucratic Politics of State Fragility," *Paper presented at the 2008 annual convention of the International Studies Association*, 28 March 2008, 2.

<sup>273</sup> Patrick Travers and Taylor Owen, "Between Metaphor and Strategy: Canada's Integrated Approach to Peacebuilding in Afghanistan," 686.

<sup>274</sup> CCIC, "Part 3 of 3: Human Rights and 'Fragile States'," 2.

actors. If internationally agreed-upon principles can form a foundation for engagement in Afghanistan, the necessary policy coherence and cooperation that has been so lacking may emerge. Such a strategy would conceivably be coherent, clearly communicated to the public, and would capitalize on the merits of a WoG approach and correct its shortcomings.

A human rights approach that is based on participatory dialogue and is not imposed from the top down could also serve to build cooperation between international actors, including Canada, and Afghan actors. It could mitigate accusations of political or cultural imperialism by considering statebuilding and peacebuilding in Afghanistan as an Afghan-driven enterprise and may provide avenues for partnership. Such an approach could compel and drive an open inter- and intra-cultural discussion that demonstrates respect and humility and is cautious in its methods.<sup>275</sup> As Ian Smillie writes, the principles of good governance, including human rights, must be learned and relearned, by both Canada and Afghanistan. Canada must be prepared to learn from its mistakes and acknowledge that the Canadian approach to governance is still “too young for dogmatism and certainty.”<sup>276</sup> If Canada were to implement an explicit human rights approach, it would have to acknowledge that Canada still has much to learn about human rights and their application, in regards to both its international and domestic policies.

#### SHARED RISK/DECREASED BURDEN

Following the attacks on the United States on 11 September 2001, there was a general consensus within the international community that the Taliban regime in

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<sup>275</sup> Ian Smillie, “Boy Scouts and Fearful Angels,” in *Exporting Good Governance*, 71.

<sup>276</sup> Ibid. In this chapter, Smillie writes that “In the face of governance disasters in Haiti, Afghanistan, and two dozen other “failed” and “fragile” states, humility and caution are important watchwords for outsiders.” This emphasis on humility is shared by several other scholars who contributed to *Exporting Good Governance*, such as Robert Muggah in his chapter on Haiti and Jennifer Welsh in the Conclusion of the work.

Afghanistan could no longer be tolerated. This consensus provided the legitimacy to instigate international cooperation, thereby allowing members of international society to reduce risks and diffuse the burdens associated with engagement. The collective response, considered as “an action taken by a significant majority of states, based on a shared understanding that they are facing a threat that must be confronted through participation of all states,” could be construed as bolstering international society in an attempt to maintain international order.<sup>277</sup> Anecdotally, the breadth of the response of the international community to Afghanistan contrasts with the level of international consensus that developed in response to the George W. Bush administration’s engagement in Iraq.

Because a human rights approach could generate both increased legitimacy and enhanced cooperation, it could also likely yield an increased commitment to the mission and a willingness to share the burden involved. If the mission could be developed within the framework of a human rights agenda, there is the possibility that Canada’s NATO partners would accept increased risk because the benefits of such action would be clear. Such an approach, which has been expressly linked to state self-interest, could provide an acceptable justification for risk and assuage political fears of risk. A human rights approach that has both legitimacy in international society and the cooperation of the international community could thereby enhance the willingness of states to participate in a dangerous mission such as the NATO mission in Afghanistan.

According to a May 2009 poll, 75 percent of Canadians surveyed believed that Canada was shouldering a disproportionate amount of NATO’s burden in Afghanistan and 57 percent of those surveyed disagreed with the March 2008 decision to extend the

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<sup>277</sup> Barak Mendelsohn, “English School, American Style,” 300.

Afghan mission until 2011.<sup>278</sup> Were a human rights approach to strengthen legitimacy, increase cooperation, and therefore mitigate some of the risk associated with engagement, the Canadian public may be more likely to support the mission. Higher levels of public support could influence domestic legitimacy at home, and licence the Government of Canada to develop an exit strategy that allows it to bring the mission to fruition and realize its national interests. Of course, this also applies to Canada's NATO allies, who each, "considers its role in Afghanistan through its own political lenses."<sup>279</sup>

The cyclical benefits of a human rights approach could also work towards reducing the risk to Canadian and other international soldiers in Afghanistan by prioritizing the security of the Afghan citizenry. A human rights approach to Afghanistan could preclude as much as possible the use of air strikes by NATO forces in civilian areas. Human Rights Watch estimates that 119 civilians were killed in the first eight months of 2008 by NATO or U.S. aerial bombings. Such death tolls obviously do little to engender support among the Afghan population and likely hinder counterinsurgency efforts by augmenting distrust of international actors and support for insurgent elements.<sup>280</sup> Moreover, it likely serves to further delegitimize the mission among those actors who do not support the effort and could curtail new avenues of partnership.

Were such engagement couched in a genuine commitment to a human rights agenda, the level of consensus could be expanded to include further commitment from states already involved in the conflict, as well as states that have thus far declined to be involved. In Germany, for instance, the government has deployed forces outside of

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<sup>278</sup> Angus Reid Strategies, "Half of Canadians Adamant About Ending Afghan Mission Before 2011," May 2009, 6, [http://www.angusreidstrategies.com/uploads/pages/pdfs/2009.05.07\\_AfghanEN.pdf](http://www.angusreidstrategies.com/uploads/pages/pdfs/2009.05.07_AfghanEN.pdf).

<sup>279</sup> Geoffrey Hayes, "Canada in Afghanistan," in *Afghanistan: Transition Under Threat*, 293.

<sup>280</sup> Human Rights Watch, "Troops in Contact: Airstrikes and Civilian Deaths in Afghanistan," September 2008, [http://www.hrw.org/sites/default/files/reports/afghanistan0908web\\_0.pdf](http://www.hrw.org/sites/default/files/reports/afghanistan0908web_0.pdf).



Europe for the first time since the Second World War, but despite requests from NATO, the German government has been extremely hesitant to deploy German troops or equipment to the much more volatile Afghan south where the majority of Canadian troops are based.<sup>281</sup> Up until the summer of 2009, when Germany launched a 300-soldier offensive operation to support Afghan forces, this stance allowed Germany to maintain its focus on reconstruction and development tasks. The German Foreign Minister Franz Josef Jung has refused to label engagement in Afghanistan in overtly military terms.<sup>282</sup> Additionally, the majority of the German public does not support military engagement and “the military deployment of German troops needs to serve some kind of greater good to be considered legitimate in the eyes of most Germans.”<sup>283</sup>

This stance has drawn considerable criticism from NATO allies such as Canada, as it potentially prolongs the exposure to conflict for Canadian troops and prevents Canada from reducing the number of Canadian soldiers and resources deployed there. It seems clear that in this case, a human rights approach could allay some of the German concerns regarding combat and could buttress the German role in the mission, thereby augmenting the consensus required for a strong international society and better allowing Canada to realize its immediate interests of limiting its sacrifice to the international mission and the long-term interest of strengthening international order.

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<sup>281</sup> Konstantin von Hammerstein and Alexander Szandar, “NATO Turns Screws on Germany: The Coming Afghanistan Showdown,” Trans. Christopher Sultan, *Spiegel Online International*, 11 February 2008, <http://www.spiegel.de/international/germany/0,1518,534524,00.html>.

<sup>282</sup> Thomas Darnstädt, “Germany Should Face Up to Reality of Civil War in Afghanistan,” *Spiegel Online International*, 27 July 2009, <http://www.spiegel.de/international/germany/0,1518,639203,00.html>; and Erik Kirschbaum, “Is Germany at ‘war’ in Afghanistan? Defence Minister says ‘no,’” Reuters Blogs, 25 June 2009. <http://blogs.reuters.com/global/2009/06/25/is-germany-at-war-in-afghanistan-defence-minister-says-no/>.

<sup>283</sup> Markus Kaim, “Germany, Afghanistan, and the future of NATO,” *International Journal* 63.3 (2008): 614.

## LEGITIMACY, COOPERATION, AND SHARED RISK/DECREASED BURDEN: A TRIANGULAR AND SYNERGETIC RELATIONSHIP

This section has demonstrated that a human rights foreign policy produces a synergetic relationship between the three indicators of legitimacy, cooperation, and shared risk/decreased burden. This triangle, in which each point serves to reinforce the others, strengthens international society and therefore enables Canada to more effectively realize its national interests. Supporting the international consensus surrounding basic rights yields legitimacy, encourages cooperation, and diffuses the burden of engagement placed on the state.

There are potential pitfalls in such an approach that could reveal themselves if it were implemented without contextual analysis, respect for Afghan priorities, and an appropriate commitment of time and resources. Critically, for these indicators to positively affect international society and order, a long-term commitment to a human rights foreign policy is required. In Afghanistan, that means staying the course until such a time when the departure of the international community will not bring Afghanistan back to the brink of state failure. As part of this, the ability of the Afghan government to maintain sovereign control must be encouraged, especially considering the ultimate goal of Canada's engagement in Afghanistan is to 'leave Afghanistan to Afghans.'

#### **4. Conclusion: In Canada's Best Interests – A Canadian Approach to Human Rights in Foreign Policy**

An underlying theme in this work has been the need for middle ground in policy. Jennifer Welsh suggests that realism and idealism no longer adequately serve as an analytical tool in foreign policy; she lauds E. H. Carr for his insight in advocating for a “balance between utopia and reality.”<sup>284</sup> The major international relations paradigms fail to provide a convincing rationale for the inclusion of human rights in foreign policy. Realism has too narrow a focus to account for the intricacies of international relations. Constructivism fails to provide tangible justifications for the foreign policy-maker to include human rights in foreign policy. Although ideas from both schools are essential for analyzing foreign policy, the English School presents an ideal via media from which to study foreign policy, and specifically to develop a foreign policy that considers human rights as a national interest. The inclusion of human rights in foreign policy has typically been justified in terms of constructivist value and identity concepts, but this paper has attempted to move beyond constructivism to make a case for the inclusion of human rights in foreign policy. As Canada's largest and costliest foreign policy priority, Canadian engagement in Afghanistan is the logical avenue from which to express the relationship between human rights and Canada's national interests.

The concept articulated here is not especially radical. “Good Global Samaritans”, to use Alison Brysk's phrase, “have learned to see themselves as interconnected members

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<sup>284</sup> Jennifer Welsh, “Reality and Canadian Foreign Policy,” in *Canada Among Nations, 2005*, 42. (Carr quotation is on the same page and is cited from *The Twenty Years Crisis, 1919-1939*, 2nd ed. [London: Macmillan, 1984], 89.)

of a global community that works best for everyone when human rights are respected.”<sup>285</sup> Even scholars such as Cranford Pratt who suggest that a human rights agenda should only be motivated by a moral concern for the well-being of others or those such as Jennifer Welsh who suggest that a human rights agenda should be motivated by Canadian identity politics, still recognize the utility and practicality of basing foreign policy on national interests. Gradually, a new segment of international relations is recognizing that some form of ‘new realism’ must emerge in order to sufficiently motivate policy-makers to include human rights in foreign policy. The human rights community may be encouraging this out of a moral impetus, but they should recognize that morality and values are too flimsy a foundation upon which to base a concept as critical to the progression and evolution of international society and the strengthening of international order.

Early in this thesis, common interests were described as being the mechanism establishing the relationship between human rights and foreign policy. Common interests and consensus form the basis of international society. A robust international society, in which international order is maintained and encouraged, is the best environment in which Canada can operate. The protection and promotion of human rights bolsters the international consensus surrounding human rights and can be interpreted as a common interest. The principles of enlightened self-interest and good international citizenship that contribute to contemporary international society further advance the status of human rights. As Vincent puts forward, human rights fortify and consolidate international society.<sup>286</sup> The contention made here that a human rights approach could generate

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<sup>285</sup> Alison Brysk, *Global Good Samaritans*, 31.

<sup>286</sup> R. J. Vincent, *Human Rights and International Relations*, 144-153.

Canadian national interests is based in this theoretical framework of international society and order.

This concept is particularly important in the case of Afghanistan, where the international community is fighting a war that has cost thousands of lives. In Canada, billions of dollars and over one hundred and twenty soldiers' lives have been spent. High-profile calls for Canada to remain in Afghanistan past the scheduled 2011 pull-out date have already begun. A Canadian human rights foreign policy offers a way out that can allow Canada and its international partners to achieve their goals in Afghanistan and could support the development of an exit strategy for the international community in Afghanistan. At this point, "the failure thus far of ISAF to succeed in its mission has fuelled calls from certain quarters for a withdrawal and an end to international military involvement in Afghanistan";<sup>287</sup> but to leave at this point would solve few problems and could engender the kind of violent opposition to NATO members that incited the mission in the first place. The chances of any success in the NATO mission or Canada's engagement in Afghanistan are dwindling; a human rights approach offers not only a way out, but also a way to make it work.

By focusing on human rights, the means to achieve the mission (Canada's six objectives) as well as the ends themselves (peacebuilding and statebuilding) could be realized. As a Canadian lieutenant based in Kandahar stated in a recent interview, "In the end it helps them [Afghans], and helps us also."<sup>288</sup> It is clear that this is not an easy proposition, but Canada and NATO's limited prospects could be vastly improved by such

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<sup>287</sup> Wilfrid Greaves, "The Failure to Protect: Human Security and Canadian Foreign Policy in Afghanistan," *Journal of Military and Strategic Studies* 10.4 (2008): 28.

<sup>288</sup> Omar El Akkad, "From Fighting to Faith in the Future," *The Globe and Mail*, 7 August 2009, <http://www.theglobeandmail.com/news/world/from-fighting-to-faith-in-the-future/article1242611/>.

an approach. Furthermore, the inclusion of human rights in policy transforms rights from an intractable moralistic or altruistic endeavour into a tool that can generate clear benefits for international actors. Vicious cycles of miscommunication, violence, and poverty, become virtuous cycles of the protection and promotion of human rights in the context of peacebuilding and statebuilding.

In a post-bipolar era, good international citizenship, an idea that “can clearly be placed within the international society tradition or English School,”<sup>289</sup> has meant that states are reacting to normative changes in international relations with an increased commitment to humanitarian responsibilities. However, as Bull noted in his 1983 Hagey Hall lectures at the University of Waterloo, justice and order are inextricably linked; Bull states that, “the measures that are necessary to achieve justice...are the same measures that will maximise the prospects of international order or stability...”<sup>290</sup> As Linklater and Suganami explain, states generally require a political reason for defending justice and are unlikely to “defend justice for its own sake.”<sup>291</sup> What this signifies is that a human rights approach to foreign policy implemented by a good international citizen is in everyone’s interest.

The implications of this type of approach are far reaching. It means that policy-makers must reorient their thinking towards human rights. Human rights become a means to achieving an end, as well as an end in and of themselves. The weakening of norms surrounding sovereignty and the new dialectic of human security, statebuilding,

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<sup>289</sup> Nicholas J. Wheeler and Tim Dunne, “Good International Citizenship: A Third Way for British Foreign Policy,” 856.

<sup>290</sup> Hedley Bull, “Justice in International Relations: The 1983 Hagey Lectures,” (at the University of Waterloo), in *Hedley Bull on International Society*, 227.

<sup>291</sup> Andrew Linklater and Hidemi Suganami, *The English School of International Relations*, footnotes 51 and 52, 149.

and peacebuilding suggest a realization among states that, “the advances of human rights and global economic justice have become the only reliable paths to security.”<sup>292</sup> Thus, human rights become a part of the vocabulary of the foreign policy-maker, not just as an afterthought, but as the priority. Human rights become part of a long-term strategy for reasserting Canadian objectives and forging the requisite environment for achieving such interests. In such a strategy, human rights and national interests must be considered hand-in-hand. Canada’s national interests need to be evaluated in terms of the overall contribution to strengthening international society, whereby human rights are recognized for their constructive role.

A human rights policy is sometimes prefaced in the phrase “first do no harm” as a minimum course of action.<sup>293</sup> Other than the obvious need to not commit or be complicit with abuse, such as in the case of the prisoner transfer scandal, this sentiment is not explored here for several reasons. Firstly, there is no way of knowing the future effects a policy might have. It is possible to hypothesize, but a knowledgeable hypothesis would require the kind of contextual analysis that would allow for a more meaningful policy. Secondly, such a policy perceives human rights from too narrow a perspective. In this case, human rights are considered a value that would be imposed on another state, which is what this thesis has attempted to refute. Finally, it serves as an evasion tactic for policy-makers to avoid including human rights in policy.

As part of a long-term and purposeful strategy for foreign policy in Canada, the policy shift that occurs would mean that there would be the necessary corporate

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<sup>292</sup> Micheline Ishay, *The History of Human Rights*, 287.

<sup>293</sup> For example, see Roy Culpepper, “Canada, Hippocrates, and the Developing World: Toward a Coherent Foreign Policy for Canada,” in *Canada Among Nations 2006*, 345-349; and OECD, “Principles for Good International Engagement in Fragile States and Situations.”

knowledge and capacity to include human rights issues, from the perspective of those affected, in every briefing note and policy paper handed in at DFAIT, as well as the other government departments and agencies responsible for Canada's international policies. Through training, research, and reinforcement, human rights as a foreign policy norm could undergo the process of norm cascade in the same way that human rights evolved to become a norm in international law. Human rights could thus become institutionalized within the bureaucracy. In some cases, a policy will not be directed towards changing another state's behaviour, but rather it might aim to "contribute to maintaining or transforming the international normative environment [and/or]...to influence dominant conceptions of political legitimacy."<sup>294</sup> This will be part of a broader balancing between short term political objectives and immediate needs and a longer-term strategic vision.

This balance requires real leadership first and foremost, as well as a government willing to make a sufficient investment in careful planning and programming. The values-based approach trumpeted by Canada's government has failed to yield a human rights policy that can produce results. Leadership that is willing to take risks, invest in the development of clear policy, communicate that policy to Canadians, and sufficiently produce contextual analysis is required if Canada ever hopes to make progress in Afghanistan or in the rest of its international initiatives. Canada can no longer maintain a foreign policy that "still relies more on superficial impressions than on sound and detailed knowledge."<sup>295</sup>

A human rights approach would also require sufficient Canadian presence on the ground to analyze, monitor, and report back on international situations, and determine

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<sup>294</sup> Jack Donnelly, "An Overview," in *Human Rights and Comparative Foreign Policy*, ed. David Forsythe, (Tokyo, New York, and Paris: United Nations University Press, 2000), 326.

<sup>295</sup> Jean Daudelin, "Introduction: Managing Empires," in *Canada Among Nations 2008*, 11.



what a human rights approach could do in those situations. It would mean revisiting the decisions to decimate foreign affairs budgets so that DFAIT personnel can be sent abroad and embassies can remain open and productive liaisons between Canada's government and the host government. A strong international presence is required for the contextual analysis that would allow Canada to better determine where to focus its programming and priorities. As the literature emphasizes, for an international human rights policy to be meaningful, there have to be local partners on the ground who take ownership of their own human rights. In those cases where Canada is not able to work with a host government, DFAIT, working with CIDA, can support civil society initiatives that are deemed to be most progressive or effective. It would also mean that despite the suggestions of some proponents of a human rights agenda who contend that such an approach must maintain consistency in its application, an international human rights policy would remain constant, but the specifics of programming would be contextual.<sup>296</sup> But behind all of these initiatives, there must be an approach that places human rights at the fore of Canadian foreign policy.

In a multilateral setting, a human rights approach means fostering and reinforcing the consensus on human rights. It means bringing new partners into the fold by demonstrating that a human rights approach can be flexible in its implementation, while still maintaining its indivisible and universal integrity. By building on this consensus and by eschewing empty rhetoric for decisive action, Canada could find that its influence, and more importantly, its effectiveness, improves. It requires a constant effort towards building a better society for Canadians and the international community. As part of this,

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<sup>296</sup> A similar sentiment is expressed by Peter Baehr and Monique Castermans-Holleman in *The Role of Human Rights in Foreign Policy*, 68.

Canada must elevate the importance of protecting and promoting human rights at home, so as to avoid undermining a robust international human rights policy abroad.

Finally, considering that national interests as defined here transcend partisan politics and changes in state administration, the case study of Afghanistan speaks to the importance of defining a foreign policy in Canada that is both long term in its perspective and supported by adequate resources. There must be enough political stability within DFAIT to allow for the production of effective policies that are creative enough to incorporate this concept of human rights protection and promotion as integral to Canadian interests. Canadian foreign policy-makers must also reject what Nossal describes as their tendency to view Canada's potential human rights effectiveness in pessimistic terms.<sup>297</sup> Long-term outlooks that consider Canada's national interests and human rights promotion as mutually inclusive concepts are necessary for Canada to reduce the gap between its human rights rhetoric and its foreign policy actions.

There are no easy answers. A human rights approach holds promise, but cannot promise change. What works in one case might not work in the next. What seemed to be the right policy may eventually yield a negative outcome. Good international citizenship now requires the development of policies that will be pertinent to relations with a wide and varied range of states.<sup>298</sup> Canada might be required to collaborate with actors traditionally considered its adversaries. A human rights foreign policy requires the difficult task of developing creative plans, priorities, and programs, as well as a humble acknowledgement of the limitations of a human rights agenda. However, the

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<sup>297</sup> Kim Richard Nossal, "Cabin'd, Cribb'd, Confin'd," 47.

<sup>298</sup> Andrew Linklater and Hidemi Suganami, *The English School of International Relations*, 231.

opportunities and the value of such an approach, especially regarding the potential development of a way to end the war in Afghanistan, mean that it is a risk worth taking.

In the post-Cold War era, the complex associations between failed and fragile states and security became increasingly part of international relations. This dialogue focused on human security and terrorism, and considered failed and fragile states a threat to state security and international order. Canada's 2005 *International Policy Statement* claimed that, "Among the emerging threats we face are those resulting from a large number of weak, ineffectively governed states."<sup>299</sup> Suppressing the potential threats emanating from failed and fragile states is precisely the kind of common interest that unites international society. The imperative of improving the plight of failed and fragile states indicates that the prospects of a human rights approach described in this work could be applied more generally to international engagement in other fragile states, with appropriate consideration for context. What this amounts to is a proposal for limiting and responding to instability and conflict internationally, as well as for improving the plight of billions of people around the world.

The goal of this work has been to make a forceful case for the inclusion of human rights in Canadian foreign policy by articulating the positive relationship between human rights and Canada's national interests. Under such an approach, Canadian leaders and decision-makers would include human rights in foreign policy axiomatically because it is in Canada's best interests to do so. This argument is not limited to the Canadian context and an examination of its applicability could be extended to other members of international society. There are myriad opportunities for related research, such as the

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<sup>299</sup> Canada, "Building a More Secure World: Canada's International Policy Statement: A Role of Pride and Influence in the World – Diplomacy," <http://www.international.gc.ca/cip-pic/documents/IPS-EPI/building-batir.aspx?lang=eng>.

relationship between morality and the state and human rights and morality, but the aim here has simply been to be part of an evolving discussion on human rights norms in international relations. This work reinforces the importance of human rights internationally and advocates strongly for the inclusion of human rights in foreign policy.

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