Operationalizing Race and Its Related Grounds in Ontario Human Rights Policy[1]

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ABSTRACT

Clarity regarding the very concept of race remains rather elusive, as does the nature of its connections with related Ontario Human Rights Code grounds such as colour, ethnicity, ancestry, place of origin, creed and citizenship. Dr. Rummens defines these terms and outlines the ways in which identification euphemisms, proxies, slippages and conflations underwrite racial discrimination as a form of identity negotiation.

Efforts to investigate and judge human rights race cases and to develop a racial discrimination policy are stymied by two key questions. *First,* what exactly are the grounds that can be used for determining whether racial discrimination has occurred? *Second,* how might we best use these grounds to ascertain that unfair treatment has indeed occurred?

At the core of the impasse lies the following query: What exactly is race? What is the nature of the phenomenon to which we seek to refer? Closely intertwined with this inquiry is a second: What are the connections between race and the various related grounds – colour, ethnicity, place of origin, ancestry, creed and citizenship – also enumerated in the Code? In brief the issue becomes this: what exactly are the various *types of identifications* to which we are referring? How are they interrelated? What are the connections – the *overlaps* and *intersections* – among them?

Different Types of Identity

Social actors organize themselves into social categories and groups using a wide range of identifying criteria that sort similarities and distinctions deemed socially and/or culturally relevant. Such recognition of similarities and differences constitutes the very cornerstone of social interaction and forms the basis for self-definition as well as for group formation and boundary maintenance. The ensuing *personal* (of self by self) and *social* (of self by other) identifications help to inform individuals' life opportunities, experiences and outcomes.

The specific identity criteria used in these *identification processes* vary from culture to culture, and are directly informed by the historical, societal, situational and interactional context in which they occur. There are thus different *types* of identity (ie. identity criteria) employed in these processes, each of which result in a number of associated *specific* identities (ie. identification labels) (Rummens 2004b, 2003, 1993; see Figure One).

Figure 1

Types of Identity	Specific Identities
Sex, gender	*Male/female, man, woman*
Age	*Child, teenager, adult, senior*
Socio-economic (class)	*Lower, middle, upper*
Sexual orientation	*Homo-/hetero-/bi-/trans-sexual*
Dis/ability	*Able-bodied, x-challenged*
Cultural	*Haitian, Korean, Canadian*
Ethnic	*Italian-Canadian*
'Racial'	*'Black,' 'Asian,' 'White'*
Religious	*Christian, Muslim, Jewish*
Linguistic	*Francophone, anglophone*
Territorial	*Quebecer, Western Canadian*
Indigenous/newcomer	*Aboriginal, immigrant/refugee*

While as concepts these different types of identity are clearly distinct, in actual practice they may overlap or even intersect both for groups and individuals (*Ibid* 2004b, 2003). Identities may be said to *overlap* when there is no significant interactive effect between them (Figure Two). They may be said to *intersect* when interactive effects are clearly present (Figure Three).

Figure 2 – Overlapping **Identities**

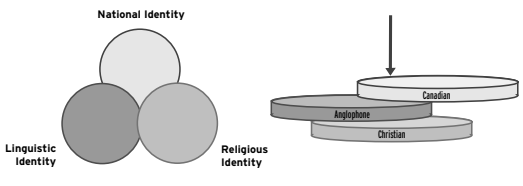
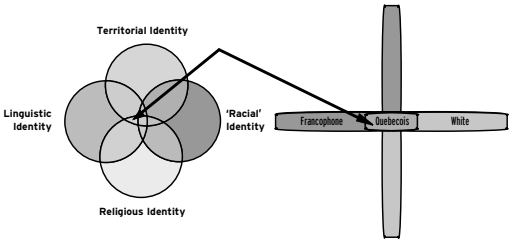


Figure 3 – Intersecting Identities



Race, colour, ethnicity, ancestry, place of origin, creed and citizenship are all different types of identities. Some of them overlap with each other, while others intersect. Some also intersect with minority status.

Race is a type of identity based on physical appearance that is used to construct a subjective system of visual social classification. When expressed as a specific identity, it refers to the end result of a personal and/or social identification based on observable biological criteria in the form of physical traits and/or genetic indicators for particular physical features. Frances Henry *et al* define race as "a category used to classify humankind according to common ancestry and reliant on differentiation by such physical characteristics as colour of skin, hair texture, stature, and facial characteristics" (1995: 328). Evelyn Kallen indicates that any scholarly definition of race must include two important points: "First, race refers to an *arbitrary* social *category* (*not* a social group);" and "second, [these subjective] racial categorizations are based solely on [perceived] *biological differences* between human populations (*not* on cultural differences)" (1995: 19; emphasis added).

A *racial group* is thus essentially a categorical distinction based on a single identity criterion (race) socially deemed relevant within the context of a given society. It is important to note that scientists have not found any biological validity to the concept of racial categories based on genetic grounds: there is more genetic variability within so-called 'racial' populations than across them. Despite this it remains an established *social fact* that people act as though individual and group variations in physical appearance are a meaningful way of separating individuals and social groups from one another in their social interactions with one another.

Colour, like race, is a type of identity based on references to physical appearance, in this case specifically to skin colour. It may be used to refer to a particular combination of skin hue and depth of colour gradation that is drawn from along a continuum of shadings deemed socially salient; specific combinations will vary in significance depending on the historical, societal, situational and interactional context in which the identification takes place. As such, colour identities readily intersect with notions of race as a basis for both personal and social identification.

In order to fully understand what is meant by *ethnic origin* it is necessary to first define culture, and then minority status. *Culture* refers to the totality of beliefs, values, knowledge, traditions, symbol systems and way of life shared by a group of people. It is reinforced through social interaction, transmitted from generation to generation, and changes over time. *Minority status* refers to a disadvantaged social position characterized by inequitable access to scarce social resources such as wealth, power, and prestige. This designation is used in opposition to the term *majority (or dominant) status.* These terms do not – as is often thought – refer to relative numbers but rather to power dynamics and concomitant differential access to key resources and rewards. Minority status may be based on a wide variety of criteria, including gender, socio-economic status, race, and culture. *Ethnic origin* is thus a type of identification defined by the intersection of cultural practice and/or affiliation, with minority status.

Place of origin is a geographically-based type of identity that seeks to sort individuals according to the part of the world from which they come. Associated specific identities consequently largely reflect country, national or regional designations. Clues to an individual's 'place of origin' may include physical appearance, language, cultural practices, and religious observances; more often than not, they entail specific combinations thereof. As such, this identification readily overlaps – and sometimes intersects – with racial, linguistic, cultural and religious identities. Place of origin is most often operationalized as 'place of birth' – understood in terms of country – and is thus commonly, though not exclusively, expressed in terms of first (or 'primary') nationality.

Ancestry is a genealogically-driven type of identity by which individuals are sorted according to the cultural and/or racial backgrounds of their parents and/or grandparents. It is an identification that seeks to emphasize generational continuity. Specific identifications may reflect cultural, ethnic, national, linguistic, racial, religious and/or place of origin identities. As such, the particular operative identity criterion must necessarily be articulated (Figure Four). Ancestry is thus an identification explicitly based on the social and/or personal identification(s) of the designated individual's ancestors.

Figure 4

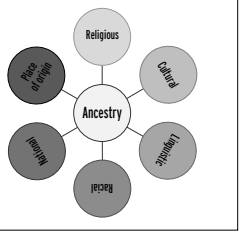
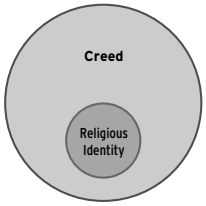


Figure 5



Creed refers both to a specific body of beliefs, values, rituals, and practices, and to the objective association and/or subjective affiliation with them. It is in essence a religious and/or spiritual identification. As a term it is rather inclusive: it moves well beyond the more formally established religious traditions to include a complete absence of creed or religion, and embraces both individual and collective expressions (Figure Five). In brief, creed is a type of identity that is based on felt and/or expressed association with an identifiable belief system.

Finally, *citizenship* refers to an identity based on common allegiance and responsibility to a particular semi-autonomous, socio-political entity that has relative sovereignty over a given territory. Such civic identification is most often associated with a specific country, although it can be articulated on regional, provincial, municipal and local levels as well. When operationalized within the context of a particular society, references to citizenship may furthermore be used to simply determine the presence/lack of salient citizenship

status of any given individual. As such it serves to distinguish majority citizens from minority non-citizens within that social context, thereby effectively reaffirming existing status differentials and concomitant resource allocations.

Racism as Identity Negotiation

While conceptual clarity is critical to a clearer understanding of discriminatory phenomenon, it is also important to examine these identification processes in actual practice. While the emphasis is often placed on *identity formation and development* – namely 'the cognitive developmental processes that each individual undergoes throughout the maturation process as s/he explores his or her place in the world and develops *a unique sense of self*' (Rummens 2003), – it is equally important to consider identity construction and identity negotiation. *Identity construction* refers to 'the creation, formulation and expression of personal and/or social identities for the self, either by individuals or by groups;' *identity negotiation* refers to 'the political nature of personal and social identification of self and/or other, among and by or within groups' *(Ibid).*

Racial discrimination is an example of identity negotiation. The logical reasoning runs as follows: 'you are different, you are not 'one of us;' therefore you do not have the rights and responsibilities that we do.' This basic argument effectively controls access to scarce social rewards including power, wealth, opportunities and high social prestige. In terms of identity processes, we are thus dealing with *exclusionary* rather than inclusionary *identifications.* Discrimination is indeed unfair treatment based on a particular ground enumerated in human rights legislation. It is, moreover, also a very effective mechanism aimed at social, economic and/or political exclusion. Effective exclusion is the goal, identification the tool, and discrimination the end result.

In reality, there are many different ways of effectively differentiating among individuals and groups. Race and its various related grounds identified in the Ontario Human Rights Code, are each but one type of identities that may be used; there are other possibilities as well including age, gender, sex, socio-economic status, etc. Any one of these various identity criteria can be selected to effectively include or exclude both individuals and particular social groupings.

Euphemisms, Proxies and Slippages

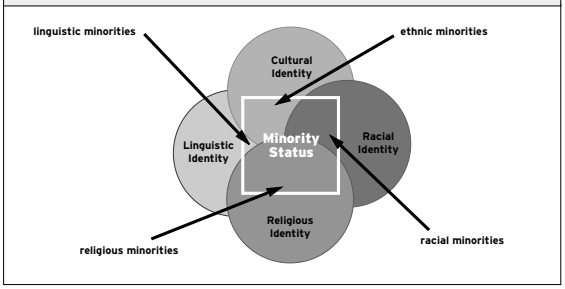
There are also specific negotiation techniques.

Both race and colour are highly stigmatized concepts. As such, most individuals are well aware that they cannot readily use these concepts or concomitant identifications, even though in actual practice it is clear that people continue to judge others using criteria based on physical attributes. Because of this, related grounds such as place of origin, ancestry, citizenship (both nationality and citizenship status) are regularly used as more 'neutral' – and thus acceptable – referents. This is possible because these related grounds are often strongly correlated with physical differences. While conceptually distinct as overlapping identities, in practice they readily intersect.

The same phenomenon can occur with other types of identity as well. For example, place of origin, ancestry and citizenship/nationality often become effective *euphemisms* or attempted *proxies* aimed at determining or attributing creed or religious identity. Similarly place of origin or citizenship can serve as a euphemism for non-Canadian. Such euphemisms entail the use of a more socially acceptable term where another meaning is in fact intended. In contrast, proxies involve the use of a particular designation in order to estimate, approximate or substitute for another.

Identifications can also 'slip' from one specific identification and/or status to another, even across different types of identity. So for instance, while race and culture overlap conceptually, in practice their intersection with each other and separate intersections with minority status allow for multiple possible 'slides.' In short, since race intersects with minority status, it permits a slide from race to ethnicity on the basis of common minority designation; a second slide from ethnicity to culture subsequently connects the double intersections and two identities (Figure Six). Such *slippage* can simply be conceptual in nature; it can also be a strategic move as an integral part of identity negotiation.

Figure 6



Common Links and Identity Conflations

Euphemisms, proxies and slippages are not mutually exclusive; rather they readily reinforce and buttress each other. More often they simply present different identity negotiation alternatives. In each case the intent is the same, namely to locate a *common link* between one type of identity and/or status and another. Note the three *levels* and increasing *degrees* of intersections theoretically possible between racial, cultural and religious identifications and minority status:

- race and minority status
- culture and minority status
- religion and minority status

- [race plus culture] and minority status
- [race plus religion] and minority status
- [culture plus religion] and minority status

- [race plus culture plus religion] and minority status

It is such common links that permit the most effective identification slippage. In other cases two different types of identities are simply *conflated.* This is most common in instances where conceptually distinct identities largely overlap, particularly when articulated as specific identifications. Race and culture are often erroneously conflated in this way. This occurs where in practice the respective specific identifications associated with two or more different types of identities overlap (particularly if the same terms are used), as is the case for individuals from more traditionally 'homogeneous' societies (eg. Japanese, Korean). A similar

conflation can also occur between overlapping 'racial' and religious identities: most, but not all Arabs are Muslims; most, but not all, 'Causasians' are Christian.

In brief, when it comes to the connections between race and each of its related grounds – colour, ethnic origin, ancestry, place of origin, creed and citizenship – what we are really talking about are existing overlaps among these different types of identities, possible intersections among them, plus common intersections with minority status. When it comes to instances of alleged racial discrimination, it is particularly significant to note that race and each of its related grounds can all readily intersect with minority status, and to consider the possibility of multiple minority statuses.

Toward Possible Solutions

These overlaps, intersections and identity negotiation techniques combine to make it difficult to clearly establish race or colour as the basis for alleged unfair discriminatory treatment. The challenge exists primarily due to the continued social salience extended to particular permutations of visible physical traits (skin, hair and eye colour; relative shape and size of physical features) in social interaction, despite the highly stigmatized nature of such criteria as a basis for social classification. In sharp contrast, 'related grounds' such as culture and religion reflect actual values, beliefs, ideas, traditions that are more likely to be reflected in actual *practices* and/or associated *behaviours*. Behavioural patterns are much easier to ascertain, and more importantly, more socially palatable as a basis for social differentiation among individuals and groups. Similarly, related grounds such as ancestry, place of origin, 'nationality,' citizenship, are in turn more likely to be related to *demonstrable facts,* and thus more neutral and less refutable in social discourse.

Given these realities, is important to use a more multidimensional intersectional perspective (see Rummens 2003) as a tool to move beyond current single-ground approach in human right policy development, implementation and enforcement, even in dealing 'within' a single protected ground such as race. It is critical to ensure that all applicable grounds – main, related, and others – are included for examination, investigation and decision. Race and each of its related grounds should be equally weighted, the possibility of multiple related grounds examined, and other enumerated grounds considered in parallel fashion. As well, the various overlaps and intersections among race, its related grounds and other enumerated grounds protected under the Code should be fully explored and taken into consideration. Such efforts are central to any attempt to establish the grounds of alleged discrimination based on race, as well as to determine possible links between racial oppression and other forms/grounds of oppression. The goal should be a determination of *sufficient* grounds, whether determined singly or in combination with one or more related or other grounds. While stronger human rights case files may entail more than one protected ground, in the end a single race or related ground should suffice to determine the basis for alleged human rights violations based on racial identifications.

Alleged incidents of racial discrimination should not need to have to be pinned to a highly stigmatized and scientifically discredited social classification scheme. Race, colour, ancestry, place or origin, creed/religion, citizenship/nationality – are all equally valid as prohibited grounds for discrimination. One should not have to conclusively establish that discriminatory behaviour is based strictly on race or colour, especially since covert racism doesn't readily express itself in those terms but rather uses proxies, euphemisms, slippages through common linkages and conflations wherever possible. Does it really matter that we establish that unfair treatment occurred on the basis of such a highly amorphous, socially stigmatized, scientifically invalid, notion such as race, when unfair treatment based on any of the other related grounds has much the same intended effect? Regardless of the particular ground used or articulated in its expression, the unfair treatment that demeans the inherent dignity of the racialized individual and restricts rights of access to social resources remains. In juggling the legalistic logistics of matching grounds to injury, it is this that needs to be remembered.

References

Guidelines and Recommendations for Dealing with Race Cases from Intake to Board of Inquiry. Ontario Human Rights Commission, 1994.

Frances Henry, Carol Tator, Winston Mattis and Tim Rees. *The Colour of Democracy: Racism in Canadian Society.* Toronto: Harcourt, Brace & Company, 1995.

Kallen, Evelyn. *Ethnicity and Human Rights in Canada.* Toronto: Oxford University Press, 1995.

Ontario Human Rights Code. http://www.ohrc.on.ca/english/code/index.shtml

Ontario Human Rights Commission – Year End Results 2003-2004. July 27, 2004.

http://www.ohrc.on.ca/english/publications/year-end-results_6.shtml.

Rummens, Joanna Anneke. "Identity and Diversity: Overlaps, Intersections and Processes." *Canadian Ethnic Studies. Special Issue: Intersections of Diversity*, Vol. 35, No. 3, 2003:10-25

Rummens, Joanna Anneke. "Intersectionality." *Canadian Diversity/Diversité Canadienne.* Winter 2004a: 3-4.

Rummens, Joanna Anneke. "Operationalizing Diversity Intersections: Race and its Related Grounds in Human Rights Policy." Race Policy Dialogues Conference Paper, 2004c. *[Submitted for publication].*

Rummens, Joanna Anneke. "Overlapping and Intersecting Identities." *Canadian Diversity/Diversité Canadienne.* Winter 2004b: 5-9.

Rummens, Joanna Anneke. *Personal Identity and Social Structure in Sint Maarten/ Saint Martin: A Plural Identities Approach.* Toronto: Dept. of Sociology, York University, doctoral thesis, 1993.

Sangha, Dave and Kwong-Leung Tang. "Race Discrimination and Human Rights Process." Presented Paper, Canadian Critical Race Conference, University of British Columbia, Canada, May 2, 2003.

Endnote

[1] A more comprehensive version of this conference paper has been submitted for journal publication. To obtain a copy contact the author directly via anneke.rummens@utoronto.ca