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HUMAN RIGHTS IN CANADA: A FOCUS ON RACISM

by Daniel G. Hill



Purpose and Acknowledgments

Racism is an ugly and dangerous form of behaviour of which Canada, unfortunately, is not free. Over the years the labour movement has played a prominent role in efforts to eradicate racial and other forms of discrimination and violation of human rights, but much remains to be done. In producing this primer on racism, the CLC hopes to foster an increased awareness that Canadians have no reason to be complacent about their record of respect for the rights of minority groups. Recent manifestations of racial violence in Canada are a warning sign that cannot be ignored. Canadians urgently need to grow in appreciation of the value of our cultural pluralism and its implications. Only with acceptance of our differences, and with mutual respect, will racial prejudice be eliminated.

I wish to express our gratitude to the following who helped to make this booklet a reality:

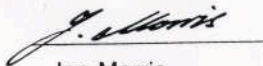
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Joe Morris
President

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by Daniel G. Hill

Foreword

by Emmett M. Hall

Historically discrimination in one form or another has degraded humanity since the dawn of civilization. It has manifested itself in many ways and under different forms, beginning with the enslavement of one person or group, always to the detriment and degradation of one or more segments of society.

Although a late arrival in historical terms, Canada has followed the historical pattern. Never at any time in its relatively short history has it been free of successive waves or epochs of this social evil. As decade has followed decade Canadians have shifted from one aspect of it to another.

Yesterday it was sexism manifested by employment and wage discrimination, co-existing with the shameful treatment of the native population. Today it is racism, as dehumanizing as any of its predecessors such as slavery, bigotry, ignorance and colonization, but often more subtle in its application than what has preceded it.

The study which follows points up the excesses and nuances of racism in Canada. It documents how Canadians are consciously or unconsciously permitting racial discrimination to coexist with disavowals of the practice. It shows how Canadians may in various ways stem the growth of this inhuman practice and adopt positive measures to eradicate it from the national scene. We can no longer plead ignorance or feign unconcern in the face of this knowledge.

The Honourable Emmett M. Hall,
retired Justice of the Supreme Court of Canada,
is the National Honorary President of
the Canadian Civil Liberties Association.

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I

Starting Again

In the heady days of the 1960s, as movements for social change seemed to take root in Canada, excitement ran through the ranks of human rights advocates. There seemed to be mounting optimism over the possibility that the Just Society was really in the making. It was a time of hopeful slogans and catch phrases: the just society, participatory democracy, people power. The social and cultural mosaic, which symbolized Canada's egalitarian aspirations, seemed vaguely realistic.

Those were the optimistic Sixties; they were followed by the sober Seventies. Today doubt runs deep among many groups as to how sincere most Canadians are in their commitment to social and economic equality. And perhaps no groups have more legitimate reason to doubt than Canada's racial minorities.

Racism and discrimination in Canada have always been serious problems. Today they are critical concerns. This booklet, therefore, is dedicated to an examination of racism and racial discrimination. It is intended as a critical, instructive analysis of issues and solutions, based on the assumption that readers may not be fully aware of the depth of Canadian racism. They may also not be aware of the heroic efforts that have been taken to combat it.

The priority given here to racism should not be taken to imply the author's or sponsors' lack of concern about other human rights problems. For example, women are seeking to break the historic bonds of sexism and to achieve equal employment opportunity, equal pay for work of equal value, equal employment benefits, equal insurance, credit and property rights — to mention just a few areas of concern. Employers have consistently underrated the potential of the female work force, to the detriment of both women and the society that has been denied their fullest skills.

Similarly, the physically handicapped and the aged seek to have their talents appropriately and fully used rather than being underemployed or rejected. Certainly their current treatment constitutes a denial of their right to be useful members of society.

Discrimination against various religious groups and sects — including Jews, Mennonites, Hutterites, Doukhobors and Jehovah's Witnesses in particular — is a disquieting feature well documented throughout Canadian history.

Homosexuals, too, have been denied their human rights in such areas as employment and accommodation.

The virus of racism affects all groups, irrespective of colour or ethnicity, and is manifested in all nations. It must be identified for what it is and attempts made to control it, wherever it strikes. Much of what will be said here about the nature of racism and its manifestations, and measures against it, will apply equally to discrimination in these other areas; but because we believe that racism constitutes an increasingly dangerous threat to Canadian society, we have made it the focus of this primer. (An earlier primer, *The Fundamentals of Our Fundamental Freedoms*, also initiated by the Canadian Labour Congress, deals with civil liberties in Canada.)

From the outset, it can be said that the well-spring of Canadian legislative action against discrimination in all areas was the United Nations' Universal Declaration of Human Rights. Preambles to many of Canada's anti-discrimination statutes quote from the Declaration in this way:

All human beings are born free and equal in dignity and rights . . .
Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status . . .

The human rights of racial minority groups, as reflected in the principles of the Universal Declaration, will be our concern throughout.

In dealing with racism, a distinction must be clearly drawn between racial prejudice on the one hand and discrimination on the other. Prejudice is a *state of mind*, a set of negative attitudes held by one person or group about another, tending to cast the other in an inferior light, despite the absence of legitimate evidence. Racial discrimination is generally an *overt or covert act*, such as denying an individual employment, housing, accommodation or other services, in the public or private sector.

It is necessary to recognize that a person can be prejudiced, and yet prevented from acting out his prejudices in a discriminatory way. This is a most important fact that will contribute to later discussion about the objectives of human rights legislation.

Finally, much has been made of the concept of cultural pluralism — the mosaic concept that presumably has formed the basis for Canadian attempts to forge a nation from varied ethnic, religious and racial elements. It is frequently contrasted to the melting pot concept that characterized U.S. efforts to accomplish the same thing.

When Canadians draw the contrasts, they do so with some pride, and perhaps rightly so. The U.S. melting pot approach, assimilating all newcomers as "Americans" and blotting out their cultural and racial past, worked only to a limited extent. Visible groups, in contrast to white European immigrants, have not been accepted or assimilated into the American melting pot. Furthermore, ethnic and racial groups in the U.S. are increasingly asserting their unique identities and reaffirming their heritage.

In Canada on the other hand, the concept of cultural pluralism has been fostered in the belief that a society becomes stronger and is enriched by diverse peoples existing side by side within a nation. By contrast with the U.S. experience, it seems a realistic concept. What still remains to be done in Canada, however, is to translate culturalism pluralism into practice.

TO BE SOLD,
A BLACK WOMAN, named
PEGGY, aged about forty years ; and a
Black boy her son, named JUPITER, aged
about fifteen years, both of them the property of the
Subscriber.

The Woman is a tolerable Cook and washer woman and perfectly understands making Soap and Candles.

The Boy is tall and strong of his age, and has been employed in Country business, but brought up principally as a House Servant—They are each of them Servants for life. The Price for the Woman is one hundred and fifty Dollars—for the Boy two hundred Dollars, payable in three years with Interest from the day of Sale and to be properly secured by Bond &c.—But one fourth less will be taken in ready Money.

PETER RUSSELL.

York, Feb. 10th 1806.

*Advertisement of Sale of Slaves (Toronto), Feb. 10, 1806.
Courtesy of Baldwin Room, Toronto Public Library.*

II

A Cause for Concern

In 1973, the United Nations proclaimed the start of what it called the Decade for Action to Combat Racism and Racial Discrimination. For Canada, the timing was ironically appropriate. In the ensuing few years, a series of racial traumas rudely forced many Canadians to recognize festering racial problems here of a scope that few people previously would acknowledge. We were finally made to re-examine our complacency and confront the clear evidence of racism throughout Canada.

In Toronto, the largest and most racially mixed city in the country, the neo-fascist Western Guard Party sprang to notoriety with a headline-grabbing campaign of anti-black provocation. It began with a recorded bit of invective that one could hear by dialing a certain telephone number. It continued with disruption of meetings, the violent interruption of a television show on which blacks were appearing, and even a bid for the mayoralty of Toronto by a Guard member.

During the course of a hockey game in 1973, a 16-year-old black youth became embroiled in a fight with a white opponent that ended in the death of the white youth. At the subsequent trial for manslaughter in 1974, witnesses testified that on the occasion of the tragic fight and at other games, he had been called "nigger" and other racial slurs by players and parents who were spectators.

In the spring of 1975, having had their sensibilities buffeted by somewhat less dramatic incidents, Torontonians were shocked by the shooting of a 15-year-old black youth. His assailant was white, and although that in itself did not mean the shooting was racially motivated, it was inevitable that many would see it that way. The racial theme was evident in comments by black spokesmen and underlined by the appearance of the words, "no more nigger meetings", that had been written on a wall at the church where funeral services were held.

Later that year there were reports of skirmishes between black and white youths, some resulting in injuries, at a Toronto public housing development.

But the tensions were not always between blacks and whites. In fact, increasingly over the years, perhaps as a result of the questionable linking in some people's minds of increased Asian immigration and unemployment, Asians were supplanting blacks as targets. The phenomenon of "Paki-busting" had arrived.

In 1976, a 49-year-old Asian from Tanzania suffered crippling leg injuries when two young whites pushed him off a subway platform onto the tracks. On New Year's Eve that year, a 61-year-old white man had his nose broken when he sought to stop white youths who were harassing two Asians on a subway train — and no other passengers made an effort to help. The same night, a 16-year-old Asian from East Africa and two cousins from New York were beaten by three white men on another subway train.

Then, early in 1977, a young man from Guyana was knocked down by several white men who had called him "Paki" and reacted violently when he tried to explain that he was not from Pakistan.

But manifestations of racism were not by any means confined to Toronto. Nor were the manifestations always violent; many were of a more subtle, more traditionally "Canadian" variety. In a test of 30 Ontario real estate agencies by the Canadian Civil Liberties Association, several agents contacted by telephone in Toronto, Hamilton, London, Windsor and Ottawa agreed not to show the "vendor's" property to members of visible minorities. A CCLA test of 15 Ontario employment agencies in Hamilton, Ottawa and London revealed that many of their representatives would agree not to refer non-white job applicants to an employer who asked them to discriminate on his behalf.

A study of racial attitudes of school children in Toronto, Windsor, Hamilton, North Bay, Sault Ste. Marie and Kenora indicated widespread prejudice. Issued by the federal Secretary of State Department, the report noted that "Paki-busting" was a pastime in which many teenagers claimed they indulged.

Meanwhile, outside Ontario there were similar racist manifestations. In Sydney, N.S., many people were shocked by a typed notice that appeared on a high school bulletin board announcing an "Annual Nigger Jamboree." One of the feature events would be the sport of "Broom a Coon." The notice explained that "all coons in the school at this time should be beaten to death or at least crippled."

In the fall of 1976, a series of fights between whites and East Indians at a Canadian Pacific workshop in Alberta culminated in a racial brawl on a work train near Edmonton. An obscenity daubed on a sleeping car occupied by East Indian workers touched off a battle in which sledge hammer handles were wielded as weapons.

Cars in Calgary also bore bumper stickers advising: "Keep Canada Green. Paint a Paki."

In Burnaby, B.C., in 1976, a municipal council meeting was thrown into disarray when a group of local residents protested the establishment of a Muslim mosque and socio-cultural centre in their neighbourhood. The group's spokesman admitted they protested because the Ismailia Community, who wanted to construct the centre, were East Indians.

The historic wounds inflicted on Canada's native peoples were also attracting attention as the UN's Decade for Action to Combat Racism matured. The multi-billion dollar James Bay hydro-electric power development in Quebec was sprung on the region's native populations without consultation, threatening their land rights, livelihood and very

existence as a people. The energy demands of a largely white Canadian south also threatened to over-ride the land claims and wipe out the lifestyle of Indians and Inuit in the Yukon and the Northwest Territories. Already oil, gas and mineral exploration is proceeding without the consent of the Inuit and is disturbing the balance of nature on which they depend.

The militant American Indian Movement took root in Canada. In Alberta, Nelson Small Legs, a Canadian AIM leader, committed suicide in 1976, leaving a note that dramatically brought Indian grievances into focus. "... I give up my life in protest to the present conditions concerning Indian people of southern Alberta," he wrote.

Meanwhile, much to the chagrin of white Canadians, these and a host of other such incidents throughout the country were drawing the attention of foreign — notably U.S. — media. Journalists from other countries seemed perversely pleased to find that Canada the Smug, where racial conflict had been unthinkable while Watts and Detroit were in flames, was also racially afflicted. Predictably, many Canadians were disturbed by attention given to racism by their own media; they were incensed at such coverage in foreign media. They lashed back with allegations of journalistic irresponsibility and, in some instances, they may have been right. In other instances, however, it seems to have been more a matter of attacking the bearer of ill tidings because the message, however honest, was unpalatable.

There were, however, a great many Canadians who knew, often from bitter experience, that the message was fundamentally truthful. They had been trying to tell the country for a long time. In 1968, for example, Dr. Howard McCurdy, head of the newly formed National Black Coalition, told a Montreal audience:

If we ask the question: do our children have the same hope for achievement, the same hope to attain any level of prominence or success in this country as any other person in this country, the answer is no. If we were to ask the question, can we, as Canadian citizens, live anywhere we want without fear of being unable to buy a home in a particular community, or being unable to avail ourselves of certain facilities this community has to offer, the answer would have to be no.

In that same year, the Economic Council of Canada demonstrated the shocking disparity between native peoples and the Canadian people as a whole. Quoting figures from 1965, the Council said 80 per cent of Indian families had annual incomes of less than \$3,000, over 50 per cent had less than \$2,000 and over 25 per cent had less than \$1,000. The average life expectancy of Indians was 36 years. The infant mortality rate among Inuit was more than one in four — ten times higher than the general Canadian rate.

In a 1969 editorial the Toronto Star said that 50 per cent of Indian children failed to reach Grade 7, 61 per cent dropped out before Grade 8, 97 per cent before Grade 12.

Over successive years, the figures were updated but the basic picture was little changed. Some Canadians, appropriately distressed by these and similar statistics regarding housing or other basic needs, tried to deny relationships between these conditions and racism. However, minority

group spokesmen demolished such arguments. James Wah-shee, a leader of the Indian Brotherhood of the NWT, defined the link between racism and conditions afflicting natives in this way:

A racist society is known by its works. The poor housing, health and economic situation of Canada's Indians is as good an indication of a racist society as an openly avowed policy of racial supremacism on the part of the federal government might be.

If Canadians are disturbed or shocked by revelations of racism in their society, that is as it should be. If they are surprised or puzzled by it, however, *that* demonstrates an abysmal lack of awareness — undoubtedly fostered by our educational systems — of the less creditable aspects of Canadian history. Racist themes originate deep in Canada's past, reverberate through the country's development and ring clearly in many of our contemporary social conditions and institutional practices.

Among the earliest acts of wilful racism recorded in Canadian history — although rarely mentioned — was the slaughter of Beothuk Indians of Newfoundland in the 18th century. A Newfoundland government tourist brochure quaintly attributes the disappearance of the Beothuks to killings that resulted from "misunderstandings" and starvation resulting from Europeans "unknowingly" blocking Beothuk hunting routes. However, evidence exists to show that Beothuks were often killed on sight, sometimes captured for display and, indeed, starved out by white settlement that served to dry up food sources.

During roughly the same period, the slave trade was thriving in Canada, although Canadians like to think of slavery as a distinctly American institution. In fact, the first slave was brought to New France in 1628 from Madagascar. In the St. Lawrence and Niagara regions of Upper Canada, slaves were brought by United Empire Loyalists during and after the American revolutionary war. Indeed, at least six of the sixteen legislators in the first Parliament of Upper Canada owned slaves.

Slave holdings in all parts of the emerging Canada grew in the ensuing decade, so much so that in New Brunswick and Nova Scotia a "removal" program was instituted. The British government paid the Sierra Leone Company to transport 1,180 freed men and women, all of whom had asked to go, to the new African colony of Sierra Leone.

By 1833 slavery was finally abolished throughout the British Empire, but life was destined to be hard for illiterate blacks who were freed but required to ply minimal farming skills on the largely barren lands on which they were settled. The effects of their poverty would be felt well over a century later, and they would find that freedom from slavery was not freedom from racism.

School segregation, for example, was legally established in 1849 under the euphemistically titled Act for the Better Establishment and Maintenance of Public Schools in Upper Canada. (Ironically, Canadians were inclined to feel morally superior when the civil rights movement assailed southern U.S. school segregation in the early 1960s, but it was not until 1965 that the last segregated school in Ontario was closed.)

By the mid-1800s, the Metis, a people of mixed Indian and French Catholic origins, were also feeling the effects of mounting racism. Having



Louis Riel (centre) and his Councillors, 1885. Courtesy of Public Archives.

struggled under the leadership of Louis Riel to establish their claim to the Red River area of Manitoba, they eventually found their leader exiled and their lands taken over by anti-French, anti-Catholic, anti-Indian squatters from the East. Moving west to new lands promised them by the government, they soon found those lands taken as well. Returning from exile, Riel found the government unwilling to take measures necessary to resolve Metis grievances. As a consequence, he set up a provisional government for Metis areas in Saskatchewan, but that action ultimately provoked a series of battles between the Metis and government troops. The Metis were defeated and Riel was hanged as a traitor to Canada in 1885. Subsequently, most Metis agreed under treaty to accept cash instead of land as a settlement with the government, but the money was soon spent. Again, poverty complicated by racism, this time afflicting the Metis, became part of the Canadian social fabric.

Meanwhile, the pattern of treatment that would ultimately lead to Indian deprivation was also being established in the 1800s. Indian interests in lands were being "alienated" through treaties; Indians themselves were being assigned to reserves and a government department was assuming charge of Indian affairs.

It was an arrangement whereby, theoretically, Indians were to be protected and eased into white civilization. In fact, it served to get them out of the way — to allow for the expansion of white society and to remove them from the mainstream of economic, social and political life.

Even some of the more far-sighted critics of the day recognized that the process was sheer folly. Lord Elgin, the Governor General of Upper Canada, in a statement that rings as true today as it did in the mid-1800s, said:

If the civilizing process to which Indians have been subjected for so many years had been accompanied by success, they have surely by this time arrived at a sufficiently enlightened condition to be emancipated from the state of pupilage in which they have been maintained; if, on the other hand, the process has been inadequate to achieve the desired end, it has been long enough in unsuccessful operation to warrant the adoption of some other method of procuring this result.

Despite Lord Elgin's foresight, however, the government proceeded negotiating treaties with Indians and establishing reserves. At least, some today still call it negotiation; others call it swindling. According to documents of the day, the latter term may have been more applicable, for example, to the 1899 and 1921 treaties signed with the Indians and Metis of the Northwest Territories. Analysis of documents of that period suggest that native representatives were cajoled and threatened into these agreements and that signature marks may have been forged.

Other "civilizing" efforts and "protective" measures under the Indian Act also been revealed as less than beneficent. Ralph Steinhauer, the Indian who became Lieutenant-Governor of Alberta, has written of having his rear kicked for daring to speak Cree on his school playground when he was a child. He also recalls Alberta's Social Credit government of the 1930s offering a prize to the Grade 12 student with the highest academic standing; one year an Indian girl won but then was told

Indians did not qualify. And until relatively recently, native people throughout Canada were denied the right to vote.

But blacks and natives were not the only objects of white Canadian racism and exploitation. Some of the most shameful episodes in Canadian history deal with the treatment of Chinese, Japanese and East Indians.

In many respects, the experience of these groups in Canada was roughly parallel. Each can trace its origins in the country back to the end of the 1800s. Each was imported as much-needed labour — to build railroads or man lumber mills of the developing west. Each, when its job was done, was subjected to treatment that clearly demonstrated the Canadian majority society's contempt, a contempt often fostered by what should have been liberalizing forces — labour, churches, politicians.

For example, in 1895, the government of British Columbia denied the right to vote to Chinese, Japanese and East Indians. By doing so, the province also effectively barred them from the federal franchise — since the Dominion Elections Act automatically denied the vote to anyone who did not have it provincially. This restriction was not lifted for Chinese and East Indians until 1947 and for Japanese until 1948. While in force, this law also effectively barred these groups from certain occupations for which licences were required since having one's name on a voters' list was a prerequisite for getting a licence. Meanwhile, of course, these groups were still subject to taxation.

Such restrictions and the perpetual threat of violence — a threat often translated into action — were hazards common to all groups. But each had its own special discriminatory burdens to bear as well. New Chinese immigrants for many years had to be males capable of hard physical labour; women were simply not admitted. Furthermore, the immigrants were subjected to a \$500 head tax in 1904 and, by 1924, legislation was passed barring them altogether until the law was eased in 1947. Japanese-Canadians were physically removed from British Columbia coastal areas in 1942 in the name of wartime security; most were interned and their properties were taken in "trusteeship" and sold, for the most part, at scandalously low prices.

In 1908 the government moved to cut down East Indian immigration by requiring that anyone who came from India had to do so by "continuous passage"; in 1914, however, 376 Sikhs fulfilled this requirement, arriving aboard the Komagata Maru; their ship was made to wait in Vancouver Harbour for three months before being turned away.

Ironically, though, while the Canadian and B.C. governments were so industriously guarding Canada against the imaginary "hordes of Asia," a far more real and distasteful force made its way into Canada from the United States in 1920. The Ku Klux Klan, that covey of anti-Semitic white supremacists given to wearing bedsheets and burning crosses at night, set up shop in Montreal and spread across Canada. By 1932 the Klan was even provincially chartered in Alberta. Although it lost the charter in 1952, it was revived there in 1972.

By the end of the Second World War, however, the nature of racism and discrimination in Canada had changed — softened in some ways and

become more subtle in others. Legislation against discrimination was passed and, over the years, gradually strengthened. Discrimination lost its public respectability. But it certainly did not disappear.

A few cases in point:

- In the 1950s a black carpenter — a Canadian veteran of the Second World War — was ostracized, his business was boycotted and he was forced to leave Dresden, Ontario, because of his leadership in the fight to de-segregate local restaurants and barbershops. His and other black families had been residents of Dresden since the 1850s.

- In the 1950s Joe Drummond, a black resident of Saint John, New Brunswick, could not get a haircut anywhere in his own town.

- In 1954, the Prime Minister of Barbados, Grantley Adams, was denied a room in a Montreal hotel because of what an employee called "regulations."

- In 1964, it was discovered that local school board officials had left a run-down, all black school in operation in a rural area near Windsor, Ontario, while white children from the area were bussed out to a newly constructed consolidated school some distance away.

- That same year, the city of Halifax began the dismantling of Africville, an all black poverty-ridden community, and the relocation of its residents. The effort was well meant but often managed with insensitivity — some residents said they were moved out in garbage trucks — and rehabilitative follow-up programs were seriously inadequate.

- In 1976, the Canadian Civil Liberties Association revealed that employers were attempting to circumvent anti-discrimination laws against racial or other discriminatory criteria in hiring by requiring that applicants have "Canadian experience."

Throughout these years, of course, the more dramatic racial incidents and issues discussed earlier were occurring and coming to light as well.



The Francophone Situation

It was also in the post-war period that many Canadians began to characterize the relationships between the country's English- and French-speaking peoples as racist. Not that these two groups could be defined anthropologically or biologically as races, but their actions and attitudes towards one another — particularly anglophones towards francophones — were strongly racist in nature.

The signs of this kind of racism were clearest, of course, in Quebec. For almost two centuries, the minority anglophones there had maintained rigid economic, social and, indirectly, political domination over the majority Quebecois. However, it was not until the so-called Quiet Revolution of the early 1960s that most Canadians began to recognize the fact. Only then, for example, did they start to understand how systematic had been the exclusion of francophones from the corporate boardrooms and executive suites of Montreal, the financial heart of what was known as French Canada.

Subsequently federal and provincial programs, ostensibly aimed at redress, were undertaken, but these often seemed to be too little too late or, ultimately, even strongly anti-anglophone in a few instances.

Meanwhile, anti-francophone feeling was being manifested in other parts of Canada. In the early 1960s, residents in a suburban Toronto community protested vehemently an experiment in the use of French on street signs. In 1976, fans at an international hockey game at Toronto's Maple Leaf Gardens booed when announcements first made in English were repeated in French. In 1977, teenaged hockey players from Quebec were subjected to physical and verbal abuse at a game in Edmonton. And, all too frequently, francophones were unable to secure the right to use French in dealings with courts or other public institutions in many parts of Canada.

But it was the Federation of Francophones Outside Quebec who, in 1977, most poignantly demonstrated that, whether by virtue of ill will or apathy, anglophone Canada was acquiescing in their demise as a cultural entity — indeed, as a people. In a two-volume research report, the federation documented claims that many of their communities across Canada had no access to French schools or French-language broadcasting. They showed that, as a group, their incomes were substantially lower than those of Canadians at large. They concluded that "it is not surprising that we are in the process of assimilating ourselves," a particularly sad cry in a Canada that had rejected the melting-pot concept of cultural uniformity and proudly proclaimed its adherence to the more egalitarian concept of cultural pluralism.

Why do people become racists? Why do they practice discrimination? Social psychologists tell us discrimination is the manifestation of one societal group's effort to free itself from a feeling of inadequacy by casting another group in an inferior light. Political scientists and historians describe racism as a political weapon, pointing out how Hitler used racial theories to explain away Germany's problems and unify the masses.

Whatever its origins, however, we know from experience in Canada that discrimination becomes most overt when two factors — economic

insecurity and increased visibility of racial minorities — coincide. In the 1970s we have seen unemployment rise to unprecedented levels. Inflation has reached critical heights. The tendency in many quarters is to look for causes and easy answers. Immigration is the cause often identified, immigrants — especially those most visible because of their colour — the culprits most often blamed. Little thought is given to the fact that most immigrants, far from being a burden on the economy, contribute to it.

Perhaps, though, when it comes down to taking action, it is less important that we know why racism exists than how discrimination is practised. In any war, defence is based not on why the enemy is hostile, but how he vents that hostility.

Overt Discrimination

There probably is little that one need say about the kind of discrimination that is practised openly. It labels itself frankly, unashamedly appealing for support to negative racial stereotypes. It is as readily apparent as the sign that appeared in Kingston, Ontario in 1976. "To let," the sign said, "2-bedroom apartment . . . Aryan Caucasian Adults Only. "

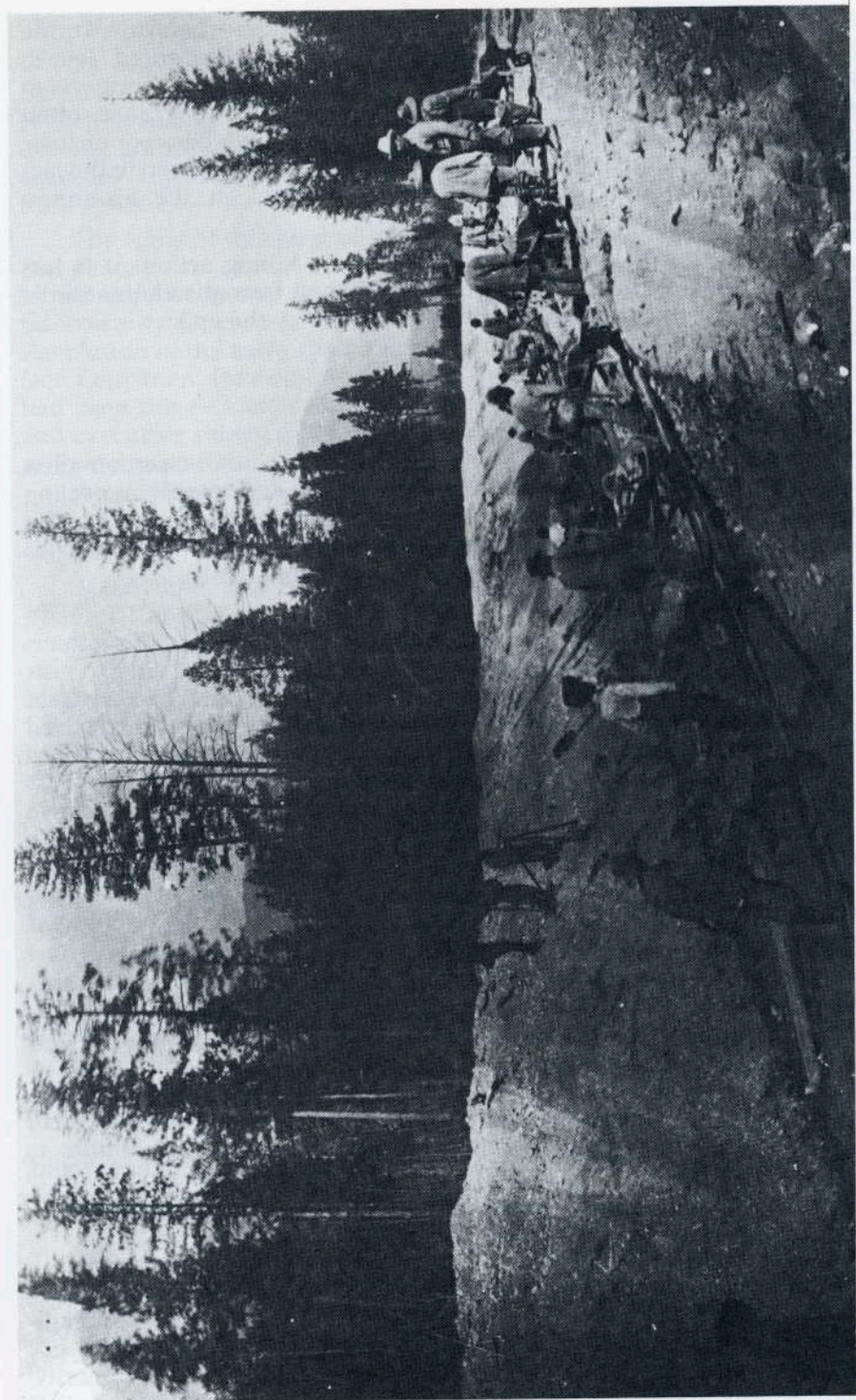
"Nice Guy" Discrimination

There is something peculiarly Canadian about the way a good deal of discrimination — perhaps most of the direct discrimination — is practised here. If one can ascribe characteristics to national groups, one would probably call Canadians "nice" people, conservative people who do most things quietly and dislike making a fuss. We like our diplomacy quiet; we like our economic and political life comparatively quiet; we certainly like our discrimination quiet. Consequently, much of it is practised subtly, quietly, by people who do not consider themselves bigots but who discriminate in order to avoid disturbing what they see as the established social order.

Such people are the landlords who, professing their own freedom from prejudice, refuse to rent to members of visible minorities because their other tenants presumably would move out. Or the employers who reject minority group job applicants for fear of the negative reactions of other employees; or businesses which exclude patrons of racial groups for fear of a general loss of revenue.

Of course, these people will seldom admit their motives; they would not wish to embarrass those who seek their jobs, accommodation or services; so they cloak their discrimination in excuses — the job, the apartment is gone.

The disastrous consequences they claim to fear seldom materialize. Indeed, petitions circulated in the 1960s among tenants in buildings where landlords argued in this manner demonstrated that the overwhelming majority of tenants either did not care, or welcomed minority group neighbours.



Chinese at work on C.P.R. in the mountains, 1884. Courtesy of Public Archives.

However, even if there were some cost to employers, landlords or business people associated with the extension of fair play to minorities, could that be accepted as a justification for discrimination? Society demands that such entrepreneurs take all manner of costly safeguards to protect the public. Surely the preservation of dignity and a just social order is worth some cost.

Institutional Discrimination

There probably is no more subtle form of discrimination, none more pervasive, none more difficult to combat, than institutional discrimination. With its roots buried deep in Canadian social history, it makes many of our major institutions — notably our business and schools — operate to the detriment or exclusion of racial minorities. Meanwhile, many of the people involved in the life of these institutions are unaware that their operating techniques and criteria for judgment are racist in character and functionally discriminatory. In short, what they do is not motivated by racism, but it has the same effect.

Perhaps the problem is best demonstrated with reference to the educational system. Education in Canada is fundamentally based on the white, middle class, largely urban population's experience, culture and values. The models that teachers present to their students — indeed, the models personified by the teachers themselves — are seldom ones with which non-whites from an impoverished and often non-urban background can identify. There is nothing in education for them, nothing that reflects the culture or heroes of their heritage, nothing that evokes their interest or self-respect.

In fact, examinations of textbooks in several parts of Canada indicate that the opposite is the rule. *Teaching Prejudice*, a 1971 report on a study of 400 textbooks in Ontario, revealed, for example, that non-white groups were frequently referred to as bloodthirsty, primitive, cruel and savage, while often contrasted with saintly and refined Europeans. With only a few and passing exceptions, natives, blacks or Asians who had contributed to Canadian development in significant and positive ways were omitted from reference. In addition, major events in the sad history of Canada's mistreatment of minorities — the extinction of the Beothuks, the treatment of Japanese-Canadians during the Second World War, the abuse of Metis and Indians throughout Canada — were barely touched, if at all. Being subjected to such a school system, it is small wonder that minority group persons often got little out of the educational process.

As if the burden of inadequate education were not enough of a handicap, members of visible minority groups meet other institutionalized impediments when they enter the job market. For example, employment tests which job applicants may be required to take usually contain a cultural bias that screens out non-white and non-urban people. Employers may apply residential criteria that native people who live on remote reserves or in isolated communities may not be able to meet. Again, the intention is not necessarily discriminatory; but the result is.

Legislative Discrimination

For the most part, legislation of an overtly discriminatory nature has been gradually phased out in Canada since the Second World War. That phasing-out took a long time in some instances. For example, until the early 1960s, Canada's immigration laws were distinctly racist — directly so at first, disallowing immigration of certain racial groups; then indirectly, setting up criteria that militated largely against non-white immigration. In fact, during the early 1960s Alabama's Governor George Wallace, asked by a CBC interviewer about his racist policies, was able to reply:

"You folks are pretty smart. You got your immigration laws fixed so that you don't let anybody come into your country but who you want to let in."

Over the ensuing years Canadian immigration law was liberalized. But even as late as 1977, as the government moved to redraft its laws and when non-white immigration was under serious public fire, there was concern about whether government effort would sufficiently protect against discrimination, as some of the rules could be used adversely against non-white travellers.



III

The Law and Human Rights

When chroniclers of the human rights movement discuss the evolution of Canadian legislation in this field, their point of departure usually is the end of the Second World War. Not that the record of legislation affecting Canada prior to that time is entirely bereft of governmental acts of conscience. In 1793, the first legislative assembly of the Province of Upper Canada passed an act prohibiting the further importing of slaves into the colony and requiring that the children of slaves be set free once they reached the age of 25. Forty years later, in 1833, the British Parliament passed the Emancipation Act, outlawing slavery throughout the empire.

There was no positive enforceable legislation to speak of for almost a full century thereafter, until the Ontario government amended its Insurance Act in 1932 to prohibit racial and religious discrimination in the provision of coverage. Then, in 1934, Manitoba amended its Libel Act, enabling individuals to sue for injunctions against the publication of a racial or religious libel if it was likely to expose persons or a group to hatred or ridicule, "tending to raise unrest or disorder among the people."

Aside from these two relatively minor adjustments, however, there was practically no legislation in support of human rights in Canada from 1833 to the mid-1940s. In fact, in the first half century after Confederation, Canadian legislation affecting the rights of blacks, Asians and native peoples was largely discriminatory. As we noted earlier, for example, Asians were legislatively prohibited from voting, restricted in employment and barred from purchasing land in certain areas. Indians and Inuit were denied the right to vote and also excluded from certain jobs. And among the indignities visited upon blacks in some parts of Canada were segregated schools to which their children were assigned by law.

The Second World War, however, was a distinct turning point. Not that Canada emerged from it like a penitent from a baptism, cleansed and unswervingly committed to setting right all statutory wrongs of the past. Indeed, post-war advances in human rights legislation were won only through struggle, bit by bit, and even today's statutes leave much to be desired. But post-war Canada, for all that, was clearly reoriented toward an era of public policy and action in the human rights field that was in stark contrast to its pre-war public stance.

Exactly what it was about the wartime experience — or even whether it was that experience alone — that wrought the change is difficult to determine. However, it seems probable that once the near-hysteria of the early war years began to ebb, once the racist horrors of Nazism began to sink into the Canadian consciousness, Canada was prompted to look at how its war-time actions reflected its own humanity. What Canadians saw, of course, was not calculated to instil pride.

Amid the suspicion and fear generated by the war, there had occurred some of the most flagrant manifestations of racism in the country's history. In 1939, for example, Canada turned a deaf ear to humanitarian pleas that a fair quota of Jewish refugees from Hitler's terror be granted a haven here. In 1942, a policy of forceful evacuation of Japanese-Canadians from coastal areas had been initiated, ultimately leading to their internment and the confiscation of their property. Even majority group Canadians had found their traditional rights circumscribed or even nullified, virtually by government edict, with censorship serving to stifle whatever criticism there was.

Following the war, governments ventured into the area of human rights legislation only hesitantly and when pushed by an aroused public opinion following some dramatic incident of discrimination. Amendments to initial pieces of legislation most often were designed to go only as far as was necessary to cope with specific discriminatory practices that labour, religious or other groups had documented and publicized. Meanwhile, as pressure groups demonstrated inadequacies in the enforcement of the laws, administrative structures were patched up and expanded bit by bit.

For the first 15 years or so of government involvement in human rights legislation in Canada, then, the approach was a piecemeal one. In the early 1960s, a period of consolidation began. Various fragments of legislation were drawn together into comparatively comprehensive acts or, as they were sometimes called, "codes". Eventually, the statutes provided for the establishment of human rights commissions with full-time administrative staff to enforce the legislation and conduct public education programs.



Labour's Role

When reduced to the cold prose in which statutes normally are described, the history of Canadian human rights legislation tends to read like a bloodless litany of enactments and amendments. But it must be remembered, as one reads that history, that each of the major advances in human rights law was achieved at considerable human cost. The persons waging the struggle were dedicated, tenacious and courageous.

The case for legislation had to be made forcefully because the concept of laws to protect people from discrimination was not popular. "You can't legislate brotherly love," argued the opponents of anti-discrimination laws, many of them people of good will. The so-called educational approach, exemplified by brotherhood celebrations, was a far more popular approach. Consequently, victims of discrimination who publicized their grievances and sought protective legislation, had to brave humiliation and often the resentment of a society that did not suffer "trouble makers" gladly.

A coalition of community groups, often run by poorly paid but determined individuals, battled frustration and disillusionment as they worked to generate a climate of opinion in which government would act. One of the most potent forces in the campaign for effective human rights legislation in Canada was the labour movement.

A seminal event in labour's human rights history occurred in 1935 when unions with a strong Jewish membership and Jewish fraternal organizations founded the Jewish Labour Committee of Canada. Recognizing the way in which Hitler portrayed Jews and unions as the twin enemies of society and marked them for liquidation, the committee sought to enlist labour support in a war against racism. Its initial efforts were aimed at the salvation and resettlement of refugees from Nazism and survivors of the Holocaust.

In 1946, however, the committee began mustering the support of labour and other groups behind a drive for anti-discrimination legislation. Using the force of law against discrimination was a revolutionary idea at the time, one that found no favour with adherents of the strictly educational approach to racism and prejudice. But the Jewish Labour Committee argued that there must be both legislative and educational attacks on discrimination.

Throughout the next decade, the Jewish Labour Committee worked with Canadian labour in the continuing fight for anti-discrimination laws at all levels of government.

The rationale for labour's concern with human rights was set out in a fact sheet issued by the National Committee on Human Rights of the Canadian Labour Congress:

Discrimination and prejudice split the union; they are a threat to unity. Discrimination and prejudice are in direct conflict with the underlying principles of the labour movement — which are brotherhood and equality . . . When some citizens are deprived of their rights, everyone's rights are threatened. . .



Damage done to grocery store of Nishimura Masuya during anti-Asian riots in Vancouver, Sept. 8-9, 1907. Courtesy of Public Archives.

If we believe that equality is fundamental to democracy, then those who violate this principle should be punished; law is a moral force on the community and puts "teeth" into the democratic principle. It is a most effective means of education.

Recognizing that the various regions of Canada would not likely be influenced by a program operated from Toronto or Montreal, and that legislative power in the human rights field lay primarily with the provinces, organized labour, working with the Jewish Labour Committee, localized its campaign from the start. Beginning in 1946, committees against racial discrimination — later known as labour committees for human rights — were established in Winnipeg, Toronto, Montreal, Vancouver and other centres. These committees, responsible to their local labour councils, were assigned to assist unions and members in protecting themselves against discrimination and to seek legislative remedies against discrimination in areas outside the scope of collective bargaining.

The work of these modestly financed operations was prodigious. They investigated and documented cases of racial, ethnic and religious discrimination in employment, housing and services. They publicized their findings and, having raised the public's consciousness of the nature and extent of discrimination, they doggedly kept after governments to pass anti-discrimination laws. Once basic legislation was passed, they continued applying pressure to have it improved and ensure that it was administered effectively. Throughout this period, black and Asian organizations as well as religious and community groups joined labour in an all-out assault on racism.

They pressed for action at the federal and provincial levels to obtain fair employment, fair accommodation and fair housing legislation. Immigration laws were attacked for their racial quotas.

Labour was also attending to its own house. Committees were conducting educational programs with their local unions and advising members on how to deal with problems at work. In some cases, they helped locals set up their own fair practices committees to handle these responsibilities on a day-to-day basis. The Brotherhood of Sleeping Car Porters, the Canadian Brotherhood of Railway, Transport and General Workers, and the United Automobile Workers are primary examples of unions whose committees worked hard in this field. Conferences at all levels served to renew commitment, educate members and support representations to governments in order to maintain pressure for legislative improvement. All along, where necessary, unions were attempting to purge their own practices and structures of the remaining vestiges of discrimination.

Throughout the 1950s and into the 1960s, labour continued to play a prominent role in the drive for human rights legislation, particularly in the areas of race, colour, creed and nationality. When at the end of the sixties, labour had achieved its goal of having human rights legislation passed and commissions established in all jurisdictions of Canada, some labour human rights committees became inactive. Minority groups and religious organizations now assumed a higher profile in the area of racial

discrimination. Although labour continued to be involved in such areas as native people's rights, other aspects of human rights, such as the rights of women, the elderly and the handicapped became the focus of attention. Indeed, labour's involvement in other social concerns received greater emphasis.

Today, racism is once again evident in Canada and the early legislative approaches are proving to be less sophisticated and effective than initially expected. Revitalized local human rights committees could be a means of combatting this dangerous trend.

Formerly, labour's human rights committees had four general areas of responsibility: human rights education for the local's members, support of people who suffered discrimination on the job or in the community, pressure for anti-discrimination laws or bylaws, and negotiation of anti-discrimination clauses in collective agreements. Today's human rights committees might bear those same responsibilities, but their main thrust in many areas of the country would be for affirmative action programs, as detailed on pages 29-32.

The local's human rights committee, as part of its responsibility for an affirmative action program, could:

- Persuade the local's executive and membership that affirmative action is necessary, morally legitimate, and legal.

- Recruit minority group members into union membership through contact with their community leaders, organizations and educational institutions.

- Ensure that location and operation of hiring halls are easily accessible to minority group members living in remote areas, especially when work is to be done in those areas.

- Document cases of discrimination and racism within their community and exert public pressure on government for its elimination.

Without union support, affirmative action in many of Canada's key industries is virtually impossible. With it, the chances of a program succeeding are immeasurably enhanced. The local human rights committee seems the ideal vehicle through which that support could be provided.



The Evolution of Law Enforcement and Education

"You can't legislate morality."

To proponents of human rights laws, that is a familiar refrain. It has been a theme in almost every campaign ever mounted against anti-discrimination legislation. But whether advanced by bigots or misguided liberals, it has always been based on a fundamental misreading of the objectives of such laws.

In fact, human rights laws are not intended to generate feelings of inter-group brotherhood where none exists. They are, however, intended to ensure fair treatment of minority groups despite the existence of such feelings. Employers are not compelled by law to love blacks; they are, however, required to treat black employees and job applicants as they do other employees. Landlords are not compelled to befriend Asians; they are, however, required to treat Asians as they would anyone else in the rental and administration of property. This does not mean, of course, that bigotry or prejudice are to be condoned. It simply means laws are addressed to that aspect of the problem for which they are most appropriate. Human rights law, like other laws governing commerce, simply sets out standards of practice — not standards of thought or feeling — for people engaged in public-market activity.

In other words, the primary target of human rights legislation is discrimination, not prejudice. If, as an expression of public policy, the law weakens prejudicial feelings, so much the better. If, as a result of being forced by law into closer contact with minorities, members of the larger society are freed of their prejudiced misconceptions, so much the better. But, the focus of the law still is on action, not feeling.

The first independent piece of legislation in Canada to prohibit discriminatory actions was the Racial Discrimination Act, passed in Ontario in 1944. An act of very limited scope, it prohibited only the publication or display of signs, symbols or other representations of a racially or religiously discriminatory nature. In 1947, Saskatchewan passed a statute that seems more clearly to have been a forerunner of contemporary human rights laws, the Saskatchewan Bill of Rights. Although not exclusively concerned with human rights, it did prohibit discrimination in accommodation, employment, occupation, land transactions, education, businesses and enterprises and was intended to cover the government as well.

With no particular government agency assigned to enforce these acts, their enforcement was left to the police and courts. However, the flaws of legislation that attacks discrimination as a quasi-criminal offence soon became apparent. Victims of discrimination were reluctant to initiate court actions. It proved extremely difficult to prove guilt beyond a reasonable doubt, as required in criminal matters. Apparently uncomfortable with the concept of discrimination as a criminal act, the judiciary was reluctant to convict. Public education programs, so necessary to make known the existence of the laws, were not undertaken.

In addition, with fines as the only penalties for offences, the victim of discrimination, whose real need was a job or a home, was left unsatisfied.

Consequently, during the 1950s, legislation was patterned after forms that had already been tried in the United States and found comparatively effective — fair employment practices and fair accommodations practices acts. These were based on conciliatory techniques that had proved successful in dealing with labour relations problems.

Canada's first Fair Employment Practices (FEP) Act was passed in 1951 by the Ontario Legislature. By 1956, Manitoba, Nova Scotia, New Brunswick, British Columbia and Saskatchewan all had enacted similar legislation. Quebec did so in 1964.

A Fair Accommodations Practices Act was passed in Ontario in 1954 and by 1959, Nova Scotia, New Brunswick, Saskatchewan and Manitoba had (FAP) laws similar to Ontario's. British Columbia enacted legislation in 1961 that affected only public accommodation and Quebec amended its Hotels Act in 1963 to forbid discrimination in hotels, restaurants and camping grounds.

During the early years few complaints were lodged under fair practices laws. Unfortunately, FEP and FAP statutes left the complainant virtually alone in his fight for redress. Narrow in scope and administered by people who were generally responsible for other legislation as well, the laws did not generate the climate of public acceptance that would encourage victims of discrimination to come forward. The answer seemed to be the consolidation of human rights laws in comprehensive statutes, with full-time administrative staff to perform public education and enforcement functions.

In 1961 and 1962 Ontario launched human rights administration into its next stage by establishing a Human Rights Commission with full-time staff and then consolidating its legislation under the Human Rights Code for the commission to administer. In succeeding years, well into the 1970s, various provinces followed suit, some skipping the FEP and FAP stages and proceeding directly to broad human rights acts. All had finally done so and placed their legislation under the administration of commissions by 1975 when Quebec passed its Charter of Human Rights and Freedoms.

The bulk of the legislative action took place in the provincial arena in the decades following the Second World War, largely because most of the relationships covered by law were provincially regulated. Still, the federal government also took legislative action against discrimination in areas under its jurisdiction.

In 1953, it passed the Canada Fair Employment Practices Act and, in successive years, other legislation relating to equal pay for female employees. In 1967, the federal government extended its powers to companies perhaps not normally under its jurisdiction, by ruling that all contracts it entered into for construction, remodelling, repair or demolition had to contain anti-discrimination clauses.

By 1967, Parliament had passed the Canada Labour Code, incorporating previous FEP legislation and related laws, and the Public Service Employment Act which prohibited discrimination in public service employment practices. The Unemployment Insurance Act was amended in 1971 to forbid discrimination by Canada Manpower personnel in the



East Indians aboard the ship Komagata Maru, 1914. Courtesy of Vancouver Public Library.

referral of people for jobs. Meanwhile, in 1960, regulations were introduced that required that every unit of housing built with the aid of a loan insured by the Central Mortgage and Housing Corporation be sold or leased without discrimination. This move came almost a year after local and provincial labour groups had documented a Windsor, Ontario, resident's complaint that he had been denied a CMHC-financed house because he was black.

Federal fair practices ordinances also were enacted to cover the Northwest Territories and the Yukon. In addition, Parliament passed the Bill of Rights in 1960 — basically a statement of principle, without enforcement provisions. An amendment to the Criminal Code in 1970 made it an offence to promote genocide against a group of people because of their colour, race, religion or ethnic origin, and to make a statement publicly against such a group when the result is likely to be a breach of the peace.

In 1977, after repeated promises, the federal government brought in a human rights act which would establish a federal human rights commission and bring its operations more in line with the provinces.

Legislation in the 1970s

Although there are significant differences in detail among human rights statutes currently in effect, and readers may wish to examine individual acts for specifics, there is a fundamental similarity in their content and administration. All, for example, prohibit discrimination in hiring, terms and conditions of employment, job advertisements, job referrals by employment agencies, and membership in unions. Most also cover membership in professional, business and trade associations.

In addition, all provinces and the territories prohibit discrimination in residential property rentals and sales. Many also cover commercial properties. At the same time, discrimination is generally forbidden in the provision of accommodation, services or facilities to which the public normally has access.

The grounds upon which all statutes forbid discrimination are race, religion, colour, nationality or national origin, and sex. Many include place of origin, marital status, creed and age. Some cover political opinion or belief and physical handicap. The Quebec human rights act also covers language, a factor that generated controversy when the Parti Quebecois government moved in 1977 to enforce the exclusive use of French in most areas of education and commerce and in the workplace.

To administer the legislation, all jurisdictions have full-time staffs and citizen commissions that act in an advisory and policy-formulating capacity, and are responsible to ministers of government. Under the legislation, commission and staff are assigned to enforce the acts, conduct research in the human rights field and carry on public education programs.

The enforcement process in all jurisdictions usually begins with someone formally lodging a complaint of discrimination. In some

jurisdictions, the commission itself is authorized to initiate a complaint action where sufficient grounds appear to exist.

Most statutes require that a complaint be investigated by an officer of the commission who, upon finding grounds for believing the complaint to be justified, endeavours to conciliate the matter or effect a settlement. Terms of a settlement depend on the specifics of the complaint and could require providing housing, employment or public accommodation that was previously denied. Many statutes also permit recompense for any financial loss the victim may have incurred. In addition, the employer, landlord or businessman may be required to give the commission a written undertaking to abide henceforth by the terms of the legislation, display human rights educational material on the business premises and give a written apology to the complainant and anyone else associated with the case.

If, however, the respondent does not agree to conciliate or settle the matter, a public inquiry may be ordered. Under most acts, the board of inquiry is appointed by the minister, but in a few jurisdictions the commission members conduct their own hearings.

In any event, the public nature of the inquiry, especially where news media cover such events, is considered an important element in public education. At this stage the public is given an insight into how discrimination, once revealed, is subjected to the rigours of public scrutiny. The inquiry also protects the respondent from unfair procedures and possibly an unjustified complaint.

An individual can appeal a board of inquiry decision to the courts. Similarly, many commissions may bypass the inquiry procedure and take a case directly into the courts. Upon summary conviction, a respondent may be fined from \$100 to \$1,000 for an individual, or \$200 to \$5,000 for a firm or other organization.

In addition to enforcing anti-discrimination sections of their acts, commissions are required to conduct programs of public education. Unfortunately, the concept of public education is often invoked by people more interested in maintaining the status quo than bringing about change. Even the bigot sometimes preaches "education" while practising discrimination. More distressing, though, is that proponents of brotherhood often preach it while doing nothing! Advertising, speech-making, public celebrations of brotherhood — all of these may have some value. But effective public education is enforcement: vigorous and intelligent enforcement of anti-discrimination legislation.

Additionally, it means active campaigns to inform minority groups of their rights and how they are enforced; it means informing employers, landlords, businessmen and others of their obligations; it means judicious use of media and other instruments of publicity, while enforcement efforts proceed, to demonstrate how discrimination is practised and attacked.

In this larger sense of the word, enforcement is not exclusively the responsibility of human rights commissions. It is the responsibility of community forces as well — labour unions, religious institutions, minority group organizations, social service agencies, human rights

groups, and the media. As government agencies, human rights commissions must act impartially in the resolution of discrimination cases. Even though a case might be helped along by judicious publicity, a commission may not be free to initiate it. Community groups, however, are not generally bound by such restraints; they can act openly as advocates of a complainant's case, and use the media in publicizing it.

It should be noted that even the best legislation would be ineffective — or perhaps even counterproductive — if it were administered unwisely or casually. Conversely, relatively limited legislation — even the outdated FEP and FAP laws — can be potent if administered with vigour, intelligence and commitment. Commissioners and staffers, although members of the human rights “establishment”, must embody something of the spirit of the renegade — must be prepared to test the limits of their powers and press their political masters for reform. Finally, there must be support from the community — organizations and individuals who complement the efforts of commissions and press for further improvements.



IV

Accentuating the Positive

If the Ten Commandments had been a compendium exclusively of thou-shalt-nots, Moses might well have felt somewhat less than satisfied. The pursuit of the good and just life, after all, demands more than simply abstinence from evil.

By the same token, the society that only legislates *against* isolated acts of discrimination without also taking positive action, leaves the demands of justice somewhat less than satisfied. Years of experience with laws of that kind have demonstrated that the negative invocations of the law — its thou-shalt-nots — are not enough, even if enforced by energetic, dedicated administrations. The law must be supplemented by a wide array of imaginative, positive forms of social action, both governmental and voluntary.

In Canada, we have yet to implement many of the more promising devices that have been employed elsewhere. But some have been used here and have demonstrated their merit.

Affirmative Action

"Affirmative Action." To most people the term might seem a bit vague, but to human rights workers it is the name given to specific forms of social action, usually aimed at problems of minority-group employment. Perhaps the following definition will serve to make the concept clear:

Affirmative action is any program designed to remedy under-representation of minority groups in employment, training or career development where that under-representation is the result of an historical pattern of calculated discrimination or merely the historical neglect, apathy and stereotyped attitudes of the majority.

The word "historical" in this definition indicates that the type of discrimination at which affirmative action is aimed is the product of institutional racism. It is the kind of discrimination that no amount of protective legislation, no matter how well enforced, can totally eradicate. Employers applying educational, health, residential or other such criteria to minority and majority group applicants equally, can — often unknowingly — screen out the bulk of non-whites.

For example, Indians, who are not traditionally part of the labour mainstream, are under-represented in northern Ontario industry. Blacks,



*Ku Klux Klan in Kingston, Ont., July, 1927.
Courtesy of Boyd Collection, Public Archives.*

who often lack educational requirements because they left a school system that alienated them, are generally under-represented in the public service.

What is required in such circumstances, is special treatment — that is, treatment that will compensate minorities for the sins of the past and give them a head start until the effects of the past are remedied.

Basically, an affirmative action program begins with all the parties — employers, unions, minority groups, social service agencies, human rights commissions — coming to a clear and common understanding of what the general problem and goals are. Having achieved that, the program evolves through a series of steps:

1. Top management in the target organization issues a statement to its workers and the public at large, affirming its policy of equal opportunity. Where a union is involved, the statement should be a joint labour-management announcement. The point is to commit the key parties to the program's success.

2. A committee is established, including representatives of top management, foremen, shop stewards and minority-group organization leaders.

3. The committee analyzes in detail the problem of under-representation of minority groups at all levels of employment.

4. The target organization anticipates how many jobs will open up within a given period — usually a year, initially — in various sections and ranks within its operation.

5. Realistic criteria for the selection of candidates for the program can now be established; appropriate recruitment techniques are determined; arrangements for on-the-job or apprenticeship training are set up; provisions are made for transportation, health and welfare services.

6. The employer commits the organization to achieving, within a given period of time, minority-group representation within the work force that reasonably reflects the group's representation in the local community, although specific numbers or quotas are not usually set. It is recognized that the company may not fulfil the goal, but it is expected to act in good faith and make serious efforts to do so.

7. The program committee establishes a procedure for monitoring the program and a schedule for reviewing it so that changes can be made as the need for modification becomes apparent.

8. The program is implemented and publicized inside and outside the organization through staff meetings, company newsletters, minority community organizations, and special-interest media. Additional force may be given to it by making it part of a collective agreement.

In Manitoba in 1972, Sherritt-Gordon Mines Ltd. agreed to put \$107,000 into a program to employ Indians in its Ruttan Lake operation while the province was to contribute \$143,000. The company was already running training programs, but it was recognized that these might not entirely meet the needs of program recruits. The company agreed, therefore, to cooperate in modifying or developing supplementary training programs.

In Nova Scotia in 1974, Sobeys Stores Ltd., a supermarket chain, undertook to recruit directly from minority communities for employment in all levels of the company. "Awareness training sessions" with management personnel were to be run as part of this program to ensure that the group understood the aims and would cooperate. In addition, a special summer employment program was to be run for minority-group students.

A frequent objection to affirmative action programs is that they constitute preferential treatment of minorities at the expense of majority group workers — "discrimination in reverse." It is further argued that if the evil at which such programs are aimed is institutional racism, a sin of our forebears, we should not have to pay the price for it now.

But discrimination is a practice whereby one group attempts to exclude or subjugate another. Clearly, the objective of affirmative action is to free minority groups from exclusion and subjugation — but not to place them in a position of supremacy over the majority.

Moreover, although we may not have instituted the practices that led to minority under-representation in employment, many of us today may be profiting from them. As a direct consequence of those practices, members of majority groups in our society today have a distinct competitive edge in a job market where equality of opportunity is supposed to be operative. Segments of today's society are inheritors of an undeserved advantage; they are, therefore, inheritors of the responsibility for redressing that imbalance.

The jobs of employees already with a firm that undertakes affirmative action are not threatened. In determining what positions will be available to recruits for such programs, employers assess the effects of attrition, expansion of their business and other such factors that have minimal effect — if any — on current employees.

Critics also argue that such programs are contrary to human rights legislation. However, many human rights statutes provide for such positive programs, so long as they are first approved by human rights commissions or similar authorities. In fact, anti-discrimination instruments of the United Nations and the International Labour Organization recognize affirmative action undertakings as legitimate and necessary to promote true equality.

Professional Training

For several decades, people in what are called the "helping professions" — social work, teaching, health services — have promoted the idea of training recipients of their services to give the services. This concept is now the basis of another approach to the problem of institutionalized racism; it is a variation on the affirmative action theme.

The concept is based on three assumptions. It assumes that people possessed of sensitivity, mature judgment and experience of the kind suffered by the disadvantaged, can, with sound training, bring their experience to bear in ways that will enrich their services. It also assumes that with minority group members in positions of visibility in schools and agencies, the services of those institutions will be more attractive to

others of their groups. Finally, it assumes that people in such positions serve as models for younger members of their communities who might otherwise believe such levels of employment and status are closed to them.

The programs have two essential ingredients — a training program, innovative and flexible, that takes account of the recruits' lack of formal education; and a guarantee of a specific job upon successful conclusion of training.

For example, in Halifax during the early 1960s, Canada Manpower established a special unit in which it employed job counsellors who had been drawn from the ranks of the unemployed. These people, all of whom needed training but had demonstrated that they otherwise met criteria set for the job, had themselves experienced long-term unemployment and related problems. They were therefore better able than most other counsellors to understand and cope with the emotional, psychological, practical and sometimes racial problems their clients presented.

Black counsellors, for instance, knew from experience that their clients would have experienced overt discrimination, suffered the effects of institutional forms of racism and would be suspicious even of Manpower and other service agencies. Their special insights, and their very visibility, were advantageous in meeting the needs of the black clients.

Another example of this kind of program in operation can be found in Manitoba where several projects of particular importance to native communities were begun in the early and mid-1970s. One of these is New Careers Program, initiated by the provincial Department of Colleges and University Affairs.

New Careers was designed for people with an interest in and potential for careers as technicians or social and health service workers of various kinds, who had been unable to gain the required education and training for economic and/or social reasons. Within three years of its implementation, 60 per cent of the program's participants were native people.

An applicant's educational level could be no higher than Grade 9, but candidates had to demonstrate to interviewers that they were seriously interested in and had the potential to pursue work in the jobs they sought. Financed by the province with some federal support, New Careers paid students during their training period, beginning them at levels five to ten per cent above what they would receive if on welfare, and increasing their salaries steadily to full pay at the end of two years. Initially, then, the pay was low and constituted a test of the trainee's commitment. Nevertheless, after three years' operation, 80 to 85 per cent of the trainees remained in the program for the full two years. By 1977, New Careers had 200 people enrolled.

Meanwhile, trainees had become conservation officers, social workers, mining claims inspectors, environmental technicians, correctional officers, drug and alcohol abuse counsellors, junior auditors and had entered other occupations throughout Manitoba.

"Testing" for Discrimination

In all the years since enforceable human rights laws have been on the statute books, there has been no technique that has proven more effective in documenting complaints than that known as "testing". Since testing was first used, there has been no technique for documenting complaints that has been so little understood and illegitimately attacked.

Testing can be considered as a controlled experiment. For example, if an employer is suspected of discrimination, two black persons might be assigned to apply for the job advertised. If the blacks are told the job has been taken, two white persons would be sent immediately to make application. If all relevant factors — such as qualifications, dress, manner, age, etc. — are uniform among blacks and whites but only a white is hired or allowed to file an application, it is clear that a legitimate complaint exists.

However, as easy as it is to describe, testing is not easy to do. It requires careful planning, timing, documentation and an ability on the part of the testers to adapt to the unexpected.

It also requires that those who engage in it be prepared for a public response to their efforts that is less than gracious. Testing, even among people who profess support for human rights, is sometimes resented. Often the technique by which hidden forms of discrimination are revealed is more the subject of criticism than the discriminatory practices it uncovered.

In the 1960s, for example, the *Windsor Star* responded to results of tests by the Ontario Labour Committee for Human Rights by depicting the tests as a Toronto-inspired plot to smear Windsor. In 1977, when the Canadian Civil Liberties Association conducted tests that demonstrated discriminatory practices by some Ontario realtors, an industry spokesman denied the legitimacy of the results by attacking the tests.

Why is testing controversial? Its opponents say it is covert, clandestine, less than gentlemanly. But it is the nature of discrimination — a practice usually covert and clandestine — that requires the techniques of testing. And if governments can test elevators, hospitals and restaurants for safety and cleanliness, surely tests can also be conducted to protect the human rights of citizens.



Something Old, Something New . . .

When people concerned about human rights look ahead, the future must seem like television re-runs. Tomorrow's challenges are essentially the same as yesterday's. The language in which they are articulated, the names and the faces may change as the issues are recycled, but the issues themselves remain fundamentally the same.

Not that there has been no progress. The effort of community organizations in the campaign for human rights legislation was vital and productive. The legislation is an essential prerequisite for affirmative approaches to discrimination and prejudice.

But legislation can be said to have emerged from infancy only into adolescence; it has a long way to go before it matures fully. Even those programs of positive action that have been implemented have yet to be employed sufficiently widely to structurally affect Canadian society. Meanwhile, there still remains a broad range of positive action concepts that are not being employed in Canada at the present time.

Contract Compliance

He who pays the piper, says the old saw, calls the tune. It isn't a maxim of human rights action in Canada yet, but it should be. In fact, human rights advocates have been pressing governments for years to embody the principle in legislation, for it could be one of the most effective concepts yet employed against institutional racism.

When translated into human rights law, the principle is known as "contract compliance" legislation. It is based on the fact that governments spend millions of dollars every year on contracts with private companies. Contract compliance legislation, therefore, is designed to enable governments to wield financial clout in support of minority group employment.

Currently no such legislation exists in Canada, although a faint reflection of the principle can be seen in some Canadian statutes. Under contracts with the federal and Saskatchewan governments, for example, companies are enjoined not to discriminate in their employment or business practices. In British Columbia and Alberta, governments and private institutions may make similar anti-discrimination clauses part of any contracts they let — *if* they choose to do so.



Japanese-Canadians in community kitchen of internment camp at Slocan City, B.C., c. 1943. Courtesy of Public Archives.

However, as commendable as these anti-discrimination contracts are in spirit, they are not, in practice, effective in coping with one of the more serious manifestations of racism — minority group under-employment. The existing legislation does not require positive programs of employers, and few Canadian firms have shown themselves anxious to initiate such programs voluntarily. This is the reason for contract compliance, the purpose of which is to foster widespread implementation of affirmative action ventures in business and industry through the use of governmental pressure. In order to get public funds, a firm must render public service.

Under contract compliance, governments require that companies with which they do business accept, as an obligation, the responsibility for undertaking affirmative action. A company in which one could reasonably expect to find more minority group members, or find them more equitably distributed, is required to take definite steps to redress the imbalance. The specifics of an affirmative action program designed to do this are part of the contract with the government and failure to act in good faith can result in penalties. Penalties generally include at least cancellation of the contract and exclusion of the company from further government business.

By their very nature, of course, compliance programs must be monitored, a job most appropriately assigned to human rights commissions. A company's failure to comply would be met in the first instance by efforts to persuade it to do so, procedures with which human rights officers are familiar.

In this entire endeavour it is most important for governments to set a positive example by hiring minority group persons at all levels. In fact, a government that entered the realm of contract compliance in this way would go beyond stimulating action only among companies bound by public contracts. It would create a climate in which its human rights commission could realistically solicit the support of the general corporate world in a voluntary company-by-company review of recruitment, hiring and promotion policies. Where patterns of minority under-representation were identified, the commission would have a stronger hand in pressing for affirmative action.

Human Rights Commissions

When Toronto blacks were surveyed in 1974 to determine their perceptions of race relations problems, some expressed lack of confidence in the Ontario Human Rights Commission. Critics described it variously as slow, ineffective, limited, often doing so even while they voiced support for it in principle or approved some aspects of its work.

The response was not surprising. There is probably not a commission in Canada that could win an unrestrained endorsement from minorities within its jurisdiction. In fact, even the most active and effective commission would have to expect periodic volleys of brickbats. Being a creature of government, inevitably a commission is suspect. In addition,

within the context of minority community politics, flaying a commission is often considered a way for an aspiring leader to demonstrate militancy.

However, even the supporters of human rights commissions in Canada would agree that existing legislation is not comprehensive enough, and that its administrative machinery could be tightened. Most commissions have been active and effective in their case-by-case approach to complaints, but they have not pressed hard for long overdue extensions of their authority to combat institutionalized racism, nor have they tested their existing statutory powers rigorously.

Federally, a comprehensive human rights act with provisions for a commission has been passed by the House of Commons but it, too, lacks the all-important stipulation of contract compliance procedures to deal positively with the hiring practices of employers coming under the federal jurisdiction.

Many other positive proposals have been made for tightening up legislation and extending the powers of commissions:

- As a corollary to compliance, commissions should be empowered to conduct industry-wide surveys and require firms to make relevant records available in order to determine whether suspected minority group under-representation exists.

- To promote affirmative action, governments should make minority group training subsidies available to firms that engage in compensatory employment programs.

- Governmental licensing power should be used in support of human rights goals. It should be a condition of their licences that "intermediary agencies" — realtors, employment agencies — make available whatever records are necessary for commissions to determine whether agencies are discriminating on behalf of clients. Also, suspension or loss of a business licence should be imposed as a possible penalty for violation of human rights legislation.

Meanwhile, commissions must begin to consider other remedies and indeed challenge the legal system itself. For example, they could initiate public discussions with leading legal experts of the possibilities of class action suits against companies, agencies or other institutions that practise discrimination. It would need painstaking analysis and courage on the part of a commission that undertook so "militant" an action, but the educational effect — quite aside from the outcome of a case — would be significant.

None of the proposals advanced are revolutionary or, in many respects, even novel. For example, governments attach all manner of conditions to licences, and suspend or revoke licences for all manner of offences. Inspection of business records is also required by other kinds of government bodies.

What politicians must be convinced of, though, is that discrimination is at least as serious a social threat as violations of liquor licencing provisions, or writing off too much entertainment on tax returns. To make that case, human rights commissions themselves will have to mobilize community support and put pressure on their political masters.



Coalitions

Among the ranks of social activists, one of the pet words has always been "coalition". It seems to represent power born of unity, heroic militancy and comfortable togetherness all at the same time.

It also stands for one of the most effective techniques known for pressing conservative social establishments into change. Indeed, just about every major human rights statute and measure in Canada since the Second World War is attributable in substantial degree to pressure put on governments by coalitions.

But it is far easier to talk about coalitions than it is to form effective ones. At the root of the problem has been a fundamental misunderstanding of what coalitions are. The Concise Oxford Dictionary defines a coalition as a "temporary combination for special ends between parties that retain distinctive principles".

Racial groups, labour, religious organizations, voluntary human rights agencies — a wide variety of groups — may come together on an issue of common concern to make their individually limited influence into a more potent force. Blacks in Chatham and Dresden, Ontario, during the 1950s were refused service in many restaurants and other public places. Finding that their own organization, the National Unity Association, could not fight the battle alone, they invited labour, religious, civic and other voluntary groups to join them in a deputation to the Ontario government seeking legislative redress. Once a fair accommodations practices act had been passed, the ad hoc coalition disbanded until the next drive for legislation began. To support native rights in the Northwest Territories, the churches formed their own coalition, Project North.

It must not be forgotten, however, that each party to the coalition sets aside other interests that do not concern its partners or, in fact, may run contrary to their aims. Coalitions, then, are marriages of convenience, just as fruitfully ended at some point as they are begun. The challenge is to carve out a realistic goal, bring the right groups together, keep extraneous considerations from intruding, and disband the coalition when its objectives have been achieved.



Africville, Halifax, N.S., 1950s. Courtesy of Bob Brooks.

Police

The police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police . . .

When Sir Robert Peel, the founder of the British Police Service, expressed that principle in the 19th century, he was proclaiming what we have come to regard as a truism of democratic society. Unfortunately, though, the relationship between police and some parts of Canadian society — notably visible minorities — frequently falls short of the ideal envisaged by Sir Robert.

There probably is not a human rights commission in Canada that has not had Indians complain about police harassment, blacks complain of rough treatment or Asians complain of racist name-calling by police. The frequency with which these complaints arise, supported by occasional candid admissions from police officers, suggests that racism is far from unknown among police. And in many instances in which the cause is not overt racism, it is at least a matter of police insensitivity which inevitably generates resentment that neither the police nor society can afford.

Policing is a difficult task, however; and it should be noted that the police have had their own sensibilities assaulted without justification on numerous occasions. It is nevertheless an urgent necessity that police training include courses in racial understanding and human rights instruction.

The School System

It happened one day after a teacher-sensitivity program had been in operation for a few months at a newly integrated Nova Scotia elementary school. The principal was in conversation with a human rights commission officer.

"How do you handle the question of race in the classroom with the white and black kids together?" asked the commission officer.

"Handle it?" the principal replied, "We don't handle it at all. We don't bring it up. We don't think we should make an issue of it."

It was the avoidance syndrome at work. Like so many teachers, the principal was assuming that somehow the kids never noticed their skins were different colours, that they never heard racial slurs on the streets, in the schoolyards or in their homes. He acknowledged in further conversation that white and black children congregated separately in the schoolyard, but he still did not feel the school should "make an issue" of race.

What is the answer to it? It seems obvious: improved teacher training. Teachers' Colleges and ministries of education, in consultation with visible minorities and other ethnic groups, should design a compulsory course of studies to inform student teachers about the history and nature of discrimination in Canada, the histories and cultures of minority groups, and legislative action against discrimination.

The exposure to a variety of cultures enriches the learning experience of all children, including those of the predominant group.

VI

Epilogue

In the racial tumult that both enlightened and afflicted North America in the 1960s, Canadian thinking about racism at home began to come of age. We recognized that our legislation was not as fully developed as we may have thought. It was highly sophisticated, useful, but still incomplete. We discovered that person-to-person discrimination — individual acts of rejection, however subtle, and with which the victims had learned to cope — was really only a surface symptom of a malady that went far deeper. We realized that our history contradicts our proclaimed fair-mindedness and that the institutions upon which our society was constructed were, often unconsciously, perpetuating racism.

In the aftermath of those stormy Sixties, we learned another lesson — that broad commitment to human rights is hard to sustain. Canada's concern about racism gave way to other, newer preoccupations — unemployment, inflation. And while the attention of people of good will was directed elsewhere, the racists — the purveyors of hate who had been in eclipse and general bad odour for so long — emerged with a new boldness. Not that the Western Guard or others of their ilk were a serious threat in themselves, but their emergence was accompanied by racist acts of violence and racism-tinged discussions of immigration and economic issues. People whose interest in human rights had not waned saw it and were disturbed; but there did not seem to be a groundswell of anti-racist public indignation. Individuals protested, expressed repugnance, but the majority remained silent. It may have been apathy. On the other hand, it may have been that racism and racial discrimination had lost much of their social stigma.

We still do not know the cause of the majority silence nor its ultimate result. But we do know that the silence, whatever its cause, is dangerous. Majority silence communicates itself to minorities as a lack of concern at best, tacit approval of racists at worst. Minority fear and insecurity feeds majority fear and insecurity. Unfortunately, the only winner is the racist.

People of good will and serious intent must break the silence. They must do so in action as well as word. Perhaps the matter is best summed up by a former premier of the Province of Ontario, who once said:

Human rights and human dignity in Canada as elsewhere in the world have not been and are not likely to be realized by lofty rhetoric even when enshrined in a constitution. They are achieved by those relentless forces of social change and by our timely response to them. It is a question of giving substance to words by taking positive, constructive action.

Questions for Discussion

1. "The cultural mosaic concept can be used negatively as well as positively. It can be applied to separate and to dominate minorities as well as to foster their rights. In fact, its historical origins are primarily negative." Discuss.
2. What did you learn about Indians, Metis and Inuit at school? in the media? How do you view their land claims?
3. This brief primer could not refer to all groups which experience racial discrimination. From your own experience, can you name some? In other parts of Canada, who were they?
4. An organization you belong to is preparing a brief to the government on immigration. One faction in the group is concerned that unfettered immigration will contribute to unemployment, rising government spending on welfare and racial tensions. Another faction argues that there is no real relationship between immigration and such problems. What tack should the brief take?
5. A company is preparing to open a new manufacturing operation in a community in which there is a significant unemployment problem that affects all groups, but is most severe among Indians on a nearby reserve. The human rights committee of a trade union local suggests that the union take advantage of the situation to start an affirmative action program for Indians. It is proposed that the union ask the employer to set aside a certain number of jobs in the new plant for Indians. Several unemployed union members object, arguing that the time is not right for a program that favours one group since unemployment affects all groups. How should the issue be resolved?
6. A black woman claims to have been discriminated against when she applied for a job as a waitress that had been advertised in the local press. The employer had told her that he would not hire her because she was a single parent and might not come to work on days when one of her children was sick. The woman asks your human rights group for help. Aside from just referring her to a human rights commission, what could your organization do?
7. Do you agree that there has been a decrease in religious intolerance? If so, are there any lessons that can be learned from ecumenical co-operation that can be applied to race relations?
8. A human rights commission wants to revise its legislation to bar discrimination in the rental of single rooms in private homes. In a brief to the commission, a local citizens' group argues that, as distasteful as discrimination may be, the government should not go so far as to legislate what people do in their own homes. The group adds that many pensioners rent single rooms in their homes and "are afraid to rent to just anyone." What position should the human rights commission take and why?

9. Asian-born teachers, whom your local school board actively recruited when there was a teachers' shortage, are now being fired in significant numbers and replaced by Canadian-born teachers. The board argues that the Asian teachers are being released because they are culturally less capable of coping with discipline problems and relating to Canadian students than teachers born here. Is the board's action racist? In view of its being based on educational concerns, is it legitimate? How would you resolve the problem?
10. Can morality appropriate to interpersonal relations be applied to international relations? Are boycotts of consumer goods from specific countries an appropriate way to promote human rights? Should Canadian companies be permitted to invest in countries violating human rights? in undemocratic countries?



The Author

Daniel G. Hill has had over 20 years' experience and service in private agencies, universities and government. His work has encompassed university teaching, planning and supervising of research, and extensive administrative and consulting experience.

In 1960 he received his Ph.D. from the University of Toronto, completing a sociological thesis on blacks in Toronto. He worked for the Social Planning Council of Metropolitan Toronto, the Addiction Research Foundation and the University of Toronto before becoming the first full-time Director of the Ontario Human Rights Commission in 1962. During this period he was called upon by the federal and eight provincial governments to advise in establishing their human rights programs. In 1971 he became Chairman of the Ontario Human Rights Commission.

Dr. Hill left the OHRC in 1973 and established the human rights consulting firm of Daniel G. Hill & Associates Inc. — a service for government, private agencies, labour and educational institutions. He is an adviser to the University of Toronto, having established their Human Rights and Civil Liberties Institute, and is the author of numerous articles in his field.

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“Man’s inhumanity to man
makes countless thousands mourn.”
-Robert Burns

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