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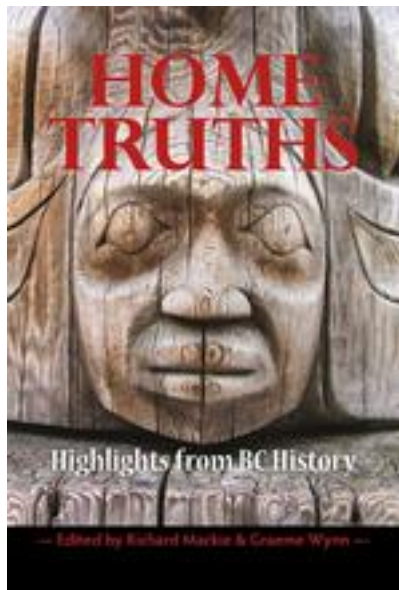
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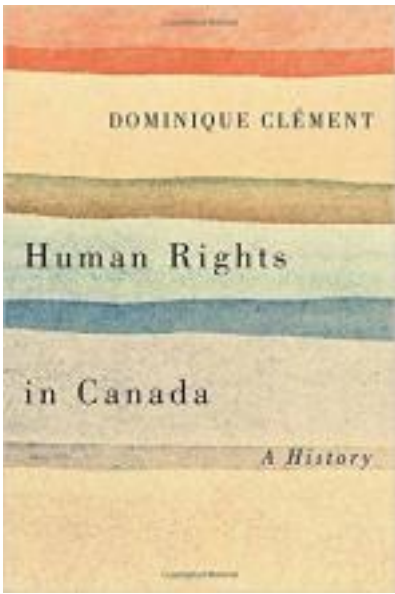
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Human Rights in Canada: A History

Human Rights in Canada: A History

Dominique Clément

Reviewed by Larry Hannant



Human Rights in Canada: A History is a comprehensive survey of the checkered human rights pattern in this country. Dominique Clément writes of a country that in its infancy and youth had a minimal respect for rights – at times even a disturbing contempt for them. Yet, as the result of transformations in a single decade, it achieved a “human rights system [that] was one of the most comprehensive in the world” (106).

In his assessment of change, Clément has written much about the “what” of human rights in Canada, but little about the “why.” The book’s core disappointment is Clément’s lack of explanation of what caused the “human rights revolution” at that critical moment of change – which he identifies as the 1970s. The reader is given a compendium of human rights legislation, events and organizations, but frustratingly little about why a profound shift occurred. One aspect of that shift lay in the realm of how rights are to be defended. Before the 1970s, Clément writes, “Canada’s rights culture had ... been premised on the principle of Parliamentary supremacy ... [in which] rights were best protected through Parliament rather than the courts” (126). Yet by

the 1980s “Canadians embraced the notion of using the courts to enforce a written bill of rights, even if this meant frustrating the will of Parliament” (126). Failing to adequately explain what provoked this profound reorientation is the weakest aspect of *Human Rights in Canada*.

To a limited degree Clément does elaborate on two important movements of the 1970s that helped to provoke change. These were the Aboriginal rights and women’s movements. But curiously, in each case he downplays the activists themselves and gives credit to the federal government for helping to breathe life into these grassroots campaigns. Moreover, aside from a passing reference to the changes occurring within “the context of an international rights revolution” (114), he presents the movements as overwhelmingly domestic constructions that appeared to find no inspiration in the ground-breaking struggles for human rights in other countries, especially the United States.

Clément declares that his purpose is “to demonstrate the malleability of human rights discourse by showing how our society has produced a unique human rights culture” (10). The idea that human rights are understood and acted upon differently at different times is not contentious. What is more open to disagreement is what accounts for that plasticity. Are social movements the causative factor? Certainly here they don’t receive star billing. More than that, at times the author appears to contradict himself about whether social movements changed human rights in Canada or vice versa. Shortly after setting out a purpose that seems to give credit to society changing human rights culture, he writes that his focus will be “moments in history when human rights transformed law, politics, social movements and foreign policy” (18). This formulation suggests that human rights are an autonomous social actor, rather than a construction of society.

Clément is at his best in describing “the impact of the rights revolution on Canadian law between 1974 and 1984” (113). He elaborates well on the various federal and provincial human rights charters and legislative changes over the course of the 1970s and 1980s and beyond. The result is an informative institutional and legal history. Regrettably, it asks too few questions about key issues. Much remains to address: the impetus for human rights changes, whether the changes constitute a “revolution” or a perpetuation of “the liberal order” (the latter a fertile idea introduced only in the second-last paragraph of the conclusion, then dropped), and how historians and people are to understand what is undoubtedly a significant development in Canada and the world.

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Dominique Clément

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