Conflict, Human Rights, and Integration of Refugees

Human and Refugee Rights: New Challenges for Canada

Kohki Abe

When I grabbed a belatedly-issued UN pass and rushed into a conference room in the morning of March 26, 1999, the meeting was already in full swing with a "passionate" intervention by The Hon. Hedy Fry, Secretary of State for Multiculturalism and the Status of Women. Breaking down decades-old conventionalities, Ottawa sensibly sent a female minister to lead its large delegation to the 65th session of the Human Rights Committee, the monitoring body of the International Covenant on Civil and Political Rights. The Hon. Fry introduced Canada's voluminous fourth periodic report to the Committee of 18 experts, and responded to a long list of issues which had been prepared by the Committee working group prior to the meeting. Teaming up with competent federal and provincial officials, she seemed confident and eloquent.

Canada is generally recognized as a leader in human rights. It was, therefore, not surprising that the delegation showed an array of measures adopted to give effect to the rights in the Covenant and the progress made in the enjoyment of those rights in this country. Like many other state representatives, however, the Canadian delegation was not fully aware that the Human Rights Committee is not a fora for officials to only brag about their proud achievements in respective countries. In fact, a primary mandate of the Committee in examining periodic state reports is to identify the factors and difficulties affecting the full implementation of the Covenant and issue relevant recommendations with a view of inducing state parties to comply with the obligations provided therein. Thus, Justice Rosalyn Higgins, a former member of the Committee, points out that

[while violations are manifestly more severe in certain places than in others, the Committee has yet to find a country fully conforming with its human rights obligations. (Higgins 1996)]

She, then, laments the fact that very few countries treat contact with the Committee as "an opportunity to make sure that everything is as it should be, that things ...

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are put right” (ibid.) Canada cannot escape her scathing criticism. It is NGOs that always liven up the dialogue in the Committee. Despite Hon. Fry’s encouraging statement that more than 200 vernacular NGOs were consulted in the report preparation process, one finds little, if any, hint of input from the civil society in the government-compiled bureaucratic documents. That explains why a significant number of Canadian NGOs presented themselves in New York to keep an eye on otherwise unproductive interaction between their government and the experts. To my pleasant surprise, their effective lobbying found expression in every question raised by expert-members to “probe but not praise” (in the words of Vice Chairperson Elizabeth Evatt) Canadian performance. Firmly backed by NGOs, experts called in from around the world unsparingly chiselled in close to the concealed Achilles heel of the world’s humanitarian giant. Members’ inquiries were so reflective of NGOs’ insight that an indigenous representative, who happened to sit next to me in the conference room, confided at the end of the meetings that he was “120% satisfied” with the outcome of the examination. His position on the issue was endorsed when the Committee adopted its Concluding Observations on April 9, 1999, by noting that the situation of the Aboriginal peoples was “the most pressing human rights issue facing Canadians.” It proceeded to recommend specific remedial actions to be taken by the government.

Among NGOs strategically representing their own constituencies, there were two highly-experienced refugee and immigration rights advocates. No doubt their skilful submission and contact with expert members helped promote their key concerns and led to that part of the Concluding Observations which refer to concerns about the removal of aliens to countries where torture may be awaiting and the expulsion of long-term residents. To its credit, the Committee urges Canada to revise its current immigration policy which is deemed to be incompatible with the relevant provisions of the Covenant.

There is no assurance that the Committee’s thoughtful concerns and recommendations will be taken heed of by the government. They might be simply shelved away until April 2004, when Canada’s fifth report is scheduled to be examined. Yet, one cannot deny that the Concluding Observations will be a legitimate, legal yardstick to calibrate government policies. They may also raise public awareness about contemporary human rights issues in Canada. To me, a researcher of international human rights and refugee law, the Committee’s observations look like another precedent to integrate refugee issues into human rights regimes. While a welcome instrument for the protection of refugees, one should note that this integration process has been accelerated, at least partly, by sheer lack of measures to monitor the implementation of refugee law, particularly in the 1951 Refugee Convention and its 1967 Protocol.

Media showed incredibly little interest in Canada’s performance before the Human Rights Committee. In fact, the human rights agenda was overwhelmingly shadowed by the Kosovo crisis, which pitted powerful NATO forces against the regime in Belgrade. For the first time since the Korean War in the 1950s, Canada has joined the frontline battle by dispatching its highly equipped air fighters. As it is often the case with international lawyers, my first response was, “On what legal basis is the bombing justified?” Some critics say that in the absence of the UN Security Council’s authorization, this “war” is illegal. Given the primary role of the Security Council in the maintenance of international peace and security under the UN Charter, their argument appears persuasive enough. Nevertheless, one might present an equally persuasive argument for the military action by carefully formulating a modern form of “humanitarian intervention.” My concern here is not to identify which interpretation should be pursued. Rather, it is about a conspicuous lack of in-depth discussion. To my understanding, the Canadian government has yet to demonstrate a prima facie case to support its...
Surely, this question may not be answered without hitherto a chasm of institutional racism at Euracentrism. Mere nateworthy is a procedural arrangement instantly devised for new 1st-camer KO’savars. It was announced that Canada would receive 5,000 within days of the crisis. Then why, according to the 1999 annual plan, does Canada accept only 7,300 government-assisted refugees in a year?

It was reported that Kasavars would be considered Can venti an refugees if they sa wish and be duly granted landed immigrant status. This would happen without the presentation of satisfactory identity documents. Andrew Brauwer (1999, 1) revealed that there are as many as 13,000 Canventian refugees living in legal limbo in Canada today because they are unable to satisfy a requirement introduced into the Immigration Act in 1992 that Canventian refugees present satisfactory identity documents to be granted permanent status. If yet-unknown Kasavars were promised permanent status on-hand, why nat Samalis, why nat Afghan’s, who’ are already recognized by the world-renowned Immigration and Refugee Board (IRB) as Canventian refugees?

The Canadian Human Rights Commission has repeatedly expressed concern about the application of the Right-of-Landing Fee to refugees. In aderta became permanent residents, refugees must pay the Right-of-Landing Fee of $975 in addition to $500 processing fees per adult. The Commission’s Annual Report 1998, reiterates its concern:

Beginning life in Canada with a large debt load can make integration difficult for any newcomer. This is particularly true for refugees, who have often fled from traumatic human rights situations. Exempting refugees from payment of this fee, and from other expenses that serve to impede their speedy integration, would be in keeping with Canada’s humanitarian tradition.

This tradition will be preserved if Kasavars come to Canada. Then, why nat in relation to refugees already in Canada?

The plan to bring in 5,000 Kasava refugees ironically sheds light on Canada’s potential to accommodate more refugees without the anerous hardships that are applied today. It is unfortunate that full manifestation of this uniquely vast potential has been facefully blacked by lack of political will. It is worth recalling that determination and sensitivity an the receiving end may help facilitate social awareness of human and refugee rights as well as successful integration of refugees into anew socity. As it is implied by Kahki Abe and Maria Vargas in this issue of Refuge.

Like in Kasava, ethnic conflicts inevitably displace abhuman afpeople. As conflicts drag an due to political maneuvering, their hardships deepen. Articles an Sri Lanka, Chittagang Hill Tracts, and North Korea, included in this issue of Refuge, make us aware of refugee martyrs tossed about in the storms of politics. Resalutian (ar prevent far that matter) of afconflicts is always hard wan, if ever wan. But it has to be wan to begin a process afreconciliation and reconstrunction. The need to achieve effective salutian is soundly underlined in papers of this issue.

References


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