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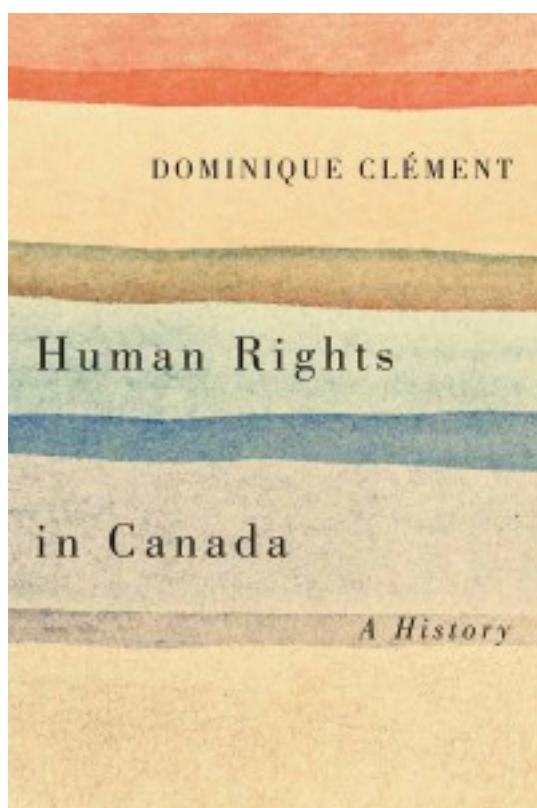
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**Saturday, April 30, 2016**



## Review — Rights Versus Grievances

In 2010 lawyers at the Department of Justice claimed a constitutional right to weekend golf getaways. They work a 37.5-hour week and spend the odd weekend on call, unpaid unless they actually attend court on Saturday. Attorneys complained that meant they couldn't leave town or drink or host a dinner party when on call, in breach of their Charter right to life and liberty.

It took six years, two trials and two labour board rulings before a federal judge threw out the complaint as thin. Everybody has basic human rights, wrote Justice Yves De Montigny, "but not the right to do as you please in all circumstances."

In Canada today the cry of human rights is now applied to humdrum complaints. "Human rights is the language we use to frame the most profound – and the most commonplace – grievances," writes Dominique Clément, association professor of sociology at the University of Alberta; "Human rights are not immutable. They are continually adapting as times change."

Clément's *Human Rights In Canada: A History* is a spirited and unconventional look at our distinctly Canadian rights culture. Discourse in other nations is framed by historical atrocities of slavery or the Holocaust, of evil and goodness; in

Canada it runs the gamut from the profound to the mundane.

“Although rights are a moral claim, it is misleading to suggest they are based on universal truths,” Clément writes. “In fact, human rights have an instrumental or political function. People frame their grievances and their vision for social change using the language of rights.”

If Québec clearly breached the rights of Jehovah’s Witnesses to practice their faith in the 1950s, *Human Rights* notes: “It is easy to understand why Jehovah’s Witnesses were bitterly disliked in the vastly Catholic province”; “They distributed pamphlets on the streets and made unsolicited visits to people’s homes where they described the Catholic Church as the ‘whore of Babylon’.”

There is a historical thread here – well, more of a squiggle. What if any connection draws Alberta Hutterites’ historic fight to buy farmland with same-sex marriage; or votes for Caucasian women but not Indigenous ones; or an 1885 federal ban on the Plains tribes’ Sun Dance?

“Each society determines the nature and implementation of rights in practice,” Clément writes. “This process, however, is highly contested. The history of human rights is not a linear process of new rights claims but rather a history of defending existing rights. My primary argument is that human rights are always contested, but the nature of human rights is such that they invariably lead to new rights claims.”

Nor is every rights claim an explicit conflict between privilege and the oppressed, *Human Rights* notes. “People with privilege have appropriated rights discourse for their own interests.”

Throughout his writing Clément cites intriguing facts that underscore his point that “rights” are contested and rarely clear-cut, and part of the clamor of democracy itself. MPs may have unanimously passed Prime Minister John Diefenbaker’s 1960 Bill of Rights, but the Bill was useful in striking only one discriminatory law by 1982.

*Human Rights* argues that more profound was Diefenbaker’s 1959 refusal to dispatch RCMP to break up a paper mill strike in Newfoundland & Labrador. Members of the International Wood Workers struck for a reduction in their 60-hour work week, a 25¢ raise to \$1.30 an hour, and cold running water in the bunkhouses. Newfoundland responded by dissolving the union, outlawing secondary picketing and demanding that Mounties round up strikers. Not a chance, Diefenbaker told the Commons: “Newfoundland has greatly aggravated the present situation in that province by intervening in a labour dispute in a way which apparently goes against the usual role of government.”

It is a long reach from Newfoundland loggers to federal lawyers’ golf getaways. *Human Rights* makes it an intriguing journey.

By Holly Doan

*Human Rights In Canada: A History*, by Dominique Clément; Wilfrid Laurier University Press; 243 pages; ISBN 9781-7711-21637; \$24.99



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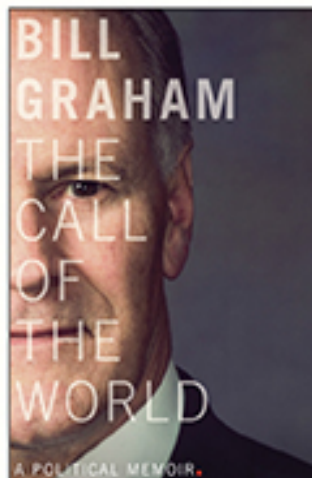


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