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18 May 2023

To: Senate Standing Committee on Human Rights

From: Dr. Dominique Clément, University of Alberta

Re.: Written submission following testimony on 15 May 2023 for the Committee's study on Anti-Black Racism, Sexism and Systemic Discrimination in the Canadian Human Rights Commission.

Response to Senator David M. Arnott:

Senator Arnott's question: "Do you think that this study that we have embarked on has exposed a large issue here and that we need to do a robust review of the human rights mechanisms in this country based on chronic under funding, non-universal protected rights in this country and the delays that were unbelievably exceptional and outrageous actually? Should we be looking at that as a separate study based on what we heard here and not take away from what our work is? That's my question. We need to have a review of this whole system."

I agree that the Senate's current study has exposed a significant flaw in our human rights legal system, albeit practitioners have been aware of these flaws for many years. We desperately need a robust review of human rights law – the whole system, as you indicate - and institutions in Canada. I also agree that it should be a separate study that engages with a broader review of human rights institutions (delays, in particular, are profoundly concerning and a substantial obstacle to the effective functioning of human rights institutions). Further investigations into human rights law and institutions would be of immense benefit to Canadians. I apologize if my response during the hearings did not directly address your question. In emphasizing the paucity of expertise on this topic, including the lack of scholarship, I intended to imply support for your recommendation. I am unaware of any current research initiative that might address the lack of evidence/research that has been highlighted during the Committee's hearings.

Response to Senator Wanda Thomas Bernard:

I am - unexpectedly - unable to share our research on the Alberta Human Rights Commission and the processing of cases involving racial discrimination *at this time*. I contacted my community partner, the John Humphrey Centre for Peace and Human Rights (JHC - Edmonton), to share their research with the Senate Standing Committee on Human Rights. The JHC had planned a public workshop on 19 May 2023 – in collaboration with the Alberta Human Rights Commission – to share their findings. Due to the current provincial election, however, the Commission recently informed the JHC that they were unable to participate in the workshop, which will be rescheduled in June. I can provide information on the public workshop when it is rescheduled and, at that time, share their findings as they relate to your questions on racial discrimination and human rights institutions in Canada.

I have attached a copy of the JHC's February 2023 report on the Canadian Human Rights Commission. It does not, regrettably, include any substantive information on racial discrimination or content that directly relates to the Committee's study on anti-black racism within the CHRC. It does, though, provide insights on the challenges facing vulnerable and marginalized populations in the federal complaints process (pp.30-1), including the lack of legal representation and language barriers; costs associated with the Tribunal process; inaccessible rules of procedure; and the risks of non-legal/self-representation. The report also notes barriers to working with the federal human rights system (pp.5-7) including incidences of retraumatizing individuals through the complaints process; lack of awareness of the system; lack of resources to file complaints; and the need for more education.

As it happens, the JHC has been planning to approach you in the coming months in the hopes that you might consider accepting an invitation to be the keynote speaker at their conference in December 2023. The conference marks the 75th anniversary of the Universal Declaration of Human Rights and the 50th anniversary of the Alberta Human Rights Commission. It would be an honour for the organization to have you contribute to the conference. This gathering of human rights practitioners would be an opportunity to speak to the issues raised during the hearings of the Senate Standing Committee on Human Rights. More importantly, it would be an ideal opportunity to encourage leaders in this area to focus their efforts on the specific issue of anti-black systemic racism in Canada.

Finally, I might use this opportunity to clarify one of my comments. When I indicated that: "What I do recall from my notes, from having reviewed them in preparation for today, was being surprised that the issue was not raised. It wasn't raised by the experts in the group, and it wasn't raised by the people leading the conversation." I was speaking specifically about anti-black systemic racism. The general issue of racial discrimination was raised during that meeting. [The meeting took place in 2015. A group of five experts addressed questions posed by the incoming Chief Commissioner on future directions for the CHRC. One member discussed racial discrimination in detail, but not specifically on anti-black racism.]