

The Rise and Fall of Economic and Social Rights—

What Next?

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In 1948, when shown a copy of the newly drafted Universal Declaration of Human Rights, a cabinet minister in Ottawa derisively commented that it would have no “great political usefulness either internationally or nationally in any country”. Not for the first time, as some of you might recall, I disagree with a Canadian minister. Rather, I am on the side of Nelson Mandela, who has said that the Universal Declaration is one of the great documents of the 20th century. He was surely right. Not only has much of its wording found itself reproduced in dozens of modern constitutions, including that of Canada, its rich provision of rights continues to inspire human rights activists in every culture and at every stage of development throughout the world.

I believe this remarkable document continues to inspire universally for two reasons. The first is that it grounds its claim for rights not on the will of God nor a law of nature nor on “man” as a reasoning creature, but rather on the proclaimed fact that every woman and man has an inherent and equal right to a life of dignity. And second, it follows up this general claim immediately with a list of quite specific civil, political, economic, social and cultural rights that are deemed to be essential if that life of dignity is to be achieved.

That political and civil rights were included in the Universal Declaration back in 1948 was no surprise. After all, many of these rights, while trampled in recent history, had been fought for and won in a long struggle, which started back before the Enlightenment. What was new in the Declaration were economic, social and cultural rights. They were included because of the profound transformation in political thinking and practice that had taken place

almost overnight in the North Atlantic democracies. After the Second World War there was no atavistic yearning for the restoration of the old order. On the contrary, at the war's end the New Deal was at its height in the United States. And in his last State of the Union address in 1944, President Roosevelt told his fellow Americans that in the pursuit of happiness, political and civil rights were insufficient. To fill this gap he called for the US Congress to produce and Economic Bill of Rights. A year later in Britain, the Labour Party with a wide-ranging social and economic rights agenda—in pensions, health, education, employment—was swept to power. And in Canada in the same year, no doubt prodded by the recent CCF victory in Saskatchewan and a second-place finish in Ontario a year earlier, the federal government committed itself to broad social and economic change that was to usher in the Canadian welfare state.

It was not a coincidence therefore that the Universal Declaration consists of a whole family of rights, some old and many new. Most had already been implemented in the leading democracies. Nor was there simply a list of different categories of rights. They were all seen to be related. John Humphrey, the distinguished Canadian professor of law at McGill University who wrote the first draft of the Declaration at the request of Eleanor Roosevelt explained the thinking of the new age, the ideas embedded at the heart of the document. “Human rights,” he wrote in his autobiography, “without social and economic rights have little meaning for most people.” Before the war and leading to the great depression, governments had wanted economies to be left unregulated and social provision to be provided largely by churches and charities. This was no

longer to be the case. Instead of hand outs for the sick, the unemployed, the poor, the elderly and the undereducated, post-war citizens, including , importantly, returning veterans, demanded government action. They insisted that charity be replaced by rights. If there was to be human dignity for all, then democratic nations required a change in political and economic philosophy. And thus, as John Humphrey said, his draft of the Universal Declaration, which was accepted in all of its essentials by the United Nations committee chaired by Eleanor Roosevelt, “attempted to combine humanitarian liberalism with social democracy”. (pp. 39-40)The two categories of rights, civil and political on the one hand, and economic, social and cultural on the other, were adopted in separate covenants by the United Nations in 1966.

Today I want to sketch in what happened to these rights in subsequent decades and make some observations on our present situation. Seen from our distant perspective, what stands out about the first three decades after the war in Canada and in the rest of the North Atlantic world is the new historical consensus on certain fundamentals. In the midst of the Cold War, through ups and downs of the economic cycle, amidst many partisan disputes on other matters, governments at home continued to expand upon what they had agreed to internationally in 1948. In broad terms, Canadian parties that had been right of centre before the war shifted to the left. There emerged a significant operating consensus among all the parties. Left behind was the view that individuals and the economy should be left to themselves. Canadians were to have a market economy but not a market-determined society. Both for equity and stability

reasons the democratic state had to play a continuous intervening role in the economy—without which another depression could not be avoided, and the social rights listed in the Universal Declaration would remain a utopian dream.

What had previously been seen as unacceptable for the state, seemingly over night became the new status quo. As I have said, benefits that were previously thought to be optional charitable provisions were now rights of citizenship. Fuelled by a market-based economy and guided by Keynesian economics, governments—whether Labour, Christian Democrat, Socialist, Progressive Conservative or Liberal—continued to implement a broadly egalitarian agenda. Government expenditures as a percentage of GDP continued to increase. And most of the increase went to the new social rights or other equality building measures. All of the North Atlantic democracies continued to expand the range of civil and political liberties but also, with the sole exception of the United States, by 1976 had ratified the Convention on Economic, Social and Cultural Rights.

Illustrative of this new development was the Parliament I was part of when I became leader of the NDP in 1975. When it came to social policy, the Liberals led by Pierre Trudeau and the Conservatives with Robert Stanfield differed from the NDP on social policy more often on speed and detail than on the course of direction. Trudeau had campaigned on the “just society”, and Stanfield accepted medicare. The commonly assumed future for Canadians was to be increasing equality characterized by redistributive taxation and a wide range of social and

economic rights. Although many certainly remained poor, these decades were the Golden Age of the “common man”, to use the language of the period.

During these remarkable 30 post-war years, for the first time in history life for the average family actually began to resemble the egalitarian democratic rhetoric that had stretched from the 17th to the 19th century. The wonderfully precise definition of democracy provided by Abraham Lincoln was at last becoming a reality in the lives of the majority: finally, they had governments that were not only by and of but also for the people. Tom Paine would have been happy.

What emerged from this thinking was a Canada characterized by a wide range of new social and economic entitlements: government pensions, universal health care, trade union rights, comprehensive unemployment insurance, the expectation that every boy and girl with ability could go to university—and all were paid for by adequate levels of progressive taxation. What were once available largely as means-tested charitable benefits had become citizens’ rights guaranteed by the state. Achieving more equality in their everyday lives, Canadians also became a nation of greater social cohesion. We actually started to describe ourselves as “sharing and caring”. This higher level of social and economic equality also produced greater tolerance and a reaching out to provide new freedoms, to women, to First Nations, to gays, to the artistic community and to ethnic minorities. Multiculturalism, so much a matter of contention in Europe, would become, as it largely remains, an accepted reality in Canada. These new freedoms were best illustrated by the civil society activism and political

leadership that led to the broad-ranging rights provisions for individuals and groups included in Canada's new Charter of Rights and Freedoms adopted in 1982.

The New Barbarism

However, long before the crash in the global economy in the fall of 2008, Canada and many other Western democracies had undergone an ideological and material reversal. Writing in the *New Yorker* magazine two years ago, David Frum, the Canadian born ideologue of the American right, asserted that the conservative (small "c") revolution launched by Margaret Thatcher and Ronald Reagan in the 1980s had as its purpose the rolling back of the "social democratic" model I have just described. This was the beginning of the new barbarism. What needs stressing about this shift in political priorities is that when a party or its leader advocates the slashing of health, education, welfare and housing benefits, they are simultaneously attacking social rights.

When Canada signed on to the Covenant on Economic, Social and Cultural Rights in 1976, it did so only after every provincial government had also committed itself in writing. From that date on such rights were not simply Canadian aspirations as some contend. As High Commissioner for Human Rights Louise Arbour pointed out, they became legally binding. ("Economic and

Social Justice for Societies in Transition,” NYU School of Law, N.Y., Oct. 25, 2006.)

Although the open assault on our social rights began at the provincial level in Ontario when the red Toryism of Bill Davis was repudiated by Mike Harris’ new brand of conservatism, it spread to federal politics in the 1990s. This became clear in the middle of that decade after the deficit had been eliminated and has continued to the present. Federal programs were not simply fixed. They were abolished. Budgets were not simply reduced. They were slashed. Income taxes needed for the restoration of social programs were not only cut but also made less progressive. Not surprisingly then, during the period 1995-2005, the rich continued to get richer and by 2007 the percentage of poor children returned to the level of 1989, when Parliament had voted to eliminate child poverty. The promised universal child care was never delivered and national housing programs disappeared. And by simply replacing targeted funding, federal money intended for post-secondary education could be and was spent for other purposes by some provinces. Reflecting the ideological shift at the time, the Liberal Minister of Finance (Paul Martin) actually boasted that government spending as a proportion of GDP had been reduced to the level of 1951. The government went on to reduce capital gains taxes and to carve nine points off the income tax of the wealthiest.

It’s important to note that even at the peak of the deficit problem alternative policies were available. In Continental Europe it is widely accepted that higher and more progressive taxation is needed to maintain an equal social

rights based notion of citizenship. Even in the US, in dealing with a similar deficit problem in the 1990s, Bill Clinton (who did further deregulate the financial sector) made few changes in social policy. Instead, he dealt with the US deficit by relying on economic growth and tax increases on upper income Americans.

The scale of the increase in inequality and the reduction of social rights beginning in the last decade of the 20th century is immense. Remember that most Western economies, including Canada, experienced the best decade of economic growth in forty years, a period which the trickle-down soothsayers said would benefit everyone. Between 1998 and 2007 the average wage of full-time workers went from \$33,000 to \$40,000, which was less than the rate of inflation. During the same period the top 1% increased by 100% their share of total wages, and the compensation of the top 100 CEOs went from an annual average of \$3.5 million to \$10.4 million—up almost 200%. The vast majority of Canadians actually experienced a downward shift in their share of the national income that they had worked to create. Seventy percent of Canadian households have a smaller share now than they had at the end of the 1970s. A final statistic: excluding the elderly, the bottom 50% of Canadians have lower after tax incomes than their equivalents in the late 1970s.

The present Conservative federal government has continued the preceding Liberals' onslaught on social rights and equality. As a consequence of the continuing underfunding of social spending and irresponsible tax cuts disproportionately favouring the rich, for many Canadians it came as no surprise when we were criticized by the United Nations in 2007 for failing to live up to our

obligations under the Covenant on Economic, Social and Cultural Rights. This was followed in 2008 by an OECD report showing that growth in inequality in Canada is now among the worst in the OECD.

This then was the social and economic rights legacy of recent federal governments leading into the crisis in the fall of 2008. We in Canada can appropriately congratulate ourselves about the relatively healthy structure of our financial institutions, but we must not allow this to obscure the other, deeper democratic problem of the alarming assault on social rights and the increase in inequality that is now at least being openly debated in Europe. In fostering this, what recent federal governments have done is not only to reject the political legacy of the CCF and the NDP but also that of Prime Ministers Lester Pearson, John Diefenbaker, and Pierre Trudeau—all of whom came to see social programs and redistributive income taxes as important stabilizing and equalizing forces in the economy.

New Evidence About Equality

Under the leadership of the post WWII generation Canadians began to transform themselves in the 20th century. As I have already suggested, part of this transformation was picked up by my generation of politicians and was reflected to some extent in all of our parties. Under various political labels, as a nation we had embarked on a progressive agenda which combines a regulated

and efficient market-based economy with strong social rights and fiscal policies aimed at overcoming poverty and achieving greater equality. It is this democratic journey that has been dangerously undermined not by inherent forces in the economy but by willful decisions made by politicians. Ideology matters. Values, good and bad, have consequences.

I mentioned earlier what I have long believed and written about: that, as a consequence of becoming more equal in economic terms, we Canadians had also become more tolerant and more cohesive. Sharing and caring was not merely a slogan. Surveys showed that it was characteristic Canadian behaviour. The progressive politics of my generation were driven to the equality agenda because of ethical considerations and also concern for macro-economic stability, both of which were the outcomes of war and depression in the 1930s and 40s. However, we now have recent and clear evidence that more than stability and ethical concerns about equality is at stake. More equal societies are not simply more stable and just, they are also healthier in virtually every respect for everyone in them. Bringing together data from a large number of international studies (UN, World Bank, US Census, Statistics Canada) two leading British epidemiologists, Richard Wilkinson and Kate Pickett in their book, *The Spirit Level*, published here last year (and recently made available in paperback), show the society-wide positive social consequences of more equality. As a result of their comprehensive analysis of data from dozens of countries, we now know that ethical concerns and practical benefits come together: equality works.

Their research has shown that more equal nations like Sweden, Norway, and Denmark, are better off in almost every way. Their citizens are healthier, live longer, have fewer teenage pregnancies, are more law abiding, participate more in civic projects and are more trusting of their neighbours. Contrary to those who claim freedom is sacrificed with more equality, for the great majority the opposite is true. With more equality, there is a greater flourishing of the kind of responsible individualism and citizenship favoured by the great liberal, John Stuart Mill. Transcending any differences in religion, language and culture, it is the higher degree of equality that makes those nations so much better off than the US or the UK, which are the most unequal. I repeat and emphasize that once a certain minimum level of wealth is reached in a country, the evidence shows it is not more growth but more equality that leads to a better quality of life for everyone.

Wilkinson and Pickett's work demonstrates that unequal societies are not only unfair, they are dysfunctional. The status-related insecurity and anxiety produced by unequal societies promotes more isolation, social estrangement, and negative health outcomes than in societies that are more equal. Not just the poor but everyone is worse off. Rich and highly educated British and Americans do worse in health outcomes than their equivalents in more equal societies. Furthermore, the evidence also indicates that more equality leads to higher levels of social mobility. Contrary to popular mythology, upward mobility is considerably lower in the USA than in the Nordic countries.

As I have said, Canada is moving backwards. Although in about the middle of the pack, we are becoming more unequal more rapidly than most of the countries studied. The implications are clear. Once we are out of the current crisis, by promoting only more growth and not more equality we will continue to foster only more negatives in health and social behaviour. Such a policy could hardly be more dysfunctional. Low wages, low welfare benefits and regressive tax policies are not only ethically unfair for the poor whose market-based incomes are the lowest, they are also attacks on social rights. And because such policies maintain or increase inequality and exacerbate social tensions and anxiety in general, they are also bad for everyone else. In contrast, stronger social rights and more equality have society-wide benefits for all classes: lower, middle and upper.

The percentage of children living in poverty is little different from what it was 20 years ago. Every day more than half of unemployed men and women are denied EI benefits; all across Canada middle income families are re-mortgaging their homes so their kids can go to university; and in every community seniors are being forced back to work because their pensions have been wiped out since our OAS and CPP are now inadequate. Based on recent evidence, the policy implications are clear. More growth alone won't fix Canada, but sharing our money, as other democracies have shown, can make a huge difference.

What, then, should we do? Instead of federal governments continuing to treat expenditures on social rights as no different from those on roads, and thus

open on an equal basis to cut-backs, the government must take seriously its legal obligations, which came into effect in 1976. Spending on social and economic rights is not an optional aspiration like building a new highway. It is a legal requirement. Nor, as some would contend, are such rights any less important than political and civil rights. As president of Rights and Democracy, I was pleased to have played a small role at the United Nations Conference on Human Rights in Vienna in 1993. Governments at the conference not only made a breakthrough for women when they affirmed that a special category of rights pertinent to women are human rights, they also reaffirmed the inextricable, interdependent connection between all categories of rights.

Louise Arbour also emphasized this point in her speech four years ago. She went on to say that as recently as the 2005 Heads of State Summit, governments (which included Canada) recommitted themselves to the same view. She summed up the point this way: "Along with civil and political rights, economic, social and cultural rights now have the status of binding law in numerous human rights treaties, regional human rights systems and Constitutions." (*op.cit.*)

A New Direction Needed

It is time to reverse the growing trend to deep inequality in Canada. It is time for the federal government to fulfill its legal responsibilities for enforcing the

Covenant on Economic, Social and Cultural Rights. The Covenant is quite clear on its obligations. We are required to the maximum of our available resources to progressively realize its quite specific list of rights. This requires positive action by governments, among other obligations, to build hospitals and schools, provide pensions, ensure employment insurance for all workers, guarantee equal pay for men and women, and create and enforce laws enabling workers to have unions.

Since 1976 we have created the Constitution Act of 1982, which contains in section 36 a commitment by the federal and provincial governments to ensure the well-being of all Canadians and to implement an equalization process that would enable all provinces to provide services on a comparable basis and at comparable levels of taxation. While clearly intended to obligate the federal government and provinces to provide these social services now considered as social rights, section 36 does not stipulate that equalization funding be spent exclusively on such services—i.e. such transfers can be used by provinces for other purposes.

What we now need to do at a minimum is to have a regular nation-wide independent assessment on how all governments are living up to their social rights obligations. Parliament has in the office of the Auditor General created a vital accountability mechanism for supervising and assessing the adequacy of all federal expenditures. We need an equivalent body to do a stipulated periodic assessment of the adequacy of Canada's spending on our social rights obligations. A report should be submitted to Parliament, not the government, say every three years. Since our social rights are at both the federal and provincial

levels, such an audit would also need to apply to both levels of government. While such a social audit would have powers simply to analyse, report, and make recommendations, its effects could be quite significant. Just as the Auditor General's annual report mobilizes significant public opinion to put pressure on the federal government to take into account its findings and recommendations, so too could a non-partisan social audit have the same positive effect on our social rights.

Time to Act

While a Social Audit can be a useful instrument in generating debate on our social rights obligations, other immediate action is also required. Indeed, the House of Commons finally indicated an awareness of such a need last November, when it adopted an all-party resolution directing the government to “develop an immediate plan to eliminate child poverty in Canada for all”. The federal government should act on this. In doing so now, it would have strong support from the people of Canada. In an Environics poll taken in the fall of 2008, 90% of Canadians said they wanted the federal government to take leadership in reducing poverty. In virtually equal numbers (89%) they called for the Prime Minister and the Premiers to set targets and timelines to achieve this objective.¹ Earlier this year a Manning Institute poll confirmed that 82% of Canadians believe government should play a role in reducing the gap between rich and poor.

¹ See the article by Seth Klein and Armine Yalnizyan in *CCPA Monitor*, March 2010.

Six provinces have already embarked on their own agendas for reducing poverty and inequality (Quebec, Newfoundland and Labrador, Ontario, Nova Scotia, New Brunswick, and Manitoba). Representing the large majority of Canadians, these provinces have responded to what that majority desires. The plain truth is that people in every region of our country also want a turn around in social policy at the federal level. In the last election, over 60% of Canadians voted for parties promising redistributive policy initiatives in housing, pensions, employment insurance benefits, post-secondary education, and programs for people with disabilities. These all involve social and economic rights. And, as I have just said, polls since then indicate strong support for moving in this direction. Now is the time for the federal government to join in and do its share. Now is the time to act on behalf of the poor and to work for more equality. Now is the time to live up to our decision made in 1976 to build a Canada committed equally to *all* rights—economic and social, as well as political and civil.