

Abstract

The Canadian Charter of Human Rights and Freedoms, 1982, powerfully affects the future prospects of all minority groups in Canada.

The author of this paper selects two such groups for consideration, one relating to languages, the other to physical/mental handicap. She discusses each from the view point of politics, economics, and public attitudes. The paper concludes on a note of cautious optimism.

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Two Vignettes of Minority Group Education in Canada

Equality Rights

15. (1) "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.
15. (2) Subsection (1) does not preclude any law, program, or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex age, or mental or physical disability.

Canadian Charter of Rights and Freedoms, 1982

Introduction

Education of minority groups in Canada has always been an underlying concern of government. It permeates politics and economics. It frequently prompts emotional reaction from people.

This paper confines itself to a study of two different types of minority groups; those who perceive themselves to be disadvantaged either by reason of ethnic origin, or by mental or physical handicap. Each group will be surveyed in a political, economic, and social context, with some reference to the United States for purposes of comparison.

"Language" as a determinant of belonging to a minority group

In 1971, Prime Minister Pierre Trudeau declared in parliament that Canada was a multicultural country.¹ One visible determinant of multiculturalism is language. Yaremko (Canadian Society for the Study of Education, 1976) estimated there were 54 ethno-cultural groups in Canada, speaking a total of 72 languages. Each language could be said to define a minority cultural group in its own right. Canada clearly is a pluralistic society. And since the educational system is the vehicle by which societies transmit their values and learning on to succeeding generations in order to perpetuate their culture and unity, then Canada should be offering a diversity of educational provision. The facts seem encouraging. After 13 years of official multicultural policies, the annual budget has grown steadily; this year's budget was \$23 million - 30 percent higher than last year. Of that sum \$19 millions were spent by 2,000 agencies and organizations across the country, and \$2 millions went on advertising in the ethnic and majority press.²

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The question is, however, "is it possible or even feasible to provide such diverse educational measures, even just for two minority groups?" Thus, the French and the English linguistic groups can be considered "minority cultural groups" depending upon demographic positioning. Greenfield (1976) in fact suggests that the cultural situation in Canada today is due mainly to the demographic dispersion of the different minorities throughout the country. They tend to group together, rather than spreading out for their integration. The province of Quebec is quite definitely French-speaking; the western provinces, English-speaking. In New Brunswick, both languages have equality of status.³ But both linguistic groups are also to be found in pockets throughout all Canada. Should educational provision then, in the interests of unity, be made only in one language, either English or French? Should it be French only in Quebec and English only in the west? Or should there be provision for both everywhere?

(a) *The Political Fact*

The issue of education is but one part of the political minority group question in Quebec and the rest of Canada. It is the overall communicative language of a country that is paramount; and so of late presents Canada with an acute constitutional problem. With regard to education provision, however, the question is "in which language is it to be offered?" Which language must children use to acquire the cultural values of their larger society? Or does it really matter as long as certain values are absorbed: The French, as a minority group, think it does matter. As Magnet says (1982):

Constitutional history sheds light on current French Canadian anxieties. Prior to 1867, French Canadians were the objects of constitutional aggression. Pre-confederation constitutionally subverted francophone status, *prohibited official use of the French language*, and provided for a means to drown francophone community in a flood of English immigration. After confederation, repressive provincial legislation attacked francophone schools, and unilaterally crushed constitutional guarantees for the French language. Waves of anglophone immigration and high assimilation rates furthered the decline of francophone communities outside Quebec.

The new Constitution of 1982 provides means to change this. It concentrates attention on the desirability of education in one's own language, and not without cause. For language education is the greatest irritant dividing French and English Canadians. The British North America Act of 1867 failed to address the issue of linguistic education; and there was repeated failure to apply those clauses (Section 93) relating to Protestant, or (more usually) Catholic, minority group education to the language problem. Any francophone education provided tended to be within the separate school system. Now, the new Canadian Constitution guarantees education in either language. Education in French must now be provided throughout Canada according to the jurisdiction of the courts and not by provincial law. The same now applies for education in English in Quebec. A very recent ruling of the Supreme Court of Canada states that:

Quebec's Language Law Bill 101 is incompatible with Section 23 of the Charter of Human Rights and Freedoms.⁴

The Official Languages Act too "implies that where regional minorities number 10 percent of the population, they are entitled to a minority school."⁵ Politically, then, there have been major changes for the English and the French minority language groups across Canada.

(b) *The Economic Fact*

If Section 23 of the new Constitution is to be fully implemented, funding becomes a major problem. All citizens, minority and majority groups alike, pay for their education through taxes.

But the small numbers of minority groups means smaller sums of money available to each group. The content or quality of the educational provision is not in question, only its linguistic transmission. But small numbers also require the same facilities for instruction, administration, transportation, etc.⁶ Is some re-allocation of public funds then necessitated if all minority groups are to receive education in their own language? Already there is friction over what should the numbers be for such education to be offered in English or (more usually) in French? In P.E.I. one of the regional school boards fixed the number at 28. But a group of some twenty parents challenged the school board ruling and took the board to court (with the help of a Federal grant!). The issue is still pending. But, if it becomes twenty, what happens if say fifteen more parents somewhere else ask for similar education?

In short, the provinces may not have the necessary amount of capital available to meet all these new constitutional requirements. Added to this is the possible underlying public reaction to all these new proposals.

(c) *Public Attitudes*

A no less important question now for Canadians is “will the courts use their newly acquired powers to ensure school boards provide education for all local minority groups”? A further question is “will the majority groups allow it”? There is often great parental concern over any seeming preferential treatment for smaller, minority groups. For example, on Prince Edward Island in 1983 a proposal was made to bus all those children taking French language instruction into a central school. It was forthwith labelled “elitist” and subsequently shelved as constituting preferential treatment for some children; but the proposal is surfacing again, now the Department of Veterans’ Affairs has come to the Island, many of whose staff are French-speaking as a first-language.

Elsewhere, it has been hinted that a French language education for English speaking families, even with French backgrounds, can become dependent upon the intellectual activities of the children and so be “privileged.” An even more serious concern is expressed by Lambert and Tucker (1972), and Greenfield, (1976):

While we favour bilingualism and the effective teaching of the French language, we reject the so-called bi-lingual school. We are of the opinion that the average child cannot cope with two languages of instruction, and to try to do so leads to insecurity, language interference, and academic retardation.

Could it be that education provided in both languages is more than just a question of political expediency or economic possibility? It may be too hard for some children to be educated in one language when the wider society, the majority speaks or uses another. It becomes therefore a matter of deciding whether Canada is to be a truly bilingual or multilingual country. What in that event is to be *the* language of the total society - in commerce, jobs, the law, everyday travel, and communication? Is it possible for children to use more than one language in the present situation? Is it possible to have a truly pluralistic society that can function as a whole? *And do the people want it?* Current feelings of separatism would tend to raise doubts. It would seem that educating *all* minority groups in *their own* language would make for even more confusion. Perhaps the only way for minorities to achieve their own ethnic education is for them to get together and become pressure groups lobbying for change?⁷

A handicap as a determinant of being in a minority group

Another group in society which may be said to form a minority is that unfortunate category

labelled "handicapped."

One definition of "handicap" in Webster's Dictionary is "to put at a disadvantage"; and this is how many handicapped people perceive themselves. They are basically at a disadvantage in society, through some disablement, mental or physical. They are without something that the rest of the population have, and are therefore, handicapped.

Once again, assimilation of this minority group into the larger society has raised problems. The question indeed has been asked if such assimilation is really beneficial to society, if it is wanted, and more importantly, if it is feasible. Only through education can any assimilation process hope to succeed.

Through appropriate education, many of the "spin-offs" of a disability are seen to be substantially reduced if not eliminated altogether. Deaf people, for example, can receive excellent auditory amplification and special training. Cerebral palsied children can increase mobility through training with prosthetic devices. Many mentally handicapped persons can become capable of performing work-related tasks. It is even being currently suggested that early intervention can reverse many later handicapping conditions (MacDonald, 1980; Thomas, 1978; Marshall, 1981, et al). Remedial school programs are also providing compensatory techniques for many learning disabilities. Although it is arguable, it could be said that aesthetically speaking, the handicapped are at one with the rest of the society in which they live. They have no different cultural background, nor do they possess different values or speak a different language. In that case, they merit full equality as their birthright.

(a) *The Political Fact*

Historically, handicapped persons have always been looked upon as inferior by the wider society. Attitudes, however, have changed significantly in the last half of this century, most significantly in the United States. Handicapped persons there have successfully challenged in court for the right to equal opportunity and equal provision. Martin (1978) notes:

An important underlying reason why the courts did not act (previously) was the assumption that the clients (i.e., the handicapped) . . . did not have rights of their own. Someone else might come to court on their behalf and argue who should take care of these *second-class citizens*, but the administrator, the institution, the physician, and all others involved in their care *had rights superior to the rights of the clients!*

However, suddenly, in a series of cases tied to the Federal Constitution, these clients, whether mentally ill, developmentally disabled, students or juveniles, are now finding rights equal to all others. This means that courts have to hear complaints and act on them.

This means that the handicapped persons, although still constituting a minority group, can challenge in court for equal provision of education, and for equal opportunity in other walks of life, including jobs. As established in the United States, in a series of court cases and federal legislation, they have won the basic right to receive educational, or any other treatment, according to their need.

Furthermore, they have now "a right . . . to be in the most normal environment . . . In school, 'normal' means in the mainstream."⁸ This right of normalization is especially important. It means in essence that governments should offer educational provision for every child *equally* because that is their right. The United Nations Charter (as quoted earlier) affirmed this. The courts of law were prepared to order this into effect, as requested in a number of successful legal challenges by parents of handicapped children. So much so that in 1975 a public law was passed in the United

States (PL. No. 94-142) guaranteeing all handicapped children a free, appropriate public education in the least restrictive environment.⁹ In brief then, PL. 94-142 sought to ensure *all* handicapped children were placed in schools where they would receive education appropriate to their needs. Implicit in this provision of free and suitable education was the idea of "an individualized educational plan for each child."¹⁰

Such an awakening has begun to take place in Canada, though.

Canada has neither institutions at federal level, nor the American tradition of corrective action through the courts, to make sense or justice out of the present mixture of fragmentary and uncoordinated legislation.¹¹

Canada, it has to be remembered, has a different political structure from the United States. Under the old British North America Act of 1867, education was largely a provincial responsibility. Each province can have different educational policies. There is no provision for judicial intervention; and the supremacy of parliament rather than of the courts, is accepted. Treherne and Rawlyk lament this:

One of the constant observations which can be made when surveying Canadian legislation in the field, is the fragmentation of legislation both within each province and between provinces. In any given province, it is possible to find separate pieces of legislation dealing with the educational needs of handicapped students under the Department (or Ministries) of Education, of Health, or of Welfare.

In 1977 the Canadian Association of Children with Learning Disabilities advocated that the rights of *all* children should be set down in legislation. This would then automatically include the handicapped.¹² Section 15 of the Canadian Charter of Rights and Freedoms assured this. But, as the provinces retain their zealously guarded legislative power, educational provisions for the handicapped as a minority group will be a provincial government decision, as reflecting the wishes of the electorate. In the Saskatchewan School Act, such provision is mandatory; in Prince Edward Island's School Act, by contrast, it is not mentioned (though some provision is made for certain categories of handicap).

(b) *Public Attitudes*

Legislative changes then in Canada to effect full and free educational provision for the handicapped as a minority group, will depend more on the power of advocacy and not (as in the United States) on the judiciary. How strong is such advocacy today? Treherne and Rawlyk (1979) acknowledge it exists:

One of the relatively new factors which may well influence the effectiveness of advocacy groups in Canada is the increasing sophistication of their advocacy techniques.

Parents of the handicapped are no longer prepared to regard education for their children as anything other than a *right*, and they have learned much from the human rights movement. They are more prepared than ever to take their case into the political arena.

As these parents acquire more and more political "clout," provincial governments will move much more certainly towards *mandatory* special education legislation in this decade. In response to increasing parental and public pressures Bill 82 in Ontario (more properly an Act to amend the Education Act of 1974) is an excellent example of this. Some nineteen pilot school boards are working through all the provisions of the Bill in their own jurisdictions, a mandatory and comprehensive adoption of the Bill and its accompanying regulations for all boards being predicted by 1985.¹³

But not everyone agrees with these parents and their assertions. Especially is this so when it

comes to the question of normalization and costs involved for providing an individual educational plan for every particular pupil who has "behavioral, communicational, intellectual, and physical/multiple handicaps."¹⁴ In 1919, the Supreme Court in the United States ruled in a Wisconsin case that:

the rights of a child of school age to attend the public schools of the State cannot be insisted upon when this presence is harmful to the best interests of the school.¹⁵

What was of concern here was that a child with cerebral palsy produced a "depressing and nauseating effect on the teachers and school children."¹⁶ This may be an old case, but some such feeling may still linger on today. "The handicapped child in class may hold the normal child back" runs the argument. Zettel and Abesan (1978) are more explicit:

With minor exceptions, mankind's attitude towards its handicapped population can be characterized by overwhelming prejudice. The handicapped are systematically (desired) to be isolated from the mainstream of society. From ancient to modern times, the physically, mentally, or emotionally disabled have been alternatively viewed by the majority as dangers to be destroyed, as nuisances to be driven out, or as burdens to be confined. Treatment resulting from a tradition of isolation has been invariably unequal, and has operated to prejudice the interests of the handicapped as a minority group.

If some parents of normal children (the majority) feel that having handicapped children in the mainstream, i.e., with their children, slows down their children's education, so too do teachers. "Mainstreaming is ludicrous," said some of them.¹⁶ The fact that disabled children often need extra help, prosthetic or otherwise, so as to function optimally, exacerbates this feeling. These children may be perceived to be receiving more than their own normal children. Thus, cerebral palsied children might need to be taken swimming daily for coordination development. Deaf children might need interpreters in the classroom. Both categories require specialist teachers with more extensive training. Before long, provincial governments might well find themselves being pressured *not* to include minority groups in the public educational provisions so as to avoid creating attitudes of resentment.

(c) *The Economic Fact*

Most citizens would agree that if there is not enough money to go round, some reduction of services becomes essential, but what funds are available should be "expended equitably in such a manner that no child is entirely excluded from a publicly supported education consistent with his needs."¹⁷

The hard fact is that today, there is not enough money available as recession continues, both in Canada and (to a less extent) the United States. In February, 1982, the President of the United States submitted a proposed budget to Congress containing a recommendation that the current level of funding for special education be reduced by 36 percent. Prior to this, the President had also proposed the "consolidation" of all special education programmes. This neatly referred back to the individual States the question of how best to allocate federal funds. It suggests an American approximation to the Canadian system, and PL.94-142 may be in jeopardy.¹⁸

Discussion and Conclusion

The principle of minority denominational education is not new in Canada. It was given specific recognition in the matter of religion over a hundred years ago in Section 93 of the British North America Act. But the right to a complete educational equality, however much sought after, has not yet been achieved. Varying support for it still prevades the political arena, most particularly at

election times. "Policies of multiculturalism," says Dorotich (1981), "are primarily a political palliative designed to gain electoral support."

The provision of free, compulsory education for children over a prescribed number of years has long been a familiar facet of democracy as we know it. Parents should not be required to contribute to the cost of educating their child, whether normal or handicapped. From each citizen according to his means: to each child, according to his needs.

But prevailing social attitudes can affect educational provision. Placing handicapped children in the mainstream may be educationally most desirable; but regrettably it can also breed hostile attitudes in people. So can provision of French language education in majority English speaking societies - and vice versa. In short, destructive conflict can be created between majority and minority simply by trying to provide equitably for the minority. But it must also be observed that such conflict may also be generated if *no* attempt is made to provide equitable minority education.

Dorotich (1981) has stated, "true pluralistic societies are rare, and seem to have about them an aura of fear that pushes people to desire static, monistic and unitary existence." Certainly such societies exist with continual stress and tension. Northern Ireland in a religious sense, Sri Lanka and Belgium in a linguistic sense, are examples of this. We in Canada have our problems with only two official languages. One wonders how Yugoslavia or the Philippines survive with seven? Perhaps the answer is that static societies stagnate. Truly multicultural societies can pride themselves that civilization has progressed far enough in their case so that they can live, play, work together on a principle of "diversity in unity." They thus develop tolerance, that precious virtue which enables people to recognize, to accept, and to be willing to provide for individual differences. In this case, Canada is, in the words of John Diefenbaker, "a garden . . . into which have been transplanted the hardiest and brightest flowers from many lands, each retaining in its new environment the best of the qualities for which it was loved and prized in its native land."¹⁹ But there are also continuing irritants. The French versus the English language question in Manitoba is a case in point. Another is the exacerbation of feeling obviously manifested in the recent government apology to the Japanese Canadians for the treatment afforded them in World War II. Yet a third is the blocking of the Bill to end Indian Act discrimination by Inuit Senator Charlie Watt, 29 June, 1984. His argument was twofold: it would replace one form of discrimination by another; and the cost of reinstalling some 70,000 Indian women and children who had lost their status would impose a tremendous burden on the taxpayer. "Some Indian women were stunned and others relieved"²⁰

What happens at present to double-minority groups, e.g., French-speaking *and* handicapped in majority English areas (and conversely, of course, in majority French areas)? This writer sees encouraging signs in the development in the court system in Canada under the new Constitution. Parents of minority language groups, and parents of the handicapped are coming to realize how effective they can be as advocacy groups in shaping policies of government. More general awareness is apparent, as Sodhi's excellent review of myths in special education (1973) would suggest. Given a favorable political will to implement fully our Canadian Charter of Human Rights and Freedoms, and supported by changing public attitudes, the future for equality rights looks bright - always assuming a life-sustaining favorable economic climate also persists.

One might even go further. T.S. Eliot once said:

Cultures of people speaking different languages can be more or less closely related; and sometimes so closely related that we can speak of their having a common culture.²¹

Could this become true of tomorrow's Canada?

Notes

1. *Canadian News Facts*, 8 October, 1971.
2. Figures quoted from *Globe and Mail*, 30 June 1984.
3. *Canadian Charter of Rights and Freedoms*, Section 15.
4. *Globe and Mail*, 27 July, 1984.
5. *Canadian Charter of Rights and Freedoms*, Section 23.
6. J.E. Magnet, "The Canadian Constitution: implications for education." *The Canadian School Executive* (October, 1982).
7. c.f. M.A.. Ijaz and T.H. Ijaz. "We can change our children's racial attitudes." *Multiculturalism*, Vol V, No. 2, (1982) pp. 11-17.
8. R. Martin. *Educating handicapped children: the legal mandate*. (Champaign, III.: Research Press, 1979).
9. c.f. J.J. Zettel and A. Abeson. "Litigation, Law and the handicapped." *School Media Quarterly* (Summer, 1978).
10. J. Harvey. "Legislative intent and progress." *Journal of Exceptional Children* (January, 1978).
11. D. Traherne and S. Rawlyk. "Canadian legislative processes." *McGill Journal of Education*., XIV, No. 3 (Fall, 1979).
12. *Ibid*
13. D. Roy and V. D'Oyley (eds.). *Human Rights in Canadian Education* (1983) p. 122.
14. *Ibid*
15. D. Traherne and S. Rawlyk. "Canadian legislative processes." *McGill Journal of Education*, Vol. XIV, No. 3 (Fall, 1979).
16. J. Latcham. "Mainstreaming as nightmare." *Time Magazine* (16 June, 1980) p. 59.
17. J.J. Zettel and F.J. Weintraub. *PL. 94-142: Its origins and implications*
18. Newsounds. *Alexander Graham Bell Association for the Deaf*, Vol 7, No. 1. (January/February, 1982).
19. M. Wente. "I never say anything provocative." *Witticisms, Anecdotes and Reflections by Canada's most outspoken politician*. (Toronto: Peter Martin Associates, 1975).
20. *Globe and Mail*, 30 June, 1984.
21. T.S. Eliot. *Notes towards the definition of culture*. (London: Faber, 1948) p. 121.

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** Included, although not customary to do so, for instructional purposes given the new Canadian Constitution and its ramifications.