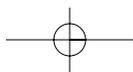
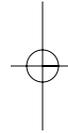
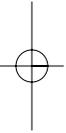


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# Voices Raised in Protest



*Stephanie Bangarth*

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**Voices Raised in Protest**  
Defending Citizens of Japanese  
Ancestry in North America, 1942-49



**UBC Press** • Vancouver • Toronto

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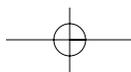
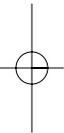
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*The battle of liberty must be fought in marginal cases and for unpopular minorities. If a vigorous democracy does not react when these minorities are attacked, then democracy will lose its vigour.*

*– F. Andrew Brewin, Legal Counsel, Co-operative  
Committee on Japanese Canadians  
February 1945*



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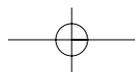
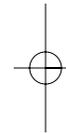
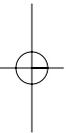
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# Acknowledgments

I can still recall when I first learned about the incarceration of persons of Japanese ancestry in Canada during the Second World War. A first-year student at King's College at the University of Western Ontario, I was taking HIST 025E, a Canadian history survey taught by Dr. George Warecki. I was shocked, fascinated, perplexed. Little did I know then where my interest in that particular event would lead me.

The decision to work on the subject began innocently enough at a party in January 1996, with a suggestion from my graduate supervisor, Dr. James W. St. G. Walker, one of Canada's most esteemed historians of "race." It was his idea that the story of the incarceration needed to be told with an eye to agency and a focus on human rights activism. My years under his supervision were marked by intellectual challenge, encouragement, and scholarly debate of the best sort. I am deeply indebted to him for both his scholarship and his mentorship. The advice of Dr. Mike Howard and Dr. Karin MacHardy added important methodological elements to the study. I also learned so much from my co-student and dear friend Dr. Karolyn Smardz Frost, whose enthusiasm for her own significant study was a constant source of inspiration for me. Dr. Sandra Burt, Dr. Patricia E. Roy, Dr. John English, and Dr. David Murray offered invaluable critiques of earlier drafts of my work.

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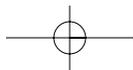
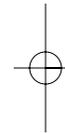
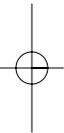
Finally, and with my deepest affection and love, I must thank my parents, Daniel and Josephine Bangarth, for their support in all the years of my life. My great-aunt Maria and my great-uncle Imre are as proud of me as I am of them. Lastly, I must acknowledge my wonderful husband, Julius Olajos. It is not easy to live with someone writing a dissertation and then preparing a manuscript for publication. I owe him more than I can possibly say.

# Acronyms

ACC	Anglican Church of Canada Archives
ACLU	American Civil Liberties Union
AFL	American Federation of Labor
AFSC	American Friends Service Committee
BCSC	British Columbia Security Commission
CBC	Canadian Broadcasting Corporation
CCF	Co-operative Commonwealth Federation
CCJC	Co-operative Committee on Japanese Canadians
CCJC-AT	Co-operative Committee on Japanese Canadian Arrivals to Toronto
CCJC-MAC	Co-operative Committee on Japanese Canadians Papers, McMaster University Archives
CCL	Canadian Congress of Labour
CIO	Congress of Industrial Organizations
CJA	Canadian Japanese Association
CJC	Canadian Jewish Congress
CLAT	Civil Liberties Association of Toronto
CLAW	Civil Liberties Association of Winnipeg
CLDL	Canadian Labour Defense League
CRCIA	Committee for the Repeal of the Chinese Immigration Act
DEA	Department of External Affairs
DOCR	Defence of Canada Regulations
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
FCCC	Federal Council of the Churches of Christ
FCSO	Fellowship for a Christian Social Order
FOR	Fellowship of Reconciliation
IPR	Institute of Pacific Relations Papers
JACD	Japanese American Committee for Democracy
JACL	Japanese American Citizens League

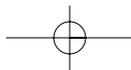
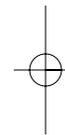
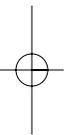
*Acronyms*

JACL-ADC	Japanese American Citizens League – Anti-discrimination Committee
JCCA	Japanese Canadian Citizens Association
JCCC	Japanese Canadian Citizens Council
JCCD	Japanese Canadian Committee for Democracy
JCCL	Japanese Canadian Citizens League
LAC	Library and Archives Canada
MP	Member of Parliament
NAACP	National Association for the Advancement of Colored People
NC-ACLU	Northern California American Civil Liberties Union
NCCLU	Northern California Civil Liberties Union
NCJW	National Council of Jewish Women
NCW	National Council of Women
NIAC	National Interchurch Advisory Committee on the Resettlement of Japanese Canadians
NJCA	Naturalized Japanese Canadian Association
NJCCA	National Japanese Canadian Citizens Association
NMEG	Nisei Mass Evacuation Group
PHS	Presbyterian Historical Society
PJBD	Permanent Joint Board of Defense
RCMP	Royal Canadian Mounted Police
S-ACLU	Seattle American Civil Liberties Union
SC-ACLU	Southern California American Civil Liberties Union
SCM	Student Christian Movement
UCC	United Church of Canada Archives
UDHR	Universal Declaration of Human Rights
USW	United Steelworkers of America
UWO	University of Western Ontario
VCC	Vancouver Consultative Council
VCCLU	Vancouver Canadian Civil Liberties Union
WIB	Wartime Information Bureau
WILPF	Women’s International League for Peace and Freedom
WMS	Women’s Missionary Society
WRA	War Relocation Authority



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## Voices Raised in Protest



## Introduction

In 1970, Herbert Marx, a legal expert and former minister of justice in the Quebec provincial government, observed that “Nothing has stirred the disquietude of Canadians on civil liberties more than the treatment of Japanese Canadians in World War II. It is the skeleton in the closet that stalks out to haunt all our discussions on civil liberties.”<sup>1</sup> In 1976, on the thirty-fourth anniversary of Executive Order 9066, which authorized the incarceration of Japanese Americans, President Gerald R. Ford issued a proclamation revoking that order. In the process, he stated, “We now know what we should have known then – not only was evacuation wrong, but Japanese-Americans were and are loyal Americans.”<sup>2</sup> This book is intended to engage “the skeleton in the closet” by examining both the incarceration and deportation/expatriation policies in Canada and the United States. Contrary to President Ford’s assertion, there were individuals and groups in North America, long overlooked in any comparative format, that disagreed with the actions of the government of the day. *Voices Raised in Protest* examines the nature and meaning of the opposition to these policies, principally the responses to expatriation in Canada and incarceration in the United States.

It is important to highlight the comparative experience because both Canada and the United States initially followed similar paths when it came to the persecution of persons of Japanese ancestry resident in each nation. An examination of dissent regarding these policies is of intrinsic importance, both for an understanding of the Second World War and its impact on Canadian and American society and for a sense of the evolution of human rights on a global scale. For twenty-first-century readers, it has far-reaching implications with respect to current debates over ethnic and racial profiling, the confinement of “enemy combatants,” and whether governments can effect the right balance between national security and civil liberties in counterterrorism laws.

Speaking on 10 December 1988, forty years after the adoption of the

## 2 Introduction

Universal Declaration of Human Rights, John Humphrey, constitutional expert and principal architect of this historic document, noted that “the achievement of 1948 was much greater than anybody would have dared to imagine at the time.”<sup>3</sup> The Second World War period was important on many levels and would herald significant global societal change. Canada was no exception to this trend: in particular, its post-war era witnessed some preliminary, yet fundamental, reconsiderations of the concepts of democracy and equality, which included efforts to recognize and secure human rights. Human rights agitation in Canada had its basis in the protests of white and Japanese organizations against the persecution of the country’s own citizens during the Second World War, in which Japanese Canadians on the west coast were incarcerated, relocated elsewhere across the country, and, in some cases, deported/expatriated later to Japan.

Between 1943 and 1946, select individuals, usually English Canadians and minority group activists, cautiously initiated coordinated campaigns to address the problem of racial discrimination in Canada. That the movement for justice for Japanese Canadians was dominated by an “Anglo” focus is underscored by the fact that even in Quebec the organizations supporting Japanese Canadians were comprised mainly of non-Francophones. But by mid-1945, Japanese Canadians could claim organized support from Canadians in all provinces, with the exception of those in Atlantic Canada.

Recent scholarship points to the federal government’s policies of incarceration and deportation as having an impact on the “surge of egalitarian idealism” that took place in post-war Canada.<sup>4</sup> Although there was almost no opposition to the relocation of Japanese Canadians in 1942, their disfranchisement and expatriation mobilized dissent. Indeed, the campaign to obtain justice for persons of Japanese ancestry, especially with respect to the deportation and expatriation, represents Canada’s earliest significant involvement with the discourse on human rights. The attention of advocates and their lobbying strategies moved beyond civil liberties and the call to respect “traditional British liberties” to a rhetoric that included the newly articulated ideals of human rights as expressed in the Atlantic Charter and later in the Charter of the United Nations.<sup>5</sup> Canadians were not alone, however, in moving to secure justice for persons of Japanese ancestry: nearly parallel government policies were being followed in the United States. Americans would also recognize the prejudice and injustice inherent in the treatment of persons of Japanese ancestry resident in their country.

A basic accounting of the similarities and differences in the situation of American and Canadian Nikkei (persons of Japanese descent in North America) sets forth something like this: In North America in general, the Japanese were subjected to discriminatory treatment upon arrival; they negotiated this impediment by clustering in “ethnic enclaves” on the west

coast and increasingly became objects of suspicion, fear, and envy over the course of the early twentieth century. Following the 7 December 1941 attack on Pearl Harbor, both countries “evacuated” Japanese aliens, Japanese nationals, and their North American-born children from their west coasts and “relocated” them to inland camps on the basis of “military necessity,” a then politically expedient term for historic racist animus. Both the US and Canada also developed policies that were used to defraud the Nikkei of their property and to encourage a more even “dispersal” of the population throughout the country. The policies diverged when the Canadian government expatriated Canadian citizens of Japanese ancestry and deported Japanese aliens. The Americans also deported some, but only those who renounced their American citizenship. Japanese Canadians were disfranchised; by virtue of the Bill of Rights, those Japanese Americans who had been born in the US were not. In addition, they were permitted to enlist and did so proudly in the 100th Infantry Battalion and the 442nd Regimental Combat Team. Throughout much of the war, however, their Canadian counterparts were prohibited from serving in the armed forces and thereby demonstrating their loyalty.<sup>6</sup>

These differences aside (there are others, as the following pages will reveal), both countries experienced the development of significant organized dissent regarding aspects of the above-noted policies. The American Civil Liberties Union (ACLU), the Co-operative Committee on Japanese Canadians (CCJC), religious groups, the media, organized labour, women’s groups, and various individuals were all active in resisting government injustice to the Nikkei. The court cases launched in Canada and the US represented manifestations of this dissent in the justice system of each country. Persons of Japanese ancestry were also active in defending their own rights, establishing their own organizations, and working very closely with the above-listed groups.

This comparative review of wartime policies and post-war developments concerning the Nikkei examines a number of elements common to both countries: government decision making, Nikkei resistance, key interest groups, the role of the press, and cross-border connections and cooperation. It traces the development of the advocacy movement and the associated discourse that provided the moral, political, and legal foundations for dissent. It suggests that the contextual differences of the two countries shaped the divergent responses of these organizations. These developments occurred over the course of the Second World War period, although the American ordeal had largely concluded by 1945, whereas the Canadian struggle was then in its middle course. This is not incongruous; cross-border cooperation and awareness were long in existence, and basic policies were enacted at similar points in early 1942. Whereas American advocates could call upon constitutional protections and language, Canadians could not. Instead,

#### 4 Introduction

throughout the latter half of the 1940s, they turned increasingly to the belief that human rights were universally applicable. Eventually, the idea of human rights made its way into the discourse espoused by Canadian advocates for persons of Japanese ancestry, a discourse that was distinct from that of their American contemporaries. The lack of an American-style bill of rights compelled Canadian advocates to look to the Atlantic Charter and the Charter of the United Nations to give their arguments meaning and substance. This does not suggest, however, that the Canadian experience heralded something more laudable: indeed, Canadians made a virtue out of necessity.

Furthermore, while Canadians began to depart from a British civil liberties discourse to a human rights discourse, and while American advocates remained wedded to a civil liberties discourse, the reality was somewhat more complex. Canadian and American dissent over the wartime treatment of the Nikkei was, at times, alike in its appeals to anti-Nazi rhetoric, anti-racism language, and frequent use of the language of “fair play” (usually prefaced by the term “British” or “American,” depending on context). The commonalities of rhetoric and approach helped to unite activists in Canada and the United States, although two different “dialects” arose from this commonality: the British liberties approach and the American civil rights approach. In Canada, while a terminological shift from British civil liberties to human rights took place over the course of the 1940s, so too did a normative shift from a focus on discrimination (treating people differently) to equality (treating people equally).

#### **Methodological Orientations**

There is a tendency in ethnic studies to view the immigrant as “victim.” Interestingly, writers, playwrights, musicians, and others have approached the wartime injustice to the Nikkei from a variety of avenues that avoid victimization. In “Kiri’s Piano,” noted Canadian folksinger James Keelaghan tells the fictionalized story of Kiri Ito, a Japanese Canadian woman who threw her piano into the sea before being transported to an incarceration camp. His is an introspective tale, blending history with poetry and song. In David Guterson’s mystery novel *Snow Falling on Cedars*, a mixed-race community on an island in the Pacific Northwest is the backdrop against which the politics of race relations and the wartime incarceration are played out. More recently, *The Gull*, a Noh ghost drama by Canadian poet Daphne Marlatt, places an emphasis on healing within the Japanese Canadian community of Steveston. These and other non-scholarly works evoke the raw emotional sentiments and the drama of social injustice.<sup>7</sup> Indeed, the same can be said for Japanese American and Japanese Canadian writers and the explosion of evocative fictional and non-fictional accounts of the removal.<sup>8</sup>

Historians and other scholars have held fast to victimization, however: the oppressed suffering at the hand of the oppressor, helpless against the demands of the powerful, whether they be in the form of capitalist exploitation, prejudice, and/or government actions. This is certainly the case with some of the literature detailing the incarceration, where Japanese Canadians/Americans are often presented as unfortunate victims of a prejudiced government bureaucracy. Although this type of literature does make a solid contribution in revealing that racism is a part of Canadian and American history, its weakness is that Japanese Canadians/Americans are shown not to be responsible for their own history. Instead, they are lost in a sea of policy discussions, mere bystanders in a particular historical account. The victimization thesis was once popular among ethnic historians, but recent studies have shown this approach to be extremely limiting. Indeed, many fields of ethnic studies now successfully employ the "subjects of history" methodology.<sup>9</sup> To this end, *Voices Raised in Protest* agrees with Roger Daniels' appeal in *Asian America: Chinese and Japanese in the United States since 1850* for scholars to focus on "what these people did rather than what was done to them."<sup>10</sup> Thus, although this study explains the role of Anglo-Canadians in the development of human rights rhetoric, it also demonstrates that Japanese Canadians can and should share equally in this recognition.

Increasingly, social historians have concentrated their attention on the wartime experiences of those Nikkei who bore the brunt of American and Canadian government policy. Historians have also examined the varied, and often contradictory, strategies that the incarcerated developed in order to maintain their sense of dignity in the very undignified environment of the camps.<sup>11</sup> Additionally, the later movements for redress (1980s) and the revival of the Japanese American and Japanese Canadian communities have attracted scholars' consideration.<sup>12</sup> Nevertheless, these important spotlights on the struggles and the persecution of North America's people of Japanese ancestry should not induce historians and others to overlook those uncelebrated Canadians and Americans who supported them during the war. There were "cracks in the consensus [of racism]," as Robert Shaffer notes.<sup>13</sup>

Highlighting the groups and individuals who promoted the rights of Japanese Americans and Japanese Canadians should not be interpreted as an attempt to play down the nature of racism in North America at the time, or to minimize the meaning of the incarceration and expatriation. On the contrary, concentrating on this aspect of incarceration and expatriation serves only to underscore the failure of democracy in North America and of its political leadership and supporting populace. That there were public debates and individuals who were appalled at the policies of their respective countries weakens the excuse that the administrations of President Franklin Delano Roosevelt and Prime Minister William Lyon

## 6 Introduction

Mackenzie King avoided moral conflict because they were not confronted with alternative views.<sup>14</sup> Indeed, opposition was voiced loudly and publicly in early 1942 in the United States. Opposition was certainly more muted in Canada, but those who voiced their criticisms of government policy should not be completely disregarded.

Although both Canadian and American historians have offered a variety of explanations for the causes of the incarceration, they show remarkable unity in their belief that few Americans or Canadians opposed the removal or sought to protect the rights of Nikkei citizens or non-citizens. Many textbook accounts of the incarceration stress this view, as does some of the literature on removal and incarceration.<sup>15</sup> When scholars have referred to supporters of Nikkei rights, they qualify their comments, noting these as exceptional cases or as compromised and uneasy support.<sup>16</sup> Richard Drinnon, for example, cites the American Civil Liberties Union (ACLU) and its leader, Roger Baldwin, in their concordance with Roosevelt's policy!<sup>17</sup>

Of course, some concerned Canadians and Americans did oppose aspects of the policies enacted by their governments, if not by action, then at least in principle. The dissenters even included Jews and blacks, both historically disadvantaged groups in North America with respect to civil liberties. According to Robert Shaffer, socialists, left/liberals, academics, Protestant organizations, and African Americans opposed the incarceration to varying degrees, primarily because they believed that victory in the war would be seriously flawed if the US did not treat minority populations as equal allies in the fight against tyranny at home and abroad.<sup>18</sup> Cheryl Greenberg maintains that organizations representing both Jewish and African American groups realized that the rights of Japanese Americans could be closely linked with their own, but that a lapse of their "usual" sensitivity to discrimination was ironic at a crucial time for civil rights in the United States. Although Greenberg downplays Jewish and African American opposition to President Roosevelt's executive order, her work is nevertheless useful in outlining the pertinent debates on this issue by representatives from these two groups. The reaction of religious bodies to the removal policy, and the involvement of various religious organizations in this regard, has received only a modicum of scholarly attention.<sup>19</sup> Within the context of a local history framework, Ellen Eisenberg details the multi-levelled opposition to incarceration in Portland, San Francisco, and Seattle.<sup>20</sup> More sufficiently discussed has been the role of the ACLU in the removal question, especially in general histories of this group and in biographies and autobiographies of its members.<sup>21</sup>

Little popular awareness of wartime dissent and rights activism exists in Canada. In *The Politics of Racism*, Ann Gomer Sunahara devotes a single chapter to Canadian opposition to deportation, painting in a broad fashion both white and Japanese groups who were active in the campaign.

In *The Canadian Japanese in World War II*, Forrest LaViolette provides some references to wartime dissent and rights activism. For detailed information on the Co-operative Committee on Japanese Canadians (CCJC), the only sources are a chapter in a larger work by Ross Lambertson, a doctoral dissertation by Peter Nunoda, and a Master's thesis by Sidney Olyan. Only CCJC member Rabbi Abraham Feinberg left his autobiography for researchers; source material on other CCJC members such as Irving Himel and Andrew Brewin must be gleaned from primary and secondary works.<sup>22</sup>

Only recently have the efforts of Canada's early human rights community attracted the attention of scholars. Herbert Sohn and, later, John Bagnall and Brian Howe have explored the nature of human rights legislation in Ontario, in particular, and the evolution of the public philosophies that underlined the incremental changes in public policy on human rights in Canada generally.<sup>23</sup> Other scholars have concentrated on Canadian libertarian rights, with mention of various groups in the civil liberties community.<sup>24</sup> More promising directions have been taken by Ross Lambertson and James W. St. G. Walker, who, to varying degrees, highlight how certain human rights groups operated within the economic, ideological, and institutional context of their times. In his four case studies of legal challenges to race in Canadian law, Walker demonstrates how discriminatory policies directed towards African Canadians, Jews, Chinese, and South Asians encouraged activists to pressure government officials and institutional bodies for legislative reform.<sup>25</sup> In all four cases, constituent organizations rallied behind the challenger, and thus served symbolically as community causes. Lambertson's work is also useful in that he traces the interplay of various individuals, groups, and institutions as they affected human rights reform in the early post-war period. Lambertson suggests that on several occasions these broad-ranging coalitions had a major impact on government policy, even though the community itself was divided in ideological, geographical, class, and functional ways.<sup>26</sup> In the case of the Canadian removal and deportation, these explorations have yet to be the primary focus of a book.

Other scholars have added to the growing literature on the social origins of the campaigns for human rights in post-war Ontario by specifically highlighting the direct involvement of minority groups in the quest for legislation that would outlaw discrimination on the basis of race, religion, ancestry, and national origin in employment, housing, military service, and the sale of property. They make important observations concerning the similarity of human rights campaigns in post-war Ontario and those in the United States. The success of many of these campaigns was based on the application of American organizational and tactical methods, with Canadian adaptations, as Carmela Patrias and Ruth Frager note. This Intergroup Relations Movement, as it has been termed, received the attention

## 8 Introduction

of American scholars such as Stuart Svonkin and Philip Gleason.<sup>27</sup> This study will demonstrate that even as Canadian advocates looked to developments and groups in the United States for guidance, a “Canadian” solution was eventually adopted.

### **Comparative Orientations**

An examination of some of the representative Canadian and American scholarly works on the Nikkei incarceration also reveals little comparison of the actions in Canada with those in the United States. Roger Daniels has managed to maintain near exclusivity in this respect, with the publication of *Concentration Camps: North America* and a few review articles.<sup>28</sup> This is astonishing, especially since both nations maintained, at least in principle, very similar policies. Following the bombing of Pearl Harbor, government policy made borders almost irrelevant as Canada, the US, and countries in South America all restricted the movements of their resident Japanese population. This was a continent-wide phenomenon that is rarely presented as such by scholars. Later in the war, as policies diverged, the border became relevant again.

The available sources also lend themselves to a comparative approach. Clear examples demonstrate that Canadians and Americans were aware, to varying degrees, of what was going on in the neighbouring nation. The significant amounts of north-south document and letter exchanges and cooperation are good examples of this. The ACLU files in the Mudd Manuscript Library at Princeton University contain several letters exchanged between Roger Baldwin, ACLU president, and Andrew Brewin, CCJC lawyer. Mike Masaoka of the Japanese American Citizens League and George Tanaka of the Japanese Canadian Citizens Association also exchanged letters throughout 1945 and 1947. Insofar as they could in the early days of 1942, the Canadian and American governments maintained policies that were as similar as possible and kept in touch on that basis. Even religious groups attempted transnational cooperation, with the Home Missions Council and the Foreign Missions Conference of the Presbyterian Church of North America holding an informal conference between Canadian and American representatives. Newspapers, especially those operated by and for the Nikkei themselves, were well aware of events as they unfolded on both sides of the border.

### **Terminological Orientations**

This study recognizes and explores the issue of context in analyzing the discourse employed by the various groups and individuals in their campaigns. Throughout the period examined, a profound change occurred in the conceptualization of “rights.” The evaluation of who had a right and how it should be fulfilled underwent a considerable degree of redefinition

towards the end of the war and immediately following its conclusion. It seems prudent to clarify the conceptual morass of terms such as “civil liberties,” “civil rights,” “human rights,” “egalitarian,” and “libertarian rights.”<sup>29</sup> For the purposes herein, the terms will be employed as the participants themselves used them.

Essential constitutional differences provide the foundation for understanding how advocates came to advance their arguments. The 1867 British North America Act, Canada’s foundational document, makes no specific reference to human rights or fundamental liberties. The traditional British term “civil liberties” was the most widely used descriptor of all rights and liberties in Canada before 1945; it included such liberties as were guaranteed to the individual by law and custom, as well as such cherished notions as freedom of expression, voting rights, mobility rights, and legal rights.<sup>30</sup> The term “civil rights” requires defining, as it contains a great deal of conceptual baggage, largely due to its American usage. In the US, it pertains to the rights of a person by virtue of citizenship, or to rights assured by the Thirteenth and Fourteenth Amendments of the American Constitution. It is not interchangeable with the notion of “civil liberties.” In the Canadian lexicon, the term “civil rights” has a particular constitutional meaning and is referred to only in connection with the property rights that are included in section 92(13) of the British North America Act, which lists provincial powers such as the right to enter freely into a contractual agreement, to own or lease property, and to sue for breach of duty owed. Additionally, a right is an advantage conferred and protected by law, granted to an individual; it often implies some form of corresponding duty on the part of another. A liberty is what one may do without legal impediment.<sup>31</sup>

In Canada, until the 1982 passage of the Charter of Rights and Freedoms, considerable disagreement occurred over which level of government was responsible for legislating in the matter of civil liberties. Much of that disagreement centred on the adoption of egalitarian rights. Libertarian rights and egalitarian rights are normally used as classifications of civil liberties. Libertarian rights refer to the rights to free speech, legal counsel, and property ownership, among others. Egalitarian rights, in a classical liberal interpretation, refer to the right to equal protection of the law. In the post-war period, the scope of egalitarian rights moved to encompass the right to state protection against discrimination by public and private individuals against persons because of race, colour, creed, religion, or national origin. The evolution of egalitarian civil liberties comprises what one scholar has referred to as the “modern” stage of this definition.<sup>32</sup> In the United States, however, civil liberties are protected by the Bill of Rights; these include freedom of speech, the right to privacy, freedom of and from religion, due process, and the right to vote, among others.<sup>33</sup>

10 *Introduction*

The prevailing contemporary notion of human rights is derived from an acceptance of “natural rights” theory, as expounded by such liberal philosophers as John Locke. With the advent of the Universal Declaration of Human Rights (1948), the term “human rights” became the universal label for all manner of rights and freedoms, both individual and collective,<sup>34</sup> egalitarian and libertarian. These belong to all people by virtue of their membership in the human race and are generally defined as those rights that are inherent in our nature; that are inalienable, regardless of legal jurisdiction; and that are both legally and morally justifiable. Individual human rights encompass the claim to all that constitutes a desirable life. By contrast, collective human rights, such as the right of Aboriginal peoples to national self-determination, can be exercised only by a collectivity. Although human rights emphasize civil and political rights, today they have also come to highlight economic and social entitlements, such as the right to a living wage.<sup>35</sup> This study will focus on the development of individual human rights and civil liberties as they relate to the function and purpose of the involved advocacy groups within the context of the emerging human rights community in Canada and the United States.<sup>36</sup>

It should also be remembered that my use of the term “internment” does not suggest an equating of experiences with the Jewish internment and concentration camps that were established in Europe at this time by the Nazis. In fact, only about 750 Japanese Canadians and Japanese nationals were actually interned (in the exact sense of the word) at a camp near Angler, Ontario. In the United States, nearly eighteen thousand Japanese Americans were segregated at Tule Lake, a camp that began as a relocation centre in 1942 but became a segregation centre in 1943. Yet, as Roger Daniels has noted, “words do matter.” Daniels has made an interesting case for the use of the term “incarceration” instead of “internment,” arguing that the former is accurate whereas the latter is misleading and inappropriate. He notes that, while the wartime internment of enemy aliens followed the rules established in both American and international law, Japanese Americans were placed in army and War Relocation Authority camps by unlawful means.<sup>37</sup> The terms “evacuation” and “evacuees,” though employed by some researchers, will rarely appear in this study because they do not accurately describe what was experienced by the 130,000 Japanese North Americans during the Second World War and because many persons of Japanese ancestry find them offensive and misleading. Instead, “incarceration” and “imprisonment,” “relocation” and “removal,” are employed, following the guidelines proffered by Daniels and Tetsuden Kashima. If this appears confusing, it is because no consensus yet exists on an acceptable vocabulary for the entire operation.<sup>38</sup> Additionally, I eschew the term “repatriation” in reference to Canadian and American citizens of Japanese

ancestry, using the more accurate and appropriate “expatriation” whenever applicable. The deportation of disloyal aliens and the exile of unoffending citizens, as CCJC lawyer F. Andrew Brewin pointed out in a case before the Judicial Committee of the Privy Council, are two different issues. The former is recognized by international law, whereas the latter is beyond the constitutional power of the US Congress and, in the words of Brewin himself, was “never found necessary in the gravest emergency by the Parliament of Great Britain.”<sup>39</sup> At the time, however, the government argued that it possessed the authority to “deport or exile or banish aliens or subjects or citizens of the state and to deprive them of citizenship.”<sup>40</sup> Both the Supreme Court and the Judicial Committee of the Privy Council vindicated this position on the grounds that the government could do whatever it liked under the War Measures Act and Transitional Powers Act. This was due to the principle of parliamentary supremacy, as practiced in Canada, whereby a legislature is able to pass laws provided they do not violate the federal-provincial division of powers (although the 1982 Charter of Rights and Freedoms places some limitations on this matter). After the Second World War, common law precedents and constitutional traditions placed the responsibility of safeguarding fundamental freedoms within parliamentary jurisdiction, instead of within the courts or provincial legislatures. Although the courts in the United States served as a check on the powers of elected representatives, under the British system that Canada inherited, Parliament reigned supreme. It is interesting to note the nearly parallel Tokyo and Nuremberg trials, which dealt with the charges of deportation of civilians on racial grounds. The Charter of the United Nations, upon which these charges were based, refers to such deportation as a crime against humanity. Although the charter is politically binding on Canada, international law does not normally override the sovereignty of the state, including Canadian parliamentary supremacy. The significant degree of opposition to Canadian policies, however, indicates that international principles regarding human rights had secured a place of importance in the resolve of many activists. Thus, the wisdom of the Supreme Court of Canada must be scrutinized, even in light of the principle of parliamentary supremacy.

Lastly, some Japanese terms should also be clarified. First-generation Japanese Canadians and Japanese Americans are referred to as the Issei. The second generation is known as the Nisei; the third is called the Sansei. The Japanese refer to themselves collectively as Nikkei, and this term will be used in place of “citizens of Japanese ancestry in North America” or “Japanese Americans and Japanese Canadians.” It applies to any person of Japanese ancestry in North America, and it includes both immigrant and successive generations.

**Thematic Orientations**

Five thematically based chapters comprise the essence of this book. Each chapter isolates the manner in which the lead groups, the associated groups, minorities, and the justice system in Canada and the United States approached the “Japanese problem” and advocacy. Consequently, the reader may experience periodic feelings of *déjà vu* as some events and issues are examined in relation to the specific actors mentioned previously in different contexts. Chapter 1 provides the necessary framework of the policies enacted by the Canadian and American governments in relation to Nikkei incarceration and deportation during the Second World War. It adds to the existing scholarly literature by exploring some of the similarities in policy choices pursued by the Canadian and American governments. Notably, this chapter also chronicles the nature of the cooperation among Canadian and American government policy makers in their attempts to pursue what they viewed as a practicable coincidence of policies, suggesting that interest was generally one-sided on the part of Canadian bureaucrats. In order to understand how and why advocates identified these government policies as problematic, this chapter examines how racial discrimination and human rights came to be useful concepts in their rhetoric.

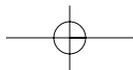
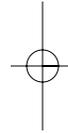
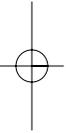
Both Chapters 2 and 3 address the relative paucity of sources regarding the incarceration and expatriation of the Nikkei and the nature of the associated advocacy movement. Chapter 2 reviews the CCJC and the ACLU in terms of their organizational history, their membership, and their efforts on behalf of Japanese Canadians and Japanese Americans. The character of the CCJC and ACLU membership had a significant impact on how each group functioned in the interest of the Nikkei. In particular, this chapter places great emphasis on how the CCJC and the ACLU defined and articulated their opposition to government policies dealing with the “Japanese problem.” It demonstrates that the discourse utilized by the CCJC differed significantly in terms of its focus from that of the ACLU.

Chapter 3 identifies other groups and individuals who expressed an interest in attaining justice for persons of Japanese ancestry. In both Canada and the United States, these were numerous and included many religious organizations, civil liberties groups, student and youth groups, and the media. This chapter also evaluates the interconnections between these groups and the ACLU and the CCJC, the main advocacy groups, as well as with the government. Having allies in the government bureaucracy, or, at the very least, obtaining the recognition of government officials, was as important to the ACLU and the CCJC as achieving the support of other interested organizations. In both chapters, the rhetoric used by Canadian advocates over the course of the 1940s is analyzed and compared with the American rhetoric to demonstrate how human rights principles gradually permeated the Canadian discourse.

Chapter 4 highlights the role of Japanese Americans and Japanese Canadians who were active in the campaign to secure justice for their own communities. In many respects, their struggles to achieve representation were very similar; however, the ways in which they acted as agents, whether individually or collectively, differed. Although Nikkei individuals eventually assumed advocacy roles, their cooperation with and support from organizations such as the CCJC and the ACLU, whose members came from largely “respectable” white, middle-class backgrounds, was a necessary means to an end. Nevertheless, persons of Japanese ancestry must claim partial credit for their contribution to human rights discourse in North America. Additionally, this chapter outlines the responses of other minority groups to the incarceration and dispersal and to the continuation of racially discriminatory policies against Japanese Americans and Japanese Canadians.

The actions of both white and Japanese advocates culminated in cases that were appealed to each nation’s highest courts. Chapter 5 investigates the legal briefs submitted by the ACLU and the CCJC in an effort to determine the substance of their advocacy in relation to civil liberties and human rights. It also dissects the legal judgments rendered by the US Supreme Court, the Supreme Court of Canada, and the Judicial Committee of the Privy Council. The decisions delivered in the highest courts of Canada and the United States reveal much about the nature of civil liberties, human rights, and the divisions within each society over how to consider the treatment of persons of Japanese ancestry.

There were many different components to the broad mosaic of advocacy for the Nikkei. Religious groups, the media, intellectuals, liberals, and minority organizations combined to oppose the racially discriminatory policies enacted by Ottawa and Washington. Collectively in the United States, these voices loudly proclaimed the need to respect the Bill of Rights. This tradition of appealing to a constitutional document was not available to Canadian advocates; nor, in the early years of the war, was there any emerging consensus to which advocates could appeal in proclaiming their opposition. Drawing on the experiences of their American counterparts, but mainly creating their own path, some Canadians would appeal to a new concept dawning in international thought, that of “human rights.” This important campaign would provide the basis for other quests encouraging the protection of individuals from religious and racial discrimination in Canada.





North American incarceration and exclusion zones.  
Map by Eric Leinberger.