CANADIAN DIVERSITÉ CANADIENNE

Racial Discrimination, Racism, and Human Rights

On an annual basis complaints that cite race or race-related grievances represent about a third of all complaints filed with the Ontario Human Rights Commission (OHRC). Many other instances of racial discrimination, however, never come forward as complaints to the Commission and many manifestations of racism that are beyond the enforcement jurisdiction of the Commission are evident.

Responding to the significant presence of racism in our society, the OHRC has focused increased attention on better understanding the contemporary current face of racism and on developing more effective ways to respond to it within the human rights legislative framework that includes aspects of enforcement, education, and promotion.

In this context, the OHRC has embarked on a number of initiatives including the development of a policy statement on racial discrimination and racism. With the direct aim of developing this policy the OHRC convened a Policy Dialogue on October 6-8, 2004. Researchers were approached to develop and present discussion papers on a number of key theoretical and practical themes for the Policy Dialogue, based on their own independent views and perspectives. This dedicated issue of Canadian Diversity presents most of these presentations in article format.

The collection of articles presented identifies and explores key themes and initiatives that need to be considered in developing the OHRC policy statement on racial discrimination and racism. They also represent a significant contribution to the public discussion of the important role that human rights principles and legislation could and should play in the ongoing struggle to overcome racism.

The first two conceptual articles explore understandings of race, racial discrimination, and racism. Henry outlines historical, definitional, and conceptual meanings of 'race' and "racism". She focuses primary attention on contemporary theories of racism that highlight ideological notions of the 'Other', the role of "difference" and "othering" and their representation in terms of whiteness and blackness. Rummens defines key race-related prohibited grounds identified in the Ontario Human Rights Code and outlines the ways in which identification euphemisms, proxies, slippages and conflations underwrite racial discrimination as a form of identity negotiation.

The following three articles explore key aspects of the legal framework of human rights work in Canada. Hadibhai provides a broad overview of the case law from Ontario and other Canadian jurisdictions over the last 10 years where discrimination was alleged on the basis of race or other related grounds. Gall examines the utility of existing anti-discrimination legislation in redressing racially motivated wrongs and explores whether concepts of accommodation can be applied to redress these historical disadvantages. Mégret reviews which international conventions relate to the experience of racism in Ontario, how international law defines racial discrimination, and discusses the applicability of international instruments that deal with racism in the development of the human rights policy work of the Ontario Human Rights Commission.

The next three articles identify challenges and possible solutions to difficulties faced in human rights responses to racial discrimination. Black identifies some of the reasons why complaints of race discrimination to human rights commissions have a lower success rate than complaints on other grounds, and presents a variety of options that might be considered at different stages of the complaints process. Agocs identifies difficulties human rights agencies have had in advancing credible evidence that speaks to systemic racial discrimination in employment, and in response proposes a diagnostic framework for developing evidence that highlights numerical representation and distribution, employment systems, and organizational culture, using research approaches borrowed from the social sciences, employment equity and pay equity. Tator analyzes the significant barriers that should be considered in developing policies and change initiatives that address issues of racial discrimination and racism.

The last four articles provide practical examples of the operation of racial discrimination and racism in key contemporary social contexts. Smith explores how increasing tuition fees create barriers for Aboriginal and subordinate racialized group members seeking to pursue legal education in Canada. The history of racial discrimination in legal education in Canada is briefly reviewed to illustrate the roots of these barriers. Niemi indicates that law enforcement agencies have addressed systemic discrimination by giving priority to quantitative representation goals at entry-level positions, but argues that such efforts neglect issues of occupational segregation and other barriers to advancement and integration such as racial harassment. James explores how stereotyping and racial profiling structures the experiences of racial minority youth, and how the resulting differential treatment limits youth opportunities and often operates to their detriment. Kafele focuses on the impact of racism on mental health and mental health services for racialized and Aboriginal communities and proposes human rights policy initiatives to address these impacts.

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