

EXECUTIVE SUMMARY

In search of political will

Strengthening Canada's
mechanisms for the domestic
implementation of international
human rights commitments

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Download the full report at: <https://maytree.com/publications/in-search-of-political-will/>

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About Maytree

Maytree is a Toronto-based human rights organization committed to advancing systemic solutions to poverty and strengthening civic communities. We believe the most enduring way to fix the systems that create poverty is to ensure that economic and social rights are respected, protected, and fulfilled for all people living in Canada. Through our work, we support non-profit organizations, their leaders, and people they work with.

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Introduction

The history of domestic implementation of Canada’s international human rights commitments is disappointing, particularly when it comes to economic and social rights. Many countries struggle to live up to these obligations, but few position themselves as a global human rights champion the way Canada does. Over the past 75 years, Canada has neglected to build the necessary legal foundations, government structures, and political will at home to institutionalize human rights and provide accountability to rights holders. We need a new national framework for international human rights implementation.¹

To support this broad goal, Maytree’s report examines Canada’s national, sub-national, and intergovernmental mechanisms for the domestic implementation of our international human rights commitments.

Countries around the world are establishing new or improved standing structures for human rights implementation known as “National Mechanisms for Implementation, Reporting and Follow-up” (NMIRF). Maytree’s report documents how Canada’s NMIRF currently functions, how it is falling short when compared to the best practices identified by the UN, and what specific changes are needed.²

The way forward will require political leadership, particularly from the Forum of Ministers Responsible for Human Rights (FMHR). Maytree hopes this report will help spur them to action.

Mechanisms in Canada

Domestic implementation of Canada’s international human rights commitments requires at least three separate but related processes:

1. Vertical coordination among FPT governments;
2. Horizontal coordination across departments within the federal government; and
3. Horizontal coordination across departments within provincial and territorial governments.

1 Neve, A. (2023). *Closing the Implementation Gap: Federalism and Respect for International Human Rights in Canada*. IRPP Study 90. Montreal: Institute for Research on Public Policy. <https://centre.ipp.org/research-studies/closing-the-implementation-gap/>

2 UN Office of the High Commissioner for Human Rights. (2016). *National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms*. https://www.ohchr.org/sites/default/files/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf

Maytree's report refers to all three of the above elements collectively as Canada's national mechanism or NMIRF. When examining them individually, it refers to them as Canada's FPT mechanism, federal mechanism, and provincial and territorial mechanisms, respectively.

How Canada measures up

As a starting point, the table below organizes the UN's key elements of a robust NMIRF into categories and summarizes how Canada's NMIRF measures up.³ A more robust comparison against the UN criteria can be found in the full report.

Table 1: How Canada's NMIRF measures up against international best practices

Key structures and capacities of a NMIRF based on international best practices	Type of coordination		
	FPT mechanism	Federal mechanism	Provincial and territorial mechanisms
Comprehensive formal mandate with political ownership.	No	No	No
Staffed with dedicated, diverse, and continuous staff with technical human rights expertise.	Partial	Partial	No
Engages and liaises with international and regional human rights mechanisms.	Yes	Yes	Yes
Organizes and centrally facilitates the preparation of reports to international and regional human rights mechanisms, and the preparation of responses to communications and follow-up questions and recommendations / decisions received from such mechanisms.	Yes	Yes	Yes
Fosters and leads engagements for reporting and follow-up with human rights commissions, Indigenous groups, and civil society.	Partial	Partial	No
Coordinates data collection and information gathering from government entities, parliament, and the judiciary for reporting on recommendations and decisions and disseminates information among them.	Yes	Yes	Yes
Tracks, captures, and clusters recommendations and decisions, identifying government agencies for implementation.	Partial	Partial	Partial
Develops follow-up plans with time frames and manages information regarding implementation.	No	No	No

³ UN Office of the High Commissioner for Human Rights. (2016). *National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms*. https://www.ohchr.org/sites/default/files/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf

Recommendations for the structure of Canada's NMIRF

Unfortunately, the FMHR has yet to demonstrate political ownership for Canada's FPT mechanism. At a minimum, political ownership should manifest itself through a clear agenda to advance the collective implementation of human rights obligations through stronger laws, policies, and processes at all levels, as well as accountability to one another at the FPT table and to Canadians for delivering outcomes.

The federal mechanism is similarly held back by a lack of political leadership. With responsibility for human rights spread confusingly across multiple ministers and their departments, there is no clear accountability at the Cabinet level for human rights implementation.

Provincial and territorial mechanisms are significantly worse. Responsibility for human rights implementation can fall to a single low-level official, and political ownership is often non-existent.

Finally, municipal and Indigenous governments lack any formal role in the structure of Canada's NMIRF, despite their important contributions and responsibilities for promoting and protecting human rights.

Recommendations:⁴

- FPT governments should each pass legislation that enshrines their standing mechanisms in law.
- The Forum of Ministers Responsible for Human Rights should:
 - Commit to a timeline and process for a new national framework for international human rights implementation;
 - Publish a detailed accounting of Canada's National Mechanisms for Implementation, Reporting and Follow-up; and
 - Formalize the role of municipal governments in implementing international human rights obligations.

4 Find the unabridged list of these recommendations and the ones below [in the full report](#).

Recommendations for public engagement and transparency

Critical issues in engagement and transparency remain unaddressed. The FPT mechanism and the federal mechanism see engagement primarily as a form of information collection to be fed into reports, while civil society is asking for meaningful dialogue on Canada's human rights record and how these rights will be fulfilled.

Many provincial and territorial governments lack meaningful engagement processes of any kind, and there are no agreed upon expectations against which to hold these governments accountable.

Recommendations:

- The Forum of Ministers Responsible for Human Rights should commit to continual improvement of the new FPT Engagement Strategy, including:
 - Committing to implement full, proactive transparency of all work within Canada's FPT mechanism; and
 - Working with civil society, human rights commissioners, and Indigenous groups to co-develop an updated Engagement Strategy.
- Provincial and territorial governments should strengthen their individual engagement capacities so that they meet a set of common standards to be developed jointly with civil society and others, and formally adopted by the Forum of Ministers Responsible for Human Rights.
- The federal government should continue to demonstrate leadership by further expanding its own engagement capacity and providing funding to civil society and others so they too can engage effectively.
- All FPT governments should prioritize stronger engagement with Indigenous governments and other bodies. This should reflect a nation-to-nation relationship as well as Canada's obligations under the UN Declaration on the Rights of Indigenous Peoples.
- The Forum of Ministers Responsible for Human Rights should formalize the role and responsibility of municipal governments in implementing international human rights obligations, including their participation in engagement processes.

Recommendations for coordination, information management, and implementation capacity

Canada's NMIRF falls short by failing to follow-up on recommendations received from the UN.

A robust NMIRF would coordinate action by insisting that implementation be taken seriously, that clear commitments are made and shared publicly, that lines of accountability for implementation are transparent, and that progress is reported honestly. No part of Canada's NMIRF currently reaches this standard.

Recommendations:

- The Forum of Ministers Responsible for Human Rights should immediately revisit and strengthen the *Protocol for Follow-up to Recommendations by International Human Rights Bodies* to reflect that:
 - Canada's NMIRF will publish an explanation each time Canada opts not to accept a recommendation from the UN.
 - All FPT governments agree to publish their implementation plans for each UN recommendation received and accepted by Canada.
 - All FPT governments agree to report publicly the actions taken to address each UN recommendation received and accepted by Canada.
 - All FPT governments recognize that they are required under international human rights law to pursue the progressive realization of economic and social rights and to devote the maximum available resources to this end.
- To align with changes to the FPT Protocol, the federal government should immediately revisit and strengthen the Federal Human Rights Implementation Framework to include a commitment to publish human rights implementation plans and to report publicly on the actions taken to implement these plans.
- The federal government should adopt the National Recommendations Tracking Database and invite all provinces and territories to use the tool.
- The Forum of Ministers Responsible for Human Rights should commit to developing a set of national outcome indicators to measure Canada's progress in fulfilling human rights, with priority given to economic and social rights.



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