

CONSULTATION ON RACIAL PROFILING AND ITS CONSEQUENCES

– BACKGROUND AND ACTION DOCUMENT –

1. Background

Profiling is one of the many facets of discrimination, which acts as barriers to the full participation of racialized¹ minorities in Québec society. Several studies have demonstrated the existence of systemic discriminatory mechanisms that act as obstacles to the social and economic integration of people from racialized minorities, especially in connection with the labour market,² housing,³ and education⁴.

These studies confirm the opinion, repeatedly expressed by racialized communities, that their members are unable to participate fully and on an equal footing in the development of society. These limits placed on the future prospects of the members of racialized groups, whether real or perceived, reinforce their feeling of alienation and increase their mistrust of public institutions contributing to the phenomenon of social marginalization of young people such as dropping out of school or displaying certain types of antisocial behaviour. Thus, it is possible to observe the development of a vicious circle in which the reaction of individuals to the experience of racism and discrimination, in particular in the form of racial profiling, feeds the same type of prejudice that caused the initial problem.

The Commission must intervene to attempt to break this vicious circle and promote the full and complete participation in society of the members of racialized communities. For this reason, it has decided to hold a public Consultation on racial profiling and its consequences.

2. What is racial profiling?

Racial profiling refers to any action undertaken by a person in a situation of authority, who applies a measure – without reasonable justification or in a disproportionate way – to certain segments of the population because of their race and ethnicity.

Racial profiling may occur:

- § in the field of public security;
- § in the court system;
- § in public institutions that must maintain a level of discipline (schools, youth centres, etc.);
- § in situations involving security personnel (private agencies, doormen, security guards, etc.);
- § during criminal record checks;
- § in situations involving service providers to the general public (stores, bars, etc.).

3. Why a Consultation focusing specifically on racial profiling?

In all societies, discrimination can only be countered effectively if the majority group is aware of the prejudices and stereotypes that affect minority groups. It is never easy however to achieve this. Preconceived notions about “others” offer a certain comfort level and can lead members of the majority group to believe in them implicitly, and often unconsciously. As a result, members of the majority group frequently deny the existence of discrimination, and resist the introduction of compulsory measures to reduce and prevent discrimination. These attitudes of denial and resistance only increase the mistrust of the victimized communities.

This being said, in recent years, the discrimination encountered by members of the racialized communities in their social and professional integration has been increasingly acknowledged by public institutions and the general public.

However, racial profiling is still an emerging element in the public discourse, and is not widely recognized by the general public. At the same time, it continues to undermine the confidence of certain racialized communities in public institutions, including the Commission.

Members of racialized communities who are victims of profiling too often feel that they are not treated as full citizens. They come to believe that, whatever their achievements or success, they will always be considered as foreigners.

Even if racial profiling is only perceived, it can have serious consequences in terms of its effect on young people in racialized communities, when the goal is to integrate them into the French-speaking majority. Their mistrust of public institutions promotes a feeling of alienation that, as a natural consequence, undermines their sense of belonging.

4. The existence of racial profiling

The Commission does not intend to redo research conducted in Québec and elsewhere by various groups and researchers in recent years on racial profiling. These studies offer enough evidence and data to support the hypothesis that racial profiling is a reality. (See Appendix)

In addition, during preparatory meetings leading to this Consultation, the Commission noted that racial profiling is a reality, whether real or perceived, for the racialized communities. The social impact of this “perception” alone justifies by itself the public consultation.

Since 2005, the Commission has received approximately 100 complaints of racial profiling. About ten cases involving racial profiling by police are currently before the *Tribunal des droits de la personne*, but procedural objections raised by the opposing party are delaying the settlement of these cases.

For the first time in 2008-2009, complaints of discrimination on the grounds of race, colour, and ethnic or national origin represented the largest number of complaints filed with the Commission. They made up more than a quarter of all the complaints received last year.

5. Terms of reference of the Consultation

The Commission is holding its public Consultation on racial profiling under section 71 of the *Québec Charter of Rights and Freedoms*, which empowers it to receive suggestions and recommendations made by individuals and groups and to invite them to present their views publicly, with a view to making the appropriate recommendations to the Government.

The Commission considers that it is in the public interest to hold a Consultation in order to:

- a. raise public awareness about the consequences and social costs of racial profiling; and
- b. promote the establishment of long-term solutions to combat racial profiling and its consequences.

To achieve this goal, the Commission wants to give victims of racial profiling an opportunity to be heard. It wants to document the personal and community impacts of profiling and to identify solutions, with its community and institutional partners, to break the cycle of prejudice and negative attitudes underlying this form of discrimination.

6. What is the objective of the Consultation?

One of the main obstacles in the fight against discrimination based on racial profiling is an unwillingness to talk openly about it. As a result, the Commission wants to promote a frank, open dialogue between the

individuals and groups representing victims of racial profiling and the representatives of the institutions involved in such practices. It also wants to help institutions recognize the existence of racial profiling, in order to support their actions to address this problem. The goal of the Commission is therefore to inform and educate the majority, as well as recommending and facilitating the implementation of corrective measures.

7. The target group: young people from racialized communities

The Commission wants to reach young people aged 14 to 25 living in an urban setting as part of its community consultations. Studies have shown that this group is particularly at risk of being subjected to racial profiling by the representatives of public institutions in a situation of authority (for example, police officers, teachers, people working in social services, etc.). Incidents of profiling that occur on the street, in schools, in the justice system or in the youth protection system, may compromise the future prospects of the young people involved and, more generally, give them the impression that, whatever they do, their treatment at the hands of the representatives of public institutions will always be based on their membership of a racial group.

8. Young Aboriginal Peoples

The Commission recognizes that the racial, cultural, economic, educational and social disadvantages faced by Aboriginal peoples are beyond the scope of this project.

Many of the problems facing Aboriginal peoples are the result of several centuries of alienation and discriminatory policies. Even today, they suffer the consequences of these policies, which cannot be disregarded. For example, the existence of "reservations" and land claims can be the source of tensions and attract the attention of the authorities to the actions of Aboriginal peoples.

Although the problems faced by Aboriginal peoples far exceed the consultation framework, the Commission will collect submissions from Aboriginal peoples.

9. Target sectors

Apart from home, most of the socialization of young people occurs in school. Young people from racialized communities often face difficulties, whether in terms of educational success and progress or the application of rules of conduct that stem from various forms of profiling. **Schools** are therefore a target sector for the Consultation process.

Young people are among the most frequent users of **public spaces**. In parks, shopping malls and other public places, youth from racialized communities run the greatest risk of being subjected to racial profiling. Their experiences in such public places are also a target sector of the Commission's Consultation.

Finally, young people can be reported by a school, police force or other social actors as requiring protection on the grounds that their security or development is threatened (behavioural difficulties, victims of abuse or neglect, etc.). They can fall victim to profiling when the initial report is made, or when decisions and measures are implemented by various actors in the child and youth protection system. The third target sector is therefore the child and **youth protection system**.

10. The Consultation process

- a. Young people, parents, community organizations, researchers, public bodies and decision-makers will all have an opportunity to be heard during the Consultation process. First, young people aged 14 to 25 will be asked to speak about their experiences of racial profiling, and share their analysis. The Commission is looking for submissions that demonstrate the impact of profiling on their lives and their communities.

- b. Participants can contact the Commission directly by Internet, phone or mail, between mid-September and November 30, 2009. All submissions will be kept confidential, but the Commission will ask some youth who want to share their experiences to testify at the public hearings scheduled for the spring of 2010.
- c. Throughout the fall, the Commission will hold meetings with young people from racialized groups, community groups, human rights organizations and recreational associations to gather testimony about profiling incidents.
- d. In January 2010, the Commission will publish a Consultation document, based on the submissions it will have received and existing research, outlining the problem of racial profiling and the related social issues.
- e. The Commission will not publish all the submissions it receives, but will select credible, representative and significant excerpts to illustrate racial profiling incidents and their impact.
- f. In the spring of 2010, young people, community leaders, and representatives from public institutions, schools, the judiciary and the youth protection system will be asked to take part in a series of public hearings that will focus primarily on solutions to the main problems identified in the Consultation document.
- g. The Commission will produce a report and make recommendations before the end of 2010, and will publicize them widely.

11. The Commission's commitments

a. The Commission will speak openly and constructively about racism with organizations and institutions

Ignoring the problems of racism and racial profiling will not make them go away: silence only exacerbates existing tensions. As a result, the Commission intends to encourage public institutions to recognize the existence of racial profiling and to support the implementation of measures to counter this problem.

The Commission will also critically assess its own actions in the area of racial profiling. While necessary, the complaints process is of limited use in dealing with the social context which is the source of the problem. It is important to examine the various structural mechanisms that allow racial profiling to exist and to endure. In addition, research findings and recommendations, when not supported by ongoing public education efforts, are often ineffective because they do not lead to concrete institutional changes.

b. The Commission will give victims of racial profiling an opportunity to be heard

It is time to offer members of racialized communities who, for too long, have expressed their concerns about racial profiling, an official forum to share their views. The Commission wants to begin as constructive a dialogue as possible to address those concerns. The victims of discrimination and profiling must be heard. The goal is not simply to re-establish, but also to strengthen trust between racialized communities and public institutions.

c. The Commission will give public institutions and community organizations an opportunity to be heard and to propose their solutions

Racial profiling, like all other forms of discrimination, cannot be tolerated.

The Commission will highlight some of the measures that can be instituted to eliminate the problem. Its goal is not to offer an exhaustive list of best practices to combat racial profiling, but rather to identify a number of promising solutions. The Commission believes that it is essential to hear from people currently looking for permanent responses in community organizations and public institutions, in order to compare in a public setting, the solutions they envision and the expected outcomes.

d. The Commission is committed to continuing its fight against racial profiling

Racial profiling generates increased mistrust of all forms of authority. Among racialized groups, it is not uncommon to find a belief that complaints of discrimination made to institutions like the Commission, police ethics committees, the courts, etc., are not taken seriously or, worse, are not dealt with properly.

As a result, the Commission reiterates its intention to continue its fight against racial profiling and racial discrimination, even after the Consultation process has ended. It will step up its efforts to report, and prosecute as necessary, any institution that encourages or even tolerates racial profiling in its operations. The Commission undertakes to work with community groups to continue to raise public awareness about the pernicious effects of discrimination and racial profiling.

September 2009

ENDNOTES

- ¹ A note about wording: The notion of “race” is not based on scientific reality. Races, and the qualities associated with them, result from social processes that tend to establish differences between groups that can never be established objectively. The Commission, like others, uses the expression “racialized group” to reflect the fact that this is an imposed reality, since the expressions “racial minority”, “visible minority” and “persons of colour” tend to perpetuate the marginalization of certain groups.
- ² Développement Social, 2000; James L. Torczyner and Sharon Springer, *The Evolution of the Black Community of Montreal: Change and Challenge*, McGill Consortium for Ethnicity and Strategic Social Planning, October 2001; Jean Renaud, Victor Piché et Jean-François Godin, “L’origine nationale et l’insertion économique des immigrants au cours de leurs dix premières années”, (2003), 35(1) *Sociologie et sociétés*, 165; Maryse Potvin, “Racisme et discrimination au Québec : réflexion critique et prospective sur la recherche”, in J. Renaud, A. Germain and X. Leloup (ed.), *Racisme et discrimination. Permanence et résurgence d’un phénomène inavouable*, Presses de l’Université Laval, 180.
- ³ Alberte Ledoyen, *Le regard des propriétaires sur les demandeurs de logement. Étude exploratoire sur les perceptions et les attitudes des petits propriétaires envers les clientèles des minorités ethnoculturelles* (Projet du volet 2 d’Immigration et Métropoles), Commission des droits de la personne et des droits de la jeunesse, 2001; Centre for Equality Rights in Accommodation, *Measuring Discrimination in Toronto’s Housing Rental Market*, July 2009.
- ⁴ McAndrew, Marie and Jacques Ledent, *La réussite scolaire des jeunes des communautés noires au secondaire*, Publication Immigration Métropole n° 26, September 2005.

APPENDIX - REFERENCE DOCUMENTS

1. GENERAL REFERENCE DOCUMENTS

Québec

- § COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Prouver le profilage racial: perspectives pour un recours civil*, M^e Michèle Turenne, (Cat. 2.120-1.26) 2006
http://prouver_profilage_racial_recours_civil
- § COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Le Profilage racial: mise en contexte et définition*, M^e Michèle Turenne, (Cat. 2.120-1.25) 2005
http://profilage_racial_definition

2. REPORTS AND PUBLIC CONSULTATION DOCUMENTS

Québec

- § COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Mémoire sur le document de consultation « Vers une politique gouvernementale de lutte contre le racisme et la discrimination »* (mémoire commentant le document : Vers une politique gouvernementale de lutte contre le racisme et la discrimination, MICC, Juin 2006), Cat. 2.120-1.28, Août 2006
http://racisme_memoire_consultation_2006
- § *Vers une politique gouvernementale de lutte contre le racisme et la discrimination*, MICC, Juin 2006
<http://Consultation-Politique-Lutte-Racisme>
- § *Rapport du Groupe de travail sur la pleine participation à la société québécoise des communautés noires Présenté à Mme Lise Thériault, ministre de l'Immigration et des Communautés culturelles* Mars 2006, pages 22-27 reproduites
<http://CommunautesNoires-RapportGroupeTravail-fr>

Elsewhere in Canada

- § COMMISSION ONTARIENNE DES DROITS DE LA PERSONNE, *Un prix trop élevé : les coûts humains du profilage racial – Rapport d'enquête*, 2003
<http://FRHumanCostRacialProfiling>
- § *Rapport de la Commission sur le racisme systémique dans le système de justice pénale en Ontario* Toronto, Imprimeur de la Reine pour l'Ontario, 1995, (coprésidents : D. COLE et M. GITTENS)

3. JUSTICE, YOUTH AND POLICE, YOUTH AND SCHOOLS

Québec

- § Leonel BERNARD, Christopher McALL, *Jeunes, police et système de justice – La surreprésentation des jeunes Noirs montréalais*, présentation de résultats de recherche, Centre de recherche de Montréal sur les inégalités sociales, les discriminations et les pratiques alternatives de citoyenneté (CREMIS), Centre affilié universitaire CSSS Jeanne-Mance, Montréal 19 mars 2009
http://Jeunes_et_la_police_2009_03_31
- § Marie McANDREW, M. POTVIN et F. KANOUTÉ, *L'éducation antiraciste en milieu scolaire francophone à Montréal : diagnostic et prospectives*, Chaire d'études ethniques de l'Université de Montréal, 2006.
<http://www.ceetum.umontreal.ca/pdf/3%20%20rapport%20final%20%C3%A9ducation%20antiraciste.pdf>

- § TABLE PROVINCIALE DE CONCERTATION SUR LA VIOLENCE, LES JEUNES ET LE MILIEU SCOLAIRE, *Présence policière dans les établissements d'enseignement. Cadre de référence*, 2005.
<http://Presencepoliciere>

Elsewhere in Canada

- § CURLING, Alvin, McMURTY, Roy. *Examen des causes de la violence chez les jeunes, volume 1 résultats, analyse et conclusions*, Gouvernement de l'Ontario, 2008.
<http://rootsofjuvenileviolence french reports Volume1>
- § Ken BHATTACHARJEE, *La Loi sur la sécurité dans les écoles* de l'Ontario : Discipline et discrimination dans les écoles, Commission ontarienne des droits de la personne, 8 juillet 2003
<http://SafeSchoolsConsultReport>
- § Scot WORTLEY, "The Good, the Bad and the Profiled: Race, Deviant Activity and Police Stop and Search Practices", Centre of Criminology, University of Toronto, Annual Woodsworth College Public Lecture, November 7, 2002. Dans cette étude, on observe que les jeunes Noirs fréquentant les écoles secondaires de Toronto, pour un taux de déviance analogue à ceux des Blancs, sont beaucoup plus susceptibles d'être interpellés par la police que les Blancs.

4. ACADEMIC ACHIEVEMENT

Québec

- § Marie McANDREW, Jacques LEDENT avec la collaboration de Rachid AIT-SAID, *La réussite scolaire des jeunes des communautés noires au secondaire*, Septembre 2008
http://www.chereum.umontreal.ca/publications_pdf/Rapport%20final%20Jeunes%20Noirs%2030%20octobre%202008.pdf

5. YOUTH PROTECTION

Québec

- § Esther BELONY. La surreprésentation des enfants d'origine immigrante haïtienne pris en charge par la DPJ : une question de pauvreté ? *Défi jeunesse*, volume XV, n° 1, décembre 2008, p.26 à 30.
<http://Defi jeunesse Volume XV No 1>
- § Léonel BERNARD, La surreprésentation des jeunes haïtiens dans le système québécois de protection de la jeunesse » (en vertu de la *Loi sur la protection de la jeunesse*, L.R.Q., c. P-34.1), *Revue Intervention* (n° 120, Juillet 2004)

United States

- § CHAPIN HALL CENTER FOR CHILDREN. (2008). Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice. Chicago: Chapin Hall Center for Children at the University of Chicago
<http://Racial disparity in child welfare>

6. COLLECTE DE DONNÉES SUR LE PROFILAGE RACIAL

Canada

- § BIAS FREE POLICING: The Kingston Data Collection Project, Scot WORTLEY – Enquête conduite du 1^{er} octobre 2003 au 30 septembre 2004
<http://ProfessorWortleyReport>;
<http://BiasFreePolicing>;
<http://DataCollectionFinalReport>

France

- § *Police et minorités visibles : les contrôles d'identité à Paris* (cinq emplacements observés : gares, stations de métros, places publiques).
[http://police et minorites visibles a paris](http://police-et-minorites-visibles-a-paris)

United States

- § Deborah RAMIREZ, Jack McDEVITT et Amy FARRELL, *A Resource Guide on Racial Profiling Data Collection Systems – Promising Practices and Lessons Learned*, Northeastern University, 2000
[http://Guide on racial profiling](http://Guide-on-racial-profiling)
- § David HARRIS, “Driving While Black: Racial Profiling on our Nation’s Highways”, *An ACLU Special Report* (June 1999)
<http://RacialEquality>.

7. FILM

- § OFFICE NATIONAL DU FILM DU CANADA, « Zéro tolérance », (mars 2004), documentaire réalisé par Michka Saäl portant sur le profilage racial, notamment dans la région de Montréal.