

greater attention to regional differences, as custom houses faced both reform in enforcement and a policy shift toward protectionism.

Rao states that, initially, “[t]he cozy relationship between custom houses and commerce did much to legitimize the new federal government” (88). One could look optimistically at Rao’s account as a positive story of collaboration between market actors and the government that succeeded in building necessary legitimacy for the American state during a vulnerable period. Rao’s evidence, however, raises the question of how national authority was achieved to the degree he describes in the face of a powerful group of merchants operating on the logic of profit maximization rather than national interest. The question lingers at the end of the book. Rao’s book will remain as a central work in understanding custom houses’ practices and nation-building in the early republic.

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Dominique Clément, *Human Rights in Canada: A History*, Waterloo, Ontario: Wilfrid Laurier University Press, 2016. Pp. xiv, 230. \$24.99 paper (ISBN 978-1-77112-163-7).
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Human Rights in Canada: A History draws together the substantial literature that has appeared in recent years regarding human rights in Canada into a relatively brief, readable account. Clément indicates that the purpose of the book is to demonstrate “the malleability of human rights discourse by showing how our society has produced a unique rights culture” (10). Clément’s “central argument” is that there is a “uniquely Canadian rights culture,” (20) and that the rights “that constitute our rights culture are derived not from an abstract principle but rather from a consensus in politics, law, and society that has evolved throughout history” (20–21). The “rights revolution” has had a major impact on Canadian society, according to Clément, although he also asserts that human rights have not transformed Canada, because they exist within a liberal individualistic framework. Clément also offers three secondary arguments. First, he seeks to show that the language of “British justice” or “civil liberties” was replaced by “human rights” in the 1970s. Second, he claims that progress in securing recognition of human rights has usually occurred because people who were the targets of rights violations acted on their belief that they had received unfair treatment. Third, he argues that, in

the study of human rights, law matters; human rights “do not exist in practice until they are recognized in law” (22).

Clément’s subject is very large for a relatively short book, as he examines traditional civil liberties, equality rights, aboriginal rights, international law, and social and economic rights. To deal with the size of his topic, Clément focuses on “moments in history when human rights transformed law, politics, social movements, and foreign policy” (18). He divides his story into five parts. Chapter 1 covers the period from the Canadian rebellions in 1837–38 to the First World War, a period in which Canadians invoked “civil liberties.” Chapter 2 traces rights talk from the Great War to the early 1960s. During this era, some governments began to implement modest policies of nondiscrimination. The 1960s to the mid-1970s is addressed in Chapter 3. Clément suggests that this period set the stage for the “rights revolution” discussed in Chapter 4, which overviews developments from the mid-1970s to the 1980s, including the addition of the *Charter of Rights and Freedoms* to the Canadian constitution. This was the time when, Clément suggests, Canada “experienced a genuine rights revolution” (19). In his final chapter, Clément discusses some recent topics, including efforts to resist the human rights state.

The book is strongest when addressing the subjects Clément has discussed in his other works covering the period from the mid to the late twentieth century. His expertise in this area is well established, as he has published numerous journal articles and two excellent books: *Canada’s Rights Revolution: Social Movements and Social Change, 1937–1982* (Vancouver: UBC Press, 2008) and *Equality Deferred: Sex Discrimination and British Columbia’s Human Rights State, 1953–1984* (Vancouver: UBC Press and the Osgoode Society, 2014).

However, when the current book ventures beyond this familiar terrain, several issues emerge. First, Chapters 1 and 2 both include some material that would seem better placed elsewhere. For example, the description of Alberta’s 1942 *Land Sales Prohibition Act* (that targeted Hutterites), which appears in Chapter 1, seems an odd topic to discuss in a chapter that ends with the Great War. Similarly, the legal response to the Fenian raids of 1866 and 1867 included in Chapter 2 seems more suitable for inclusion in Chapter 1. Second, the book contains a few contradictory statements regarding the extent to which human rights are shaped by social context. For example, Clément asserts that he rejects “the notion that rights somehow stand above politics or exist in the abstract outside our community” (3); however, he goes on to suggest that “equal treatment and the freedom to determine one’s own destiny are elemental human rights principles.” Although these principles “are not absolute,” they “are universal and inalienable and they exist prior to law” (6). Third, the book contains a few factual errors that might have been avoided by the author paying greater attention to the scholarship dealing with the legal history of nineteenth- and early-twentieth-century Canada. He

suggests that visible minorities were “barred” (35) from serving on juries in the nineteenth century, although academic work has noted that a small number of black residents of Nova Scotia and what became Ontario sat on juries. The assertion that the Nova Scotia Home for Colored Children was “founded and staffed by whites” (35) is incorrect; the Home had many African Nova Scotian employees, and members of the black community established the institution. Clément states that it was in the “early twentieth century” that women “joined professions such as law” (42). There were, in fact, a few female physicians in Canada in the late nineteenth century, and in 1897, Clara Brett Martin became the first woman to join the bar in Canada. He also indicates that twenty-two Fenians were hanged following raids into Canada in 1866 and 1867 (51). In fact, none were killed. The death sentences were commuted and all of the men convicted were released by 1872, with the exception of one who died in prison.

Clément’s argument that human rights claims have been accepted because social movements have successfully moved the needle with the public and politicians is often persuasive, although I wondered if this approach does not give sufficient attention to the role of politicians and judges who made particularly significant contributions to the history of human rights in Canada. The most obvious omission in this regard is Prime Minister Pierre Elliott Trudeau, who was a key figure in the movement to add the *Charter of Rights and Freedoms* to the Canadian constitution. The only reference to Trudeau is a mention of his role in violating civil liberties during the October Crisis sparked by Quebec separatists. Trudeau is certainly a complicated and controversial figure, yet surely he deserves more attention in the history of human rights in Canada than he receives here.

Despite these critiques, *Human Rights in Canada: A History* is a useful primer for undergraduate students and members of the public interested in this subject. Clément is adept at highlighting Canada’s checkered human rights history, such as governments’ refusal to protect rights at times of heightened concern about the security of the state, as well as overviewing the evolution of human rights institutions and laws.

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