

Class Actions & Race (or Race & Avenues for Social Justice Litigation)

Robert S. Wright, MSW, RSW
Social Worker in Private Practice

Who Is Robert Wright?

- A registered SW Private Practitioner
- PhD Student in Sociology – Race, Identity, Power
- Member Racial Equity Committee of NSBS
- Former Race Relations Coordinator of the Dartmouth District School Board
- Drafted proposed mandate for restorative process for NSHCC inquiry

Goals and Purposes of Class Actions

- Enables small claimants to pursue remedy of injustices committed by large/powerful parties
- Enables actions when individuals have suffered little but collectively have suffered much
- May result in Individual and Public Interest settlement terms

Using Class Actions to Address Historical, Racial Injustice

- Acknowledging historic injustice
- Correcting laws/policies/practices
- Restoring/promoting healing within affected community
- Restoring/promoting improved relations between affected and larger communities
- Promoting individual healing (compensation)

Examples

- Africville: 2010 negotiated settlement
 - Transfer of land for church replica, heritage centre
 - Capital support and endowment
 - Maintenance contract for Seaview Park
 - Established HRM-ANS Affairs
 - Formal apology and acknowledgement of loss

Example

- Black Action Defense Committee
 - Two suits seeking \$325 million in damages for alleged racial profiling and carding of Blacks; Provincial Minister of Community Safety and others named as defendants
 - \$23 million suit filed against Minister of Public Safety Canada and CSC for alleged racial profiling and unfair treatment of Blacks in Federal penitentiaries

Example

- Nova Scotia Home for Coloured Children (NSHCC)
 - Alleged victims commence legal redress in c. 2000
 - Class action launched in Fall of 2012
 - Home settles for \$5 million in April 2013
 - Province defends against but certification granted December 2013
 - Efforts to settle are ongoing

Can Class Actions Correct Social Injustice?

- Unlikely that individual terms would result in correction of social injustice
- Public interest terms are framed by litigants .
. . Social justice implications only as strong as the interests of the class

The Case for Other Processes

- Litigation narrowly defines scope of considerations out of necessity
- A range of restorative processes open possibility for considering deeper, historical and socio-cultural phenomenon
- Capacity to craft and implement powerful responses to systemic social injustice requires broad community engagement

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