

B.C. led the way for female rights

*Easily one of the most unjustly overlooked B.C. books of the year for 2014 was Dominique Clément's fascinating *Equality Deferred: Sex Discrimination and British Columbia's Human Rights State, 1953-84* (UBC Press).*

February 25th, 2015

Clément recounts how and why British Columbia became the first province to enact laws prohibiting discrimination based on sex.

Given the price for academic hardcovers, *Equality Deferred* will likely garner more attention now that a paperback version has become available at \$34.95 (hc \$95).

Written by an Assistant Professor at the University of Alberta in the Department of Sociology, *Equality Deferred* is an overview of social change pertaining to human rights in B.C. It reveals the extent to which British Columbia broke new ground for the rest of the country, particularly in the 1970s and early 1980s.

The rise of the NDP provincial government, under Dave Barrett, was an important factor, but it was primarily the groundswell of women seeking equal rights and freedom from discrimination and exploitation that catapulted B.C. into the headlines in terms of generating changes in the laws to protect and enhance freedoms.

Whether it was feminists protesting the annual exploitive Lady Godiva ride promoted by the UBC Engineers or stewardesses challenging the right of airlines to dismiss them when they became married or pregnant, the women of B.C., encouraged by the likes of Rosemary Brown, Shelagh Day, Kathleen Ruff, Ellen Woodsworth and the Vancouver Status of Women, were at the forefront of change in the wake of counter-culturalism that arose in the Sixties.

The ongoing activism of the BC Civil Liberties Association, the country's oldest organization of its kind, has also proven fundamental to progress in terms of civil rights (and it continues to lead the country in this regard, leading the fight for so-called Right to Die legislation).



Feminists protested the co-option, by UBC Engineers, of Lady Godiva's 11th century tax revolt ride.



Rosemary Brown



Shelagh Day

The case histories that Clément has recounted show how British Columbia—the province that gave the world Greenpeace and Terry Fox—was once at the forefront of idealism in Canada. Or, conversely, they reveal the extent to which present-day B.C. society has become comparatively conservative, powered by monetary values.

Clément's most recent project includes an historical review of Canadian human rights laws and their evolution to the present. His website www.HistoryOfRights.com details a timeline and storyline of Canadian human rights, including law and state policy and key events and figures in history. His previous book is *Canada's Rights Revolution: Social Movements and Social Change, 1937-82* (UBC Press 2008).

HERE FOLLOWS AN INTRODUCTION FROM EQUALITY DEFERRED

Introduction

Two events, separated by time and geography, symbolize the central themes of this book. In 1945 a young, frightened Russian cipher clerk working in the Soviet embassy in Ottawa left one night with several top-secret documents clutched secretly beneath his coat. Igor Gouzenko carried a terrible secret with him, one he hoped would buy him asylum: evidence of a Soviet-led spy ring operating in Canada. In response, the federal government instituted a royal commission to track down the spies. In October 1970 the Front de libération du Québec (FLQ) kidnapped James Cross, the British High Commission's senior trade commissioner in Montreal, and Pierre Laporte, a Quebec cabinet minister, in an effort to promote Quebec independence. These are the only two moments in Canadian history when the War Measures Act was employed in peacetime. Habeas corpus was suspended, people were arrested and interrogated by the police for weeks without access to legal counsel, and reputations were sullied as a result of the stigma attached to being associated with an act of treason. The state's response to the Gouzenko Affair and the October Crisis was met with profound opposition from people across the nation, and it stimulated the formation of new human rights and civil liberties associations. The history of these "rights associations" is the subject of this work.



Dominique Clément

The sixties has been characterized by one of Canada's leading scholars of social movements as "the climax of a period of social movement activism in Canada."¹ Never before, nor since, has the country experienced such an explosion of activism. *Social movement organizations*, groups dedicated to realizing the goals of a particular social movement, were integral to these movements. Gay men in Vancouver and Toronto met in their homes to form the country's first gay rights groups; women came together in community centres to develop a program of action to raise awareness of such issues as abortion and equal pay; students congregated outside classrooms in universities to organize campus demonstrations to demand a say in the governance of the university; and in Vancouver, men and women concerned about

the impact of nuclear testing on the environment united to form what would become one of the most recognized advocacy groups in the world. These patterns were repeated, time and time again, in the homes, offices, and street corners of cities and towns in Canada, bringing together people concerned with everything from Aboriginal issues to the treatment of prisoners. Social movement activism defined the sixties and seventies.

Many of these activists clothed their demands in the language of human rights. These activists, and the beliefs they promulgated, constituted a genuine human rights movement. Organizations dedicated to realizing the rights of homosexuals (e.g., Gay Alliance towards Equality, 1971), women (e.g., National Action Committee on the Status of Women, 1972), or African-Americans (e.g., Urban Alliance on Race Relations, 1975) were among the many different kinds of social movement organizations that represented the advocacy aspect of the human rights movement. But among all of these groups was a unique collection of social movement organizations that stood out from the others: rights associations. Dedicated to realizing the dreams of the modern human rights movement, rights associations differ from, for instance, women or gay rights groups in several critical ways. Rights associations are self-identified “civil liberties” or “human rights” associations (e.g., the Alberta Human Rights Association or the Nova Scotia Civil Liberties Association). Unlike organizations dedicated to defending women or homosexuals (or children, prisoners, African-Canadians, etc.), rights associations do not claim to speak on behalf of a specific constituency but, rather, seek to defend the rights of all citizens. Each one is fervently non-partisan; the preservation of human rights, and not political power, is their only goal. Finally, one of the more curious aspects of these associations is that they are not mass-based organizations and attract only a small number of members. Prior to the sixties, there had only been a sprinkling of such organizations across Canada, barely a dozen groups active at one point in time. By the 1980s, more than forty rights associations had emerged.

Canada's Rights Revolution is a history of the sixties and seventies seen through the eyes of a generation of human rights activists. As such, it has two primary objectives. The first is to explore some of the most controversial human rights violations identified by rights associations. Given the immense impact of the October Crisis of 1970, it is surprising how little literature is available on the crisis aside from the predictable spate of speculative works arising in the wake of an event of such magnitude. The same could be said for the Gastown Riot or illegal RCMP activities in the 1970s. Human rights activists saw their communities bitterly divided on how to deal with drug addicts, police violence, censorship, abortion, the health and welfare of prisoners, and religion in public schools. Each of these controversies highlights how people struggled to apply vague human rights principles to concrete issues facing their community.

The second objective is to study a unique phenomenon emerging during this period: professional social movement organizations. Although not constitutive of the human rights movement, social movement organizations were important vehicles for promoting social change. But how did they conceive of social change? In an era made famous by activism and social ferment, what challenges faced social movement organizations? To answer these questions, this book examines the evolution of four case studies: the British Columbia Civil Liberties Association, the Ligue des droits de l'homme, the Canadian Civil Liberties Association, and the Newfoundland-Labrador Human Rights Association. Six key themes are explored in detail: the impact of state funding on social movement activism; the differences between the first generation (1930s-50s) and second generation (1960s-80s) of rights associations; the strategies for change deployed by activists; the obstacles involved in forming a national social movement organization in Canada; the ideological divisions between activists dedicated to the same cause; and the

relationship between social movement organizations representing different movements. Micro-studies of social movement organizations are rare in Canada — an unfortunate oversight considering their significant influence during this period.

Ultimately, though, *Canada's Rights Revolution* is about asking a more fundamental question: To what degree can rights discourse promote social change? Part of the answer lies in studying how activists used human rights principles to identify problems in their community and guide their ideas and strategies for change. For this reason, rights associations are the ideal case study, even though many of the people who led these organizations were not themselves targets of human rights abuses. Social movement organizations serving a particular constituency are informed by a host of other ideologies, from feminism to gay liberation. Rights associations espoused human rights as a universal idiom, and, as Evelyn Kallen notes, “rights predicated on any other attribute, such as race, class, or gender, are not human rights.”²

Rights associations offer us a window into how people have sought to define and apply ideas about human rights. Movements are defined by the beliefs they propagate, but they are composed of the people who articulate and shape, sometimes imperfectly, those beliefs. Rights associations were sites of contestation in which individuals from an array of social backgrounds struggled to apply vague principles to concrete issues that were affecting people's everyday lives. A history of rights associations is a history of a small but integral manifestation of the human rights movement.

Before we proceed, some conceptual issues should be addressed. The international human rights system, and the organizations that form the basis of this work, are guided by the principles of freedom, equality, and dignity. As philosopher Jack Donnelly notes, human rights, which are the rights one has simply by virtue of being human, are the “highest moral rights, they regulate the fundamental structures and practices of political life, and in ordinary circumstances they take priority over other moral, legal, and political claims.”³ Human rights are grounded on the presumption of the equal worth and dignity of all human beings. Ronald Dworkin posits that states must treat all persons as moral and political equals, and not distribute goods on the basis that some citizens are entitled to greater resources because they are more worthy, or constrain liberty because one's conception of the good life is superior to another's.⁴ Canadian sociologist Evelyn Kallen views the underlying principles of the international human rights system in terms of social equality and social justice. In addition to the right to life and human dignity, freedom to decide and determine one's own destiny as well as equality of opportunity are elemental human rights principles. These principles are not absolute, but they are universal, inalienable, and exist prior to law.⁵

These principles are enshrined in every international human rights treaty and can be found in the constitutions of every rights association in Canadian history. But principles are not easily translated into practice. One of the first explorations into the history of human rights in Canada was penned in 1966 by Walter Tarnopolsky in a work entitled *The Canadian Bill of Rights*. From the outset he made it clear that he used the terms “civil liberties” and “human rights” interchangeably.⁶ Rights associations of the sixties and seventies, however, considered the differences between human rights and civil liberties to be quite serious. In the early 1970s, when a federation of rights associations was formed, the members believed that the distinction was significant enough that they felt the need to burden the organization with a painfully cumbersome title: the Canadian Federation of Civil Liberties and Human Rights Associations. Clearly, rights activists identified themselves in ideological terms, and, as we shall see, these distinctions also reflected differences in the nature of their activism.

Any attempt to define separate categories of rights is a risky endeavour. A great deal of the literature dealing with human rights depends on the Universal Declaration of Human Rights (UDHR) and the two covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), as reference points for distinguishing between differing categories of rights. Yet, the right to self-determination in the ICCPR (1.1) requires some recognition of the economic, social, and cultural rights in the ICESCR; the right to family is enshrined in both the ICCPR (23.2) and the ICESCR (23.2); and the right to join a union in the ICCPR (10.1) is also entrenched in the ICESCR (8.1). Categorizing rights is therefore an artificial exercise at best, and we should appreciate that these boundaries “can obviously be blurred and quite arbitrary.”⁷

Civil rights were among the first rights to emerge historically, a product of bloody revolutions and challenges to monarchical power. Civil rights are herein understood as property rights and the rule of law. These rights include freedom of contract and the right to property (and to not be deprived of property without compensation), to withhold one’s labour, and to join a trade union. Civil rights also encompass basic legal rights such as a fair trial, an independent judiciary, access to counsel, the presumption of innocence, habeas corpus, double jeopardy, and, most important, equality before the law. In contrast, *political rights* are defined as those rights that are required for the operation of a modern liberal-democratic state, including the right to free speech, free press, assembly, association, and religion. Lyman Duff, speaking from the bench of the Supreme Court of Canada in 1937, proclaimed that it “is axiomatic that the practice of this right to free public discussion of public affairs, notwithstanding its incidental mischiefs, is the breath of life for parliamentary institutions.”⁸ Political rights provide citizens with control over the state. For example, individuals have the right to vote, to be elected, and to petition the government. Political rights serve to mediate relations between civil society and the state.

Social, economic, and cultural rights have primarily been associated with the welfare state, including health services, social security mechanisms (e.g., old age pensions, employment insurance), and state-subsidized education. Other social and economic rights include the right to work, a decent standard of living, food, housing, and favourable working conditions. Cultural rights have manifested themselves in a variety of forms in Canada, from multiculturalism to language rights.

An interesting theme in the history of rights associations in Canada has been the decision by *human rights* associations to embrace economic, social, and cultural rights, while *civil liberties* associations have generally avoided this type of advocacy. One way of explaining this divergence is to distinguish between negative rights and positive rights.⁹ When civil liberties activists argue that people must be free from restraint to carry out their desires (e.g., freedom from restrictions on personal behaviour), these activists are articulating a conception of liberty based on *negative* rights. Civil libertarians abhor unnecessary restrictions on individuals in their pursuit of the good life, such as imposing the same religion on individuals. This does not mean that civil libertarians oppose, for instance, progressive income taxes, but they oppose restrictions on our ability to formulate our own conception of the good life, such as limits on the press, religion, association, assembly, or speech. In contrast, Canadian human rights associations have historically forwarded a more robust definition of freedom that includes both negative and positive freedom. An advocate for *positive* freedom seeks to ensure individuals’ capacity to formulate their desires, values, and goals. In this sense, liberty is defined as the freedom to act and to make claims against the state — the right to provisions of basic goods or the right to equal access to employment. Whereas negative freedom is rooted in equality of opportunity, positive freedom assumes the individual’s right to bring about what she or he desires. Lack of training is thus a restriction on one’s

positive freedom. As Jerome Bickenback suggests, the “value of negative freedom must be derivative from positive freedom.”¹⁰ Social, economic, and cultural rights (positive rights) are critical in ensuring individual freedom.

Maurice Cranston, among others, has argued that positive freedoms are not true human rights because they require support from the state, and it is unreasonable and costly to characterize the provision of aid as a right. Such a formulation is problematic. Civil and political rights are principally defended through expensive legal systems and often require the state to act in a positive manner to ensure their protection. Social and economic rights are no less enforceable. We have the ability to provide all Canadians with a minimum of food and housing, but we choose not to because of resistance to extensive redistribution and structural change. Even Isaiah Berlin, one of the most well-known philosophers on the question of negative-positive rights and a staunch opponent of the idea of positive freedom, acknowledged that “to offer political rights, or safeguards against intervention by the state, to men who are half-naked, illiterate, underfed, and diseased is to mock their condition; they need medical help or education before they can understand, or make use of, an increase in their freedom.”¹¹

Another way of explaining the ideological differences among rights activists is to characterize some as libertarians and others as egalitarians.¹² In theory, libertarians believe in liberty and egalitarians believe in equality. A libertarian embraces negative freedom: freedom exists in the absence of coercion. In contrast, an egalitarian believes in positive freedom: freedom is derived not only from the lack of an intentionally created obstacle, but it is also violated by unintended obstacles, such as being born into a poor family. Therefore, egalitarians claim that the poor in capitalist societies are unfree, or less free than the rich, and libertarians claim that the poor are equally as free as the rich.

Both terms can be highly misleading. For instance, right-wing libertarians embrace extreme notions of self-ownership and reject any kind of redistribution of wealth; in contrast, left-wing libertarians support the division of resources equally among all individuals and, in some cases, oppose inherited wealth. No rights association in Canada could be honestly characterized as libertarian in either sense. However, as *descriptive* terms they can be useful in explaining the emergence of contrasting objectives between civil liberties (libertarian) and human rights (egalitarian) associations. Egalitarian activists favour positive rights and advocate for economic, social, and cultural rights (but not to the detriment of other rights). A libertarian approach, by contrast, is characterized by a concern for equality of opportunity and protecting individuals’ negative rights. In practice, these divisions are constantly blurred, but the dichotomy between negative and positive rights partially explains why human rights associations have, unlike civil liberties associations, considered the elderly’s need for inexpensive drugs or access to low-income housing for the poor as human rights.

Human rights advocates thus do not reject civil liberties but, rather, embrace a broader conception of rights, which is more inclusive. Still, at times, the two ideological camps come into conflict. For instance, it is not uncommon for civil liberties groups to tolerate hate speech as an exercise of free speech, whereas human rights associations demand that hate speech be censored. A libertarian approach would lead someone to oppose any abuse of an individual liberty; hate speech would be tolerable only because the alternative would be a violation of the individual’s liberty to speak freely. The same approach informs opposition to laws that restrict drug use or consensual and private sexual relationships (including gay sex). Egalitarians also oppose state regulation of private sexual relationships, but they argue that equality can only be achieved through positive state action. In theory, minorities cannot participate equally in society if they are victims of hate propaganda or live in fear of becoming targets

of violence promoted by hate-mongers. The difference between libertarian and egalitarian approaches to rights advocacy represents an important ideological dispute over the nature and function of human rights.

In the following work, the term “civil liberties” is associated with negative freedom and “human rights” with positive freedom; and, by extension, civil liberties are associated with civil and political rights while human rights are associated with economic, social, and cultural rights.¹³ Human rights, however, are not *separate* from civil liberties. As Supreme Court of Canada justice Rosalie Abella once noted, “human rights start where civil liberties end . . . Human rights are not only about civil liberties’ emphasis on individuals in their relationship with the State, they are more emphatically about individuals in their relationship to one another, relationships that invoke the State’s intervention and assistance, and request different treatment to narrow the gap.”¹⁴ In the following study, “human rights” is used broadly to refer to all forms of rights advocacy, whereas “civil liberties” is narrowly applied.

Human rights is a highly malleable term. Such ideological distinctions are a useful tool for explaining the nature of rights advocacy, but they should not be mistaken for an unbending ideological predisposition among activists. Ideology did not predetermine the activities of rights associations. There have always been individuals within human rights organizations who opposed censorship of pornography and individuals among civil liberties groups who support legislation banning hate speech. Attempting to sort out this conceptual minefield through a study of the practices of social movement organizations is an important goal of this work.

The vast majority of Canadians instinctively see human rights as an inherent good. We applaud national leaders when they raise concerns over human rights violations in China, and we accept the need to go to war to defend these principles, as was the case with the NATO intervention in Kosovo. But how are human rights enforced? By what mechanism do we articulate and understand such a vague concept? And what are the implications of these methods? Speaking before crowds of people in New York’s Central Park in 1945, American jurist Learned Hand reminded Americans about the true source of liberty in the modern age: “I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies, no constitution, no law, no court can save it.”¹⁵

The history of the human rights movement is closely tied to the evolution of the modern state, but scholars have too often adopted a top-down approach, examining the evolution of human rights from the point of view of state actors and the courts.¹⁶ Only recently has work emerged on the role of non-state actors in framing rights discourse, but, even outside Canada, scholars have yet to vigorously pursue studies linking human rights to social movement activism. This is unfortunate. As Todd Landman and Joe Foweraker assert, the “discourse of rights has no independent capacity for action, and cannot simply ‘shower meanings on the society below’ . . . this discourse can only be effective when attached to social actors and organizations. Social movements, for their part, do not merely perceive or receive rights as symbols, but are active in discovering, shaping, and disseminating these rights.”¹⁷

Canada’s Rights Revolution is based on two fundamental assumptions about the nature of human rights activism. First, the idea of human rights as it has evolved in the twentieth century is intimately linked with the state. Human rights activism is primarily, but not exclusively, focused on the state; activists seek to protect individuals against state abuse of human rights or to mobilize the state to protect human

rights. As Miriam Smith has suggested, the link between rights and the state is inherent in the nature of rights discourse: “Rights talk assumes that changing or strengthening the law is in itself a means to [achieve] social change and that legal changes are thus the proper goal of political struggle and organizing. Rights talk thus defines social and political change as legal change.”¹⁸ When four black freshmen from the North Carolina Agricultural and Technical College in Greensboro sat down at a whites-only lunch counter at Woolworths demanding to be served, their goal was to pressure a private business to change its policies. Obviously, such activism was not state-oriented. Yet, when merchants agree to serve blacks or when neighbourhoods remove restrictive covenants, they are not conferring *rights* upon others. A voluntary act by private individuals is not a recognition of a right.

The second assumption, which derives from the former, is that human rights are only tangibly realized through laws or regulations. Individuals and groups can make rights-claims and such claims have a powerful moral force, but they are not *rights* until recognized as such by the state. As James Walker posits in his seminal book on human rights and the Supreme Court of Canada, “rights are what the law says they are.”¹⁹ Human rights activists will eventually seek out the state to have their rights-claims recognized. Thomas Hobbes once suggested that covenants without the sword are but mere words. One could say much the same about human rights.

Human rights thus encourage social activists to think of social change as legal change. The danger of such an approach is that it may be self-defeating. Martha Minow raises serious concerns about the rhetoric of rights in her study of the disabled and the law in the United States. She claims that inequality is rooted in knowledge-constructed differences based on “labels” and ideas of the “norm” that are accepted as natural and immutable. Rights discourse obscure these knowledge-power relationships by offering the veneer of formal equality when, in reality, treating everyone equally blinds us to the social handicaps caused by labelling. She found that rights rhetoric underscores the power of the established order to withhold recognition of the claims of disabled individuals.²⁰

Human rights activism can also be highly elitist. Rainer Knopff and F.L. Morton have accused Charter-enthusiasts of hijacking the democratic process by using the Charter and the Supreme Court to adjudicate important social issues through an unelected judiciary. Such a process, according to Knopff and Morton, is profoundly anti-democratic. It favours a cadre of educated middle-class elites who seek to impose their ideas on public policy without having to lobby governments and mobilize public opinion.²¹ Knopff and Morton, of course, blame the political left for this travesty, but critics of human rights activism can be found across the political spectrum. Miriam Smith has pointed out that, in the case of the gay rights movement, activists initially used litigation and advocacy to mobilize grassroots support, whereas Charter litigation made legal reform, not mobilization, the central goal of the movement. Tom Warner, an accomplished gay rights activist from Ontario, has argued that pre-Charter campaigns to have sexual orientation included in human rights codes had a dampening effect on the movement by redirected resources towards litigation and away from grassroots mobilizing.²²

It is also questionable whether human rights activism is capable of confronting systemic inequalities. Using Amnesty International and Human Rights Watch as case studies, Gary Teeple concludes that they “absorb ... the energies of individuals, groups, sectors, and classes that might otherwise have presented a challenge to state policies; and they dampen a possible critical awareness about the link between the problems they are supposedly addressing and the nature of the economic and political system itself.”²³ Nelson Lichtenstein is one of the few historians to have grappled with the implications of human rights discourse on social activism. In the context of the American labour movement, Lichtenstein has

suggested that certain aspects of union activity have been displaced by a state-run human rights apparatus in the form of agencies, such as the Occupational Safety and Health Administration, that encourage workers to seek out individual, as opposed to collective, solutions. Rights discourse has proven incapable of dealing with the structural crisis facing the United States because a “rights-based approach to the democratization of the workplace fails to confront capital with demands that cannot be defined as a judicially protected mandate.”²⁴

Clearly, there is a basis for raising concerns about the implications of human rights activism. But recognizing the drawbacks of human rights activism does not vitiate its potential to promote social change. Canadian historians such as James Walker have argued that the courts can, at times, be a forum for systemic social change through the construction of new cultural codes.²⁵ Even a negative decision by a court is fruitful if the court becomes a forum for challenging, or at least questioning, common sense notions of, for instance, racial hierarchies.

Many of those who have mounted sustained criticisms of human rights activism are not prepared to reject it outright. Minow, for instance, rescues rights discourse from the very critique she has proffered. According to Minow, rights discourse has the potential to constrain those with power by exposing and challenging hierarchies of power.²⁶ Miriam Smith also believes in the potential of rights discourse to empower oppressed minorities. People outside the hegemonic classes can politicize their grievances and gain recognition from mainstream members of society by making their demands in the language of rights. Similarly, Lichtenstein, who fears the continued dominance of rights consciousness in its current form, has faith in the potential for human rights activism to challenge inequality and exploitation, but rights discourse should not be employed to the detriment of other, complementary, forms of collective action. Even Teeple, who derides the work of Amnesty International and Human Rights Watch, accepts that if human rights associations defended social rights with as much vigour as they do civil and political rights, they would invariably raise questions about social and economic inequalities.²⁷

The primary obstacle to effective human rights activism may therefore be the adoption of a minimalist approach to human rights. Human rights defined as civil and political rights offer, at best, only formal equality and, at worst, the illusion of freedom and equality. The history of rights associations in Canada is a history of a rights culture struggling over competing ideas of human rights, and this has, more often than not, resulted in the adoption of a minimalist approach to human rights. In other words, human rights has often been interpreted by state actors and social activists as simply political and civil rights. Not all rights associations fit this mould. Some groups insisted that human rights had to include social, economic, and cultural rights. In doing so, these activists soundly rejected a minimalist approach to human rights. And yet, as the case studies demonstrate, even those who embraced social rights conceived of social change as legal change and, therefore, employed strategies capable of achieving only limited reform.

The history of rights associations in Canada is not that of a linear, clearly evolving movement. There have been two identifiable generations of civil liberties and human rights associations in Canadian history. The first generation had its roots in the 1930s and peaked in the 1940s; the second generation emerged in the 1960s and peaked in the 1970s. Within the international literature on human rights, the term “generations” is often used to explain changing ideas about rights, such as references to a generation of civil and political rights followed by a generation of social and economic rights. Generations, in the context of this book, however, is a reference to the activists themselves and to the historical context in which they lived.

Karl Mannheim, one of the original thinkers on the question of “generation” as a historical concept, suggests that belonging to a generation is analogous to belonging to a class: “both endow the individuals sharing in them with a common location in the social and historical process, and thereby limit them to a specific range of potential experience, predisposing them for a certain characteristic mode of thought and experience, and a characteristic type of historically relevant action.”²⁸ Mannheim was careful to qualify his comments. A generation should not be seen as a social group that acts in unison or, necessarily, as a progressive outgrowth of previous generations; instead, to use generation as an analytical concept is to recognize that a community of people who are all born within the same short span of years share a common historical and cultural experience that collectively shapes their lives (e.g., similar schools, common family structures, comparable economic opportunities, exposure to ideas about patriotism and politics). In essence, to quote Anthony Esler, they are “products of a common cultural environment.”²⁹

A generation is also partly defined by biology and demographics. For Doug Owram, the baby boom encompassed people born in Canada in the late forties and coming to maturity in the sixties. Rights associations of the 1960s and 1970s were dominated by the baby boomers. Walter Thompson was fresh out of law school in 1972 when he joined the Nova Scotia Civil Liberties Association (and became president a few years later), and Norman Whalen, a founding member and future president of the Newfoundland-Labrador Human Rights Association, was on the cusp of finishing his articling position in St. John’s when he became involved in the association. None of the individuals who attempted to form a national rights association in 1946 were present in 1971, when a national federation of rights associations was born in Montreal.

The activists who form the backbone of this story believed that they represented a new generation, a break with the past. By challenging the perceived values and beliefs of the previous generation, the baby boomers constituted themselves as a historically specific generation. Baby boomers also shared a common historical experience. Among other things, the boomers witnessed the expansion of the welfare state, the Quiet Revolution, and rising concerns over the use of illegal narcotics among middle-class youths. These and other crucial experiences shaped the boomers’ activism. In Montreal, a group of people politicized by the Quiet Revolution and new ideas about human rights purged the organization of the old guard, which was tied to traditional notions of civil liberties. When Irving Himel was quietly encouraged to leave the newly formed Canadian Civil Liberties Association, it was a signal that a fresh cohort of activists with a new agenda had taken over.

The concept of a movement, not generations, is the primary category of organization for this book, but it is important to acknowledge that not everyone has a voice in this account. As a universal idiom, human rights is inclusive; it does not recognize racial, ethnic, gender, and other barriers. In practice, however, rights associations rarely represented the diverse communities they claimed to speak for. Rights associations have historically been led by middle-class activists and often white men (with some significant exceptions). Still, through them we hear the stories of blacks abused by police in Toronto, religious minorities marginalized in Newfoundland, political radicals repressed in Montreal, and poor drug addicts in Vancouver. As non-partisan organizations that did not represent a specific constituency, rights associations were drawn to issues that affected everyone in the community, from abusive police practices to limits on free speech. At times, these organizations were alone in speaking out on these issues.

Given the proliferation of rights associations in the sixties and seventies, it would be impossible to

examine every organization in detail. Four rights associations have been carefully selected as case studies. The case study approach allows for an in-depth discussion of the inner workings of social movement organizations.³⁰ Sociologists often use case studies in the study of social movements. Unfortunately, sociologists depend primarily on interviews and published materials, whereas historians have been more successful at employing archival materials in examining social movements. People who have historically been marginalized in Canadian society have often used rights associations as vehicles to give voice to their demands. The case study approach provides an avenue for historians to gain access to the voices (albeit, mediated through middle-class activists) of individuals who rarely appear in state records. Single mothers on welfare in Toronto, for instance, used the Canadian Civil Liberties Association to challenge degrading welfare policies. Case studies can help us understand how individuals struggled to understand and articulate the ideals of a particular movement, without falling into the trap of depending on abstract reasoning common to studies that lack a microscopic approach. To be sure, the case study approach raises the spectre of making broad generalizations from a narrow sample, and *Canada's Rights Revolution* makes no claims to being exhaustive. Yet, by placing the experiences of these activists within their historical context and choosing a broad sample of case studies, we can catch a glimpse of the human rights movement as a whole. These case studies were specifically chosen not only because of their longevity but also because they represent the same goals and objectives embraced by other rights associations. The four case studies are diverse in size and origins, represent different regions and ideologies of rights, and include francophone and anglophone organizations.

Chapter 2 examines the intellectual foundations of the rights revolution, although such a monumental task can only receive a cursory examination in this context. Chapter 3 offers a brief survey of the first generation of rights associations in Canada, from the 1930s to the 1950s, while Chapter 4 offers a short introduction to the phenomenon of “professional social movement organizations” in order to set the stage for analyzing the case studies as social movement organizations. Chapters 5 through 8 are the case studies. Each chapter presents the early history of the four oldest and most active rights associations in Canada, and the chapters are organized chronologically from the point of each group’s inception: the British Columbia Civil Liberties Association (Vancouver, 1962), Ligue des droits de l’homme (Montreal, 1963), the Canadian Civil Liberties Association (Toronto, 1964), and the Newfoundland-Labrador Human Rights Association (St. John’s, 1968). All four associations are still active today, but this study ends in the early 1980s. Cuts to government funding and a lack of volunteers forced most rights associations to fold by the early 1980s. Moreover, the 1982 Charter of Rights and Freedoms fundamentally altered the strategies and orientation of many social movement organizations. Rights associations, for instance, energetically embraced the Charter and shifted most of their resources to instigating court challenges. I leave it to future historians to consider the impact of Charter litigation and constitutional rights on social movement dynamics in Canada.

Several of the issues dealt with in this work are specific to the history of rights associations, but they are also a manifestation of other developments in Canada. In the latter half of the twentieth century, new human rights issues caught the imagination of Canadians, and the positions adopted by rights associations, as well as the ideological divisions among them, were partly an expression of these new developments. In addition, the organizational concerns facing rights associations were consistent with the experience of many professional social movement organizations. For instance, the history of these associations challenges the assumption that state funding, at a time when government funding for social movement organizations reached unprecedented levels, necessarily limits or constrains social activism. Similarly, new communications technology, cheaper air travel, and an expanding pool of individuals

interested in participating in social movement organizations created new opportunities for organizing at the national level. One of the key issues dealt with in *Canada's Rights Revolution* is the inability of rights associations to form an inclusive national association. Their failure is, among other things, a testament to the obstacles facing all social movement organizations seeking to form a national association in a physically immense, regionally divided, and culturally diverse nation. Some of these topics are addressed in the theoretical literature on social movements and human rights, particularly by sociologists in the United States and Europe, but what is lacking is an intensive, long-term empirical study of the activities of social movement organizations that only a historical study can offer.

Each case study exemplifies one theme in particular. The ideological differences between civil liberties and human rights are embodied in the extensive array of position papers developed by the British Columbia Civil Liberties Association and the philosophy articulated by the new cadre of leaders who took over the Ligue des droits de l'homme in the early 1970s. The Canadian Civil Liberties Association's claims to national status offer a rare opportunity to discuss national social movement organizing. The Newfoundland-Labrador Human Rights Association's dependence on state funding sets the stage for a broader discussion of the role of state funding for social movement organizations in Canada in the seventies.

Historians have paid little attention to the history of social movement organizations in Canada except for political associations, and few scholars have attempted to chart an entire network of organizations dedicated to the same cause. Historical work on the human rights movement often focuses on the state and the role of state actors in promoting and defending human rights. This is certainly the case with early scholars of human rights in Canada, particularly legal scholars and political scientists. Almost as if the state alone were responsible for human rights innovations.³¹ The history of these four organizations offers an opportunity to witness how non-state actors have struggled with varying notions of rights and have played a key role in pressing the state to recognize human rights claims. A study of human rights at this particular juncture is propitious in the context of the global war on terror and constant attempts by the state to constrain individual rights. The history of rights associations is a history of lessons already learned.