

## Alberta's rights revolution

Studies of human rights that focus on international politics or institutions fail to convey the complex influence of human rights on law, politics and society in a local context. This article documents the impact of the rights revolution in Alberta. The rights revolution emerged in the province beginning in the 1970s following the election of the Progressive Conservative Party in 1971. Many of the issues that typified Alberta's rights revolution were unique to this region: censorship, eugenics and discrimination against Hutterites, Aboriginals, Blacks and French Canadians. However, as the controversy surrounding discrimination on the basis of sexual orientation demonstrates, Alberta's rights revolution remains an unfulfilled promise.

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Since 1998 the Supreme Court of Canada has required the government of Alberta to enforce its provincial human rights legislation as if it included sexual orientation as a prohibited ground of discrimination. And yet it was not until 2010 – when the government introduced a new Human Rights Act – that the term sexual orientation was formally written into the legislation. The Human Rights Act included another notable addition: teachers are now prohibited from discussing sexual orientation, sexuality or religion to children of parents who demanded an exemption. No other jurisdiction in Canada has ever created the possibility that teaching could be a human rights violation in this way. The *Edmonton Journal* described the amendment as ‘unnecessary, divisive and potentially damaging ... the bill only serves to reinforce stereotypes of Albertans in other parts of the country that are at odds with the tolerant, multicultural, open-minded reality in this most urban of places’ (Editorial 2009).

The controversy was the inevitable product of a rights revolution in Alberta that began in the 1970s. To say that Alberta experienced a rights revolution is to identify changes in law, politics, culture and social life. It was a revolution driven partly by developments across the world, but

also by people in communities throughout the province who were deeply committed to human rights principles. The rights revolution, however, remains an unfulfilled promise.

Historians have only recently begun to address the history of human rights, which is a field largely dominated by legal scholars and political scientists. Kenneth Cmiel, in a contribution to the *American Historical Review*, lamented the lack of historical work on human rights (Cmiel 2004; Quataert 2009: 10), as has Samuel Moyn, who noted in his 2010 study on human rights and international politics that ‘historians in the United States started writing the history of human rights a decade ago’ (Moyn 2010: 5). Canadian historians have also begun to address this lacuna with studies on racial and ethnic minorities, organised labour, law and social activism from a human rights perspective. Still, this literature is almost completely silent on Alberta. The following article attempts to address this omission. Alberta has a long history of social, political and legal inequalities that were the product of circumstances unique to the region and its people. It was only in the 1970s that Albertans began systematically to address large-scale human rights violations. The Progressive Conservative Party’s election victory in 1971 was an especially significant turning point.

The first part of this article sets the context with a brief discussion on the history of the rights revolution in a national and international context. The second part documents examples of how inequality and marginalisation were institutionalised in politics, law and social life in Alberta by the 1960s. The final section explores the impact of the rights revolution in Alberta since the 1970s and opposition within the province to progress in human rights law.

## The rights revolution

Despite references to a post-war rights revolution and the symbolism of the Universal Declaration of Human Rights (1948), opportunities for human rights promotion were often stifled in the context of the Cold War. The Cold War ‘created ideological arguments over the meaning and determination of which rights deserved entrenchment into the [United Nations’] many conventions and treaties’ (MacLennan 2003: 75). Several recent studies on the history of human rights law and politics have concluded that, until the 1970s, the Cold War had a dampening effect on human rights progress (Sellars 2002: 139; Gordon and Wood 1991: 499). The Cold War also had

a dampening effect *within* states as well. Canadian civil liberties organisations fought among themselves and often fell apart because of internecine ideological conflicts. Governments used the threat of communism to justify extensive human rights abuses at home (Lambertson 2005). Canadian foreign policy privileged state sovereignty over human rights (Nossal 1988: 50; Schabas 1998: 424).

It was only beginning in the 1970s that a genuine rights revolution was underway (Moyn 2010: 8). There are many examples of the international rights revolution: the Carter administration's promotion of human rights in American foreign policy; the emergence of international human rights organisations such as Amnesty International and Human Rights Watch; international treaties, including the United Nations' covenants and the Helsinki Accords; the first postwar international humanitarian effort (in Biafra 1969); the mobilisation of transnational advocacy networks surrounding gross human rights abuses in Argentina and Chile; Soviet dissidents organising around the regime's international human rights obligations; the Ford Foundation's initial forays into human rights promotion abroad; the stirrings of a global campaign against apartheid in South Africa; and the proliferation of human rights policies in individual countries' foreign aid programmes. As a result of these and similar developments, human rights 'reached consensual ("prescriptive") status on the international level' (Risse et al. 1999: 266).

Canadians were hardly untouched by developments in the 1970s. Canada acceded to several international human rights treaties; every jurisdiction introduced expansive human rights codes; the constitution was amended to include a Bill of Rights in 1982; a social movement dedicated to the principles of the Universal Declaration of Human Rights emerged and peaked during this period; the federal government began to consider other states' human rights records in determining foreign aid; and religious organisations in Canada working abroad shifted from missionary work towards humanitarian and rights-based work (Brouwer 2010; Matthews and Pratt 1988; Clément 2008). Rights discourse became a powerful rhetoric for citizens to demand change at home and abroad.

Meanwhile, Alberta experienced the rights revolution in the 1970s in its own way. By the 1960s it was an increasingly prosperous province, with a well-educated and secularised population, growing urban centres, an expanding industrial economy and a new middle class. The Progressive Conservative victory in 1971 replaced a party led by 'teachers, farmers and small businessmen from rural areas and small towns [with] a new,

young, and largely urban middle class' leadership' (Palmer 1990: 324). By 1971 it had become common to hear stories of Jews being denied services; landlords refusing to rent apartments to blacks; hotels with policies banning Aboriginal peoples; and women required to quit their jobs when they married or became pregnant. The rights revolution forced Albertans to confront their own particular history of discrimination and marginalisation. Within a few years discriminatory statutes were repealed; human rights legislation was enacted; the government agreed to abide by international human rights treaties; and social movements dedicated to human rights proliferated throughout the province.

### Discrimination in Alberta

Discrimination against minorities and women in Alberta, much like the rest of Canada, was deeply rooted in social attitudes and state policy. There was no organised human rights movement in Alberta by the 1960s (Clément 2008). Albertans, like most other Canadians, also resisted implementing anti-discrimination laws. The province added an equal pay section to the Alberta Labour Act in 1957, and enacted a Human Rights Act in 1966. These laws, however, were notoriously ineffective.<sup>1</sup>

Hutterites, in particular, were among the most oppressed minorities in Alberta by 1971. Hutterites numbered over 6500 scattered across 65 colonies in the province. Hutterites are an Anabaptist Christian sect who reject personal ownership and communally owned land; they are strict pacifists and refuse to vote or hold public office (Hamilton 2010: 162). Percy Davis, a lawyer representing a Hutterite colony in the 1950s, perfectly captured the feelings of many Hutterites living in Alberta when he noted that 'although Canada as a nation has long since made peace with the German Reich, Alberta remains at war with its Hutterites' (Sanders 1964: 226).

Newspapers, school boards and politicians spoke of the need to place Hutterite children in public schools to further their assimilation (Janzen 1990: 144–53). The provincial government appointed two committees, one in 1947 and one in 1959, to report on the 'Hutterite problem'. Both committees encountered widespread hostility to Hutterites among farm, municipal, school and community groups. Hutterites were accused of refusing to assimilate, not contributing to the economic and social life of rural communities and controlling large tracts of Alberta farmland (Breen 2006: 551–3). Both committees sought ways to further assimilate

them. Among the most blatant discriminatory pieces of legislation in the province's history were the Land Sales Prohibition Act (1942–47) and the Communal Property Act (1947–73).<sup>2</sup> The former restricted Hutterites' ability to purchase land. The latter required new Hutterite colonies to be at least 40 miles from other colonies, and to also seek permission to purchase land from a provincial Communal Property Control Board (Sanders 1964: 225–8). Both laws were tailored to Hutterites' communal property practices. The statutes were clearly discriminatory pieces of legislation directed at an unpopular religious sect.

Visible minorities also faced discriminatory state policies and social exclusion. Between 1910 and 1912 there was a surge of black immigration from Oklahoma to Alberta, 'but rejection and harassment ensured that the movement was brief' (Walker 1997: 125).<sup>3</sup> Near the black settlement of Amber Valley, for instance, black residents experienced difficulties securing bank credit, joining the army, attending dances (or other social functions) and obtaining employment or accommodation in the nearby town of Athabasca (Palmer and Palmer 1985: 380). White Albertans signed petitions in support of banning immigration and segregation, and in at least one case participated in an anti-black riot in 1940 (Palmer and Palmer 1985: 365). Boards of trade, labour councils, newspapers, women's groups and chapters of the United Farmers of Alberta vociferously insisted on keeping blacks out of the province (Shepard 1985: 369–73). Pressure from Alberta residents led the federal cabinet to pass an order-in-council on 12 August 1911 temporarily banning black immigration to Canada (Palmer and Palmer 1985: 365; Shepard 1985: 379).<sup>4</sup>

Discrimination was rampant. Reflecting their parents' and teachers' values, children in the 1920s dressed up as 'darkies' in plays and parades. Few white Albertans would associate with 'non-whites' (Rennie 2006: 449). Alberta's 'hospitals refused to admit blacks into nurses' training programs; many landlords would not rent to blacks, and numerous businessmen would not hire them. Proprietors of dance halls, beer parlours, swimming pools and skating rinks made it clear that they did not welcome blacks' (Palmer and Palmer 1985: 384). On 13 May 1959, Ted King attempted to rent a hotel room at Barclay's Hotel in Calgary but was informed that the hotel did not serve coloured people. A year later the Alberta District Court ruled that the hotel was within its rights to refuse service despite provisions in the *Hotelkeeper's Act* prohibiting innkeepers from refusing to serve travellers. The court, which based its decision on a technicality surrounding the definition of an inn, acknowledged that King had been discriminated against. The effect of this decision was essentially to sanction discrimination.

French Canadians also found themselves the target of discriminatory state policies. Although the Northwest Territories Act (1875) established official bilingualism in what would eventually become Alberta, the government illegally abolished bilingualism in 1892 (Foggo 2005: 272). The government imposed English in all aspects of community life beginning in the 1890s, from business practices to government, courts, policing and municipalities. The decline in the French Canadian population exacerbated their struggles. French-speakers accounted for three quarters of the region's non-native population in the 1870s, but less than one fifth by 1885 (Aunger 2005: 103).

When the province was established in 1905, the official language was English. French-language instruction in public schools was restricted to grades 1 and 2; for senior grades, French was restricted to 1 hour per day. Private French language schools were permitted, but communities were still required to pay property taxes for English schools, and French schools were denied any recognition or funds from the Department of Education.<sup>5</sup> As one historian put it, 'French language education in Alberta would remain under constant siege until the 1960s' (Hayday 2005: 22). By the 1960s, Franco-Albertans were still restricted to half a day of French instruction in schools; as a result, children were among the lowest participants in French-language education in Canada. Government officials were openly hostile to the 1969 federal Official Languages Act, and the government was committed to promoting English as the provincial language (Hayday 2005: 52–3). By the late 1960s Alberta's 'language programs were among the least developed in the country' (ibid.: 69).

Discrimination was most palpable, however, in the implementation of Alberta's most infamous state policy: forced sterilisation. Except for British Columbia, Alberta was the only province where the government would sterilise, without consent, men and women who were mentally ill. A combination of a surge in immigration and a fear that undesirables were reproducing at a high rate contributed to the popularisation of eugenics. Eugenicians believed that natural selection was insufficient, and they sought to influence human evolution by weeding out undesirables. The 1928 Alberta Sexual Sterilization Act created a Eugenics Board that was empowered to recommend sterilisation as a condition for release from a mental health institution. The purpose was to ensure that 'the danger of procreation with its attendant risk of multiplication of the evil by transmission of the disability to progeny were eliminated' (Grekul 2009: 138–139). An amendment in 1937 permitted the sterilisation of 'mental defectives' without their consent.

Between 1928 and 1972 the Eugenics Board approved 99 per cent of its 4785 cases (Grekul 2009: 140).<sup>6</sup> Over time, a greater number of their decisions involved people who did not provide consent. And there was a clear bias against young adults (20 to 24 years old), women and Aboriginal peoples (Aboriginals were also more likely to be diagnosed as mentally defective). Even in cases where consent was given it was impossible to know how many were coerced into consenting.

In addition to discrimination, Albertans struggled for generations over the limits of free speech. The Alberta Press Case was the first, and one of the most famous, free speech legal cases in Canadian history. The Social Credit government's Act to Ensure the Publication of Accurate News and Information (1937) required newspapers to publish 'corrections' from the government of any critical coverage, disclose sources and identify writers. Any violation of the law could include a large fine and a ban on publishing restricted information (Gibson 2005: 201–2). It was, unquestionably, the most blatant peacetime attempt to censor the press. In finding the law *ultra vires* the powers of the Alberta legislature, the Supreme Court of Canada ruled for the first time that provinces could not unilaterally restrict fundamental freedoms. Justice Lawrence Cannon accused the provincial government of imposing a doctrine which 'must become, for the people of Alberta, a sort of religious dogma of which a free and uncontrolled discussion is not permissible' (Alberta Press Bill 1938).

Far more common restrictions on speech included laws regulating film and literature. The province established an Advisory Board on Objectionable Publications in 1954, which convinced the four main wholesalers of magazines to submit to its decisions regarding the publication of unacceptable material. Within ten years the board had censored 168 magazines (Ryder 1999: 138–40). The provincial government also introduced a Theatres Act in 1913, which required all films to receive approval from a censor board, and in the late 1920s it was one of the first provinces to adopt a film classification system (Dean 1981: 109–10). The province banned films depicting female prostitution ('white slavery') and the seduction of women, drunkenness, violence (whipping, torture, lynching), people in delirium, and mental illness. By 1963, 'the average serious film circulating in Canada would be classified Restricted with a few minor incisions in Ontario, Quebec and British Columbia. In Alberta, it would be "chopped to pieces" or banned' (ibid.: 74). Alberta's censors insisted in 1959 on eliminating the word 'floozy' from a movie titled *Shadows* and banned Marlon Brando's classic *The Wild One* in 1953 for being a 'revolting, sadistic

story of degeneration'. Alberta was the only province to ban Andy Warhol's *Frankenstein* in 1974 (ibid.: 113, 115). The province was especially prolific in censoring films in the postwar period, particularly any film that involved social or political criticism (Finkel 2006: 131).

### Alberta's rights revolution

The election of the Progressive Conservative Party in 1971 after decades of Social Credit government was a turning point in ushering the rights revolution to Alberta. The period following the election has been dubbed by one historian as 'Alberta's Quiet Revolution' (Marsh 2006).

The Conservatives introduced 243 bills within two years (and 94 bills on average between 1971 and 1985) on a range of issues from daylight savings time to drinking regulations, the colour of margarine and establishing the Heritage Fund. The first two bills were the Alberta Bill of Rights and the Individual Rights Protection Act.<sup>7</sup> Alberta's legislation was similar in design to other human rights laws in Canada. Despite the proliferation of equality commissions in Europe and the United States by this time (Yalden 2009: 143), few of these models incorporated all the strengths of the Alberta/Canadian model, which included professional human rights investigators, public education, research and lobbying for legal reform, representing complainants before formal inquiries, jurisdiction over the public and private sectors, a focus on conciliation over litigation, independence from the government, and an adjudication process independent of the courts (Clément 2008). And Alberta was one of the first jurisdictions to make its human rights law paramount over other provincial laws. Considering the lack of any effective statutory recognition of human rights before 1966 in Alberta, these new laws were truly transformational.

The Human Rights Commission focused its attention initially on racial and sex discrimination. The commission drew the public's attention to issues such as the Ku Klux Klan's activities in Alberta, discrimination against Aboriginal peoples and blacks, sex discrimination in school textbooks, insurance premiums based on gender (Alberta Human Rights Commission 1969), discrimination in the Edmonton taxi industry (e.g. customers requesting 'white' drivers; Nichols and Gartrell 1989) and sexual harassment. If human rights complaints could not be resolved informally they would be sent to a board of inquiry to enforce a formal remedy. The first board of inquiry was held in March 1972. An Aboriginal woman,



Frances Weaselfat, filed a grievance against Denny's Shell Service, which required all 'Indians' to pay in advance before pumping gas. The complaint was sustained, and the gas station owner was ordered to publish an apology and end the practice (Alberta Human Rights Commission 1982). In the same year, the Canadian Association for Statutory Human Rights Associations, a coordinating body for human rights commissions, was founded in Edmonton.

The Lougheed government's decision to introduce expansive human rights legislation reflected changing practices and attitudes in Alberta. Soon after Ted King's failure in court to force hotels to serve blacks, the legislature removed the 'food' requirement from the *Hotelkeeper's Act* (the law prohibited an inn from refusing to serve an individual but, according to the court, because the hotel did not serve food, it was not by definition an inn and could thus refuse to serve blacks; Walker 1997: 176–7).<sup>8</sup> Attitudes towards racial minorities had already begun to change thanks in part to the efforts of organisations such as the Alberta Association for the Advancement of Coloured Peoples, which was founded in 1947. The Calgary Board of Education hired the province's first black teacher in 1946, and a black woman was admitted to the Alberta bar for the first time in 1954 (Stamp 2004: 171–2). Black professional athletes in the 1950s challenged the colour barrier, especially football players, 'whose star status did much to change attitudes towards urban blacks' (Palmer and Palmer 1985: 389). Newspapers began to publicise incidents of discrimination against blacks in the 1970s. The Alberta Federation of Labour organised anti-discrimination campaigns, and the Calgary labour council established the province's first committee to combat racial intolerance (Palmer and Palmer 1985: 388).<sup>9</sup> Calgary elected the province's first black city councillor in 1974. In the early 1980s only 2 per cent of the Calgary police force, and 1.7 per cent of the Edmonton police force, were visible minorities (McDonough 1984: 11). To address this imbalance, the City of Edmonton hired civilians from minority communities to reach out to their community, and the Calgary Police Services established the province's first Race Relations Unit in 1979 (Anon. 1983: 6). In the same year the Alberta Tribal Police project was established to provide better policing services for, as well as to respond to, the unique needs of Aboriginal peoples on reserves (McDonough 1984: 10–11). In 1983 the provincial human rights commission initiated its first province-wide anti-racism education campaign (McDonough 1984).<sup>10</sup>

In addition to prohibiting racial discrimination, the Individual Rights Protection Act banned discrimination on the basis of sex. At a time when,

as the former editor of *Chatelaine* magazine Doris Anderson suggested, 'some men simply assumed sexual harassment was a perk of being boss', such legislation was revolutionary (Anderson 1996: 173). One of the Human Rights Commission's earliest achievements was a major case involving equal pay. A 1975 board of inquiry concluded that nurses were paid less than male orderlies doing the same work, and the government agreed to adjust the pay scales and provide retroactive pay (Riddell 1978–79: 21).

The rights revolution also reached the Hutterites. The Communal Property Act was at odds with the spirit of the province's new human rights legislation, and one of the Lougheed government's first acts was to eliminate the law. Provincial laws no longer singled out Hutterite land acquisition. Grant Notley, the leader of the opposition New Democratic Party, described the legislation as having placed Hutterites' 'civil liberties in a state of limbo'. The legislation had become increasingly unpopular among many Albertans. A government committee on Hutterites, initiated in 1972, rejected the previous committees' concern for assimilation, and instead insisted that Hutterites 'contribute significantly to local and provincial economies'. The committee called for cooperation and respect (Hetland et al. 1972: vi). Meanwhile, the former director of the Communal Property Control Board, who had characterised the Act as a potential 'instrument of discrimination', spoke in 1971 of a 'noticeable change in public attitude' (Hamilton 2010: 168). The province's major newspapers, *The Calgary Herald* and the *Edmonton Journal*, no longer supported restrictions on Hutterites; instead they characterised the law as intolerant and discriminatory (Janzen 1990: 73–4). Community groups stopped flooding the government with demands for assimilation.

The government also moved quickly to eliminate the Sexual Sterilization Act in 1972. Premier Lougheed, speaking before the legislature, explained that 'we feel very, very strongly that the bill is offensive and at odds with the proposed Bill of Rights'. David King, as he introduced the bill in second reading, put it succinctly:

The act violates fundamental human rights. We are provided with an act, the basis of which is a presumption that society, or at least the government, knows what kind of people can be allowed children and what kind of people cannot. [...] It is our view that this is a reprehensible and intolerable philosophy and program for this province and this government.<sup>11</sup>

Meanwhile, restrictions on film and literature were also becoming the target of increasing criticism. The provincial literature board dissolved in

the late 1970s when wholesalers began ignoring the restrictions. Public complaints had also declined to the point that a literature board had become unnecessary (Ryder 1999: 148). Film censorship continued under various guises but the banning of films was on the decline. Most provincial boards increasingly focused on classification and placing warnings on movies rather than banning them outright (Dean 1981: 115–16).

The emergence of a new social movement dedicated to the principles of human rights was another example of how the rights revolution matured in the 1970s. By the 1970s more than 40 civil liberties and human rights groups were active across the country, a substantial number for a Canadian social movement (Clément 2008). In Alberta, the first human rights organisation emerged from a government-sponsored provisional committee established in 1967 to prepare celebrations for the International Year for Human Rights.<sup>12</sup> The committee evolved into the Alberta Human Rights Association, which was incorporated in 1968 under the leadership of the secretary of the Alberta Federation of Labour, F.C. Brodie. The organisation was later renamed the Alberta Human Rights and Civil Liberties Association (*National Bulletin* 1972). Within a few years it established chapters in Calgary and Lethbridge. One of the Lethbridge Civil Liberties Association's first campaigns was to successfully lobby the school board to end corporal punishment.<sup>13</sup> Human rights associations were also formed during the 1970s in Fort McMurray and Grand Prairie.

The most enduring human rights organisation to emerge from Alberta appeared in 1973 as the Calgary Civil Liberties Association. Its founder was Sheldon Chumir, a tax lawyer and former Rhodes scholar who was independently wealthy thanks to a small oil and gas company. The group began meeting informally every second Friday to discuss issues of interest, and in 1977 they decided to incorporate themselves into a formal organisation.<sup>14</sup> Most of their early work involved drawing local human rights abuses to the attention of the media, writing letters to the provincial government and occasionally litigating cases in court. They were especially interested in free speech, bylaws regulating parade permits and public signs, discrimination against Aboriginal peoples by Calgary landlords, breaches of privacy access regulations, and prayers in public schools (they opposed religious practices in schools).<sup>15</sup> The organisation would remain active 40 years later although the others were defunct within a decade, a testament to the 1970s as a high point for the movement in Alberta.

## Contesting the rights revolution

The rights revolution, which was becoming a national and international phenomenon, was having an impact on almost every aspect of life in Alberta by the 1970s. Three other critical developments during this period demonstrate the lasting impact of the rights revolution in Albertan society, politics and law. The first development involved the mobilisation of Aboriginal peoples. The federal government introduced a White Paper in 1969 that proposed to eliminate Indian status. The government sought to surrender responsibility for Aboriginal peoples to the provinces, repeal the Indian Act and transfer control of lands to individual Aboriginals. The language of the proposed policy was deeply mired in rights discourse: 'The Government believes in equality. It believes that all men and women have equal rights. [...] To argue against this right is to argue *for* discrimination, isolation and separation' (Canada 1969: 6, 8).

But the policy was fundamentally flawed: it ignored more than a century of discrimination and handicaps that the state had imposed on Aboriginal peoples. The approach was profoundly assimilationist and a threat to Aboriginal *collective* rights (Russell 2003: 76–6). Individual ownership over land, for instance, would have undermined Aboriginal collective land ownership. The Indian Chiefs of Alberta were at the forefront of Aboriginal resistance to the White Paper. The organisation published a powerful critique in 1970 titled *Citizens Plus* (the 'Red Paper'). They argued that the policy 'offers despair instead of hope', and would condemn future generations of Aboriginal peoples 'to the despair and ugly specter of urban poverty in ghettos' (Indian Chiefs of Alberta 1970). *Citizens Plus* played a critical role in the federal government's decision to retract the White Paper.

The White Paper controversy led to the mobilisation of the contemporary Aboriginal rights movement (Ramos 2006, 2007). Four national Aboriginal associations and 33 separate provincial organisations emerged in the aftermath of the debate. Many of these groups were pioneers in organising Aboriginal peoples beyond the local level for the first time. The Alberta Native Federation, Alberta Native Youth Society, Treaty Voice of Alberta and the Native Human Rights Association alone were formed between 1968 and 1972 (Whiteside 1973). Indian Friendship Centres multiplied across the country. Central to this Aboriginal activism was 'the expansion of the term 'Aboriginal rights', which by 1981 had been 'revised from its original focus on land rights to include the rights to self-government' (Long 1997: 121).

Meanwhile, the federal government's initiatives in the area of language rights, including the 1969 Official Languages Act, launched a national debate. Alberta had a long history of restricting access to French-language instruction in public schools. But the provincial government relaxed restrictions in 1968, and school boards began to take advantage of federal funding to offer more bilingual education. By the early 1970s Red Deer and Lethbridge established French-language programmes, and within a few years the number of children learning French in Alberta increased markedly (Hayday 2005: 69–70). Immersion programmes were soon expanded in Edmonton, Calgary and Lethbridge. In 1976, the Minister of Education raised the cap on French-language instruction; public schools now had the option of offering French education for 80 per cent of the day. The new policy, after generations of repressive language education policies against Francophones, was a milestone in French-language minority rights (Hayday 2005: 71–2).

By this time there seemed to be an almost inexorable movement towards securing greater recognition for minority language rights. Middle-class urban Anglophones, who for generations had been the bedrock of pursuing a unilingual Anglophone Alberta, were now sympathetic to the aims of the Association canadienne d'éducation française and Canadian Parents for French. For nearly a century the province had refused to provide substantial financial support for French-language education. But in 1978 the Minister of Education announced that the government would provide more than \$2.5 million to expand French programmes, and to provide funding for rural schools (Hayday 2005: 117–18). In 1980, the province committed for the first time to top up federal grants for French-language programmes and to provide funding to transport children to school districts offering French programmes (ibid.: 129–30). Soon after, in 1993, the province introduced legislation to provide for minority school boards to administer all aspects of minority education in the district (Aunger 2005: 128).

If Aboriginal and French-language rights symbolised the strength of the human rights movement in Alberta, the struggles surrounding gay rights epitomised the contested nature of the rights revolution. Several small gay rights groups appeared in Canada's largest cities in the 1970s, including the Gay Alliance towards Equality (GATE) in Edmonton in 1971. GATE organised the first campaigns to have sexual orientation included as a prohibited ground for discrimination in Alberta's human rights legislation (Warner 2002: 309). The Womyn's Collective, founded in Calgary in 1977, held its first all-woman dance that year and organised 'meetings, dances, consciousness-raising groups, barbecues, and other activities, such

as women's drop-ins. It later also established the Lesbian Information Line' (ibid.: 181). A Lesbian Mothers' Defence Fund was launched in Calgary in the 1980s and, in 1983, Calgary held the province's first lesbian conference. Meanwhile, the first lesbian organisation in Edmonton, Womanspace, was underway by 1982. In the 1990s, similar organisations had emerged in Red Deer, Grande Prairie, Medicine Hat and Lethbridge. The proliferation of gay and lesbian rights organisations, from virtually nothing before the 1970s, was a testament to the widespread impact of the rights revolution.

Still, the movement would ultimately fail to achieve legal reform until much later. The province's political leaders were unwilling to follow other provinces in legislating equal rights for gays and lesbians. The Lougheed government refused to address sexual orientation despite a 1976 recommendation from the Alberta Human Rights Commission to amend the law. Nonetheless, activists wrote briefs, mounted letter-writing campaigns, held meetings with members of the legislature and formed a provincial organisation in 1979 called the Alberta Lesbian and Gay Rights Association. Undeterred, the government appointed a chairman to the Human Rights Commission who was openly hostile to gays and lesbians. A cabinet minister later declared in 1989 that the province would never ban discrimination if it meant allowing homosexuals to teach in schools, and another insisted that 'two homosexuals do not constitute a family' (Warner 2002: 209). Several years later the government even went so far as to introduce legislation restricting common law marriages to heterosexual couples (ibid.: 210–224).

Alberta was soon the only Canadian jurisdiction where discrimination against gays and lesbians was legal. Delwin Vriend challenged the law in 1998. Vriend, a professor, was fired from King's College in Edmonton for being gay because, according to the college, 'homosexual practice goes against the Bible, and the college's statement of faith' (Warner 2002: 209). Vriend initially won a favourable ruling before a human rights board of inquiry, but the decision was successfully appealed in court. However, the Supreme Court of Canada overturned the ruling, and decided in 1998 that Alberta's human rights law's omission of sexual orientation violated section 5 of the Charter of Rights and Freedoms (*Vriend v. Alberta* 1998). The court essentially forced the province to prohibit discrimination on the basis of sexual orientation.

The Supreme Court's ruling led to an outpouring of what one author described as 'a venomous torrent of homophobic hatred', including attacks on radio shows to protests in front of the legislature. Stockwell Day, the provincial treasurer, called on the provincial government to invoke the Charter's notwithstanding clause (Warner 2002: 211). The chairman of

the Human Rights Commission was not reappointed, and the government refused to provide investigators for cases involving sexual orientation. A decade later gay rights still generated bitter opposition. In 2008, Darren Lund successfully pursued a complaint before a provincial human rights tribunal against Reverend Stephen Boissoin of the Concerned Christian Coalition. Boissoin had written a letter, published in the *Red Deer Advocate*, condemning homosexuality as evil and dangerous. The tribunal's decision was a victory for human rights, not only because it ruled in favour of gay rights, but because Lund had the support of both the Human Rights Commission and the provincial government. And yet, the Court of Queen's bench overturned the decision on the basis that Boissoin's hate speech constituted free speech (*Boissoin v. Lund* 2009). Lund's appeal to the Alberta Court of Appeal was dismissed in October 2012, and he was ordered to pay Boissoin's legal expenses (*Lund v. Boissoin* 2012).

In 2010 the provincial government introduced a new Human Rights Act, which included sexual orientation as a prohibited ground of discrimination. In practice the law already recognised sexual orientation since the Supreme Court of Canada's *Vriend* decision, but the government refused to formally amend the law. The symbolism was telling. When the government finally amended the law in 2010, it also incorporated a provision that permitted parents to exempt their children from any lessons involving sexual orientation or religion. Alberta is the only province in Canada where teaching can be construed as a human rights violation.

## Conclusion

Alberta's rights revolution had a profound impact on the province. Laws restricting Hutterite land ownership and legalising forced sterilisation were eliminated. Censorship was relaxed. French-language instruction was made available in public schools. Expansive human rights laws were introduced to prohibit discrimination. The Progressive Conservative Party election in 1971 was, without a doubt, a turning point in state policy. But changing public attitudes and practices were equally significant. Vibrant social movements representing human rights, Aboriginal peoples, and gays and lesbians emerged in the 1970s. Support for French-language education and minority rights became popular. Still, the rights revolution was contested from the beginning, and Alberta's human rights legislation has generated widespread controversy. In this way, Alberta's rights revolution remains an unfulfilled promise.

## Notes

- 1 See Howe (2000) and Clément (2009, 2010) for a history of human rights legislation in Canada.
- 2 Land Sales Prohibition Act, Statutes of Alberta, 1942, ch. 59; Communal Property Act, Statutes of Alberta, 1947, ch. 16.
- 3 See Winks (1997: 305–7) for further details on black immigration to Alberta.
- 4 Although the order was quickly rescinded, it was indicative of the depth of opposition to black immigration.
- 5 See Anderson (2005) for a history of early French-language education programmes in Alberta.
- 6 However, 40 per cent of approved sterilisations never took place due to complications surrounding how to secure consent.
- 7 The Alberta Bill of Rights dealt with fundamental freedoms, whereas the Individual Rights Protection Act prohibited discrimination in accommodation, employment and services.
- 8 The decision was based on the technicality that King lived in Calgary (and was thus not technically a traveller) and the hotel did not qualify as an inn because it did not serve food.
- 9 Library and Archives Canada. Canadian Labour Congress fonds, MG28 I 103, H-315, f.R2, and Convention committee on human rights: report to the Canadian Labour Congress, n.d.
- 10 Denis St Arnaud to John McDonough, 29 June 1984, Memorandum from the Alberta Human Rights Commission (in McDonough 1984).
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