THE HUMAN RIGHTS LANDSCAPE IN CANADA

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The Canadian Human Rights Commission (CHRC) was created in 1978. It administers the Canadian Human Rights Act, which protects people in Canada from discrimination when they are employed by or receive services from an organization under federal jurisdiction. The CHRC also ensures compliance with the Employment Equity Act. The CHRC operates independently from the federal government.

The human rights landscape in Canada is rich with diversity and democratic debate. Across the country, we can note historical progress, leadership, setbacks, attempts at balance, and persistent struggles yet to be resolved. From the country's First Peoples to the daily arrival of newcomers, the Canadian human rights landscape has been, and continues to be, carved out. Aboriginal peoples continue to be one of the most disadvantaged groups in the country. However, some progress has been achieved in the last decade, especially as a result of court and Tribunal decisions. In other areas of human rights in Canada, many developments have taken place in recent years, but there is still much work to be done over the next decade. Municipalities play a key role in the rights of people in their daily lives. Local governments are finding innovative and practical solutions to help promote and protect human rights.

UNDERSTANDING A VARIED LANDSCAPE

The human rights landscape in Canada is as varied as the geography and population of the country. The challenges facing a transgender teenager growing up in a village on the Prairies are not the same as those faced by an older man who cannot find a job in a city where the cost of living puts basic needs out of reach. Similarly, life for an Aboriginal teenager living in an urban centre differs from life for an Inuit family living in an isolated community in northern Canada.

To understand the challenges, identify the most vulnerable, and take action with policies that can help, human rights organizations need good data and dialogue with people in these populations who are affected. But economic challenge and recovery in Canada has recently led to a reduction in funds available for some data-gathering tools and engaging conversations. The use of technologies and social media could help individual voices remain an integral part of the local, national, and international conversations, but a lack of equal access to technology can create barriers to participation.

THE SIGNIFICANT CHALLENGES FACED BY ABORIGINAL PEOPLES

The Canadian Human Rights Commission (CHRC) believes that the treatment of Aboriginal peoples in Canada is among the most pressing, if not the most pressing human rights issue facing this country today. The CHRC's view is supported

by its own research, beginning with the development of a *Framework for Documenting Equality Rights* (2013) designed to be used for developing a consolidated portrait of equality in Canada. The Framework was built using two main components: human rights grounds; and measures socioeconomic dimensions.

The CHRC used the Framework to produce a *Report on Equality Rights of Aboriginal People* (2013) which documents the impact of persistent conditions of disadvantage on the daily lives of Aboriginal people across Canada. The comparisons confirmed the persistent barriers to equality of opportunity facing Aboriginal people. The report showed that, compared to non-Aboriginal people, Aboriginal people living in Canada:

- have lower median after-tax income;
- are more likely to experience unemployment;
- are more likely to collect employment insurance and social assistance;
- are more likely to live in housing in need of major repairs;
- are more likely to experience physical, emotional or sexual abuse;
- are more likely to be victims of violent crimes; and
- are more likely to be incarcerated and less likely to be granted parole.

This portrait was for the most part confirmed when the United Nations Special Rapporteur on the Rights of Indigenous Peoples visited Canada in 2013. He also made observations from closer up; at the municipal and local levels. In the report (United Nations 2014) that he prepared following his visit, the Special Rapporteur noted that, of the bottom 100 communities on the Community Wellbeing Index, 96 are First Nations, and only one First Nation community is in the top 100. The Special Rapporteur also observed what the CHRC, Aboriginal organizations, and civil society have long recognized: Aboriginal women are even more vulnerable and are disproportionately victims of violent crime. The high number of missing or murdered Aboriginal women testifies to this tragic reality.

PROGRESS HAS BEEN MADE IN THE LAST DECADE

We can note a few bright spots against the bleak backdrop of the rights of Aboriginal peoples in Canada. When Parliament enacted the *Canadian Human Rights Act* in 1977, it included an exception: no discrimination complaints could be filed concerning matters governed by the Indian Act. In practice, that exception did not allow members of First Nations communities to file complaints of discrimination in areas such as the housing and education provided by band councils or about regulations and decisions made by the federal government under the *Indian Act*.

The paradoxical result was that some of the most disadvantaged people in Canada found themselves unable to seek human rights protection on critical issues that affected their daily lives. The CHRC argued for the abolition of this exemption in a series of reports to Parliament. In 2008, Parliament rectified the problem by repealing the exemption. Now, the full protections of the Canadian Human Rights Act extend to over 700,000 members of First Nation communities. The creation of the Truth and Reconciliation Commission, one component of the Indian Residential Schools Settlement Agreement, was another important step forward for Canadians on the path to reconciliation. The federal government also took a step in the right direction when it apologized to Aboriginal peoples for the abuse suffered in residential schools. Another significant event was Canada's endorsement (2010) of the *United Nations Declaration on the Rights of Indigenous Peoples* (2007). The Declaration provides a firm foundation for the rights of Aboriginal peoples.

OTHER HUMAN RIGHTS DEVELOPMENTS OVER THE LAST DECADE

- In 2006, after nearly 20 years of discussion and negotiation, the United Nations adopted the *United Nations Convention on the Rights of Persons with Disabilities*, which Canada has ratified. It is the first convention to provide independent monitoring and reporting mechanisms. Human rights commissions in Canada have taken concrete measures to contribute to that role in the future;
- The stigma of invisible disabilities and mental illness in particular, has been significantly lifted, through national conversations and awareness-raising;
- Prevention of racial profiling and racial discrimination has received closer attention, from local law enforcement, to national security, and border crossing agencies;
- Some provinces have amended their human rights acts to make express reference to the rights of transgender persons;
- A mandatory retirement age, which used to be common, is now very seldom applied;

• We have seen a vigorous debate about competing rights and the balance between freedom of expression and bans on hate propaganda;

• The scope and limits of reasonable accommodation have been the subject of public discussion, editorials, judgments of the courts, and legislative proposals;

• Rights relating to religion occupy a growing and sometimes contested space in political and public arenas. These discussions also deal with the secular or neutral nature of the state, government, and the workplace;

• Questions have been raised about the extent to which imprisonment, and in particular solitary confinement, is appropriate for persons with serious mental health problems.

ISSUES WE ANTICIPATE IN THE NEXT DECADE

• Access to justice for disadvantaged groups will be further explored, along with the perception that the system only works for the most privileged. These are issues that must be addressed in a democracy such as Canada.

• Rights associated with age in areas like employment, housing, accessibility, services, transportation, and health care will require more attention because of Canada's aging population;

• Managers and employees need strategies and best practices to help them manage productivity in the workplace, longer careers, increasing need to care for family members, and personal health and well-being;

• The issue of reasonable accommodation will continue to be in the headlines. It involves a number of sensitive and complex questions, such as individual and collective rights, identity, history, and membership in a society;

• Debate over religious rights, including questions relating to the choice to be secular or neutral, will undoubtedly continue;

• We have seen for a decade how mental health, and in particular depression and anxiety, are becoming one of the leading causes of workplace disability. Prevention, early intervention, accommodation, individual and collective costs, and return to work will continue to be key issues;

• The meaning of the concept of "human right" will probably remain on the agenda. Some people think the term "right" should be reserved solely for the most fundamental elements set out in the *Universal Declaration of Human Rights*. At the same time, there is growing discussion of issues such as the right to a clean environment or the right to information or privacy;

• We can also expect to see civil society and non-governmental organizations continue to spearhead human rights progress. Cyber-collaboration and social media will play a greater role in this work.

MUNICIPALITIES PLAY A KEY ROLE

The rights of Canadians are enshrined in the *Canadian Charter of Rights and Freedoms* and in federal, provincial, and territorial legislation. But often the key issues that affect people's rights arise in their everyday lives, not in legal forms or in courtrooms. From rental housing to policing, from public transit to public pools, from rules of the road to rules of business, it is in people's villages, towns, and cities that their rights are affected from day to day. Provincial and territorial human rights Commissions across the country work closely with municipalities to bring human rights to life. Together, their daily interaction with the public is a powerful lever to protect and promote human rights. But transforming towns and cities into places where everyone feels they can participate and belong is complex work that requires long-term commitments and partnerships.

As the CCMARD celebrates its anniversary, it is an opportune time to recognize the ongoing work it shares with provincial and territorial Commissions, municipalities, and organizations like Metropolis. A new model of public engagement has begun to emerge at the local level—one that goes beyond consultation. Elected representatives, municipal managers, business owners, interest groups, civil society, human rights advocates, and affected individuals are not only developing solutions together, they are putting those solutions into action together.

For example, the Alberta Human Rights Commission helped found the Welcoming and Inclusive Communities (WIC) initiative in 2007. This is a partnership between the Alberta Urban Municipalities Association, the Alberta Human Rights Commission, and the government. The initiative has assisted municipalities in building truly welcoming and inclusive communities, beyond preventing discrimination. The WIC initiative has developed practical toolkits for town councils, organizations, and the business community. It has garnered concrete commitments in ten municipal responsibility areas, make life more inclusive for all residents[1]. The project is also

rigorous and accountable to its public; it is currently undergoing an evaluation to measure inclusion.

The Ontario Human Rights Commission's engagement with local police services in Ontario to address racial profiling is another example of partnerships at the municipal level that are making a difference. The Ontario Commission has stated that racial profiling: "... can only be adequately responded to by employing the full range of protection and promotion mandates afforded human rights commissions and need to be strategic, coordinated, and extended[2]."

For years, the Ontario Commission has worked extensively and directly with police services to improve policies, human resources, training, and accountability measures. The result has been an encouraging transformation in culture. According to Shaheen, "in 2002 almost all police leaders in Ontario denied racial profiling by police…by 2012 most have come to acknowledge it and many now have been involved in initiatives to address it[3]."

When developed and implemented together, respect for rights can become a form of truly inclusive civic participation that connects us with each other, that creates a place where we all belong and where everyone is welcome. Because our Canada includes everyone.

NOTES

[1] Canada. Canadian Human Rights Commission. 2010. Framework for Documenting Equality Rights. [Ottawa]. http://publications.gc.ca/collections/collection_2011/ccdp-chrc/HR21-78-2010-eng.pdf (accessed on 4 June 2014)

[2] Canada. Canadian Human Rights Commission. 2013. Report on Equality Rights of Aboriginal People. [Ottawa]. www.chrc-ccdp.gc.ca/sites/default/files/equality_aboriginal_report.pdf (accessed on 4 June 2014)

[3] United Nations. General Assembly. Human Rights Council. 2014. Twenty-seventh session. Agenda item 3. Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. Report of the Special Rapporteur on the rights of indigenous peoples. James Anaya. Addendum. The situation of indigenous peoples in Canada. [Geneva]. www.ohchr.org/Documents/Issues/IPeoples/SR/A.HRC.27.52.Add.2-MissionCanada_AUV.pdf

[4] To learn more about this project please visit: http://canada.metropolis.net/publications/odc09_pdfs/CassiePalamar_ODC09.pdf "Public Education and Partnership Commission Initiatives to Build Welcoming Communities and Combat Racism and Discrimination in Alberta". Palamar. Cassie. Alberta Human Rights and Citizenship Commission, 2009 (accessed on July 20, 2014)

[5] Azmi, Shaheen. "Ontario Human Rights Commission Promotion Activities: the experience of Responding to Racial Profiling by Police", Fourteen Arguments in Favour of Human Rights Institutions. Shelagh Day et al. Ed. Irwin Law. 2014.

[6] Idem.

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Metropolis Our Diverse Cities Number 6 – Spring 2009, http://canada.metropolis.net/publications/toc_odc_vol6_09_e.html (accessed on July 20, 2014)

www.albertahumanrights.ab.ca/education/partnerships/welcoming_and_inclusive_communities_initiative.asp (accessed on July 15, 2014)

SHAHEEN AZMI, "Ontario Human Rights Commission Promotion Activities: The Experience of Responding to Racial Profiling by Police" in Fourteen Arguments in Favour of Human Rights Institutions Shelagh Day et al, Ed. Irwin Law, 2014.