

**Citation:** Shilton, Elizabeth, “Everybody’s Business”: Human Rights Enforcement and the Union’s Duty to Accommodate” (2014) 18:1 CLELJ 209

**Abstract:** In this paper, the author argues that by imposing a duty to accommodate on unions in the *Renaud* case, the Supreme Court of Canada intended primarily to encourage unions to cooperate with employer efforts to accommodate, and did not seek to make unions co-liable for all discrimination embedded in collective agreements. The Court’s decision was ambiguous, however, and subsequent tribunals and courts have distorted its original intent by imposing joint (and sometimes sole) liability on unions for discrimination in situations in which they had no meaningful control over bargaining outcomes or no independent ability to accommodate the claimant, or in which unions’ representative role was not properly considered. Unions have largely avoided *Renaud*-based liability because, in the decades since that decision, workplace human rights claims have increasingly been dealt with through grievance arbitration (where unions are not vulnerable to co-liability claims) rather than before human rights tribunals. The author sees this as a generally positive development which permits human rights claims to be integrated with collective agreement claims and places primary accountability for workplace discrimination on employers, who are best placed to remedy the discrimination. She acknowledges, however, that dealing with workplace discrimination at arbitration could create conflicts of interest, which may require reconsideration of some aspects of current procedure. She concludes that *Renaud* has largely done the job the Supreme Court intended, although it has done so by influencing union behaviour in arbitration rather than by making unions directly accountable for compliance with statutory human rights norms. She expresses continuing concern about *Renaud*’s ambiguities and calls on the Supreme Court to clarify *Renaud*’s message in light of modern conceptions of the duty to accommodate and the realities of workplace power distribution.