HUMAN RIGHTS IN A MULTICULTURAL FRAMEWORK:

Defining Canadian Citizenship, 1945-1970

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IN THE QUARTER-CENTURY FOLLOWING WORLD WAR II, CANADA UNDERWENT A PROFOUND TRANSFORMATION, FROM A SELF-DEFINITION AS A "WHITE DOMINION" WITHIN THE BRITISH EMPIRE TO ONE AS A "MULTICULTURAL SOCIETY". THERE WAS NOTHING INEVITABLE IN THE CANADIAN METAMORPHOSIS TOWARD DEMOCRATIC PLURALISM, AS IT WOULD BE UNDERSTOOD CIRCA 1970. DESPITE A CONSIDERABLE DEGREE OF DEMOGRAPHIC DIVERSITY, THE CANADIAN SOCIETY EMERGING FROM WORLD WAR II WAS EXCLUSIVE AND RESTRICTIVE TOWARD MANY PEOPLE ON GROUNDS OF "RACE", CULTURE, RELIGION AND SOCIAL PRACTICES. CANADIAN DEMOCRACY COULD ACCEPT THESE RESTRICTIONS BECAUSE "RACES" WERE REGARDED AS ACTUAL CATEGORIES OF HUMANITY, EACH WITH ITS OWN QUALITIES AND FAULTS, AND ALSO BECAUSE OF THE PREVAILING DEFINITION OF A CITIZEN'S RIGHTS. IN 1945 IT WAS UNDERSTOOD THAT THE RIGHT TO FREE ASSOCIATION INCLUDED THE RIGHT TO REFUSE TO ASSOCIATE WITH ANY CLASS OF PERSON AS NEIGHBOUR, EMPLOYEE, OR CUSTOMER; THE RIGHT TO FREE EXPRESSION INCLUDED THE RIGHT TO SLANDER OR THREATEN ENTIRE GROUPS.

Postwar reordering of individual expectations and public values was not an exclusively Canadian phenomenon, but there was a distinctiveness in the Canadian version. The global rise of a human rights consciousness was linked, in Canada, to multiculturalism and not simply to individual rights. In designing our own commitment to a new respect for human dignity and equality, Canadians acknowledged the significance of the collective identity, the interests of the individual as a member of a group, and therefore the necessity to respect the integrity of the group in order to fulfil the rights of the individual. It is that essential convergence of human rights and multiculturalism, the extension of the movement towards universalism to incorporate the concept of diversity, that characterized the Canadian experience. Communities, and community identities, would not only be tolerated but encouraged and recognized as frameworks for the full expression of the individual citizen. This distinguished Canadian definitions of citizenship from most other Western democracies at the time.

But it did not "just happen". The political ideas and social vision that contributed to the gradual formulation of official multiculturalism had their origins in demands raised by Canadian citizens, in public crusades that brought pressure on politicians and, more importantly, increased the awareness of the broader population for issues of minority-group concern. "Common sense" was challenged, and sometimes redirected; the public perspective became more inclusive of the problems faced by minorities and more receptive to demands for change. By the time Pierre Trudeau announced his policy of "multiculturalism in a bilingual framework" in 1971, Canadian civic culture had already been converted and certain principles had become not only acceptable but inevitable components of any definition of Canadian citizenship.

In a larger paper entitled "Routes of Diversity: Strategies for Change, 1945-1970", I traced four community campaigns that moved Canadian society toward an acceptance of diversity and equality in access, dignity, participation and status for all citizens. The direction was set but, as many Canadians are acutely aware, the destination has still not been reached. On the premise that our continuing journey can be enriched by an awareness of some of our travelling companions, two of those campaigns are summarized in the article that follows. The first case illustrates how a more inclusive sense of citizenship could be used to expand access to the country itself. In the second, citizens' rights are adapted to protect the special needs of individuals as group members.

TOWARD EQUAL ACCESS: CAMPAIGNING FOR ASIAN IMMIGRATION

Since 1885 Canadian governments had imposed restrictive head-taxes against Chinese immigrants, and then the Chinese Immigration Act of 1923 virtually excluded Chinese from Canada. One result was that those who were already here, mostly men, were unable to sponsor their wives and children to join them in their new homeland. From the beginning of legalized discrimination against them, Chinese-Canadian community organizations sent petitions of protest and delegations to Ottawa, and in 1923 formed a national coalition to demand the same rights as other Canadians to bring their families to Canada. At that time Canadian politicians ignored the claims of an isolated minority, but by 1943 circumstances seemed to favour greater success. That year, in the midst of a war in which China and Canada were allies, Mme Chiang Kai-Shek visited Ottawa on behalf of the government of China and appealed for the removal of this insulting legislation. The United States, meanwhile, did ameliorate its own ban on Chinese immigration, and the Canadian press seemed generally sympathetic to a similar move here. And yet the Canadian government declined to act; the legislation excluding Chinese stayed in place.

As the war ended, Chinese Canadians understood that they would have to shift their tactics, and create a much more broadly-based coalition in pursuit of reform. From Vancouver, Foon Sien launched a bombardment of telegrams and resolutions to the federal government. In Toronto K. Dock Yip, the first Asian lawyer in Canada, recruited his law school friend, the labour lawyer Irving Himel, along with Toronto surgeon S.K. Ngai, the Rev. Dr. A.E. Armstrong of the United Church, Saturday Night editor B.K. Sandwell, and others to form the Committee for the Repeal of the Chinese Immigration Act. Dr. Ngai and Dr. Armstrong became co-chairs, and Mr. Himel was the Committee's legal counsel, an unpaid position that saw him operate virtually as executive secretary. The Committee leaders enlisted a network of

connections in the Christian churches, the Jewish community, labour unions, and Chinese associations across Canada. They quickly added representatives from women's organizations and professional groups, and eventually established nine sub-committees in different cities from Halifax to Victoria. All executive positions were carefully shared between Chinese and non-Chinese, though about three-quarters of the general membership were non-Chinese, motivated by the blatant racism in the Act and a desire to promote civil rights for all Canadians.

The Repeal Committee continued the tactic of sending petitions and delegations to Ottawa, and introduced the practice of soliciting resolutions from sympathetic organizations such as labour and church groups, to be forwarded to the federal cabinet. The arguments in these resolutions, crafted by the Committee, were that the Act made unacceptable distinctions on grounds of "race", it made normal family life impossible for Canadian citizens of Chinese origin, it was contrary to the United Nations Charter, and generally it violated the principles of human rights and Canadian democracy. Prime Minister Mackenzie King seemed sympathetic, but he was receiving conflicting advice from different parts of the civil service: external affairs recognized the potential benefits to China-Canada relations; immigration officials feared that repeal would open the gates to uncontrollable numbers of new Chinese immigrants. Furthermore King's Liberal government held a slim majority of 127 of the 245 seats in the House of Commons. If the BC Liberals defected on the Chinese issue the government could fall. Mr. King had to move with extreme caution; he had to know that the Canadian people would support a change.

The best the Committee could achieve in 1947 was technical repeal of the Act, with most of the effective restrictions retained. The Committee thereupon initiated a new campaign to mobilize public opinion in favour of equal access. Previously, most Canadians either disregarded the Chinese or felt that because they were so different any discriminatory treatment was justified. The Committee had to argue that what kept Chinese Canadians from living "normal" lives was the legislation itself. They published a pamphlet describing the continuing unfair impact of the regulations, particularly family separation, and emphasised that international human rights agreements and the Canadian Citizenship Act committed Canada to a policy of racial equality. Chinese Canadians were held out as Canadians who suffered unjustly from discriminatory rules. The pamphlet had a detachable postcard addressed to the Minister of Citizenship and Immigration, urging "that everyone in Canada be brought under a single immigration law which is free of racial discrimination." Masses of these postcards were sent to Ottawa by ordinary Canadians, with an eventual result that the most overt restrictions on Asian immigrants were modified and family reunification became possible. The Committee had not achieved racial equality in Canadian immigration policy, but they had gained a significant symbolic victory in eliminating the single most absolute racial barrier in Canadian legislation at the time. As Dr. Ngai pointed out, the 1923 Act created a barrier within Canada as well, between Chinese and non-Chinese Canadians, and this too began to shift during the Repeal movement.

The Repeal Committee's national campaign undoubtedly had an effect on the minds of parliamentarians. More significantly, the campaign had a direct impact on the minds of the public who were targeted in the campaign. It was the public that was converted by the consistent argument connecting immigration policy with human rights and democratic principle, the Chinese war effort, family unification, and Canadian citizenship. Chinese and other Asian Canadians were brought conceptually into view as citizens who deserved the same treatment as any other Canadian. The Repeal campaign anticipated the immigration reforms of the 1960s, and took a pioneering step toward the establishment of a new moral threshold: a democratic government should not engage in racial discrimination against its own people.

TOWARD EQUAL DIGNITY: THE CAMPAIGN AGAINST HATE LITERATURE

In 1963 Canadian Jewry sustained its worst-ever onslaught of public anti-Semitic hatred, beginning in Toronto and spreading to many other parts of the country the following year. Leaflets declaring "Hitler Was Right" rained from an office tower window onto a crowd commemorating Remembrance Day, and were stuffed in pockets and windshields of unsuspecting Canadians; swastikas and slogans were daubed on hoardings and windows; a letter was sent randomly through the post advocating the sterilization of every Jew in Canada and the execution of any "involved in Communist or Zionist plots". Until now, Jewish organizations had employed a "Quarantine Treatment" against hate-mongers: pretend to ignore them, do not give them any publicity, and they will eventually go away. But the new outburst was too blatant to be ignored, and besides some Jews feared that their fellow-citizens could be affected by this kind of propaganda. In early 1964 "Quarantine" was abandoned, and Jewish organizations mounted a national campaign to outlaw "hate literature" under the Criminal Code.

Fundamental to the argument they developed in favour of protective legislation was the notion that "hate" hurt everyone, not just Jews, by sowing suspicion and dissension among citizens and upsetting a democratic system that depended upon mutual respect and toleration. "Hate" propaganda was responsible for the rise of the Nazis to power in Germany, it was argued, and subsequently for oppression, dictatorship, the Holocaust and World War II. Its restriction was obviously in the interest of the entire nation. Furthermore an anti-hate law would have an educational effect on every Canadian, declaring the public interest in opposition to racism: targeted minorities would feel confident that their well-being was of concern to their society; the majority would note that the dignity of every citizen was valued as an integral principle of Canadian democracy. Since slander and defamation were already recognized as illegal by the Criminal Code, advocates claimed that their amendment was merely extending to groups the protections already accorded to individuals.

Initially the campaign was aimed at the federal government, with briefs, delegations and a flow of letters from Jewish organizations across Canada. This was supplemented by a coordinated program of supportive resolutions and endorse-

ments from a wide variety of non-Jewish organizations, churches, unions, ethnic associations and professional bodies. As each resolution was passed it generated a story in the newspapers and, often, editorial comment. Most of the attention was favourable, and even when legislation was not considered necessary the journalists and editors made it clear that they joined in the condemnation of racist publications. The hesitation, among some influential opinion-makers, was that the lunatic fringe of Canadian hate-mongers did not require special legislation, whereas any limitation on freedom of expression could later become a threat to democratic speech in Canada.

Justice Minister Guy Favreau was willing to protect Jews and others from hateful publications, but worried that "in forbidding the licence of the vicious few" he could "endanger the deeper liberty that ennobles us all." The solution arrived during a meeting in October 1964 with Michael Garber and Saul Hayes of the Canadian Jewish Congress, and Dean Maxwell Cohen of McGill Law School. The visitors suggested that Mr. Favreau appoint an extra-parliamentary committee to make recommendations to facilitate the suppression of hate materials while keeping open the free expression of democratic opinion. The Minister grasped the opportunity, immediately appointing Dean Cohen as chair and Mr. Hayes as a member of the Committee. Law professors Pierre Trudeau and Mark MacGuigan were among the remaining five members.

The Cohen Committee examined samples of hate literature and the utility of laws in Canada and other western democracies to restrict it, and they studied the effect of hate literature on the victims and on the general public. They concluded in their 1966 Report that "The Canadian community has a duty, not merely the right, to protect itself from the corrosive effects of propaganda that tends to undermine the confidence that various groups in a multicultural society must have in each other." Since existing law did not offer such protection, the Committee recommended a new law against "group defamation" to prohibit hatred or contempt against any identifiable group distinguished by "religion, colour, race, language, or ethnic or national origin." Exempted from the law would be anything that was true, or that the initiator reasonably believed to be true if its discussion served the public interest.

After further consultation, the government introduced a Bill into the Senate in November 1966 following the principles established in the Cohen Report. But it would take three and a half years before legislation was in place, being referred to a sequence of parliamentary committees each of which held discussions, heard witnesses and received briefs from the public. Even the election of Pierre Trudeau as prime minister and Mark MacGuigan as a government MP in 1968 was not enough to secure its passage into law until April 1970. Throughout these lengthy deliberations organized Jewry kept up a constant campaign to encourage public support for the Bill and to answer concerns about it, through letters to editors, mailings to human rights and citizenship groups, resolutions at annual meetings, endorsements and briefs. Their goal was to connect the hate issue to the broader movement for human dignity and individual rights, and to make that connection they had to venture a conceptual innovation, redefining the "public interest" to include protection for individuals as members of a definable group. The opposition it aroused gives some impression of the revolutionary nature of this extension. The terms of the debate had to be turned around, presented not as a restriction against but an enforcement of an individual human right. The focus on the holder of the "right" was shifted, from purveyor of opinion to recipient of any indignity that was grounded in the group to which the recipient belonged.

Like the repeal of the Chinese Immigration Act, the historical legacy of the campaign against hate literature may be more symbolic than technical. The 1970 articles adding hate literature to the Criminal Code enshrined a new standard of public morality, establishing the principle that in a multicultural society group hatred actually endangers the social structure and must be considered a threat to the entire community. Passage of the anti-hate law expanded our understanding of the implications of pluralism and diversity in Canada. It was accepted by the public as a reasonable restriction on perpetrators of indignity, in order to promote the inclusion of "target" groups into the full range of opportunities available to Canadian citizens. The "hate law" was not simply a product of the times or a gift from an enlightened government. It was a very deliberate product of a deliberate campaign, carried primarily by a community concerned in the short term for its own dignity and in the longer term, conceivably, its own survival.

REFLECTIONS

When some people or some cultural characteristic became normal, it required adjustment from the entire society including its institutions and its "symbolic order". And this is what these and similar campaigns accomplished. They extended what was acceptable for citizens and what was expected of governments. They initiated a dynamic of normalization. Each campaign had its own purpose and its own impact; taken together, they show that multiculturalism and human rights were not part of a master plan but a process reflecting community initiatives that gradually reoriented both the Canadian polity and the Canadian identity. It has often been said that multiculturalism is a "fact", that is, we do have a culturally diverse population as a result of former and current immigration policy. Multiculturalism is also an "act", the 1988 federal statute and the various official policies introduced federally and provincially over the years. And thirdly, it is useful to think of multiculturalism as a "pact", as a commitment to a particular mode of relating to one another undertaken by everyone who identifies as a Canadian citizen. It was the "pact" that was being defined through the kind of campaigns examined in this study, the peculiarly Canadian route to human rights in the course of accommodating groups who wanted their citizenship to embrace their own requirements and realities. Like any pact, it requires renewal; it is part of a process that continues and will continue. Its shape will no doubt depend in the future, as it has in the past, on how we participate in it.

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