JOHN HUMPHREY, THE UDHR, AND THE NARRATIVE OF CANADA AS LEADER IN THE DEVELOPMENT OF INTERNATIONAL HUMAN RIGHTS

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Seventy-five years ago, on December 10, 1948, the United Nations adopted the Universal Declaration of Human Rights (UDHR), articulating for the first time a proposed set of inalienable and universal rights to be codified in international law. Many Canadians assume that Canada was a strong advocate for this early human rights document. In fact, the Canadian government openly opposed the adoption of the UDHR in 1948, and resisted efforts at the UN to draft an international bill of rights well into the 1960s. Yet this goes against the common narrative of Canada as an historic leader in the field of international human rights. On this 75th anniversary of the UDHR, then, it is worth considering how this more positive narrative came to be, why it continues to obscure Canada's opposition to the UN's first human rights documents, and what significance this holds for Canada today.

Canada had not been an active participant in attempts to include human rights principles as a key component of the UN Charter in 1945, and Ottawa had little enthusiasm for the idea of an international bill of rights. The concept of rights emerging from UN discussions challenged customary understandings of civil liberties in Canada, a country that, at the time, had virtually no laws to explicitly prohibit discrimination or protect human rights. Fully aware that discriminatory laws in Canada could be considered in violation of the UN's proposals, and concerned with keeping the international community from interfering in Canadian domestic affairs, the federal government was opposed to the UDHR and instructed its delegates at the UN to avoid any active involvement in its development.[1] And that is what they did. Throughout 1947 and 1948, Canadian delegates rarely contributed to discussions of the specifics of the draft declaration, and abstained in all early votes on the instrument's adoption in the General Assembly. It was only in response to international pressure, largely from Britain and the United States, that Canada changed its vote to support the adoption of the UDHR on Dec. 10, 1948. And it did so with officially stated reservations. Then, from the 1950s to the early 1960s, Ottawa resisted the second phase of the UN's international bill of rights — the development of two covenants on human rights.[2]

By the 1960s, however, a burgeoning human rights movement at home, growing support for human rights in the international community, and a desire to build Canada's image as a humanitarian state, forced federal policy makers to rethink their approach to the UN's human rights instruments. As a result, in 1966 Canada voted to support the final adoption of both covenants on human rights, although its position could hardly be considered enthusiastic; in the article-by-article votes on the covenants, Canada abstained in fourteen of the forty-three votes[3], and it took 10 years for Ottawa to ratify the instruments. Yet federal politicians did not want Canada to be remembered as a state that resisted human rights, and so they took steps to rescript this history.

In media releases, the federal government began to assert that, since the adoption of the UDHR, Canada had "played an active role" in the preparation of the UN's human rights instruments.[4] On the eve of the adoption of the international covenants, federal officials went further to claim that Canada had "always expressed strong support" of international human rights agreements.[5] And as

1 William A. Schabas, "Canada and the Adoption of the Universal Declaration of Human Rights," *McGill Law Journal* 43, 2 (1998): 403–41; A.J. Hobbins, "Eleanor Roosevelt, John Humphrey and Canadian Opposition to the Universal Declaration of Human Rights: Looking Back on the 50th Anniversary of the UDHR," *International Journal* 53, 2 (1998): 325–42.

2 Canada was one of only eight states to abstain, and was in the company of the Soviet Union, its allies, and South Africa and Saudi Arabia. For a broader discussion of this history, see Jennifer Tunnicliffe, *Resisting Rights: Canada and the International Bill of Rights, 1947–76* (Vancouver: UBC Press, 2019).

3 "Convention on Human Rights – Canadian Votes," 1966, File 45-13-2-3, Part 1, Vol. 13112, RG25, LAC. Within the Covenant on Civil and Political Rights, Canada abstained from Articles 6, 13, 14, and 15. Within the Covenant on Economic, Social and Cultural Rights, Canada abstained from Articles 2, 6, 7, 8, 9, 10, 11, 12, 15 and 25.

4 News Release, Ottawa, 10 December 1965, file 1, box 16, "Human Rights," accession #82–001, Thomas Symons Papers, Trent University Archives.

5 Background Paper on the International Human Rights Covenants, September 1975, container 47282, Human Rights Commission fonds, RS972, PANB.

support for human rights at home continued to grow, Ottawa's efforts to present itself as an historic advocate for international human rights intensified. By 1979, External Affairs went so far as to declare that Canada had been "at the forefront of multilateral human rights initiatives designed to promote human rights."[6] Today, the Canadian Government's website continues to promote this narrative by stating that, "Canada has been a consistently strong voice for the protection of human rights… [from] our central role in the drafting of the Universal Declaration of Human Rights in 1947–1948 to our work at the United Nations today."[7]

The attempt by politicians to recover a new image for Canada as a global human rights defender was not only a response to a surge in public support for human rights principles, however. In the 1970s, it complemented several important domestic goals of then-prime minister Pierre Elliot Trudeau's Liberal government: Ottawa had announced its policy of multiculturalism and Trudeau was pushing the provinces to support the inclusion of a bill of rights in a repatriated constitution. Anxieties over national identity and unity also had a significant impact. The image of Canadians as historical rights advocates at home and as key players in the design of the UN's human rights regime was a tool that politicians continued to use throughout the 1980s and 1990s to promote a particular understanding of what it meant to be Canadian in a multicultural and "just" society.

The challenge was to reconcile this image of Canada with its history of resistance to the UN's early human rights instruments. To do so, the government has relied heavily on the legacy of one particular Canadian: John Peters Humphrey. Humphrey was a Canadian legal scholar and a professor at McGill University who, after the Second World War was invited to take a position in the UN Secretariat as director of its Human Rights Division. He sat on the UN Commission on Human Rights, where he worked with individuals like Eleanor Roosevelt, René Cassin, Peng Chun Chang, and Charles Malik. From their discussions, Humphrey was tasked with formulating the very first draft of what would eventually become the UDHR. During his more than 20-year career at the UN, Humphrey was a determined advocate for international human rights, at home in Canada and globally.[8] For his efforts, in 1988, the UN awarded Humphrey its Prize in the Field of Human Rights.

It is important to note, however, that John Humphrey did not represent the Canadian government in his work at the UN. As a member of the Secretariat, he played no role in setting, nor was he even privy to, Canadian policy toward the UDHR or the covenants. In fact, Humphrey was deeply critical of the Canadian position. Citing the lack of support from Canada and Canadians toward international human rights at the UN, he wrote a letter in 1948 stating:

6 V.M. Edelstein, "The Impact of Human Rights on Canadian Foreign Policy," United Nations Division, Department of External Affairs, 18 May 1979, File 45-CDA-13-1-1, Part 2, Vol. 15901, RG25, LAC.

7 Government of Canada. "Canada's approach to advancing human rights." Global Affairs Canada, July 19, 2023. www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/advancing_rights-promouvoir_droits.aspx?lang=eng#

8 For details of Humphrey's activism, see A.J. Hobbins, ed., *On the Edge of Greatness: The Diaries of John Humphrey, First Director of the United Nations Division of Human Rights*, Volumes 1–4 (Montreal: McGill University Libraries, 1994–2000).

> One thing that has appalled me since coming down here is the realization that, in our own country Canada, there is relatively less interest in this question than in certain other countries which we sometimes think are less democratic than our own.[9]

In a speech given at Canada's celebration for International Year of Human Rights in 1968 — on the 20th anniversary of the adoption of the UDHR — he described how he had been "embarrassed" by Canada's decision to abstain in the vote on the adoption of the UDHR in 1948, and how he continued to be disappointed with the government's lack of commitment to international human rights.[10]

Despite this, it is John Humphrey's work, and specifically his role in drafting the UDHR, that forms the basis of the claim that Canada played a "central role" in the development of the document, with little to no recognition that Humphrey was exceptional in his early support for the UN's human rights regime. He was the most active advocate for the UDHR in Canada, using his position at the UN to try to generate enthusiasm for the instrument at home. While he had some success, more often than not he met either opposition or indifference to the declaration. Yet his accomplishments continue to be promoted as evidence of Canada's historical commitment to the UN's human rights program.

One clear example of this is how Canada's history with international human rights has been treated in school curricula. By the late 1990s, human rights education had become an important component of social science, history, and civics curriculum guidelines across the country. In Ontario, for instance, Grade 10 academic and applied history courses included strands on "Identity, Citizenship, and Heritage" which stated that, by the end of the course, students would understand Canada's changing attitudes toward human rights. The guidelines specifically highlighted Canada's role in the UDHR as a key moment in this change, and this was therefore reflected in textbooks produced to support that curriculum in the early 2000s.

John F. Fielding and Rosemary Evans' *Canada: Our Century, Our Story* featured a page on the UDHR, which included a biography on Humphrey. The main text read:

> The Universal Declaration of Human Rights was adopted by the UN in December 1948. John Humphrey, a professor of law at McGill University in Montreal, was one of the authors of the original draft of this document. The Declaration was the inspiration for Canada's Charter of Rights and Freedoms, which itself is now a model for other countries. [11]

While this text is not factually incorrect, it only tells part of the story. Nowhere does it state that Canada originally abstained from supporting the UDHR, nor does it include any information on Humphrey's exceptionalism or his embarrassment

9 John Humphrey, as quoted by A.J. Hobbins, "Eleanor Roosevelt, John Humphrey and Canadian Opposition to the Universal Declaration of Human Rights," 333.

10 Krista Maecots, "Ex-UN official raps Canada on its human rights record," *Ottawa Citizen*, 14 November 1968, 29.

11 John F. Fielding and Rosemary Evans, *Canada: Our Century, Our Story* (Scarborough, Ont: Nelson Thomson Learning, 2001), 274

over Canada's opposition. Instead, it implicitly links Humphrey, the UDHR, and Canada's human rights tradition. Similarly, Janice Parker's *Great Canadians: Humanitarians* highlighted Humphrey as one of 18 Canadians whose humanitarian efforts had an impact on the world. Again, Humphrey's role in supporting the development of the UDHR is transferred to Canada and all Canadians when the book argues, "Canadians have proven to the world that they care about humans and human rights."[12]

Canada's role in the adoption of the UDHR was reinforced through the creation, in 1997, of a *Heritage Minute* on John Humphrey. The *Heritage Minutes* video clips were first developed in 1991 by the Historica Foundation to "enhance Canadianism" and, according to Erin Peters, the dramatized scenes they feature are designed to encourage the Canadians watching them to assume these episodes as a part of their own personal heritage.[13] The clip on Humphrey begins by depicting him defending the universalism of a proposed declaration of human rights to members of the UN Commission on Human Rights in 1947, and then moves to a scene from the European Court of Human Rights in 1986 in which lawyers are using the UDHR to challenge national employment laws that discriminate based on physical disability. In the background sits Humphrey, with another member of the audience leaning over and whispering: "Isn't that the Canadian that actually wrote the Universal Declaration of Human Rights?" The goal is to create a Canadian collective memory in which John Humphrey's efforts become a symbol of Canada's central role in developing and promoting international human rights instruments that can be used to fight discrimination around the globe.

The UDHR and Canada's part in it continue to be celebrated annually on Human Rights Day and have been further commemorated on honourary stamps and on a 50-dollar bank note. This year, on the 75th anniversary of the adoption of the instrument, however, it would better serve Canadians to learn the true history of Canada's lack of support for international human rights after the Second World War. Canada's opposition to the UDHR in 1948, and to the development of international covenants on human rights in the 1950s and 1960s, provides important context to other examples of Canadian resistance to the UN's human rights initiatives; it reveals these to be part of a longer history rather than aberrations unto themselves. Many of the same arguments used to resist the UDHR, for example, were used to oppose the UN's Declaration of the Rights of Indigenous Peoples (UNDRIP) in 2007. This history also helps to explain the gap between Canada's rhetoric of human rights and its lack of real implementation of international human rights law — as discussed in this volume, for example, by human rights advocate Alex Neve. Most often, the Canadian government has only reluctantly supported human rights instruments at the UN, and has done so to satisfy international and public opinion rather than out of "strong support" for the substance of the documents themselves. As

12 Janice Parker, *Great Canadians: Humanitarians* (Calgary: Weigl Educational Publishers, 2000), 5.

13 Erin Peters, "The 'Heritage Minutes' and Canadian collective memory: an analysis of the use of nostalgia and nationalism to build a unifying cultural memory," PhD dissertation, Institute of Germanic and Romance Studies, 2009, http://sas-space.sas.ac.uk/2289/1/Peters%20-%20Heritage%20Minutes%20-%20Text.pdf, 67

a result, once signed, there has been little motivation to genuinely engage with or take direct action on the provisions outlined in the instruments.

Human Rights Day *should* be a time to celebrate achievements in enhancing the human rights protections enjoyed by Canadians and all humans. But it should also be an opportunity to learn more about histories of the violation of human rights, and of resistance to the development of strong human rights protections, so that we can continue to pressure our governments to do better. It should be a time to look past narratives that only promote a positive sense of our human rights history, and also engage with the more difficult realities of our past and present short comings. The 75th anniversary of the adoption of the UDHR therefore provides a time for reflection on the ongoing challenges of creating a more socially just world in which all humans can truly enjoy human rights.