

BRIEF  
TO THE SELECT COMMITTEE ON  
ONTARIO AND THE CONSTITUTION  
PRESENTED IN TORONTO  
BY  
WOMEN WORKING WITH IMMIGRANT WOMEN  
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We understand the constitution of a country to be the founding document that sets out the fundamental principles which underlie the state. Most importantly, it embodies the country's identity and it reflects the values that people share and which define their relations. In its present form and content, the Canadian Constitution reflects colonial values and it cannot be used as a unifying tool because it ignores the plurality that comprises the elements of history, origin and language of the Canadian peoples, elements that are commonly used to define a country. If unchanged the Canadian constitution conditions the Canadian state and society to racism, discrimination and continuous crisis.

Because we believe that what unites nations are the history and values that people share, before we can discuss the redistribution of powers and before we redefine new identities, we should decide on the values that we want to embody in the new societies and what histories we want to validate. Also if we want democracy to emerge out of today's crisis we should remember that democracy cannot be built on the exclusion of peoples and their interests. Such democracy will not survive the pressure from within, pressure that will be applied by those excluded. It was this pressure that caused democracy to collapse in its cradle in Greece. From that democracy which serves as a model to today's parliamentary democracies were excluded 300,000 slaves who were of Greek descent because that democracy was designed for citizens. Only those who owned property and could afford to finance an army had the right to citizenship and the right to vote. Similarly, today in Canada the same model of democracy serves the interests of and benefits only those voting blocs of Canadian society which are economically and politically dominant.

We feel that it is important to re-learn Canada's history because the past created the present and the present will become past in the future. The Canadian state was founded by military force and it was founded on racism which has been perpetuated throughout its history. It was founded by the British and French colonizers and the ground rules were set to consolidate their power and to promote their interests. This resulted in the destruction of the economies, governing traditions and cultures of the First Nations and in the genocide of the peoples whose resistance was overpowered by advanced armaments. This destruction was used as a proof to confirm the superiority of the colonizers' governing traditions and to justify their claim to be the founding nations. The binational identity that is embodied in the Canadian constitution is the product of that destruction and caters to the racist mentality and values of the Canadian society. This

identity was further preserved by the immigration policies which were introduced to select the populations that Canada needed.

The effort to keep Canada white is demonstrated by the history of the Canadian immigration policies and regulations. Examples of these policies and regulations are the Head Tax on Chinese immigrants, the continuous journey from the country of origin regulation which was introduced to stop the entry of East Indian immigrants, the regulation concerning undesirables which included the class of immigrants belonging to any race unsuited to the climate of Canada. This was introduced to stop the entry of Black Americans and those classified as undesirable due to peculiar customs, habits, modes of life, methods of holding property or general unassimilability.

These policies and regulations were developed on the principle that would be immigrants have no fundamental human right to enter Canada, nor do immigrants have the right to Canadian citizenship once they are living in Canada. Immigration to Canada and Canadian nationality were privileges, not rights. It was on this basis that a security system that emphasized virtually complete administrative discretion with no judicial or independent review and no recognition of natural justice for the individuals affected could operate quietly with little public notice. Based on this principle immigrants were deported, segregated, denied the right to organize into unions, the right to vote etc.

It is this principle, which can be identified also in today's immigration policies, that continues to cater to the racist mentality of Canadian society. Accordingly, equality and human rights for racial minority Canadians are not priority constitutional items. This is because white Canadians, whatever their origin, see racial minority Canadians as outsiders (immigrants) whether they have lived in this country for generations or whether they have just arrived.

This mentality is demonstrated by the central preoccupation in the constitutional discussions with attempts to define the relations between English-speaking Canada and Quebec and only from the perspective of Canadians of British and French descent. This power struggle is defined by these groups to be the National Question. All other peoples, their issues and interests, are put aside so as not to detract from the reaching of an agreement on what the two groups define to be fundamental for the future of the country. With this approach one can only say that the mental colonization of the Canadian people continues unchallenged and these values will be reflected in the new societies.

The progressive movements are not freed from this mentality and a hierarchal approach characterizes their organizing practices. The political training of these movements is to react to the politicians' agenda instead of setting their own. If we were to

initiate the democratization of peoples' mentality and relations one would expect that this initiative would come from these movements. On the contrary, when racial minorities suggest an inclusive approach with regards to issues and accessibility to organizing we are put through the frustrating experience of having to prove that we have a legitimate case before an issue we raise is included on the agenda or in the discussions. This racist practice is a further insult to racial minority Canadians because it suggests that we don't understand the issues and Canadian politics when we have a different perspective. This perspective has been developed from our economic status within Canadian society and from the lack of political representation of our interests and lack of power at decision-making levels. This experience comprises our histories which are part of Canadian history. These histories are not acknowledged in conventional history books because acknowledging this history would mean validating the economic contribution and political struggles of racial minorities within the Canadian context. To validate these histories and struggles would mean addressing the demands of racial minorities for equality.

During the Meech Lake discussions, the ethnic and racial minorities had put forward the demand to include multiculturalism as a fundamental characteristic of Canada. The objective of this demand was to validate the histories of ethnic and racial minorities and the cultures that have developed from their social and political struggles. This would serve the development of a Canadian culture in which British and French cultures become one of the characteristics of Canadian culture and not the measurement of what is Canadian. Multiculturalism should not be interpreted to mean protection of foreign cultures and traditions, because these traditions are part of the identity of millions of Canadians of non-British or non-French descent. To suggest that non-British or non-French traditions are not Canadian is nothing more than blatant racism.

Another issue that caused controversy during those discussions was the Equality Clause, which is section 15 of the Charter of Rights and Freedoms. The Charter of Rights and Freedoms was entrenched in the Constitution to protect the rights of the individual. It is, so far, the only written document which is subject to judicial interpretation that could provide protection of human rights for racial and ethnic minority Canadians. Section 15 (1) reads:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

These rights, however, are not guaranteed because of the exceptions under Section 33 (1), which reads:

Parliament or the legislature of a province may expressly declare in an Act of parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in Section 2 or Sections 7 to 15 of this Charter.

What this translates into is that as long as a declaration is made, the Parliament or a provincial legislature can introduce a piece of legislation which could violate those rights included in sections 2 and 7 to 15 of the Charter. According to this, no judicial body has the power to supersede the power of the Parliament. Such a declaration has effect for 5 years (Section 33, subsection (3)), and it can be further re-enacted (s. 33 (4)).

When racial and ethnic minority groups raised the issue that this application of the Charter (Section 33) leaves unlimited room for violations of human rights, our concerns were met with the accusation that we were undermining the unity that was necessary in order to achieve a satisfactory agreement on the "national question"; or, more simply put, on the political future of Quebec. It was not and is not the intention of racial and ethnic minorities to achieve equality at the expense of others. We are asked, though, to put our lives on hold indefinitely as a guarantee that the interests of those who are "more Canadian" than we are will materialize.

It appears that Section 15 of the Charter was included only to beautify the Constitution and to quiet the voices of minority peoples. It is nothing more than an attempt to ease the conscience of a racist society, without endangering it.

The only protection against the violation of minority rights would be public opinion, something that racial minority people learned not to count on. During the war in the Gulf, Arab people were harassed because of their background and religion. This is an example of how protections in the Charter are violated, without any legislation being introduced. Canada has a history of human rights violations of her citizens who were driven into concentration camps and forced labour camps. This experience is shared by Japanese and Italian Canadians as well as by Canadians of Eastern European origin. We are certain that others will follow.

Racial and ethnic minority Canadians want nothing more than the benefit and the protection of the laws of Canada and equality in a society to which we contribute socially and economically more

than our share. The responsibility to deal with racism in Canadian society is not the responsibility of racial minorities and the First Nations peoples only. White Canadians have the responsibility to analyze the effects that racism has on their values, ideology and lives and to challenge racism. This will help not only to develop an understanding of how racism has affected the different peoples, but also to create an understanding of and support for the struggles and demands of different peoples.

We have not given answers to questions regarding the power struggles between the different levels of government as they exist today, but this was not our intention. Our position on what we feel to be fundamental is the following:

- \* The right of First Nations to self determination is long overdue, and more than recognizing and promoting this right, we pledge to work in solidarity with the First Nations.
- \* Equally, we recognize the right of the people of Quebec to decide their future and we will work in solidarity with the people of Quebec. This position is taken because we believe that only when the First Nations and the people of Quebec are able to exercise their rights, racial minority and ethnic groups will achieve recognition and equality.
- \* We envision a confederation of nations that can peacefully co-exist.
- \* The societies we envision building within these nations are pluralistic societies which means they will embody the histories, origins, traditions and values of all peoples who compose these nations.
- \* With regards to electoral systems, we would like to see a system that allows representation of the interests of our communities and participation in decision-making.
- \* We would like to see a mechanism that will allow people to remove from power elected representatives who lose peoples' support because of their policies and political agenda.
- \* Economic development and planning should meet peoples' needs and the economic conditions should be created so equality can materialize.

In closing we would like to say that the transition to democracy might be difficult, but it cannot be prevented and the best guide for the democratization of our society is the interest of people.