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Re-framing poverty as a matter of rights

By Elizabeth McIsaac, President of Maytree

The persistence of poverty in Canada continues to demand new responses and new thinking. More than 1.34 million children in Canada are living in poverty and starting their lives on an unequal playing field (Family Service Toronto, 2015). More than 200,000 people across the country experienced homelessness last year (Raise the Roof, 2016). One in ten Canadians is not able to renew the prescriptions they need to be healthy (Angus Reid Institute, 2015). Workers are facing the seemingly impossible task of holding one or more jobs and still not making ends meet because the wage they take home and the insecurity of their hours does not allow them to meet the cost of sustaining their families. Each month, over 850,000 people across Canada visit a food bank in order to put food on the table (Food Banks Canada, 2015).

At the same time, there are positive signs of a collective commitment to end poverty in Canada. Some of the most prominent features of the recent federal budget were targeted to put more money in the pockets of low-income families and seniors, along with investments in affordable housing and transit infrastructure. Across Canada, all provinces and territories, except one, and more than 50 cities have adopted or are preparing strategies for poverty reduction.

These are promising steps and we should feel encouraged. But we should also be aware that these initiatives are the result of political will and individual leadership; a change of leadership could easily undo the progress made. The changes we are seeing are not the result of a system that protects people from poverty, nor are they the product of a human rights approach to poverty. None of these strategies explicitly state that they will be accountable for meeting the needs of people living in poverty by addressing and protecting their social and economic rights.

When *The Philanthropist* asked if I would be interested in being the guest editor for this special series on poverty and human rights in Canada, I did not hesitate. It is exactly what we have been engaged in exploring at Maytree – how a rights-based approach contributes to and enhances the work already being done on poverty in Canada today.

Approaches to poverty in Canada

In Canada, we have approached the challenge of ending poverty from various perspectives. The

charitable approach has been responsive to the immediate needs of people experiencing poverty. The economic and community wealth building approach demonstrates the cost of poverty in terms of lost productivity and focuses on strengthening capacity and resilience. And the social justice approach highlights issues of inequality based on income, race, disability or gender, and has worked to level the playing field.

Each of these approaches has produced valuable outcomes. They have protected people from the cold, put food on the table, provided scholarships, inspired corporations to do business differently, and built the foundations for stronger communities. They have put in place measures such as child benefits and the Guaranteed Income Supplement which had a significant impact on low-income families and seniors that can be strengthened further. Although we have a comprehensive system of benefits in Canada, it still leaves critical gaps that can exacerbate poverty and create barriers to opportunity.

A further approach, then, is to look at how protecting human rights can be an important tool for fighting poverty. At Maytree, we believe that by taking a rights-based approach we can open the door to finding new and more enduring solutions.

How are human rights and poverty connected?

Poverty is not only a matter of income, but also, more fundamentally, a matter of being able to live a life in dignity and enjoy basic human rights and freedoms. It describes a complex of interrelated and mutually reinforcing deprivations, which impact on people's ability to claim and access their civil, cultural, economic, political and social rights. In a fundamental way, therefore, the denial of human rights forms part of the very definition of what it is to be poor. (Arbour, 2006, p. iii).

Human rights define the basic protection of all members of society. They are rights that are inherent to all human beings, without discrimination based on nationality, sex, ethnic origin, colour, religion, language, or any other status.

If something is a right, it is less vulnerable to choices that governments or others might make. If, for example, there is a right to adequate housing, the under-housed are no longer supplicants but rather stand in a position to claim their right.

By insisting that human rights are inalienable and universal, we affirm the minimum standard of dignity for people in Canada. And it is not only government, but also business, civil society and individuals that share in the responsibility for promoting and protecting human rights — which we believe creates a strong basis for durable solutions to poverty.

At the core of this approach is the recognition that poverty is created and that it is systemic. And so we are turning our attention to the accountability and transparency of these systems which are governed by principles and rules that find expression in Canada. This includes the Charter of Rights and Freedoms, legislation and policy, all of which should comply with international promises made in the form of Covenants. These are the rules of the game. How well Canada complies with the international commitments may raise the question of the need for a renewed social contract in Canada, one which secures access to economic and social rights.

What are economic and social rights?

Economic and social rights are those human rights that relate to our ability to live in dignity and participate fully in our society. They include rights related to the workplace, social security, and access to housing, food, water, healthcare and education. They include the right to fair wages and equal pay; the right to adequate protection of income in the event of unemployment, sickness or old age; and the right to an adequate standard of living.

Canada's obligations to protect these particular rights are outlined in the International Covenant on Economic, Social and Cultural Rights, ratified by Canada in 1976.

While poverty is not explicitly mentioned in the International Covenant on Economic, Social and Cultural Rights, the rights guaranteed by the covenant speak to the systems that create poverty and the systems that can address poverty. Poverty has also been an ongoing concern for the UN Committee on Economic, Social and Cultural Rights as well as civil society organizations when commenting on the obligations of governments, especially in protecting the economic, social and cultural rights of the most vulnerable populations. In fact, the protection of economic, social and cultural rights such as the right to work, adequate housing or food, has a direct impact on poverty.

What is meant by a rights-based approach to poverty reduction work?

At the core of a rights-based approach is the ability to claim economic and social rights. Among rights advocates, the critical challenge in the Canadian context is the position taken by the courts that economic and social rights are non-justiciable. This means an individual in Canada cannot make a claim for her or his right to adequate housing in the courts. Rather, it is left to legislatures and local councils to decide.

In February of this year, the Committee on Economic, Social and Cultural Rights reviewed Canada's performance on protecting these rights under the Covenant. In its concluding observations, the Committee expressed concern that:

... despite certain promising developments and the Government's commitment to review its litigation strategies, economic, social and cultural rights remain generally non-justiciable in domestic courts. The Committee is also concerned at the limited availability of legal remedies for victims in the event of Covenant rights' violation, which may disproportionately impact disadvantaged and marginalized groups and individuals, including homeless persons, indigenous peoples and persons with disabilities.

The committee subsequently recommended that Canada:

... take the necessary legislative measures to give full effect to the Covenant rights in its legal order, and ensure that victims have access to effective remedies. The Committee recommends that the State party implement its commitment to review its litigation strategies in order to foster the justiciability of the economic, social and cultural rights.

Rights only have meaning and substance when understood in relation to responsibilities. While the justiciability question remains unresolved in Canada, there is still a need to maintain a sharp focus on accountability as it relates to our governments, as well as businesses and civil society.

Accountability to deliver on the promise of economic and social rights needs to be strengthened and given meaning with transparent mechanisms that include complaints procedures, monitoring and reporting tools, and evaluation. The rights-based approach also includes mechanisms that ensure that

benefits and entitlements provided by the state are accessible and safeguarded.

Another key principle in applying a rights-based approach is the progressive realization of rights over time which requires the adoption of measurable goals and targets and identification of time-frames that meet the requirements of compliance. We need to know where we stand, what progress we are making and how well we are moving the needle on poverty in our communities.

Participation and inclusion of lived experience is a core element of the rights-based approach. Beginning the analysis of system change with the lived experience of individuals and how they experience the systems that create their poverty is critical, as is their inclusion in the process and decisions that affect their lives.

A key role for civil society and individuals in this approach is to build a culture of human rights that can support the political will to deliver on decisions that fulfill the commitments of international promises, and that also reinforce the everyday experience of rights in Canadian society.

Human rights from the ground up

At Maytree, we have a longstanding interest both in cities and in ending poverty. As we focus on a rights-based approach to poverty, we have also turned our attention to the role of local governments in Canada as they move forward in developing and implementing anti-poverty strategies.

While the International Covenant on Economic, Social and Cultural Rights was signed by the federal government, the obligation to protect and secure these rights applies to all levels of government including cities and municipalities.

In Canada we have examples of cities, such as Edmonton and Montreal, that have adopted charters of rights or strategies for the implementation of economic, social and cultural rights. However, most have not. In fact, local governments often have little or no knowledge of their obligations and are not being held accountable to their Covenant obligations.

While local governments have been delegated jurisdiction for some areas central to safeguarding economic, social and cultural rights, most lack the fiscal capacity to meet these obligations. Municipal governments are generally barred from levying income and sales taxes, and have a high reliance on property tax and development charges. Municipal revenues have grown at a very slow pace in recent decades. That is why, for any major expenditure for things such as affordable housing or public transit, municipalities have to go to another level of government for significant financial support.

As cities in Canada move forward in developing and implementing anti-poverty strategies, it is an opportune moment to strengthen this work by framing strategies with the language, goals and elements of a human rights approach including: independent monitoring and enforcement, complaints procedures, timelines and goals, strategies to enable civic engagement, and explicit reference to human rights.

Furthermore, at this moment in Canada, there is renewed commitment on the part of the federal government to invest in the necessary physical infrastructure of cities and other communities. As large transit and housing investments begin to unfold, there is an opportunity to include provisions in funding agreements that further the implementation and protection of economic, social and cultural rights of the most vulnerable populations.

Finally, as we consider the importance and value of strengthening the culture of human rights in Canada, cities will have a key role to play and they can be leaders in making that change happen. And for success to happen, it will be critical to provide local governments with the fiscal capacity to fulfill their obligations.

The series: What to look forward to

This special series is an opportunity to bring the voices of those who are working on social and economic rights in Canada into a conversation on these pages.

Over the next few months we will hear from Mike Creek, Director of Strategic Initiatives with Working for Change, who will explain the importance of listening to and involving people with lived experience in any solution to poverty. Bruce Porter, Executive Director of the Social Rights Advocacy Centre will provide a historical context – how social and economic rights have progressed in Canada and what we can expect as we move forward. Adam Parachin will write about how poverty and human rights fit under charity law and how these concepts have been interpreted in Canada. Prosper Canada CEO Liz Mulholland and Lilian Knorr, Research Manager at Prosper Canada and Research Affiliate at the Massachusetts Institute of Technology (MIT) will provide a case study in strengthening access to entitlements and realization of rights.

The series begins with an interview by Mark Holmgren of Vibrant Communities with Mayor of Edmonton, Don Iveson, and Bishop Jane Alexander on the End Poverty Edmonton Strategy. You will find it in this issue of The Philanthropist.

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