

REPORT



In search of political will

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

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About the author

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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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Context for this report

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. While an increasingly robust system of international human rights law has developed 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.

In his 2023 study *Closing the Implementation Gap*, Alex Neve explores the reasons behind this gap, arguing that Canada needs a new national framework for international human rights implementation.¹ Neve's framework would see Canada's Forum of Ministers Responsible for Human Rights lead on the following actions:

- Commit publicly and explicitly to ensuring that all policies and actions taken by federal, provincial, and territorial governments conform to international human rights obligations;
- Strengthen existing laws, policies, and processes to support implementation of international human rights obligations;
- Enact comprehensive legislative reform, including adoption of international human rights implementation laws by federal, provincial, and territorial governments;
- Ensure an enhanced role for Indigenous governments in implementing international human rights obligations, in keeping with the UN Declaration on the Rights of Indigenous Peoples;
- Formalize the role of municipal governments in implementing international human rights obligations;
- Enhance stakeholder and public engagement to improve the capacity of stakeholders to contribute to and monitor the implementation of human rights in Canada; and
- Establish a dedicated secretariat equipped with long-term funding, including for Indigenous Peoples' organizations and civil society groups, to support all aspects of the national framework.

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/>

Maytree supports these recommendations and calls on federal, provincial, and territorial governments to address them promptly, with leadership from the Forum of Ministers Responsible for Human Rights.

To further these efforts, this report takes a narrower and deeper look at Canada's national, sub-national, and intergovernmental mechanisms for human rights implementation. It analyzes how these structures operate, where they fall short, and what specific reforms are needed. Maytree hopes that this will contribute to the development of the national framework described above.

The need for structural reform is undeniable. Year after year, cycle after cycle of regular accountability reviews, Canada receives similar recommendations from the international community and repeatedly accepts or acknowledges areas where our governments are not meeting their human rights obligations. But when the UN processes are over, these same governments are unable or unwilling to share with the public the specific steps they are taking to address these deficiencies or, more broadly, to chart a path forward that will lead to the fulfillment of human rights.

Thus, it is no surprise that a recent Equitas report, based on engagements with 52 organizations in the aftermath of Canada's fourth Universal Periodic Review (UPR), concluded that "Civil society believes that there are serious gaps, in terms of follow-up and accountability on the part of federal, provincial and territorial governments, regarding the implementation of UPR recommendations and other international mechanisms."²

Much of Neve's analysis of the causes of Canada's human rights implementation gap is relevant here. In his 2023 study, he describes how Canada's intergovernmental mechanisms have failed to harness the opportunities of cooperative federalism and are instead bogged down by "ambiguity, turf guarding, buck passing and finger pointing." Even within Canada's federal, provincial, and territorial governments, lines of responsibility for human rights implementation and outcomes are murky at best.

These challenges are well understood by the lower-level officials tasked with human rights implementation within our national and sub-national governments. Most are working as best they can to overcome systemic constraints and build more effective implementation and accountability mechanisms. The direction of change is positive, but the pace of progress is too slow and too often driven by appearances rather than true impact. In addition to stronger implementation mechanisms, a domestic human rights agenda requires political leadership, particularly from the

² Equitas. (2024). *UPR 4: Your voice counts!* Page 8. https://equitas.org/wp-content/uploads/2024/02/RapportConsultationEPU_EN_2024.pdf

Forum of Ministers Responsible for Human Rights. Maytree hopes that this report will help spur them to action.

Introduction

Canada's ratification of numerous international human rights treaties, in addition to its participation in the UN Human Rights Council's Universal Periodic Reviews, means federal, provincial, and territorial (FPT) governments are continuously engaged in many cyclical accountability processes intended to promote domestic implementation of Canada's international human rights commitments. UN independent human rights experts, known as special procedures mandate-holders, also regularly visit Canada, preparing reports with detailed human rights recommendations.³

The complexity of coordinating timely reporting and effective follow-up across and between national and sub-national governments is significant, but it is an essential element of compliance with Canada's international human rights commitments. Unfortunately, governments in Canada have neglected to build the necessary legal foundations, government structures, and political will at home to institutionalize human rights and provide accountability to rights holders.

Meanwhile, there is a growing international consensus on the need for stronger mechanisms and sustainable national capacity in every country – whether it uses a unitary or federal system of government – as key ingredients for an effective human rights treaty body system.⁴ Countries around the world are establishing new or improved standing structures known in UN parlance as “National Mechanisms for Implementation, Reporting and Follow-up” NMIRF. After considering the many NMIRFs in place around the world, the UN has concluded that the strongest ones are characterized by their formal mandates, political leadership, dedicated expert staff, engagement capacity, and ability to demonstrate accountability for a country's human rights commitments.⁵

3 UN Office of the High Commissioner for Human Rights. (n.d.). Special Procedures of the Human Rights Council. <https://www.ohchr.org/en/special-procedures-human-rights-council>

4 See, for example: Universal Rights Group. (2024). *The emergence and evolution of national mechanisms for implementation, reporting, and follow-up*. <https://www.universal-rights.org/urg-policy-reports/the-emergence-and-evolution-of-national-mechanisms-for-implementation-reporting-and-follow-up/>

5 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

The power of these mechanisms is that they are nationally driven. A strong NMIRF can build ownership across levels of government, develop new in-house human rights expertise, spread human rights-based approaches, stimulate new dialogue between governments and civil society, amplify the voices of those whose human rights have been denied, and build a stronger platform for a country's human rights advocacy around the globe. Conversely, a weak mechanism should raise questions about a country's commitment to human rights. After all, human rights are not fulfilled by ratifying treaties and participating in periodic reviews, but through the hard work of implementation.

The international community appears to share the concerns of civil society when it comes to Canada's national mechanism. Through various UN processes, other countries regularly and repeatedly call on Canada to improve its implementation and accountability structures. Most recently, Canada received and accepted two recommendations through the fourth UPR calling for the creation or strengthening of an NMIRF.⁶ Shortly after, the UN High Commissioner for Human Rights wrote to Canada to encourage our governments to establish an NMIRF as part of a coordinated and effective approach to implementing the recommendations received through the UPR.⁷ He also suggested Canada consider the need for technical or capacity-building assistance from the UN.

At the time of publication, Canada's governments have offered no specific plans for implementing these NMIRF recommendations – a situation that is, unfortunately, the norm for UPR or treaty body recommendations that Canada has “accepted.”

But what precisely makes for a strong national mechanism? What are the gaps in Canada's existing mechanisms? What concrete steps are needed to fill them? This report offers the beginnings of an answer to these questions. It will briefly summarize Canada's current accountability mechanisms, assess where they fall short of international best practices as identified by the UN, and offer recommendations for improvement.

As we will see, the way forward is neither technical nor complex, but it will require political leadership.

⁶ The UPR recommendations are as follows:

- Recommendation #68: Strengthen the national mechanism for comprehensive reporting and follow-up in relation to recommendations received from international human rights mechanisms and treaty obligations.
- Recommendation #69: Establish a National Mechanisms for Implementation, Reporting and Follow-up and consider the possibility of receiving cooperation.

⁷ Türk, V. (June 26, 2024). Letter to the Minister of Foreign Affairs of Canada. <https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session44/upr-hc-letter-canada-eng.pdf>

Part 1: Mechanisms in Canada

Due to Canada's federal structure, and the legal reality that international human rights treaties are binding on both national and sub-national governments, 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.

When the federal government refers to Canada's NMIRF, it speaks only of the FPT mechanisms that coordinate between governments. Presumably, many provinces and territories share this view. Using such a narrow conception of Canada's NMIRF is problematic because it de-emphasizes the role of human rights compliance within governments and artificially separates this work from the rest of the mechanism. In reality, the federal government and each sub-national jurisdiction are at the same time jointly and independently accountable to Canadians for fulfilling their human rights obligations. Their internal implementation structures, processes and decisions must be, by definition, part of Canada's NMIRF.

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

Canada's FPT mechanism: Coordination between levels of government

For over 40 years, the Continuing Committee of Officials on Human Rights (CCOHR) has been responsible for coordinating FPT governments in their efforts at domestic implementation of international human rights obligations. Despite its longevity and position as the foundation of Canada's national mechanism, the CCOHR has no website or any public catalogue of its reports, recommendations, or other work.

FPT representatives on the CCOHR tend to be lower-level officials (a mix of analysts, managers, and directors) tasked with the day-to-day work of treaty implementation, reporting, and follow-up. In smaller provincial and territorial governments, human rights may be only one piece of a larger set of responsibilities. The Human Rights Program at Heritage Canada acts as the CCOHR's secretariat and co-chairs the committee with a representative of a provincial or territorial government.

In 2017, the FPT ministers responsible for human rights met for the first time in nearly three decades and agreed to form the Senior Officials Committee Responsible for Human Rights (SOCHR), which oversees the work of the CCOHR.⁸ Meeting quarterly, the SOCHR consists of representatives at the Assistant Deputy Minister level. More information on the CCOHR and SOCHR is available on the Government of Canada's website, and contact lists for all members are publicly available upon request to Heritage Canada.^{9,10}

The FPT ministers also agreed at their 2017 meeting to strengthen Canada's implementation of social and economic rights, develop a protocol for following up on the recommendations that Canada receives from international human rights bodies, as well as create a stakeholder engagement strategy. Following the 2017 meeting, the CCOHR produced these documents:

- The Protocol for Follow-up to Recommendations by International Human Rights Bodies outlines how FPT governments will consider and respond to recommendations received from UN treaty bodies.¹¹
- The Engagement Strategy on Canada's International Human Rights Reporting sets out how FPT governments will solicit views from civil society, human rights commissions, and Indigenous representatives

8 Canadian Intergovernmental Conference Secretariat. (December 12, 2017). Federal, Provincial and Territorial Ministers from across the country gather to discuss Human Rights. <https://scics.ca/en/product-produit/news-release-federal-provincial-and-territorial-ministers-from-across-the-country-gather-to-discuss-human-rights/>

9 Government of Canada. (2024). About human rights. <https://www.canada.ca/en/canadian-heritage/services/about-human-rights.html>

10 To contact the Human Rights Program at Heritage Canada, email FPTRightsEngagementDroitsFPT@pch.gc.ca.

11 Government of Canada. (2022). Protocol for Follow-up to Recommendations from International Human Rights Bodies. <https://www.canada.ca/en/canadian-heritage/services/about-human-rights/protocol-follow-up-recommendations.html>

and groups regarding Canada’s human rights reporting and the recommendations received from UN treaty bodies.¹²

Heritage Canada has also secured additional resources to strengthen its engagement team so it can support the new strategy, though the government offers no resources to support civil society and others to engage with Canada’s NMIRF.

While the attempt to bring some transparency and consistency to follow-up mechanisms was welcomed by civil society organizations, the documents were drafted without meaningful public input, despite civil society flagging shortcomings in each.¹³ This report will argue that the language of these documents – particularly the protocol for follow-up – is too weak to offer meaningful accountability.

Both documents were endorsed by the FPT ministers when they met again in 2020 to formalize their gathering as the Forum of Ministers Responsible for Human Rights (FMHR).¹⁴ The ministers determined that they should meet regularly every two years. The following FMHR meeting took place in 2023, and the next one will be held in Saskatchewan in 2025-26.¹⁵

Federal mechanism: Coordination across departments within the federal government

Federally, the *Department of Canadian Heritage Act* gives the Heritage Minister jurisdiction over “the promotion of a greater understanding of human rights, fundamental freedoms and related values.” Since 1967, Heritage Canada has housed the Human Rights Program, which has among its responsibilities the coordination of periodic reporting to United Nations treaty bodies and the subsequent distribution and tracking of recommendations from these bodies. This

12 Government of Canada. (2022). Engagement Strategy on Canada’s International Human Rights Reporting Process. <https://www.canada.ca/en/canadian-heritage/services/about-human-rights/engagement-strategy-human-rights-reporting.html>

13 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. Page 21. <https://centre.irpp.org/research-studies/closing-the-implementation-gap/>

14 Government of Canada (November 10, 2020). Federal, Provincial and Territorial Ministers Responsible for Human Rights Hold Virtual Meeting to Discuss Key Priorities in Relation to Canada’s Human Rights Obligations. <https://www.canada.ca/en/canadian-heritage/news/2020/11/federal-provincial-and-territorial-ministers-responsible-for-human-rights-hold-virtual-meeting-to-discuss-key-priorities-in-relation-to-canadas-hum6.html>

15 Government of Canada. (2024). Departmental Plan 2024-25 – Canadian Heritage. <https://www.canada.ca/en/canadian-heritage/corporate/publications/plans-reports/departmental-plan-2024-2025.html>

requires continuous engagement with many other departments, especially Justice Canada and Global Affairs Canada.

The outlines of the full federal mechanism can be found in the *Federal Human Rights Implementation Framework*. This document, which was last updated in March 2023, has not been published by the federal government but can be requested from Heritage Canada. The framework refers to itself as “the Government of Canada’s approach to strengthening the implementation of Canada’s international human rights obligations.”

The federal framework is organized into three areas of work internal to the federal government: information sharing and enhanced awareness, consideration and collaboration, and monitoring and accountability. According to the framework, these areas of work are supported by four proposed structures:

1. To support interdepartmental coordination, the framework includes an internal Director General International Human Rights Forum (“DGRights Forum”), co-chaired by the Director General, Strategic Policy and International Affairs at Heritage Canada, and their counterpart at the Department of Justice. The members of the Forum are largely from strategic policy and international branches across relevant federal departments. While not specific subject matter experts, they are in positions where they have a strategic overview of the operations and priorities of their departments. The DGRights Forum was launched in 2022 with the intention of meeting quarterly, though it is unclear whether that is happening. There is no public information about the specific members of this committee or its work.
2. The framework envisions a new internal Network of Focal Points on International Human Rights (“RightsNet”) as a “space for policy experts to discuss, raise awareness, and share information regarding Canada’s international human rights obligations, the reporting process, follow-up to recommendations and current initiatives.” The status and potential membership of RightsNet is unknown.
3. To support the above internal structures, the framework envisions a Core Interdepartmental Working Group on International Human Rights (“RightsWG”) that will act as a secretariat to the other structures while advancing the work of the framework. The status of the RightsWG is unknown.
4. Finally, to bring in outside expertise, the framework envisions Advisory Committees on International Human Rights that could include civil society organizations, Indigenous representatives, human rights commissions, and

academics. The framework calls for collaboration with external partners to develop these Advisory Committees. This engagement has not yet taken place.

The framework assigns responsibility for implementation to Heritage Canada and sets a goal of completion by 2025. Heritage Canada's 2024-25 Departmental Plan suggests the federal framework is still being refined.¹⁶

It is worth noting that Canada has other human rights legislation and processes that are not connected in a clear way to the federal mechanism. For example, the *National Housing Strategy Act* creates the Federal Housing Advocate role and mandates them to monitor and make recommendations to advance the right to housing in Canada. The federal mechanism does not appear to include the Advocate or acknowledge their role in human rights implementation, reporting, and follow-up.

Provincial and territorial mechanisms: Coordination across departments within provincial and territorial governments

It is the responsibility of each province or territory to create its own internal processes and structures to coordinate human rights implementation, reporting (via Heritage Canada), and follow-up. Few, however, publicly recognize this responsibility. Québec is an important exception; its “International Policy” states:

The implementation of international human rights treaties is first and foremost a matter of domestic law, responsibility for which lies mainly with the provincial governments. As a party to these texts, Québec has a duty to enforce them within its borders and to report on compliance to the competent United Nations human rights bodies.¹⁷

Because information about the specific processes and structures in each province and territory isn't publicly available, an analysis of the current situation is difficult. The interviews and information requests required to conduct such an analysis is beyond the scope of this report, though it is worthy of deeper investigation.

16 Government of Canada. (2024). Departmental Plan 2024-25 – Canadian Heritage. <https://www.canada.ca/en/canadian-heritage/corporate/publications/plans-reports/departmental-plan-2024-2025.html>

17 Government of Quebec. (2017). *Quebec on the World Stage: Involved, Engaged, Thriving*. Page 53. <https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/relations-internationales/publications-adm/politiques/PO-politique-internationale-2017-EN-MRIF.pdf>

In general, however, our sub-national governments display a low level of priority for their internal coordination and accountability mechanisms. Based on several conversations with members of the CCOHR, it is not uncommon for the work of implementation, reporting, and follow-up to fall to a single analyst in a province or territory. In some cases, an interdepartmental committee of officials may be struck for the purpose of conveying and collecting information efficiently, but it seems these committees rarely have formal mandates or any real accountability for human rights implementation. Engagement or leadership from ministers or deputy ministers is equally rare.

Part 2: How Canada measures up

To support the growing international interest in NMIRFs, the UN Office of the High Commissioner for Human Rights (OHCHR) has examined a cross-section of models to identify the ingredients of a well-functioning and efficient national mechanism. While there is no perfect, one-size-fits-all NMIRF, the OHCHR's Practical Guide to NMIRFs, based on the results of its Study of State Engagement with International Human Rights Mechanisms, identifies several structural factors and key capacities of the strongest mechanisms.¹⁸

As a starting point, the table below organizes the UN's key elements of a robust NMIRF into four categories and summarizes how Canada's NMIRF measures up. Given the complexity of the systems at play, this analysis is highly simplified and generalized. It is intended to expose areas of greatest concern, prompt discussion, and encourage more detailed analysis.

¹⁸ 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

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 | | | Explanatory notes |
|---|----------------------|-------------------|---------------------------------------|---|
| | FPT mechanism | Federal mechanism | Provincial and territorial mechanisms | |
| Structural factors | | | | |
| A standing mechanism exists. | Yes | Yes | Partial | <ul style="list-style-type: none"> Mechanisms in Canada usually take the form of interdepartmental or intergovernmental committees. They are not enshrined in legislation. |
| Comprehensive formal mandate with political ownership. | No | No | No | <ul style="list-style-type: none"> Most lack a formal mandate. Political ownership is, at best, unclear and dispersed. |
| Staffed with dedicated, diverse, and continuous staff with technical human rights expertise. | Partial | Partial | No | <ul style="list-style-type: none"> Staff capacity is insufficient in every jurisdiction, though it is greater federally than provincially. General human rights expertise exists, but it may not extend to the application of human rights within specific policy areas. |
| International engagement capacity | | | | |
| Engages and liaises with international and regional human rights mechanisms. | Yes | Yes | Yes | <ul style="list-style-type: none"> Mechanisms in Canada were created primarily for this purpose and continue to prioritize international engagement as their primary function. |
| 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 | |

| Key structures and capacities of a NMIRF based on international best practices | Type of coordination | | | Explanatory notes |
|---|----------------------|-------------------|---------------------------------------|--|
| | FPT mechanism | Federal mechanism | Provincial and territorial mechanisms | |
| Public engagement capacity | | | | |
| Fosters and leads engagements for reporting and follow-up with human rights commissions, Indigenous groups, and civil society. | Partial | Partial | No | <ul style="list-style-type: none"> Limited but increasing engagement capacity exists federally and through FPT bodies; however, civil society sees little evidence that engagement has any meaningful impact. Provinces and territories vary in their willingness and capacity to proactively engage on their human rights records, but generally have no regular engagement processes of their own. |
| Coordination, information management, and implementation capacity | | | | |
| 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 | <ul style="list-style-type: none"> Mechanisms coordinate collection and reporting in all jurisdictions. Mechanisms appear to track recommendations and share them internally with responsible departments, though the lack of transparency makes this difficult to verify. Some mechanisms may coordinate and disseminate information internally on the actions taken in response to recommendations, but this is at best inconsistent. Once again, a lack of public transparency makes verification difficult. |
| 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 | <ul style="list-style-type: none"> No mechanism in any jurisdiction results in meaningful implementation plans or facilitates public accountability for follow-up. |

Part 3: Analysis and recommendations

The above benchmarking of Canada's NMIRF against international best practices reveals a mixed picture. In some respects, our mechanisms do carry out necessary administrative tasks related to the gathering and dissemination of information. In others, structures and capacities fall well short of expectations for a country that aspires to global human rights leadership.

Structural factors

The most basic criteria for an NMIRF is that it is structured as a formal, ongoing mechanism. This is a prerequisite for developing sufficient capacity to address all other responsibilities. As described above, Canada's FPT mechanism and federal mechanism include standing committees with secretarial capacity. Many provincial and territorial governments, however, lack any standing mechanism or at least do not publicly communicate how their mechanism is structured.

If a standing mechanism exists, we can assess it for a formal mandate, appropriate staffing, and political ownership. The FPT mechanism can make a claim to achieving a limited number of these criteria. First, the cascading FPT committees (FMHR, SOCHR, and CCOHR) each have formal and interrelated mandates. Second, the FPT mechanism is supported by the members of the CCOHR and staff at Heritage Canada, Justice Canada, and Global Affairs Canada. Though the staffing approach creates complexity, siloing, and role clarity issues that should be addressed, the approach can be considered to constitute a dedicated, diverse, and continuous complement of staff with technical expertise. As the report explores below, greater capacity is needed.

Unfortunately, the FMHR has yet to demonstrate political ownership for Canada's FPT mechanism. At a minimum, political ownership should manifest 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 FMHR could begin to demonstrate this ownership by acknowledging the short-comings of Canada's NMIRF and implementing the recommendations in this report.

The federal mechanism could similarly be strengthened. The beginnings of a coherent structure can be seen in the new DGRights Forum, the proposed Advisory Committees, and the other elements of the *Federal Human Rights Implementation*

Framework. At the same time, the federal mechanism suffers from implementation delays, a lack of transparency, and a reliance on the same convoluted and under-resourced staffing model as the FPT mechanism.

Perhaps most concerning is the lack of federal 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. While the Minister of Heritage has the legal responsibility for human rights “promotion,” there are no clear lines of accountability for coordinating human rights implementation. The Department of Heritage has many other responsibilities that relegate human rights to a permanent home on the backburner.

Provincial and territorial mechanisms are significantly worse. Responsibility for human rights implementation can fall to a single low-level official who must coax and cajole their colleagues in other departments even to have a conversation about human rights. Political ownership is non-existent, as many sub-national governments in Canada have continued to resist the path of recognition, institutionalization, and accountability for Canada’s international human rights commitments.¹⁹ This is particularly concerning given that our federal model gives to the provinces the primary responsibility for policies that affect economic and social rights, including education, health care, housing, social assistance, labour market regulation, and much more.

An extreme example is the unwillingness of the Alberta government even to commit to the watered-down *Protocol for Follow-up to Recommendations from International Human Rights Bodies*. A footnote to the Protocol states: “While taking its human rights’ obligations very seriously, as an equal and independent order of government reporting to its citizens, Alberta is not bound to report on international instruments/mechanisms to which it is not a Party.” This is an erroneous interpretation of international human rights law, as it is well established that human rights obligations extend to all levels of government within a federal system.²⁰

19 For more on the recognition, institutionalization, and accountability framework, see: Alston, P. (2017). *Rethinking Economic and Social Rights: The Recognition, Institutionalization, and Accountability Framework*. United Nations, General Assembly, Report of the Special Rapporteur on extreme poverty and human rights, A/HRC/32/31 (28 April 2016), NYU School of Law, Public Law Research Paper No. 17-48. Available at SSRN: <https://ssrn.com/abstract=3079932>

20 UN Human Rights Committee (May 26, 2004). *General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*. <https://www.refworld.org/legal/general/hrc/2004/en/52451>

Of note, no structural aspects of Canada's NMIRF are enshrined in federal, provincial, or territorial law. While there are “standing” mechanisms now, their future is not secure. A legal foundation for Canada’s NMIRF is long overdue. Canada routinely enacts legislation to promote compliance with international commitments, such as trade and environmental agreements. Human rights commitments deserve the same domestic legal recognition.

Where are Canada's cities?

Though our cities are frequently at the frontline of some of the country's most pressing human rights challenges, Canada's NMIRF does not reflect the role that municipal governments and other local governing bodies play in ensuring the effective implementation of Canada's international human rights commitments. This is particularly true when it comes to social and economic rights, including the provision of adequate housing, food security, health, education, and access to social supports.

In Canada and around the world, cities are turning to human rights frameworks to understand and address systemic challenges such as poverty, homelessness, accessibility, and discrimination. The term “human rights cities” is increasingly ascribed to local governments of any size that base some of their policies on human rights law and principles.²¹

In Toronto, where Maytree is based, the city has explicitly embraced its responsibility to uphold the right to adequate housing as expressed through its Housing Charter – something many sub-national governments in Canada have yet to do.²² Toronto's early experiences in the process of institutionalizing this right offer insights that would be valuable not only for other municipalities, but for all levels of government in Canada.

Canada's NMIRF must expand its approach to incorporate dialogue between municipal governments and federal, provincial, and territorial governments with respect to international human rights implementation. Municipalities deserve a seat at the table in meetings and gatherings of government officials, including the Forum of Ministers Responsible for Human Rights.

21 Dragicevic, N. & Porter, B. (2020). *Human rights cities: The power and potential of local government to act on economic and social rights*. Maytree. <https://maytree.com/publications/human-rights-cities/>

22 City of Toronto. (2022). Toronto Housing Charter – Opportunity for All. [Part of *HousingTO 2020-2030 Action Plan*.] <https://www.toronto.ca/wp-content/uploads/2022/02/948f-Toronto-Housing-Charter-2020.pdf>

Recommendations:

- FPT governments should each pass legislation that enshrines their standing mechanisms in law. These mechanisms must include clear lines of accountability for implementation that are both horizontal (accountability between departments for rights under their purview) and vertical (political accountability for overall progress on human rights).
- The Forum of Ministers Responsible for Human Rights should reiterate its commitment to political ownership for human rights implementation in Canada and demonstrate this commitment by committing to a timeline and process for a new national framework for international human rights implementation.
- The Forum of Ministers Responsible for Human Rights should publish a detailed accounting of Canada's National Mechanisms for Implementation, Reporting and Follow-up, including the mechanisms that exist within each province and territory, their mandates and governance structures, and their staffing complements.
- The Forum of Ministers Responsible for Human Rights should formalize the role of municipal governments in implementing international human rights obligations, including by formally integrating municipalities into the structure of Canada's NMIRF.

In addition to the above recommendations, more needs to be done in concert with Indigenous governments to explore and clarify their structural role in human rights mechanisms.

International engagement capacity

Canada's human rights reporting mechanisms grew out of the requirement to produce timely reports for international human rights bodies. It is not a surprise, therefore, that this is the strongest aspect of Canada's NMIRF at present. Even where a province or territory lack a clear standing mechanism, international engagement capacity of some kind is prioritized as the most basic of administrative responsibilities. That said, Canada's submission of reports and responses to requests from UN human rights bodies is often late, so there remains a need for more resources and more effective processes.

This report does not offer a deeper analysis in this area as other aspects of Canada's NMIRF are in more urgent need of attention.

Public engagement capacity

Thanks to a recent increase in engagement staff at the federal level and the creation of the FPT *Engagement Strategy on Canada’s International Human Rights Reporting*, engagement capacity could become a future area of strength for Canada’s NMIRF. At the moment, however, critical issues remain unaddressed, as shown by the frustration that civil society organizations, human rights commissioners, and Indigenous organizations regularly express regarding the quality of engagement on human rights implementation. Plans for new Advisory Committees on International Human Rights may help to drive a better approach to engagement, but it is too early to tell.

The core of the issue can be reduced to a fundamental difference over what constitutes “engagement.” The FPT mechanism and the federal mechanism see engagement primarily as a form of information collection to be fed into reports. Conversely, civil society is asking for meaningful dialogue on Canada’s human rights record and how these rights will be fulfilled. For example, a typical government engagement process might lead to a high-level “what we heard” report from government, but there are no substantive responses to the concerns raised or the recommendations made by civil society and others. Rather than an evolving dialogue, the process moves on to the next consultation and “what we heard” document. With no threads tying conversations together over time, each consultation with government feels as if it is the first.

Furthermore, civil society organizations need resources from governments to build their own capacity to engage with Canada’s NMIRF. Years of pleading for these resources has made little difference, with engagement processes largely inaccessible to people who are experiencing a denial of their human rights and the community-based organizations to which they may belong. When asked again about funding in June 2024, the CCOHR responded that “there are no plans currently to create a funding program to support civil society organizations’ participation in monitoring and implementation procedures.”²³

Better engagement capacity must also be accompanied by greater transparency. Despite the CCOHR being decades old, there is no website or public record of its work. Canadians interested in getting involved in engagement on human rights implementation must piece together enough clues to know how to request access to more information through Heritage Canada. One reason for this may be the complexity of navigating overlapping publication requirements across all FPTs.

23 Government of Canada. (2024). *CCOHR Engagement Meeting with Partners and Stakeholders: What We Heard - June 5, 2024*. Document available from Heritage Canada upon request.

However, the federal mechanism avoids all this complexity yet offers even less transparency to Canadians.

Meanwhile, 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. The FMHR must make it a priority to deepen consultation and engagement with civil society, human rights commissions, Indigenous governments, and others. Further work is required to develop these ideas in partnership with those who are affected, particularly the unique aspects of engaging with Indigenous Peoples.

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.
- In addition to supporting the federal government's implementation framework, the planned Advisory Committees on Human Rights should be empowered to provide direct advice to the Forum of Ministers Responsible for Human Rights.
- 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.

Coordination, information management, and implementation capacity

Canada does well in another important respect: Our NMIRF is capable of collecting, managing, and disseminating information appropriately within and between governments, both information received from the UN and information to be shared with the UN.

Where Canada's mechanisms fall short is in the follow-up on recommendations received from the UN. An NMIRF must do more than inform a department or another level of government of a UN recommendation that falls under their purview. A robust NMIRF coordinates action.

To be clear, it is not the role of Canada's NMIRF to develop implementation plans; these details are better left to the appropriate department or level of government. What our mechanisms must do is insist 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.

Generally speaking, no government or intergovernmental body in Canada currently develops human rights implementation plans, tracks implementation over time, or is accountable to the public or to their legislatures for this work. That said, FPT governments seem to understand that more is required of them, as is shown by the development of the *Protocol for Follow-up to Recommendations by International Human Rights Bodies* and the *Federal Human Rights Implementation Framework*.

Unfortunately, the language of the current FPT protocol is too weak to offer meaningful accountability. Under the terms, each FPT government merely “determines, according to the mechanism it deems appropriate, the recommendations that could be prioritized and implemented in its jurisdiction and targets actions to be prioritized for discussion or in-depth review relating to the recommendations.” Note that the phrasing does not require any action in response to UN recommendations or any reporting on what has been done. Furthermore, the protocol neglects to mention the legal requirement for progressive realization of economic and social rights or to the obligation of every government to devote maximum available resources to fulfilling these rights.

The *Federal Human Rights Implementation Framework* suffers from these same oversights. A robust framework would acknowledge the responsibility of all federal departments to abide by international human rights law and describe a system of accountability for action. Instead, the current framework sticks to safe and familiar territory, calling only for information sharing, awareness, and collaboration.

One bright spot is that the federal government is currently considering whether Canada should adopt the National Recommendations Tracking Database (NRTD) developed by the UN OHCHR.^{24,25} If implemented, this tool could be used to track follow-up on recommendations received through the UN, making information on implementation available to the public in a systematic way. This transparency would force departments to pay greater attention to recommendations received from the UN, though they may still opt not to develop or enact implementation plans. The Forum of Ministers Responsible for Human Rights must prioritize universal participation of all provinces and territories in any new database.

In addition to reporting on implementation of recommendations, NMIRFs are expected to report on outcome indicators that demonstrate the results achieved for rights holders. The UN recommends that all national mechanisms build the capacity to collaborate with their national statistics office to establish and monitor a set of human rights indicators.²⁶ These should draw on a wide range of disaggregated data across program administration and budgeting, judicial and quasi-judicial mechanisms, socioeconomic statistics, and perception and opinion surveys.

As an example, the Canadian Human Rights Commission and the Federal Housing Advocate have developed a data framework for monitoring the right to housing for people with disabilities.²⁷ This is an important foundation from which a broader data strategy could develop, and the exercise has revealed several critical data gaps necessitating new investment in data collection and harmonization.²⁸

At present, Canada's NMIRF has no database of public outcome metrics tracking the fulfillment of human rights, nor plans to develop something beyond a recommendations tracker. Nevertheless, Canada needs a human rights data strategy as one element of robust accountability.

24 UN Office of the High Commissioner for Human Rights. (n.d.). National Recommendations Tracking Database. <https://nrtd.ohchr.org/en>

25 The government's possible interest in the NRTD was shared with civil society organizations and others at a meeting of the CCOHR in June 2024.

26 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

27 Canadian Human Rights Commission. (n.d.) Monitoring the right to housing for people with disabilities. <https://www.chrc-ccdp.gc.ca/en/resources/monitoring-the-right-housing-people-disabilities>

28 Canadian Human Rights Commission. (2024). The right to housing for people with disabilities: Data gaps. <https://www.chrc-ccdp.gc.ca/en/resources/publications/the-right-housing-people-disabilities-data-gaps>

Learning from Canada's success institutionalizing the UN Sustainable Development Goals

Although Canada's NMIRF is unable to quantify our progress or chart a path to realizing our human rights commitments, Canada's approach to a similar set of international commitments shows that rapid improvement is possible where there is political will.

The United Nations 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs) are a global call to action to address pressing social, economic, and environmental challenges. In less than a decade, the federal government has embraced the SDGs and taken considerable strides to institutionalize them across government. This is thanks in large part to direct political ownership from the Prime Minister, who serves as a co-chair of the UN Sustainable Development Goals Advocates group.²⁹

A small secretariat in Employment and Social Development Canada manages Canada's approach with the help of "vertical" and "horizontal" leads in the relevant areas of government and multiple interdepartmental committees from the director level to the deputy minister level. Together they coordinate within and between federal departments and other levels of government.

To promote political leadership, ministerial mandate letters include direct references to the Sustainable Development Goals that fall under that minister's purview, and submissions to cabinet include an analysis of how an item relates to Canada's SDGs commitments.

In 2021, the federal government released both a National Strategy and a Federal Implementation Plan charting a path forward.³⁰ Canada continues to publish annual reports on progress (including input from provincial, territorial, and local governments), and Statistics Canada houses an indicator framework containing numerous outcome metrics that offer public accountability for progress.³¹

It is striking how similar the challenge of SDGs implementation is to that of human rights implementation. Both are grounded in human rights, both represent international commitments by Canada to achieve specific outcomes, both include an expectation

29 Prime Minister of Canada. (April 6, 2022). Prime Minister to co-chair the United Nations Sustainable Development Goals Advocates group. <https://www.pm.gc.ca/en/news/news-releases/2022/04/06/prime-minister-co-chair-united-nations-sustainable-development-goals#:~:text=Today%20Prime%20Minister%20Justin%20Trudeau,Sustainable%20Development%20Goals%20Advocates%20group>

30 Government of Canada. (2024). Canada and the Sustainable Development Goals. <https://www.canada.ca/en/employment-social-development/programs/agenda-2030.html>

31 Statistics Canada. (2024). Global Indicator Framework for the Sustainable Development Goals Data Hub. <https://www144.statcan.gc.ca/sdg-odd/index-eng.htm>

that states have a national framework for implementation, both require mechanisms for shared implementation across all federal departments and with the provinces and territories, and both include a form of cyclical review.

Despite these similarities, Canada has a national strategy, annual reports, and a framework of outcome metrics only for the SDGs. Coordination mechanisms between departments and levels of government are considerably stronger for the SDGs, and ministerial mandate letters and cabinet materials systematically consider the SDGs while leaving out other human rights obligations.

Importantly, the SDGs process harnesses political leadership at other existing FPT tables across the federation. Even more than the SDGs, Canada's human rights obligations are too numerous and specific for detailed discussion to take place only through the Forum of Ministers Responsible for Human Rights. The SDGs model devolves responsibility for the details of implementation to the appropriate FPT forum. If the goal relates to education, for example, the work is overseen by the Council of Ministers of Education, Canada.

As the SDGs example shows, political ownership drives progress. This model should be considered by those working to advance Canada's NMIRF.

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, within a specified period, their implementation plans for each UN recommendation received and accepted by Canada.
 - All FPT governments agree to report publicly, within a specified period, 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 to report publicly on actions taken to address UN recommendations.
- 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.
- Borrowing from Canada's approach to the UN Sustainable Development Goals, the Forum of Ministers Responsible for Human Rights should refer UN recommendations and other implementation matters to the appropriate FPT body composed of the ministers with direct authority over the issue.
- All FPT governments should add whatever capacity is required to effectively track progress on implementation of human rights recommendations.

Conclusion

As Alex Neve observed in *Closing the Implementation Gap*:

Provincial and territorial governments have invested little political capital or resources into developing what might be considered international human rights implementation architecture. That has been the case both with respect to individual governments and, most significantly, a lack of meaningful collective processes and bodies to oversee consistent nationwide compliance across federal, provincial and territorial governments.³²

Despite the lack of political attention and capital, Canada's NMIRF is slowly evolving in a positive direction. In the last decade, new structures have been implemented and new protocols approved that inch closer to international best practices. These improvements must continue, but they will not be enough.

Soon, the officials tasked with human rights implementation will reach the limit of what incremental improvements can be achieved without deeper legal, structural, and cultural change. This change will require much more political will than governments across Canada have demonstrated in recent years.

There is reason to be hopeful. Canada has an abundance of political will when opining on human rights failures elsewhere in the world. There are glimmers of political will on certain aspects of domestic human rights commitments, such as the Sustainable Development Goals or the UN Declaration on the Rights of Indigenous Peoples.

These threads can and must be pulled together into a coherent domestic human rights agenda that is worthy of a global human rights leader.

32 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/>



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