

LOCAL

# Panel members call for law reform

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Racism probably permeates Canadian legal culture yet today's courts do not recognize this, an education officer for the Quebec Human Rights Commission said in Halifax Thursday.

Speaking to a session of Congress '89, a criminal justice conference, Esmerelda Thornhill said, "Historically our legal traditions, the BNA Act for example... does not talk about notions of equality. We continue the same tradition. Even though we now call it something else, the Charter, it will not necessarily address the issues."

## Charter an opportunity for judicial creativity

"We (black people) are not in the legal culture."

In her speech, Ms. Thornhill recommended that the Criminal Code be amended to address racism explicitly by creating a distinct and separate infraction for racially-motivated violence or attacks on person or property.

Ms. Thornhill allowed there already is legislation at all government levels that outlaws discrimination based on race or color. But she said these laws didn't go far enough.

"It would appear that every

time there is (a race or color infraction), suddenly it's not possible to meld the two together," she said. "Our Criminal Code is not serving that purpose."

She said if race or color infractions were encoded, it would then be up to the courts to hammer out whether the offence was racially motivated.

Ms. Thornhill was speaking at a panel discussion called Colour, Culture, Consciousness.

Also on the panel was Halifax

lawyer Davies Bagambiire, who said by the year 2008, Canada's non-white population will outnumber whites due to changing immigration patterns.

"Are we sufficiently going to be able to cope with that?" said Mr. Bagambiire, who came to Halifax from Uganda in 1976.

Mr. Bagambiire said political and economic power must shift to non-European immigrants like Africans and Asians or we risk a Canadian version of the current

## to address racism

### — Bagambiire

South African situation.

He called for radical reform of components of the legal system such as the investigative branch of the judiciary system, the prosecution, and the bench.

"There is a pathetic lack of judicial activism, meaning that judges are too conservative-mind-

ed and tied to precedent," Mr. Bagambiire said. "They are not willing to find new remedies.

"With the advent of the Charter, judges have been elevated to a policy-making role," he said, adding it is an opportunity for judges to be creative.

"I'm not confident they will use it positively. The Charter may end up to be a hollow document to many minorities."