

## What are Human Rights?

Human rights are the basic rights and freedoms that every person has, no matter who they are. Human rights apply to everyone, no matter their race, sex, religion, language or any other characteristic. The Universal Declaration of Human Rights (UDHR), which was adopted by the UN General Assembly in 1948, is recognized worldwide and primarily says that all people are free and equal.

The Vienna Declaration, which helps to enforce the UDHR, says three things about basic rights and freedoms [1]:

- 1) They are universal. This means that all member countries/states must try to apply and protect them.
- 2) They are indivisible. This means that all rights and freedoms are considered equal. No right or freedom is more or less important than another.
- 3) They are interdependent and interrelated. This means that all rights and freedoms are connected in some way.

Human rights relate to how people expect to be treated by each other. The underlying principle of human rights is that people do not have to earn these rights; they are born with them and they apply to everyone including women, men and children [2]. Unfortunately, these rights and freedoms may be violated, diminished or taken away. Because of this, countries have different human rights laws in place to make sure that its citizens and governments are held accountable if human rights and freedoms are violated. In Canada, human rights are protected by a number of different laws and international treaties.

## Freedoms and Rights in Canada

There are several laws that govern human rights in Canada at the provincial, national, and international levels. These include: the *Canadian Charter of Rights and Freedoms*, the *Canadian Bill of Rights*, the *Universal Declaration of Human Rights* (United Nations) and the *Newfoundland and Labrador Human Rights Act, 2010*.

The *Canadian Charter of Rights and Freedoms* was adopted as part of the *Constitution Act, 1982*, meaning it now forms part of the Canadian Constitution. It lists and explains the rights and freedoms that all Canadian citizens have. The *Charter* applies to the interaction between Canadian citizens and the government. It prohibits the passing of laws that violate the rights and freedoms included in the *Charter*, except in situations where there are reasonable limits on a right and/or freedom that are “demonstrably justified in a free and democratic society.” The *Charter* also prohibits violations of the included rights and freedoms by government representatives or agents, such as police officers, except in certain limited situations.

The *Charter of Rights and Freedoms* includes [3]:

- Fundamental Freedoms
  - Freedom of religion
  - Freedom of expression
  - Freedom of peaceful assembly

- Freedom of association.
- Democratic Rights
  - All Canadian citizens (18 and over) have the right to vote for representatives of the House of Commons and provincial legislative assemblies
  - All Canadian citizens have to the right to run to be a member of the House of Commons or a provincial legislative assembly.
- Mobility rights
  - Right to move within the provinces,
  - Right to move in and out of Canada
  - Right to work in any province
- Legal Rights
  - Right to life, liberty, and security of the person
  - Right to be secure against unreasonable search or seizure
  - Right to be safe from imprisonment or detention without reason
  - Right to be immediately informed of the reasons for being arrested
  - Right to a fair trial
  - Right to be represented by a lawyer if accused of a crime
  - Etc.
- Equality Rights
  - Right to protection from discrimination based on national or ethnic origin, colour, religion, sex, age or mental or physical disability.
- Minority Rights
  - Right of children to be educated in their first language whether that be English or French
  - Right of Francophone children to be educated in French for primary and secondary school
- Aboriginal Rights

The rights and freedoms provided by the *Charter* and the *Canadian Bill of Rights* overlap. However, one right that is provided for by the *Canadian Bill of Rights*, and is not found within the *Charter*, is the right of an individual to enjoyment of property.

The rights and freedoms provided by the *Charter* are also very similar to some that are found in international human rights law. The Universal Declaration of Human Rights is one of the most recognized pieces of international human rights law. Other examples of rights that are specified in the Declaration [4], include:

- Freedom from torture or cruel punishment
- Right to a nationality (an identity associated with a country)

- Right to the health and well-being of a person, which includes food, shelter, medical and social services
- Right to education
- Etc.

In addition to national and international laws on human rights, there are also provincial laws that protect human rights. Newfoundland and Labrador has the *Human Rights Act*. This Act explains how national and international human rights laws are applicable, whether the human rights violation is about equal pay, sexual harassment or Aboriginal rights in the province [5].

The *Human Rights Act* is somewhat broader, because it deals with discrimination and violations of human rights in private, non-government areas, including private businesses, such as restaurants and stores, schools and other workplaces that are not necessarily connected to the government [10]. The Act also deals with other private interactions between individuals, such as the relationship between a landlord and tenant.

The grounds for discrimination outlined in the Newfoundland and Labrador *Human Rights Act* includes:

- Race
- Colour
- Nationality
- Ethnic origin
- Social origin
- Religious creed
- Religion
- Age
- Disability
- Disfigurement
- Sexual orientation
- Gender identity
- Gender expression
- Marital status
- Family status
- Source of income
- Political opinion

## **Discrimination**

Discrimination is an action or decision that treats a person or group negatively for reasons like race, age or disability, among others. When someone uses this kind of reason to treat a person or group negatively, it is called a “ground of discrimination”. Both public and private employers are barred from discriminating against people for those reasons [6]. The Canadian *Human Rights Act* explains all the grounds of discrimination, as well as the ways people can be discriminated against, called “discriminatory practices”. Grounds for discrimination [7] include:

- Race
- Nationality/ethnicity
- Colour
- Religion
- Age
- Sex
- Sexual orientation
- Marital status
- Family status
- Disability
- Conviction that has been pardoned or suspended

Discriminatory practices include [7]:

- Denying someone goods, services, facilities or accommodation
- Providing goods, services, facilities or accommodation in a way that treats them adversely (negatively) and differently
- Refusing to employ or keep employing someone
- Treating someone unfairly in the workplace
- Following policies or practices that deny people employment opportunities
- Paying men and women differently for the same work
- Retaliating against a person who has filed a complaint with the Human Rights Commission or retaliating against a person who filed a complaint for someone
- Harassing someone
- A policy that provides benefits to some married couples, but not to others such as same-sex or common law couples. This could be a case of discrimination based on two grounds – sexual orientation and marital status.
- The termination of a female employee, who the employer claimed performed their job poorly, only after they announced their pregnancy. This may be discrimination based on the ground of sex.

If you feel that you have been discriminated against, you can report it to a human rights commission at the national or provincial level. The Canadian Human Rights Commission offers a “Complaint Assessment Tool”. This tool helps people decide if their complaint is actually discrimination, and if they need to use their local organization or the federal organization to file the complaint [8]. The Assessment Tool can be found at: [http://www.chrc-ccdp.gc.ca/eng/content/complaint\\_assessment\\_tool](http://www.chrc-ccdp.gc.ca/eng/content/complaint_assessment_tool).

## **Harassment**

Harassment is a type of discrimination. It is when there is unwanted physical or verbal behaviour that offends or humiliates someone, especially if it is of a sexual nature. Usually the behaviour continues over a period of time, but it can also involve a one-time incident [9].

Harassment is when someone [9]:

- Makes unwanted remarks or jokes about a person's race, religion, sex, etc.
- Threatens or intimidates a person.
- Makes unwanted physical contact with a person like touching, patting, pinching, punching (this can also be considered an assault).

## **Children's Rights**

The primary source of international law for children's rights is the United Nations Convention on the Rights of the Child, adopted in 1990. This convention is usually adopted for children under 18-years-old or until a child reaches majority (which can be before age 18) [11]. The rights of children that are set out in this convention are respected by Canada, as it is a country that has signed and is legally bound by the convention.

The convention explains what rights children have, as well as what actions children should be protected from. Here are some examples of both [11]:

- The right to education, rest and play, to be registered and have a nationality, and benefit from child-care, social and medical services.
- The right to be protected from physical and mental violence, sexual exploitation and abuse, abduction, trafficking, the use of illicit drugs, and torture or other cruel punishment.

It also highlights the situations that children should not be in, for example [11]:

- Children should not be separated from their parents against their will (except where necessary)
- Children should not work if they are under the minimum age requirement for employment of children and if the requirements for their working conditions are not met.

By respecting this international convention, children in Canada are guaranteed these rights and are to be protected from potentially dangerous actions and situations.

## **Women's Rights**

Canada is a member state of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Since being adopted in 1979, this convention is viewed as an international bill of rights for women. It explains what some forms of discrimination against women are, as well as provide guidelines to end that discrimination.

This convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment of exercise by women... of human rights and fundamental freedoms..." [12].

As with other conventions or laws on human rights and fundamental freedoms, there are general rights and freedoms that this convention aims to ensure and promote. Primarily, as its name states, its goal is to end discrimination in areas such as [13]:

- Education
- Employment (e.g. equal pay and employment opportunities)
- Marriage, motherhood and other family matters (e.g. consenting to marriage)
- Economic and social life (e.g. getting a mortgage or loan)
- Political and public life (e.g. the right to vote or hold public office)
- Sex roles and stereotypes (e.g. human/sex trafficking or exploitation)

### **How human rights are protected in Canada**

There are different laws and organizations in Canada that help protect the rights and freedoms of Canadians at the federal and provincial level. Some of the legislation mentioned throughout this document detail what protected rights and freedoms are [10]:

- The Canadian Charter of Rights and Freedoms (part of the Constitution Act, 1982)
- The Canadian Bill of Rights, 1960
- The Canadian Human Rights Act, 1977
- The Human Rights Act, 2010 (Newfoundland and Labrador)

Organizations in Canada that are involved in promoting and protecting human rights include [10]:

- The Canadian Human Rights Commission
- The Canadian Human Rights Tribunal (like a court for human rights disputes)
- The Newfoundland and Labrador Human Rights Commission (or other provincial bodies)

For violations of laws governing human rights, there are complaint processes at the federal and provincial level, usually through one of the organizations listed above. In either case, complaints must be filed within 12 months of the date that the incident occurred.

### ***How to file a complaint at the federal level:***

This situation would occur if a person experiences discrimination from an organization that is within the jurisdiction of the federal government. A complaint form must be completed, which can be obtained by contacting the Canadian Human Rights Commission in writing, by telephone, or by using their Complaint Assessment Tool (see **Discrimination** section). The Complaint Assessment Tool helps determine if the complaint should be made at the federal or provincial level as different types of complaints are handled by federal or provincial organizations.

Examples of employers or service providers that operate under federal jurisdiction include [14]:

- Federal departments and Crown corporations (government-run business)
- Airports
- Shipping and navigation
- Television and radio stations
- First Nations governments and organizations
- Etc.

Once it is determined that your complaint is to be filed with the Canadian Human Rights Commission, opposed to the NL Human Rights Commission (or a provincial counterpart), the complaint form must be completed and submitted. It must include:

- The action or decision that is thought to be discriminatory
- The grounds of discrimination involved (e.g. religion, sex, age, etc.)
- How the discriminatory action or decision affected the person

This complaint form must then be mailed or faxed to the Canadian Human Rights Commission.

***How to file a complaint at the provincial level:***

Examples of employers or service providers that operated under provincial jurisdiction include [14]:

- Retail stores and restaurants
- Hotels
- Construction
- Insurance
- Health care and education
- Oil and gas industry

The process for filing a complaint with the NL Human Rights Commission (or a provincial counterpart) is similar to the process of filing a complaint with the Canadian Human Rights Commission. The Newfoundland and Labrador Human Rights Commission handles complaints for the province's employers and service providers that fall into the areas listed above. Instead of completing and submitting a complaint form, an Investigator for the Commission must be given the details of the complaint by e-mail, phone or in-person. It will then be determined if the complaint can actually be handled by the Commission. There is an Investigation Phase, Board of Inquiry Phase and a possible Appeal Phase that a complaint has to go through once it is approved by the Commission [15]. The Complainant and the Respondent (the party who has had a complaint made against them) both have the right to appeal a decision made on a complaint.

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