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Canada and the OAS—The First Five Years

by Brian Tittlemore

For most of this century, Canada steadfastly refused to join the Organization of American States (OAS) and its predecessor, the Union of American Republics. While Canada maintained observer status in the OAS beginning in 1972, and actively participated in many of the Organization's specialized agencies like the Pan American Health Organization, it was unwilling to accede to full membership. According to Richard Gorham, former Canadian Permanent Observer to the OAS, "the traditional explanation for not joining was that we would have to oppose Washington on particular issues or else run the risk of becoming a U.S. puppet."

At the 1989 Hemispheric Summit in Costa Rica, former Canadian Prime Minister Brian Mulroney announced that

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Canada had reversed this position, and explained that the OAS held the "key" to hemispheric cooperation, which his government regarded as "integral to Canada's interests." The following January, Canada was welcomed as the 33rd member of the world's oldest regional organization. Many saw Canada's admission as an opportunity to breath new life into an organization that was overburdened by debt and facing an uncertain future. The fifth anniversary of Canada's admission provides an appropriate benchmark at which to review Canada's impact on the OAS, and the roles it might play in the future.

Accomplishments of Membership

Canada's major achievements in the OAS appear to have been in the areas of democratic development, environmental protection, and institutional reform. One of the first actions undertaken by Canada after joining the Organization was to secure the creation within the OAS of the Unit for the Promotion of Democracy (UPD), currently headed by Canadian,

Elizabeth Spehar. According to the executive order creating the unit, the UPD's mandate is to respond to the requests of member states for "advice or assistance to preserve or strengthen their political,



institutional and democratic procedures." John Graham, the first full-time head of the UPD, explains that the establishment of the Unit reflected the OAS General Assembly's "ever-stronger commitment to preserve and strengthen democracy" and notes that the UPD was a Canadian initiative and one of Canada's first major contributions upon joining the OAS. In addition, Canada participated in efforts to restore democracy to Haiti by contributing to OAS and UN electoral missions and, together with the United States and France, by creating a national police academy in Haiti to train a permanent professional Haitian police force. Canada also played a significant role in drafting and securing approval of the Protocol of Washington, an amendment to the OAS Charter that permits the Organization to suspend a member state if its democratically-constituted government is overthrown by force.

Canada has likewise been involved in efforts to strengthen the OAS's role in environmental protection. For example, Canada's permanent representative to the OAS, Brian Dickson, chairs the OAS working group on the environment. Canada also participated in the creation of energy, bio-diversity, and pollution "action plans" at the Summit of the Americas in Miami in December, 1994, and the proposal to convene a Pan American Summit on Sustainable Development in Bolivia in 1996.

"Institutional renewal" is another area in which Canada has made a significant contribution to the OAS over the past five years. For example, Canada worked closely with Chile and Mexico to propose and implement a merger of the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture into one body, the Inter-American Council for Integral Development, through the Managua Protocol. Canada has also spearheaded an attempt to revitalize a structure initially set up in 1971 to provide

non-governmental organizations with a more formal role within the OAS.

Criticisms of Membership

The most serious reservations regarding Canada's effectiveness in the OAS appear to relate to the protection of human rights. Canada has been vocally critical of the human rights records of fellow member-states like El Salvador, Peru, Colombia and Nicaragua, and yet, like the United States, has not ratified the American Convention on Human Rights nor agreed to accept the jurisdiction of the Inter-American Court of Human Rights.

Harold Hickman, Counsellor and Alternate Permanent Representative to the Canadian Mission to the OAS, indicates that Canada's delay in ratifying the Convention is attributable primarily to the division of constitutional powers in the Canadian federation. "Human rights falls mainly under provincial rather than

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federal jurisdiction," Hickman explains, "and while the federal government is the treaty-making authority, there is an understanding that whenever a treaty may affect provincial affairs, the federal government will carry out consultations with the provinces prior to ratification." Hickman also notes that consultations between the federal and provincial authorities over the Convention's ratification have been on-going for the past three and a half years, and that the next, and hopefully final, round of talks is "imminent."

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Some Canadian policy decisions over the past five years have also raised concerns in the human rights community. For example, non-governmental organizations, like the Inter-Church Committee on Human Rights in Latin America, criticized the Canadian government's decision to restore full bilateral aid to Peru in January 1994 in the face of what they saw as the absence of clear improvements in human rights and democratic development in that country. Canada was also

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criticized for declining to accept more of the Haitian refugees intercepted by the United States and ultimately detained in Guantanamo Bay in 1994, while indigenous leaders like Nobel Peace Prize winner Rigoberta Menchu charge that Canada and other OAS Member-States have been "intransigent" on indigenous peo-

ples' rights and in strengthening links between the indigenous cultures of North and South America.

Canada's Future Role in the OAS

Numerous suggestions have been offered as to how Canada could play a more effective role in the OAS in the future. Human rights advocates like Holly Burkhalter, Washington Director of Human Rights Watch, have urged Canada, the United States, and Mexico to ratify the American Convention on Human Rights and to agree to be bound by the decisions of the Inter-American Court of Human Rights, in order to "provide victims of human rights abuses in all three countries with impartial, independent legal machinery to which they could apply when domestic remedies to correct human rights abuses are lacking." Further, environmental law specialists like Stephen Kass and Jean McCarroll with the New York law firm of Carter, Ledyard & Milburn suggest that Canada and its NAFTA partners will face pressure from the environmental community in the Americas to link any efforts to create a "Free Trade Area of the Americas" with "meaningful commitments to environmental protection throughout the hemisphere." Finally, a Canadian Parliamentary Committee has proposed that Canada's armed forces specialize in

peacekeeping operations and that regional organizations like the OAS play a role in such operations. While groups like Toronto's Canada-Caribbean-Central America Policy Alternatives (CAPA) have supported the idea of OAS participation in UN peacekeeping operations, CAPA has cautioned that the OAS should not undertake peacekeeping missions on its own, explaining that "participation of Latin American officers in UN organized missions in Central America has clearly revealed the questionable capacity of Latin officers to maintain the norms of impartiality under which peacekeepers must function."

This cursory overview of Canada's role in the OAS suggests that although Canada's participation in some areas of the Organization could be improved, it has made significant contributions to the OAS since its admission as a full member. As Peter Hakim, President of the Inter-American Dialogue in Washington, recently concluded, "Canada cannot single-handedly reshape inter-American relations. It can, however, make a decisive contribution on several issues by firmly taking the initiative, by pressing its ideas, and by consistently making good sense." ☺

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Utrecht Expert Meeting

In January 1995, an Expert Meeting on the adoption of the Alston Draft Protocol was organized by the Netherlands Institute of Human Rights at the University of Utrecht. Professors Upendra Baxi and Claudio Grossman, both of the Washington College of Law, attended this meeting. Professor Baxi explains that proposals were made to improve the Alston Draft so that the right to submit communications would be broadened and the rules of procedure would be further elaborated. At the meeting, there also was a proposal to exclude Article 1 of the ICESCR, which sets out the right to self-determination, from the complaints procedure subject matter. Some participants at the meeting believed that this was in the interest of attracting States to sign on to the Protocol. Professor Baxi argued that although this might have been a compelling reason for excluding the article, particularly since the issue of self-determination in the present state of

world affairs is a problematic one, "it would be wrong for an Optional Protocol to rupture the unity of the rights laid down in the ICESCR." After considerable discussion, the experts agreed that none

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of the rights laid down in the Covenant should be excluded from the individual complaint mechanism. Professor Baxi believes that the Committee will have to create its own jurisprudence through which the meaning of the rights laid

down in the ICESCR will then be further developed.

First, however, the Optional Protocol remains to be finalized and states have to be convinced that an individual complaints mechanism is in the interest of promoting economic, social and cultural rights. According to Professor Baxi, though, all states that endorsed the commitments made at the Social Summit in Copenhagen this past March have thereby bound themselves politically to sign and ratify a protocol granting individuals the right to complain about social and economic human rights violations.

Finally, the ICCPR Optional Protocol has resulted in a significant body of case law that, in turn, has engendered international respect for the United Nations Human Rights Committee. This precedent serves as another incentive to proceed toward an optional protocol to the ICESCR. ☺