

Sober Second Thought:

The United Nations and the Phrase 'Visible Minority'
The Implication of the Whorfian Hypothesis for Human Rights

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GLOBUS Conference, June 8th, 2007

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Introduction

On March 8, 2007, the Canadian media carried a news item that many might have found odd – that a widely used Canadian term was considered racist by the United Nations. Steven Edwards wrote in the *Ottawa Citizen*:

“Canada's use of the term "visible minorities" to identify people it considers susceptible to racial discrimination came under fire at the United Nations yesterday — for being racist.”¹

Canadians may rightly be confused and frustrated with this news, given that most citizens feel that they live in one of the most equitable societies in the world. The *United Nations Committee on the Elimination of Racial Discrimination* found problematic the phrase ‘visible minorities’ as defined in the *Employment Equity Act, 1995*. This Federal Act was adopted by Parliament with the intention to help under-represented peoples gain entry into the federal civil service and to be treated the same for tenure and promotion. Despite the good intentions of this particular Act, governments must be careful how they construct legislative terms such as ‘visible minority.’ As the theory on linguistic relativity put forward by Benjamin Lee Whorf demonstrates, even words that are designed with neutral or good intention may, in fact gain a negative application or effect which can lead to negative consequences. As a legislator who has been involved in this debate since the *Employment Equity Act* was tabled in 1995, the United Nations’ finding has been a long time in the making.

The term ‘visible minority’ was in essence a Canadian invention, although it has been infrequently used in the United Kingdom. It has become

¹ Steven Edwards, 2007, *The Ottawa Citizen*, “UN labels anti-racism language as racist: 'Visible minorities,' other Canadian terms run afoul of watchdog” March 8, 2007.

part of not only our judicial lexicon, but it has gained currency in general parlance. In this context it is important to define exactly what is meant by the term ‘visible minority,’ this can most effectively be done by consulting the various *Acts* of the Canadian Parliament which have sought to employ the term. Quite simply the term refers to: “persons who are because of their race or colour, in a *visible minority* in Canada.”² A rather imprecise and loose definition that introduces the discredited notion of *race*, yet a term that has come to be widely used throughout the country, well beyond government circles.

Under *Article 9* of the *International Convention on the Elimination of All Forms of Racial Discrimination*, state parties to the *Convention* are required to submit periodic reports to the *Committee on the Elimination of Racial Discrimination*. What did this Committee of the United Nations actually say about the term ‘visible minority’? On March 5, 2007, the Committee in considering Canada’s seventeenth and eighteenth periodic reports concluded that the Canadian government’s use of the term ‘visible minorities’ may not be in accordance with the *Convention*:

“13. While noting the position of the State party according to which the use of the term “visible minorities” is specific to the Employment Equity Act and is not used for the purpose of defining racial discrimination, the Committee notes that the term is widely used in official documents of the State party, including the census. The Committee is concerned that the use of the term “visible minorities” may not be in accordance with the aims and objectives of the *Convention* (article 1).

The Committee recommends that the State party reflect further, in line with article 1, paragraph 1 of the

² *Revised Statutes of Canada*, “An Act Respecting Employment Equity, 1986” emphasis author’s

Convention, on the implications of the use of the term “visible minorities” in referring to ‘persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour’ (Employment Equity Act, 1995)”³

Article 1 of the *Convention on the Elimination of all Forms of Racial Discrimination* defines ‘racial discrimination’ as:

“...any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”⁴

It is clear from the United Nations report that the Committee is concerned that the term ‘visible minorities’ may in some way have the effect of increasing discrimination, based on its definition and how it is applied as a concept. The country rapporteur commented, ‘‘It seemed to suggest that whiteness was a standard, white people being invisible and others visible, in spite of the delegation’s assertion that the scope of the term was limited.’’⁵

That the Committee did not, however, explicitly state that the term was in violation of *Article 1*, and that the recommendation suggested further reflection upon its usage in place of totally prohibiting it, reveals the lack of

³ United Nations Committee on the Elimination of Racial Discrimination, Seventieth session, 19 February – 9 March 2007, Consideration of Reports Submitted by States Parties Under Article 9 of the Convention, Canada.

⁴ International Convention on the Elimination of Racial Discrimination, 21st December, 1965, 1980; emphasis author’s

⁵ Meeting of the United Nations Committee on the Elimination of Racial Discrimination; 28 February 2007; Para. 50.

clarity around the term's actual meaning. By examining the term 'visible minorities' in both a linguistic and historical context, as well as the manner in which it is officially used, the basis of the UN Committee's concern will become clear. We can also come to better understand the stigma that has come to be attached to this term.

Parliamentary Debate on Bill, *the Employment Equity Act, 1995*

That the definition of the term 'visible minority' in *The Employment Equity Act of 1995* - would eventually be called into question under the *International Convention on the Elimination of All Forms of Racial Discrimination*, should be no surprise to those who followed the debate surrounding the *Act's* passage through Parliament. The preamble of the *Act* states that the purpose is to:

“achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfillment of that goal, to correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.”⁶

However, good intentions based on flawed premises only make for faulty public policy.

From the moment this legislation arrived in the Senate of Canada until its passage, it was argued that the definition of 'visible minority' was poorly

⁶ Revised Statutes of Canada, *Employment Equity Act of 1995* s.2

drafted.⁷ The definition of ‘visible minority’ in the *Act* is based on an outdated notion of *race*. While widely understood as a historical concept and as a political construct, *race* has been thoroughly discredited as a scientific concept. In 1952, UNESCO released an exhaustive study *The Race Concept: Results of an Inquiry*. This report, based on the debate around a statement on the issue in 1950, concluded that there was no scientific basis for the concept of *race*.⁸ The differences between groups of people were so miniscule in light of their similarities, that there was only one *race* – *homo sapiens*. This conclusion would ultimately be verified decades later by the Human Genome Project, which in mapping the human genome found that human beings were 98% identical at the genetic level. The concept of *races* as a means of division is ultimately a political, not a scientific, construct.

On December 13, 1995, it was observed in the Senate of Canada during the Third Reading Debate on the Employment Equity Bill:

“Part of the poor work on drafting this bill relates to one of the problems that was identified, namely, the definition of “visible minorities” in that act. This could have been obviated had the government done what it has been promising it would do for the past two years – that is, set up the Race Relations Foundation... Here is an example where the government could have used the expert knowledge of people who would have been working with the Race Relations Foundation. Such experts could have helped the government understand in contemporary terms why race is not accepted in any quarter as a scientific concept, and why it was so offensive to see “race” as part of the definition of “visible minorities”. Then, of course, there is the absurdity, in my judgment, of the definition of “la race blanche” in the French text.”⁹

⁷ The Senate of Canada, *Debates*, 13 December 1995, p. 2495. (Kinsella).

⁸ UNESCO, 1952

⁹ The Senate of Canada, *Debates*, 13 December 1995, p. 2495. (Kinsella).

The definition of the term ‘visible minority’ was the fundamental flaw contained in the *Act* that was identified in the 1995 Senate debate. When this flaw was identified and the *Act* was referred the *Senate Standing Committee on Social Affairs, Science, and Technology* for a second time, the Minister of Human Resources Development committed to devising a new definition of ‘visible minorities’ in consultation with Senators, the Department of Canadian Heritage, groups representing visible minorities and covered employers. This never happened. The *Act* received Royal Assent, and until the UN’s report, was never thought of by the government again. Without a new definition of ‘visible minority’ the issue was left to simmer in the background until the UN report was released.

Language evolves

The occurrence of language transforming from its original meaning to another, or of a particular word’s definition gradually adopting an alternate meaning when used in a certain context, happens frequently. One can attribute such shifts in meaning to certain initiatives deliberately designed to reflect new cultural sensitivities, or changes in value systems. Such endeavours are often intended to correct terminology or expressions that are no longer deemed acceptable or appropriate; or worse, ones that are deemed destructive and harmful. It is from this perspective that the UN Committee recommended Canada review the term ‘visible minorities’ and its applications.

Such deliberate actions, however, are not the only causes for such shifts in the use of language. Terms and expressions that such directed initiatives aim to change are often ones that have gained a certain negative stigma of their own by nature of their use, and the intentions of their users – both of which are subject to change over time. That the veracity of a term contained in an *Act* designed to regulate inequitable practices, can be called into question under allegations of possibly contributing to the practices the *Act* was designed to correct, raises a pertinent question: ***How does an expression become controversial and suspect of discrimination, especially when it is the central definition in a statute designed to protect against, and correct, discriminatory inequities?***

Concerns such as these lead one to carefully reflect upon the nature of language itself; how it is perceived, how it affects the perception of those who use it, and what its limitations are. How does language adopt certain stigmas, and what power do people have to influence the way in which such meanings are adopted? Moreover, what influence does language have on how individuals or societies understand themselves? To explore these ideas further with respect to the credibility of the term ‘visible minorities,’ and its implications, careful examination of one influential linguistics theory is of assistance.

Benjamin Lee Whorf was a Yale educated linguist who wrote extensively in the decade prior to the Second World War. Although he would go on to publish many works and greatly advance the study of

linguistics, his most significant contribution to the field was his article ‘Linguistic Relativity Principle.’¹⁰

To a great extent, Whorf’s study of linguistics focused on analyzing and comparing the familiar grammar of several European languages with the relatively exotic grammar of several unfamiliar languages, such as the Hopi language.¹¹ Through his studies, he concluded that:

“The automatic, involuntary patterns of language are not the same for all men but are specific for each language and constitute the formalized side of the language, or its “grammar”---a term that includes much more than the grammar we learned in the textbooks of our school days.”¹²

In order to understand what Whorf means in the above passage, one must consider what he means by a language’s ‘grammar.’ For Whorf, every language has as its fundamental base an underlying grammatical structure. Although each language has such a structure, not all languages share the same structure as their base. For example, and using Whorf’s terminology, languages in the western tradition typically deriving their roots from Latin and Greek, belong to the language group he calls “Standard Average European,[SAE].” Languages, such as French, German, Greek, etc., though different in surface ways, such as sound, spelling, pronunciation and even alphabet, are not fundamentally different with respect to their underlying structural ‘grammar’. This is to say that a natural relation exists between them based on their common underlying structure. Each language that shares

¹⁰ Benjamin Lee Whorf, *Language, Thought and Reality: Selected Writings of Benjamin Lee Whorf*, “Linguistics as an Exact Science,” (Boston: Massachusetts Institute of Technology Press, 1956), p. 221

¹¹ An Uto-Aztecan language spoken primarily in what is modern day Arizona.

¹² Benjamin Lee Whorf, *Language, Thought and Reality: Selected Writings of Benjamin Lee Whorf*, “Linguistics as an Exact Science,” (Boston: Massachusetts Institute of Technology Press, 1956), p. 221.

the same underlying ‘grammar’ may vary within its fundamental structure and have subtle unique characteristics that distinguish it from others in the same group. Languages that are built upon different underlying ‘grammatical’ structures are fundamentally different and do not share the same grammatical characteristics.

In his paper, entitled “The Relation of Habitual Thought and Behaviour to Language,” Whorf assesses how these differences are manifest between SAE languages and Hopi. By comparing how each underlying grammatical structure provides for the understanding, and expression of reality, Whorf concludes that “concepts of ‘time’ and ‘matter’ ...depend upon the nature of the language through the use of which they have been developed, [and that] ...there is a relation between language and the rest of the culture of the society which uses it.” This relation lies “between the kind of linguistic analyses employed and various behavioural reactions and also the shapes taken by various cultural developments.”¹³ Essentially, Whorf concludes that one’s perception of reality is influenced by the tendencies imposed by the underlying structures of the language that he or she speaks.

With respect to the usage of the term ‘visible minorities,’ the interaction between language and culture hinges upon cultural developments, the relation between how people understand the language they use, and the influence this understanding has on their actions. In a certain sense, the meaning of language is dependent on how it is understood by those who use it, and how it actually relates to the content that it is

¹³ Benjamin Lee Whorf, *Language, Thought and Reality: Selected Writings of Benjamin Lee Whorf*, “The Relation of Habitual Thought and Behaviour to Language,” (Boston: Massachusetts Institute of Technology Press, 1956), p. 148.

attempting to define. The implication this has on the behaviour of people was best expressed by Whorf's theory that "people act about situations in ways which are like the ways they talk about them."¹⁴

With this linguistic concept in mind, we are faced with questions about the effect of Whorf's 'Principle of Linguistic Relativity' and their implications on the stigma that has become attached to the term 'visible minority.' A discussion of the cultural evolution of the term is of assistance in answering these questions.

The Abella Commission

The first official use in Canada of the term 'visible minority,' was made by Rosalie Abella (now a member of the Supreme Court of Canada) in the *Royal Commission on Equality in Employment Report* released in 1984. She identified visible minorities as one of four groups that were under-represented in the federal workplace, the others being women, aboriginal people, and persons with disabilities.¹⁵ As a result of the Royal Commission, the term 'visible minority' became part of the 1986 *Employment Equity Act*. Interestingly the term is not contained in a stand alone definition, but appears in the definition of 'designated groups';

"women, aboriginal peoples, persons with disabilities and persons who are because of their race or colour, in a visible minority in Canada."¹⁶

One of Canada's most significant social justice developments is the policy of multiculturalism. The Government of Canada recognized the

¹⁴ *Ibid.*

¹⁵ *Report of the Royal Commission on Equality in Employment*, (Ottawa: Queen's Printer, 1984).

¹⁶ *Revised Statutes of Canada*, "An Act Respecting Employment Equity, 1986" emphasis author's

immense value of these rich traditions in the *Multiculturalism Act, 1988*, and sought through it to maintain a harmonious societal balance so that “all members of Canadian society [can] preserve, enhance and share their cultural tradition.”¹⁷ One of the cornerstones of any open and democratic society is striking the appropriate balance between liberty and equality, and designing institutions that permeate this balance throughout society. For this reason the *Multiculturalism Act* states that the Government of Canada will:

“promote the full and equitable participation of individuals and communities of all origins in the continuing evolution and shaping of all aspects of Canadian society and assist them in the elimination of any barrier to that participation;”

It is clear, then, that *the Employment Equity Act, 1986*, was a result of both the *Royal Commission Report* and the government’s multiculturalism programmes. These initiatives expressed the formal desire of the Canadian government to provide its citizens with an equitable public service, free from discrimination and based fundamentally on ability and fairness.

Within the Whorfian context, how can the stigma that has developed around the term ‘visible minorities’ be accounted for? This naturally leads to another question, namely, what is the relation between Canada’s social makeup and how Whorf’s theory would account for usage of the term in these circumstances.

The UN Committee found that use of the term ‘visible minorities’ extended beyond the boundaries that the Canadian government claimed it

¹⁷Revised Statutes of Canada, “*Multiculturalism Act, 1988*” http://laws.justice.gc.ca/en/showdoc/cs/C-18.7/bo-ga:s_3/en#anchorbo-ga:s_3

did. Indeed it appeared in government documents, the census and has worked its way into general parlance.

It was inevitable that the term would escape the confines of the *Employment Equity Act*. If the *Act* attempts to define ‘visible minorities’ in the context of the amelioration of under-representation in the Federal public service, then we must theoretically know what ‘visible minorities’ are in the country and their proportion of the population. This is the main reason that various census reports came to use the term. With this other government departments and agencies also began to use it as well. Thus it is impossible, for the term ‘visible minorities’ to be contained to just the *Employment Equity Act* as other government functions are required to facilitate the goals of the *Act* itself.

Conclusion

The credibility of the term ‘visible minorities’ has been damaged as a result of its presentation in the media after the UN Committee’s recommendation. This loss of credibility has tainted the actual meaning of the term, its purpose and use in the *Employment Equity Act*. Whorf’s notion that the relation between language and culture hinges upon certain cultural developments that impact how people perceive the language they use, and, in turn, their behaviour, helps to understand the stigma that currently surrounds the term ‘visible minorities.’ Having analyzed the socio-cultural developments that resulted in the stigma surrounding the term ‘visible minorities’ allows us to better understand certain important questions about the nature of language, its use and meaning: Certainly a valuable lesson is

the need for the inclusion of sound definitions in legislation, one that illustrates the importance of language not only in the law, but in public parlance and how it evolves over even short periods of time when not properly delineated.

Parliament ought to amend the definition of the term ‘visible minorities’ as defined in the *Employment Equity Act*. The government should better regulate the use of the phrase ‘visible minorities’ along the lines suggested by the Senate of Canada in 1995. It has taken a UN report and the passage of more than a decade for this problem to be taken seriously. This delay may have had the effect of irreparably damaging the term ‘visible minorities.’ Since the introduction of the *Act* various groups have brought forward concerns about the use of the term; their grievances are now supported in part by the UN report. Furthermore the sensational way in which the media covered the findings of the UN report has certainly affected the way in which the term is used; as Whorf’s theory demonstrates a once positive term has attained negative connotations, in this instance because a substandard definition of the term ‘visible minority’ was enacted in statute law.

The UN Committee examined the term ‘visible minorities’ because it was poorly defined in the legislation, and fully revealed the incongruity between what was said about the term and how it was understood. At a very early stage Parliament and the federal government realized that the definition was insufficient, nevertheless the executive failed to act on this. The failure to work with stakeholders to develop a new definition of the term was the root of the problem herein. The stigma attached to the term ‘visible

minorities' was further exacerbated by the UN report. The Whorfian theory might explain that the negative connotations resulting from the publicity received by the term caused the stigma to become greatly enhanced.

Naturally then, the stigma transformed into a sentiment of resentment on behalf of some parties to whom the term was originally applied. This in spite of the fact that the term was designed to help grant equitable opportunity of employment to the same groups through specific legislation. Thus, the UN Committee merely pointed out a problem recognized in the chamber of sober second albeit more than a decade ago.